

CERTIFICATION OF ENROLLMENT

SENATE BILL 6213

Chapter 39, Laws of 2004

58th Legislature
2004 Regular Session

MENTAL HEALTH ADVANCE DIRECTIVES--CIVIL COMMITMENTS

EFFECTIVE DATE: 6/10/04

Passed by the Senate February 11, 2004
YEAS 49 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 3, 2004
YEAS 96 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved March 22, 2004.

GARY F. LOCKE

Governor of the State of Washington

CERTIFICATE

I, Milton H. Doumit, Jr., Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6213** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MILTON H. DOUMIT JR.

Secretary

FILED

March 22, 2004 - 4:25 p.m.

**Secretary of State
State of Washington**

SENATE BILL 6213

Passed Legislature - 2004 Regular Session

State of Washington 58th Legislature 2004 Regular Session

By Senators Hargrove, Stevens and Winsley

Read first time 01/14/2004. Referred to Committee on Children & Family Services & Corrections.

1 AN ACT Relating to making technical, clarifying, and nonsubstantive
2 changes to mental health advance directive provisions; amending RCW
3 71.32.140; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** Questions have been raised about the intent
6 of the legislature in cross referencing RCW 71.05.050 without further
7 clarification in RCW 71.32.140. The legislature finds that because RCW
8 71.05.050 pertains to a variety of rights as well as the procedures for
9 detaining a voluntary patient for evaluation for civil commitment, and
10 the legislature intended only to address the right of release upon
11 request, there is ambiguity as to whether an incapacitated person
12 admitted pursuant to his or her mental health advance directive and
13 seeking release can be held for evaluation for civil commitment under
14 chapter 71.05 RCW. The legislature therefore intends to clarify the
15 ambiguity without making any change to its intended policy as laid out
16 in chapter 71.32 RCW.

17 **Sec. 2.** RCW 71.32.140 and 2003 c 283 s 14 are each amended to read
18 as follows:

1 (1) A principal who:
2 (a) Chose not to be able to revoke his or her directive during any
3 period of incapacity;
4 (b) Consented to voluntary admission to inpatient mental health
5 treatment, or authorized an agent to consent on the principal's behalf;
6 and
7 (c) At the time of admission to inpatient treatment, refuses to be
8 admitted,
9 may only be admitted into inpatient mental health treatment under
10 subsection (2) of this section.
11 (2) A principal may only be admitted to inpatient mental health
12 treatment under his or her directive if, prior to admission, a
13 physician member of the treating facility's professional staff:
14 (a) Evaluates the principal's mental condition, including a review
15 of reasonably available psychiatric and psychological history,
16 diagnosis, and treatment needs, and determines, in conjunction with
17 another health care provider or mental health professional, that the
18 principal is incapacitated;
19 (b) Obtains the informed consent of the agent, if any, designated
20 in the directive;
21 (c) Makes a written determination that the principal needs an
22 inpatient evaluation or is in need of inpatient treatment and that the
23 evaluation or treatment cannot be accomplished in a less restrictive
24 setting; and
25 (d) Documents in the principal's medical record a summary of the
26 physician's findings and recommendations for treatment or evaluation.
27 (3) In the event the admitting physician is not a psychiatrist, the
28 principal shall receive a complete psychological assessment by a mental
29 health professional within twenty-four hours of admission to determine
30 the continued need for inpatient evaluation or treatment.
31 (4)(a) If it is determined that the principal has capacity, then
32 the principal may only be admitted to, or remain in, inpatient
33 treatment if he or she consents at the time or is detained under the
34 involuntary treatment provisions of chapter 70.96A, 71.05, or 71.34
35 RCW.
36 (b) If a principal who is determined by two health care providers
37 or one mental health professional and one health care provider to be

1 incapacitated continues to refuse inpatient treatment, the principal
2 may immediately seek injunctive relief for release from the facility.

3 (5) If, at the end of the period of time that the principal or the
4 principal's agent, if any, has consented to voluntary inpatient
5 treatment, but no more than fourteen days after admission, the
6 principal has not regained capacity or has regained capacity but
7 refuses to consent to remain for additional treatment, the principal
8 must be released during reasonable daylight hours, unless detained
9 under chapter 70.96A, 71.05, or 71.34 RCW.

10 (6)(a) Except as provided in (b) of this subsection, any principal
11 who is voluntarily admitted to inpatient mental health treatment under
12 this chapter shall have all the rights provided to individuals who are
13 voluntarily admitted to inpatient treatment under chapter 71.05, 71.34,
14 or 72.23 RCW.

15 (b) Notwithstanding RCW 71.05.050 regarding consent to inpatient
16 treatment for a specified length of time, the choices an incapacitated
17 principal expressed in his or her directive shall control, provided,
18 however, that a principal who takes action demonstrating a desire to be
19 discharged, in addition to making statements requesting to be
20 discharged, shall be discharged, and no principal shall be restrained
21 in any way in order to prevent his or her discharge. Nothing in this
22 subsection shall be construed to prevent detention and evaluation for
23 civil commitment under chapter 71.05 RCW.

24 (7) Consent to inpatient admission in a directive is effective only
25 while the professional person, health care provider, and health care
26 facility are in substantial compliance with the material provisions of
27 the directive related to inpatient treatment.

Passed by the Senate February 11, 2004.
Passed by the House March 3, 2004.
Approved by the Governor March 22, 2004.
Filed in Office of Secretary of State March 22, 2004.