CHAPTER 51

STATE MENTAL HEALTH ACT

51.001 Definitions. As used in this chapter:

(1) "Mental illness" means as defined in s. 51.75; "mental deficiency" means as defined in s. 51.75; and "mental infirmity" means senility.

(2) "County hospital" means a hospital for mental disturbances established pursuant to s. 51.25 and the county mental health center, south division, established under s. 51.24 (1).

(3) "State hospital" means any of the institutions operated by the department for the purpose of providing diagnosis, care or treatment, for mental or emotional disturbance or mental deficiency.

(4) "State-wide average per capita cost" means the cost of maintenance, care and treatment averaged over all patients in all county hospitals established under s. 51.25 and the county mental health center, south division, established under s. 51.24 (1), except as provided in s. 51.26 (1) (c), during the fiscal year from annual individual hospital reports filed with the department under the mandatory uniform cost record-keeping requirement of s. 46.18 (8), (9) and (10).

(5) "Individual average per capita cost" means the cost of maintenance, care and treatment averaged over all patients in each individual county hospital and each division of the county mental health center, except as provided in s. 51.26 (1) (c), during the fiscal year from the annual individual hospital report filed with the department under the mandatory uniform cost record-keeping requirement of s. 46.18 (8), (9) and (10).

(6) (a) "Allowable per capita cost", as applied to care furnished during the 1971-72 fiscal year, means 110% of the audited individual average per capita cost for care furnished during the 1970-71 fiscal year.

(b) "Allowable per capita cost", as applied to care furnished during the 1972-73 fiscal year and thereafter, means 110% of the audited allowable per capita cost for care furnished during the previous fiscal year.

History: 1971 c. 125.

51.005 Purpose of chapter. (1) PURPOSE. It is the purpose of this chapter to provide for care and treatment in state and county hospitals for persons who by reason of mental illness, infirmity or deficiency are in need of care and treatment not feasible in their own homes or in private facilities.

(2) LEGAL EFFECT OF HOSPITALIZATION. Hospitalization under this chapter, whether by voluntary admission or commitment, is not an adjudication of legal incompetency, but merely raises a rebuttable or disputable presumption of incompetency while the patient is under the jurisdiction of hospital authorities.

51.01 Procedure to determine mental condition. (1) APPLICATION TO COURT. (a) Written application for the mental examination of any person (herein called "patient") believed to be mentally ill, mentally infirm or mentally deficient, and for his commitment, may be made to the county court of the county in which the patient is found, by at least 3 adult residents of the state, one of whom must be a person with whom the patient resides or at whose home he may be or a parent, child, spouse, brother, sister or friend of the patient, or the sheriff or a police officer or public welfare or health officer. However, if the patient is under 18 years of age, the application shall be made to the juvenile court of the county in which such minor is found.

(b) If the judge of the county court is not available, the application may be made to any court of record of the county.

(2) APPOINTMENT OF EXAMINING PHYSICIANS. (a) On receipt of the application the court shall appoint 2 duly licensed reputable physicians to personally examine the patient, one of whom, if available, shall be a physician with special training in psychiatry, and who are so registered by the court on a list kept in the clerk's office, and neither of whom is related by blood or marriage to the patient or has any interest in his property. The court may, by attachment for the person of the patient, compel him to submit to the examination of the physicians at a specified time and place.

(b) The examining physicians shall personally observe and examine the patient at any suitable place and satisfy themselves as to his mental condition and report the result to the court, in writing, at the earliest possible time or the time fixed by the court.

(3) FORMS. The department shall prescribe forms for the orderly administration of ch. 51 and furnish such forms to the county courts and to the several institutions. A substantial compliance with prescribed forms is sufficient.

(4) REPORT OF EXAMINING PHYSICIANS. The examining physicians, as part of their report, shall make and file substantially the following affidavit:

We, ... and ....., the examining physicians, being severally sworn, do certify that we have with care personally examined [insert name of person examined] now at ..... in said county, and as a result of such examination we hereby certify (a) that he is mentally ill [or mentally infirm or mentally deficient] or that he is not mentally ill [or mentally infirm or mentally deficient]; and (b) that he is [or is not] a proper subject for custody and treatment; that our opinion is based upon the history of his case and our examination of him; that the facts stated and the information contained in this certificate and our report are true to the best of our knowledge and belief. We informed the patient that he was examined by us as to his mental condition, pursuant to an application made therefor, and of his right to be heard by the court.

51.02 Procedure to determine mental condition (continued). (1) NOTICE OF HEARING. (a) On receipt of the application or of the report of the examining physicians, the court shall appoint a time and place for hearing the application and shall cause notice thereof to be served upon the patient under s. 262.06 (1) or (2), which notice shall state that application has been made for the examination into his mental condition (withholding the names of the applicants) and that such application will be heard at the time and place named in the notice; but if it appears to the satisfaction of the court that the notice would be injurious or without advantage to the patient by reason of his mental condition, the service of notice may be omitted. The court may, in its discretion, cause notice to be given to such other persons as it deems advisable. If the notice is served the court may proceed to hold the hearing at the time and place specified therein; or, if it is dispensed with, at any time. The court may, by attachment for the person of the patient, cause him to be brought before the court for the hearing.

(b) The court shall determine whether the patient is a war veteran. If he is, the court shall promptly notify the department of veterans affairs, and in the event of commitment, it shall notify the nearest U.S. veterans' administration facility of the commitment.

(2) HEARING. At the hearing any party in interest, upon demand made to the judge a reasonable time in advance of the hearing, may examine the physicians and other witnesses, on oath, before the court and may offer evidence.

At the opening of the hearing the judge shall state to the patient, if present, in simple, nontechnical language the purpose of the examination and his right to be heard and to protest and oppose the proceedings and his commitment; but where it is apparent to the judge that the mentality of the patient is such that he would not understand, he may omit such statement. The hearing may be had in the courtroom or elsewhere and shall be open only to persons in interest and their attorneys and witnesses. Before making the court's decision the judge shall personally observe the patient.

(3) DISTRICT ATTORNEY TO HELP. If requested by the judge, the district attorney shall assist in conducting proceedings under this chapter.

(4) APPOINTMENT OF GUARDIAN AD LITEM. At any stage of the proceedings, the court may, if it determines that the best interest of the patient requires it, appoint a guardian ad litem for him.

(5) COURT'S DECISION. At the conclusion of the hearing the court may:

(a) Discharge the patient if satisfied that he is not mentally ill or infirm or deficient, so as to require care and treatment, or

(b) Order him detained for observation if in doubt as to his mental condition, or

(c) Order him committed if satisfied that he is mentally ill or infirm or deficient and that he is a proper subject for custody and treatment, or

(d) In case of trial by jury, order him discharged or committed in accordance with the jury verdict.

51.03 Jury trial. If a jury is demanded by the alleged mentally ill, infirm or deficient patient or by a relative or friend in his behalf, before commitment, the court shall direct that a jury of 6 people be drawn to determine the mental condition of the patient. The procedure shall be substantially like a jury trial in a civil action. The judge may instruct the jurors in the law. No verdict shall be valid or received unless agreed to and signed by at least 5 of the jurors. At the time of ordering a jury to be summoned, the court shall fix the date of the hearing, which date shall be not less than 30 days nor more than 40 days after the demand for a jury is made. In the meantime the court may order the patient temporarily detained in a designated public institution, until the date of hearing, for observation. The court shall submit to the jury the following form of verdict:

STATE OF WISCONSIN

..... County

Members of the Jury:

(1) Do you find from the evidence that the patient ..... (Insert his name) ..... is mentally ill or mentally infirm or mentally deficient? Answer "Yes" or "No".

Answer: .....

(2) If you answer the first question "Yes", then do you further find from the evidence that said patient is a proper subject for custody and treatment? Answer "Yes" or "No".

Answer: .....

(Signatures of jurors who agree)

51.04 Temporary detention of persons. (1) EMERGENCY PROVISIONS. The sheriff or any other police officer may take into temporary custody any person who is violent or who threatens violence and who appears irresponsible and dangerous. The sheriff or other police officer shall take temporary custody of any person when it appears by application delivered to such officer and executed by 3 persons, one of whom shall be a physician licensed to practice medicine and surgery in this state, that such person has a mental illness, is in need of hospitalization, and is irresponsible and dangerous to himself or others. The application shall set forth the name and address of the patient together with a statement by the physician which describes the illness and reasons why the patient is considered irresponsible and dangerous. This is an emergency provision intended for the protection of persons and property. Such person may be kept in custody until regular proceedings are instituted to cope with the case, but not exceeding 5 days. The application provided for herein shall be presented by such sheriff or other police officer to the county court of the county in which the patient is found, and shall be considered an application for mental examination within the meaning of s. 51.01 (1) (a).

(2) FOR SAFETY. If it appears from the application for his mental examination or otherwise that safety requires it, the court or a court commissioner if the judge is not available may order the sheriff or other police officer who has such person in custody to confine him in a designated place for a specified time, not exceeding 10 days.

(3) MEDICAL OBSERVATION. Upon receipt of the report of the physicians the court may order his detention in a designated institution for a stated period not exceeding 30 days. Upon the application of the superintendent of the institution or any interested person the court may extend the detention period, but the temporary detention shall not exceed 90 days in all.

(4) TEMPORARY CUSTODY. Temporary custody or detention shall be in a hospital where there are suitable psychiatric facilities and which

has been approved by the court, or if there is no such hospital in the county, in a place of temporary detention until arrangements can be made for transportation to a facility where psychiatric services are available. If a facility other than a hospital is used, the patient shall be under the care of a physician during the period of temporary detention.

(5) TREATMENT. When a patient is temporarily detained in a state hospital for the mentally ill, the superintendent thereof may cause the patient to be treated during the detention period if in his judgment such treatments are necessary for the patient's health.

It is abuse of process to use this section to prevent a minor student from leaving school until her father could be consulted. Maniaci v. Marquette University, 50 W (2d) 287, 184 NW (2d) 168.

Under 51.04 (5), Stats. 1969, only the superintendent of a state hospital may cause a person under temporary detention to be treated during the detention period. Superintendents of county hospitals may not do so. 58 Atty. Gen. 6.

51.05 Commitments. (1) TO INSTITUTION. If the court or jury finds that the patient is mentally ill or infirm and should be sent to a hospital for the mentally ill or infirm, the court shall commit him to a hospital, stating in the commitment whether the notice specified in s. 51.02 was served, and if not, the reasons. If it is found that the patient is mentally infirm, commitment may be to the facility mentioned in sub. (5). If it is found that the patient is mentally deficient and should be committed, the commitment shall be to the northern colony and training school or the southern colony and training school; but the department may divide the state by counties into 2 districts and thereafter commitments from any county shall be to the colony and training school for the district in which the county is situated, unless the department consents to a different commitment.

(2) TO WHAT DISTRICT. Commitments of mentally ill or infirm persons from any county (other than a county having a population of 500,000) of persons whose mental illness has not become chronic, or who do not have legal settlement in the county, and commitments of chronic cases from a county not having a county hospital, shall be to the state hospital for the district in which the county is situated, unless the department consents to a different commitment.

(3) LEGAL SETTLEMENT RULE. If the patient has a legal settlement in a county which has a county hospital and the court is satisfied that the mental illness or infirmity of the patient is chronic, it may commit him to the county hospital. If he has a legal settlement in a county having a population of 500,000, the commitment shall be to the county mental health center, north division or south division, having due regard to the condition of the patient and the nature of his malady. If the patient has no legal settlement he shall be committed to a state hospital. The judge shall, in a summary manner, ascertain the place of the patient's legal settlement. The judge's finding shall be included in the order of commitment.

(4) TO AWAIT LEGAL PAPERS. If a patient is brought to or applies for admission to any hospital without a commitment or application or under a void or irregular commitment or application, the superintendent may detain him not exceeding 10 days to procure a valid commitment or application or for observation. If the patient needs hospitalization, in the opinion of the superintendent, he may make the application provided for in section 51.01; and thereafter the proceedings shall be as upon other applications. His signature to the application shall suffice. The superintendent's application shall be made in the county where the institution is located.

(5) MENTALLY INFIRM FACILITY. The county board may provide a facility in the county home, infirmary or hospital for the care and treatment of mentally infirm persons. Section 46.17 shall apply to such facilities.

51.06 Execution of commitment; expenses. (1) The sheriff and such assistants as the court deems necessary shall execute the commitment; but if any competent relative or friend of any patient so requests, the commitment may be delivered to and executed by him. For such execution he shall be entitled to his necessary expenses, not exceeding the fees and expenses allowed to sheriffs. The officer, unless otherwise ordered by the court, shall on the day that a patient is adjudged mentally ill or infirm or deficient, deliver him to the proper institution. Every female patient transported to a hospital shall be accompanied by a competent woman. The court shall prescribe the kind of transportation to be used. Whenever ordered by the court, the persons executing the commitment shall wear civilian clothes.

(2) Copies of the application for examination and of the report of the examining physicians and the adjudication and the commitment shall be delivered to the person in charge of the institution to which the patient is committed. Names of applicants shall be omitted from such copies.

51.065 Alternate procedure for commitment of mentally deficient persons. (1) In all cases of mental deficiency which have been definitely and conclusively established by 2 physicians licensed in Wisconsin specializing preferably in pediatric or psychiatric medicine, whose opinions concur with regard to said men-

tal deficiency, the physicians may, upon receiving a written request from the parents or surviving parent or general guardian of such person, issue a report on a form furnished by the court, which report shall have appended to it the affidavit of the physicians that they have personally examined the patient; that in their opinion he is mentally deficient and a proper subject for custody and treatment; that the parents or surviving parent or general guardian of such person have requested in writing that he be committed to the southern or northern colony and training school.

(2) The report of the 2 examining physicians shall contain a recommendation that the mentally deficient person be committed to the northern or southern colony and training school, and shall be forwarded by the physicians to the county court of the county in which the patient is found. In the case of minors under the age of 18 years, the report and recommendation of the examining physicians shall be forwarded to the juvenile court.

(3) The court to whom said report and recommendation is forwarded may enter same in the records of his court and may issue an order of commitment of the patient to the southern or the northern colony and training school, which order will authorize the admission of the mentally deficient patient to the specified colony and training school forthwith upon issuance. In all cases in which a parent supervised the person alleged to be mentally deficient, the court may, and in cases in which neither parent supervises, but there is a duly appointed general guardian, the court shall appoint a guardian ad litem in advance of making any entry in the court records, and in advance of issuing an order of commitment.

51.07 Fees of examining physicians, witnesses; expenses of proceedings. (2) Unless previously fixed by the county board of the county in which the examination is held, the examining physician shall receive a fee as fixed by the court, for participation in commitment proceedings, and 10 cents per mile for necessary travel.

(3) Witnesses subpoenaed before the court shall be entitled to the same fees as witnesses subpoenaed before the court in other cases. Such fees and charges shall be paid by the county.

(4) Expenses of the proceedings, from the presentation of the application to the commitment or discharge of the patient, including a reasonable charge for a guardian ad litem, shall be allowed by the court and paid by the county from which the patient is committed or discharged, in the manner that the expenses of a criminal prosecution are paid, as provided in s. 59.77.

(5) If the patient has a legal settlement in a county other than the county from which he is committed or discharged, that county shall reimburse the county from which he was committed or discharged all such expenses. The county clerk on July 1 shall submit evidences of payments of all such proceedings on nonresident payments to the department, which shall certify such expenses for reimbursement in the form of giving credits to the committing or discharging county and assessing such costs against the county of legal settlement or against the state at the time of the annual audit.

51.075 Right to re-evaluation. Every patient committed involuntarily under this chapter to any state or county hospital shall be re-evaluated by the medical staff or visiting physician within 30 days after his commitment, and within 6 months after the initial re-evaluation, and thereafter at least once each 12 months for the purpose of determining whether such patient has made sufficient progress to be entitled to release or discharge, and the findings of each such re-evaluation shall be written and placed with his hospital record and a copy sent to the committing court.

51.08 Maintenance. (1) (a) The expense of maintenance, care and treatment of a patient in any state hospital for the mentally ill, exclusive of patients confined to the treatment center for emotionally disturbed children, shall first be charged to the state and the state shall then charge back to the county of such patient's legal settlement an amount equal to 40% of such hospital's average per capita cost for the fiscal year ending June 30 in which such care is provided, except that where the percentage rate of participation of any county set forth in s. 49.52 (2) (a) 1 and 2 is less than 40%, the chargeback to such county shall be limited to such lesser percentage. The percentage rate of participation under s. 49.52 (2) (a) on January 1 of the fiscal year in which the care is provided shall be used to determine, by the method established by this section, the percentage rate of the chargeback.

(b) The expense of maintenance, care and treatment of a patient in any state colony for the mentally retarded shall first be charged to the state and, exclusive of periods of care of such patients for which payment is wholly or partially made or has accrued under s. 49.47 and exclusive of periods of care included under certification for benefits under s. 49.46, the state shall then charge back to the county of such patient's legal settlement a share of such colony's per ca-

pita cost for the fiscal year ending June 30 in which such care is provided. Such county's share for each fiscal year shall be determined by applying its percentage rate of participation under s. 49.52 (2) (a) 1 and 2, as of January 1 of the fiscal year in which the care is provided, to the balance of the expense which remains after deducting an amount representing the federal share of medical assistance which would have been forthcoming if the patient had qualified for full medical assistance payments under ss. 49.46 and 49.47 during the same period covered by the chargeback.

(2) The state shall contribute toward the expense of maintenance, care and treatment of each patient hospitalized in a county hospital in the county of his legal settlement an amount equal to 60% of such hospital's individual average per capita costs or that amount of such hospital's individual average per capita costs as is equal to the percentage rate of participation of the state set forth in s. 49.52 (2) (a) 1 and 2, whichever is higher, except when such hospital's individual average per capita cost for care provided during the fiscal year 1971-72 and thereafter exceeds the allowable per capita cost. When the individual average per capita cost at any county hospital during the fiscal year 1971-72 and thereafter exceeds the allowable per capita cost, the state shall contribute toward the expense of maintenance, care and treatment of each patient hospitalized in a county hospital in the county of his legal settlement an amount equal to 60% of the allowable per capita cost or that amount of such hospital's allowable per capita cost as is equal to the percentage rate of participation of the state set forth in s. 49.52 (2) (a) 1 and 2, whichever is higher. The percentage rate of participation under s. 49.52 (2) (a) on January 1 of the fiscal year in which the care is provided shall be used to determine, by the method established by this section, the percentage rate of the state contribution.

(3) (a) The expense of maintenance, care and treatment furnished in 1970-71 of a patient in a county hospital operated by a county other than the county of such patient's legal settlement shall first be charged to the state at the rate of 110% of such hospital's individual average per capita costs if this rate is higher than the statewide average per capita costs; but if the statewide average per capita costs exceed 110% of such hospital's individual average per capita costs, the rate shall be at the state-wide average per capita costs or 130% of such hospital's individual average per capita costs, whichever is lower. The state shall then charge back to the county of such patient's legal settlement 50% of such charge.

(b) The expense of maintenance, care and treatment furnished in 1971-72 and thereafter of a patient in a county hospital operated by a county other than the county of such patient's legal settlement shall first be charged to the state at the rate of 120% of such hospital's individual average per capita costs if such costs do not exceed such hospital's allowable per capita costs, and the state shall then charge back to the county of such patient's legal settlement 50% of such charge. Whenever the individual average per capita cost of any county hospital for the fiscal year 1971-72 and thereafter exceeds the allowable per capita cost for such hospital, such costs shall first be charged to the state at the rate of 120% of such hospital's individual average per capita cost, and the state shall then charge back to the county of such patient's legal settlement all of such charges in excess of 60% of the allowable per capita cost of such hospital.

(4) The expense of maintenance, care and treatment in a county hospital of a patient having no legal settlement in any county shall be charged to the state at the rate prescribed by sub. (3), except such expense for care provided during the 1971-72 fiscal year and thereafter. The expense of maintenance, care and treatment provided during the 1971-72 fiscal year and thereafter in a county hospital of a patient having no legal settlement in any county shall be charged to the state at the rate of 120% of the individual average per capita cost of such hospital if such individual average per capita cost does not exceed the allowable per capita cost. Whenever the individual average per capita cost of any county hospital for the fiscal year 1971-72 and thereafter exceeds the allowable per capita cost, the charge to the state for such patients shall be calculated at the rate of 120% of such hospital's allowable per capita cost or the individual average per capita cost, whichever is greater.

(5) When any patient is temporarily transferred from any state or county hospital to a hospital for surgical and medical care or both, the state charges or aid provided for in this section shall continue during the period of such transfer. Such charge shall be adjusted as provided in s. 46.106 but nothing herein shall prevent the collection of the actual per capita cost of maintenance or a part thereof by the department or by a county having a population of 500,000 or more.

(6) The records and accounts of such county hospital or facility for the mentally ill shall be audited annually for each fiscal year ending June 30. Such audits shall be made by the department of revenue under s. 73.10 (5) and (6) as soon as practicable following the close of the institu-

tion's fiscal year. In addition to other findings, such audits shall ascertain compliance with the mandatory uniform cost record-keeping requirements of s. 46.18 (8), (9) and (10) and verify the average per capita costs of maintenance, care and treatment of patients as defined in s. 51.001 (4), (5) and (6). Any resulting adjustments to settlements already made under s. 46.106 shall be carried into the next such settlement.

(6m) (a) The purpose of this subsection is to assure that the policy relating to sharing of expenses for mental health services set by ch. 43, laws of 1967, will result in the anticipated program improvements and cost sharing and that there shall be no significant deviation from the anticipated result that additional cost to counties will not exceed 1.5 million dollars in the 1967-69 biennium.

(b) If ss. 20.435 (2) (j) and (4) (cc), 46.10 (8) (f) 2 and 4, 51.08 (1), (2) and (3), 51.40 and section 182 of chapter 43, laws of 1967, all as affected by chapter 43, laws of 1967, and excluding the effect of s. 46.10 (8) (f) 2. c, as created by this act, relating to chargebacks, state aids and the use of medical assistance in the colonies for the retarded and in county hospitals, shall result in an additional 1.5 million dollars or more net increase in state-wide costs to counties in the 1967-69 biennium for said purposes as compared to costs which would have resulted in the same biennium under the formulas which these provisions replaced, no cost to counties in excess of said figure shall be charged back to counties. In computing the state-wide costs to counties or the cost to individual counties under this section, there shall first be deducted that part of the payments, if any, made to each county under s. 49.52 (2) (a) 4 which is attributed to increased medical assistance costs in the 1967-69 biennium to such county for care in colonies for the retarded and public medical institution sections of county mental hospitals. Reduction of chargebacks to all counties under this formula shall be in proportion for each county as its total additional costs hereunder relate to the total additional costs of all counties, as determined by the secretary of health and social services.

(7) This section and pertinent definitions in s. 51.001 shall be retroactive to July 1 of the fiscal year during which this section becomes effective.

History: 1971 c. 108 ss. 5, 6; 1971 c. 125 ss. 342 to 349, 523; 1971 c. 211.

Note: See section 150C of ch. 215, laws of 1971, for special provision for payment of county hospital aid in fiscal 1972-73.

51.09 Inebriates and drug addicts. (1) HEARING. (a) If it appears to any court of record, by an application of 3 reputable adult residents of the county, that a resident of the county or person temporarily residing therein is an inebriate or addicted to the use of a controlled substance under ch. 161 and in need of confinement or treatment, the court shall fix a time and place for hearing the application, on reasonable personal notice to the person in question, requiring him to appear at the hearing, and shall summarily hear the evidence. The court may cause notice to be given to such other persons as it deems advisable. The court may, by attachment for the person, require the sheriff or other police officer to take the alleged inebriate or drug addict into custody, detain him pending the hearing (but not to exceed 3 days) and bring him before the court at the hearing. The court may require notice to be given to known relatives of the person.

(b) At such hearing if the court finds that such person is an inebriate or addicted to the use of a controlled substance under ch. 161, and requires confinement or treatment, or that it is necessary for the protection of himself or the public or his relatives that he be committed, he may be committed to the county hospital or to the county reforestation camp or to the rehabilitation facilities established pursuant to s. 59.07 (76) or to Winnebago or Mendota state hospital or in counties having a population of 500,000 or more, to the rehabilitative facilities of the house of correction of such county. At the hearing the court shall determine the person's legal settlement, and the county of such settlement shall be liable over for his maintenance and treatment. The provisions against detaining patients in jails shall not apply to inebriates or persons addicted to controlled substances, except in case of acute illness.

(2) COMMITMENT. The commitment of an inebriate or a drug addict shall be for such period of time as in the judgment of the superintendent of the institution may be necessary to enable him to take care of himself. He shall be released upon the certificate of the superintendent that he has so recovered. When he has been confined 6 months and has been refused such a certificate he may obtain a hearing upon the question of his recovery in the manner and with the effect provided for a re-examination under section 51.11.

(3) VOLUNTARY PATIENTS. Any adult resident of this state who believes himself to be an inebriate or a drug addict may make a signed application to a court of record of the county where he resides to be committed to a hospital. His application must be accompanied by the certificate of a resident physician of the county that confinement and treatment of the applicant are advisable for his health and for the public wel-

fare. The court may act summarily upon the application and may take testimony. If it finds that the applicant satisfies the conditions of this section, it shall commit him as it would had there been an application under sub. (1), including a finding as to legal settlement.

(4) CONDITIONAL RELEASE. A conditional release may be granted to the inebriate or drug addict under s. 51.13, except that in commitments to the rehabilitative facilities of the house of correction in counties having a population of 500,000 or more the superintendent of said institution has the same authority as superintendents under s. 51.13 but he shall exercise same only upon written recommendation of the visiting physician.

(5) TREATMENT OF DRUG ADDICTS AND INEBRIATES. The department shall provide for treatment for drug addicts and inebriates at the state institutions to which they are committed; and counties having a population of 500,000 or more, shall provide treatment of drug addicts and inebriates in local institutions to which they are committed. For each drug addict or inebriate treated in any county mental hospital the county shall receive the same allowance from the state as it receives for the care of other patients in the same institutions and for each drug addict or inebriate committed to the rehabilitative facilities of the house of correction the state shall compensate the county at a rate equal to the actual average per capita cost of operating and maintaining such rehabilitative facilities minus $5 per week. The actual average per capita cost of the rehabilitative facilities of the house of correction for the fiscal year ending June 30 (1959) shall be the basis for computing the compensation for the current calendar year and thereafter for each fiscal year ending June 30, the cost computation shall in turn be the basis for the existing calendar year. When any patient is temporarily transferred from the rehabilitative facilities of the house of correction or such other local institution to which he may be committed, to a county general hospital for surgical or medical care or both, the state charges or aid shall continue and shall be paid during the period of such transfer and the cost of such medical or surgical care or both shall be included within the actual average per capita cost of the rehabilitative facilities of the house of correction or such other local institutions to which the person has been committed. The superintendent of the house of correction or the superintendent of such other local institution to which a drug addict or inebriate may be committed shall promptly after the expiration of each computation period on June 30 of each year, prepare a statement giving the name of each person and the number of weeks maintained at such institution pursuant to this section during that period, the county of legal settlement if any, the aggregate of such weeks for all persons so maintained and the separate semiannual amounts of compensation to be made by the state, which statement shall be verified by the superintendent and thereafter delivered to the department. The department shall attach to the statement its certificate showing the number of weeks' maintenance furnished and shall file the same with the department of administration, which shall draw its warrant in favor of the county for the compensation specified in the certificate and deliver the warrant to the state treasurer, who shall thereupon pay the same. The department shall appropriately charge the statutory liability of $5 per week for maintenance and treatment to any other county wherever a person's legal settlement is determined to be any such county under sub. (1).

History: 1971 c. 219

51.10 Voluntary admissions. (1) Any resident adult of this state, believing himself to be suffering from any mental illness, infirmity or deficiency, upon his written application stating his condition, supported by the certificate of his physician, based upon personal examination, may be admitted as a voluntary patient to any suitable state or county institution without an order of the court and in the discretion of the superintendent. Any resident minor may be admitted upon application signed by a parent with actual custody or the legal guardian of the person of such minor, supported by a like certificate.

(1a) A resident minor who has been referred to the children's consultation service at a state hospital under s. 46.041, may be admitted to any suitable state or county institution, in the discretion of the superintendent, for study and diagnosis on a voluntary application signed by his parent, custodian or guardian.

(2) The superintendent shall forward to the county judge of the patient's residence a copy of his application. The judge shall determine the patient's legal settlement and certify the same to the superintendent. The county of his legal settlement (if he has one) shall be charged with his care, unless his care is privately paid for. A voluntary patient shall be subject to the same laws, rules and regulations as a regularly committed patient, except that he may leave at any time if, in the judgment of the superintendent, he is in fit condition, on 5 days' written notice to the superintendent of his intention to leave, given by the patient or his guardian. The patient shall not be detained over 35 days after such notice is given.

If, in the opinion of the superintendent, the patient needs further hospitalization, he may make application to the county where the institution is located, as provided in s. 51.01; and thereafter proceedings shall be as upon other applications. The superintendent's signature on the application shall suffice.

(3) If a voluntary patient is found to be a nonresident of this state and does not apply for a discharge, the superintendent shall make application for commitment to the county court of the county where the institution is located, as provided in s. 51.01. The application of the superintendent alone is sufficient.

(4) If at any stage of an inquiry under this chapter, the patient prefers to enter an institution voluntarily, the court may permit him to become a voluntary patient pursuant to sub. (1) upon his signing an application therefor in the presence of the judge; and the judge may continue the hearing or dismiss the proceedings and shall notify the institution of his action.

51.11 Re-examination of patients. (1) Except as otherwise provided in ss. 51.21, 971.14 and 971.17, any person adjudged mentally ill or infirm or deficient, or restrained of his liberty because of alleged mental illness or infirmity or deficiency, may on his own verified petition or that of his guardian or some relative or friend have a re-examination before any court of record, either of the county from which he was committed or in which he is detained.

(2) The petition shall state the facts necessary to jurisdiction, the name and residence of the patient's general guardian, if he has one, and the name, location and superintendent of the institution, if the person is detained.

(3) The court shall thereupon appoint 2 disinterested physicians, each having the qualifications prescribed in s. 51.01, to examine and observe the patient and report their findings in writing to the court. For the purpose of such examination and observation the court may order the patient confined in a convenient place as provided in s. 51.04.

(3a) If the patient is under commitment to a hospital, a notice of the appointment of the examining physicians and a copy of their report shall be furnished to such hospital by the court.

(4) Upon the filing of the report the court shall fix a time and place of hearing and cause reasonable notice to be given to the petitioner and to the hospital and to the general guardian of the patient, if he has one, and may notify any known relative of the patient. The provisions of s. 51.02, so far as applicable, shall govern the procedure.

(5) If the court determines that the patient is no longer in need of care and treatment it shall enter judgment to that effect and order his discharge; if it shall not so determine, it shall order him returned under the original commitment, except that if he is at large on conditional release or leave, the court may permit him so to continue. If a jury trial is demanded, the procedure shall, as near as may be, be the same as in s. 51.03, and the court's order or determination shall be in accordance with the jury's verdict.

(6) All persons who render services in such proceedings shall receive the same compensation and all expenses of such proceedings shall be paid and adjusted as provided in section 51.07.

(7) When a proceeding for retrial or re-examination is not pending in a court of record and a jury trial is not desired by the persons authorized to commence such proceeding, the department may, on application, determine the mental condition of any patient committed to any institution under this chapter, and its determination shall be recorded in the county court of the county in which the patient resides or from which he was committed, and such determination shall have the same effect as though made by the county court. The department may also, with or without application, if it has reason to doubt the mental illness or infirmity of any such patient, require the court of the county from which he was committed or in which he is detained to determine his mental condition pursuant to this section.

(8) Subsequent re-examinations may be had at any time in the discretion of the court but may be compelled after one year of the preceding one.

51.12 Transfer and discharge of patients; mentally ill veterans. (1) Patients may be transferred by the department from any state hospital or county hospital or facility to any other state hospital or county hospital or facility when the transfer would be for the best interest of the patient or for the benefit of other patients or to prevent the exclusion of patients whose cases are of a more hopeful character. This subsection shall not apply to veterans who are patients in the Wisconsin memorial hospital.

(2) The department may, if any county has not provided for the proper care of its mentally ill or infirm, direct their removal to the hospital or facility of any other county possessing suitable accommodations; and such removal shall be made at the expense of the county from which such patients are removed.

(3) The department may, with the approval of the committing court, transfer to any county

hospital any inmate of the central state hospital committed under s. 971.14 or 971.17, and may, without such approval, transfer to a county hospital any patient transferred to the central state hospital whose term has expired, if, in its opinion, the mental condition of such inmate or patient is chronic and he can be properly cared for in a county hospital.

(4) The superintendent of any state or county hospital or mental health center, with the approval of the department, may at any time discharge any patient (including those on conditional release) who in his judgment is recovered, or who is not recovered but whose discharge will not be detrimental to the public welfare or injurious to the patient. In counties having a population of 500,000 or more, the approval of the department to discharge a patient is not required.

(5) When the department has notice that any person is entitled to receive care and support in a veterans' administration facility, it shall, in cooperation with the department of veterans affairs, procure his admission to said facility.

(6) If the department, acting under s. 51.11, determines that any person in any state or county institution under its jurisdiction is mentally deficient, it may transfer him to an institution mentioned in s. 51.22.

(7) The department shall advise the department of veterans affairs of the transfer or discharge or conditional release of any veteran.

(8) The superintendent of any state hospital or county hospital referred to in s. 51.13 (1) may pay the cost of transportation and provide sufficient funds, not to exceed $15, for incidental expenses for patients who are discharged, placed on conditional release or paroled in accordance with ss. 51.11 (5), 51.12 (4), 51.13 (1) and 51.21 (6). Such funds shall be given under rules promulgated by the department.

51.125 Transfer for better placement. (1) If it appears to the department at any time that a patient should have been committed to a different institution, it may transfer him thereto. The department shall notify the committing court of such transfer.

(2) If a change in the patient's condition makes it advisable that he be transferred to a different institution, the department may transfer him.

51.13 Conditional release of patients; presumption of competency and discharge by lapse of time. (1) The superintendent of the Mendota state hospital and of the Winnebago state hospital and of the Milwaukee county mental health center, north division and south division, may grant any patient a conditional release if in his opinion it is proper to do so.

(2) The superintendent of any county hospital or home may, upon the written recommendation of the visiting physician, grant any patient a conditional release for such time and under such conditions as the physician directs, except patients committed under ss. 971.14 and 971.17.

(3) Upon the expiration of one year from the granting of a conditional release the authority of the superintendent to require the patient's return shall end, and the patient shall be presumed competent.

51.135 Return by sheriff. If it becomes unsafe or improper to allow any patient on conditional release, parole or temporary discharge to remain at large, the superintendent of the institution from which such patient was released shall require his return to such institution. It is the duty of the sheriff of the county in which such patient is found, and upon request of the superintendent of the institution from which such patient was released, to take charge of and return such patient to such institution, and the costs incident to such return shall be paid out of the institution's operating fund and be charged back to the county of the patient's legal settlement.

51.14 Reports to county court; record. When any person is committed to any hospital or home from any county other than the county of his legal settlement, the committing court shall within 10 days forward a copy of the application and all other proceedings to the county court of the county of legal settlement. The superintendent of the hospital or home to which the patient is committed shall immediately notify the county court of the county of his legal settlement of the date on which the patient arrived. The superintendent shall also notify such court whenever any patient dies, is discharged, transferred, escapes, is conditionally released or returns from such release. In all cases of discharge or conditional release the hospital shall mail such notice to the county judge of the county of commitment not less than 2 days prior to the discharge or release of the patient. The court shall keep a record of the facts so reported.

51.15 State hospitals; districts. The hospital for the mentally ill located at Mendota is known as the "Mendota State Hospital" and the state hospital located at Winnebago is known as the "Winnebago State Hospital". The department shall divide the state by counties

into 2 districts, and from time to time may change the bounds of these districts, arranging them with reference to the number of patients supposed to be in them and the capacity of the hospitals and the convenience of access to them.

51.16 Superintendent; oath and duties, subpoenas on. (1) The superintendent of each said hospital shall take and file the official oath, and shall devote all his time and attention to his official duties.

(2) The superintendent shall not be compelled to obey the subpoena of any court in any case, civil or criminal, if he shall file with the judge or clerk his affidavit that to obey the same would be seriously detrimental and hazardous to the welfare of the hospital under his charge, except when an accusation of murder is to be tried; nor in such case unless the court shall make a special order therefor, and the subpoena, with a memorandum thereof indorsed thereon, be served one week before the time when he shall be required to appear; but no superintendent shall be entitled in any case to make and file such affidavit, who shall, upon tender of the usual fees of witnesses in courts of record, refuse to be present and to give his deposition at his office, usual place of business, or usual place of abode; and any superintendent so present and giving his deposition who shall be detained 4 hours from the time fixed for the taking thereof or from the time to which the taking of the same may have been adjourned may make affidavit that further detention would be seriously detrimental or hazardous to the welfare of the persons or business in his charge whereupon the officer before whom such deposition is being given shall adjourn further proceedings thereon to a future day.

51.17 Private pay for patients. Any person may pay (in whole or in part) for the maintenance and clothing of any mentally ill or infirm or deficient person or inebriate or drug addict, at any institution for the treatment of persons so afflicted; and his account shall be credited with the sums paid. He may also be likewise provided with such special care or attendant as is agreed upon with the superintendent, upon monthly payment in advance of the charges therefor.

51.18 Family care; costs to state; to county. (1) The department may place any state hospital or colony patient in a suitable family boarding home upon such terms and conditions as it determines, if it considers that such course would benefit the patient. The cost to the state of the supervision and maintenance of any patient so boarded out shall not exceed the average per capita cost of his maintenance in the state hospital or colony. Bills for his board shall be payable monthly out of the operating funds of such state hospital or colony and shall be audited as are other bills. The county of his legal settlement shall be charged with the rates and expenses provided under s. 51.08 and such charges shall be adjusted in the same manner as if the patient were at the hospital or colony. The department may visit and investigate such home and may return the patient to the hospital or colony or place him in another home when deemed advisable. Such placement shall not be considered a conditional release or temporary discharge.

(2) The superintendent of any county hospital may, with the approval of the department, place any patient in a suitable family boarding home upon such terms and conditions as he determines, if he considers such course would benefit the patient. When any patient is so placed, the state charges or aid provided in ss. 51.08 and 51.26, or s. 51.24, as the case may be, shall continue during the period of such placement. The county of the patient's legal settlement shall be charged with the rates and expenses provided under s. 51.08 or 51.24, as the case may be, and such charges shall be adjusted in the same manner as if the patient were at the hospital. The department may visit and investigate such home and may cause the patient to be returned to the hospital or placed in another home when deemed advisable. Such placement shall not be considered a conditional release or temporary discharge.

51.19 Child born in hospital. A child born in any state or county hospital or state colony and training school shall be promptly removed therefrom by the mother's friends or by the county of her legal settlement. The superintendent shall petition the juvenile court of the county in which the institution is located to make such removal, and until the child is removed the superintendent shall make suitable provision for its care and comfort, and charge all expenses to the county of the mother's legal settlement, to be adjusted as provided in s. 46.106. The court shall notify the juvenile court of the county of the mother's legal settlement of the filing of such petition.

51.20 Records of patients. The superintendent of each state hospital shall keep such records and make such reports as the rules and regulations of the department require.

51.21 Central state hospital. (1) USE. The state hospital at Waupun is known as the "Cen-

tral State Hospital"; and shall be used for the custody, care and treatment of persons committed or transferred thereto pursuant to this section and ss. 971.14 and 971.17. Whenever the superintendent is not a psychiatrist, all psychiatric reports, testimony or recommendations regarding the mental condition of a patient or prisoner shall be made by a staff psychiatrist of the hospital or the division of mental hygiene.

(2) TRANSFERS. The department may transfer to the central state hospital any male patient confined in a state or county hospital or the northern, central or southern colony and training school, if his or the public welfare requires it or if he is dangerous to himself or others or to property; and it may return him to the institution from which he came if in its judgment he has recovered sufficiently to warrant his return.

(3) REMOVALS. (a) When the physician of a state prison or county jail or a psychiatrist of the department reports in writing to the officer in charge thereof that any prisoner is, in his opinion, mentally ill or infirm or deficient, such officer shall make a written report to the department. Thereupon the department may transfer the prisoner (if male) to the central state hospital or (if female) to the Winnebago state hospital; and if the prisoner's term has not expired, the department may order his return if it is satisfied that he has recovered. When a prisoner is removed to central state hospital or Winnebago state hospital, the superintendent thereof may cause such treatments to be administered as in his judgment are necessary or beneficial.

(b) The superintendent of the hospital shall receive the prisoner and shall, within a reasonable time before his sentence expires, make a written application to the county court where the hospital is located for an inquiry as to the prisoner's mental condition. Thereafter the proceeding shall be as upon application made under s. 51.01, but no physician connected with a state prison, Winnebago or central state hospital or county jail shall be appointed as an examiner. If the court is satisfied that the prisoner is not mentally ill or infirm or deficient, it may dismiss the application and order the prisoner returned to the institution from which transferred. If the court finds that the prisoner is mentally ill or infirm or deficient, it may commit the prisoner to the central state hospital or commit her to the Winnebago state hospital.

(c) The provisions of section 51.07 relating to fees and costs shall apply.

(d) When such prisoner is found mentally ill or infirm or deficient, the superintendent of the institution shall retain him until he is legally discharged or removed.

(e) The provisions of s. 51.11 relating to reexamination shall apply to such prisoner if found to be mentally ill, infirm or deficient, except that the application shall be made to the court which made such finding, or if he is detained by transfer under sub. (2), to the county court of the county in which he is detained. If upon such rehearing he is found not to be mentally ill, infirm or deficient, he shall be returned to the prison unless his term has expired. If his term has expired he shall be discharged. The time spent at the central state hospital or Winnebago state hospital shall be included as part of the sentence already served.

(f) Should the prisoner remain at the hospital after expiration of his term he shall be subject to the same laws as any other patient.

(4) STATUTES APPLICABLE. All statutes relating to state hospitals, except s. 51.12 (1), (2), (4) and (5), are applicable to the central state hospital. Sections 51.13 (1) and (3) and 51.22 (4) are applicable only to patients committed under ch. 51 and to patients whose prison sentences have expired.

(5) OTHER PRISONERS SUBJECT TO RULES. Persons required to be committed or transferred to the central state hospital, but who remain in any other state hospital because sufficient provision has not been made for them at the central state hospital, shall be subject to the statutes governing patients of the central state hospital.

(6) PAROLES. If in the judgment of the superintendent of the central or Winnebago state hospital or the Milwaukee county mental health center, north division or south division, any person committed under s. 971.14 or 971.17 is not in such condition as warrants his return to the court but is in a condition to be paroled under supervision, the superintendent shall report to the department and the committing court his reasons for his judgment. If the court does not file objection to the parole within 60 days of the date of the report, the superintendent may, with the approval of the department, parole him to a legal guardian or other person, subject to the rules of the department.

(7) TRANSFER FOR MEDICAL CARE. In order to expeditiously provide hospitalization or emergency surgery and also proper security of the person, the department is given authority, regardless of any statutory provision to the contrary, to temporarily remove any patient or prisoner in need of hospitalization or emergency surgery to the hospital ward of the Wisconsin state prison. As soon as practical after completion of such necessary hospitalization or emergency surgery, the department shall return any such patient or prisoner to the central state hos-

pital. The state charges shall continue during the period of such transfer.

51.215 Transfer of mentally ill children from schools for boys and girls. (1) When the physician of the Wisconsin school for boys or of the Wisconsin school for girls, or a psychiatrist of the department, reports in writing to the superintendent of the school that any person confined therein is, in his opinion, mentally ill, the superintendent shall make a written report to the department. Thereupon the department may transfer the person to a state hospital for the mentally ill. The department may order the return of the person to the school in the event that, before the expiration of his commitment, it is satisfied that he has recovered.

(2) Within a reasonable time before the expiration of such person's commitment, if he is still in the hospital, the superintendent of the hospital shall make an application under s. 51.01 to the court of the county in which the hospital is located, for an inquiry into the person's mental condition, and thereafter the proceedings shall be as in other applications under said section. The application of the superintendent of the hospital alone is sufficient.

51.22 Colonies and training schools. (1) PURPOSE. The purpose of the northern colony and training school, of the central colony and training school and of the southern colony and training school is to care for, train and have the custody of mentally deficient persons.

(2) SCHOOL ACTIVITIES. Each institution shall maintain a school department for the educable grades or classes; and a custodial facility for the helpless and lower types; and such other facilities as the welfare of the patients requires. The department shall establish vocational training therein.

(3) TRANSFERS. If any person is committed to a colony and training school, the department may transfer him to another colony and training school or to a county hospital; and any person so transferred may be returned.

(4) TEMPORARY DISCHARGE. The superintendent of a colony and training school may grant any patient a temporary discharge if, in his opinion, it is proper to do so. The superintendent of any county hospital may, upon the written recommendation of the visiting physician, grant any patient a temporary discharge. The superintendent of the central state hospital may, if he deems it proper to do so, grant any patient transferred to that institution from a colony or training school a temporary discharge and release him pursuant thereto without first returning the patient to the institution from which he came.

(5) PERMANENT DISCHARGE. The superintendent of a colony and training school or central state hospital, with the approval of the department, or the superintendent of any county hospital, with the approval of the visiting physician, may permanently discharge from custody any mentally deficient person who has been on a temporary discharge and who has continued to demonstrate fitness to be at large. Notice of such permanent discharge shall be filed with the committing court by the superintendent. After permanent discharge, if it becomes necessary for such person to have further institutional care and treatment, a new commitment must be obtained, following the procedure for original commitment.

(6) TRANSFER TO WISCONSIN CHILD CENTER. If it appears that the best interests of a patient of a colony and training school will be served, the department may transfer him to the Wisconsin child center. The department may likewise return him to the school from which he was transferred or release him under such conditions as may be prescribed.

51.225 Uniforms for psychiatric officers. The department shall furnish and, from time to time replace, a standard uniform to be prescribed by the department including items of clothing, shoulder patches, collar insignia, caps and name plates to each psychiatric officer in the department who is required to wear such standard uniform.

51.23 Mentally deficient; examination; commitments. Sections 51.01 to 51.11, 51.125, 51.14, 51.16, 51.17, 51.19 and 51.215 shall govern the examination and commitment of mentally deficient persons to such colony and training schools, so far as may be applicable. In cases of alleged mental deficiency, one of the examiners under s. 51.01 (2) may be a clinical psychologist who has a doctorate degree in psychology and who has had 3 years of experience in clinical psychology. This amendment (1947) shall be effective as of July 1, 1946.

51.235 Psychiatric institute. (1) The psychiatric institute formerly at Mendota is designated as the Psychiatric Institute.

(2) The statutes relating to the commitment, custody, transfer, conditional release and discharge of mentally ill persons in state hospitals for the mentally ill are applicable to the psychiatric institute.

51.24 Milwaukee county mental health center. (1) Any county having a population of 500,000 or more may, pursuant to s. 46.17, es-

tablish and maintain a county mental health center. The county mental health center, north division (hereafter in this section referred to as "north division"), shall be a hospital devoted to the detention and care of drug addicts, inebriates and mentally ill persons whose mental illness is acute. Such hospital shall be governed pursuant to s. 46.21 and shall receive the aids and be subject to the charges under s. 51.24 (2) and (9). The county mental health center, south division, shall be a hospital for the treatment of chronic patients and shall be governed pursuant to s. 46.21 and shall receive the aids and be subject to the charges under ss. 51.08, 51.25 and 51.26. The county mental health center established pursuant to this section is subject to rules adopted by the department concerning hospital standards.

(2) The state shall contribute toward the expense of maintenance, care and treatment of each patient hospitalized in the north division, providing he has legal settlement in that county, an amount equal to 60% of such hospital's individual average per capita cost for the fiscal year ending June 30 in which such care is furnished, except if such hospital's individual average per capita cost for care provided during the fiscal year 1971-72 and thereafter exceeds the allowable per capita cost. If the individual average per capita cost for care provided during the fiscal year 1971-72 and thereafter exceeds the allowable per capita cost, the state shall contribute toward the expense of maintenance, care and treatment of each patient hospitalized in the north division, if he has legal settlement in that county, an amount equal to 60% of such hospital's allowable per capita cost. The records and accounts of the north division shall be audited annually. Such audits shall be made by the department of revenue under s. 73.10 (5) and (6) as soon as practicable following the close of the institution's fiscal year. In addition to other findings, such audits shall ascertain compliance with the mandatory uniform cost record-keeping requirements of s. 46.18 (8), (9) and (10) and verify the allowable per capita costs of maintenance, care and treatment of patients as defined in s. 51.001 (5) and (6). Any resulting adjustments to settlements already made under s. 46.106 shall be carried into the next settlement.

(3) (a) The north division, on meeting the minimum uniform standards and on providing intensive treatment procedures approved by the secretary may, upon application to the secretary, and in addition to the aid under sub. (2) be granted state aid for such treatment of patients at the rate of 12% of the audited individual average per capita costs for the previous fiscal year, for the first 364 days of such treatment, provided that such additional grants-in-aid shall be limited to first admission of patients and patients readmitted after any absence, whether with or without authority, of 30 consecutive days or more. For purposes of accumulating the 364 days, absence of a patient for less than 30 consecutive days shall not be deemed a change in the admission status of the patient. Reimbursement under this subsection shall commence for all patients admitted or readmitted after 30 days absence on or after the date the hospital is approved by the secretary. Approval by the secretary may be withdrawn by him at any time. Care in any division or unit of any county mental health center established under this section shall be deemed continuous for the purpose of computing aid under this paragraph.

(b) For the purpose of computing the individual average per capita cost, the state aid provided by par. (a) shall first be deducted from the hospital's net cost of operation as determined from its annual individual hospital report filed with the department under the mandatory uniform cost record-keeping requirement of s. 46.18 (8), (9) and (10).

(4) The expense of maintenance, care and treatment of a patient in the north division who has legal settlement in another county, shall first be charged to the state at the rate of 110% of the hospital's individual average per capita cost, for the fiscal year ending June 30 in which such care is furnished, and the state shall then charge back to the county of such patient's legal settlement an amount equal to one-half of the state-wide average per capita cost of maintenance, care and treatment of patients in county hospitals for the fiscal year in which such care is furnished, unless such hospital's individual average per capita cost for care provided during the 1971-72 fiscal year and thereafter exceeds the allowable per capita cost. If the individual average per capita cost of north division for the fiscal year 1971-72 and thereafter exceeds the allowable per capita cost, such costs shall be charged to the state at the rate of 110% of such hospital's individual average per capita cost, and the state shall charge back to the county of such patient's legal settlement an amount equal to one-half of the state-wide average per capita cost of maintenance, care and treatment in county hospitals for the fiscal year in which such care is furnished, plus the difference between the allowable per capita cost in north division and the individual average per capita cost in north division for the fiscal year in which such care is furnished.

(5) The expense of maintenance, care and treatment in the north division of a patient hav-

ing no legal settlement in any county shall be charged to the state at the rate of 110% of the hospital's individual per capita cost for the fiscal year ending June 30 in which such care is furnished, except such expense for care provided during the 1971-72 fiscal year and thereafter. The expense of maintenance, care and treatment provided during the 1971-72 fiscal year and thereafter in the north division, of a patient having no legal settlement in any county, shall be charged to the state at the rate of 110% of the hospital's individual average per capita cost if such individual average per capita cost does not exceed the allowable per capita cost. If the individual average per capita cost for the north division for the fiscal year 1971-72 and thereafter exceeds the allowable per capita cost, the charge to the state for such patients shall be calculated at the rate of 110% of such hospital's allowable per capita cost or the individual average per capita cost, whichever is greater.

(6) When any patient is temporarily transferred from any state or county hospital or from any county mental health center to a hospital for surgical and medical care or both, the state charges or aid provided for in this subsection shall continue during the period of such transfer. Such charge shall be adjusted under s. 46.106 but nothing herein shall prevent the collection of the actual per capita cost of maintenance or a part thereof by the department or by a county having a population of 500,000 or more.

(7) The department shall determine the number of weeks that patients have been maintained and the compensation shall be based upon such determination.

(8) The superintendent of the hospital shall, promptly after the expiration of each fiscal year ending June 30, prepare a statement giving the name of each person maintained at public expense at the hospital during that period and the number of days maintained during said period, and the aggregate of such days for all persons so maintained and the amount of compensation to be made by the state, which statement shall be verified by the superintendent and approved by the board of administration of said hospital as correct and true in all respects and delivered to the department.

(9) The department shall attach to the statement its certificate showing the number of weeks' maintenance furnished to acute patients and to chronic patients, and shall file the same with the department of administration, which shall draw its warrant in favor of the county for the compensation specified in the certificate and deliver the warrant to the state treasurer, who shall thereupon pay the same.

History: 1971 c. 108 ss. 5, 6; 1971 c. 125 ss. 350 to 352, 523; 1971 c. 211.

Note: See section 150C of ch. 215, laws of 1971, for special provision for payment of county hospital aid in fiscal 1972-73.

51.25 County hospitals. Any county having a population of less than 500,000 may establish a hospital or facilities for the detention and care of mentally ill persons, inebriates and drug addicts; and in connection therewith a hospital or facility for the care of cases afflicted with pulmonary tuberculosis. County hospitals established pursuant to this section are subject to rules adopted by the department concerning hospital standards.

History: 1971 c. 211.

51.26 Minimum uniform standards hospitals; additional state aid. (1) STANDARDS REQUIRED; COMPUTATION OF ADDITIONAL STATE AID. (a) County hospitals which meet the minimum uniform standards established by the department, and which provide intensive treatment procedures approved by the secretary may, upon application to the secretary and in addition to the aid under s. 51.08 (2), (3) and (4), be granted state aid for such treatment of patients at the rate of 20% of the audited individual average per capita costs for the previous fiscal year, for the first 91 days of such treatment, 15% for the next 91 days, 10% for the next 91 days, and 5% for the next 91 days, provided that such additional grants-in-aid are limited to first admission of patients and patients readmitted after any absence, whether with or without authority, 30 consecutive days or more. For purposes of accumulating the 364 days, absence of a patient for less than 30 consecutive days shall not be deemed a change in the admission status of the patient. Reimbursement to county mental hospitals under this section shall commence for all patients admitted or readmitted after 30 days' absence, on or after the date the hospital is approved by the secretary. Approval by the secretary may be withdrawn by him at any time.

(b) Care in any division or unit of any county mental health center established under s. 51.24 shall be deemed continuous for the purpose of computing aid under par. (a) and s. 51.24 (3) (a).

(c) For the purpose of computing the statewide average per capita cost and the individual average per capita cost, the state aid provided to individual county hospitals pursuant to par. (a) shall first be deducted from such hospital's net cost of operation as determined from its annual individual hospital report filed with the department of health and social services under the mandatory uniform cost record-keeping requirement of s. 46.18 (8), (9) and (10).

(d) Paragraph (a) shall not apply to the treatment of patients who do not have legal settlement in the county in which the patient is hospitalized until the hospital's reimbursement rate for such patients under s. 51.08 (3) and (4) is 110% of its individual average per capita cost. During the period in which any county hospital is allowed under s. 51.08 (3) and (4) to bill at more than 110% of such hospital's individual average per capita cost, the department shall determine eligibility for intensive treatment aids under this subsection based on the annual individual hospital report filed with the department under the mandatory uniform cost record-keeping requirement of s. 46.18 (8), (9) and (10), and such determination of such hospital's eligibility for intensive treatment aids for patients who do not have legal settlement in the county in which the patient is hospitalized shall not be changed by a subsequent recalculation or audit report of any hospital's eligibility for intensive treatment aids. This paragraph shall not apply to treatment furnished from and after July 1, 1971.

(2) GOVERNMENT. In counties having a population of 500,000 or more, the institution shall be governed pursuant to s. 46.21. In other counties it shall be governed pursuant to ss. 46.18, 46.19 and 46.20. The trustees shall appoint the superintendent. With the approval of the trustees, he shall appoint a visiting physician. The compensation of the trustees shall be fixed by the county board under s. 59.15. The salaries of the superintendent and visiting physician shall be fixed by the county boards.

(3) COST OF NONRESIDENT PATIENTS. The cost of maintaining nonresident patients shall be adjusted on the basis prescribed in s. 51.08.

(4) STANDARDS. County institutions established under this section are subject to rules adopted by the department concerning hospital standards.

History: 1971 c. 158; 1971 c. 164 s. 89; 1971 c. 211.

51.27 Tuberculous patients; segregation; transfers; state aid; free care. (1) The department shall make provision for the segregation of tuberculous patients in the state hospitals, and for that purpose may set apart one ward for male patients and one for female patients in said hospitals and equip said wards for the care and treatment of such patients. The department shall transfer from other parts of such hospitals patients who are likely to spread tuberculosis.

(2) (a) If any county operates a separate hospital or facility for the chronic tuberculous mentally ill or infirm or adult mentally deficient, the department may transfer thereto any mentally ill or infirm person or adult mentally deficient in any state or county hospital who is afflicted with pulmonary tuberculosis. The state shall be charged at the rate of $10 per week for each patient whose legal settlement is in the county which maintains the hospital and $20 per week for each other patient; and of the latter rate $10 for each patient shall be charged over to the county of his legal settlement. Such charges shall be adjusted as provided in s. 46.106. This amendment (1951) shall be effective as of July 1, 1950.

(b) Annually, in addition to the charges provided by par. (a) the difference between such aid and the actual per capita cost of care and maintenance of such tuberculous mental patients as determined by the department and department of revenue shall be charged to the county of the patient's legal settlement, or to the state if the patient has no legal settlement. For the fiscal year 1956-1957 and subsequent fiscal years the per capita cost of care and maintenance shall include a charge for depreciation of not more than 2% on all present sanatorium structures and attached fixtures erected or installed prior to January 1, 1937, and 5% on all additions to sanatorium structures and attached fixtures erected or installed after January 1, 1937; and that depreciation of equipment, furniture and furnishings, including X-ray equipment but not including structures and attached fixtures may be included at the rate of 10% per annum.

(c) Beginning with the first charge made for cost of care incurred after July 1, 1954, as provided in s. 46.106 the county may add 4 per cent to such charge to recover the costs to the county in carrying such charges.

(d) Beginning with the first charge made for cost of care incurred after July 1, 1954, as provided in s. 46.106 the county may add 10 per cent to such charge to generate sufficient earnings in addition to depreciation accruals to provide funds to cover replacement costs for buildings, fixtures and equipment as they are replaced.

(3) The provisions of s. 50.04 as to free care of patients apply to tuberculous mentally ill or infirm patients or adult mentally deficient, who satisfy the conditions of subs. (1) and (2).

History: 1971 c. 211 s. 124.

51.30 Records closed. The files and records of the court in proceedings under this chapter shall be kept in locked files and shall not be open to inspection except upon specific permission of the court. In any action or special proceeding in a court of record, such files and records shall be made available by special order

of such court, if they are relevant to the issue and competent.

51.31 Mentally infirm or deficient persons, general provision. The provisions for commitment, rehearing, transfer, removal and discharge of mentally ill persons shall, so far as applicable, govern in the matter of mentally infirm and mentally deficient.

51.32 Nonresident escaped patients. The county court may, upon written request of the department, order the detention of any nonresident person who escaped from some mental institution of another state. Such detention shall be for a period not to exceed 30 days and may be extended by the court for an additional period if it is necessary to consummate the deportation of the escaped person.

51.33 Resident escaped patients, retaking. If any patient escapes from any institution for the mentally ill or mentally retarded, it is the duty of the sheriff of the county in which such patient is found, and upon request of the superintendent of the institution from which such patient has escaped, to take charge of and return such patient to the institution from which he escaped, and the costs incident to such return shall be paid out of the institution's operating funds and be charged back to the county of the patient's legal settlement.

51.35 Communications and packages. (1) COMMUNICATIONS. All communications addressed by a patient to the governor, attorney-general, judges of courts of record, district attorneys, the department or licensed attorneys, shall be forwarded at once to the addressee without examination. Communications from such officials and attorneys shall be delivered to the patient.

(2) PACKAGES AND COMMUNICATIONS TO PATIENTS. Communications and packages for or addressed to a patient may be examined before delivery; and delivery may be withheld if there is any good reason therefor in the opinion of the superintendent of the institution.

51.36 Community mental health clinic services. (1) CREATION. The department shall create a program relating to the establishment of community mental health clinic services and providing for state grants-in-aid to local communities to encourage and assist them in the development and operation of preventive, educational, diagnostic treatment and rehabilitative services for mental health.

(2) TITLE. This section may be cited as the community mental health clinic services section.

(3) PURPOSE. It is the purpose of this section to:

(a) Foster preventive, educational, diagnostic treatment and rehabilitative services through the establishment and improvement of public and private mental health clinic services at the community level.

(b) Stimulate and assist communities to develop and support such clinic services according to individual community needs.

(c) Provide state consultative staff services to communities to assist in planning, establishing and operating community mental health clinic services.

(d) Provide a permanent system of state grants-in-aid to match local funds used to establish and operate local mental health clinic services.

(e) Authorize the department to establish standards relating to the establishment and operation of community mental health clinics under state grants-in-aid.

(4) COMMUNITY MENTAL HEALTH CLINIC SERVICES. The secretary may make grants to assist cities, counties, towns, villages, or any combination thereof, or any nonprofit corporations in the establishment and operation of local mental health clinic programs to provide the following services:

(a) Collaborative and co-operative services with public health and other groups for programs for the prevention and treatment of mental illness, mental retardation and other psychiatric disabilities.

(b) Rehabilitative services for patients suffering from mental or emotional disorders, mental retardation and other psychiatric conditions particularly for those who have received prior treatment in an inpatient facility.

(c) Outpatient diagnostic and treatment services.

(d) Consultative services to schools, courts and health and welfare agencies, both public and private.

(e) Informational and educational services to the general public and lay and professional groups.

(5) ESTABLISHMENT OF CLINICS. Any county, city, town or village or any combination thereof, or any nonprofit corporations representing an area of over 50,000 population, or upon consent of the secretary less than 50,000 population, may establish community mental health clinic services and staff them with persons specifically trained in psychiatry and related fields.

(6) COMMUNITY MENTAL HEALTH CLINIC BOARD. (a) *Representative board of directors.* Except in counties having a population of 500,000 or more every county, city, town or village, or combination thereof, or any nonprofit corporation establishing and administering a community mental health clinic program shall, before it may qualify under this section, establish a representative governing and policy-making board of directors which shall be charged with the operation and administration of the clinic program concerned. The board of directors shall be composed of not less than 9 nor more than 15 persons of recognized ability and demonstrated interest in the problems of community mental health, except that no more than 2 persons shall be appointed from any one group or interest in the community but where a county singly (or in combination under par. (b) 2.) establishes such a program such restriction on appointments from the county board membership shall not apply where an appointee is also a member of another group or interest in the community. Subject to the foregoing limitations, county board members may be appointed to said board of directors notwithstanding the provisions of s. 66.11 (2). In counties having a population of 500,000 or more the county clinic program shall be governed by the board of public welfare as established by s. 46.21 who shall constitute the local board of directors.

(b) *Appointments to the board.* 1. When any county, city, town or village singly establishes such a program, the governing body of such political subdivision shall appoint the board of directors, and all actions of the board of directors are subject to the review and approval of the governing body.

2. When any combination of the political subdivisions referred to in this section establishes such a program, a representative board of directors, as defined in this section, shall be appointed and be subject to the review and approval of the governing bodies of such political subdivisions in a manner acceptable to all concerned. The secretary shall not authorize the granting of funds to any combination of political subdivisions, until such political subdivisions have drawn up a detailed contractual agreement defining the program and the plans for operation. If in the opinion of the secretary the contractual agreement is not adequate, he may deny the granting of funds.

3. When any nonprofit corporation establishes and administers a mental health clinic program, the corporation shall appoint a representative board of directors as herein defined, and this board shall be responsible for the operation and administration of the clinic program.

(c) *Terms of office.* The term of office for any member of a board of directors shall be 3 years, except that of the members first appointed, at least one-third shall be appointed for a term of one year, at least one-third for a term of 2 years, and the remainder for a term of 3 years. Vacancies shall be filled for unexpired terms in the same manner as original appointments. Any board member may be removed from office by the appointing authority.

(7) POWERS AND DUTIES OF THE COMMUNITY MENTAL HEALTH CLINIC BOARD. Subject to the provisions of this section and the rules of the secretary, each board of directors shall have the following powers and duties:

(a) Appoint the administrator of the mental health clinic program, who shall be responsible to the board in the operation of the program.

(b) With the co-operation of the administrator, define the program and formulate the necessary policies to implement the program.

(c) Establish salaries and personnel policies for the program.

(d) Review and evaluate the services of the clinic to assure conformance with the basic plan and budget, including periodic reporting to the secretary, local public officials, the program administrator and the public and when indicated make recommendations for changes in program and services.

(e) Assist in arranging and promoting local financial support for the program from private and public sources.

(f) Assist in arranging co-operative working agreements with other health and welfare services, public and private, and with other educational and judicial agencies.

(g) Establish patient fee schedules based upon ability to pay. If a person who can afford private care applies for clinic services, consultation and diagnostic services may be offered but any needed treatment services must be obtained from other sources, providing private service is reasonably available.

(h) Review the fiscal practices, the annual plan and budget and make recommendations thereon.

(i) Provide for short-term residential care facilities and services for children under the age of 18 years.

(8) GRANTS-IN-AID. (a) *Formula.* The secretary may make state grants-in-aid which shall be based upon 60% state and 40% local sharing of the total expenditures in each county or combination of counties utilizing a comprehensive board for mental health services under s. 51.42, and 45% state and 55% local sharing in each

county or group of counties not utilizing a comprehensive board, for: 1. salaries; 2. contract facilities and services; 3. operation, maintenance and service costs; 4. per diem and travel expense of members of community mental health clinic boards; 5. purchase of community mental health clinic services from clinics established elsewhere, including out-of-state clinics; and 6. other expenditures specifically approved and authorized by the secretary. The grants may not be used to match other state or federal funds which may be available to clinics and the state's share shall be computed on the reimbursable expenditures after all federal matchable expenditures have first been billed to the counties under s. 49.51 (3). No grants shall be made for capital expenditures.

(b) *Eligible to apply.* Any county, city, town or village, or any combination thereof, or nonprofit corporation administering a mental health clinic established under sub. (5), may apply for the assistance provided by this section by submitting annually to the secretary its plan and budget for the next fiscal year. No program shall be eligible for a grant hereunder unless its plan and budget have been approved by the secretary.

(c) *Functions of department; allocation of funds.* At the beginning of each fiscal year the secretary shall allocate available funds to the mental health clinic programs for disbursement during the fiscal year in accordance with such approved plans and budgets. The secretary shall from time to time during the fiscal year review the budgets and expenditures of the various programs, and if funds are not needed for a program to which they were allocated, he may, after reasonable notice and opportunity for hearing, withdraw such funds as are unencumbered and reallocate them to other clinic programs. He may withdraw funds from any program which is not being administered in accordance with its approved plan and budget.

(d) *Promulgate rules.* The secretary with the approval of the health and social services board, shall promulgate rules governing eligibility of community mental health clinic programs to receive state grants, prescribing standards for qualification of personnel and quality of professional service and for in-service training and educational leave programs for personnel, salaries, eligibility for service so that no person will be denied service on the basis of race, color or creed, or inability to pay, providing for establishment by the local mental health clinic boards of patient fee schedules and providing such other requirements as are necessary to carry out the purpose of this act.

(9) OTHER POWERS AND DUTIES OF THE DEPARTMENT. (a) Review and evaluate local programs and the performance of administrative and psychiatric personnel and make recommendations thereon to boards and program administrators.

(b) Provide consultative staff service to communities to assist in ascertaining local needs and in planning and establishing and operating community health clinic programs.

(10) OTHER POWERS OF COUNTY BOARDS OF SUPERVISORS. County boards are authorized to appropriate county funds for the operation of any community mental health clinic, including nonprofit corporations, established under sub. (5). The legislature finds that the expenditure of county funds for the support of such clinics is for a public purpose.

History: 1971 c. 125, 215.

Note: Sub. (8) (a) is printed as amended by ch. 215, laws of 1971, which provided that this version is effective 1-1-73. For the version in effect prior to that date see ch. 125, laws of 1971.

51.37 Outpatient clinic services. (1) CREATION. The department may establish a system of outpatient clinic services in any institution governed by the department.

(2) TITLE. This section may be cited as the outpatient clinic services section.

(3) PURPOSE. It is the purpose of this section to:

(a) Provide outpatient diagnostic and treatment services for patients or their families on self-referral, referral from physicians, or by referral from services of the department.

(b) Offer precommitment and preadmission evaluations and studies.

(4) LIABILITY AND COLLECTION. The secretary shall establish a fee schedule for such outpatient services and supplies. Liability for such services and supplies and the collection and enforcement of such liability shall be governed by s. 46.10.

(5) SEGREGATION OF COSTS. (a) The costs of outpatient services and supplies shall be segregated from the cost of inpatient services and supplies as prescribed by administrative order of the department.

(b) Such outpatient services and supplies shall be furnished at no cost to the county or to the referring agent.

51.38 Community care services for the mentally handicapped. (1) CREATION. The department shall create a program relating to the establishment of community day care programs for the mentally handicapped and providing for state grants-in-aid to local communities

to encourage and assist in the development and operation of training, habilitative and rehabilitative services for the mentally handicapped.

(2) TITLE. This section may be cited as the "Community Day Care Services for the Mentally Handicapped" section.

(3) PURPOSE. It is the purpose of this section to:

(a) Foster training, habilitative and rehabilitative services through the establishment and improvement of public and private day care programs for the mentally handicapped, including mentally retarded, emotionally disturbed and epileptics, at the community level.

(b) Stimulate and assist communities to develop and support such services according to individual community needs.

(c) Provide state consultative staff services to communities to assist in planning, establishing and operating community day care services for the mentally handicapped.

(d) Provide a permanent system of state grants-in-aid to match funds used to establish and operate local day care services for the mentally handicapped.

(e) Authorize the department to establish standards relating to the establishment and operation of community day care services for the mentally handicapped under state grants-in-aid.

(4) COMMUNITY DAY CARE SERVICES FOR THE MENTALLY HANDICAPPED. The secretary may make grants to assist cities, counties, towns, villages, or any combination thereof, or any nonprofit corporation in the establishment and operation of local day care programs for the mentally handicapped to provide the following services:

(a) Collaborative and co-operative services with public health, educational, vocational, welfare and other groups for programs for the training, habilitation and rehabilitation of mentally handicapped individuals.

(b) Training, habilitative and rehabilitative services for individuals who are mentally handicapped, particularly for those who have received prior services in an inpatient facility.

(c) Informational and educational services to the general public, lay and professional groups.

(5) ESTABLISHMENT OF DAY CARE SERVICES FOR THE MENTALLY HANDICAPPED. Any county, city, town, village or any combination thereof, or any nonprofit corporation representing an area of over 50,000 population, or upon consent of the secretary, may establish community day care services and staff them with persons who meet the department standards of qualification.

(6) COMMUNITY DAY CARE SERVICES BOARD. (a) *Representative board of directors.* Except in counties having a population of 500,000 or more, every county, city, town or village, or combination thereof, or any nonprofit corporation establishing and administering a community day care program shall, before it may qualify under this section, establish a representative governing and policymaking board of directors, called a community day care services board, which shall be charged with the operation and administration of the day care program concerned. In counties maintaining a mental health clinic board such board may serve as the community day care services board. The board of directors shall be composed of not less than 7 nor more than 11 persons of recognized ability and demonstrated interest in the problems of the mentally handicapped, except that no more than 2 persons shall be appointed from any one group or interest in the community, but where a county singly (or in combination under par. (b) 2.) establishes such a program such restriction on appointments from the county board membership shall not apply where an appointee is also a member of another group or interest in the community. Subject to the foregoing limitations, county board members may be appointed to said board of directors notwithstanding the provisions of s. 66.11 (2). In counties having a population of 500,000 or more, the county day care program shall be governed by the board of public welfare as established in s. 46.21 who shall constitute the local board of directors.

(b) *Appointments to the board.* 1. When any county, city, town or village singly establishes such a program, the governing body of such political subdivision shall appoint the board of directors, and all actions of the board of directors are subject to the review and approval of the governing body.

2. When any combination of the political subdivisions referred to in this section establishes such a program, a representative board of directors, as defined in this section, shall be appointed and be subject to the review and approval of the governing bodies of such political subdivisions, in a manner acceptable to all concerned. The secretary shall not authorize the granting of funds to any combination of political subdivisions until such political subdivisions have drawn up a detailed contractual agreement defining the program and the plans for operation. If in the opinion of the secretary the contractual agreement is not adequate, he may deny the granting of funds.

3. When any nonprofit corporation establishes and administers a day care service for the

mentally handicapped, the corporation shall appoint a representative board of directors as herein defined, and this board shall be responsible for the operation and administration of the day care program.

(c) *Term of office.* The term of office for any member of a board of directors shall be for 3 years, except that, of the members first appointed, at least one-third shall be appointed for a term of one year; at least one-third for a term of 2 years; and the remainder for a term of 3 years. Vacancies shall be filled for unexpired terms in the same manner as original appointments. Any board member may be removed from office by the appointing authority.

(7) POWERS AND DUTIES OF THE COMMUNITY DAY CARE SERVICES BOARD. Subject to the provisions of this section and the rules of the secretary, each board of directors shall have the following powers and duties:

(a) Appoint the administrator of the community day care program, who shall be responsible to the board in the operation of the program.

(b) With the co-operation of the administrator, define the program and formulate the necessary policies to implement the program.

(c) Establish salaries and personnel policies for the program.

(d) Review and evaluate the services of the day care program to assure conformance with the basic plan and budget, including periodic reporting to the secretary, local public officials, the program administrator and the public and when indicated make recommendations for changes in program and services.

(e) Assist in arranging and promoting local financial support for the program from private and public sources.

(f) Assist in arranging co-operative working agreements with other health, vocational and welfare services, public and private, and with other related agencies.

(g) Establish fee schedules based upon ability to pay.

(h) Review the fiscal practices, the annual plan and budget, and make recommendations.

(8) GRANTS-IN-AID. (a) *Formula.* The secretary may make state grants-in-aid which shall be based upon 60% state and 40% local sharing of the total expenditures in each county or combination of counties utilizing a comprehensive board for mental health services under s. 51.42, and 45% state and 55% local sharing in each county or combination of counties not utilizing a comprehensive board, for: 1. salaries; 2. contract facilities and services; 3. operation, maintenance and service costs; 4. per diem and travel expense of members of community day care service boards; and 5. other expenditures specifically approved and authorized by the secretary. The grants may not be used to match other state or federal funds which may be available to day care services and the state's share shall be computed on the reimbursable expenditures after all federal matchable expenditures have first been billed to the counties under s. 49.51 (3). No grant shall be made for capital expenditures.

(b) *Eligible to apply.* Any county, city, town or village, or any combination thereof, or nonprofit corporation administering a community day care program established under sub. (5), may apply for the assistance provided by this section by submitting annually to the secretary its plan and budget for the next fiscal year. No program shall be eligible for a grant hereunder unless its plan and budget have been approved by the secretary.

(c) *Functions of department; allocation of funds.* At the beginning of each fiscal year the secretary shall allocate available funds to the community day care programs for disbursement during the fiscal year in accordance with such approved plans and budgets. The secretary shall from time to time during the fiscal year review the budgets and expenditures of the various programs and, if funds are not needed for a program to which they were allocated, he may, after reasonable notice and opportunity for hearing, withdraw such funds as are unencumbered and reallocate them to other day care programs. He may withdraw funds from any program which is not being administered in accordance with its approved plan and budget.

(d) *Promulgate rules.* The secretary, with the approval of the health and social services board, shall promulgate rules governing eligibility of community day care programs to receive state grants, prescribing standards for qualifications of personnel and quality of professional service and for in-service training and educational leave programs for personnel, salaries, eligibility for service so that no person is denied service on the basis of race, color or creed, or inability to pay, provide for establishment by the local community day care service board of fee schedules and provide such other requirements as are necessary to carry out the purpose of this section.

(9) OTHER POWERS AND DUTIES OF THE DEPARTMENT. (a) Review and evaluate local programs and the performance of professional, administrative and other personnel and make recommendations thereon to boards and program administrators.

(b) Provide consultative staff service to communities to assist in ascertaining local needs and

in planning and establishing and operating community day care programs for the mentally handicapped.

(10) OTHER POWERS OF COUNTY BOARDS OF SUPERVISORS. County boards are authorized to appropriate county funds for the operation of any community day care program for the mentally handicapped, including nonprofit corporations, established under sub. (5). The legislature finds that the expenditure of county funds for the support of such programs is for a public purpose.

History: 1971 c. 125, 215.

Note: Sub. (8) (a) is printed as amended by ch. 215, laws of 1971, which provided that this version is effective 1-1-73. For the version in effect prior to that date see ch. 125, laws of 1971.

51.39 County or municipality may establish mental retardation facility. A county or municipality or combination of counties or municipalities may establish and staff a mental retardation facility pursuant to ss. 20.435 (1) (pc) and (pd) and 140.65 to 140.76. County boards are authorized to appropriate county funds to establish and staff such center or facility.

51.40 Supplemental aid. (1) DECLARATION OF POLICY. The legislature recognizes that mental health is a matter of state-wide and county concern and that the protection and improvement of health are governmental functions. It is the intent of the legislature, therefore, to encourage and assist counties in the construction of community mental health facilities, and public medical institutions as defined by rule of the department.

(2) ELIGIBILITY. (a) Any county which qualifies for additional state aid under s. 51.26 and has obtained approval for the construction of mental health facilities pursuant to s. 46.17 may apply for the financial assistance authorized by this section if such county has, at the time of application for assistance, an existing obligation to pay interest on loans for the construction of mental health facilities approved pursuant to s. 46.17.

(b) Any county may apply for the financial assistance authorized by this section if such county has, at the time of application for assistance, an existing obligation to pay interest on loans for the construction of public medical institutions as defined by rule of the department.

(c) Any county may apply for the financial assistance authorized by this section if such county has, at the time of application for assistance, an existing obligation to pay interest on loans for the construction of mental health facilities as defined by rule of the department.

(d) No county may claim aid under this section on any single obligation for more than 20 years.

(e) Termination of eligibility for aid under s. 51.26 shall terminate eligibility for aid for the construction of mental health facilities, and failure to meet the requirements established for public medical institutions by rule of the department shall terminate eligibility for aid for the construction of public medical institutions. Failure to meet the requirements for mental health facilities established by rule of the department shall terminate eligibility for aid for the construction of mental health facilities.

(f) Mental health facilities shall include services required for the prevention, diagnosis, treatment and rehabilitation of the mentally ill, as established by rule of the department.

(3) LIMITATION OF AID. (a) Aid under this section shall be paid only on interest accruing after January 1, 1967, or after the date construction begins, whichever is later.

(b) Until June 30, 1970, such aid shall be at the rate of 60% of the interest obligations eligible under this section or that amount of such obligation as is equal to the percentage rate of participation of the state set forth in s. 49.52 (2) (a), whichever is higher. The contribution of the state for such interest accruing in each fiscal year shall be controlled by the percentage rate of participation under s. 49.52 (2) (a) on January 1 of that fiscal year. Beginning July 1, 1970, such aid shall be at the rate of 100%.

(c) This section applies only to construction projects approved for state interest aid by the department of health and social services prior to June 30, 1973.

(4) APPLICATION FOR AID. Application for aid under this section shall be filed with the department as prescribed by it. Such application shall include evidence of the existence of the indebtedness on which the county is obligated to pay interest. The department may by audit or investigation satisfy itself as to the amount and validity of the claim and, if satisfied, shall grant the aid provided by this section. Payment of aid shall be made to the county treasurer.

History: 1971 c. 125, 164, 211, 215.

51.42 Community mental health, mental retardation, alcoholism and drug abuse services. (1) PURPOSE. The purpose and intent of this section is to enable and encourage counties to develop a comprehensive range of services offering continuity of care; to utilize and expand existing governmental, voluntary and private community resources for provision of services to prevent or ameliorate mental disabilities, includ-

ing but not limited to mental illness, mental retardation, alcoholism and drug abuse; to provide for the integration of administration of those services and facilities organized under this section through the establishment of a unified governing and policy-making board of directors; and to authorize state consultative services, reviews and establishment of standards and grants-in-aid for such program of services and facilities.

(2) DEFINITIONS. As used in this section:

(a) "Program" means community services and facilities for the prevention or amelioration of mental disabilities, including but not limited to mental illness, mental retardation, alcoholism and drug abuse.

(b) "Board" means the community mental health, mental retardation, alcoholism and drug abuse governing and policy-making board of directors.

(c) "Director" means the director appointed by the community mental health, mental retardation, and alcoholism and drug abuse board.

(d) "Secretary" means the secretary of health and social services.

(3) ESTABLISHMENT. (a) The county board of supervisors of any county, or the county boards of supervisors of any combination of counties, may establish a community mental health, mental retardation, alcoholism and drug abuse program, make appropriations to operate the program and authorize the board of directors of the program to apply for grants-in-aid pursuant to this section.

(b) The county board or boards of supervisors shall review and approve the overall plan, program and budgets proposed by the board.

(c) No grant-in-aid may be made to any combination of counties until the counties have drawn up a detailed contractual agreement, approved by the secretary, setting forth the plans for joint sponsorship.

(d) Counties may retain the ownership of the county hospital physical plant or the hospital may be operated as a joint county institution as authorized under s. 46.20. County hospital inpatient services shall be reimbursed under ss. 51.08 and 51.26. When a county or a combination of counties administer a program under this section the hospital shall be governed as follows:

1. For single counties, under sub. (4).

2. For a combination of counties, a hospital may be governed under s. 46.18 or as a joint institution under s. 46.20. The community mental health, mental retardation, alcoholism and drug abuse board may contract for its services.

3. For a combination of counties, a hospital may be governed under sub. (4).

(e) Any county or combination of counties acting under this section shall be eligible for payments under ss. 51.36 and 51.38 for care furnished on and after July 1, 1971.

(4) CREATION OF BOARDS; APPOINTMENT, COMPOSITION AND TERMS OF MEMBERS. (a) The county board or boards of supervisors of any county or any combination of counties establishing or administering a program shall, before it qualifies under this section, appoint a governing and policy-making board of directors to be known as the community mental health, mental retardation, alcoholism and drug abuse board. In counties having a population of 500,000 or more, the board of public welfare established under s. 46.21 shall constitute the governing and policy-making board of directors.

(b) Except in counties having a population of 500,000 or more, in any county which does not combine with another county the board shall be composed of not less than 9 nor more than 15 persons of recognized ability and demonstrated interest in the problems of the mentally ill, mentally retarded, alcoholic or drug abuser. The board shall have representation from each of the aforementioned mental disability interest groups. No more than 5 members may be appointed from the county board of supervisors.

(c) In any combination of counties, the board shall be composed of 11 members with 3 additional members for each combining county in excess of 2. Appointments shall be made by the county boards of supervisors of the combining counties in a manner acceptable to the combining counties, from the interested groups mentioned in par. (b), but each of the combining counties may appoint to the board not more than 3 members from its county board of supervisors.

(d) Except in counties having a population of 500,000 or more, the term of office of any member of the board shall be 3 years, but of the members first appointed, at least one-third shall be appointed for one year; at least one-third for 2 years; and the remainder for 3 years. Vacancies shall be filled for the residue of the unexpired term in the manner that original appointments are made. Any board member may be removed from office for cause by a two-thirds vote of the appointing authority, on due notice in writing and hearing of the charges against him.

(5) POWERS AND DUTIES OF BOARDS. Subject to this section and the rules promulgated thereunder, boards shall provide for:

(a) Collaborative and cooperative services with public health and other groups for programs of prevention;

(b) Comprehensive diagnostic and evaluation services;

(c) Inpatient and outpatient care and treatment, residential facilities, partial hospitalization, precare, aftercare, emergency care, rehabilitation and habilitation services, and supportive transitional services;

(d) Professional consultation;

(e) Public informational and educational services;

(f) Related research and staff in-service training;

(g) The program needs of persons suffering from mental disabilities, including but not limited to mental illness, mental retardation, alcoholism or drug abuse;

(h) Continuous planning, development and evaluation of programs and services for all population groups; and shall:

1. Establish long-range goals and intermediate-range plans, detail priorities and estimate costs;

2. Develop coordination of local services and continuity of care where indicated;

3. Utilize available community resources and develop new resources necessary to carry out the purposes of this section;

4. Appoint a director of the program on the basis of recognized and demonstrated interest in and knowledge of the problems of mental health, mental retardation, alcoholism and drug addiction, with due regard to training, experience, executive and administrative ability, and general qualification and fitness for the performance of the duties of the director;

5. Fix the salaries of personnel employed to administer the program;

6. Fix fee schedules; and

7. Enter into contracts to render services to or secure services from other agencies or resources including out-of-state agencies or resources.

(6) DIRECTOR; POWERS AND DUTIES. (a) All of the administrative and executive powers and duties of managing, operating, maintaining and improving the program shall be vested in the director, subject to such delegation of authority as is not inconsistent with this section and the rules promulgated thereunder.

(b) In consultation and agreement with the board, the director shall prepare:

1. An annual comprehensive plan and budget of all funds necessary for the program and services authorized by this section in which priorities and objectives for the year are established as well as any modifications of long-range objectives;

2. Intermediate-range plans and budgets;

3. An annual report of the operation of the program; and

4. Such other reports as are required by the secretary and the county board or boards of supervisors.

(c) The director shall make recommendations to the board for:

1. Personnel and the salaries of employes; and

2. Changes in program services.

(7) OTHER PROGRAM REQUIREMENTS. (a) The first step in the establishment of a program shall be the preparation of a local plan which includes an inventory of all existing resources, identifies needed new resources and services and contains a plan for meeting the needs of the mentally ill, mentally retarded, alcoholic, drug abusers and other psychiatric disabilities. The plan shall also include the establishment of long-range goals and intermediate-range plans, detailing priorities and estimated costs and providing for coordination of local services and continuity of care.

(b) The clinical treatment program shall be directed by a licensed physician trained in psychiatry who may also be the director.

(c) Under the supervision of a director, qualified personnel with training or experience, or both, in mental health, mental retardation or in alcoholism shall be responsible for the coordination of programs relating to mental health, mental retardation or alcoholism.

(8) GRANTS-IN-AID. (a) The expense of treatment chargeable to the state and counties for inpatients in the institutions specified in s. 46.10 shall be governed by s. 51.08, 51.24 or 51.26, whichever applies.

(b) For all services other than those specified in par. (a), the secretary is authorized to make state grants-in-aid as follows:

1. To single counties, grants as under ss. 51.36 (8) and 51.38 (8);

2. To a combination of counties, grants as under ss. 51.36 (8) and 51.38 (8) for each respective combining county.

(c) State grants-in-aid may be made for the following expenditures: salaries; contract facilities and services; operation, maintenance and service costs; purchase of services from facilities established locally or elsewhere, including out-of-state facilities; per diem and travel expenses of board members; and other expenditures specifically approved and authorized by the secretary.

(d) No grants-in-aid may be made for the following expenditures: expenditures for services included in the actual per capita cost of maintenance, care and treatment of patients in the insti-

tutions specified in s. 46.10; capital expenditures; expenditures for which state reimbursement is claimed under any other state law; expenditures for full-time inpatient care in excess of 30 days per 12-month period in hospital facilities as defined in s. 140.24 (1) (a) and (c) and other than those institutions specified in s. 46.10; recoveries made from federal funds; and recoveries for inpatient maintenance, care and treatment at hospital facilities other than those institutions specified in s. 46.10.

(9) CARE IN OTHER FACILITIES. Authorization for inpatient care of any patient in a hospital facility, other than those institutions specified in s. 46.10, shall be provided under a contractual agreement between the board and the facility. The need for inpatient care shall be determined by the clinical director of the program prior to the admission of the patient to the hospital facility.

(10) SEGREGATION OF COSTS. Where any of the community mental health, mental retardation, alcoholism and drug abuse services authorized by this section are provided by any of the institutions specified in s. 46.10, the costs of such services shall be segregated from the costs of inpatient maintenance, care and treatment provided at such institutions. The uniform cost record-keeping system established under s. 46.18 (8), (9) and (10) shall provide for such segregation of costs.

(11) LIABILITY. (a) Liability, and the collection and enforcement thereof, for care and maintenance of inpatients in the institutions specified in s. 46.10, and the adjustment and settlement with the several counties for their proper share of all moneys collected under s. 46.10, shall be governed exclusively by s. 46.10.

(b) Liability for inpatient care furnished pursuant to this section in hospital facilities as defined in s. 140.24 (1) (a) and (c) and other than those institutions specified in s. 46.10 shall be governed by s. 46.10, and the unpaid balance remaining on any account after crediting payments made to apply on such account, exclusive of payments made by the board, shall be referred to the department by the program director and be recovered by the department pursuant to s. 46.10. In counties having a population of 500,000 or more, such accounts shall be referred to and recovered by the district attorney of the county.

(c) For all services rendered, other than those specified in pars. (a) and (b), the patient, the patient's spouse, and in the case of a minor child the parents, shall be liable, but such liability shall not exceed the fee established under sub. (5). The board may enforce such liability.

(12) RULES GOVERNING ADMINISTRATIVE STRUCTURE. The secretary, with the approval of the health and social services board, shall adopt rules governing the administrative structure deemed necessary to administer community mental health, mental retardation, alcoholism and drug abuse services; establishing uniform cost record-keeping requirements; governing eligibility of counties and combinations of counties for state grants-in-aid to operate programs; prescribing standards for qualifications and salaries of personnel; prescribing standards for quality of professional services; prescribing requirements for in-service and educational leave programs for personnel; prescribing standards for establishing patient fee schedules; governing eligibility of patients to the end that no person is denied service on the basis of age, race, color, creed, location or inability to pay; and prescribing such other standards and requirements as may be necessary to carry out the purposes of this section.

(13) FUNCTIONS OF THE DEPARTMENT. (a) At the beginning of each fiscal year, the secretary shall allocate available funds for disbursement during the fiscal year in accordance with approved plans and budgets, and shall during the fiscal year review the budgets and expenditures of the various programs and, if funds are not needed for a program to which they were allocated, he may, after reasonable notice and opportunity for hearing, withdraw such funds as are unencumbered and reallocate them to other programs, or withdraw funds from any program which is not being administered in accordance with its approved plan and budget.

(b) The department shall review and evaluate local programs, assess their adequacy in achieving their goals, and make recommendations thereon to boards and directors.

(c) The department shall provide consultative staff services to communities to assist in ascertaining local needs and in planning, establishing and operating programs.

History: 1971 c. 125.

51.435 Duties of the council on developmental disabilities. (1) The council shall:

(a) Designate appropriate state or local agencies for the administration of programs and fiscal resources made available to the state under federal legislation affecting the delivery of services to the developmentally disabled.

(b) Develop, approve and continue modification of a state-wide plan for the delivery of services, including the construction of facilities, to the developmentally disabled.

(c) Review and approve program and fiscal plans submitted by community developmental

disabilities services boards when such plans require the expenditure of federal or state funds in their implementation.

(d) Continue evaluation of state and local services to the developmentally disabled.

(e) Provide continuing counsel to the governor and legislature.

(2) The council may establish such reasonable administrative rules and procedures as are essential to the exercise of its responsibilities.

History: 1971 c. 322.

Note: Ch. 322, laws of 1971, which created sections 51.435, 51.436 and 51.437, contained the following provision:

Section 2. Definitions. The following definitions shall be used for purposes of interpreting and administering this act:

(1) "Developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, or another neurological condition closely related to mental retardation or requiring treatment similar to that required for mentally retarded, which disability has originated before the individual has attained 18 years of age, has continued or can be expected to continue indefinitely and constitutes a substantial handicap to the afflicted individual.

(2) "Services" means specialized services or special adaptations of generic services directed toward the alleviation of a developmental disability or toward the social, personal, physical or economic habilitation or rehabilitation of an individual with such a disability, and includes diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training, education, sheltered employment, recreation, counseling of the individual with a developmental disability and his family, protective and other social and socio-legal services, information and referral services, follow-along services and transportation services necessary to assure delivery of services to persons with developmental disabilities.

51.436 Secretary, duties. (1) The secretary of health and social services shall:

(a) Maintain a listing of present or potential resources for serving the needs of the developmentally disabled, including private and public persons, associations and agencies.

(b) Collect factual information concerning the problems.

(c) Provide information, advice and assistance to communities and try to coordinate their activities on behalf of the developmentally disabled.

(d) Assist counties in obtaining professional services on a shared-time basis.

(e) Establish and maintain liaison with all state and local agencies to establish a continuum of services, consultative and informational.

History: 1971 c. 322.

51.437 Responsibility of county government. (1) The county boards have the primary governmental responsibility for the well-being of those developmentally disabled citizens residing within their respective counties and the families of the mentally retarded insofar as the usual resultant family stresses bear on the well-being of the developmentally disabled citizen. Adjacent counties, lacking the financial resources and professional personnel needed to provide or secure such services on a single-county basis, may and shall be encouraged to combine their energies and financial resources to provide these joint services and facilities with the approval of the council on developmental disabilities. This responsibility includes:

(a) The development, approval and continuing modification of a county or multicounty plan for the delivery of services, including the construction of facilities, to those citizens affected by developmental disabilities.

1. The purpose of such planning shall be to insure the delivery of needed services and the prevention of unnecessary duplication, fragmentation of services and waste of resources. Plans shall include, to the fullest extent possible, participation by existing and planned agencies of the state, counties, municipalities, school districts and all other public and private agencies as are required to, or may agree to, participate in the delivery of services.

2. Plans shall, to the fullest extent possible, be coordinated with and integrated into plans developed by regional comprehensive health planning agencies.

(b) Providing continuing counsel to public and private agencies as well as other appointed and elected bodies within the county.

(c) Establishing a program of citizen information and education concerning the problems associated with developmental disabilities.

(d) Establishing a fixed point of referral within the community for developmentally disabled persons and their families.

(2) The county board shall establish community developmental disabilities services boards to furnish services within the counties. If the community developmental disabilities services board cannot furnish these services, the boards shall secure such services elsewhere.

(3) The community developmental disabilities board shall not furnish services and programs provided by the department of public instruction and local educational agencies.

(4) In counties having a population of less than 500,000, the community developmental disabilities services board shall be composed of not less than 9 nor more than 15 persons of recognized ability and demonstrated interest in the problems of the developmentally disabled but not more than 3 members shall be appointed from the county board of supervisors. Except that when counties combine to furnish services, the community developmental disabilities services board shall be composed of 11 members and with 2 additional members for each combin-

ing county in excess of 2. Appointments shall be made by the county boards of the combining counties in a manner acceptable to the combining counties, but each of the combining counties may appoint only 2 members from its county board. At least one-third of the members serving at any one time shall be appointed from the developmentally disabled citizens or their parents residing in the county or combining counties. Appointments shall be for staggered 3-year terms. Vacancies shall be filled for the residue of the unexpired term in the manner that original appointments are made. Any member may be removed from office for cause by a two-thirds vote of the appointing authority, on due notice in writing and hearing of the charges against him.

(5) In counties having a population of 500,000 or more, the board of public welfare established under s. 46.21 shall constitute the governing and policy-making board of directors. Such counties shall not combine with other counties. The appointment, composition and term of the members of the board of such counties shall be governed by s. 46.21.

(6) The community developmental disabilities services board shall:

(a) Establish a community developmental disabilities services program, appoint the director of the program, establish salaries and personnel policies for the program and arrange and promote local financial support for the program.

(b) Assist in arranging cooperative working agreements with other health, educational, vocational and welfare services, public or private, and with other related agencies.

(c) Enter into contracts to provide or secure services from other agencies or resources including out-of-state agencies or resources.

(d) Comply with the state requirements for the program.

(7) The director shall operate, maintain and improve the community developmental disabilities services program.

(a) The director and the board shall prepare:

1. An annual comprehensive plan and budget of all funds necessary for the program and services authorized by this section.

2. An annual report of the operation of the program.

3. Such other reports as are required by the council on developmental disabilities and the county board.

(b) The director shall make recommendations to the community developmental disabilities services board for:

1. Personnel and salaries.

2. Changes in the program and services.

(8) (a) The secretary is authorized to make state grants-in-aid to counties of 40% of the eligible expenditures for the community developmental disabilities services program under this section.

(b) The secretary may make grants for the following expenditures:

1. Salaries.

2. Contract facilities and services.

3. Operation, maintenance and service costs.

4. Per diem and travel expenses of board members.

5. Other expenditures specifically approved and authorized by the secretary.

(c) No grants-in-aid shall be made for the following expenditures:

1. Expenditures for services included in the actual per capita cost of maintenance, care and treatment of residents at the institutions specified in s. 46.10.

2. Capital expenditures.

3. Expenditures for which reimbursement from the state is claimed under any other state law.

4. Expenditures for full-time inpatient care in excess of 30 days per 12-month period in hospital facilities defined in s. 140.24 (1) (a) and (c) and excluding those institutions specified in s. 46.10.

5. Recoveries made from federal funds and recoveries made for inpatient or residential maintenance, care and treatment at hospital or residential facilities other than those institutions specified in s. 46.10.

(d) At the beginning of each fiscal year, the secretary shall allocate available funds for disbursement during the fiscal year in accordance with approved state and local plans and budgets, and shall, during the fiscal year, review the budgets and expenditures of the several community developmental disabilities services boards, and if funds are not needed for a program to which they were allocated, he may, after reasonable notice and opportunity for hearing, withdraw such funds as are unencumbered and reallocate them to other programs, or withdraw funds from any local program which is not being administered in accordance with its approved plans and budget.

(9) (a) Authorization for residential care of any developmentally disabled person at a facility other than those institutions specified in s. 46.10 shall be provided under a contractual agreement between the board and the facility. The need for residential care shall be determined by the direc-

tor of the program prior to the admission of the developmentally disabled person to the residential facility.

(b) Where any of the community developmental disabilities services authorized are provided by any of the institutions specified in s. 46.10, the costs of such services shall be segregated from the costs of residential care provided at such institutions. The uniform cost record-keeping system established under s. 46.18 (8), (9) and (10) shall provide for such segregation of costs.

(10) (a) Except in counties of 500,000 residents or more, the community developmental disabilities services board shall assume the powers of any existing community day care services board under s. 51.38. Day care services shall continue to be administered and assisted with state grants-in-aid as before with the following exceptions:

1. Section 51.38 (6) is not effective.

(b) The secretary of health and social services may modify rules necessary to allow the continuation of day care program services.

(c) In counties having a population of 500,000 or more, the board of public welfare shall integrate day care programs for the retarded and those with other developmental disabilities into the community developmental disabilities program and appoint a director to administer the overall developmental disabilities services program.

History: 1971 c. 307, 322.

51.50 Short title. This chapter shall be known as The State Mental Health Act.

51.75 Interstate compact on mental health. The interstate compact on mental health is enacted into law and entered into by this state with all other states legally joining therein substantially in the following form:

THE INTERSTATE COMPACT ON MENTAL HEALTH

The contracting states solemnly agree that:

ARTICLE I

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by co-operative action, to the benefit of the patients, their families and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

ARTICLE II

As used in this compact:

(a) "Sending state" means a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent.

(b) "Receiving state" means a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent.

(c) "Institution" means any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency.

(d) "Patient" means any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment or supervision pursuant to the provisions of this compact.

(e) "Aftercare" means care, treatment and services provided a patient, as defined herein, on convalescent status or conditional release.

(f) "Mental illness" means mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community.

(g) "Mental deficiency" means mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

(h) "State" means any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

ARTICLE III

(a) Whenever a person physically present in any party state is in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship, qualifications.

(b) The provisions of par. (a) of this article to the contrary notwithstanding any patient may be transferred to an institution in another state whenever there are factors based upon clinical

determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion thereof. The factors referred to in this paragraph include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as are considered appropriate.

(c) No state is obliged to receive any patient pursuant to par. (b) of this article unless the sending state has given advance notice of its intention to send the patient, furnished all available medical and other pertinent records concerning the patient and given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish, and unless the receiving state agrees to accept the patient.

(d) If the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

(e) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

ARTICLE IV.

(a) Whenever, pursuant to the laws of the state in which a patient is physically present, it is determined that the patient should receive aftercare or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state have reason to believe that aftercare in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such aftercare in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient and such other documents as are pertinent.

(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive aftercare or supervision in the receiving state.

(c) In supervising, treating or caring for a patient on aftercare pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care and treatment that it employs for similar local patients.

ARTICLE V.

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape, in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be detained in the state where found, pending disposition in accordance with law.

ARTICLE VI.

The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any state party to this compact, without interference.

ARTICLE VII.

(a) No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

(b) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any 2 or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

(c) No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs or responsibilities therefor.

(d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

(e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a nonparty state relating to institutionalization, care or treatment of the mentally ill or mentally deficient or any statutory authority pursuant to which such agreements may be made.

ARTICLE VIII.

(a) Nothing in this compact shall be construed to abridge, diminish or in any way impair the rights, duties and responsibilities of any patient's guardian on his own behalf or in respect of any patient for whom he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall, upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court by law requires, relieve the previous guardian of power and responsibility to whatever extent is appropriate in the circumstances. In the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state has the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it deems advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

(b) The term "guardian" as used in par. (a) of this article includes any guardian, trustee, legal committee, conservator or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

ARTICLE IX.

(a) No provision of this compact except Article V applies to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

(b) To every extent possible, it is the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

ARTICLE X.

(a) Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general co-ordinator of activities under the compact in his state and who shall receive copies of all reports, correspondence and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

(b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XI.

The duly constituted administrative authorities of any 2 or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or co-operative basis whenever the states concerned find that such agreements will improve services, facilities or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

ARTICLE XII.

This compact enters into full force and effect as to any state when enacted by it into law and such state shall thereafter be a party thereto with all states legally joining therein.

ARTICLE XIII.

(a) A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal takes effect one year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states.

However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

(b) Withdrawal from any agreement permitted by Article VII (b) as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

ARTICLE XIV

This compact shall be liberally construed so as to effectuate the purpose thereof. The provisions of this compact are severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state, or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact is held contrary to the constitution of any party state thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

51.76 Compact administrator. Pursuant to the interstate compact on mental health, the secretary shall be the compact administrator and, acting jointly with like officers of other party states, may promulgate rules to carry out more effectively the terms of the compact. The compact administrator shall co-operate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or any supplementary agreement entered into by this state thereunder.

51.77 Transfer of patients. (1) In this section "relatives" means the patient's spouse, parents, grandparents, adult children, adult siblings, adult aunts, adult uncles and adult cousins, and any other relative with whom the patient has resided in the previous 10 years.

(2) Transfer of patients out of Wisconsin to another state under the interstate compact on mental health shall be upon recommendation of no less than 3 physicians licensed under ch. 448 appointed by the court of competent jurisdiction and shall be only in accord with the following requirements:

(a) That the transfer be requested by the patient's relatives or guardian or a person with whom the patient has resided for a substantial period on other than a commercial basis. This requirement does not preclude the compact administrator or the institution in which the patient is in residence from suggesting that relatives or the guardian request such transfer.

(b) That the compact administrator determine that the transfer of said patient is in his best interest.

(c) That the patient have either interested relatives in the receiving state or a determinable interest in the receiving state.

(d) That the patient, guardian and relatives, as determined by the patient's records, whose addresses are known or can with reasonable diligence be ascertained, be notified.

(e) That none of the persons given notice under par. (d) object to the transfer of said patient within 30 days of receipt of such notice.

(f) That records of the intended transfer, including proof of service of notice under par. (d) be reviewed by branch 1 of the county court of the county in which the patient is confined or by any other court which a relative or guardian requests to do so.

(3) If the request for transfer of a patient is rejected for any of the reasons enumerated under sub. (2), the compact administrator shall notify all persons making the request as to why the request was rejected and of his right to appeal the decision to a competent court.

(4) If the patient, guardian or any relative feels that the objections of other relatives or of the compact administrator raised under sub. (2) are not well-founded in preventing transfer, such person may appeal the decision not to transfer to a competent court having jurisdiction which shall determine, on the basis of evidence by the interested parties and psychiatrists, psychologists and social workers who are acquainted with the case, whether transfer is in the best interests of the patient. The requirements of sub. (2) (c) shall apply to this subsection.

(5) The determination of mental illness in proceedings in this state shall require a finding of insanity, mental infirmity because of senility, or mental deficiency because of feeble-mindedness in accordance with the procedures contained in ss. 51.01 to 51.04.

51.78 Supplementary agreements. The compact administrator may enter into supplementary agreements with appropriate officials of other states pursuant to Articles VII and XI of the compact. If such supplementary agreements require or contemplate the use of any institution or facility of this state or county or require or contemplate the provision of any service by this state or county, no such agreement shall take effect until approved by the head of

the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

51.79 Transmittal of copies. Duly authorized copies of this act shall, upon its approval, be transmitted by the secretary of state to the governor of each state, the attorney general and the administrator of general services of the United States and the council of state governments.

51.80 Patients' rights. Nothing in the interstate compact on mental health shall be construed to abridge, diminish or in any way impair the rights or liberties of any patient affected by the compact.

51.81 Definitions. The terms "flight" and "fled" as used in ss. 51.81 to 51.85 shall be construed to mean any voluntary or involuntary departure from the jurisdiction of the court where the proceedings hereinafter mentioned may have been instituted and are still pending with the effect of avoiding, impeding or delaying the action of the court in which such proceedings may have been instituted or be pending, or any such departure from the state where the person demanded then was, if he then was under detention by law as a person of unsound mind and subject to detention. The word "state" wherever used in ss. 51.81 to 51.85 shall include states, territories, districts and insular and other possessions of the United States. As applied to a request to return any person within the purview of ss. 51.81 to 51.85 to or from the District of Columbia, the words, "executive authority," "governor" and "chief magistrate," respectively, shall include a justice of the supreme court of the District of Columbia and other authority.

History: 1971 c. 40 s. 93.

51.82 Shall be delivered up. A person alleged to be of unsound mind found in this state, who has fled from another state, in which at the time of his flight: (a) He was under detention by law in a hospital, asylum or other institution for the insane as a person of unsound mind; or (b) he had been theretofore determined by legal proceedings to be of unsound mind, the finding being unreversed and in full force and effect, and the control of his person having been acquired by a court of competent jurisdiction of the state from which he fled; or (c) he was subject to detention in such state, being then his legal domicile (personal service of process having been made) based on legal proceedings there pending to have him declared of unsound mind, shall on demand of the executive authority of the state from which he fled, be delivered up to be removed thereto.

51.83 Authentication of demand; discharge; costs. (1) Whenever the executive authority of any state demands of the executive authority of this state, any fugitive within the purview of s. 51.82 and produces a copy of the commitment, decree or other judicial process and proceedings, certified as authentic by the governor or chief magistrate of the state whence the person so charged has fled with an affidavit made before a proper officer showing the person to be such a fugitive, it is the duty of the executive authority of this state to cause him to be apprehended and secured, if found in this state, and to cause immediate notice of the apprehension to be given to the executive authority making such demand, or to the agent of such authority appointed to receive the fugitive, and to cause the fugitive to be delivered to such agent when he appears.

(2) If no such agent appears within 30 days from the time of the apprehension, the fugitive may be discharged. All costs and expenses incurred in the apprehending, securing, maintaining and transmitting such fugitive to the state making such demand, shall be paid by such state. Any agent so appointed who receives the fugitive into his custody shall be empowered to transmit him to the state from which he has fled. The executive authority of this state is hereby vested with the power, on the application of any person interested, to demand the return to this state of any fugitive within the purview of ss. 51.81 to 51.85.

History: 1971 c. 40 s. 93.

51.84 Limitation of time to commence proceeding. Any proceedings under this chapter shall be begun within one year after the flight referred to in ss. 51.81 to 51.85.

History: 1971 c. 40 s. 93.

51.85 Interpretation. Sections 51.81 to 51.85 shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

History: 1971 c. 40 s. 93.