

LOUISIANA CORONER LAW  
2017 ACTS OF THE LOUISIANA LEGISLATURE  
by WILLIAM "CHUCK" CREDO, III. ESQ

THE FOLLOWING ACTS ARE SELECTED FOR PRESENTATION AS AFFECTING LOUISIANA CORONERS IN THE NORMAL COURSE OF THEIR STATUTORY DUTIES UNDER DEATH INVESTIGATION, INVOLUNTARY MENTAL HEALTH COMMITMENTS, SEXUAL ASSAULT INVESTIGATIONS & OFFICE ADMINISTRATION.

**ACT 141 EFFECTIVE JUNE 12 , 2017**

HB154 by Representative Carpenter

**CORONERS:** Authorizes the disclosure of autopsy-related information to the Department of Children and Family Services at no charge

THIS ACT AMENDS LSA R.S. 13: 5713 ( M ) to require the Coroner to furnish at no cost upon request by the Department of Children and Family Services the name, age, preliminary diagnosis and manner of death of a deceased minor while the final autopsy is pending.

**ACT 337 EFFECTIVE 08/01/17**

HB 309 By Representative Moreno

**CRIMINAL/VICTIMS:** Provides relative to rights of victims of criminal offenses

This Act amends LSA R.S. 46:1842 as follows:

(3) "**Crime victim who is a minor**" means a person under the age of eighteen against whom any of the following offenses have been committed:

(a) Any homicide or any felony offense defined or enumerated in R.S. 14:2(B).

(b) **Any sexual sex offense or human trafficking-related offense as defined or enumerated in R.S. 46:1844(W).**

(c) The offenses of vehicular negligent injuring and first degree vehicular negligent injuring.

(13) "Sexual assault advocate" has the same meaning as provided in R.S. 46:2186.

(14) "Sexual assault collection kit" has the same meaning as provided in R.S. 15:624.

(17) "**Victim of sexual assault**" means any natural person who presents as a victim of sexual assault as defined in R.S. 46:2184, or the family member of such person if the victim is under eighteen years of age, incompetent, or deceased, provided that in no instance does the term include a family member identified as the perpetrator.

**LSA R.S. 46 §1845. Additional rights for victims of sexual assaults; notification of rights**

A.(1) The rights provided to victims of sexual assault contained in this Section attach whether a victim seeks the assistance of either a law enforcement official or a healthcare provider. A victim of sexual assault retains all the rights of these provisions regardless of whether the victim receives a forensic medical examination or whether a sexual assault collection kit is administered.

## **ACT 369 EFFECTIVE 08/01/17**

HB 341 by Representative Dustin Miller

**HEALTH/BEHAVIORAL:** Amends laws relative to behavioral health and mental health to provide for current practice and appropriate terminology

THIS 78 page act AMENDS various mental health laws and definitions and must be read in its entirety for correct application. Some pertinent sections to Louisiana Coroners are as follows:

### **1) GENERAL LEGAL TITLE:**

TITLE 28. NOT (MENTAL) NOW BEHAVIORAL HEALTH  
CHAPTER 1.

#### **NOT ( MENTAL) NOW BEHAVIORAL HEALTH LAW**

PART I. SHORT TITLE, INTERPRETATIONS, AND DEFINITIONS

§1. Short title

This Chapter may be cited as the Behavioral Health Law.

### **2) ORDER FOR PROTECTIVE CUSTODY PROCESS (OPC)**

#### **LSA R.S. 28 §53.2. Order for custody; grounds; civil liability; criminal penalty for making a false statement**

A. Any parish coroner or judge of a court of competent jurisdiction may order a person to be taken into protective custody and transported to a treatment facility or the office of the coroner for immediate examination when a peace officer or other credible person executes a statement under private signature specifying that, to the best of his knowledge and belief, the person is mentally ill has a mental illness **or is suffering from substance abuse a substance-related or addictive disorder** and is in need of immediate treatment to protect the person or others from physical harm.

The statement may include the following information:

(1) A statement of facts, including the affiant's observations, leading to the conclusion that the person is mentally ill has a mental illness or is suffering from substance abuse a substance-related or addictive disorder and is dangerous to himself or others or gravely disabled.

\*\*\*

B. Any parish coroner or judge of a court of competent jurisdiction may order that a person be taken into protective custody and transported to a treatment facility or the office of the coroner for immediate examination when a physician, psychiatric mental health nurse practitioner, psychologist, or assigned case manager pursuant to Part III-A of Chapter 1 of this Title presents to the coroner or judge an order of involuntary outpatient treatment, and executes a statement specifying that there is substantial evidence that the patient is not in compliance with the order and there are reasonable grounds to believe that he poses a significant risk of being a danger to self or others.

C. The order for custody shall be in writing, in the name of the state of Louisiana, signed by the district judge or parish coroner, and shall state the following:

\*\*\*

(3) A description of the acts or threats which have led to the belief that the person is mentally ill has a mental illness or is suffering from substance abuse a substance-related or addictive disorder and is in need of immediate hospitalization to protect the person or others from physical harm, and.

\*\*\*

F. Any person who is found guilty of executing a statement that another person is mentally ill has a mental illness or is suffering from substance abuse a substance-related or addictive disorder and is in need of immediate treatment to protect the person or others that the affiant knows or should know is false may be imprisoned, with or without hard labor, for not more than one year, or fined not more than one thousand dollars.

### **3) JUDICIAL COMMITMENT**

#### **LSA R.S. 28 §54. Judicial commitment; procedure**

A. Any person of legal age may file with the court a petition which asserts his belief that a person is suffering from mental illness which contributes or causes that person to be a danger to himself or others or to be gravely disabled, or is suffering from substance abuse a substance-related or addictive disorder which contributes or causes that person to be a danger to himself or others or to be gravely disabled and may thereby request a hearing. The petition may be filed in the judicial district in which the respondent is confined, or if not confined, in the judicial district where he resides or may be found. The hearing shall not be transferred to another district except for good cause shown. A petitioner who is unable to afford an attorney may seek the assistance of any legal aid society or similar agency if available.

\*\*\*

D.(1) As soon as practical after the filing of the petition, the court shall review the petition and supporting documents, and determine whether there exists probable cause to believe that the respondent is suffering from mental illness which contributes to his being or causes him to be a danger to himself or others or gravely disabled, or is suffering from substance abuse a substance-related or addictive disorder which contributes to his being or causes him to be a danger to himself or others or gravely disabled. If the court determines that probable cause exists, the court shall appoint a physician, preferably a psychiatrist, or medical psychologist to examine the respondent and make a written report to the court and the respondent's attorney on the form provided by the office of behavioral health of the Louisiana Department of Health. The court-appointed physician or medical psychologist may be the respondent's treating physician or medical psychologist. The written report shall be made available to counsel for the respondent at least three days before the hearing. This report shall set forth specifically the objective factors leading to the conclusion that the person has a mental illness or suffers from substance abuse a substance-related or addictive disorder, the actions or statements by the person leading to the conclusion that the mental illness or substance abuse substance-related addictive disorder causes the person to be dangerous to himself or others or to be gravely disabled and in need of immediate treatment as a result of such illness or abuse disorder, and why involuntary confinement and treatment are indicated. The following criteria should be considered by the physician or medical psychologist:

(a) The respondent is suffering from serious mental illness which contributes

or causes him to be dangerous to himself or others or to be gravely disabled or from substance abuse a substance-related or addictive disorder which contributes or causes him to be dangerous to himself or others or to be gravely disabled.

\*\*\*

(3) If the respondent refuses to be examined by the court appointed court-appointed physician or medical psychologist as herein provided, or if the judge, after reviewing the petition and an affidavit filed pursuant to R.S. 28:53.2 or the report of the treating physician or medical psychologist or the court appointed court-appointed physician or medical psychologist, finds that the respondent is mentally ill has a mental illness or is suffering from substance abuse a substance-related or addictive disorder and is in need of immediate hospitalization to protect the person or others from physical harm, or that the respondent's condition may be markedly worsened by delay, then the court may issue a court order for custody of the respondent, and a peace officer shall deliver the respondent to a treatment facility designated by the court. The court shall also issue an order to the treatment facility authorizing detention of the respondent until the commitment hearing is completed, unless he is discharged by the director or administrator.

## **LSA R.S. 28 §55. Judicial hearings**

\*\*\*

B. The court shall provide the respondent a reasonable opportunity to select his own counsel. In the event the respondent does not select counsel and is unable to pay for counsel, or in the event counsel selected by the respondent refuses to represent said the respondent or is not available for such representation, then the court shall appoint counsel for the respondent provided by the mental health advocacy service. Reasonable compensation of appointed counsel shall be established by the court and may be ordered paid by the respondent or the petitioner in the discretion of the court if either is found financially capable. If it is determined by the court that the costs shall not be borne by the respondent or the petitioner, then compensation to the attorney shall be paid from funds appropriated to the judiciary.

\*\*\*

E.(1) If the court finds by clear and convincing evidence that the respondent is dangerous to self or others or is gravely disabled, as a result of substance abuse a substance-related or addictive disorder or mental illness, it shall render a judgment for his commitment. After considering all relevant circumstances, including any preference of the respondent or his family, the court shall determine whether the respondent should be committed to a treatment facility which is medically suitable and least restrictive of the respondent's liberty. However, if the placement determined by the court is unavailable, the court shall commit the respondent to the Louisiana Department of Health for placement in a state treatment facility until such time as an opening is available for transfer to the treatment center facility determined by the court, unless the respondent waives the requirement for such transfer. Within fifteen days following an alternative placement, the department shall submit a report to the court stating the reasons for such placement and seeking court approval of the placement.

\*\*\*

(3) Unless prohibited by the respondent, the department shall notify the respondent's family of his placement at and/or or transfer to a state treatment facility.

(4) The director or administrator shall notify the court in writing when a patient has been discharged or conditionally discharged.

(5) The court order shall order a suitable person to convey such person to the treatment facility and deliver respondent, together with a copy of the judgment and certificates, to the director or administrator. In appointing a person to execute the order, the court should give preference to a legal guardian, near relative, or friend of the respondent.

\*\*\*

F. Notice of any action taken by the court shall be given to the respondent and his attorney as well as to the director or administrator of the designated treatment facility in such manner as the court concludes would be appropriate under the circumstances.

G. Each court shall keep a record of the cases relating to persons with who have a mental illness coming before it under this Title and the disposition of them those cases. It shall also keep on file the original petition and certificates of physicians required by this Section, or a microfilm duplicate of such records. All records maintained in the courts under the provisions of this Section shall be sealed and available only to the respondent or his attorney, unless the court, after hearing held with notice to the respondent, determines such records should be disclosed to a petitioner for cause shown.

\*\*\*

I.(1)(a) A patient confined to a treatment facility by judicial commitment may receive medication and treatment without his consent, but no major surgical procedures or electroshock therapy may be performed without the written authority of a court of competent jurisdiction after a hearing. With regard to the administration of medicine, if the patient objects to being medicated, prior to making a final decision, the treating physician shall make a reasonable effort to consult with the primary physician or the primary care provider outside of the facility that who has previously treated the patient for his mental behavioral health condition. The treating physician shall, prior to the administration of such medication, record in the patient's file either the date and time of the consultation and a summary of the comments of the primary physician or primary care provider or, if the treating physician is unable to consult with the primary physician or primary care provider the date and time that a consultation with the primary physician or primary care provider was attempted.

(b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph, any licensed physician may administer medication to a patient without his consent and against his wishes in situations which, in the reasonable judgment of the physician who is observing the patient during the emergency, constitutes a psychiatric or behavioral health emergency. For purposes of this Paragraph, a "psychiatric or behavioral health emergency" occurs when a patient, as a result of mental illness, substance abuse a substance-related or addictive disorder, or intoxication engages in behavior which, in the clinical judgment of the physician, places the patient or others at significant and imminent risk of damage to life or limb. The emergency administration of medication may be continued until the emergency

subsidies, but in no event shall it exceed forty-eight hours, except on weekends or holidays when it may be extended for an additional twenty-four hours.

(c) The physician shall make a reasonable effort to consult with the primary physician or primary care provider outside the facility that who has previously treated the patient for his mental behavioral health condition at the earliest possible time, but in no event more than forty-eight hours after the emergency administration of medication has begun, except on weekends or holidays, when the time period may be extended an additional twenty-four hours. The physician shall record in the patient's file either the date and time of the consultation and a summary of the comments of the primary physician or primary care provider or, if the physician is unable to consult with the primary physician or primary care provider, the date and time that a consultation with the primary physician or primary care provider was attempted.

(2) If the director or administrator of the hospital, in consultation with two physicians, determines that the condition of a committed patient is of such critical nature that it may be life-threatening unless major surgical procedures or electroshock treatment is administered, such measures may be performed without the consent otherwise provided for in this Section.

J. No director or administrator of a treatment facility shall prohibit any person who is mentally ill has a mental illness or person who is suffering from substance abuse a substance-related or addictive disorder from applying for conversion of involuntary or emergency admission status to voluntary admission status. Any patient on an involuntary admission status shall have the right to apply for a writ of habeas corpus to have his admission status changed to voluntary status.

## **LSA R.S. 28 §56. Judicial commitment; review; appeals**

A.(1)(a) Except as provided in Subparagraph (b) of this Paragraph, all judicial commitments except those for alcoholism alcohol use disorder shall be for a period not to exceed one hundred eighty days. The period of commitment shall expire at the end of the judicial commitment period, and the patient, if not converted to a voluntary status, shall be discharged unless a petition for judicial commitment has been filed prior to the expiration of the commitment period. If the court finds by clear and convincing evidence that the patient is dangerous to self or others or is gravely disabled as a result of mental illness, it shall render a judgment for his commitment for an additional period. Except as provided in Subparagraph (b) of this Paragraph, each additional judicial commitment shall expire at the end of one hundred eighty days.

\*\*\*

(2)

\*\*\*

(b) All judicial commitments shall be reviewed by the court issuing the order for commitment every ninety days, except those for alcoholism alcohol use disorder and except those individuals committed pursuant to Code of Criminal Procedure Article 648(B) whose cases shall continue to be reviewed annually. The director or administrator of the treatment facility to which the person has been judicially

committed shall issue reports to the court and to counsel of record at these intervals setting forth the patient's response to treatment, his current condition, and the reasons why continued involuntary treatment is necessary to improve the patient's condition or to prevent it from deteriorating. These reports shall be treated by the court as confidential and shall not be available for public examination, nor shall they be subject to discovery in any proceedings other than those initiated pursuant to this Title.

\*\*\*

B. A commitment for alcoholism alcohol use disorder shall expire after forty-five days and the patient, if not converted to a voluntary status, shall be discharged, unless the court, upon application by the director or administrator of the treatment facility, finds that continued involuntary treatment is necessary and orders the patient recommitted for a period not to exceed sixty days; however, not more than two such sixty-day commitments may be ordered in connection with the same continuous confinement.

C. Notwithstanding an order of judicial commitment, the director or administrator of the treatment facility to which the individual is committed is encouraged to explore treatment measures that are medically appropriate and less restrictive. The director or administrator may at any time convert an involuntary commitment to a voluntary one should he deem that action medically appropriate. He shall inform the court of any action in that regard. The director or administrator may discharge any patient if in his opinion discharge is appropriate. The director or administrator shall not be legally responsible to any person for the subsequent acts or behavior of a patient discharged in good faith.

\*\*\*

G.(1) A person who is judicially committed may be conditionally discharged for a period of up to one hundred twenty days by the director or administrator or by the court. The patient may be required to report for outpatient treatment as a condition of his release. The terms and conditions of the conditional discharge shall be specifically set forth in writing and signed by the patient. A copy of the conditional discharge shall be given to the patient and explained to him before he is discharged.

(2) If the patient is conditionally discharged by the director or administrator, a copy of the conditional discharge shall be sent to the court which judicially committed him. If the patient is conditionally discharged by the court, a copy of the conditional discharge shall be sent to the facility to which the patient has been committed.

(3) If a patient does not comply with the terms and conditions of his conditional discharge, he is subject to any of the procedures for involuntary treatment, including but not limited to the issuance of an order for custody and the execution of an emergency certificate. A conditionally discharged patient who is confined pursuant to any of these involuntary procedures shall have all rights of an involuntary patient, including the right to demand a probable cause hearing, the right to periodic reports and review, and a hearing pursuant to Subsections A and B of this Section.

(4) An extension of a conditional discharge may be granted upon application by the director or administrator of the treatment facility to the court and notification

to respondent's counsel of record. The court may grant the extension of the conditional discharge for a period of up to one hundred twenty days. No further extension may be made without a contradictory hearing. The burden of proof is on the director or administrator of the treatment facility to show why continued treatment is necessary.

#### **4) ASSISTED OUTPATIENT TREATMENT**

##### **§67. Petition to the court**

A petition for an order authorizing involuntary outpatient treatment may be filed in the judicial district in the parish in which the patient is present or reasonably believed to be present. A petition to obtain an order authorizing involuntary outpatient treatment may be initiated by one of the following persons:

(1) The director or administrator of a hospital in which the patient is hospitalized.

\*\*\*

(3) The director of the human service district local governing entity, or his designee, or the manager of the regional office of the Louisiana Department of Health, office of behavioral health, or his designee, in the parish in which the patient is present or reasonably believed to be present.

\*\*\*

##### **LSA R.S. 28 §69. Procedure**

A.(1) Upon the filing of the petition authorized by R.S. 28:67, the court shall assign a time and place for a hearing, which may be conducted before any judge in the judicial district, within five days, and shall cause reasonable notice thereof and a copy of the petition to be served upon the respondent, respondent's attorney, the petitioner and the director of the human service district or the regional manager of the Louisiana Department of Health, office of behavioral health, local governing entity in the parish where the petition has been filed. The notice shall inform the respondent that he has a right to be present, a right to counsel, which may be appointed, if he is indigent or otherwise qualified, has the right to counsel appointed to represent him by the Mental Health Advocacy Service, and a right to cross examine witnesses. Continuances shall be granted only for good cause shown.

\*\*\*

##### **LSA R.S. 28 §70. Written treatment plan for involuntary outpatient treatment**

A. The court shall not order involuntary outpatient treatment unless an examining physician, psychiatric mental health nurse practitioner, or psychologist appointed by the appropriate director of the human service district or regional manager of the Louisiana Department of Health, office of behavioral health, local governing entity develops and provides to the court a proposed written treatment plan. The written treatment plan shall be developed by a treatment team which shall include a case manager, clinical social worker, and licensed physician, psychiatrist, psychiatric mental health nurse practitioner, or psychologist and other specialized



service providers as deemed appropriate by the director or regional manager as well as the patient and upon his request, an individual significant to him and concerned with his welfare. The written treatment plan shall include appropriate services to provide care coordination. Such services shall include case management services or assertive community treatment teams. The written treatment plan shall also include appropriate categories of services, as set forth in Subsection E of this Section, which such team recommends the patient should receive. If the written treatment plan includes medication, it shall state whether the medication should be self-administered or administered by authorized personnel, and shall specify type and dosage range of medication most likely to provide maximum benefit for the patient. B. If the written treatment plan includes alcohol or substance abuse substance-related or addictive disorder counseling and treatment, it may include a provision requiring testing for either alcohol or illegal substances provided the clinical basis for recommending such plan provides sufficient facts for the court to find all of the following:

related treatment.

\*\*\*

## **LSA R.S. 28 §71. Disposition**

\*\*\*

B. If the court finds by clear and convincing evidence that the patient meets the criteria for involuntary outpatient treatment, and no less restrictive alternative is feasible, the court shall order that the patient receive involuntary outpatient treatment for an initial period not to exceed one year. The court shall state reasons why the proposed treatment plan is the least restrictive treatment appropriate and feasible for the patient. The order shall state the categories of involuntary outpatient treatment as set forth in R.S. 28:70, which the patient is to receive, and the court may not order treatment that has not been recommended by the physician, psychiatric mental health nurse practitioner, or psychologist in consultation with the treatment team and included in the written treatment plan. The plan shall be certified by the director of the human service district or the regional manager of the Louisiana Department of Health, office of behavioral health, local governing entity responsible for services in the district where the petition is filed, as offering services which are available through their offices. The court shall not order an outpatient commitment unless the director or regional manager so certifies.

C. If the court finds by clear and convincing evidence that the patient meets the criteria for involuntary outpatient treatment, and a written proposed treatment plan has not been submitted, the court shall order the director of the human service district or the regional manager of the Louisiana Department of Health, office of behavioral health, local governing entity to provide a plan and testimony within five days of the date of the order.

\*\*\*

E. If the petitioner is the director or administrator of a hospital that operates an involuntary outpatient treatment program, the court order shall direct the hospital to provide all categories of involuntary outpatient treatment services. If the hospital does not have such a program or if the patient is discharged to a different district or region local governing entity, or if the director of the human service district or regional manager for the Louisiana Department of Health, office of behavioral

health, local governing entity has filed the petition and certified services are available, the court order shall require the appropriate director or regional manager to provide for all categories of involuntary outpatient treatment services.

F. The director or regional manager shall apply for court approval prior to instituting a proposed material change in the involuntary outpatient treatment order unless such change is contemplated in the order. For purposes of this Subsection, a material change shall mean an addition or deletion of a category of involuntary outpatient treatment service, or any deviation without the consent of the patient from the terms of an existing order relating to the administration of psychotropic drugs, or a change of residence from one district or region local governing entity to another. Any application for court approval shall be served upon all persons required to be served with notice of a petition for an order authorizing involuntary outpatient treatment. Either party may move for a hearing on the application. If a motion is not filed within five days from the date the application is filed, the court shall grant the application.

\*\*\*

### **LSA R.S. 28 §72. Application for additional periods of treatment**

A. The court order for outpatient treatment shall expire at the end of the specified period unless a petition or motion for an extension has been filed. If the director or regional manager determines that a patient requires further involuntary outpatient treatment, he shall file a petition or motion for continued treatment prior to the expiration of the initial involuntary outpatient treatment ordered by the court. If a patient has been ordered to receive outpatient treatment for four consecutive six- month to one-year periods, the period of any subsequent order may exceed one year but shall not exceed two years.

\*\*\*

### **LSA R.S. 28 §73. Application to stay, vacate, or modify**

In addition to any right or remedy available by law, the patient may apply to the court to stay, vacate, or modify the order and he shall notify the director or manager of his application.

\*\*\*

## **5) PART V. FEES AND COSTS**

### **LSA R.S. 28 §141. Costs of commitment and examination**

A. If financially able, the patient or his legally responsible relative legal guardian shall pay the costs of commitment, including examination fees, expenses incurred in calling witnesses, fees of counsel for the patient, and fees of the commission, otherwise the parish of domicile in the case of a resident or the division department in the case of a non-resident shall pay these costs.

B. Fees for services rendered by coroners or other experts in the commitment of patients shall be in accordance with the provisions contained in Article 267 659 of the Code of Criminal Procedure and the special laws relating to the fees of coroners and assisting physicians in interdiction proceedings. Except for emergency commitments which do not result in court commitment and voluntary admissions, the coroner of the parish of domicile shall receive the usual fee allowed in a formal commitment, for all types of commitment under this Chapter, even though he does not act personally in the commitment proceeding.

## **LSA R.S. 28 §142. Costs of transportation**

A. If financially able, the patient or his legally responsible relative legal guardian shall pay all the costs incident to transporting the patient to the mental state psychiatric hospital; otherwise the department, in the case of a nonresident, or the parish in which the hearing was held, in the case of a resident, shall pay these costs. If a patient's domicile is in a parish other than that in which the hearing was held, the former parish shall reimburse the latter for these costs.

B. Fees for transporting patients shall be in accordance with the special laws establishing fees for transporting prisoners.

## **6) PART VII. PENALTIES**

### **LSA R.S. 28 §181. Improper commitment**

Any person who, alone or in conspiracy with others, unlawfully, wilfully willfully, maliciously, and without reasonable cause, commits or attempts to commit to any mental institution any person not sufficiently ill to require suffering from mental illness or a substance-related or addictive disorder to the extent that he requires care shall be fined not more than one thousand dollars, or imprisoned for not more than one year, or both.

### **LSA R.S. 28 §183. Furnishing weapons**

Any person who knowingly makes available any dangerous instrument or weapon to any patient client of any mental institution treatment facility shall be fined not more than five hundred dollars, or imprisoned for not more than two years, or both.

### **LSA R.S. 28 §184. Furnishing intoxicants**

Any person who knowingly makes available any intoxicant to any patient client of any mental institution treatment facility, except with the permission of the superintendent director or administrator, shall be fined not more than five hundred dollars, or imprisoned for not more than one year, or both.

### **LSA R.S. 28 §185. Unlicensed counseling**

A. No person shall hold himself out to be a counselor with a specific specialty to provide mental health or substance abuse substance-related or addictive disorder treatment services, or attempt to provide counseling services in this state, and receive fees either from the patient or a third party, unless he is authorized to practice in the specific specialty area by the appropriate state or regulatory authority.

## **7) CORONER'S STRATEGIC INITIATIVE FOR A HEALTH INFORMATION AND INTERVENTION PROGRAM (ST TAMMANY PARISH ONLY)**

### **LSA R.S. 28 §215.2. Coroner's Strategic Initiative for a Health Information and Intervention Program; powers and duties**

Subject to the availability of adequate funding, a CSI/HIP may perform any of the following functions:

(1) Provide a home-based support system, which shall not provide any mental behavioral health treatment but rather shall provide aid to the individual to ensure that the treatment protocol is being met and to access available mental behavioral health resources in the community for persons who satisfy all of the following criteria:

\*\*\*

(2) Establish a community resource center that is accessible by telephone or Internet to provide twenty-four hour support for persons suffering from a mental health or substance abuse condition or illness or substance-related or addictive disorder by providing educational and outreach materials about the resources for mental behavioral health patients which are available in the community, including the location, transportation, and methods for accessing these resources.

\*\*\*

### **LSA R.S. 28 §215.3. Treatment facilities; dissemination of information**

A. For Notwithstanding R.S. 28.2, for the purposes of this Section, "treatment facility" shall mean any healthcare facility which provides services or treatment to a person who is suffering from a mental health or substance abuse condition or illness or substance-related or addictive disorder except for a nursing home as defined in R.S. 40:2009.2.

B. A treatment facility shall provide to all individuals in the parish suffering from a mental health condition illness or substance-related or addictive disorder upon discharge or release an information and consent form which details the information, programs, and services which can be provided by the CSI/HIP to individuals suffering from mental health conditions illness and substance-related or addictive disorders and includes a voluntary consent form for the individual to complete if the individual desires to have the treatment facility notify the CSI/HIP on behalf of the individual that the individual would like to be contacted by the CSI/HIP to receive additional information about the program.

\*\*\*

### **LSA R.S. 28 §215.4. Consent**

A. Prior to personnel of the coroner's office or CSI/HIP providing any home-based supports or services to an individual, the personnel of the coroner's office or of the CSI/HIP shall provide to the individual in writing a full disclosure of all services to be provided, frequency of home visits, and notice that the individual may withdraw his consent in writing at any time. In addition, the individual shall also consent in writing to the list of persons, if any, with whom the personnel of the coroner or the CSI/HIP may discuss his mental behavioral health condition.

\*\*\*

## **8)PART X. ADVANCE DIRECTIVES FOR BEHAVIORAL HEALTH TREATMENT**

LSA R.S. 28 § 221. Definitions

As used in this Part:

(1) "Advance directive for mental behavioral health treatment" or "advance directive" means a written document voluntarily executed by a principal in accordance with the requirements of this Part and includes a declaration or the appointment of a representative or both.

Section 4. R.S. 40:1237.1(A)(9)(a)(ii)(introductory paragraph) and 2142(A) are hereby amended and reenacted to read as follows: §1237.1. Definitions and general application  
A. As used in this Part: \*\*\*

(9)(a) "State health care provider" or "person covered by this Part" means: \*\*\*

(ii) A person acting in a professional capacity in providing health care services, by or on behalf of the state, including but not limited to a physician, psychologist, coroner, and assistant coroner who is a licensed physician when acting solely in accordance with the Mental Behavioral Health Law as provided in R.S. 28:50 et seq., provided that the premium costs of such malpractice coverage shall be the responsibility of the coroner's office, dentist, a licensed dietician or licensed nutritionist employed by, referred by, or performing work under contract for, a state health care provider or other person already covered by this Part, registered nurse, licensed practical nurse, nurse practitioner, clinical nurse specialist, pharmacist, optometrist, podiatrist, physical therapist, occupational therapist, licensed respiratory therapist, licensed radiologic technologist, licensed clinical laboratory scientist, social worker, hospital administrator, or licensed professional counselor, who is either:

## **9) JUVENILE LAW**

Section 6. Children's Code Article 1404(9) is hereby amended and reenacted to read as follows:

Art. 1404. Definitions

As used in this Title:

\*\*\*

(9) "Family psychiatric mental health nurse practitioner" means an individual who maintains the credentials as such and meets the requirements of a "psychiatric mental health nurse practitioner" as provided in R.S. 28:2(21.2) R.S. 28:2. Further, a family psychiatric mental health nurse practitioner shall have been engaged in clinical practice for not less than three years.

\*\*\*

## **ACT 370 EFFECTIVE 06/23/17**

HB 395 by Representative Dustin Miller

MENTAL HEALTH: Amends the procedures for involuntary mental health treatment  
THIS ACT AMENDS LSA R.S. 28: 54 & 55 regarding Judicial Commitments. Selected relevant portions include:

### **LSA R.S. 28 §54. Judicial commitment; procedure**

A. Any The department or any person of legal age may file with the court a petition which asserts his belief that a person is suffering from mental illness which contributes or causes that person to be a danger to himself or others or to be gravely disabled, or is suffering from substance abuse which contributes or causes that person to be a danger to himself or others or to be gravely disabled and may thereby request a hearing.

C.(1) Upon the filing of the petition, the court shall assign a time, not later than eighteen calendar days thereafter, shall assign and a place for a hearing upon the petition, and shall cause reasonable notice thereof to be given delivered at least ten days prior to the hearing to the respondent, respondent's attorney, and the petitioner, and the Louisiana Department of Health, bureau of legal services. The court may overrule any objections made as to notice being delivered less than ten days prior to the hearing, if there is good cause shown as to why the notice was delivered untimely.

(2) The notice shall inform such the respondent of all of the following:

(a) that That he has a right to be present at the hearing;

(b) that That he has a right to counsel;

(c) that That he, if indigent or otherwise qualified, has the right to have counsel appointed to represent him by the Mental Health Advocacy Service, and. (d) that That he has the right to cross examine cross-examine witnesses testifying at any hearing on such the application.

B. The court shall provide the respondent a reasonable opportunity to select his own counsel. .... Reasonable compensation of appointed counsel shall be established by the court and may be ordered paid by the respondent or the petitioner in the discretion of the court if either is found financially capable. If it is determined by the court that the costs shall not be borne by the respondent or the petitioner, then compensation to the attorney shall be paid from funds appropriated to the judiciary.

C.(1) The respondent shall have the right to privately retained retain and paid pay counsel at any time. However, all respondents must be represented by counsel as early as possible in every proceeding. If attorneys are available through the mental health advocacy service Mental Health Advocacy Service, the court shall contact the office of the Mental Health Advocacy service Service and request the assignment of an attorney who will be appointed. In cases where the Mental Health Advocacy service Service is unable to provide representation, the court shall select and appoint an attorney to represent the respondent, whose fee shall be set by the court.

D. On the day appointed, the hearing shall take precedence over all other matters, except pending cases of the same type, and **shall be a closed hearing.**

E.(1) If the court finds by clear and convincing evidence that the respondent is dangerous to self or others or is gravely disabled, as a result of substance abuse or mental illness, it shall render a judgment for his commitment. After considering all relevant circumstances, including clinical recommendations and any preference of the respondent or his family, the court shall determine whether the respondent should be committed to a treatment facility which is medically suitable and least restrictive of the respondent's liberty. However, if the placement determined by the court is unavailable, the court shall may commit the respondent to the Louisiana Department of Health for appropriate placement in a state treatment facility subject to availability of department resources until such time as an opening is available for transfer to the treatment center determined by the court, unless the respondent waives the requirement for such transfer. Within fifteen days following an alternative placement, the department shall submit a report to the court stating the reasons for such placement and seeking court approval of the placement. If the department is not the petitioner, the parties shall first consult with the department or its counsel before entering into a judgment stipulating to a commitment of the respondent to the department.

\*\*\*

(5) The court order shall order a suitable person to convey such person the respondent to the treatment facility and deliver respondent, together with a copy of the judgment and certificates, with the respondent, to the director. In appointing a person to execute the order, the court should give preference to a near relative or friend of the respondent.

## **SENATE BILLS**

### **ACT 241 EFFECTIVE JUNE 14, 2017**

SB 96 by Senators Johns and Thompson

CONTROL DANGER SUBSTANCE: Provides relative to the prescription monitoring program.

E. The following persons, may access prescription monitoring information 29 at no cost and in the same or similar manner, and for the same or similar purposes, 30 as those persons are authorized to access similar protected health information under federal and state law and regulation: \*\*\*

(5) A medical examiner or coroner, or a delegate thereof, for the purpose of investigating an individual's death.

(6) A licensed substance abuse addiction counselor providing services as part of a state-licensed substance abuse or addiction treatment program.

(7) A probation or parole officer for the purpose of monitoring an offender's compliance with participation in a drug diversion program or with other conditions of probation or parole related to monitored drugs.

CORONER'S NOTE: As of June 14, 2017, Coroners or their pathologists or investigators, may access "audit trail information" or prescription monitoring data which is relevant to any case under investigation under LSA R.S. 40:1007 et seq.

## **ACT 74 EFFECTIVE AUGUST 1, 2017**

SB 152 by Senator Carter

**MOTOR VEHICLES:** Provides relative to a needs accommodation designation on a driver's license or special identification card regarding mental health.

Section 1. R.S. 32:412(O) is hereby enacted to read as follows:

O.(1) Upon request of an applicant for a driver's license who needs accommodation, a designation that the applicant **needs accommodation shall be exhibited on the driver's license**, upon presentation of a statement from a qualified medical professional licensed in Louisiana or any other state or territory of the United States verifying the medical reason, including any mental, physical, or developmental disability, the applicant needs accommodation as established by administrative rule. No additional fee shall be charged to include such designation.

**CORONER'S NOTE:** this may apply in taking OPC requests and provide further information which can be noted on the OPC or CEC form.

## **ACT 254 EFFECTIVE AUGUST 1, 2017**

SB 216 by Senator Tarver

**HEALTH CARE:** Provides for physician assistants executing emergency certificates relative to alleged mental illness or substance abuse

THIS ACT AMENDS LSA R.S. 28:53(B)(1), (2)(a) and (b), and (F), relative to healthcare professionals who may issue an emergency certificate for mental health or substance abuse treatment;

LSA R.S. 28 §53. Admission by emergency certificate; extension; payment for services rendered

\*\*\*

B.(1) Any physician, **physician assistant when acting in accordance with their respective clinical practice guidelines**, psychiatric mental health nurse practitioner, **other nurse practitioner who acts in accordance with a collaborative practice agreement and receives verbal approval for executing the certificate from his collaborating physician, or psychologist** may execute an emergency certificate only after an actual examination of a person alleged to be mentally ill or suffering from substance abuse who is determined to be in need of immediate care and treatment in a treatment facility because the examining physician, **physician assistant when acting in accordance with their respective clinical practice guidelines**, psychiatric mental health nurse practitioner, **other nurse practitioner who acts in accordance with a collaborative practice agreement and receives verbal approval for executing the certificate from his collaborating physician**, or psychologist determines the person to be dangerous to self or others or to be gravely disabled. The actual examination of the person by a psychiatrist may be conducted by telemedicine utilizing video conferencing technology provided that a licensed health care professional who can adequately and accurately assist with obtaining any necessary information including but not limited to the information listed in Paragraph (4) of this Subsection shall be in the examination room with the patient at the time of the video conference. A patient examined in such a manner shall be medically cleared prior to admission to a mental health treatment facility. Failure to conduct an examination prior to the execution of the certificate will be evidence of gross negligence.



(2) The certificate shall state:

(a) The date of the physician's, physician assistant's, psychiatric mental health nurse practitioner's, other nurse practitioner's or psychologist's examination of the person, which shall not be more than seventy-two hours prior to the date of the signature of the certificate.

(b) The objective findings of the physician, physician assistant when acting in accordance with their respective clinical practice guidelines, psychiatric mental health nurse practitioner, other nurse practitioner who acts in accordance with a collaborative practice agreement and receives verbal approval for executing the certificate from his collaborating physician, or psychologist relative to the physical or mental condition of the person, leading to the conclusion that the person is dangerous to self or others or is gravely disabled as a result of substance abuse or mental illness.

\*\*\*

F. An emergency certificate shall constitute legal authority to transport a patient to a treatment facility and shall permit the director of such treatment facility to detain the patient for diagnosis and treatment for a period not to exceed fifteen days, and to return the patient to the facility if he is absent with or without permission during authorized periods of detention. If necessary, peace officers shall apprehend and transport, or ambulance services, under appropriate circumstances, may locate and transport, a patient on whom an emergency certificate has been completed to a treatment facility at the request of either the director of the facility, the certifying physician, physician assistant when acting in accordance with their respective clinical practice guidelines, psychiatric mental health nurse practitioner, other nurse practitioner who acts in accordance with a collaborative practice agreement and receives verbal approval for executing the certificate from his collaborating physician, or psychologist, the patient's next of kin, the patient's curator, or the agency legally responsible for his welfare. In the case of an emergency certificate issued pursuant to an examination conducted by telemedicine pursuant to Paragraph (B)(1) of this Section, or where the valid original is not provided to the transporter, a copy transmitted by facsimile or other electronic device shall be sufficient authority for the peace officer or ambulance worker to transport the patient to a treatment facility and for the director to accept such patient. The psychiatrist shall cause the original certificate to be deposited in the United States mail properly addressed to the director of the treatment facility by the next business day following the date of examination. The director of the treatment facility shall notify the patient's nearest relative, if known, or designated responsible party, if any, in writing, of the patient's admission by emergency certificate as soon as reasonably possible.

\*\*

**EDITORIAL NOTE** : AS OF AUGUST 1, 2017, A PHYSICIAN ASSISTANT WHEN ACTING IN ACCORDANCE WITH THEIR RESPECTIVE CLINICAL PRACTICE GUIDELINES ; PLUS ANY NURSE PRACTITIONER WHO ACTS IN ACCORDANCE WITH A COLLABORATIVE PRACTICE AGREEMENT AND RECEIVES VERBAL APPROVAL FOR EXECUTING THE CERTIFICATE FROM HIS COLLABORATING PHYSICIAN MAY EXECUTE AN EMERGENCY CERTIFICATE.

WHEN ASKED TO ACT ON A PEC FROM A PHYSICIAN ASSISTANT OR NURSE PRACTITIONER DOES THE CORONER NEED WRITTEN DOCUMENTATION ON THE PEC THAT THE PA IS ACTING IN ACCORDANCE WITH THEIR CLINICAL PRACTICE GUIDELINES AND HAVE A COPY OF THE CLINICAL PRACTICE GUIDELINES BEFORE THE PEC CAN BE DETERMINED TO BE VALID? ACTING ON WHAT MIGHT TURN OUT LATER TO BE AN INVALID PEC OR UNDOCUMENTED PEC MAY RESULT IN BRINGING THE CORONER INTO ANY LATER LITIGATION FOR FALSE IMPRISONMENT UNDER THE STATE AND FEDERAL CIVIL RIGHTS LAWS. THE SAME MAY BE TRUE IF ASKED TO ACT ON A PEC FROM A NURSE PRACTITIONER WHO IS NOT A MENTAL HEALTH NURSE PRACTITIONER, DOES THE CORONER NEED WRITTEN DOCUMENTATION ON THE PEC THAT THE THE VERBAL APPROVAL OF THE COLLABORATING PHYSICIAN HAS BEEN OBTAINED PRIOR TO THE EXECUTION OF THE PEC AND ALSO RECEIVE A COPY OF THE COLLABORATIVE PRACTICE AGREEMENT WHICH AUTHORIZES SUCH ACTION?