

1983 Assembly Bill 870

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1983 Wisconsin Act 365

AN ACT to create 51.42 (9m), 51.437 (13m) and 51.87 of the statutes, relating to interstate contracts for mental health services.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 51.42 (9m) of the statutes is created to read:

51.42 (9m) REPORTS ON INTERSTATE CONTRACTS. Each board that enters into a contract under s. 51.87 for the purchase or provision of services shall annually report to the department regarding the use of the contract.

SECTION 2. 51.437 (13m) of the statutes is created to read:

51.437 (13m) REPORTS ON INTERSTATE CONTRACTS. Each board that enters into a contract under s. 51.87 for the purchase or provision of services shall annually report to the department regarding the use of the contract.

SECTION 3. 51.87 of the statutes is created to read:

51.87 Interstate contracts for mental health services. (1) PURPOSE AND POLICY. The purpose of this section is to enable appropriate treatment to be provided to individuals, across state lines from the individuals' state of residence, in qualified facilities that are closer to the homes of the individuals than are facilities available in their home states.

(2) DEFINITIONS. In this section:

(a) "Receiving agency" means a public or private agency or board which, pursuant to this section, provides treatment to individuals from a state other than the state in which the agency or board is located.

(b) "Receiving state" means the state in which a receiving agency is located.

(c) "Sending agency" means a public or private agency or board located in a state which sends an individual to another state for treatment pursuant to this section.

(d) "Sending state" means the state in which a sending agency is located.

(3) PURCHASE OF SERVICES. A board created under s. 46.23, 51.42 or 51.437 may contract as provided under this section with public or private agencies in states bordering on Wisconsin to secure services under this chapter for persons who receive services through the board, except that services may not be secured for persons committed pursuant to s. 971.14 or 971.17. Section 46.036 (1) to (6) applies to contracts entered into under this section by boards established under s. 46.23, 51.42 or 51.437.

(4) **PROVISION OF SERVICES.** A board created under s. 46.23, 51.42 or 51.437 may contract as provided under this section with public or private agencies in a state bordering on Wisconsin to provide services under this chapter for residents of the bordering state in approved treatment facilities in this state, except that services may not be provided for residents of the bordering state who are involved in criminal proceedings.

(5) **CONTRACT APPROVAL.** A contract under this section may not be validly executed until the department has reviewed and approved the provisions of the contract, determined that the receiving agency provides services in accordance with the standards of this state and the secretary has certified that the receiving state's laws governing patient rights are substantially similar to those of this state.

(6) **RESIDENCE NOT ESTABLISHED.** No person establishes legal residence in the state where the receiving agency is located while the person is receiving services pursuant to a contract under this section.

(7) **TREATMENT RECORDS.** Section 51.30 applies to treatment records of an individual receiving services pursuant to a contract under this section through a receiving agency in this state, except that the sending agency has the same right of access to the treatment records of the individual as provided under s. 51.30 for boards established under s. 51.42 or 51.437.

(8) **INVOLUNTARY COMMITMENTS.** An individual who is detained, committed or placed on an involuntary basis under s. 51.15, 51.20 or 51.45 or ch. 55 may be confined and treated in another state pursuant to a contract under this section. An individual who is detained, committed or placed under the civil law of a state bordering on Wisconsin may be confined and treated in this state pursuant to a contract under this section. Court orders valid under the law of the sending state are granted recognition and reciprocity in the receiving state for individuals covered by a contract under this section to the extent that the court orders relate to confinement for treatment or care of a mental disability. Such court orders are not subject to legal challenge in the courts of the receiving state. Persons who are detained, committed or placed under the law of a sending state and who are transferred to a receiving state under this section continue to be in the legal custody of the authority responsible for them under the law of the sending state. Except in emergencies, those persons may not be transferred, removed or furloughed from a facility of the receiving agency without the specific approval of the authority responsible for them under the law of the sending state.

(9) **APPLICABLE LAWS.** While in the receiving state pursuant to a contract under this section, an individual shall be subject to all of the provisions of law and regulations applicable to persons detained, committed or placed pursuant to the corresponding laws of the receiving state, except those laws and regulations of the receiving state relating to length of confinement, reexaminations and extensions of confinement and except as otherwise provided by this section. The laws and regulations of the sending state relating to length of confinement, reexaminations and extensions of confinement shall apply. No person may be sent to another state pursuant to a contract under this section until the receiving state has enacted a law recognizing the validity and applicability of this state's laws as provided in this section.

(10) **VOLUNTARY PLACEMENTS.** If an individual receiving treatment on a voluntary basis pursuant to a contract under this section requests discharge, the receiving agency shall immediately notify the sending agency and shall return the individual to the sending state as directed by the sending agency within 48 hours after the request, excluding Saturdays, Sundays and legal holidays. The sending agency shall immediately upon return of the individual either arrange for the discharge of the individual or detain the individual pursuant to the emergency detention laws of the sending state.

(11) **ESCAPED INDIVIDUALS.** If an individual receiving services pursuant to a contract under this section escapes from the receiving agency and the individual at the time of the escape is subject to involuntary confinement under the law of the sending state, the receiving agency shall use all reasonable means to recapture the escapee. The receiving agency shall immediately report the escape to the sending agency. The receiving state has the primary responsibility for, and the authority to direct, the pursuit, retaking and prosecution of escaped persons within its borders and is liable for the cost of such action to the extent that it would be liable for costs if its own resident escaped.

(12) **TRANSFERS BETWEEN FACILITIES.** An individual may be transferred between facilities of the receiving state if transfers are permitted by the contract under this section providing for the individual's care.

(13) **REQUIRED CONTRACT PROVISIONS.** All contracts under this section shall do all of the following:

(a) Establish the responsibility for the costs of all services to be provided under the contract.

(b) Establish the responsibility for the transportation of clients to and from receiving facilities.

(c) Provide for reports by the receiving agency to the sending agency on the condition of each client covered by the contract.

(d) Provide for arbitration of disputes arising out of the provisions of the contract which cannot be settled through discussion between the contracting parties and specify how arbitrators will be chosen.

(e) Include provisions ensuring the nondiscriminatory treatment, as required by law, of employes, clients and applicants for employment and services.

(f) Establish the responsibility for providing legal representation for clients in legal proceedings involving the legality of confinement and the conditions of confinement.

(g) Establish the responsibility for providing legal representation for employes of the contracting parties in legal proceedings initiated by persons receiving treatment pursuant to the contract.

(h) Include provisions concerning the length of the contract and the means by which the contract can be terminated.

(i) Establish the right of qualified employes and representatives of the sending agency and sending state to inspect, at all reasonable times, the records of the receiving agency and its treatment facilities to determine if appropriate standards of care are met for clients receiving services under the contract.

(j) Require the sending agency to provide the receiving agency with copies of all relevant legal documents authorizing confinement of persons who are confined pursuant to law of the sending state and receiving services pursuant to a contract under this section.

(k) Require individuals who are seeking treatment on a voluntary basis to agree in writing to be returned to the sending state upon making a request for discharge as provided in sub. (10) and require an agent or employe of the sending agency to certify that the individual understands that agreement.

(L) Establish the responsibility for securing a reexamination for an individual and for extending an individual's period of confinement.

(m) Include provisions specifying when a receiving facility can refuse to admit or retain an individual.

(n) Specify the circumstances under which individuals will be permitted home visits and granted passes to leave the facility.
