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THE MINNESOTA HOSPITALIZATION  
AND COMMITMENT ACT  
SUMMARY OF MINNESOTA STATUTES, CHAPTER 253A

KEVIN KENNEY  
APRIL, 1978

STATE OF MINNESOTA  
HOUSE OF REPRESENTATIVES  
RESEARCH DEPARTMENT  
17 STATE CAPITOL  
ST. PAUL, MINNESOTA 55155

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## PREFACE

The Hospitalization and Commitment Act (M.S. Chapter 253A) is an especially complicated and detailed chapter in the Minnesota Statutes. This Summary attempts to reconstruct Chapter 253A in more readable language and print. A useful Index is provided in the front of the document for easy reference to specific commitment procedures.

The bulk of the work on this document was done by Sandra Berdos, Research Assistant in the House of Representatives Research Department. She worked under the supervision of Kevin Kenney, Legislative Analyst in the Research Department. Questions or comments about the document or further questions about Minnesota Hospitalization and Commitment Procedures or persons covered under Chapter 253A should be directed to Kevin Kenney (296-5044).

Peter B. Levine, Director  
Minnesota House of Representatives  
Research Department

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DEFINITIONS:

MENTAL ILLNESS

Mentally ill person, "any person diagnosed as having a psychiatric or other disorder which substantially impairs his mental health and as being in need of treatment or supervision."

[253A.02, Subd. 3]

In proceedings for involuntary commitment for mental illness this definition must be evidenced by proof of one or more of the following behaviors:

- (i) patient has attempted to or threatened to take his own life or attempted to seriously physically harm himself or others; or
- (ii) patient has failed to care for his own needs for food, clothing, shelter, safety or medical care.

[253A.07, Subd. 17(a)(1)]

A person dangerous to the public, "a person who is mentally ill . . . and whose conduct might reasonably be expected to produce a clear and present danger of injury to others."

[253A.02. Subd. 17]

A 1974 Minnesota case, Lausche v. Commissioner of Public Welfare (225 N.W.2d 366) has supplied further interpretation of the term "mentally ill and dangerous." In that decision, the court concluded that the definition of "mentally ill and dangerous" was satisfied "when expert testimony lends itself to the conclusion that the patient may act impulsively without justifiable provocation to commit an assault upon others and is a serious danger or threat to society unless controlled or supervised."

In that same case the court decided that the standard to be used in an initial commitment is beyond reasonable doubt. In a petition for release, the civil standard of fair preponderance of evidence is applied.

Psychopathic personality, "the existence in any person of such conditions of emotional instability or impulsiveness of behavior, or lack of customary standards of good judgment or failure to appreciate the consequences of his acts, or a combination of any such conditions as to render such

person irresponsible for his conduct with respect to sexual matters and therefore dangerous to other persons."

[PROBATE GENERAL PROVISIONS, Section 526.09]

Sex offenders, "a person who is 18 years of age or older at the time of his apprehension . . . (and) is convicted under sections 609.342 - .345 (Criminal Sexual Conduct) or 609.365 (Incest) or is convicted under section 609.17 (Attempts) of an attempt to commit an act proscribed by sections 609.342 or 609.344 or is convicted of an act otherwise within the scope of one of these provisions . . ."  
[Section 246.43]

Examiner, "a licensed physician especially qualified in the diagnosis of mental illness, except that where no licensed physician so qualified is available, any licensed physician or certified consulting psychologist may be designated."  
[253A.02. Subd. 6]

DEFINITIONS:

CHEMICAL DEPENDENCY

Inebriate person, "any person determined as being incapable of managing himself or his affairs by reason of the habitual and excessive use of intoxicating liquors, narcotics or other drugs."  
[253A.02. Subd. 4]

In proceedings for involuntary commitment for chemical dependency, this definition must be accompanied by the finding that commitment is necessary for the welfare of the patient or the protection of society.

Drug dependent person, "any inebriate person or any person incapable of managing himself or his affairs or unable to function physically or mentally in an effective manner because of the use of a psychological or physiological dependency producing drug including alcohol."  
[253A.02. Subd. 20]

A related definition appears in Chapter 254A, Treatment for Alcohol and Drug Abuse:

Drug abuse or abuse of drugs, "the use of psychoactive or mood altering chemical substance



without compelling medical reason, in such a manner as to induce mental, emotional or physical impairment and cause socially dysfunctional or socially disordering behavior and which results in psychological or physiological dependency as a function of continued use."

[254A.02. Subd. 4]

DEFINITIONS:

MENTALLY RETARDED

\*Mentally deficient person, "any person who has been diagnosed as having significantly subaverage intellectual functioning existing concurrently with demonstrated deficits in adaptive behavior who is in need of treatment or supervision."

[253A.02. Subd. 5]

In proceedings for involuntary commitment for mental retardation, this definition must be evidenced by proof of one or more of the following behaviors:

- (i) that he is unable and has not cared for his own needs for food, clothing, shelter, safety or medical care, or
- (ii) that he has failed to protect himself from exploitation from others.

[253A.07. Subd. 7(b)(1)]

\*A related definition appears in Section 252A.02, "Mental Retardation Protection Act".

DEFINITIONS:

GENERAL

Interested person, "an interested responsible adult, including but not limited to a public official, the legal guardian, spouse, parent, legal counsel, adult child, or next of kin of a person allegedly mentally ill, mentally deficient, or inebriate."

[253A.02. Subd. 14]

Committing court, "probate court."

[253A.02. Subd. 19]

Hospital, "a public or private hospital, community mental health center or other institution."

[253A.02. Subd. 8]

Peace officer, "a sheriff, or municipal or other local police officer, or a state highway patrol officer when engaged in the authorized duties of his office."

[253A.02. Subd. 15]

Health officer, "a licensed physician, certified consulting psychologist, psychiatric social worker, or psychiatric or public health nurse."

[253A.02. Subd. 16]

1. INFORMAL HOSPITALIZATION BY CONSENT. Section 253A.03.  
PROCEDURES.

Under this section, any person can, with consent of the head of the hospital, be admitted to a hospital as an informal patient for observation, evaluation, diagnosis, care and treatment without making formal written application. The patient is free to leave the hospital within 12 hours of his request unless held under another provision of the act.

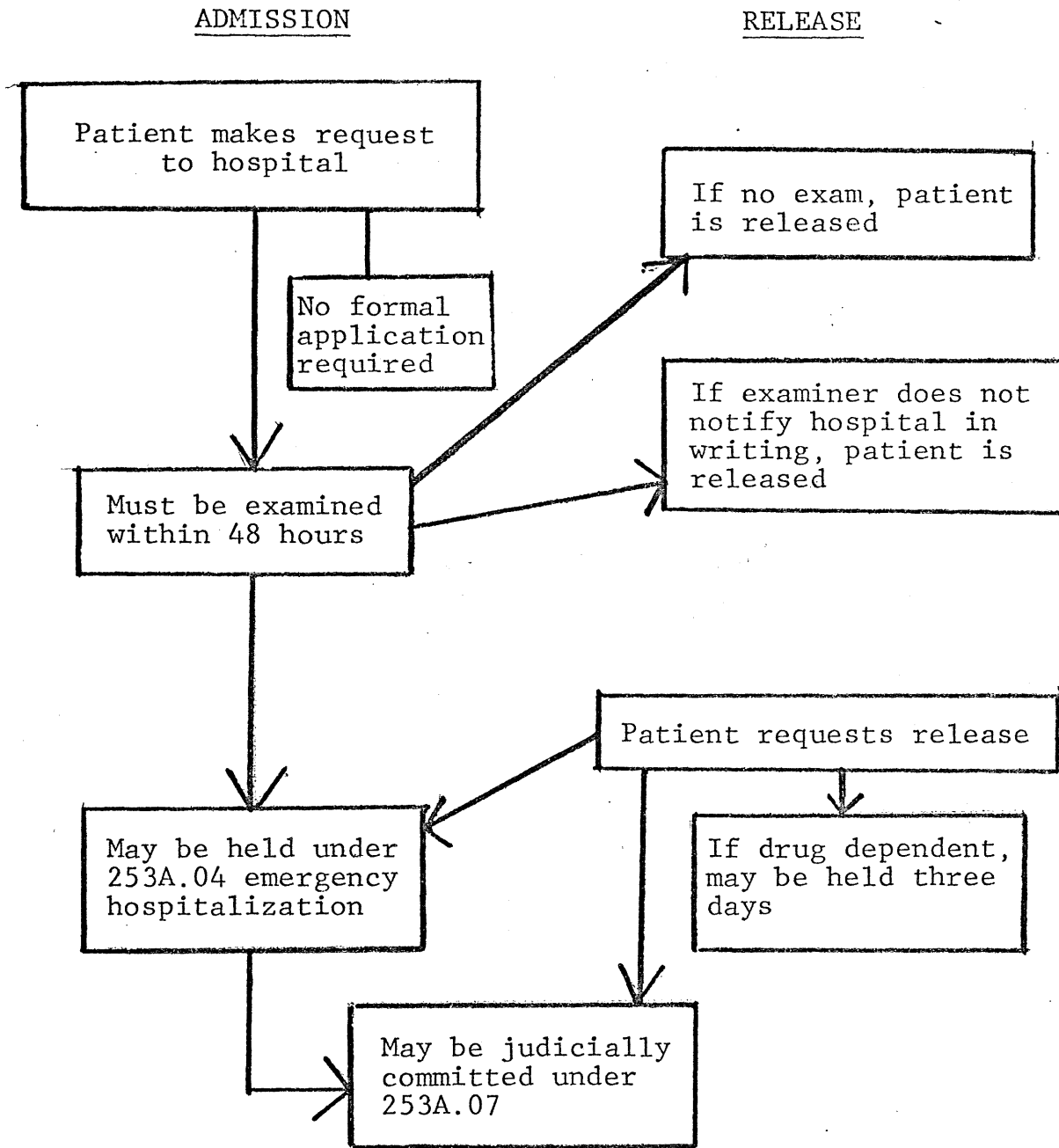
As soon as possible, but within 48 hours, the patient must be examined by an examiner. If he is not examined within 48 hours he is discharged.

If, within 48 hours, the examiner fails to notify the head of the hospital that the patient is apparently mentally ill and in need of care, treatment and evaluation, the patient is discharged.

Drug dependent persons can be admitted under this section. If such person requests to leave the hospital, it must be in writing. The hospital may detain

release for three days (excluding Sundays and holidays). The head of the hospital may petition for commitment if he deems release not to be in the best interest of the patient, family or public.

# INFORMAL HOSPITALIZATION BY CONSENT (p. 9-10)



2. EMERGENCY HOSPITALIZATION, Section 253A.04.  
PROCEDURES.

A. MENTALLY ILL-MENTALLY RETARDED-INEBRIATE

(Subd. 1 and 2)

(1) By physician's statement

Physician states in writing that he has examined the person within the last 15 days and, in his opinion:

- (a) the person is mentally ill, inebriate or mentally deficient, and
- (b) the person is in imminent danger of causing injury to himself or others if not immediately restrained, and
- (c) a court order cannot be obtained in time to prevent such injury.

Peace or health officer transports patient to hospital.

(2) By peace or health officer

Officer has reason to believe:

- (a) person is mentally ill or deficient, and
- (b) is in imminent danger of injuring self or others and takes person into custody and transports him to a licensed physician or hospital.

Officer makes application for admission with his statement of circumstances and reasons why person was taken into custody.

Medical officer on duty gives patient preliminary examination, makes written statement that person has symptoms of mental illness or deficiency and is in danger of harming self or others.

Head of hospital consents to emergency hospitalization.

B. INTOXICATION (Subd. 2)

Peace or health officer may transport person intoxicated in public into custody and transport him to a licensed hospital, mental health center or a staff person of a state-approved drug dependency program. If the person is not endangering himself, other people or property, the officer can take him home.

C. PERSON MAY BE HELD UP TO 72 HOURS (Subd. 3)  
(excluding Saturdays, Sundays or legal holidays)

If head of the hospital thinks discharge is not in best interest of



person, his family, or the public, he may file petition for judicial commitment. The court orders further detention until commitment hearing is held. Patient may request change of venue in order to hold proceeding in his county of residence.

EMERGENCY HOSPITALIZATION (p. 12-14)

BY PHYSICIAN

Physician examines within 15 days of hospitalization. In writing says:

Person is mi or mr	Person may harm self or others	No time for court order
-----------------------	--------------------------------------	-------------------------------

Officer takes person to hospital

May be held for 72 hours

Head of hospital may file for judicial commitment

BY PEACE/HEALTH OFFICER

Officer takes person to physician or hospital. Has cause to believe:

Person is mi, mr, or intoxicated in public	Person may harm self or others
---	--------------------------------------

Officer makes application for admission      Medical officer makes first examination

Hospital head consents to emergency hospitalization

INFORMAL HOSPITALIZATION AND  
EMERGENCY HOSPITALIZATION  
PATIENT RIGHTS

Section 253A.05

1. Right to communicate "by all reasonable means with a reasonable number of persons at reasonable hours of the day or night."
2. Right to consult privately with an attorney, personal physician and at least one member of his family.
3. Right to be informed of right to communicate, right to discharge after 72 hours if no petition for judicial commitment is filed, and right to change of venue if petition for judicial commitment is filed.
4. Right to receive assistance from the head of the hospital, administrator or superintendent in making and presenting written requests for discharge and change of venue.

3. JUDICIAL COMMITMENT, Section 253A.07.  
PROCEDURES.

BEFORE THE HEARING . . .

A. PETITION

- (1) Any interested person may file in probate court for commitment of a proposed patient. (Subd. 1)
  - (a) must list name and address of proposed patient and nearest relatives
  - (b) must state reason for petition.
- (2) Petition must have either:
  - (a) written statement by physician that he has examined proposed patient, or
  - (b) written statement by petitioner that, after a reasonable effort, the petitioner has been unable to obtain an examination by a physician. (Subd. 1)
  - (c) Petitioner must delivery copy of petition to County Welfare Board. (Subd. 1)
  - (d) Notice of filing of petition and order for examination must be given to: (Subd. 6)
    - the proposed patient

- his counsel
- one interested person other than counsel
- other persons as court may direct.

B. TRANSPORTATION TO HOSPITAL (Subd. 3)

- (1) Court may direct peace or health officer to take proposed patient into custody and transport to hospital, public health facility or other institution.
- (2) Order of the court may be executed by all necessary means, including breaking open any place where patient is located and imposing restraints on proposed patient.
- (3) Unless otherwise ordered by court, peace officer shall not be in uniform and shall use unmarked car.

C. TRANSPORTATION TO HOSPITAL BY COUNTY WELFARE OR OTHERS (253A.09)

The court may authorize:

- (1) by request of an interested person, the county welfare department to arrange transportation with appropriate medical attendants. (Person making the request is liable for the cost.)
- (2) county welfare department or public

- health personnel to transport patient
- (3) an interested or responsible person to transport patient
  - (4) a peace officer to transport the patient. (Unless otherwise ordered, an unmarked car shall be used.) Interested persons may accompany the patient to the hospital.

D. EXAMINATION

- (1) The court shall appoint 2 examiners; at least one shall be a licensed physician. (Subd. 2)
  - (a) If the proposed patient is alleged to be mentally deficient, one examiner shall be skilled in the ascertainment of mental deficiency.
  - (b) If the proposed patient is alleged to be chemically dependent and one examiner qualified in the field of alcohol and drug abuse cannot be found, the court shall appoint one examiner plus one person qualified in the field of alcohol and drug abuse.
- (2) The examination shall be conducted prior to the hearing. (Subd. 2)

- (3) If the proposed patient is not represented by counsel, court shall appoint counsel at the time the examiners are appointed. (Subd. 15)

E. HEARING NOTICE

- (1) Must be held within 14 days of filing of petition. Time may be extended up to an additional 30 days for good cause shown.

If patient does not receive hearing within 14 days or extended time, petition is dismissed. (Subd. 8)

- (2) The proposed patient, or head of hospital or other institution where the patient is held may demand in writing that the hearing be held immediately.

If hearing is not held within 5 days of the date of the demand (excluding Saturdays, Sundays, and legal holidays), petition shall be dismissed.

The court may extend the time for a hearing on demand up to an additional 10 days. (Subd. 8)

- (3) The court may give at least 5 days notice that hearing will be held

and at least 2 days notice of time and place:

- proposed patient
- his counsel
- one other person than his counsel
- petitioner
- other persons as court decides

Notice may be waived by patient's counsel. (Subd. 9)

F. COUNTY WELFARE REPORT (Subd. 7)

County Welfare Department must investigate,

- financial circumstances
- family relationships
- residence
- social history
- background of patient

and file written report with the court for use by the head of the hospital.



DURING THE HEARING . . .

A. HEARING TESTIMONY AND PROCEDURE

- (1) The proposed patient, the petitioner and all other persons who received notice may attend hearing. Except for patients' legal counsel, they may all testify. (Subd. 10)
- (2) The proposed patient and petitioner may present and cross-examine witnesses including examiners. (Subd. 11)
- (3) The proposed patient may be absent from the hearing if the person conducting the hearing has observed and consulted with patient prior to the hearing. (Subd. 12)
- (4) During the hearing the patient shall not be so affected by drugs, medication or other treatment as to be hampered in preparing for or participating in the proceedings.

If the patient's doctor thinks discontinuing drugs or treatment is not in the best interest of the patient, the court shall be

given a record of all drugs and treatment patient has received in the last 48 hours. (Subd. 12)

- (5) The hearing may be held at a hospital, public health facility, patient's residence or other suitable place as the court may decide. (Subd. 13)
- (6) Hearing must be held in an orderly manner. Accurate records must be kept including an accurate stenographic record or tape. (Subd. 13)
- (7) The court is not bound by the evidence of the examiners but shall consider the entire record in accordance with the rules of evidence. (Subd. 13)
- (8) The county attorney may appear and represent the petitioner. The petitioner shall be notified of his right to request that the county attorney appear. (Subd. 15)

B. HEARING CONCLUSIONS AND FINDINGS

- (1) The court must state separately its findings of facts, conclusion of law and summary judgment. (Subd. 13)

If the court finds proposed patient is not mentally ill, mentally deficient or inebriate, the application is dismissed and the patient immediately discharged. (Subd. 16)

If the court orders commitment, findings of fact must specifically state the proposed patient's conduct serving as the basis for finding mental illness, mental deficiency or inebriacy. Findings of fact must also enumerate reasons why less restrictive alternatives were rejected. (Subd. 13)

C. TO COMMIT FOR MENTAL ILLNESS COURT MUST FIND:

(1) that proposed patient is mentally ill.

Evidence of his conduct must clearly show that his customary self-control, judgment and discretion is lessened to the point where hospitalization is necessary.

Specifically, evidence must clearly show:

(a) patient has attempted to or threatened to take his own life or attempted to seriously physically harm himself or others; or

(b) patient has failed to care for his own needs for food, clothing, shelter, safety or medical care.

(2) Consideration must be given to less restrictive alternatives to commitment such as:

- dismissal of petition
- out-patient care
- voluntary hospitalization
- appointment of a guardian.

Reasons for rejecting each alternative must be given.

(Subd. 17(a)(1 & 2))

D. TO COMMIT FOR MENTAL RETARDATION  
COURT MUST FIND:

(1) That the proposed patient is mentally deficient. Evidence of his conduct must clearly show that he is so deficient in daily living skills and self-control that commitment is necessary.

Specifically evidence must clearly show:

(a) that he is unable and has not cared for his own needs for food, clothing, shelter, safety or medical care, or

(b) that he has failed to protect himself from exploitation from others. (Subd. 17(b)(1 & 2))

E. TO COMMIT FOR CHEMICAL DEPENDENCY COURT MUST FIND:

The proposed patient is an inebriate person and that commitment is necessary for the welfare of the patient or protection of society. (Subd. 17(d))

AFTER THE HEARING . . .

A. COMMITMENT - MENTAL RETARDATION

(Subd. 17(b))

Patient receives mandatory review within 60 days from the date of the order for commitment.

B. COMMITMENT - CHEMICAL DEPENDENCY

(Subd. 17(d))

The initial commitment for in-patient treatment cannot be more than 45 days. Any subsequent commitment cannot be more than one year from the date of the original order. The head of the hospital may provisionally discharge a patient as part of a treatment plan which includes out-patient care. In no case shall any patient's commitment and provisional discharge exceed 18 months. The head of the hospital shall conduct a mandatory review within 60 days of the initial date of commitment.

C. COMMITMENT - MENTAL ILLNESS

(Subd. 23)

Patient must be examined by at

least one examiner as soon as possible after admission by commitment. Within 60 days from the date of the commitment order, the head of the hospital must file a written statement with the court, the commissioner and the patient's attorney stating:

- (1) diagnosis and condition of the patient;
- (2) whether patient is in need of further care and treatment;
- (3) whether such care and treatment must be provided in a hospital, and if so, what type;
- (4) whether patient must be committed to a hospital; and
- (5) whether the patient is dangerous.

D. 60 DAY REPORT

If no written statement is filed within 60 days, proceedings are terminated and patient is dismissed. (Subd. 24)

If the written statement says no further treatment is necessary, proceedings are terminated. (Subd. 24)

If the written statement says further hospitalization is necessary, the court

may order hospitalization for an indeterminate period (except for inebriate patients, which can only be held 18 months maximum). (Subd. 25)

E. PROPERTY REPORT; LIABILITY FOR COST OF CARE

The court ascertains the amount and kind of property owned by the patient and others who are legally liable for cost of patient's care. One copy of this information is kept by the court and one copy is given to the Commissioner of Public Welfare. (Subd. 22)

Patients or other responsible persons are required to pay hospital charges. (Subd. 29)



JUDICIAL COMMITMENT  
PATIENT RIGHTS

Section 253A.17

1. Restraints (Subd. 1)

Cannot be used unless head of hospital or member of medical staff determines they are necessary for safety of patients or others.

Each use and reason for restraint must be documented in the patient's record.

2. Correspondence (Subd. 1-5)

A. Any patient may correspond without censorship by sealed mail with the governor, commissioner, court, other agency, his physician and one or more attorneys.

B. Any patient of a state hospital may correspond freely with persons outside the institution. The head of the hospital must register the name and address of all such correspondents.

C. Patients shall be furnished with paper and stamped envelopes for correspondence. Mail to and from correspondents shall be delivered unopened.

C. Correspondence can be restricted by the head of the hospital if necessary for the patient's medical welfare.

3. Visitors (Subd. 6)

Every patient is entitled to visitors unless the hospital determines restrictions are necessary for the patient's medical welfare.

The patient may be visited by his personal physician, spiritual advisor and attorney at all reasonable times.

4. Religion (Subd. 6)

The patient shall not be denied the right to practice his religion.

5. Patient Assessment (Subd. 7)

The physical and mental condition of the patient shall be assessed as frequently as necessary and not less than once a year.

6. Consent to Surgery (Subd. 8)

A. If surgery is necessary to save the life, hearing, or a limb of any patient, the head of the hospital must obtain consent from the proper relatives or guardian.

If such persons cannot be found, the head of the hospital may give consent.

The commissioner must be notified of any emergency operation.

- B. If the patient is not legally incompetent and if the head of the hospital believes the patient has sufficient capacity to make a reasonable decision, the patient's consent must be obtained. No other consent is necessary (unless patient is a minor).
- C. No person who gives consent is civilly or criminally liable for the performance of the surgery.

7. Treatment (Subd. 9)

Every patient is entitled to proper care and treatment, best adapted (according to contemporary professional standards) to rendering further care unnecessary.

8. Program Plan (Subd. 9)

Each patient shall have a written program plan which shall:

- describe in behavioral terms the case problems and precise goals,
- state the expected period of hospitalization, and
- state specific measures to solve case problems.

Each plan must be reviewed with the patient and county welfare department quarterly.

If county welfare department or patient does not participate, hospital records must include reasons for non-participation and plans for future involvement.

The Department of Public Welfare shall monitor the program plan.

## RELEASE PROCEDURES

### INCOMPETENCY

#### Section 253A.18

COMMITMENT IS NOT A JUDICIAL DETERMINATION OF LEGAL INCOMPETENCY.

A person hospitalized or committed under the terms of Chapter 253A shall not be deprived of any legal rights.

These rights include:

- the right to dispose of property
- the right to sue and be sued
- the right to execute instruments
- the right to make purchases
- the right to contract
- the right to vote
- the right to hold a driver's license

## JUDICIAL DETERMINATION OF COMPETENCY

### Section 253A.19

1. Petition (Subd. 1)

Any interested person may petition the committing court for an order:

- stating a person is not now in need of continued hospitalization
- stating that a person is not now mentally ill, mentally deficient or inebriate
- restoring a patient to legal competency

2. Hearing (Subd. 2-9)

Ten days notice shall be given patient, his counsel, county attorney, commissioner of public welfare, and the head of the hospital.

Court appoints two examiners (if mentally ill) or one licensed physician, and, if necessary, may appoint one person skilled in the ascertainment of mental deficiency to examine patient.

Patient and petitioner shall be present and can cross-examine witnesses including physician and examiners.

The county attorney shall attend the hearing and shall oppose proceeding if he thinks it in the best interest of the public.

The patient shall be represented by counsel. If necessary, court shall appoint counsel to represent the patient.

## DISCHARGE

### Section 253A.15

#### 1. Provisional Discharge (Subd. 1)

The head of the hospital may provisionally discharge (i. e. grant discharge from hospital without discharge from commitment) any patient

- not committed as mentally ill and dangerous
- not committed as a psychopathic personality.

Within one year from the date of a provisional discharge (unless patient has been readmitted), the head of the hospital shall review the activities of the patient. The head of the hospital may extend the provisional discharge or allow it to become a full discharge.

When a provisional discharge is revoked, the head of the hospital may request the patient to return voluntarily. When necessary, he may request public health personnel, welfare personnel or a peace officer to return the patient. The expense shall be paid by the commissioner if not paid by the patient or his relatives.

#### 2. Partial Hospitalization (Subd. 8)

The head of the hospital may place any patient on a "partial hospitalization" status. This allows the patient to be absent from the hospital for certain fixed periods of time.

3. Notification of Discharge/Discharge Planning

(Subd. 11)

Prior to provisional or full discharge, the head of the hospital shall send notice of the discharge date to the patient's spouse or an adult child or next of kin.

Notice shall include:

- date of discharge
- date, time and place of the staff meeting to discuss discharge planning
- statement that patient will be present at the meeting and that next of kin may attend.

NOTICE SHALL BE SENT AT LEAST ONE WEEK IN ADVANCE.

4. Aftercare (Subd. 12)

Prior to provisional or full discharge, THE COUNTY WELFARE BOARD, in cooperation with the head of the hospital, the Director of the Community Mental Health Center and the patient's physician shall establish a continuing plan of aftercare for the patient.

The plan shall include medical and psychiatric treatment, nursing care, vocational assistance and other care as the patient may need.

In establishing the aftercare plan, the county welfare board shall consult with such persons or agencies as are necessary.



## REVIEW BOARDS

### Section 253A.16

The Commissioner of Public Welfare appoints a review board of three or more persons for each state hospital. One person must be qualified in diagnosis of mental illness and mental deficiency, and one person must be knowledgeable of the law.

The board reviews admission and retention of patients hospitalized under Chapter 253A. (Subd. 1)

#### Review Board Procedures:

1. The board must visit the hospital at least every six months. (Subd. 2)
2. Patient must request the right to appear before the review board at any time. Request need not be in writing. (Subd. 2-3)
3. Each patient who makes request shall have the right to appear before the board. (Subd. 2)
4. Each patient shall be informed of right to request review at the time of admission. (Subd. 3)
5. The board may examine patient records. The board may examine personally those patients for whom reasonable doubt as to continued need for hospitalization exists. (Subd. 4)
6. The board may receive reports from patients and interested persons including hospital employees, reports concerning the humane and dignified care of patients. (Subd. 4)

7. The board shall report its findings to the commissioner and head of the hospital.  
(Subd. 4)
8. Review board members receive \$50 a day plus expenses. (Subd. 6)
9. The commissioner shall establish one SPECIAL REVIEW BOARD for mentally ill and dangerous and psychopathic personalities. (Subd. 5)

One member shall be a physician qualified in the diagnosis of mental illness or deficiency and one member shall be an attorney. No member shall be connected with the Department of Public Welfare.

The SPECIAL REVIEW BOARD shall meet at least every six months, be on call of the commissioner and shall hear:

- all transfers out of Minnesota Security Hospital
- all provisional or full discharges of mentally ill and dangerous patients or psychopathic personalities. (See following section.)

DISCHARGE - MENTALLY ILL AND DANGEROUS/  
PSYCHOPATHIC PERSONALITY

Section 253A.15, Subd. 2

Any patient committed as mentally ill and dangerous or as a psychopathic personality can be provisionally or fully discharged only by order of the commissioner. (a)

No discharge may be ordered unless a majority of the SPECIAL REVIEW BOARD (see previous section) recommends to the commissioner that the patient is capable of making an acceptable adjustment in society. (a)

PROCEDURES: SPECIAL REVIEW BOARD (a)

1. Patient or head of hospital files petition for an order for discharge with commissioner.
2. Commissioner calls SPECIAL REVIEW BOARD hearing.

Fourteen-day advance notice must be sent to:

- the probate court
- spouse, adult child or next-of-kin of patient
- county attorney of the county of commitment
- petitioner and his attorney

These persons may appear before the review board and must receive copy of commissioner's order within 5 days.

3. Provisional or full discharge may not become effective until at least 30 days following the commissioner's order.

PROCEDURES: APPEAL BOARD REVIEW

1. Membership of Board

The Chief Justice of the Supreme Court shall appoint an APPEAL PANEL of three probate judges and two alternate probate judges. Appointments shall be made from acting probate judges of the state for a term of one year. (b)

Three judges are needed to hear a case. One of the judges is designated as the chief judge of the panel with authority to:

- fix the time and place of all hearings
- issue all notices
- subpoena witnesses
- appoint counsel for the patient if necessary

No judge appointed to the panel shall take part in any case in which that judge committed the patient in probate court. (b)

2. Petition for appeal

The county attorney of the county where the patient was committed may appeal the action of the SPECIAL REVIEW BOARD (see above). Petition for a review before the APPEAL PANEL must be filed with the Supreme Court 30 days after the making of the commissioner's order. (a)

The Supreme Court notifies the head of the hospital and refers the petition to the chief judge of the APPEAL PANEL. (a)

Written 14-day notice by mail must be given: (c)

- the patient
- the county attorney of the county of commitment
- the commissioner
- the head of the hospital
- the spouse, adult child or next of kin of the patient

The hearing must be held within 45 days of the filing of the petition.

Any person may oppose the petition. (c)

The APPEAL PANEL may appoint examiners, shall hear all relevant testimony and make a record of proceedings. (c)

The patient and county attorney of the committing county shall be present and may cross-examine all witnesses. (c)

The decision of the APPEAL PANEL may be appealed to the SUPREME COURT in the same manner as other civil action appeals. (f)

RELATED STATUTES

CHAPTER 145 - PROVISIONS RELATING TO PUBLIC HEALTH

145.698 - Confinement of Drug Dependent Persons

Allows commitment in situations where drug dependent person has been accused of violating state or local law.

Person is returned to court after treatment. Allows commitment in situation where drug dependent person has been convicted of crime.

CHAPTER 245 - DEPARTMENT OF PUBLIC WELFARE

Community Mental Health Act

245.61 - Commissioner "is authorized to make  
to  
245.69 grants to assist cities, counties,  
etc. or non-profit corporations in the  
establishment and operation of local  
mental health programs."

Services to be provided:

- (a) prevention: in cooperation with  
other agencies
- (b) education
- (c) consultation, including evaluations
- (d) outpatient diagnosis and treatment
- (e) after-care: "rehabilitative services"
- (f) detoxification

Federal Community Mental Health Grants

245.70 - Commissioner is "state agency" responsible  
and  
245.71 for state-wide plan--given control over  
"any funds".

245.70 - Mentally Ill and Mentally Retarded;  
and  
245.71 Federal Aid

Designates Department of Public Welfare as  
state agency to establish state-wide plan  
in accordance with P.L. 88-164, the Federal  
Mental Retardation Facilities and Community  
Mental Health Centers Construction Act of  
1963.

245.781 - Public Welfare Licensing Act  
to  
245.813 Governs licensing of state institutions,  
residential treatment centers, group  
homes, residential programs.



## CHAPTER 246 - PUBLIC INSTITUTIONS

### 246.01 - Powers and Duties

Commissioner has "exclusive power of administration and management of . . . state hospitals for the mentally ill . . .

### 246.013 Mentally Ill; Care, Treatment and and 246.014 Services

Authorizes commissioner to "bring to the measure prescribed . . . the care and treatment of the mentally ill as speedily as possible . . . and subject to the paramount authority of the legislature with respect to appropriations, maintain such standards . . ."

Services to be provided include:

- dietary/nutrition
- sufficient staff in psychiatry, medicine and related fields
- sufficient occupational and recreational staff
- psychiatric social case work
- adequate furnishings, clothing and supplies
- training programs
- a program of detection, diagnosis and treatment of mentally ill or nervously

ill persons and may establish clinics

- research and study

246.015 - Consultative Services; After-Care of Patients; Public Information; Funds  
Commissioner "may provide consultative services for courts, and state welfare agencies, supervise the placement and after-care of patients . . . discharged from a state hospital or institutions, promote and conduct programs of education . . . relating to the problem of mental health . . ."

246.017 - Medical Policy Directional Committee on Mental Health  
Allows commissioner to establish committee to advise on all matters of professional standards and practices.

246.13 - Record of Patients

246.15 - Money of Inmates of Public Welfare Institutions

246.43 - Sex Offenders

246.50 - Care of Patients at State Hospitals; Definitions

246.51 - Payment for Care and Treatment

246.54 - Liability of County; Reimbursement

Sets cost to county at \$10 per month  
per patient institutionalized at state  
hospital.

CHAPTER 252A - MENTAL RETARDATION PROTECTION

252A.01 - Policy

to  
252A.19

" . . . to provide a coordinated approach to the supervision, protection and habilitation of its mentally retarded citizens . . . to fully provide for their own needs . . . to protect . . . from violation of their human and civil rights."

Governs the appointment of Public Guardian or Conservator, Comprehensive Evaluation required, Notice of Hearing, Hearing, Powers of Guardian and Conservator, duties of Commissioner and procedure for restoring to legal capacity.

CHAPTER 252 - MENTALLY RETARDED AND EPILEPTIC; STATE  
HOSPITALS

- 252.025 - Establishes state hospitals for mentally  
retarded and epileptic at Fairbault,  
Cambridge and Brainerd.
- 252.21 - Governs grants for developmental achieve-  
to  
252.26 ment centers for the mentally retarded and  
cerebral palsied.
- 252.27 - Cost of boarding care outside home or  
institution.
- 252.31 - Advisory Council

CHAPTER 253 - MENTALLY ILL, STATE HOSPITALS

253.015 - Location; Management

253.13 - Notice of Escape

253.20 - Minnesota Security Hospital

253.25 - Commitment Before Conviction

Allows person under indictment found to be "insane, an idiot, or an imbecile and to have homicidal tendencies" to be committed to Minnesota Security Hospital. Upon recovery, person shall be returned to court for trial.

CHAPTER 393 - COUNTY WELFARE BOARD

393.07 - Child Welfare Program includes services to children with "mental, emotional or physical handicap"

Subd. 2. Administration

County Welfare Board to administer "all forms of public welfare" including (among others) "mental health services" (no further definition).

CHAPTER 526 - PROBATE GENERAL PROVISIONS

526.09 - Psychopathic Personality

Means the existence . . . of such conditions of emotional instability or impulsiveness of behavior, or lack of customary standards of good judgment or failure to appreciate the consequences of his acts . . . as to render such person irresponsible for his conduct with respect to sexual matters and thereby dangerous to other persons.

526.10 - Laws Relating to Mentally Ill Persons

Dangerous to the Public to Apply to Psychopathic Personalities.



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