

HOUSE BILL 217

J1

11r0034

By: **Chair, Health and Government Operations Committee (By Request – Departmental – Health and Mental Hygiene)**
Introduced and read first time: January 28, 2011
Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Health and Mental Hygiene – Mental Hygiene Administration**
3 **– Transfers Between Facilities**

4 FOR the purpose of authorizing the Director of the Mental Hygiene Administration to
5 transfer individuals from a public mental health facility to the Clifton T.
6 Perkins Hospital Center under certain circumstances; requiring the Director to
7 give certain individuals notice and an opportunity for a certain hearing under
8 certain circumstances; providing that certain decisions of an administrative law
9 judge are final; providing that the Board of Review of the Department of Health
10 and Mental Hygiene does not have jurisdiction over certain decisions;
11 authorizing the Director to transfer certain individuals between public mental
12 health facilities under certain circumstances; defining a certain term; and
13 generally relating to the transfer of individuals between Mental Hygiene
14 Administration facilities.

15 BY repealing and reenacting, with amendments,
16 Article – Health – General
17 Section 10–807
18 Annotated Code of Maryland
19 (2009 Replacement Volume and 2010 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article – Health – General**

23 10–807.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 **(A) IN THIS SECTION, "PUBLIC FACILITY" MEANS A FACILITY UNDER §**
2 **10-406 OF THIS TITLE MAINTAINED UNDER THE DIRECTION OF THE**
3 **ADMINISTRATION.**

4 **[(a) (B) The Director may transfer an individual, WHO IS ADMITTED**
5 **UNDER SUBTITLE 6 OF THIS TITLE OR COMMITTED UNDER TITLE 3 OF THE**
6 **CRIMINAL PROCEDURE ARTICLE, from a public facility to [another public facility**
7 **or, if a private facility agrees, to that private facility,] THE CLIFTON T. PERKINS**
8 **HOSPITAL CENTER, if the Director finds that:**

9 (1) The individual either can receive better care or treatment in or
10 would be more likely to benefit from care or treatment at [the other facility] **THE**
11 **CLIFTON T. PERKINS HOSPITAL CENTER; or**

12 (2) The safety or welfare of other individuals would be furthered.

13 **(C) (1) PRIOR TO TRANSFERRING AN INDIVIDUAL FROM A PUBLIC**
14 **FACILITY TO THE CLIFTON T. PERKINS HOSPITAL CENTER, THE DIRECTOR**
15 **SHALL GIVE THE INDIVIDUAL NOTICE AND AN OPPORTUNITY FOR HEARING AT**
16 **THE OFFICE OF ADMINISTRATIVE HEARINGS, UNLESS THE DIRECTOR FINDS**
17 **THAT AN EMERGENCY REQUIRES THE IMMEDIATE TRANSFER OF THE**
18 **INDIVIDUAL.**

19 **(2) IF THE DIRECTOR DETERMINES THAT AN EMERGENCY**
20 **REQUIRES THE IMMEDIATE TRANSFER OF AN INDIVIDUAL, THE INDIVIDUAL MAY**
21 **BE TRANSFERRED TO THE CLIFTON T. PERKINS HOSPITAL CENTER IF THE**
22 **ADMINISTRATION:**

23 **(I) PROVIDES NOTICE TO THE INDIVIDUAL; AND**

24 **(II) SCHEDULES A POST TRANSFER HEARING BEFORE THE**
25 **OFFICE OF ADMINISTRATIVE HEARINGS WITHIN 10 DAYS OF THE TRANSFER.**

26 **(D) IF A HEARING IS REQUESTED BY THE INDIVIDUAL IN ACCORDANCE**
27 **WITH SUBSECTION (C) OF THIS SECTION, THE HEARING SHALL BE UTILIZED TO**
28 **DETERMINE WHETHER THE ADMINISTRATION HAS DEMONSTRATED BY**
29 **PREPONDERANCE OF THE EVIDENCE THAT THE CRITERIA FOR TRANSFER HAVE**
30 **BEEN MET.**

31 **(E) A DECISION OF AN ADMINISTRATIVE LAW JUDGE UNDER THIS**
32 **SECTION SHALL BE THE FINAL DECISION OF THE DEPARTMENT FOR THE**
33 **PURPOSE OF JUDICIAL REVIEW OF FINAL DECISIONS UNDER TITLE 10,**
34 **SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.**

1 **(F) THE BOARD OF REVIEW OF THE DEPARTMENT DOES NOT HAVE**
2 **JURISDICTION TO REVIEW THE DETERMINATION OF AN ADMINISTRATIVE LAW**
3 **JUDGE THAT IS MADE UNDER THIS SECTION.**

4 **[(b)] (G)** The Director may transfer any individual who is a resident of
5 another state to a facility in that state if the Director finds that the transfer is
6 feasible.

7 **[(c)] (H)** (1) Any finding that the Director makes under [subsection (a) or
8 (b) of] this section shall be in writing and filed with the records of the individual
9 involved.

10 (2) A copy of the finding and the notice to the facility to which the
11 individual is being transferred shall be sent to the guardian or [next of kin] **OTHER**
12 **LEGAL REPRESENTATIVE** of the individual.

13 **(I) THE DIRECTOR MAY TRANSFER AN INDIVIDUAL BETWEEN PUBLIC**
14 **FACILITIES, OTHER THAN THE CLIFTON T. PERKINS HOSPITAL CENTER,**
15 **WITHOUT THE CONSENT OF THE INDIVIDUAL IF THE DIRECTOR FINDS THAT**
16 **ADMINISTRATIVE OR CLINICAL REASONS REQUIRE A TRANSFER OF THE**
17 **INDIVIDUAL FROM THE FACILITY.**

18 **[(d)] (J)** (1) In effecting a transfer of an individual from a unit in a
19 public facility to another unit in the facility or to another public facility, the
20 transferring facility shall provide for the transfer of all the records necessary for
21 continuing the care of the individual on or before the date of transfer to the facility to
22 which the individual is being transferred.

23 (2) This subsection is not intended to preempt the requirements of §
24 10-625 of this title.

25 **[(e)] (K)** An individual may not be transported to or from any facility unless
26 accompanied by:

27 (1) An ambulance attendant or other individual who is authorized by
28 the facility and is of the same sex. However, the chief executive officer of the facility or
29 that officer's designee may designate an ambulance attendant or other person of either
30 sex to provide transportation to an individual, if deemed appropriate; or

31 (2) The parent, spouse, domestic partner, adult sibling, or adult
32 offspring of the individual.

33 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect
34 October 1, 2011.