
HOUSE BILL 1071

State of Washington

61st Legislature

2009 Regular Session

By Representatives Green, Morrell, Dickerson, and Kenney

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1 AN ACT Relating to advanced registered nurse practitioners; and
2 amending RCW 71.05.210, 71.05.230, 71.05.290, 71.05.300, 71.05.360,
3 71.05.390, 71.05.420, 71.05.630, 71.05.660, 71.06.040, 71.12.540,
4 71.32.140, 71.32.250, 71.32.260, 71.34.355, 71.34.720, 71.34.730,
5 71.34.750, and 71.34.770.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 71.05.210 and 2000 c 94 s 6 are each amended to read
8 as follows:

9 Each person involuntarily detained and accepted or admitted at an
10 evaluation and treatment facility shall, within twenty-four hours of
11 his or her admission or acceptance at the facility, be examined and
12 evaluated by a licensed physician who may be assisted by a physician
13 assistant according to chapter 18.71A RCW or an advanced registered
14 nurse practitioner according to chapter 18.79 RCW and a mental health
15 professional, and shall receive such treatment and care as his or her
16 condition requires including treatment on an outpatient basis for the
17 period that he or she is detained, except that, beginning twenty-four
18 hours prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240,
19 71.05.310, 71.05.320, 71.05.340, or (~~71.05.370~~) 71.05.217, the

1 individual may refuse psychiatric medications, but may not refuse: (1)
2 Any other medication previously prescribed by a person licensed under
3 Title 18 RCW; or (2) emergency lifesaving treatment, and the individual
4 shall be informed at an appropriate time of his or her right of such
5 refusal. The person shall be detained up to seventy-two hours, if, in
6 the opinion of the professional person in charge of the facility, or
7 his or her professional designee, the person presents a likelihood of
8 serious harm, or is gravely disabled. A person who has been detained
9 for seventy-two hours shall no later than the end of such period be
10 released, unless referred for further care on a voluntary basis, or
11 detained pursuant to court order for further treatment as provided in
12 this chapter.

13 If, after examination and evaluation, the mental health
14 professional and licensed physician (~~(and mental health professional)~~)
15 or advanced registered nurse practitioner determine that the initial
16 needs of the person would be better served by placement in a chemical
17 dependency treatment facility, then the person shall be referred to an
18 approved treatment program defined under RCW 70.96A.020.

19 An evaluation and treatment center admitting or accepting any
20 person pursuant to this chapter whose physical condition reveals the
21 need for hospitalization shall assure that such person is transferred
22 to an appropriate hospital for evaluation or admission for treatment.
23 Notice of such fact shall be given to the court, the designated
24 attorney, and the ~~((county))~~ designated mental health professional and
25 the court shall order such continuance in proceedings under this
26 chapter as may be necessary, but in no event may this continuance be
27 more than fourteen days.

28 **Sec. 2.** RCW 71.05.230 and 2006 c 333 s 302 are each amended to
29 read as follows:

30 A person detained for seventy-two hour evaluation and treatment may
31 be detained for not more than fourteen additional days of involuntary
32 intensive treatment or ninety additional days of a less restrictive
33 alternative to involuntary intensive treatment. There shall be no fee
34 for filing petitions for fourteen days of involuntary intensive
35 treatment. A petition may only be filed if the following conditions
36 are met:

1 (1) The professional staff of the agency or facility providing
2 evaluation services has analyzed the person's condition and finds that
3 the condition is caused by mental disorder and either results in a
4 likelihood of serious harm, or results in the detained person being
5 gravely disabled and are prepared to testify those conditions are met;
6 and

7 (2) The person has been advised of the need for voluntary treatment
8 and the professional staff of the facility has evidence that he or she
9 has not in good faith volunteered; and

10 (3) The facility providing intensive treatment is certified to
11 provide such treatment by the department; and

12 (4) The professional staff of the agency or facility or the
13 designated mental health professional has filed a petition for fourteen
14 day involuntary detention or a ninety day less restrictive alternative
15 with the court. The petition must be signed either by:

16 (a) Two physicians ((~~or by~~));

17 (b) One physician and a mental health professional((~~who~~));

18 (c) Two psychiatric advanced registered nurse practitioners; or

19 (d) One psychiatric advanced registered nurse practitioner and a
20 mental health professional. The persons signing the petition must have
21 examined the person. If involuntary detention is sought the petition
22 shall state facts that support the finding that such person, as a
23 result of mental disorder, presents a likelihood of serious harm, or is
24 gravely disabled and that there are no less restrictive alternatives to
25 detention in the best interest of such person or others. The petition
26 shall state specifically that less restrictive alternative treatment
27 was considered and specify why treatment less restrictive than
28 detention is not appropriate. If an involuntary less restrictive
29 alternative is sought, the petition shall state facts that support the
30 finding that such person, as a result of mental disorder, presents a
31 likelihood of serious harm, or is gravely disabled and shall set forth
32 the less restrictive alternative proposed by the facility; and

33 (5) A copy of the petition has been served on the detained person,
34 his or her attorney and his or her guardian or conservator, if any,
35 prior to the probable cause hearing; and

36 (6) The court at the time the petition was filed and before the
37 probable cause hearing has appointed counsel to represent such person
38 if no other counsel has appeared; and

1 (7) The court has ordered a fourteen day involuntary intensive
2 treatment or a ninety day less restrictive alternative treatment after
3 a probable cause hearing has been held pursuant to RCW 71.05.240; and

4 (8) At the conclusion of the initial commitment period, the
5 professional staff of the agency or facility or the designated mental
6 health professional may petition for an additional period of either
7 ninety days of less restrictive alternative treatment or ninety days of
8 involuntary intensive treatment as provided in RCW 71.05.290; and

9 (9) If the hospital or facility designated to provide outpatient
10 treatment is other than the facility providing involuntary treatment,
11 the outpatient facility so designated has agreed to assume such
12 responsibility.

13 **Sec. 3.** RCW 71.05.290 and 2008 c 213 s 7 are each amended to read
14 as follows:

15 (1) At any time during a person's fourteen day intensive treatment
16 period, the professional person in charge of a treatment facility or
17 his or her professional designee or the designated mental health
18 professional may petition the superior court for an order requiring
19 such person to undergo an additional period of treatment. Such
20 petition must be based on one or more of the grounds set forth in RCW
21 71.05.280.

22 (2) The petition shall summarize the facts which support the need
23 for further confinement and shall be supported by affidavits signed by:

24 (a) Two examining physicians(~~(, or by)~~);

25 (b) One examining physician and examining mental health
26 professional;

27 (c) Two psychiatric advanced registered nurse practitioners; or

28 (d) One psychiatric advanced registered nurse practitioner and a
29 mental health professional. The affidavits shall describe in detail
30 the behavior of the detained person which supports the petition and
31 shall explain what, if any, less restrictive treatments which are
32 alternatives to detention are available to such person, and shall state
33 the willingness of the affiant to testify to such facts in subsequent
34 judicial proceedings under this chapter.

35 (3) If a person has been determined to be incompetent pursuant to
36 RCW 10.77.086(4), then the professional person in charge of the
37 treatment facility or his or her professional designee or the

1 designated mental health professional may directly file a petition for
2 one hundred eighty day treatment under RCW 71.05.280(3). No petition
3 for initial detention or fourteen day detention is required before such
4 a petition may be filed.

5 **Sec. 4.** RCW 71.05.300 and 2008 c 213 s 8 are each amended to read
6 as follows:

7 (1) The petition for ninety day treatment shall be filed with the
8 clerk of the superior court at least three days before expiration of
9 the fourteen-day period of intensive treatment. At the time of filing
10 such petition, the clerk shall set a time for the person to come before
11 the court on the next judicial day after the day of filing unless such
12 appearance is waived by the person's attorney, and the clerk shall
13 notify the designated mental health professional. The designated
14 mental health professional shall immediately notify the person
15 detained, his or her attorney, if any, and his or her guardian or
16 conservator, if any, the prosecuting attorney, and the regional support
17 network administrator, and provide a copy of the petition to such
18 persons as soon as possible. The regional support network
19 administrator or designee may review the petition and may appear and
20 testify at the full hearing on the petition.

21 (2) At the time set for appearance the detained person shall be
22 brought before the court, unless such appearance has been waived and
23 the court shall advise him or her of his or her right to be represented
24 by an attorney and of his or her right to a jury trial. If the
25 detained person is not represented by an attorney, or is indigent or is
26 unwilling to retain an attorney, the court shall immediately appoint an
27 attorney to represent him or her. The court shall, if requested,
28 appoint a reasonably available licensed physician, advanced registered
29 nurse practitioner, psychologist, or psychiatrist, designated by the
30 detained person to examine and testify on behalf of the detained
31 person.

32 (3) The court may, if requested, also appoint a professional person
33 as defined in RCW 71.05.020 to seek less restrictive alternative
34 courses of treatment and to testify on behalf of the detained person.
35 In the case of a person with a developmental disability who has been
36 determined to be incompetent pursuant to RCW 10.77.086(4), then the

1 appointed professional person under this section shall be a
2 developmental disabilities professional.

3 (4) The court shall also set a date for a full hearing on the
4 petition as provided in RCW 71.05.310.

5 **Sec. 5.** RCW 71.05.360 and 2007 c 375 s 14 are each amended to read
6 as follows:

7 (1)(a) Every person involuntarily detained or committed under the
8 provisions of this chapter shall be entitled to all the rights set
9 forth in this chapter, which shall be prominently posted in the
10 facility, and shall retain all rights not denied him or her under this
11 chapter except as chapter 9.41 RCW may limit the right of a person to
12 purchase or possess a firearm or to qualify for a concealed pistol
13 license.

14 (b) No person shall be presumed incompetent as a consequence of
15 receiving an evaluation or voluntary or involuntary treatment for a
16 mental disorder, under this chapter or any prior laws of this state
17 dealing with mental illness. Competency shall not be determined or
18 withdrawn except under the provisions of chapter 10.77 or 11.88 RCW.

19 (c) Any person who leaves a public or private agency following
20 evaluation or treatment for mental disorder shall be given a written
21 statement setting forth the substance of this section.

22 (2) Each person involuntarily detained or committed pursuant to
23 this chapter shall have the right to adequate care and individualized
24 treatment.

25 (3) The provisions of this chapter shall not be construed to deny
26 to any person treatment by spiritual means through prayer in accordance
27 with the tenets and practices of a church or religious denomination.

28 (4) Persons receiving evaluation or treatment under this chapter
29 shall be given a reasonable choice of an available physician, advanced
30 registered nurse practitioner, or other professional person qualified
31 to provide such services.

32 (5) Whenever any person is detained for evaluation and treatment
33 pursuant to this chapter, both the person and, if possible, a
34 responsible member of his or her immediate family, personal
35 representative, guardian, or conservator, if any, shall be advised as
36 soon as possible in writing or orally, by the officer or person taking
37 him or her into custody or by personnel of the evaluation and treatment

1 facility where the person is detained that unless the person is
2 released or voluntarily admits himself or herself for treatment within
3 seventy-two hours of the initial detention:

4 (a) A judicial hearing in a superior court, either by a judge or
5 court commissioner thereof, shall be held not more than seventy-two
6 hours after the initial detention to determine whether there is
7 probable cause to detain the person after the seventy-two hours have
8 expired for up to an additional fourteen days without further automatic
9 hearing for the reason that the person is a person whose mental
10 disorder presents a likelihood of serious harm or that the person is
11 gravely disabled;

12 (b) The person has a right to communicate immediately with an
13 attorney; has a right to have an attorney appointed to represent him or
14 her before and at the probable cause hearing if he or she is indigent;
15 and has the right to be told the name and address of the attorney that
16 the mental health professional has designated pursuant to this chapter;

17 (c) The person has the right to remain silent and that any
18 statement he or she makes may be used against him or her;

19 (d) The person has the right to present evidence and to cross-
20 examine witnesses who testify against him or her at the probable cause
21 hearing; and

22 (e) The person has the right to refuse psychiatric medications,
23 including antipsychotic medication beginning twenty-four hours prior to
24 the probable cause hearing.

25 (6) When proceedings are initiated under RCW 71.05.153, no later
26 than twelve hours after such person is admitted to the evaluation and
27 treatment facility the personnel of the evaluation and treatment
28 facility or the designated mental health professional shall serve on
29 such person a copy of the petition for initial detention and the name,
30 business address, and phone number of the designated attorney and shall
31 forthwith commence service of a copy of the petition for initial
32 detention on the designated attorney.

33 (7) The judicial hearing described in subsection (5) of this
34 section is hereby authorized, and shall be held according to the
35 provisions of subsection (5) of this section and rules promulgated by
36 the supreme court.

37 (8) At the probable cause hearing the detained person shall have
38 the following rights in addition to the rights previously specified:

- 1 (a) To present evidence on his or her behalf;
- 2 (b) To cross-examine witnesses who testify against him or her;
- 3 (c) To be proceeded against by the rules of evidence;
- 4 (d) To remain silent;
- 5 (e) To view and copy all petitions and reports in the court file.

6 (9) (~~The physician-patient privilege or the psychologist-client~~
7 ~~privilege shall be~~) Privileges between patients and physicians,
8 psychologists, or nursing staff are deemed waived in proceedings under
9 this chapter relating to the administration of antipsychotic
10 medications. As to other proceedings under this chapter, the
11 privileges shall be waived when a court of competent jurisdiction in
12 its discretion determines that such waiver is necessary to protect
13 either the detained person or the public.

14 The waiver of a privilege under this section is limited to records
15 or testimony relevant to evaluation of the detained person for purposes
16 of a proceeding under this chapter. Upon motion by the detained person
17 or on its own motion, the court shall examine a record or testimony
18 sought by a petitioner to determine whether it is within the scope of
19 the waiver.

20 The record maker shall not be required to testify in order to
21 introduce medical or psychological records of the detained person so
22 long as the requirements of RCW 5.45.020 are met except that portions
23 of the record which contain opinions as to the detained person's mental
24 state must be deleted from such records unless the person making such
25 conclusions is available for cross-examination.

26 (10) Insofar as danger to the person or others is not created, each
27 person involuntarily detained, treated in a less restrictive
28 alternative course of treatment, or committed for treatment and
29 evaluation pursuant to this chapter shall have, in addition to other
30 rights not specifically withheld by law, the following rights:

31 (a) To wear his or her own clothes and to keep and use his or her
32 own personal possessions, except when deprivation of same is essential
33 to protect the safety of the resident or other persons;

34 (b) To keep and be allowed to spend a reasonable sum of his or her
35 own money for canteen expenses and small purchases;

36 (c) To have access to individual storage space for his or her
37 private use;

38 (d) To have visitors at reasonable times;

1 (e) To have reasonable access to a telephone, both to make and
2 receive confidential calls, consistent with an effective treatment
3 program;

4 (f) To have ready access to letter writing materials, including
5 stamps, and to send and receive uncensored correspondence through the
6 mails;

7 (g) To discuss treatment plans and decisions with professional
8 persons;

9 (h) Not to consent to the administration of antipsychotic
10 medications and not to thereafter be administered antipsychotic
11 medications unless ordered by a court under RCW 71.05.217 or pursuant
12 to an administrative hearing under RCW 71.05.215;

13 (i) Not to consent to the performance of electroconvulsant therapy
14 or surgery, except emergency life-saving surgery, unless ordered by a
15 court under RCW 71.05.217;

16 (j) Not to have psychosurgery performed on him or her under any
17 circumstances;

18 (k) To dispose of property and sign contracts unless such person
19 has been adjudicated an incompetent in a court proceeding directed to
20 that particular issue.

21 (11) Every person involuntarily detained shall immediately be
22 informed of his or her right to a hearing to review the legality of his
23 or her detention and of his or her right to counsel, by the
24 professional person in charge of the facility providing evaluation and
25 treatment, or his or her designee, and, when appropriate, by the court.
26 If the person so elects, the court shall immediately appoint an
27 attorney to assist him or her.

28 (12) A person challenging his or her detention or his or her
29 attorney shall have the right to designate and have the court appoint
30 a reasonably available independent physician, advanced registered nurse
31 practitioner, or licensed mental health professional to examine the
32 person detained, the results of which examination may be used in the
33 proceeding. The person shall, if he or she is financially able, bear
34 the cost of such expert examination, otherwise such expert examination
35 shall be at public expense.

36 (13) Nothing contained in this chapter shall prohibit the patient
37 from petitioning by writ of habeas corpus for release.

1 (14) Nothing in this chapter shall prohibit a person committed on
2 or prior to January 1, 1974, from exercising a right available to him
3 or her at or prior to January 1, 1974, for obtaining release from
4 confinement.

5 (15) Nothing in this section permits any person to knowingly
6 violate a no-contact order or a condition of an active judgment and
7 sentence or an active condition of supervision by the department of
8 corrections.

9 **Sec. 6.** RCW 71.05.390 and 2007 c 375 s 15 are each amended to read
10 as follows:

11 Except as provided in this section, RCW 71.05.445, 71.05.630,
12 70.96A.150, or pursuant to a valid release under RCW 70.02.030, the
13 fact of admission and all information and records compiled, obtained,
14 or maintained in the course of providing services to either voluntary
15 or involuntary recipients of services at public or private agencies
16 shall be confidential.

17 Information and records may be disclosed only:

18 (1) In communications between qualified professional persons to
19 meet the requirements of this chapter, in the provision of services or
20 appropriate referrals, or in the course of guardianship proceedings.
21 The consent of the person, or his or her personal representative or
22 guardian, shall be obtained before information or records may be
23 disclosed by a professional person employed by a facility unless
24 provided to a professional person:

25 (a) Employed by the facility;

26 (b) Who has medical responsibility for the patient's care;

27 (c) Who is a designated mental health professional;

28 (d) Who is providing services under chapter 71.24 RCW;

29 (e) Who is employed by a state or local correctional facility where
30 the person is confined or supervised; or

31 (f) Who is providing evaluation, treatment, or follow-up services
32 under chapter 10.77 RCW.

33 (2) When the communications regard the special needs of a patient
34 and the necessary circumstances giving rise to such needs and the
35 disclosure is made by a facility providing services to the operator of
36 a facility in which the patient resides or will reside.

1 (3)(a) When the person receiving services, or his or her guardian,
2 designates persons to whom information or records may be released, or
3 if the person is a minor, when his or her parents make such
4 designation.

5 (b) A public or private agency shall release to a person's next of
6 kin, attorney, personal representative, guardian, or conservator, if
7 any:

8 (i) The information that the person is presently a patient in the
9 facility or that the person is seriously physically ill;

10 (ii) A statement evaluating the mental and physical condition of
11 the patient, and a statement of the probable duration of the patient's
12 confinement, if such information is requested by the next of kin,
13 attorney, personal representative, guardian, or conservator; and

14 (iii) Such other information requested by the next of kin or
15 attorney as may be necessary to decide whether or not proceedings
16 should be instituted to appoint a guardian or conservator.

17 (4) To the extent necessary for a recipient to make a claim, or for
18 a claim to be made on behalf of a recipient for aid, insurance, or
19 medical assistance to which he or she may be entitled.

20 (5)(a) For either program evaluation or research, or both:
21 PROVIDED, That the secretary adopts rules for the conduct of the
22 evaluation or research, or both. Such rules shall include, but need
23 not be limited to, the requirement that all evaluators and researchers
24 must sign an oath of confidentiality substantially as follows:

25 "As a condition of conducting evaluation or research concerning
26 persons who have received services from (fill in the facility, agency,
27 or person) I,, agree not to divulge, publish, or
28 otherwise make known to unauthorized persons or the public any
29 information obtained in the course of such evaluation or research
30 regarding persons who have received services such that the person who
31 received such services is identifiable.

32 I recognize that unauthorized release of confidential information
33 may subject me to civil liability under the provisions of state law.

34 /s/"

1 (b) Nothing in this chapter shall be construed to prohibit the
2 compilation and publication of statistical data for use by government
3 or researchers under standards, including standards to assure
4 maintenance of confidentiality, set forth by the secretary.

5 (6)(a) To the courts as necessary to the administration of this
6 chapter or to a court ordering an evaluation or treatment under chapter
7 10.77 RCW solely for the purpose of preventing the entry of any
8 evaluation or treatment order that is inconsistent with any order
9 entered under this chapter.

10 (b) To a court or its designee in which a motion under chapter
11 10.77 RCW has been made for involuntary medication of a defendant for
12 the purpose of competency restoration.

13 (c) Disclosure under this subsection is mandatory for the purpose
14 of the health insurance portability and accountability act.

15 (7)(a) When a mental health professional is requested by a
16 representative of a law enforcement or corrections agency, including a
17 police officer, sheriff, community corrections officer, a municipal
18 attorney, or prosecuting attorney to undertake an investigation or
19 provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the
20 mental health professional shall, if requested to do so, advise the
21 representative in writing of the results of the investigation including
22 a statement of reasons for the decision to detain or release the person
23 investigated. Such written report shall be submitted within seventy-
24 two hours of the completion of the investigation or the request from
25 the law enforcement or corrections representative, whichever occurs
26 later.

27 (b) To law enforcement officers, public health officers, or
28 personnel of the department of corrections or the indeterminate
29 sentence review board for persons who are the subject of the records
30 and who are committed to the custody or supervision of the department
31 of corrections or indeterminate sentence review board which information
32 or records are necessary to carry out the responsibilities of their
33 office. Except for dissemination of information released pursuant to
34 RCW 71.05.425 and 4.24.550, regarding persons committed under this
35 chapter under RCW 71.05.280(3) and 71.05.320(3)(c) after dismissal of
36 a sex offense as defined in RCW 9.94A.030, the extent of information
37 that may be released is limited as follows:

1 (i) Only the fact, place, and date of involuntary commitment, the
2 fact and date of discharge or release, and the last known address shall
3 be disclosed upon request;

4 (ii) The law enforcement and public health officers or personnel of
5 the department of corrections or indeterminate sentence review board
6 shall be obligated to keep such information confidential in accordance
7 with this chapter;

8 (iii) Additional information shall be disclosed only after giving
9 notice to said person and his or her counsel and upon a showing of
10 clear, cogent, and convincing evidence that such information is
11 necessary and that appropriate safeguards for strict confidentiality
12 are and will be maintained. However, in the event the said person has
13 escaped from custody, said notice prior to disclosure is not necessary
14 and that the facility from which the person escaped shall include an
15 evaluation as to whether the person is of danger to persons or property
16 and has a propensity toward violence;

17 (iv) Information and records shall be disclosed to the department
18 of corrections pursuant to and in compliance with the provisions of RCW
19 71.05.445 for the purposes of completing presentence investigations or
20 risk assessment reports, supervision of an incarcerated offender or
21 offender under supervision in the community, planning for and provision
22 of supervision of an offender, or assessment of an offender's risk to
23 the community; and

24 (v) Disclosure under this subsection is mandatory for the purposes
25 of the health insurance portability and accountability act.

26 (8) To the attorney of the detained person.

27 (9) To the prosecuting attorney as necessary to carry out the
28 responsibilities of the office under RCW 71.05.330(2) and
29 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access
30 to records regarding the committed person's treatment and prognosis,
31 medication, behavior problems, and other records relevant to the issue
32 of whether treatment less restrictive than inpatient treatment is in
33 the best interest of the committed person or others. Information shall
34 be disclosed only after giving notice to the committed person and the
35 person's counsel.

36 (10) To appropriate law enforcement agencies and to a person, when
37 the identity of the person is known to the public or private agency,
38 whose health and safety has been threatened, or who is known to have

1 been repeatedly harassed, by the patient. The person may designate a
2 representative to receive the disclosure. The disclosure shall be made
3 by the professional person in charge of the public or private agency or
4 his or her designee and shall include the dates of commitment,
5 admission, discharge, or release, authorized or unauthorized absence
6 from the agency's facility, and only such other information that is
7 pertinent to the threat or harassment. The decision to disclose or not
8 shall not result in civil liability for the agency or its employees so
9 long as the decision was reached in good faith and without gross
10 negligence.

11 (11) To appropriate corrections and law enforcement agencies all
12 necessary and relevant information in the event of a crisis or emergent
13 situation that poses a significant and imminent risk to the public.
14 The decision to disclose or not shall not result in civil liability for
15 the mental health service provider or its employees so long as the
16 decision was reached in good faith and without gross negligence.

17 (12) To the persons designated in RCW 71.05.425 for the purposes
18 described in that section.

19 (13) Civil liability and immunity for the release of information
20 about a particular person who is committed to the department under RCW
21 71.05.280(3) and 71.05.320(3)(c) after dismissal of a sex offense as
22 defined in RCW 9.94A.030, is governed by RCW 4.24.550.

23 (14) Upon the death of a person, his or her next of kin, personal
24 representative, guardian, or conservator, if any, shall be notified.

25 Next of kin who are of legal age and competent shall be notified
26 under this section in the following order: Spouse, parents, children,
27 brothers and sisters, and other relatives according to the degree of
28 relation. Access to all records and information compiled, obtained, or
29 maintained in the course of providing services to a deceased patient
30 shall be governed by RCW 70.02.140.

31 (15) To the department of health for the purposes of determining
32 compliance with state or federal licensure, certification, or
33 registration rules or laws. However, the information and records
34 obtained under this subsection are exempt from public inspection and
35 copying pursuant to chapter 42.56 RCW.

36 (16) To mark headstones or otherwise memorialize patients interred
37 at state hospital cemeteries. The department of social and health

1 services shall make available the name, date of birth, and date of
2 death of patients buried in state hospital cemeteries fifty years after
3 the death of a patient.

4 (17) To law enforcement officers and to prosecuting attorneys as
5 are necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of
6 information that may be released is limited as follows:

7 (a) Only the fact, place, and date of involuntary commitment, an
8 official copy of any order or orders of commitment, and an official
9 copy of any written or oral notice of ineligibility to possess a
10 firearm that was provided to the person pursuant to RCW 9.41.047(1),
11 shall be disclosed upon request;

12 (b) The law enforcement and prosecuting attorneys may only release
13 the information obtained to the person's attorney as required by court
14 rule and to a jury or judge, if a jury is waived, that presides over
15 any trial at which the person is charged with violating RCW
16 9.41.040(2)(a)(ii);

17 (c) Disclosure under this subsection is mandatory for the purposes
18 of the health insurance portability and accountability act.

19 (18) When a patient would otherwise be subject to the provisions of
20 RCW 71.05.390 and disclosure is necessary for the protection of the
21 patient or others due to his or her unauthorized disappearance from the
22 facility, and his or her whereabouts is unknown, notice of such
23 disappearance, along with relevant information, may be made to
24 relatives, the department of corrections when the person is under the
25 supervision of the department, and governmental law enforcement
26 agencies designated by the physician or advanced registered nurse
27 practitioner in charge of the patient or the professional person in
28 charge of the facility, or his or her professional designee.

29 Except as otherwise provided in this chapter, the uniform health
30 care information act, chapter 70.02 RCW, applies to all records and
31 information compiled, obtained, or maintained in the course of
32 providing services.

33 (19) The fact of admission, as well as all records, files,
34 evidence, findings, or orders made, prepared, collected, or maintained
35 pursuant to this chapter shall not be admissible as evidence in any
36 legal proceeding outside this chapter without the written consent of
37 the person who was the subject of the proceeding except in a subsequent
38 criminal prosecution of a person committed pursuant to RCW 71.05.280(3)

1 or 71.05.320(3)(c) on charges that were dismissed pursuant to chapter
2 10.77 RCW due to incompetency to stand trial, in a civil commitment
3 proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor,
4 a guardianship or dependency proceeding. The records and files
5 maintained in any court proceeding pursuant to this chapter shall be
6 confidential and available subsequent to such proceedings only to the
7 person who was the subject of the proceeding or his or her attorney.
8 In addition, the court may order the subsequent release or use of such
9 records or files only upon good cause shown if the court finds that
10 appropriate safeguards for strict confidentiality are and will be
11 maintained.

12 **Sec. 7.** RCW 71.05.420 and 2005 c 504 s 110 are each amended to
13 read as follows:

14 Except as provided in RCW 71.05.425, when any disclosure of
15 information or records is made as authorized by RCW 71.05.390, the
16 physician or advanced registered nurse practitioner in charge of the
17 patient or the professional person in charge of the facility shall
18 promptly cause to be entered into the patient's medical record the date
19 and circumstances under which said disclosure was made, the names and
20 relationships to the patient, if any, of the persons or agencies to
21 whom such disclosure was made, and the information disclosed.

22 **Sec. 8.** RCW 71.05.630 and 2007 c 191 s 1 are each amended to read
23 as follows:

24 (1) Except as otherwise provided by law, all treatment records
25 shall remain confidential and may be released only to the persons
26 designated in this section, or to other persons designated in an
27 informed written consent of the patient.

28 (2) Treatment records of a person may be released without informed
29 written consent in the following circumstances:

30 (a) To a person, organization, or agency as necessary for
31 management or financial audits, or program monitoring and evaluation.
32 Information obtained under this subsection shall remain confidential
33 and may not be used in a manner that discloses the name or other
34 identifying information about the person whose records are being
35 released.

1 (b) To the department, the director of regional support networks,
2 or a qualified staff member designated by the director only when
3 necessary to be used for billing or collection purposes. The
4 information shall remain confidential.

5 (c) For purposes of research as permitted in chapter 42.48 RCW.

6 (d) Pursuant to lawful order of a court.

7 (e) To qualified staff members of the department, to the director
8 of regional support networks, to resource management services
9 responsible for serving a patient, or to service providers designated
10 by resource management services as necessary to determine the progress
11 and adequacy of treatment and to determine whether the person should be
12 transferred to a less restrictive or more appropriate treatment
13 modality or facility. The information shall remain confidential.

14 (f) Within the treatment facility where the patient is receiving
15 treatment, confidential information may be disclosed to persons
16 employed, serving in bona fide training programs, or participating in
17 supervised volunteer programs, at the facility when it is necessary to
18 perform their duties.

19 (g) Within the department as necessary to coordinate treatment for
20 mental illness, developmental disabilities, alcoholism, or drug abuse
21 of persons who are under the supervision of the department.

22 (h) To a licensed physician or advanced registered nurse
23 practitioner who has determined that the life or health of the person
24 is in danger and that treatment without the information contained in
25 the treatment records could be injurious to the patient's health.
26 Disclosure shall be limited to the portions of the records necessary to
27 meet the medical emergency.

28 (i) To a facility that is to receive a person who is involuntarily
29 committed under chapter 71.05 RCW, or upon transfer of the person from
30 one treatment facility to another. The release of records under this
31 subsection shall be limited to the treatment records required by law,
32 a record or summary of all somatic treatments, and a discharge summary.
33 The discharge summary may include a statement of the patient's problem,
34 the treatment goals, the type of treatment which has been provided, and
35 recommendation for future treatment, but may not include the patient's
36 complete treatment record.

37 (j) Notwithstanding the provisions of RCW 71.05.390(7), to a
38 correctional facility or a corrections officer who is responsible for

1 the supervision of a person who is receiving inpatient or outpatient
2 evaluation or treatment. Except as provided in RCW 71.05.445 and
3 71.34.345, release of records under this section is limited to:

4 (i) An evaluation report provided pursuant to a written supervision
5 plan.

6 (ii) The discharge summary, including a record or summary of all
7 somatic treatments, at the termination of any treatment provided as
8 part of the supervision plan.

9 (iii) When a person is returned from a treatment facility to a
10 correctional facility, the information provided under (j)(iv) of this
11 subsection.

12 (iv) Any information necessary to establish or implement changes in
13 the person's treatment plan or the level or kind of supervision as
14 determined by resource management services. In cases involving a
15 person transferred back to a correctional facility, disclosure shall be
16 made to clinical staff only.

17 (k) To the person's counsel or guardian ad litem, without
18 modification, at any time in order to prepare for involuntary
19 commitment or recommitment proceedings, reexaminations, appeals, or
20 other actions relating to detention, admission, commitment, or
21 patient's rights under chapter 71.05 RCW.

22 (l) To staff members of the protection and advocacy agency or to
23 staff members of a private, nonprofit corporation for the purpose of
24 protecting and advocating the rights of persons with mental disorders
25 or developmental disabilities. Resource management services may limit
26 the release of information to the name, birthdate, and county of
27 residence of the patient, information regarding whether the patient was
28 voluntarily admitted, or involuntarily committed, the date and place of
29 admission, placement, or commitment, the name and address of a guardian
30 of the patient, and the date and place of the guardian's appointment.
31 Any staff member who wishes to obtain additional information shall
32 notify the patient's resource management services in writing of the
33 request and of the resource management services' right to object. The
34 staff member shall send the notice by mail to the guardian's address.
35 If the guardian does not object in writing within fifteen days after
36 the notice is mailed, the staff member may obtain the additional
37 information. If the guardian objects in writing within fifteen days

1 after the notice is mailed, the staff member may not obtain the
2 additional information.

3 (m) For purposes of coordinating health care, the department may
4 release without informed written consent of the patient, information
5 acquired for billing and collection purposes as described in (b) of
6 this subsection to all current treating providers of the patient with
7 prescriptive authority who have written a prescription for the patient
8 within the last twelve months. The department shall notify the patient
9 that billing and collection information has been released to named
10 providers, and provide the substance of the information released and
11 the dates of such release. The department shall not release
12 counseling, inpatient psychiatric hospitalization, or drug and alcohol
13 treatment information without a signed written release from the client.

14 (3) Whenever federal law or federal regulations restrict the
15 release of information contained in the treatment records of any
16 patient who receives treatment for chemical dependency, the department
17 may restrict the release of the information as necessary to comply with
18 federal law and regulations.

19 **Sec. 9.** RCW 71.05.660 and 2005 c 504 s 114 are each amended to
20 read as follows:

21 Nothing in this chapter or chapter 70.96A, 71.05, 71.34, or 70.96B
22 RCW shall be construed to interfere with communications between
23 physicians, advanced registered nurse practitioners, or psychologists
24 and patients and attorneys and clients.

25 **Sec. 10.** RCW 71.06.040 and 1959 c 25 s 71.06.040 are each amended
26 to read as follows:

27 At a preliminary hearing upon the charge of sexual psychopathy, the
28 court may require the testimony of two duly licensed physicians or
29 advanced registered nurse practitioners who have examined the
30 defendant. If the court finds that there are reasonable grounds to
31 believe the defendant is a sexual psychopath, the court shall order
32 said defendant confined at the nearest state hospital for observation
33 as to the existence of sexual psychopathy. Such observation shall be
34 for a period of not to exceed ninety days. The defendant shall be
35 detained in the county jail or other county facilities pending
36 execution of such observation order by the department.

1 **Sec. 11.** RCW 71.12.540 and 1989 1st ex.s. c 9 s 233 are each
2 amended to read as follows:

3 The authorities of each establishment as defined in this chapter
4 shall place on file in the office of the establishment the
5 recommendations made by the department of health as a result of such
6 visits, for the purpose of consultation by such authorities, and for
7 reference by the department representatives upon their visits. Every
8 such establishment shall keep records of every person admitted thereto
9 as follows and shall furnish to the department, when required, the
10 following data: Name, age, sex, marital status, date of admission,
11 voluntary or other commitment, name of physician or advanced registered
12 nurse practitioner, diagnosis, and date of discharge.

13 **Sec. 12.** RCW 71.32.140 and 2004 c 39 s 2 are each amended to read
14 as follows:

15 (1) A principal who:

16 (a) Chose not to be able to revoke his or her directive during any
17 period of incapacity;

18 (b) Consented to voluntary admission to inpatient mental health
19 treatment, or authorized an agent to consent on the principal's behalf;
20 and

21 (c) At the time of admission to inpatient treatment, refuses to be
22 admitted,
23 may only be admitted into inpatient mental health treatment under
24 subsection (2) of this section.

25 (2) A principal may only be admitted to inpatient mental health
26 treatment under his or her directive if, prior to admission, a
27 (~~physician~~) member of the treating facility's professional staff who
28 is a physician or advanced registered nurse practitioner:

29 (a) Evaluates the principal's mental condition, including a review
30 of reasonably available psychiatric and psychological history,
31 diagnosis, and treatment needs, and determines, in conjunction with
32 another health care provider or mental health professional, that the
33 principal is incapacitated;

34 (b) Obtains the informed consent of the agent, if any, designated
35 in the directive;

36 (c) Makes a written determination that the principal needs an

1 inpatient evaluation or is in need of inpatient treatment and that the
2 evaluation or treatment cannot be accomplished in a less restrictive
3 setting; and

4 (d) Documents in the principal's medical record a summary of the
5 physician's or advanced registered nurse practitioner's findings and
6 recommendations for treatment or evaluation.

7 (3) In the event the admitting physician is not a psychiatrist, or
8 the advanced registered nurse practitioner is not a psychiatric
9 advanced registered nurse practitioner, the principal shall receive a
10 complete psychological assessment by a mental health professional
11 within twenty-four hours of admission to determine the continued need
12 for inpatient evaluation or treatment.

13 (4)(a) If it is determined that the principal has capacity, then
14 the principal may only be admitted to, or remain in, inpatient
15 treatment if he or she consents at the time or is detained under the
16 involuntary treatment provisions of chapter 70.96A, 71.05, or 71.34
17 RCW.

18 (b) If a principal who is determined by two health care providers
19 or one mental health professional and one health care provider to be
20 incapacitated continues to refuse inpatient treatment, the principal
21 may immediately seek injunctive relief for release from the facility.

22 (5) If, at the end of the period of time that the principal or the
23 principal's agent, if any, has consented to voluntary inpatient
24 treatment, but no more than fourteen days after admission, the
25 principal has not regained capacity or has regained capacity but
26 refuses to consent to remain for additional treatment, the principal
27 must be released during reasonable daylight hours, unless detained
28 under chapter 70.96A, 71.05, or 71.34 RCW.

29 (6)(a) Except as provided in (b) of this subsection, any principal
30 who is voluntarily admitted to inpatient mental health treatment under
31 this chapter shall have all the rights provided to individuals who are
32 voluntarily admitted to inpatient treatment under chapter 71.05, 71.34,
33 or 72.23 RCW.

34 (b) Notwithstanding RCW 71.05.050 regarding consent to inpatient
35 treatment for a specified length of time, the choices an incapacitated
36 principal expressed in his or her directive shall control, provided,
37 however, that a principal who takes action demonstrating a desire to be
38 discharged, in addition to making statements requesting to be

1 discharged, shall be discharged, and no principal shall be restrained
2 in any way in order to prevent his or her discharge. Nothing in this
3 subsection shall be construed to prevent detention and evaluation for
4 civil commitment under chapter 71.05 RCW.

5 (7) Consent to inpatient admission in a directive is effective only
6 while the professional person, health care provider, and health care
7 facility are in substantial compliance with the material provisions of
8 the directive related to inpatient treatment.

9 **Sec. 13.** RCW 71.32.250 and 2003 c 283 s 25 are each amended to
10 read as follows:

11 (1) If a principal who is a resident of a long-term care facility
12 is admitted to inpatient mental health treatment pursuant to his or her
13 directive, the principal shall be allowed to be readmitted to the same
14 long-term care facility as if his or her inpatient admission had been
15 for a physical condition on the same basis that the principal would be
16 readmitted under state or federal statute or rule when:

17 (a) The treating facility's professional staff determine that
18 inpatient mental health treatment is no longer medically necessary for
19 the resident. The determination shall be made in writing (i) by a
20 psychiatrist or (ii) by a mental health professional and either (A) a
21 physician or (B) advanced registered nurse practitioner; or

22 (b) The person's consent to admission in his or her directive has
23 expired.

24 (2)(a) If the long-term care facility does not have a bed available
25 at the time of discharge, the treating facility may discharge the
26 resident, in consultation with the resident and agent if any, and in
27 accordance with a medically appropriate discharge plan, to another
28 long-term care facility.

29 (b) This section shall apply to inpatient mental health treatment
30 admission of long-term care facility residents, regardless of whether
31 the admission is directly from a facility, hospital emergency room, or
32 other location.

33 (c) This section does not restrict the right of the resident to an
34 earlier release from the inpatient treatment facility. This section
35 does not restrict the right of a long-term care facility to initiate
36 transfer or discharge of a resident who is readmitted pursuant to this

1 section, provided that the facility has complied with the laws
2 governing the transfer or discharge of a resident.

3 (3) The joint legislative audit and review committee shall conduct
4 an evaluation of the operation and impact of this section. The
5 committee shall report its findings to the appropriate committees of
6 the legislature by December 1, 2004.

7 **Sec. 14.** RCW 71.32.260 and 2003 c 283 s 26 are each amended to
8 read as follows:

9 The directive shall be in substantially the following form:

Mental Health Advance Directive

NOTICE TO PERSONS

CREATING A MENTAL HEALTH ADVANCE DIRECTIVE

This is an important legal document. It creates an advance directive for mental health treatment. Before signing this document you should know these important facts:

(1) This document is called an advance directive and allows you to make decisions in advance about your mental health treatment, including medications, short-term admission to inpatient treatment and electroconvulsive therapy.

YOU DO NOT HAVE TO FILL OUT OR SIGN THIS FORM.

IF YOU DO NOT SIGN THIS FORM, IT WILL NOT TAKE EFFECT.

If you choose to complete and sign this document, you may still decide to leave some items blank.

(2) You have the right to appoint a person as your agent to make treatment decisions for you. You must notify your agent that you have appointed him or her as an agent. The person you appoint has a duty to act consistently with your wishes made known by you. If your agent does not know what your wishes are, he or she has a duty to act in your best interest. Your agent has the right to withdraw from the appointment at any time.

(3) The instructions you include with this advance directive and the authority you give your agent to act will only become effective under the conditions you select in this document. You may choose to limit this directive and your agent's authority to times when you are incapacitated or to times when you are exhibiting symptoms or behavior that you specify. You may also make this directive effective immediately. No matter when you choose to make this directive effective, your treatment providers must still seek your informed consent at all times that you have capacity to give informed consent.

(4) You have the right to revoke this document in writing at any time you have capacity.

**YOU MAY NOT REVOKE THIS DIRECTIVE WHEN YOU HAVE BEEN FOUND TO BE
INCAPACITATED UNLESS YOU HAVE SPECIFICALLY STATED IN THIS DIRECTIVE THAT
YOU WANT IT TO BE REVOCABLE WHEN YOU ARE INCAPACITATED.**

1 (5) This directive will stay in effect until you revoke it unless you specify an expiration
2 date and you are incapacitated at the time it expires, it will remain in effect until you have capacity to make
3 treatment decisions again unless you chose to be able to revoke it while you are incapacitated and you revoke the
4 directive.

5 (6) You cannot use your advance directive to consent to civil commitment. The procedures that apply to your advance
6 directive are different than those provided for in the Involuntary Treatment Act. Involuntary treatment is a different
7 process.

8 (7) If there is anything in this directive that you do not understand, you should ask a lawyer to explain it to you.

9 (8) You should be aware that there are some circumstances where your provider may not have to follow your directive.

10 (9) You should discuss any treatment decisions in your directive with your provider.

11 (10) You may ask the court to rule on the validity of your directive.

12 **PART I.**

13 **STATEMENT OF INTENT TO CREATE A**
14 **MENTAL HEALTH ADVANCE DIRECTIVE**

15 I, being a person with capacity, willfully and voluntarily execute this mental health advance directive so
16 that my choices regarding my mental health care will be carried out in circumstances when I am unable to express my
17 instructions and preferences regarding my mental health care. If a guardian is appointed by a court to make mental
18 health decisions for me, I intend this document to take precedence over all other means of ascertaining my intent.

19 The fact that I may have left blanks in this directive does not affect its validity in any way. I intend that all
20 completed sections be followed. If I have not expressed a choice, my agent should make the decision that he or she
21 determines is in my best interest. I intend this directive to take precedence over any other directives I have previously
22 executed, to the extent that they are inconsistent with this document, or unless I expressly state otherwise in either
23 document.

24 I understand that I may revoke this directive in whole or in part if I am a person with capacity. I understand that I
25 cannot revoke this directive if a court, two health care providers, or one mental health professional and one health care
26 provider find that I am an incapacitated person, unless, when I executed this directive, I chose to be able to revoke this
27 directive while incapacitated.

28 I understand that, except as otherwise provided in law, revocation must be in writing. I understand that nothing in
29 this directive, or in my refusal of treatment to which I consent in this directive, authorizes any health care provider,
30 professional person, health care facility, or agent appointed in this directive to use or threaten to use abuse, neglect,
31 financial exploitation, or abandonment to carry out my directive.

32 I understand that there are some circumstances where my provider may not have to follow my directive.

33 **PART II.**

34 **WHEN THIS DIRECTIVE IS EFFECTIVE**

35 *YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.*

36 I intend that this directive become effective (*YOU MUST CHOOSE ONLY ONE*):

37 Immediately upon my signing of this directive.

1 If I become incapacitated.
2 When the following circumstances, symptoms, or behaviors occur:
3
4

5 **PART III.**

6 **DURATION OF THIS DIRECTIVE**

7 *YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.*

8 I want this directive to (*YOU MUST CHOOSE ONLY ONE*):

- 9 Remain valid and in effect for an indefinite period of time.
10 Automatically expire years from the date it was created.

11 **PART IV.**

12 **WHEN I MAY REVOKE THIS DIRECTIVE**

13 *YOU MUST COMPLETE THIS PART FOR THIS DIRECTIVE TO BE VALID.*

14 I intend that I be able to revoke this directive (*YOU MUST CHOOSE ONLY ONE*):

- 15 Only when I have capacity.

16 I understand that choosing this option means I may only revoke this directive if I have capacity. I further understand
17 that if I choose this option and become incapacitated while this directive is in effect, I may receive treatment
18 that I specify in this directive, even if I object at the time.

- 19 Even if I am incapacitated.

20 I understand that choosing this option means that I may revoke this directive even if I am incapacitated. I further
21 understand that if I choose this option and revoke this directive while I am incapacitated I may not receive
22 treatment that I specify in this directive, even if I want the treatment.

23 **PART V.**

24 **PREFERENCES AND INSTRUCTIONS ABOUT TREATMENT, FACILITIES, AND PHYSICIANS OR**
25 **ADVANCED REGISTERED NURSE PRACTITIONERS**

26 **A. Preferences and Instructions About Physician(s) or Advanced Registered Nurse Practitioner(s) to be Involved**
27 **in My Treatment**

28 I would like the physician(s) or advanced registered nurse practitioner(s) named below to be involved in my treatment
29 decisions:

30 Dr. or ARNP Contact information:

31 Dr. or ARNP Contact information:

32 I do not wish to be treated by Dr. or ARNP

33 **B. Preferences and Instructions About Other Providers**

34 I am receiving other treatment or care from providers who I feel have an impact on my mental health care. I would like
35 the following treatment provider(s) to be contacted when this directive is effective:

36 Name Profession Contact information

1 Name Profession Contact information

2 **C. Preferences and Instructions About Medications for Psychiatric Treatment** *(initial and complete all that apply)*

3 I consent, and authorize my agent (if appointed) to consent, to the following
4 medications:

5 I do not consent, and I do not authorize my agent (if appointed) to consent, to the administration of the following
6 medications:

7 I am willing to take the medications excluded above if my only reason for excluding them is the side effects
8 which include

9 and these side effects can be eliminated by dosage adjustment or other means

10 I am willing to try any other medication the hospital doctor or advanced registered nurse practitioner recommends

11 I am willing to try any other medications my outpatient doctor or advanced registered nurse practitioner
12 recommends

13 I do not want to try any other medications.

14 **Medication Allergies**

15 I have allergies to, or severe side effects from, the following:

16

17 **Other Medication Preferences or Instructions**

18 I have the following other preferences or instructions about medications

19

20 **D. Preferences and Instructions About Hospitalization and Alternatives**

21 *(initial all that apply and, if desired, rank "1" for first choice, "2" for second choice, and so on)*

22 In the event my psychiatric condition is serious enough to require 24-hour care and I have no physical conditions
23 that require immediate access to emergency medical care, I prefer to receive this care in programs/facilities designed as
24 alternatives to psychiatric hospitalizations.

25 I would also like the interventions below to be tried before hospitalization is considered:

26 Calling someone or having someone call me when needed.

27 Name: Telephone:

28 Staying overnight with someone

29 Name: Telephone:

30 Having a mental health service provider come to see me

31 Going to a crisis triage center or emergency room

32 Staying overnight at a crisis respite (temporary) bed

33 Seeing a service provider for help with psychiatric medications

34 Other, specify:

35 **Authority to Consent to Inpatient Treatment**

36 I consent, and authorize my agent (if appointed) to consent, to voluntary admission to inpatient mental health treatment

37 for days *(not to exceed 14 days)*

1 (Sign one):
2 If deemed appropriate by my agent (if appointed) and treating physician or advanced registered nurse practitioner
3

4 (Signature)

5 or

6 Under the following circumstances (specify symptoms, behaviors, or circumstances that indicate the need for
7 hospitalization)
8

9 (Signature)

10 I do **not** consent, or authorize my agent (if appointed) to consent, to inpatient treatment

11

12 (Signature)

13 **Hospital Preferences and Instructions**

14 If hospitalization is required, I prefer the following hospitals:

15 I do not consent to be admitted to the following hospitals:

16 **E. Preferences and Instructions About Preemergency**

17 I would like the interventions below to be tried before use of seclusion or restraint is considered

18 (*initial all that apply*):

19 "Talk me down" one-on-one

20 More medication

21 Time out/privacy

22 Show of authority/force

23 Shift my attention to something else

24 Set firm limits on my behavior

25 Help me to discuss/vent feelings

26 Decrease stimulation

27 Offer to have neutral person settle dispute

28 Other, specify

29 **F. Preferences and Instructions About Seclusion, Restraint, and Emergency Medications**

30 If it is determined that I am engaging in behavior that requires seclusion, physical restraint, and/or emergency use of
31 medication, I prefer these interventions in the order I have chosen (*choose "1" for first choice, "2" for second choice,*
32 *and so on*):

33 Seclusion

34 Seclusion and physical restraint (combined)

35 Medication by injection

36 Medication in pill or liquid form

1 In the event that my attending physician or advanced registered nurse practitioner decides to use medication in response
2 to an emergency situation after due consideration of my preferences and instructions for emergency treatments stated
3 above, I expect the choice of medication to reflect any preferences and instructions I have expressed in Part III C of this
4 form. The preferences and instructions I express in this section regarding medication in emergency situations do not
5 constitute consent to use of the medication for nonemergency treatment.

6 **G. Preferences and Instructions About Electroconvulsive Therapy**
7 **(ECT or Shock Therapy)**

8 My wishes regarding electroconvulsive therapy are (*sign one*):

9 I do not consent, nor authorize my agent (if appointed) to consent, to the administration of electroconvulsive
10 therapy

11

12 (Signature)

13 I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

14

15 (Signature)

16 I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy,
17 but only under the following conditions:

18

19

20 (Signature)

21 **H. Preferences and Instructions About Who is Permitted to Visit**

22 If I have been admitted to a mental health treatment facility, the following people are not permitted to visit me there:

23 Name:

24 Name:

25 Name:

26 I understand that persons not listed above may be permitted to visit me.

27 **I. Additional Instructions About My Mental Health Care**

28 Other instructions about my mental health care:

29

30 In case of emergency, please contact:

31 Name: Address:

32 Work telephone: Home telephone:

33 Physician or Advanced Registered Nurse Address:

34 Practitioner:

35 Telephone:

36 The following may help me to avoid a hospitalization:

37

1 I generally react to being hospitalized as follows:
2
3 Staff of the hospital or crisis unit can help me by doing the following:
4
5

6 **J. Refusal of Treatment**

7 I do not consent to any mental health treatment.

8
9 (Signature)

10 **PART VI.**

11 **DURABLE POWER OF ATTORNEY (APPOINTMENT OF MY AGENT)**

12 *(Fill out this part only if you wish to appoint an agent or nominate a guardian.)*

13 I authorize an agent to make mental health treatment decisions on my behalf. The authority granted to my agent
14 includes the right to consent, refuse consent, or withdraw consent to any mental health care, treatment, service, or
15 procedure, consistent with any instructions and/or limitations I have set forth in this directive. I intend that those
16 decisions should be made in accordance with my expressed wishes as set forth in this document. If I have not expressed
17 a choice in this document **and my agent does not otherwise know my wishes**, I authorize my agent to make the
18 decision that my agent determines is in my best interest. This agency shall not be affected by my incapacity. Unless I
19 state otherwise in this durable power of attorney, I may revoke it unless prohibited by other state law.

20 **A. Designation of an Agent**

21 I appoint the following person as my agent to make mental health treatment decisions for me as authorized in this
22 document and request that this person be notified immediately when this directive becomes effective:

23 Name: Address:
24 Work telephone: Home telephone:
25 Relationship:

26 **B. Designation of Alternate Agent**

27 If the person named above is unavailable, unable, or refuses to serve as my agent, or I revoke that person's authority to
28 serve as my agent, I hereby appoint the following person as my alternate agent and request that this person be notified
29 immediately when this directive becomes effective or when my original agent is no longer my agent:

30 Name: Address:
31 Work telephone: Home telephone:
32 Relationship:

33 **C. When My Spouse is My Agent** *(initial if desired)*

34 If my spouse is my agent, that person shall remain my agent even if we become legally separated or our marriage
35 is dissolved, unless there is a court order to the contrary or I have remarried.

36 **D. Limitations on My Agent's Authority**

37 I do not grant my agent the authority to consent on my behalf to the following:

1
2
3 **E. Limitations on My Ability to Revoke this Durable Power of Attorney**

4 I choose to limit my ability to revoke this durable power of attorney as follows:
5
6

7 **F. Preference as to Court-Appointed Guardian**

8 In the event a court appoints a guardian who will make decisions regarding my mental health treatment, I **nominate** the
9 following person **as my guardian**:

10 Name: Address:

11 Work telephone: Home telephone:

12 Relationship:

13 The appointment of a guardian of my estate or my person or any other decision maker shall not give the guardian or
14 decision maker the power to revoke, suspend, or terminate this directive or the powers of my agent, except as authorized
15 by law.

16
17 (Signature required if nomination is made)

18 **PART VII.**
19 **OTHER DOCUMENTS**

20 *(Initial all that apply)*

21 I have executed the following documents that include the power to make decisions regarding health care services for
22 myself:

23 Health care power of attorney (chapter 11.94 RCW)

24 "Living will" (Health care directive; chapter 70.122 RCW)

25 I have appointed more than one agent. I understand that the most recently appointed agent controls except as
26 stated below:

27
28 **PART VIII.**

29 **NOTIFICATION OF OTHERS AND CARE OF PERSONAL AFFAIRS**

30 *(Fill out this part only if you wish to provide nontreatment instructions.)*

31 I understand the preferences and instructions in this part are **NOT** the responsibility of my treatment provider and that no
32 treatment provider is required to act on them.

33 **A. Who Should Be Notified**

34 I desire my agent to notify the following individuals as soon as possible when this directive becomes effective:

35 Name: Address:

36 Day telephone: Evening telephone:

37 Name: Address:

Day telephone: Evening telephone:

B. Preferences or Instructions About Personal Affairs

I have the following preferences or instructions about my personal affairs (e.g., care of dependents, pets, household) if I am admitted to a mental health treatment facility:

.....
.....

C. Additional Preferences and Instructions:

.....
.....
.....

**PART IX.
SIGNATURE**

By signing here, I indicate that I understand the purpose and effect of this document and that I am giving my informed consent to the treatments and/or admission to which I have consented or authorized my agent to consent in this directive. I intend that my consent in this directive be construed as being consistent with the elements of informed consent under chapter 7.70 RCW.

Signature: Date:

Printed Name:

This directive was signed and declared by the "Principal," to be his or her directive, in our presence who, at his or her request, have signed our names below as witnesses. We declare that, at the time of the creation of this instrument, the Principal is personally known to us, and, according to our best knowledge and belief, has capacity at this time and does not appear to be acting under duress, undue influence, or fraud. We further declare that none of us is:

- (A) A person designated to make medical decisions on the principal's behalf;
- (B) A health care provider or professional person directly involved with the provision of care to the principal at the time the directive is executed;
- (C) An owner, operator, employee, or relative of an owner or operator of a health care facility or long-term care facility in which the principal is a patient or resident;
- (D) A person who is related by blood, marriage, or adoption to the person, or with whom the principal has a dating relationship as defined in RCW 26.50.010;
- (E) An incapacitated person;
- (F) A person who would benefit financially if the principal undergoes mental health treatment; or
- (G) A minor.

Witness 1: Signature: Date:

Printed Name:

Telephone: Address:

Witness 2: Signature: Date:

1 Printed Name:

2 Telephone: Address:

3 **PART X.**

4 **RECORD OF DIRECTIVE**

5 I have given a copy of this directive to the following persons:

6

7 **DO NOT FILL OUT PART XI UNLESS YOU INTEND TO REVOKE**

8 **THIS DIRECTIVE IN PART OR IN WHOLE**

9 **PART XI.**

10 **REVOCAION OF THIS DIRECTIVE**

11 *(Initial any that apply):*

12 I am revoking the following part(s) of this directive (specify):

13

14 I am revoking all of this directive.

15 By signing here, I indicate that I understand the purpose and effect of my revocation and that no person is bound by any
16 revoked provision(s). I intend this revocation to be interpreted as if I had never completed the revoked provision(s).

17 Signature: Date:

18 Printed Name:

19 **DO NOT SIGN THIS PART UNLESS YOU INTEND TO REVOKE THIS**

20 **DIRECTIVE IN PART OR IN WHOLE**

21 **Sec. 15.** RCW 71.34.355 and 1985 c 354 s 16 are each amended to
22 read as follows:

23 Absent a risk to self or others, minors treated under this chapter
24 have the following rights, which shall be prominently posted in the
25 evaluation and treatment facility:

26 (1) To wear their own clothes and to keep and use personal
27 possessions;

28 (2) To keep and be allowed to spend a reasonable sum of their own
29 money for canteen expenses and small purchases;

30 (3) To have individual storage space for private use;

31 (4) To have visitors at reasonable times;

32 (5) To have reasonable access to a telephone, both to make and
33 receive confidential calls;

34 (6) To have ready access to letter-writing materials, including
35 stamps, and to send and receive uncensored correspondence through the
36 mails;

1 (7) To discuss treatment plans and decisions with mental health
2 professionals;

3 (8) To have the right to adequate care and individualized
4 treatment;

5 (9) Not to consent to the performance of electro-convulsive
6 treatment or surgery, except emergency life-saving surgery, upon him or
7 her, and not to have electro-convulsive treatment or nonemergency
8 surgery in such circumstance unless ordered by a court pursuant to a
9 judicial hearing in which the minor is present and represented by
10 counsel, and the court shall appoint a psychiatrist, psychologist,
11 advanced registered nurse practitioner, or physician designated by the
12 minor or the minor's counsel to testify on behalf of the minor. The
13 minor's parent may exercise this right on the minor's behalf, and must
14 be informed of any impending treatment;

15 (10) Not to have psychosurgery performed on him or her under any
16 circumstances.

17 **Sec. 16.** RCW 71.34.720 and 1991 c 364 s 12 are each amended to
18 read as follows:

19 (1) Each minor approved by the facility for inpatient admission
20 shall be examined and evaluated by a children's mental health
21 specialist as to the child's mental condition and by a physician or
22 advanced registered nurse practitioner as to the child's physical
23 condition within twenty-four hours of admission. Reasonable measures
24 shall be taken to ensure medical treatment is provided for any
25 condition requiring immediate medical attention.

26 (2) If, after examination and evaluation, the children's mental
27 health specialist and the physician or advanced registered nurse
28 practitioner determine that the initial needs of the minor would be
29 better served by placement in a chemical dependency treatment facility,
30 then the minor shall be referred to an approved treatment program
31 defined under RCW 70.96A.020.

32 (3) The admitting facility shall take reasonable steps to notify
33 immediately the minor's parent of the admission.

34 (4) During the initial seventy-two hour treatment period, the minor
35 has a right to associate or receive communications from parents or
36 others unless the professional person in charge determines that such
37 communication would be seriously detrimental to the minor's condition

1 or treatment and so indicates in the minor's clinical record, and
2 notifies the minor's parents of this determination. In no event may
3 the minor be denied the opportunity to consult an attorney.

4 (5) If the evaluation and treatment facility admits the minor, it
5 may detain the minor for evaluation and treatment for a period not to
6 exceed seventy-two hours from the time of provisional acceptance. The
7 computation of such seventy-two hour period shall exclude Saturdays,
8 Sundays, and holidays. This initial treatment period shall not exceed
9 seventy-two hours except when an application for voluntary inpatient
10 treatment is received or a petition for fourteen-day commitment is
11 filed.

12 (6) Within twelve hours of the admission, the facility shall advise
13 the minor of his or her rights as set forth in this chapter.

14 **Sec. 17.** RCW 71.34.730 and 1995 c 312 s 54 are each amended to
15 read as follows:

16 (1) The professional person in charge of an evaluation and
17 treatment facility where a minor has been admitted involuntarily for
18 the initial seventy-two hour treatment period under this chapter may
19 petition to have a minor committed to an evaluation and treatment
20 facility for fourteen-day diagnosis, evaluation, and treatment.

21 If the professional person in charge of the treatment and
22 evaluation facility does not petition to have the minor committed, the
23 parent who has custody of the minor may seek review of that decision in
24 court. The parent shall file notice with the court and provide a copy
25 of the treatment and evaluation facility's report.

26 (2) A petition for commitment of a minor under this section shall
27 be filed with the superior court in the county where the minor is
28 residing or being detained.

29 (a) A petition for a fourteen-day commitment shall be signed
30 ~~((either))~~ (i) by two physicians or two advanced registered nurse
31 practitioners or (ii) by ~~((one physician and))~~ a mental health
32 professional ~~((who))~~ and either a physician or an advanced registered
33 nurse practitioner. The person signing the petition must have examined
34 the minor, and ~~((shall))~~ the petition must contain the following:

35 ~~((+i))~~ (A) The name and address of the petitioner;

36 ~~((+ii))~~ (B) The name of the minor alleged to meet the criteria for
37 fourteen-day commitment;

1 (~~(iii)~~) (C) The name, telephone number, and address if known of
2 every person believed by the petitioner to be legally responsible for
3 the minor;

4 (~~(iv)~~) (D) A statement that the petitioner has examined the minor
5 and finds that the minor's condition meets required criteria for
6 fourteen-day commitment and the supporting facts therefor;

7 (~~(v)~~) (E) A statement that the minor has been advised of the need
8 for voluntary treatment but has been unwilling or unable to consent to
9 necessary treatment;

10 (~~(vi)~~) (F) A statement recommending the appropriate facility or
11 facilities to provide the necessary treatment; and

12 (~~(vii)~~) (G) A statement concerning whether a less restrictive
13 alternative to inpatient treatment is in the best interests of the
14 minor.

15 (b) A copy of the petition shall be personally delivered to the
16 minor by the petitioner or petitioner's designee. A copy of the
17 petition shall be sent to the minor's attorney and the minor's parent.

18 **Sec. 18.** RCW 71.34.750 and 1985 c 354 s 9 are each amended to read
19 as follows:

20 (1) At any time during the minor's period of fourteen-day
21 commitment, the professional person in charge may petition the court
22 for an order requiring the minor to undergo an additional one hundred
23 eighty-day period of treatment. The evidence in support of the
24 petition shall be presented by the county prosecutor unless the
25 petition is filed by the professional person in charge of a state-
26 operated facility in which case the evidence shall be presented by the
27 attorney general.

28 (2) The petition for one hundred eighty-day commitment shall
29 contain the following:

30 (a) The name and address of the petitioner or petitioners;

31 (b) The name of the minor alleged to meet the criteria for one
32 hundred eighty-day commitment;

33 (c) A statement that the petitioner is the professional person in
34 charge of the evaluation and treatment facility responsible for the
35 treatment of the minor;

36 (d) The date of the fourteen-day commitment order; and

37 (e) A summary of the facts supporting the petition.

1 (3) The petition shall be supported by accompanying affidavits
2 signed by (a) two examining physicians, one of whom shall be a child
3 psychiatrist, or two advanced registered nurse practitioners, one of
4 whom shall be a psychiatric advanced registered nurse practitioner, or
5 by ~~((one examining physician and))~~ (b) one children's mental health
6 specialist and either an examining physician or an advanced registered
7 nurse practitioner. The affidavits shall describe in detail the
8 behavior of the detained minor which supports the petition and shall
9 state whether a less restrictive alternative to inpatient treatment is
10 in the best interests of the minor.

11 (4) The petition for one hundred eighty-day commitment shall be
12 filed with the clerk of the court at least three days before the
13 expiration of the fourteen-day commitment period. The petitioner or
14 the petitioner's designee shall within twenty-four hours of filing
15 serve a copy of the petition on the minor and notify the minor's
16 attorney and the minor's parent. A copy of the petition shall be
17 provided to such persons at least twenty-four hours prior to the
18 hearing.

19 (5) At the time of filing, the court shall set a date within seven
20 days for the hearing on the petition. The court may continue the
21 hearing upon the written request of the minor or the minor's attorney
22 for not more than ten days. The minor or the parents shall be afforded
23 the same rights as in a fourteen-day commitment hearing. Treatment of
24 the minor shall continue pending the proceeding.

25 (6) For one hundred eighty-day commitment, the court must find by
26 clear, cogent, and convincing evidence that the minor:

27 (a) Is suffering from a mental disorder;

28 (b) Presents a likelihood of serious harm or is gravely disabled;

29 and

30 (c) Is in need of further treatment that only can be provided in a
31 one hundred eighty-day commitment.

32 (7) If the court finds that the criteria for commitment are met and
33 that less restrictive treatment in a community setting is not
34 appropriate or available, the court shall order the minor committed for
35 further inpatient treatment to the custody of the secretary or to a
36 private treatment and evaluation facility if the minor's parents have
37 assumed responsibility for payment for the treatment. If the court

1 finds that a less restrictive alternative is in the best interest of
2 the minor, the court shall order less restrictive alternative treatment
3 upon such conditions as necessary.

4 If the court determines that the minor does not meet the criteria
5 for one hundred eighty-day commitment, the minor shall be released.

6 (8) Successive one hundred eighty-day commitments are permissible
7 on the same grounds and under the same procedures as the original one
8 hundred eighty-day commitment. Such petitions shall be filed at least
9 five days prior to the expiration of the previous one hundred eighty-
10 day commitment order.

11 **Sec. 19.** RCW 71.34.770 and 1985 c 354 s 12 are each amended to
12 read as follows:

13 (1) The professional person in charge of the inpatient treatment
14 facility may authorize release for the minor under such conditions as
15 appropriate. Conditional release may be revoked pursuant to RCW
16 71.34.780 if leave conditions are not met or the minor's functioning
17 substantially deteriorates.

18 (2) Minors may be discharged prior to expiration of the commitment
19 period if the treating physician, advanced registered nurse
20 practitioner, or professional person in charge concludes that the minor
21 no longer meets commitment criteria.

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