

CHAPTER 139

AN ACT concerning involuntary commitment to mental health treatment and supplementing P.L.1987, c.116 (C.30:4-27.1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.30:4-27.9a Short-term care, psychiatric facility, special psychiatric hospital, detainment, limitations; temporary licenses, beds, involuntary commitment; study, reports.

1. a. Notwithstanding the provisions of section 9 of P.L.1987, c.116 (C.30:4-27.9) or any other law, rule, or regulation to the contrary, commencing on the effective date of P.L.2023, c.139 (C.30:4-27.9a et al.) and ending on the last day of the 24th calendar month following that effective date, a short-term care or psychiatric facility, or a special psychiatric hospital, may detain a person admitted to the facility involuntarily by referral from a screening service without a temporary court order for no more than 72 hours from the time the screening certificate was executed.

Except in the event a general hospital was granted a temporary court order permitting the continued hold of the person pursuant to subsection b. of this section, which delayed a person's admission to the short-term care or psychiatric facility or special psychiatric hospital, a short-term care or psychiatric facility or special psychiatric hospital shall not detain a person admitted to the facility involuntarily by referral from a screening service without a temporary court order for more than 72 hours from the time the screening certificate was executed.

Within 24 hours of admission, the admitting facility shall initiate court proceedings for the involuntary commitment of the person pursuant to section 10 of P.L.1987, c.116 (C.30:4-27.10) and request a temporary court order permitting the continued hold of the person pending the return date of the involuntary commitment hearing, which shall take place no later than 20 days from initial commitment.

b. (1) Notwithstanding the provisions of section 9 of P.L.1987, c.116 (C.30:4-27.9) or any other law, rule, or regulation to the contrary, commencing on the effective date of P.L.2023, c.139 (C.30:4-27.9a et al.) and ending on the last day of the 24th calendar month following that effective date, a general hospital, including any satellite emergency department of a general hospital, where a person is located during a screening outreach visit, may not detain the person for more than 72 hours from the time a screening certificate is executed, unless the hospital or emergency department obtains a temporary court order permitting the continued hold of the person for up to 72 additional hours, as determined by the court. The hospital or emergency department may submit an emergent application for such order and continue to hold the person during the pendency of the application, provided that appropriate treatment that meets the standard of care is being rendered to the person. The Office of the Public Defender shall be notified of the emergent application, provided with a copy of the application and all supporting documents, and shall be appointed as counsel to represent the patient. The application may be decided by the court on documentary presentations relevant to the standards established under paragraph (2) of this subsection. At the request of counsel, the court may conduct a hearing on the record, at which hearing the court shall consider the arguments of counsel and all relevant evidence submitted. The court shall determine the format of the hearing based on the apparent complexity of the matter and the extent of doubt as to the merits of the application, and may, at its discretion, rely on certifications from witnesses or require live testimony.

(2) The court may grant a temporary order granting the continued hold of a person upon an application submitted pursuant to paragraph (1) of this subsection if the hospital or emergency department:

(a) exhausted all reasonable efforts to place the individual in a short-term care or psychiatric facility, or special psychiatric hospital, depending on which facility is appropriate for the person's condition and is the least restrictive environment; and

(b) demonstrates that there is a substantial likelihood that, by reason of mental illness, the person will be dangerous to the person's own self or others based upon the certification of two psychiatrists who have examined the patient and deemed the patient is in need of involuntary commitment.

The court shall include such conditions in the temporary order as the court deems appropriate to promote diligent efforts to locate an available facility to accommodate the patient's needs and protect the rights of the person detained pending commitment. The Office of the Public Defender shall be notified and provided with a copy of any temporary court order granted pursuant to this paragraph. The patient shall receive a court hearing with respect to the issue of continued need for involuntary commitment within 20 days from the date of initial commitment or within 20 days from the date an application was filed pursuant to paragraph (1) of this subsection, whichever date occurs first, unless the patient has been administratively discharged pursuant to section 17 of P.L.1987, c.116 (C.30:4-27.17).

(3) Notwithstanding the provisions of any other law, rule, or regulation to the contrary, commencing on the effective date of P.L.2023, c.139 (C.30:4-27.9a et al.) and ending on the last day of the 24th calendar month following that effective date, each general hospital and emergency department shall prepare and submit to the Department of Human Services a quarterly report, which report shall include, but not be limited to, information on:

(a) the number of applications submitted to the court for a temporary court order permitting the continued hold of a person beyond 72 hours pursuant to paragraph (1) of this subsection;

(b) the number of temporary court orders granted pursuant to paragraph (2) of this subsection permitting the continued hold of a person beyond 72 hours;

(c) whether a person detained for longer than 72 hours: has a criminal history; has a co-occurring substance use disorder; has a co-occurring intellectual or developmental disability; or is unable to be released because the 72-hour timeframe falls on a weekend and either admission to treatment facilities are not provided on weekends, or discharges from the facility do not occur on weekends;

(d) the length of time each individual was held beyond 72 hours before finding appropriate placement in a treatment facility; and

(e) the number of individuals placed in an appropriate treatment facility within 72 hours.

Any information included in a report concerning specific individuals shall be de-identified. Each report shall be made available to the public within 60 days of the date the Department of Human Services receives the report.

c. (1) Notwithstanding the provisions of any other law, rule, or regulation to the contrary, the Commissioner of Health may, to the extent the commissioner finds necessary, commencing 120 days following the effective date of P.L.2023, c.139 (C.30:4-27.9a et al.) and ending on the last day of the 15th calendar month following that effective date, allow a general acute care hospital that is licensed for acute care hospital psychiatric beds to apply to the Department of Health for temporary licenses for beds for the involuntary commitment of patients. The department may issue temporary licenses pursuant to this paragraph if the hospital demonstrates in its application a need for such beds based on retrospective data demonstrating the need for involuntary commitment beds, a showing that the hospital continually exhausts all reasonable efforts to place individuals in short-term care or psychiatric facilities, or special psychiatric hospitals, and any other factors as determined by the Commissioner of Health. Any temporary license granted pursuant to this paragraph, unless otherwise confirmed at the next

certificate of need review, as required pursuant to N.J.A.C.8:33-4.4 or its successor regulation, shall expire within 90 days of the Commissioner of Health's decision rendered pursuant to that full review process.

(2) The Department of Health shall make available on its Internet website and continuously update information concerning the total number of temporary licenses granted pursuant to paragraph (1) of this subsection, as well as the number of temporary licenses granted to each hospital that submitted an application pursuant to paragraph (1) of this subsection.

(3) The department shall submit information concerning the total number of temporary licenses granted pursuant to paragraph (1) of this subsection, as well as the number of temporary licenses granted to each hospital that submitted an application pursuant to paragraph (1) of this subsection, to the Commissioner of Human Services, which information shall: (a) be submitted in a manner that allows the Commissioner of Human Services sufficient time to include the information in the report required pursuant to subsection b. of section 2 of this act; and (b) reflect the number of temporary licenses granted as of the date the information is submitted.

C.30:4-27.3a Joint study, Human Services, Health, appropriate treatment settings placement, challenges, supply, demand, involuntary, voluntary commitment beds.

2. a. The Department of Human Services and the Department of Health shall jointly conduct a study concerning the challenges of placing individuals in appropriate treatment settings, and the supply of and demand for both involuntary commitment beds and voluntary commitment beds in this State. In conducting the study, the departments shall solicit input from interested stakeholders including, but not limited to, hospitals, the Office of the Public Defender, the Administrative Office of the Courts, advocates representing mental health patients, advocates representing individuals with disabilities, and representatives of psychiatric screening centers.

b. No later than 18 months after the effective date of P.L.2023, c.139 (C.30:4-27.9a et al.), the Commissioner of Human Services shall submit to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, a report, which shall include, but not be limited to:

(1) a summary of the findings from the study conducted pursuant to subsection a. of this section;

(2) an analysis of the supply of and demand for involuntary commitment beds and voluntary commitment beds, including consideration of, to the extent practicable, the geographic location of the patient and whether the patient is an adult patient or a pediatric patient, whether the patient has a criminal history, whether the patient is uninsured or underinsured, and whether the patient has been diagnosed with an intellectual or developmental disability and a mental health condition, or has been diagnosed with a substance use disorder and a mental health condition;

(3) the number of temporary licenses granted by the Department of Health pursuant to paragraph (1) of subsection c. of section 1 of this act as of the date the information concerning the licenses is submitted to the Commissioner of Human Services pursuant to paragraph (3) of subsection c. of section 1 of this act; and

(4) any recommendations for legislative action.

3. This act shall take effect immediately.

Approved August 16, 2023.