

1 HOUSE BILL 373

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Doreen Y. Gallegos and Marian Matthews and Micaela Lara Cadena
5 and Joanne J. Ferrary and Gerald Ortiz y Pino
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10 AN ACT

11 RELATING TO MENTAL HEALTH; AMENDING AND ENACTING SECTIONS OF
12 THE MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CODE; DEFINING
13 "CRISIS TRIAGE CENTER"; AUTHORIZING PEACE OFFICERS TO BRING
14 INDIVIDUALS IN CRISIS TO CRISIS TRIAGE CENTERS FOR MENTAL
15 STATUS EXAMINATIONS; AUTHORIZING CRISIS TRIAGE CENTERS TO
16 INVOLUNTARILY ADMIT CERTAIN INDIVIDUALS IN CRISIS AND TO
17 PROVIDE INVOLUNTARY TREATMENT TO CERTAIN INDIVIDUALS IN CRISIS.
18

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 SECTION 1. A new section of the Mental Health and
21 Developmental Disabilities Code is enacted to read:

22 "[NEW MATERIAL] CRISIS TRIAGE CENTERS--ADMISSION OR
23 TREATMENT.--A crisis triage center shall accept:

- 24 A. voluntary admissions;
25 B. individuals who are voluntarily seeking

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1 treatment;

2 C. involuntary admissions; and

3 D. individuals who are not voluntarily seeking
4 treatment."

5 SECTION 2. Section 43-1-3 NMSA 1978 (being Laws 1977,
6 Chapter 279, Section 2, as amended) is amended to read:

7 "43-1-3. DEFINITIONS.--As used in the Mental Health and
8 Developmental Disabilities Code:

9 A. "aversive stimuli" means anything that, because
10 it is believed to be unreasonably unpleasant, uncomfortable or
11 distasteful to the client, is administered or done to the
12 client for the purpose of reducing the frequency of a behavior,
13 but does not include verbal therapies, physical restrictions to
14 prevent imminent harm to self or others or psychotropic
15 medications that are not used for purposes of punishment;

16 B. "client" means any patient who is requesting or
17 receiving mental health services or any person requesting or
18 receiving developmental disabilities services or who is present
19 in a mental health or developmental disabilities facility for
20 the purpose of receiving such services or who has been placed
21 in a mental health or developmental disabilities facility by
22 the person's parent or guardian or by any court order;

23 C. "code" means the Mental Health and Developmental
24 Disabilities Code;

25 D. "consistent with the least drastic means

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1 principle" means that the habilitation or treatment and the
2 conditions of habilitation or treatment for the client,
3 separately and in combination:

4 (1) are no more harsh, hazardous or intrusive
5 than necessary to achieve acceptable treatment objectives for
6 the client;

7 (2) involve no restrictions on physical
8 movement and no requirement for residential care except as
9 reasonably necessary for the administration of treatment or for
10 the protection of the client or others from physical injury;
11 and

12 (3) are conducted at the suitable available
13 facility [~~closest~~] close to the client's place of residence;

14 E. "convulsive treatment" means any form of mental
15 health treatment that depends upon creation of a convulsion by
16 any means, including but not limited to electroconvulsive
17 treatment and insulin coma treatment;

18 F. "court" means a district court of New Mexico;

19 G. "crisis triage center" means a health facility
20 that:

21 (1) is licensed by the department of health;

22 and

23 (2) provides stabilization of behavioral
24 health crises and may include residential and nonresidential
25 stabilization;

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1 [~~G.~~] H. "department" or "division" means the
2 behavioral health services division of the human services
3 department;

4 [~~H.~~] I. "developmental disability" means a
5 disability of a person that is attributable to mental
6 retardation, cerebral palsy, autism or neurological dysfunction
7 that requires treatment or habilitation similar to that
8 provided to persons with mental retardation;

9 [~~I.~~] J. "evaluation facility" means a community
10 mental health or developmental disability program, a crisis
11 triage center or a medical facility that has psychiatric or
12 developmental disability services available, including the New
13 Mexico behavioral health institute at Las Vegas, the Los Lunas
14 medical center, or, if none of the foregoing is reasonably
15 available or appropriate, the office of a physician or a
16 certified psychologist, and that is capable of performing a
17 mental status examination adequate to determine the need for
18 involuntary treatment;

19 [~~J.~~] K. "experimental treatment" means any mental
20 health or developmental disabilities treatment that presents
21 significant risk of physical harm, but does not include
22 accepted treatment used in competent practice of medicine and
23 psychology and supported by scientifically acceptable studies;

24 [~~K.~~] L. "grave passive neglect" means failure to
25 provide for basic personal or medical needs or for one's own

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1 safety to such an extent that it is more likely than not that
2 serious bodily harm will result in the near future;

3 [~~H.~~] M. "habilitation" means the process by which
4 professional persons and their staff assist a client with a
5 developmental disability in acquiring and maintaining those
6 skills and behaviors that enable the person to cope more
7 effectively with the demands of the person's self and
8 environment and to raise the level of the person's physical,
9 mental and social efficiency. "Habilitation" includes but is
10 not limited to programs of formal, structured education and
11 treatment;

12 [~~M.~~] N. "likelihood of serious harm to oneself"
13 means that it is more likely than not that in the near future
14 the person will attempt to commit suicide or will cause serious
15 bodily harm to the person's self by violent or other self-
16 destructive means, including grave passive neglect;

17 [~~N.~~] O. "likelihood of serious harm to others"
18 means that it is more likely than not that in the near future a
19 person will inflict serious, unjustified bodily harm on another
20 person or commit a criminal sexual offense, as evidenced by
21 behavior causing, attempting or threatening such harm, which
22 behavior gives rise to a reasonable fear of such harm from the
23 person;

24 [~~Θ.~~] P. "mental disorder" means substantial
25 disorder of a person's emotional processes, thought or

1 cognition that grossly impairs judgment, behavior or capacity
2 to recognize reality, but does not mean developmental
3 disability;

4 [P-] Q. "mental health or developmental
5 disabilities professional" means a physician or other
6 professional who by training or experience is qualified to work
7 with persons with a mental disorder or a developmental
8 disability;

9 [Q-] R. "physician" or "certified psychologist",
10 when used for the purpose of hospital admittance or discharge,
11 means a physician or certified psychologist who has been
12 granted admitting privileges at a hospital licensed by the
13 department of health, if such privileges are required;

14 [R-] S. "protected health information" means
15 individually identifiable health information transmitted by or
16 maintained in an electronic form or any other form or media
17 that relates to the:

18 (1) past, present or future physical or mental
19 health or condition of an individual;

20 (2) provision of health care to an individual;

21 or

22 (3) payment for the provision of health care
23 to an individual;

24 [S-] T. "psychosurgery":

25 (1) means those operations currently referred

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1 to as lobotomy, psychiatric surgery and behavioral surgery and
2 all other forms of brain surgery if the surgery is performed
3 for the purpose of the following:

4 (a) modification or control of thoughts,
5 feelings, actions or behavior rather than the treatment of a
6 known and diagnosed physical disease of the brain;

7 (b) treatment of abnormal brain function
8 or normal brain tissue in order to control thoughts, feelings,
9 actions or behavior; or

10 (c) treatment of abnormal brain function
11 or abnormal brain tissue in order to modify thoughts, feelings,
12 actions or behavior when the abnormality is not an established
13 cause for those thoughts, feelings, actions or behavior; and

14 (2) does not include prefrontal sonic
15 treatment in which there is no destruction of brain tissue;

16 ~~[F.]~~ U. "qualified mental health professional
17 licensed for independent practice" means an independent social
18 worker, a licensed professional clinical mental health
19 counselor, a marriage and family therapist, a certified nurse
20 practitioner, ~~[O.]~~ a clinical nurse specialist with a specialty
21 in mental health or a licensed art therapist, all of whom by
22 training and experience are qualified to work with persons with
23 a mental disorder;

24 ~~[U.]~~ V. "residential treatment or habilitation
25 program" means diagnosis, evaluation, care, treatment or

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1 habilitation rendered inside or on the premises of a mental
2 health or developmental disabilities facility, hospital,
3 clinic, institution or supervisory residence or nursing home
4 when the client resides on the premises; and

5 [V.] W. "treatment" means any effort to accomplish
6 a significant change in the mental or emotional condition or
7 behavior of the client."

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