



General Assembly

Amendment

February Session, 2018

LCO No. 5803



Offered by:
REP. CANDELORA, 86th Dist.

To: Subst. Senate Bill No. 384 File No. 338 Cal. No. 545

(As Amended by Senate Amendment Schedule "A")

"AN ACT CONCERNING MENTAL HEALTH PARITY, DATA REPORTED BY MANAGED CARE ORGANIZATIONS AND THE ALL-PAYER CLAIMS DATABASE."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. (NEW) (*Effective October 1, 2018*) (a) As used in this
4 section:

5 (1) "Facility" means any inpatient or outpatient hospital, clinic,
6 skilled nursing facility or other facility for the diagnosis, observation or
7 treatment of persons with psychiatric disabilities;

8 (2) "Patient" means any person being treated in a facility;

9 (3) "Head of the facility" means the superintendent or medical
10 director of a facility, or such superintendent's or medical director's
11 designated delegate;

12 (4) "Informed consent" means permission given competently and
13 voluntarily after a patient has been informed of the reason for
14 treatment, the nature of the proposed treatment, the advantages or
15 disadvantages of the treatment, medically acceptable alternative
16 treatment, the risks associated with receiving the proposed treatment
17 and the risk of no treatment; and

18 (5) "Direct threat of harm" means the patient's clinical history
19 demonstrates a pattern of serious physical injury or life-threatening
20 injury to self or to others that is caused by the psychiatric disabilities
21 with which the patient has been diagnosed and is documented by
22 objective medical and other factual evidence. Such evidence of past
23 pattern of dangerous behavior shall be manifested in the patient's
24 medical history and there shall exist a high probability that the patient
25 will inflict substantial harm on such patient or others.

26 (b) Prior to discharging a patient from a facility, if it is determined
27 by the head of the facility and two qualified physicians that (1) (A) a
28 patient who is to be discharged from the facility is capable of giving
29 informed consent but refuses to consent to take medication for
30 treatment of the patient's psychiatric disabilities, or (B) a patient has a
31 demonstrated history of failure to take medications prescribed for the
32 treatment of the patient's psychiatric disabilities, (2) there is no less
33 intrusive beneficial treatment, and (3) without medication, the
34 psychiatric disabilities with which the patient has been diagnosed will
35 continue unabated and place the patient or others in direct threat of
36 harm, the head of the facility may apply to the Probate Court for
37 appointment of a conservator of the person with specific authority to
38 consent to the administration of medication after discharge from the
39 facility or, in a case where a conservator of the person has previously
40 been appointed under section 45a-650 of the general statutes, the head
41 of the facility or the conservator may petition the Probate Court to
42 grant such specific authority to the conservator. Pursuant to this
43 subsection, the Probate Court may appoint a conservator with such
44 specific authority if the court finds by clear and convincing evidence
45 that the patient refuses to consent to medication for the treatment of

46 the patient's psychiatric disability or has a demonstrated history of
47 failure to take medications prescribed for the treatment of the patient's
48 psychiatric disabilities and such medication is necessary for the
49 patient's treatment. The authority of a conservator to consent to the
50 administration of medication under this subsection shall be effective
51 for not more than one hundred twenty days following the date of the
52 patient's discharge from the facility.

53 (c) If, after being discharged from a facility, a patient fails or refuses
54 to take medication ordered by a prescribing practitioner and such
55 patient has a conservator of the person vested with the authority to
56 consent to the administration of medication pursuant to subsection (b)
57 of this section, such conservator may consent on behalf of the patient
58 to the administration of such medication and the patient may be
59 medicated over the patient's objection. Such medication shall be
60 administered in a manner and place that, in the best judgment of the
61 prescribing practitioner, is clinically appropriate, safe and consistent
62 with the dignity and privacy of the patient. A conservator of the
63 person appointed pursuant to subsection (b) of this section may
64 request that state or local police or a licensed or certified ambulance
65 service assist in transporting the patient to a designated location for
66 the purpose of administering the medication.

67 Sec. 502. Subsections (c) to (g), inclusive, of section 17a-498 of the
68 general statutes are repealed and the following is substituted in lieu
69 thereof (*Effective October 1, 2018*):

70 (c) (1) The court shall require the [~~certificates~~] certificate, signed
71 under penalty of false statement, of [at least two impartial physicians
72 selected by the court, one of whom shall be a practicing psychiatrist,
73 and each of whom shall be licensed to practice medicine in the state of
74 Connecticut and shall have] an impartial physician selected by the
75 court, who shall be a practicing psychiatrist, licensed to practice
76 medicine in the state of Connecticut, who has been a practitioner of
77 medicine for at least one year and who shall not be connected with the
78 hospital for psychiatric disabilities to which the application is being

79 made, or related by blood or marriage to the applicant, or to the
80 respondent. Such [certificates] certificate shall indicate that the
81 [physicians have] physician has personally examined the respondent
82 not more than ten days prior to such hearing. The court shall appoint
83 such [physicians] physician from a list of physicians and psychiatrists
84 provided by the Commissioner of Mental Health and Addiction
85 Services and such [appointments] appointment shall be made in
86 accordance with regulations promulgated by the Probate Court
87 Administrator in accordance with section 45a-77. [Each such] The
88 physician shall make a report on a separate form provided for that
89 purpose by the Probate Court Administrator and shall answer such
90 questions as may be set forth on such form as fully and completely as
91 reasonably possible. Such form shall include, but not be limited to,
92 questions relating to the specific psychiatric disabilities alleged,
93 whether or not the respondent is dangerous to himself or herself or
94 others, whether or not such illness has resulted or will result in serious
95 disruption of the respondent's mental and behavioral functioning,
96 whether or not hospital treatment is both necessary and available,
97 whether or not less restrictive placement is recommended and
98 available and whether or not the respondent is incapable of
99 understanding the need to accept the recommended treatment on a
100 voluntary basis. [Each such] The physician shall state upon the form
101 the reasons for his or her opinions. Such respondent or his or her
102 counsel shall have the right to present evidence and cross-examine
103 witnesses who testify at any hearing on the application. If such
104 respondent notifies the court not less than three days before the
105 hearing that he or she wishes to cross-examine the examining
106 [physicians] physician, the court shall order such [physicians]
107 physician to appear.

108 (2) The court shall cause a recording of the testimony of such
109 hearing to be made, to be transcribed only in the event of an appeal
110 from the decree rendered under this section. A copy of such transcript
111 shall be furnished without charge to any appellant whom the Probate
112 Court finds unable to pay for such copy. The cost of such transcript

113 shall be paid from funds appropriated to the Judicial Department.

114 (3) If the court finds by clear and convincing evidence that the
115 respondent has psychiatric disabilities and is dangerous to himself or
116 herself or others or gravely disabled, the court shall make an order for
117 his or her commitment, considering whether or not a less restrictive
118 placement is available, to a hospital for psychiatric disabilities to be
119 named in such order, there to be confined for the period of the
120 duration of such psychiatric disabilities or until he or she is discharged
121 or converted to voluntary status pursuant to section 17a-506, as
122 amended by this act, in due course of law. Such court order shall
123 further command some suitable person to convey such person to such
124 hospital for psychiatric disabilities and deliver him or her, with a copy
125 of such order and of such [certificates] certificate, to the keeper thereof.
126 In appointing a person to execute such order, the court shall give
127 preference to a near relative or friend of the person with psychiatric
128 disabilities, so far as the court deems it practicable and judicious.
129 Notice of any action taken by the court shall be given to the
130 respondent and his or her attorney, if any, in such manner as the court
131 concludes would be appropriate under the circumstances.

132 (d) If the respondent refuses to be examined by the court-appointed
133 [physicians] physician as provided in subsection (c) of this section, the
134 court may issue a warrant for the apprehension of the respondent and
135 a police officer for the town in which such court is located or if there is
136 no such police officer then the state police shall deliver the respondent
137 to a general hospital where the respondent shall be examined by [two
138 physicians, one of whom] an impartial physician, who shall be a
139 practicing psychiatrist, in accordance with subsection (c) of this
140 section. If as a result of such examination, the respondent is committed
141 under section 17a-502, transportation of the respondent to any such
142 hospital, if such respondent is a female, shall be in accordance with the
143 provisions of section 17a-505. If the respondent is not committed under
144 section 17a-502, the respondent shall be released and the [reports]
145 report of such [physicians] physician shall be sent to the Probate Court
146 to satisfy the requirement of examination by [two physicians] a

147 physician under subsection (c) of this section.

148 (e) The respondent shall be given the opportunity to elect voluntary
149 status under section 17a-506, as amended by this act, at any time prior
150 to adjudication of the application, subject to the following provisions:
151 (1) In the event that a patient is in the hospital, the patient shall be
152 informed by a member of the hospital staff within twenty-four hours
153 prior to the time an application is filed with the court, that he or she
154 may continue in the hospital on a voluntary basis under the provisions
155 of section 17a-506, as amended by this act, and any application for
156 involuntary commitment by the hospital shall include a statement that
157 such voluntary status has been offered to the respondent and refused,
158 and (2) in the event that a respondent is not hospitalized, the notice of
159 hearing shall inform the respondent that the respondent has the right
160 to enter the hospital on a voluntary basis under the provisions of
161 section 17a-506, as amended by this act, and, if the respondent enters
162 the hospital under section 17a-506, as amended by this act, the
163 application for involuntary commitment shall be withdrawn. When
164 any patient who has elected voluntary status following the filing of an
165 application but prior to adjudication in any proceeding for involuntary
166 commitment thereafter notifies the hospital that he or she wants to be
167 released, a new application for involuntary commitment may be filed.
168 If such new application is filed not later than forty-five days after the
169 patient's election of voluntary status on a prior application, the
170 application for involuntary commitment may, at the discretion of the
171 judge, be heard on the merits, notwithstanding the patient's
172 subsequent request to remain a voluntary patient under the provisions
173 of section 17a-506, as amended by this act. Notwithstanding the
174 provisions of sections 17a-29, 17a-540, as amended by this act, 17a-543,
175 17a-544, subsection (f) of section 17a-547 and section 17a-548, if a
176 patient under section 17a-506, as amended by this act, refuses to accept
177 medication or treatment in accordance with the treatment plan
178 prescribed by the attending physician and such patient is imminently
179 dangerous to himself or others, an application for involuntary
180 commitment may be filed for such patient in accordance with the

181 provisions of this section.

182 (f) The respondent shall be present at any hearing for his or her
183 commitment under this section. If the respondent is medicated at that
184 time, the hospital shall provide written notice to the court of such fact
185 and of the common effects of such medication.

186 (g) The hospital shall notify each patient at least annually that such
187 patient has a right to a further hearing pursuant to this section. If the
188 patient requests such hearing, it shall be held by the Probate Court for
189 the district in which the hospital is located. Any such request shall be
190 immediately filed with the appropriate court by the hospital. After
191 such request is filed with the Probate Court, it shall proceed in the
192 manner provided in subsections (a), (b), (c) and (f) of this section. In
193 addition, the hospital shall furnish the Probate Court for the district in
194 which the hospital is located on a monthly basis with a list of all
195 patients confined in the hospital involuntarily without release for one
196 year since the last annual review under this section of the patient's
197 commitment or since the original commitment. The hospital shall
198 include in such notification the type of review the patient last received.
199 If the patient's last annual review had a hearing, the Probate Court
200 shall, within fifteen business days thereafter, appoint an impartial
201 physician who is a psychiatrist from the list provided by the
202 Commissioner of Mental Health and Addiction Services as set forth in
203 subsection (c) of this section and not connected with the hospital in
204 which the patient is confined or related by blood or marriage to the
205 original applicant or to the respondent, which physician shall see and
206 examine each such patient within fifteen business days after such
207 physician's appointment and make a report forthwith to such court of
208 the condition of the patient on forms provided by the Probate Court
209 Administrator. If the Probate Court concludes that the confinement of
210 any such patient should be reviewed by such court for possible release
211 of the patient, the court, on its own motion, shall proceed in the
212 manner provided in subsections (a), (b), (c) and (f) of this section,
213 except that the examining physician shall be considered [one of] the
214 [physicians] physician required by subsection (c) of this section. If the

215 patient's last annual review did not result in a hearing, and in any
216 event at least every two years, the Probate Court shall, within fifteen
217 business days, proceed with a hearing in the manner provided in
218 subsections (a), (b), (c) and (f) of this section. All costs and expenses,
219 including Probate Court entry fees provided by statute, in conjunction
220 with the annual psychiatric review and the judicial review under this
221 subsection, except costs for physicians appointed pursuant to this
222 subsection, shall be established by, and paid from funds appropriated
223 to, the Judicial Department, except that if funds have not been
224 included in the budget of the Judicial Department for such costs and
225 expenses, such payment shall be made from the Probate Court
226 Administration Fund. Compensation of any physician appointed to
227 conduct the annual psychiatric review, to examine a patient for any
228 hearing held as a result of such annual review or for any other biennial
229 hearing required pursuant to sections 17a-75 to 17a-83, inclusive, 17a-
230 450 to 17a-484, inclusive, 17a-495 to 17a-528, inclusive, 17a-540 to 17a-
231 550, inclusive, as amended by this act, 17a-560 to 17a-576, inclusive,
232 and 17a-615 to 17a-618, inclusive, shall be paid by the state from funds
233 appropriated to the Department of Mental Health and Addiction
234 Services in accordance with rates established by the Department of
235 Mental Health and Addiction Services.

236 Sec. 503. Subsection (c) of section 17a-506 of the general statutes is
237 repealed and the following is substituted in lieu thereof (*Effective*
238 *October 1, 2018*):

239 (c) Any person for whom a conservator of the person has been
240 appointed in accordance with sections 45a-644 to 45a-662, inclusive,
241 may request admission to a hospital for psychiatric disabilities and
242 such hospital may admit such person. The hospital shall notify the
243 conservator and the probate court which appointed the conservator of
244 the admission not later than five business days after such admission.
245 The probate court shall, not later than ten business days after such
246 notice, appoint a physician who is a psychiatrist from the list provided
247 by the Commissioner of Mental Health and Addiction Services as set
248 forth in subsection (c) of section 17a-498, as amended by this act. The

249 physician shall examine the patient [within ten business days of his]
250 not later than ten business days after the date of his or her
251 appointment to determine if the patient has given informed consent to
252 his or her hospitalization. The physician shall make a report forthwith
253 to the court. If the court concludes that the patient did not give
254 informed consent to the hospitalization, the court, on its own motion,
255 may proceed in the manner provided in subsections (a), (b), (c) and (f)
256 of section 17a-498, as amended by this act. All costs and expenses,
257 including Probate Court entry fees, shall be paid [by the patient or, if
258 he has a conservator of the estate, by such conservator] from funds
259 appropriated to the Judicial Department.

260 Sec. 504. Section 17a-542 of the general statutes is repealed and the
261 following is substituted in lieu thereof (*Effective October 1, 2018*):

262 Every patient treated in any facility for treatment of persons with
263 psychiatric disabilities shall receive humane and dignified treatment at
264 all times, with full respect for his personal dignity and right to privacy.
265 Each patient shall be treated in accordance with a specialized
266 treatment plan suited to his disorder. Such treatment plan shall include
267 a discharge plan which shall include, but not be limited to, (1)
268 reasonable notice to the patient of his impending discharge, (2) active
269 participation by the patient in planning for his discharge and (3)
270 planning for appropriate aftercare to the patient upon his discharge.
271 Subject to the privacy protections afforded a patient under federal law,
272 including, but not limited to, the Health Insurance Portability and
273 Accountability Act of 1996, P.L. 104-191, as amended from time to
274 time, the head of a facility may direct that any person involved in the
275 formulation of the patient's treatment plan or discharge plan
276 communicate with, and obtain medical records from inpatient and
277 outpatient health care providers who have previously treated the
278 patient. In addition, when formulating such treatment plan or
279 discharge plan, persons involved in the formulation of such plans may
280 also communicate with any person with whom the patient has resided
281 in the twelve-month period prior to being admitted to the facility and
282 with the patient's spouse, parents, siblings or children in order to

283 better understand the patient's medical needs.

284 Sec. 505. Subdivision (1) of section 17a-540 of the general statutes is
 285 repealed and the following is substituted in lieu thereof (*Effective*
 286 *October 1, 2018*):

287 (1) "Facility" means any inpatient or outpatient hospital, clinic,
 288 skilled nursing facility or other facility for the diagnosis, observation or
 289 treatment of persons with psychiatric disabilities;"

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	<i>October 1, 2018</i>	New section
Sec. 502	<i>October 1, 2018</i>	17a-498(c) to (g)
Sec. 503	<i>October 1, 2018</i>	17a-506(c)
Sec. 504	<i>October 1, 2018</i>	17a-542
Sec. 505	<i>October 1, 2018</i>	17a-540(1)