CHAPTER 25-03.1
COMMITMENT PROCEDURES

25-03.1-01. Legislative intent.

The provisions of this chapter are intended by the legislative assembly to:

1. Provide prompt evaluation and treatment of persons with serious mental disorders or chemical dependency.
2. Safeguard individual rights.
3. Provide continuity of care for persons with serious mental disorders or chemical dependency.
4. Encourage the full use of all existing agencies, professional personnel, and public funds to prevent duplication of services and unnecessary expenditures.
5. Encourage, whenever appropriate, that services be provided within the community.

25-03.1-02. Definitions.

In this chapter, unless the context requires otherwise:

1. "Advanced practice registered nurse" means an individual who is licensed as an advanced practice registered nurse under chapter 43-12.1 within the role of certified nurse practitioner or certified clinical nurse specialist, who has completed the requirements for a minimum of a master's degree in psychiatric and mental health nursing from an accredited program, and who is functioning within the scope of practice in one of the population foci as approved by the state board of nursing. This chapter does not expand the scope of practice of an advanced practice registered nurse beyond the scope of practice established by the state board of nursing.
2. "Alternative treatment order" means an involuntary outpatient order for a treatment program, other than hospitalization, which may include treatment with a prescribed medication.
3. "Chemically dependent person" or "person who is chemically dependent" means an individual with an illness or disorder characterized by a maladaptive pattern of usage of alcohol or drugs, or a combination thereof, resulting in social, occupational, psychological, or physical problems.
4. "Consent" means voluntary permission that is based upon full disclosure of facts necessary to make a decision and which is given by an individual who has the ability to understand those facts.
5. "Court" means, except when otherwise indicated, the district court serving the county in which the respondent resides.
6. "Department" means the department of human services.
7. "Director" means the director of a treatment facility or the director's designee.
8. "Expert examiner" means a licensed physician, physician assistant, psychiatrist, psychologist trained in a clinical program, advanced practice registered nurse, or licensed addiction counselor appointed by the court to examine the respondent and to provide an evaluation of whether the respondent is a person requiring treatment.
9. "Independent expert examiner" means a licensed physician, physician assistant, psychiatrist, psychologist trained in a clinical program, advanced practice registered nurse, or licensed addiction counselor, chosen at the request of the respondent to provide an independent evaluation of whether the respondent is a person requiring treatment.
10. "Magistrate" means the judge of the appropriate district or juvenile court or a judge assigned by the presiding judge of the judicial district.
11. "Mental health professional" means:
    a. A psychologist with at least a master's degree who has been either licensed or approved for exemption by the North Dakota board of psychology examiners.
    b. A social worker with a master's degree in social work from an accredited program.
    c. An advanced practice registered nurse.
    d. A registered nurse with a minimum of two years of psychiatric clinical experience under the supervision of an expert examiner.

e. A licensed addiction counselor.
f. A licensed professional counselor with a master's degree in counseling from an accredited program who has either successfully completed the advanced training beyond the master's degree as required by the national academy of mental health counselors or a minimum of two years of clinical experience in a mental health agency or setting under the supervision of a psychiatrist or psychologist.
g. A physician assistant.

12. "Mentally ill person" or "person who is mentally ill" means an individual with an organic, mental, or emotional disorder that substantially impairs the capacity to use self-control, judgment, and discretion in the conduct of personal affairs and social relations. The term does not include an individual with an intellectual disability of significantly subaverage general intellectual functioning that originates during the developmental period and is associated with impairment in adaptive behavior, although an individual who is intellectually disabled may also be a person who is mentally ill. Chemical dependency does not per se constitute mental illness, although a person who is chemically dependent may also be a person who is mentally ill.
13. "Person requiring treatment" means a person who is mentally ill or a person who is chemically dependent, and there is a reasonable expectation that if the individual is not treated for the mental illness or chemical dependency there exists a serious risk of harm to that individual, others, or property.
14. "Physician assistant" means an individual licensed to practice as a physician assistant under chapter 43-17, who is authorized by the North Dakota Board of Medicine to practice in the field of psychiatry, holds a certification in psychiatry approved by the board, and is practicing under the supervision of a psychiatrist licensed to practice medicine in this state. This chapter does not expand the scope of practice of a physician assistant beyond the scope of practice authorized by the North Dakota Board of Medicine.
15. "Private treatment facility" means any facility established under chapter 10-19.1 or 10-33 and licensed under chapter 23-16 or 50-31.
16. "Psychiatrist" means a licensed physician who has completed a residency program in psychiatry.
17. "Public treatment facility" means any treatment facility not falling under the definition of a private treatment facility.
18. "Qualified service organization" means a person that provides services to a treatment facility such as data processing, bill collecting, dosage preparation, laboratory analysis, or legal, medical, accounting, or other professional services, and which agrees that in dealing with patient records, it is bound by the confidentiality restrictions of this chapter, except as otherwise provided for by law.
19. "Respondent" means an individual subject to petition for involuntary treatment.
20. "Serious risk of harm" means a substantial likelihood of:
    a. Suicide, as manifested by suicidal threats, attempts, or significant depression relevant to suicidal potential;
    b. Killing or inflicting serious bodily harm on another individual or inflicting significant property damage, as manifested by acts or threats;
    c. Substantial deterioration in physical health or substantial injury, disease, or death based upon recent poor self-control or judgment in providing one's shelter, nutrition, or personal care; or
    d. Substantial deterioration in mental health which would predictably result in dangerousness to that individual, others, or property, based upon evidence of objective facts to establish the loss of cognitive or volitional control over the individual's thoughts or actions or based upon acts, threats, or patterns in the individual's treatment history, current condition, and other relevant factors, including the effect of the individual's mental condition on the individual's ability to consent.
21. "Superintendent" means the state hospital superintendent or the superintendent's designee.

22. "Third-party payer" means a person that pays, or agrees to pay, for diagnosis or treatment furnished to a patient on the basis of a contractual relationship with the patient or a member of the patient's family, or on the basis of the patient's eligibility for federal, state, or local governmental benefits, and includes any person providing audit or evaluation activities for the third-party payer.
23. "Treatment facility" or "facility" means any hospital, including the state hospital at Jamestown, or any evaluation and treatment facility that provides directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and inpatient care to individuals who are mentally ill or chemically dependent.

25-03.1-03. Jurisdiction.

The district courts have original jurisdiction over the proceedings governed by this chapter.

25-03.1-03.1. Disclosure of health information.

A treating facility or mental health professional may disclose individually identifiable health information to a court, regional human service center, state's attorney, retained counsel, or other mental health professional, including an expert examiner, and the disclosure is a disclosure for treatment, including the provision, coordination, and management of health care and to carry out the purposes of chapter 25-03.1.

25-03.1-04. Screening and admission to a public treatment facility.

Under rules adopted by the department, screening of an individual to a public treatment facility for observation, diagnosis, care, or treatment for mental illness or chemical dependency must be performed, in person when reasonably practicable, by a regional human service center. This screening must be performed in the region where the individual is physically located. Upon the request of a court, a law enforcement official, a qualified mental health professional, the individual's legal guardian, a minor's parent or legal custodian, or the individual requesting services, the regional human service center shall conduct a screening. If a request for screening is made by a qualified mental health professional and the individual that is the subject of the screening does not authorize the disclosure of the individual's protected health information, upon the request of the regional human service center, any mental health professional who has treated the individual within the previous six months shall disclose, subject to the requirements of title 42, Code of Federal Regulations, part 2, to the human service center any relevant protected health information regarding that treatment. Upon receipt of the request, the regional human service center shall arrange for a screening of the individual and must, if appropriate, treat the applicant, or refer the applicant to the appropriate treatment facility. Upon admittance to a public treatment facility, the superintendent or director shall immediately designate a physician, psychiatrist, psychologist, advanced practice registered nurse, or mental health professional to examine the individual.

25-03.1-05. Discharge of voluntary patients.

Any voluntary patient who has recovered, or whose treatment the superintendent or director determines is no longer advisable, must be discharged. If, upon discharge, it is determined that the individual would benefit from the receipt of further treatment, the superintendent or director shall offer the individual appropriate treatment on a voluntary basis or shall aid the individual to obtain treatment from another source on a voluntary basis. With the patient's consent, appropriate referrals may be made for the patient.

25-03.1-06. Right to release on application - Exception - Judicial proceedings.

Any individual voluntarily admitted for inpatient treatment to any treatment facility or the state hospital must be orally advised of the right to release and must be further advised in writing of the rights under this chapter. A voluntary patient who requests release must be immediately released. However, if the superintendent or the director determines that the patient is a person requiring treatment, the release may be postponed until judicial proceedings for

involuntary treatment have been held in the county where the hospital or facility is located. The patient must be served the petition within twenty-four hours, exclusive of weekends and holidays, from the time release is requested, unless extended by the magistrate for good cause shown. The treatment hearing must be held within seven days from the time the petition is served.

25-03.1-07. Involuntary admission standards.

An individual may be involuntarily admitted under this chapter to the state hospital or another treatment facility only if it is determined that the individual is a person requiring treatment.

25-03.1-08. Application to state's attorney or retained attorney - Petition for involuntary treatment - Investigation by qualified mental health professional.

1. Any individual eighteen years of age or over shall present the information necessary for the commitment of an individual for involuntary treatment to the state's attorney of the county where the respondent is presently located, or which is the respondent's place of residence, or to an attorney retained by that applicant to represent the applicant throughout the proceedings. The attorney shall assist the applicant in completing the petition. The petition must be verified by affidavit of the applicant and contain assertions that the respondent is a person requiring the treatment; the facts, in detail, that are the basis of that assertion; the names, telephone numbers, and addresses, if known, of any witnesses to those facts; and, if known, the name, telephone number, and address of the nearest relative or guardian of the respondent, or, if none, of a friend of the respondent.
2. The petition may be accompanied by any of the following:
   a. A written statement supporting the petition from a psychiatrist, physician, physician assistant, psychologist, advanced practice registered nurse, or addiction counselor who is practicing within the professional scope of practice and who has personally examined the respondent within forty-five days of the date of the petition.
   b. One or more supporting affidavits otherwise corroborating the petition.
3. In assisting the applicant in completing the petition, the state's attorney may direct a qualified mental health professional designated by the regional human service center to investigate and evaluate the specific facts alleged by the applicant. The investigation must be completed as promptly as possible and include observations of and conversation with the respondent, unless the respondent cannot be found or refuses to meet with the mental health professional. A written report of the results of the investigation must be delivered to the state's attorney. Copies of the report must be made available upon request to the respondent, the respondent's counsel, and any expert examiner conducting an examination under section 25-03.1-11. The state's attorney or retained attorney shall file the petition if the information provided by the petitioner or gathered by investigation provides probable cause to believe that the subject of the petition is a person requiring treatment. A state's attorney who determines there are insufficient grounds for filing a petition may refer the applicant to other community resources. A state's attorney's decision not to institute proceedings may be reviewed under section 11-16-06.

25-03.1-09. Review of petition for involuntary treatment - Probable cause established - Respondent notified - Rights.

1. Upon the filing of a petition for involuntary treatment, the clerk of court shall immediately notify the magistrate who shall review the petition and accompanying documentation to determine whether it complies with requirements of section 25-03.1-08 and whether it establishes probable cause to believe the respondent is a person requiring treatment. If probable cause has not been so established, the petition must be dismissed unless an amendment would cure the defect.

2. If probable cause has been established, the magistrate shall cause to be served on the respondent and the respondent's nearest relative or guardian or, if none, a friend of the respondent:
   a. A copy of the petition and supporting documentation.
   b. A notice informing the respondent of the procedures required by this chapter.
   c. A notice of the respondent's right to a preliminary and a treatment hearing when in custody under section 25-03.1-25 and if mental illness or a combination of mental illness and chemical dependency of the respondent is alleged in the petition, or, if not in custody or if in custody and chemical dependency alone is alleged in the petition, the right to a treatment hearing; of the right to be present at the hearings; of the right to have counsel before the hearings and any court-ordered examination; of the right to an independent evaluation; and, if the respondent is indigent, of the right to counsel and to an independent expert examiner, each at the expense of the county which is the respondent's place of residence.
   d. Notice that if an independent expert examiner is to be appointed, the respondent must be given an opportunity to select that examiner.

25-03.1-10. Involuntary treatment - Court-ordered examination.

If the petition is not accompanied by a written supportive statement of a psychiatrist, physician, physician assistant, psychologist, advanced practice registered nurse, or addiction counselor who has examined the respondent within the last forty-five days, the court shall order the respondent to be examined by an expert examiner of the respondent's own choice or one appointed by the court. The order must state the date and time within which the respondent must appear; the address to which the respondent is to report; a statement that if the respondent fails to appear at the appointed place at or before the ordered date and time, the respondent may be involuntarily taken into custody and transported to the appointed place; and a statement that the expert examiner may consult with or request participation in the examination by a qualified mental health professional and may include with the written examination report any findings or observations by that mental health professional. Accompanying the order must be an explanation of the intended uses and possible effects of this examination. The examination may be conducted at a treatment facility, at the respondent's home, or at any other suitable place in the community. A request for examination at the state hospital must be screened and approved by a regional human service center. The respondent may be accompanied by one or more relatives or friends at the place of the examination. The costs of the court-ordered examination must be borne by the county that is the respondent's place of residence.

25-03.1-10.1. Use of telemedicine technology authorized.

For purposes of court-ordered examinations conducted under this chapter, an expert examiner may use telemedicine technologies to assist the expert examiner in conducting those examinations.

25-03.1-11. Involuntary treatment - Examination - Report.

1. The respondent must be examined within a reasonable time by an expert examiner as ordered by the court. If the respondent is taken into custody under the emergency treatment provisions of this chapter, the examination must be conducted within twenty-four hours, exclusive of holidays, of custody. Any expert examiner conducting an examination under this section may consult with or request participation in the examination by any qualified mental health professional and may include with the written examination report any findings or observations by that mental health professional. This examination report, and that of the independent examiner, if one has been requested, must be filed with the court. The report must contain:
   a. Evaluations of the respondent's physical condition and mental status.

b. A conclusion as to whether the respondent is a person requiring treatment, with a clear explanation of how that conclusion was derived from the evaluation.
c. If the report concludes that the respondent is a person requiring treatment, a list of available forms of care and treatment that may serve as alternatives to involuntary hospitalization.
d. The signature of the examiner who prepared the report.

2. For purposes of any examination conducted pursuant to this section:
   a. An evaluation of a respondent's physical condition may be made only by a licensed physician, physician assistant, psychiatrist, or advanced practice registered nurse.
   b. An evaluation of a respondent's mental status may be made only by a licensed physician, physician assistant, psychiatrist, advanced practice registered nurse, or psychologist trained in a clinical program.
   c. An evaluation of whether the respondent is chemically dependent may be made only by a licensed physician, physician assistant, psychiatrist, advanced practice registered nurse, licensed addiction counselor, or licensed psychologist trained in a clinical program.
3. If the expert examiner concludes that the respondent is not a person requiring treatment, the court may without taking any other additional action terminate the proceedings and dismiss the petition. If the expert examiner concludes that the respondent is a person requiring treatment, or makes no conclusion thereon, the court shall set a date for hearing and shall give notice of hearing to the persons designated in section 25-03.1-12. If the respondent is in custody and is alleged to be a person who is mentally ill or a person who is both mentally ill and chemically dependent, the preliminary hearing date must be within four days, exclusive of weekends and holidays, of the date respondent was taken into custody through emergency commitment under section 25-03.1-25 unless a delay or continuance is concurred in by the respondent or unless extended by the magistrate for good cause shown. If a preliminary hearing is not required, the treatment hearing must be held within four days, exclusive of weekends and holidays, of the date the court received the expert examiner's report, not to exceed fourteen days from the time the petition was served.

25-03.1-11.1. Combination of preliminary and treatment hearings.

With the consent of the court, the parties may waive the preliminary hearing and conduct the treatment hearing within the time period set for the preliminary hearing.

25-03.1-12. Notice of hearings.

The court shall cause notice of a petition and of the time and place of any hearings under this chapter to be given to the respondent; the respondent's parents, if a minor; the respondent's attorney; the petitioner; the state's attorney; the superintendent or the director of any hospital or treatment facility in which the respondent is hospitalized or is being treated; the spouse of the respondent, if the spouse's whereabouts is known; the guardian, if any, of the respondent; and such other relatives or persons as the court may determine. The notice must be given at the earliest possible time and sufficiently in advance of the hearing date to permit preparation for the hearing.

25-03.1-13. Right to counsel - Indigency - Waiver - Recoupment - Limitations.

1. Every respondent under this chapter is entitled to legal counsel. The counsel has access to the respondent's medical records upon proof of representation.
2. Unless an appearance has been entered on behalf of the respondent, the court shall, within twenty-four hours, exclusive of weekends or holidays, from the time the petition was filed, appoint counsel to represent the respondent. If a respondent retains counsel, the retained counsel shall immediately notify the court of that fact.
3. If, after consultation with counsel, the respondent wants to waive the right to counsel or the right to any of the hearings provided for under this chapter, the respondent may

do so by notifying the court in writing. The notification must clearly state the respondent's reasons for the waiver and must also be signed by counsel.

4. If the court determines that the respondent is indigent, the court shall order that appointed counsel be compensated from county funds of the county that is the respondent's place of residence in a reasonable amount based upon time and expenses. After notice and hearing, the court may order a respondent with appointed counsel to reimburse the county for expenditures made on the respondent's behalf.
5. If the state's attorney of a county that has expended sums under subsection 4 on behalf of a respondent who is liable to reimburse the county determines that the respondent may have funds or property to reimburse the county, the state's attorney shall seek civil recovery of those sums. Commencement of the action must occur within six years after the date the sums were paid.

25-03.1-14. Duty of state's attorney in court proceedings.

Unless the petitioner has retained an attorney, the state's attorney for the county in which proceedings under this chapter are initiated shall appear and represent the state in all court proceedings and hearings. The state's attorney or an attorney retained by the petitioner need not appear at proceedings initiated by the state hospital under sections 25-03.1-23 and 25-03.1-26. The county of residence of the respondent shall bear the cost of the state's attorney in such proceedings in a reasonable amount based upon time and expenses.

25-03.1-15. Respondent's attendance at hearings.

The respondent must be present at all hearings unless the respondent waives the right to be present either orally or in writing. The judge must be notified if the respondent has been medicated within twenty-four hours of the beginning of the hearing or an adjourned session thereof, and of the probable effects of the medication.

25-03.1-16. Medication pending treatment order.

A patient who has requested release or an individual who is the subject of a petition for treatment has the right to refuse medication and other forms of treatment before the preliminary or treatment hearing. However, a physician, a physician assistant, or an advanced practice registered nurse may prescribe medication or a less restrictive alternative if it is necessary to prevent bodily harm to the respondent or others or to prevent imminent deterioration of the respondent's physical or mental condition. The patient has the right to be free of the effects of medication at the preliminary or treatment hearing by discontinuance of medication no later than twenty-four hours before the hearing unless, in the opinion of the prescriber, the need for the medication still exists or discontinuation would hamper the respondent's preparation for and participation in the proceedings.

25-03.1-17. Involuntary treatment - Right to preliminary hearing.

A respondent who is in custody under section 25-03.1-25 and who is alleged to be a mentally ill person or to be a person who is both mentally ill and chemically dependent is entitled to a preliminary hearing. At the preliminary hearing the magistrate shall review the medical report. During the hearing the petitioner and the respondent must be afforded an opportunity to testify and to present and cross-examine witnesses, and the court may receive the testimony of any other interested person. The magistrate may receive evidence that would otherwise be inadmissible at a treatment hearing. At the conclusion of the hearing, if the court does not find probable cause to believe that the individual is a person requiring treatment, the petition must be dismissed. The individual must be ordered discharged from the treatment facility if that individual has been detained before the hearing. If the court finds probable cause to believe that the respondent is a person requiring treatment, it shall consider less restrictive alternatives to involuntary detention and treatment. The court may then order the respondent to undergo up to fourteen days' treatment under a less restrictive alternative or, if it finds that alternative treatment is not in the best interests of the respondent or others, it shall order the respondent detained for up to fourteen days for involuntary treatment in a treatment facility.

The court shall specifically state to the respondent and give written notice that if involuntary treatment beyond the fourteen-day period is to be sought, the respondent will have the right to a treatment hearing as required by this chapter.

25-03.1-18. Involuntary treatment - Release.

The superintendent or the director may release a patient subject to a fourteen-day evaluation and treatment order or a seven-day emergency order if, in the superintendent's or director's opinion, the respondent does not meet the criteria of a person requiring treatment or, before the expiration of the fourteen-day order, the respondent no longer requires inpatient treatment. The court must be notified of the release and the reasons therefor. If the respondent is released because the respondent does not meet the criteria of a person requiring treatment, the court shall dismiss the petition.

25-03.1-18.1. Court-authorized involuntary treatment with prescribed medication.

1. a. Upon notice and hearing, a treating psychiatrist may request authorization from the court to treat an individual under a mental health treatment order with prescribed medication. The request may be considered by the court in an involuntary treatment hearing. As a part of the request, the treating psychiatrist and another licensed physician, physician assistant, psychiatrist, or advanced practice registered nurse not involved in the current diagnosis or treatment of the patient shall certify:
   (1) That the proposed prescribed medication is clinically appropriate and necessary to effectively treat the patient and that the patient is a person requiring treatment;
   (2) That the patient was offered that treatment and refused it or that the patient lacks the capacity to make or communicate a responsible decision about that treatment;
   (3) That prescribed medication is the least restrictive form of intervention necessary to meet the treatment needs of the patient; and
   (4) That the benefits of the treatment outweigh the known risks to the patient.
   b. The court shall inquire whether the patient has had a sufficient opportunity to adequately prepare to meet the issue of involuntary treatment with prescribed medication and, at the request of the patient, the court may continue the involuntary treatment hearing for a period not exceeding seven days or may appoint an independent expert examiner as provided in subsection 4.
2. a. Evidence of the factors certified under subsection 1 may be presented to the court at an involuntary treatment hearing held pursuant to sections 25-03.1-19 and 25-03.1-22, or at a separate hearing after motion and notice. The court in ruling on the requested authorization for involuntary treatment with prescribed medication shall consider all relevant evidence presented at the hearing, including:
   (1) The danger the patient presents to self or others;
   (2) The patient's current condition;
   (3) The patient's treatment history;
   (4) The results of previous medication trials;
   (5) The efficacy of current or past treatment modalities concerning the patient;
   (6) The patient's prognosis; and
   (7) The effect of the patient's mental condition on the patient's capacity to consent.
   b. Involuntary treatment with prescribed medication may not be authorized by the court solely for the convenience of facility staff or for the purpose of punishment.
3. If the factors certified under subsection 1 have been demonstrated by clear and convincing evidence, the court may include in its involuntary treatment order a provision, or it may issue a separate order after notice and hearing, authorizing the treating psychiatrist to involuntarily treat the patient with prescribed medication on

such terms and conditions as are appropriate. The order for involuntary treatment with prescribed medication, however, may not be in effect for more than ninety days.

4. If a patient has requested an examination by an independent expert examiner under this chapter, and if the treating psychiatrist has requested authorization for involuntary treatment with prescribed medication, only a psychiatrist may independently examine the patient as to the issue of involuntary treatment with prescribed medication.

25-03.1-19. Involuntary treatment hearing.

The involuntary treatment hearing, unless waived by the respondent or the respondent has been released as a person not requiring treatment, must be held within fourteen days of the preliminary hearing. If the preliminary hearing is not required, the involuntary treatment hearing must be held within four days, exclusive of weekends and holidays, of the date the court received the expert examiner's report, not to exceed fourteen days from the time the petition was served. The court may extend the time for hearing for good cause. The respondent has the right to an examination by an independent expert examiner if so requested. If the respondent is indigent, the county of residence of the respondent shall pay for the cost of the examination and the respondent may choose an independent expert examiner.

The hearing must be held in the county of the respondent's residence or location or the county where the state hospital or treatment facility treating the respondent is located. At the hearing, evidence in support of the petition must be presented by the state's attorney, private counsel, or counsel designated by the court. During the hearing, the petitioner and the respondent must be afforded an opportunity to testify and to present and cross-examine witnesses. The court may receive the testimony of any other interested person. All individuals not necessary for the conduct of the proceeding must be excluded, except that the court may admit individuals having a legitimate interest in the proceeding. The hearing must be conducted in as informal a manner as practical, but the issue must be tried as a civil matter. Discovery and the power of subpoena permitted under the North Dakota Rules of Civil Procedure are available to the respondent. The court shall receive all relevant and material evidence that may be offered as governed by the North Dakota Rules of Evidence. There is a presumption in favor of the respondent, and the burden of proof in support of the petition is upon the petitioner.

If, upon completion of the hearing, the court finds that the petition has not been sustained by clear and convincing evidence, the court shall deny the petition, terminate the proceeding, and order that the respondent be discharged if the respondent has been hospitalized before the hearing.

25-03.1-20. Involuntary treatment hearing - Findings and dispositions.

If an individual is found at the involuntary treatment hearing to be a person requiring treatment, the findings and conclusions must be entered in the record of the proceedings and the court may:

1. Order the individual to undergo a program of treatment other than hospitalization;
2. Order the individual hospitalized in a public institution; or
3. Order the individual hospitalized in any other private hospital if the attending physician agrees. The reason supporting the court's particular treatment order must be entered in the record.

25-03.1-21. Involuntary treatment order - Alternatives to hospitalization - Noncompliance with alternative treatment order - Emergency detention by certain professionals - Application for continuing treatment order.

1. Before making its decision in an involuntary treatment hearing, the court shall review a report assessing the availability and appropriateness for the respondent of treatment programs other than hospitalization which has been prepared and submitted by the state hospital or treatment facility. If the court finds that a treatment program other than hospitalization is adequate to meet the respondent's treatment needs and is sufficient to prevent harm or injuries which the individual may inflict upon the individual or

others, the court shall order the respondent to receive whatever treatment other than hospitalization is appropriate for a period of ninety days.

2. If the respondent is not complying with the alternative treatment order or the alternative treatment has not been sufficient to prevent harm or injuries that the individual may be inflicting upon the individual or others, the department, a representative of the treatment program involved in the alternative treatment order, the petitioner's retained attorney, or the state's attorney may apply to the court or to the district court of a different judicial district in which the respondent is located to modify the alternative treatment order. The court shall hold a hearing within seven days after the application is filed. Based upon the evidence presented at hearing and other available information, the court may:
   a. Continue the alternative treatment order;
   b. Consider other alternatives to hospitalization, modify the court's original order, and direct the individual to undergo another program of alternative treatment for the remainder of the ninety-day period; or
   c. Enter a new order directing that the individual be hospitalized until discharged from the hospital under section 25-03.1-30. If the individual refuses to comply with this hospitalization order, the court may direct a peace officer to take the individual into protective custody and transport the respondent to a treatment facility.
3. If a peace officer, physician either in person or directing an emergency medical services professional, psychiatrist, physician assistant, clinical psychologist, advanced practice registered nurse, or any mental health professional reasonably believes that the respondent is not complying with an order for alternative treatment, that the alternative treatment is not sufficient to prevent harm or injuries to the respondent or others, and that considerations of time and safety do not allow intervention by a court, the designated professional may cause the respondent to be taken into custody and detained at a treatment facility as provided in subsection 3 of section 25-03.1-25 and, within twenty-four hours, shall file a notice with the court stating the circumstances and factors of the case. The state hospital or public treatment facility shall immediately accept, if appropriately screened and medically stable, and a private treatment facility may accept, the respondent on a provisional basis. The superintendent or director shall require an immediate examination of the respondent and, within twenty-four hours after admission, shall either release the respondent subject to the conditions of the original order or file a notice with the court stating in detail the circumstances and factors of the case. The court shall, within forty-eight hours of receipt of the notice of the superintendent or director, after a hearing and based on the evidence presented and other available information:
   a. Release the individual from hospitalization and continue the alternative treatment order;
   b. Consider other alternatives to hospitalization, modify its original order, and direct the individual to undergo another program of alternative treatment for the remainder of the commitment period; or
   c. Enter a new order directing that the respondent remain hospitalized until discharged from the hospital under section 25-03.1-30.
4. If, at the date of expiration of an order of alternative treatment, it is believed that an individual continues to require treatment, a petition for a determination that the individual continues to be a person requiring treatment may be filed with the court where the individual is located.

25-03.1-22. Length of involuntary and continuing treatment orders.

1. An initial order for involuntary treatment may not exceed ninety days.
2. If the director or superintendent believes that a patient continues to require treatment, the director or superintendent shall, not less than fourteen days before the expiration of the initial order, petition the court where the facility is located for a determination that the patient continues to be a person requiring treatment and for an order of continuing

treatment, which order may be for a period not to exceed one year. The court shall set a hearing date that must be within fourteen days after the petition was filed, unless extended for good cause shown.

3. Unless extended under section 25-03.1-31, continuing treatment orders of indefinite duration issued before August 1, 1993, expire as follows:
   a. Those orders issued before August 1, 1991, expire September 30, 1993.
   b. Those orders issued from August 1, 1991, through July 31, 1992, expire December 31, 1993.
   c. Those orders issued from August 1, 1992, through August 1, 1993, expire on their first anniversaries or on March 31, 1994, whichever is later.
4. A respondent subject to a continuing treatment order of indefinite duration retains the rights to periodic review and to petition for discharge under section 25-03.1-31 as that section existed on July 31, 1993.

25-03.1-23. Petition for continuing treatment orders.

A petition for an order authorizing continuing treatment must contain a statement setting forth the reasons for the determination that the patient continues to be a person requiring treatment; a statement describing the treatment program provided to the patient and the results of that treatment; and a clinical estimate as to how long further treatment will be required. The petition must be accompanied by a certificate executed by a physician, physician assistant, psychiatrist, psychologist, advanced practice registered nurse, or licensed addiction counselor, any of whom is practicing within that individual's professional scope of practice.

25-03.1-24. Right to treat.

State hospital or treatment facility personnel may treat a patient with prescribed medication or a less restrictive alternative if, in the opinion of a psychiatrist or physician, these treatments are necessary to prevent bodily harm to the patient or others or to prevent imminent deterioration of the respondent's physical or mental condition and there is not time to obtain a court order. This chapter does not prohibit a hospital from rendering emergency medical care without the need for consultation, if in the exercise of sound medical judgment that care is immediately necessary and delay would endanger the life of or adversely and substantially affect the health of the patient.

25-03.1-25. Detention or hospitalization - Emergency procedure.

1. When a peace officer, physician either in person or directing an emergency medical services professional, psychiatrist, physician assistant, psychologist, advanced practice registered nurse, or mental health professional has reasonable cause to believe that an individual is a person requiring treatment and there exists a serious risk of harm to that individual, others, or property of an immediate nature that considerations of safety do not allow preliminary intervention by a magistrate, the peace officer, physician either in person or directing an emergency medical services professional, psychiatrist, physician assistant, psychologist, advanced practice registered nurse, or mental health professional, using the screening process set forth in section 25-03.1-04, may cause the individual to be taken into custody and detained at a treatment facility as provided in subsection 3, and subject to section 25-03.1-26, except that if emergency conditions exist that prevent the immediate conveyance of the individual to a public treatment facility, a private facility that has adequate resources and capacity to hold that individual may hold the individual in anticipation of conveyance to a public treatment facility for up to twenty-three hours:
   a. Without conducting an immediate examination required under section 25-03.1-26; and
   b. Without following notice and hearing requirements for a transfer to another treatment facility required under subsection 3 of section 25-03.1-34.
2. If a petitioner seeking the involuntary treatment of a respondent requests that the respondent be taken into immediate custody and the magistrate, upon reviewing the

petition and accompanying documentation, finds probable cause to believe that the respondent is a person requiring treatment and there exists a serious risk of harm to the respondent, others, or property if allowed to remain at liberty, the magistrate may enter a written order directing that the respondent be taken into immediate custody and be detained as provided in subsection 3 until the preliminary or treatment hearing, which must be held no more than seven days after the date of the order.

3. Detention under this section may be:
   a. In a treatment facility where the director or superintendent must be informed of the reasons why immediate custody has been ordered. The facility may provide treatment that is necessary to preserve the respondent's life or to appropriately control behavior by the respondent which is likely to result in physical injury to self or to others if allowed to continue, but may not otherwise provide treatment to the respondent without the respondent's consent; or
   b. In a public or private facility in the community which is suitably equipped and staffed for the purpose. Detention in a jail or other correctional facility may not be ordered except in cases of actual emergency when no other secure facility is accessible, and then only for a period of not more than twenty-four hours and under close supervision.
4. Immediately upon being taken into custody, the individual must be advised of the purpose of custody, of the intended uses and possible effects of any evaluation that the individual undergoes, and of the individual's rights to counsel and to a preliminary or treatment hearing.
5. Upon arrival at a facility the peace officer, physician, physician assistant, psychiatrist, psychologist, advanced practice registered nurse, or mental health professional who conveyed the individual or who caused the individual to be conveyed shall complete an application for evaluation and shall deliver a detailed written report from the peace officer, physician, physician assistant, psychiatrist, psychologist, advanced practice registered nurse, or the mental health professional who caused the individual to be conveyed. The written report must state the circumstances under which the individual was taken into custody. The report must allege in detail the overt act that constituted the basis for the beliefs that the individual is a person requiring treatment and that, because of that individual's condition, there exists a serious risk of harm to that individual, others, or property if the individual is not immediately detained.

25-03.1-26. Emergency procedure - Acceptance of petition and individual - Notice - Court hearing set.

1. A public treatment facility immediately shall accept and a private treatment facility may accept on a provisional basis the application and the individual admitted under section 25-03.1-25. The superintendent or director shall require an immediate examination of the subject and, within twenty-four hours after admission, shall either release the individual if the superintendent or director finds that the subject does not meet the emergency commitment standards or file a petition if one has not been filed with the court of the individual's residence or the court which directed immediate custody under subsection 2 of section 25-03.1-25, giving notice to the court and stating in detail the circumstances and facts of the case.
2. Upon receipt of the petition and notice of the emergency detention, the magistrate shall set a date for a preliminary hearing, if the respondent is alleged to be a person who is mentally ill or a person who is both mentally ill and chemically dependent, or a treatment hearing, if the respondent is alleged to be a person who is chemically dependent, to be held no later than four days, exclusive of weekends and holidays, after detention unless the person has been released as a person not requiring treatment, has been voluntarily admitted for treatment, has requested or agreed to a continuance, or unless the hearing has been extended by the magistrate for good cause shown. The magistrate shall appoint counsel if one has not been retained by the respondent.

25-03.1-27. Notice and statement of rights.

1. When an individual is detained for emergency evaluation and treatment under this chapter, the superintendent or director shall cause both the patient and, if possible, a responsible member of the patient's immediate family, a guardian, or a friend, if any, to receive:
   a. A copy of the petition which asserted that the individual is a person requiring treatment.
   b. A written statement explaining that the individual will be examined by an expert examiner within twenty-four hours of hospitalization, excluding holidays.
   c. A written statement in simple terms explaining the rights of the individual alleged to be a person who is mentally ill or a person who is both mentally ill and chemically dependent to a preliminary hearing, to be present at the hearing, and to be represented by legal counsel, if the individual is certified by an expert examiner or examiners as a person requiring treatment.
   d. A written statement in simple terms explaining the rights of the individual to a treatment hearing, to be present at the hearing, to be represented by legal counsel, and the right to an independent medical evaluation.
2. If the individual is unable to read or understand the written materials, every reasonable effort must be made to explain the written material in a language the individual understands, and a note of the explanation and by whom made must be entered into the patient record.

25-03.1-28. Records and proceedings.

A record must be made of all court hearings conducted under this chapter and a copy must be provided to the respondent upon request for purposes of appellate review of the proceedings. If the respondent is indigent, the copy must be provided free of charge, with the expense thereof borne by the county of residence of the respondent.

25-03.1-29. Appeal.

The respondent has the right to an expedited appeal from an order of involuntary commitment or alternative treatment, a continuing treatment order, an order denying a petition for discharge, or an order of transfer. Upon entry of an appealable order, the court shall notify the respondent of the right of appeal and the right to counsel. The notice of appeal must be filed within thirty days after the order has been entered. Such appeal must be to the supreme court and the hearing must be commenced within fourteen days of filing of the notice of appeal. The hearing must be limited to a review of the procedures, findings, and conclusions of the lower court. The name of the respondent may not appear on the record on appeal.

Pending appeal, the order appealed from shall remain in effect, unless the supreme court determines otherwise. The respondent may not be denied the opportunity to be present at the appeal hearing, and the court conducting the appeal may issue such interim order as will assure this opportunity to the respondent while protecting the interest sought to be served by the order appealed from.

25-03.1-30. Discharge of hospitalized patient - Transfer to alternative treatment - Termination of alternative treatment.

1. The superintendent or director may at any time discharge a voluntarily hospitalized patient who is clinically suitable for discharge.
2. The superintendent or director shall discharge a patient hospitalized by court order when the patient's mental condition is such that the patient no longer is a person requiring treatment.
3. If a patient discharged under subsection 1 or 2 has been hospitalized by a court order, or if court proceedings are pending, the court must be notified of the discharge by the treatment facility.
4. A person responsible for providing treatment other than hospitalization to an individual ordered to undergo a program of alternative treatment may terminate the alternative

treatment if the patient is clinically suitable for termination of treatment. The person shall terminate the alternative treatment when the patient no longer is a person requiring treatment and shall notify the court upon that termination.

5. If, upon the discharge of a hospitalized patient or the termination of alternative treatment of an individual under this chapter, the individual would benefit from further treatment, the hospital or provider of alternative treatment shall offer appropriate treatment on a voluntary basis or shall aid the individual to obtain treatment from another source on a voluntary basis. With the individual's consent, the superintendent or director shall notify the appropriate community agencies or persons of the release and of the suggested release plan. Community agencies include regional mental health centers, state and local counseling services, public and private associations whose function is to assist mentally ill or chemically dependent persons, and the individual's physician. The agencies and persons notified of the individual's release shall report to the facility that initial contact with the individual has been accomplished.
6. If, before expiration of an initial treatment order, the superintendent or director determines that a less restrictive form of treatment would be more appropriate for a patient hospitalized by court order, the superintendent or director may petition the court which last ordered the patient's hospitalization to modify its order. The petition must contain statements setting forth the reasons for the determination that the patient continues to require treatment, the reasons for the determination that a less restrictive form of treatment would be more appropriate for the patient, and describing the recommended treatment program. If the patient consents, the court may, without a hearing, modify its treatment order by directing the patient to undergo the agreed treatment program for the remainder of the treatment order. The patient must be given an opportunity to protest the discharge and modification of treatment order and to receive a hearing on the merits of the protest.

25-03.1-31. Procedure to extend continuing treatment orders - Respondent's right to petition for discharge.

1. If the director or superintendent believes that a respondent continues to be a person requiring treatment, the director or superintendent, not less than thirty days before expiration of the order, shall petition the court where the facility is located for another continuing treatment order in the manner prescribed by section 25-03.1-23. The petition must also contain a notice to the respondent that, unless the respondent waives a hearing on the petition within fifteen days after service of the petition upon the respondent, a hearing will be held by the court. The court shall appoint counsel for the respondent upon receipt of the petition, unless retained counsel has appeared on behalf of the respondent. If retained counsel has appeared, the court shall provide notice of the petition to the attorney. If the hearing is not waived, it must be held within thirty days after the petition was filed, unless extended for good cause shown. The burden of proof is the same as in an involuntary treatment hearing.
2. Every individual subject to an order of continuing treatment has the right to petition the court for discharge once annually. The petition may be presented to the court or a representative of the facility who shall transmit it to the court forthwith. If the patient is indigent or is unable for reasons satisfactory to the court to obtain an independent expert examiner, the court shall appoint an independent expert examiner to examine the patient and to furnish a report to the court. The court shall set a hearing date which must be within fourteen days of receipt of the examiner's report. At the hearing, the burden of proof is the same as in an involuntary treatment hearing.

25-03.1-32. Periodic hearing and petition for discharge - Continuing hospitalization.
Repealed by S.L. 1979, ch. 334, § 33.

25-03.1-33. Legal incompetence - Presumption - Finding - Adjudication negated.

1. No determination that a person requires treatment, no court order authorizing hospitalization or alternative treatment, nor any form of admission to a hospital gives rise to a presumption of, constitutes a finding of, or operates as an adjudication of legal incompetence, or of the inability to give or withhold consent.
2. No order of commitment under any previous statute of this state, in the absence of a concomitant appointment of a guardian, constitutes a finding of or operates as an adjudication of legal incompetence, or of the inability to give or withhold consent.

25-03.1-34. Transfer of patients.

1. The superintendent or director of a treatment facility may transfer, or authorize the transfer of, an involuntary patient from a hospital to another facility if the superintendent or director determines that it would be consistent with the medical needs of the patient to do so. Due consideration must be given to the relationship of the patient to family, legal guardian, or friends, so as to maintain relationships and encourage visits beneficial to the patient. Whenever any treatment facility licensed by any state for the care and treatment of mentally ill or chemically dependent persons agrees with the patient or patient's guardian to accept the patient for treatment, the superintendent or director of the treatment facility shall release the patient to the other facility.
2. Upon receipt of notice from an agency of the United States that facilities are available for the care or treatment of any individual ordered hospitalized who is eligible for care or treatment in a treatment facility of that agency, the superintendent or director of the treatment facility may cause the individual's transfer to that agency of the United States for treatment. No person may be transferred to any agency of the United States if the person is confined pursuant to conviction of any felony or misdemeanor or the person has been acquitted of the charge solely on the ground of mental illness unless the court originally ordering confinement of the person enters an order for transfer after appropriate motion and hearing. Any person transferred under this section to an agency of the United States is deemed committed to that agency under the original order of treatment.
3. No facility may transfer a patient to another hospital or agency without first notifying the patient and the patient's legal guardian, spouse, or next of kin, if known, or a chosen friend of the patient and the court that ordered treatment. The patient must be given an opportunity to protest the transfer and to receive a hearing on the protest. The patient's objection to the transfer must be presented to the court where the facility is located or to a representative of the facility within seven days after the notice of transfer was received. If the objection is presented to a representative of the facility, the representative shall transmit it to the court forthwith. The court shall set a hearing date which must be within fourteen days of the date of receipt of the objection. If an objection has not been filed or the patient consents to a transfer, the court may enter an ex parte order authorizing transfer.

25-03.1-34.1. Exchange of chemically dependent patient or prisoner.

The director of the department of human services, a county, a city, or a local law enforcement agency may enter into reciprocal agreements with the appropriate authorities of any other state regarding the mutual exchange, return, and transportation of chemically dependent or mentally ill patients or prisoners who are treated or confined in hospitals of one state for treatment of chemical dependency or mental illness but who have legal residence in another state.

25-03.1-34.2. Interstate contracts for treatment of mental illness or chemical dependency.

1. For purposes of this section, "bordering state" means Minnesota, Montana, or South Dakota.

2. Unless prohibited by another law and subject to the exceptions in subsection 3, the department may contract with any appropriate treatment or detoxification facility in a bordering state for the treatment of mental illness or chemical dependency or for providing chemical dependency detoxification services for residents of North Dakota. The department may also contract with any public or private agency or facility to provide treatment of mental illness or chemical dependency or to provide chemical dependency detoxification services in North Dakota to residents of a bordering state. An individual who receives treatment for mental illness or chemical dependency or who receives chemical dependency detoxification services in another state under this section is subject to the laws of the state in which treatment or detoxification is provided. An individual who receives treatment or detoxification in another state under this section must be informed of the consequences of receiving treatment or detoxification in another state, including the implications of the differences in state laws.
3. A contract may not be entered under this section for treatment or detoxification to individuals who:
   a. Are serving a sentence after conviction of a criminal offense;
   b. Are on probation or parole;
   c. Are the subject of a presentence investigation; or
   d. Have been committed involuntarily in North Dakota under chapter 25-03.1 for treatment of mental illness or chemical dependency, except as provided under subsection 5.
4. Contracts entered under this section must, at a minimum:
   a. Describe the services to be provided;
   b. Establish responsibility for the costs of services;
   c. Establish responsibility for the costs of transporting individuals receiving services under this section;
   d. Specify the duration of the contract;
   e. Specify the means of terminating the contract;
   f. Specify the terms and conditions for refusal to admit or retain an individual; and
   g. Identify the goals to be accomplished by the placement of an individual under this section.
5. The department may enter negotiations with appropriate personnel of a bordering state to develop an agreement that conforms to the requirements of this section. An agreement with a bordering state must enable the placement in North Dakota of individuals who require detoxification services, are on emergency holds, or who have been involuntarily committed as mentally ill or chemically dependent in a bordering state and enable the temporary placement in a bordering state of patients who require detoxification services or who are on emergency holds in North Dakota under chapter 25-03.1. An agreement with a bordering state must also provide that the North Dakota courts retain jurisdiction over North Dakota residents, and that the bordering state affords to North Dakota residents the rights afforded to them under North Dakota law. Individuals committed by a court of a bordering state and placed in North Dakota facilities continue to be in the legal custody of the bordering state. The bordering state's laws governing length of commitment, re-examinations, and extension of commitment must continue to apply to these residents. In all other respects, residents of a bordering state placed in North Dakota facilities are subject to North Dakota laws. An agreement with a bordering state must specify that responsibility for payment for the cost of care of a resident of a bordering state remains with the bordering state of which that individual is a resident and the cost of care of a North Dakota resident remains with the state of North Dakota. This section applies to detoxification services regardless of whether the services are provided on a voluntary or involuntary basis.

25-03.1-35. Treatment by an agency of the United States.

1. If a respondent under this chapter is eligible for treatment by any agency of the United States, the court, upon receipt of notice from that agency showing that facilities are

available and that the individual is eligible for care or treatment therein, may order the respondent placed in the custody of the agency for treatment. Any individual admitted under the order of the court to any treatment facility operated by any agency of the United States within or without the state is subject to the rules and regulations of the agency. The chief officer of any treatment facility operated by an agency has the same powers as the heads of treatment facilities within this state with respect to detention, custody, transfer, conditional release, or discharge of patients. Jurisdiction is retained in the committing court of this state at any time to inquire into the mental condition of an individual so transferred or placed and to determine the necessity for continuance of treatment.

2. An order of a court of competent jurisdiction of another state or of the District of Columbia authorizing treatment of an individual by any agency of the United States has the same force and effect as to the individual while in this state as in the geographical jurisdiction of the court entering the order; and the courts of the state or district issuing the order retain jurisdiction of the individual for the purposes of inquiring into the individual's mental condition and of determining the necessity for continuance of treatment. Consent is hereby given to the application of the law of the state or district in which the court issuing the order for treatment is located with respect to the authority of the chief officer of any treatment facility operated in this state by any agency of the United States to retain custody, transfer, conditionally release, or discharge the individual being treated.

25-03.1-36. Escape of patient from treatment facility.

If any patient escapes from a treatment facility, the superintendent or director may cause an immediate search to be made. If the patient cannot be found, the superintendent or director shall cause notice of the escape to be given forthwith to the court of the county of residence of the patient and to such health officials or officers of the law as may be of assistance in locating the patient. If the patient is found in the county of residence, the court, at the request of the superintendent or director, shall cause the patient to be returned to the treatment facility and shall issue its order to that effect. The patient must thereupon be transported to the treatment facility as provided in other cases. Should the patient be found other than in the county of the patient's residence, the patient may be transported at the request of the superintendent to the state hospital as directed and at the expense of the state hospital.

25-03.1-37. Reports to and additional powers of department.

The superintendent or director of a treatment facility, by means of nonidentifying data, shall notify the department of all admissions under this chapter to the state hospital or facility. In addition to the specific authority granted under the provisions of this chapter, the department shall have authority to require nonidentifying statistical data from the head of any hospital relating to the admission, examination, diagnosis, release, or discharge of any mentally ill patient.

25-03.1-38. Expenses of district court serving Stutsman County.

All expenses of the district court serving Stutsman County involving patients in residence at the state hospital must be paid by the state hospital under the direction of the department.

25-03.1-39. Transportation - Expenses.

Whenever an individual is about to be involuntarily hospitalized under the provisions of this chapter, an official or person designated by the court shall arrange for the individual's transportation to the treatment facility with suitable medical or nursing attendants and by such means as may be suitable for the individual's medical condition. Whenever practicable, the individual to be hospitalized must be permitted to be accompanied by one or more of the individual's friends or relatives, and when practicable shall not be transported by police officers or in police vehicles. If the proposed patient is unable to pay for expenses of transportation, and

friends or relatives do not oblige themselves to pay such expenses, the court may direct that such expenses be paid by the county of the patient's residence.

25-03.1-40. Rights of patients.

Each patient of a treatment facility retains the following rights, subject only to the limitations and restrictions authorized by section 25-03.1-41. A patient has the right:

1. To receive appropriate treatment for mental and physical ailments and for the prevention of illness or disability.
2. To the least restrictive conditions necessary to achieve the purposes of treatment.
3. To be treated with dignity and respect.
4. To be free from unnecessary restraint and isolation.
5. To visitation and telephone communications.
6. To send and receive sealed mail.
7. To keep and use personal clothing and possessions.
8. To regular opportunities for outdoor physical exercise.
9. To be free to exercise religious faith of choice.
10. To be free from unnecessary medication.
11. To exercise all civil rights, including the right of habeas corpus.
12. Not to be subjected to experimental research without the express and informed written consent of the patient or of the patient's guardian.
13. Not to be subjected to psychosurgery, electroconvulsive treatment, or aversive reinforcement conditioning, without the express and informed written consent of the patient or of the patient's guardian.
14. In a manner appropriate to the patient's capabilities, to ongoing participation in the planning of services.
15. Not to be required to participate in the development of an individual treatment plan.

25-03.1-41. Limitations and restrictions of patient's rights.

The rights enumerated in subsections 5, 6, 7, and 8 of section 25-03.1-40 may be limited or restricted by the treating physician, physician assistant, psychiatrist, advanced practice registered nurse, or psychologist trained in a clinical program, if in that individual's professional judgment to do so would be in the best interests of the patient and the rights are restricted or limited in the manner authorized by the rules adopted pursuant to section 25-03.1-46. When a physician, physician assistant, psychiatrist, advanced practice registered nurse, or psychologist trained in a clinical program responsible for treatment of a particular patient imposes a special restriction on the rights of the patient as authorized by the rules, a written order specifying the restriction and the reasons for the restriction must be signed by the physician, physician assistant, psychiatrist, advanced practice registered nurse, or psychologist trained in a clinical program and attached to the patient's chart. These restrictions must be reviewed at intervals of not more than fourteen days and may be renewed by following the procedure set out in this section.

25-03.1-42. Limitation of liability - Penalty for false petition.

1. A person acting in good faith upon either actual knowledge or reliable information which makes the petition for involuntary treatment of an individual under this chapter is not subject to civil or criminal liability.
2. A physician, physician assistant, psychiatrist, psychologist, advanced practice registered nurse, mental health professional, employee of a treatment facility, state's attorney, or peace officer who in good faith exercises professional judgment in fulfilling an obligation or discretionary responsibility under this chapter is not subject to civil or criminal liability for acting unless it can be shown that it was done in a negligent manner.
3. A person that makes a petition for involuntary treatment of an individual without having good cause to believe that the individual is a person who is both mentally ill and

chemically dependent and as a result is likely to cause serious harm to self or others is guilty of a class A misdemeanor.

25-03.1-43. Confidential records.

All information and records obtained in the course of an investigation, an evaluation, an examination, or treatment under this chapter and the presence or past presence of a patient in a treatment facility are confidential, but the information and records may be disclosed to and be used by a court as required to carry out the purposes of this chapter, and as authorized under title 45, Code of Federal Regulations, part 164. Courts also may release nonclinical identifying information of persons subject to proceedings under this chapter for the purposes of section 62.1-02-01.2. Any information disclosed to a court remains confidential information, except as provided in section 62.1-02-01.2.

25-03.1-44. Records of disclosure.

Repealed by S.L. 2003, ch. 225, § 6.

25-03.1-45. Expungement of records.

Following the discharge of a respondent from a treatment facility or the state hospital or the issuance of a court order denying a petition for commitment, a respondent may at any time move to have all court records pertaining to the proceedings expunged on condition that the respondent file a full release of all claims of whatever nature arising out of the proceedings.

25-03.1-46. Rules and regulations - Preparation of forms.

The department shall, under chapter 28-32, adopt and enforce such rules as may be necessary for the implementation of this chapter. The supreme court, in consultation with the department, the associations of district judges and state's attorneys, and other affected organizations, is responsible for the preparation and the department is responsible for distribution of the necessary and appropriate forms to enable compliance with this chapter.