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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2015	.	
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	.	
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The Committee on Judiciary (Bean) recommended the following:

Senate Amendment

Delete lines 826 - 1007
and insert:

(a) Each individual ~~patient shall receive services,~~
~~including, for a patient placed~~ under s. 394.4655 shall receive,
~~those services that are included in the court order which are~~
~~suited to his or her needs, and which shall be~~ administered
skillfully, safely, and humanely with full respect for the
individual's ~~patient's~~ dignity and personal integrity. Each
individual ~~patient~~ shall receive such medical, vocational,



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12 social, educational, substance abuse, and rehabilitative
13 services as his or her condition requires in order to live
14 successfully in the community. In order to achieve this goal,
15 the department shall ~~is directed to~~ coordinate its mental health
16 and substance abuse programs with all other programs of the
17 department and other state agencies.

18 (b) Facilities shall develop and maintain, in a form that
19 is accessible to and readily understandable by individuals held
20 for examination or admitted for mental health or substance abuse
21 treatment patients and consistent with rules adopted by the
22 department, ~~the following~~:

23 1. Criteria, procedures, and required staff training for
24 the any use of close or elevated levels of supervision, ~~of~~
25 restraint, seclusion, or isolation, ~~or of~~ emergency treatment
26 orders, and ~~for the use of~~ bodily control and physical
27 management techniques.

28 2. Procedures for documenting, monitoring, and requiring
29 clinical review of all uses of the procedures described in
30 subparagraph 1. and for documenting and requiring review of any
31 incidents resulting in injury to individuals receiving services
32 patients.

33 3. A system for investigating, tracking, managing, and
34 responding to complaints by individuals ~~persons~~ receiving
35 services or persons ~~individuals~~ acting on their behalf.

36 (c) Facilities shall have written procedures for reporting
37 events that place individuals receiving services at risk of
38 harm. Such events must be reported to the managing entity in the
39 facility's region and the department as soon as reasonably
40 possible after discovery and include, but are not limited to:



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41 1. The death, regardless of cause or manner, of an
42 individual examined or treated at a facility that occurs while
43 the individual is at the facility or that occurs within 72 hours
44 after release, if the death is known to the facility
45 administrator.

46 2. An injury sustained, or allegedly sustained, at a
47 facility, by an individual examined or treated at the facility
48 and caused by an accident, self-inflicted injury, assault, act
49 of abuse, neglect, or suicide attempt, if the injury requires
50 medical treatment by a licensed health care practitioner in an
51 acute care medical facility.

52 3. The unauthorized departure or absence of an individual
53 from a facility in which he or she has been held for involuntary
54 examination or involuntary placement.

55 4. A disaster or crisis situation such as a tornado,
56 hurricane, kidnapping, riot, or hostage situation that
57 jeopardizes the health, safety, or welfare of individuals
58 examined or treated in a facility.

59 5. An allegation of sexual battery upon an individual
60 examined or treated in a facility.

61 ~~(d)(e)~~ A facility may not use seclusion or restraint for
62 punishment, to compensate for inadequate staffing, or for the
63 convenience of staff. Facilities shall ensure that all staff are
64 made aware of these restrictions ~~on the use of seclusion and~~
65 ~~restraint and shall make and maintain records that which~~
66 demonstrate that this information has been conveyed to each
67 individual staff member members.

68 (5) COMMUNICATION, ABUSE REPORTING, AND VISITS.-

69 (a) Each individual ~~person receiving services~~ in a facility



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70 providing mental health services under this part has the right
71 to communicate freely and privately with persons outside the
72 facility unless it is determined that such communication is
73 likely to be harmful to the individual ~~person~~ or others. Each
74 facility shall make available ~~as soon as reasonably possible to~~
75 ~~persons receiving services~~ a telephone that allows for free
76 local calls and access to a long-distance service to the
77 individual as soon as reasonably possible. A facility is not
78 required to pay the costs of the individual's ~~a patient's~~ long-
79 distance calls. The telephone must ~~shall~~ be readily accessible
80 ~~to the patient~~ and ~~shall be~~ placed so that the individual
81 ~~patient~~ may use it to communicate privately and confidentially.
82 The facility may establish reasonable rules for the use of the
83 ~~this~~ telephone which, ~~provided that the rules~~ do not interfere
84 with an individual's ~~a patient's~~ access to a telephone to report
85 abuse pursuant to paragraph (e).

86 (b) Each individual ~~patient~~ admitted to a facility under
87 ~~the provisions of~~ this part shall be allowed to receive, send,
88 and mail sealed, unopened correspondence; and the individual's
89 ~~no patient's~~ incoming or outgoing correspondence may not ~~shall~~
90 be opened, delayed, held, or censored by the facility unless
91 there is reason to believe that it contains items or substances
92 that ~~which~~ may be harmful to the individual ~~patient~~ or others,
93 in which case the administrator may direct reasonable
94 examination of such mail and may regulate the disposition of
95 such items or substances.

96 (c) Each facility shall allow ~~must permit~~ immediate access
97 to an individual ~~any patient~~, subject to the ~~patient's~~ right to
98 deny or withdraw consent at any time, ~~by the~~ individual, or by



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99 the individual's ~~patient's~~ family members, guardian, guardian
100 advocate, health care surrogate or proxy, representative,
101 ~~Florida statewide or local advocacy council~~, or attorneys
102 ~~attorney~~, unless such access would be detrimental to the
103 individual patient. If the ~~a patient's~~ right to communicate or
104 to receive visitors is restricted by the facility, written
105 notice of such restriction and the reasons for the restriction
106 shall be served on the individual and patient, the individual's
107 ~~patient's~~ attorney, and ~~the patient's~~ guardian, guardian
108 advocate, health care surrogate or proxy, or representative; and
109 such restriction, and the reasons for the restriction, must
110 ~~shall~~ be recorded in on the ~~patient's~~ clinical record ~~with the~~
111 ~~reasons therefor~~. The restriction must ~~of a patient's right to~~
112 ~~communicate or to receive visitors shall~~ be reviewed at least
113 every 7 days. The right to communicate or receive visitors may
114 ~~shall~~ not be restricted as a means of punishment. This ~~Nothing~~
115 ~~in this paragraph may not shall~~ be construed to limit the
116 provisions of paragraph (d).

117 (d) Each facility shall establish reasonable rules, which
118 must be the least restrictive possible, governing visitors,
119 visiting hours, and the use of telephones by individuals
120 ~~patients in the least restrictive possible manner~~. An individual
121 has ~~Patients shall have~~ the right to contact and to receive
122 communication from his or her attorney ~~their attorneys~~ at any
123 reasonable time.

124 (e) Each individual patient receiving mental health or
125 substance abuse treatment ~~in any facility~~ shall have ready
126 access to a telephone in order to report ~~an~~ alleged abuse. The
127 facility staff shall orally and in writing inform each



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128 individual patient of the procedure for reporting abuse and
129 shall make every reasonable effort to present the information in
130 a language the individual patient understands. A written copy of
131 that procedure, including the telephone number of the central
132 abuse hotline and reporting forms, must ~~shall~~ be posted in plain
133 view.

134 (f) The department shall adopt rules providing a procedure
135 for reporting abuse. ~~Facility staff shall be required,~~ As a
136 condition of employment, facility staff shall ~~to~~ become familiar
137 with the requirements and procedures for ~~the~~ reporting ~~of~~ abuse.

138 (6) CARE AND CUSTODY OF PERSONAL EFFECTS ~~OF PATIENTS.~~ A
139 facility shall respect the rights of an individual ~~A patient's~~
140 ~~right~~ to the possession of his or her clothing and personal
141 effects ~~shall be respected~~. The facility may take temporary
142 custody of such effects if ~~when~~ required for medical and safety
143 reasons. The ~~A patient's~~ clothing and personal effects shall be
144 inventoried upon their removal into temporary custody. Copies of
145 this inventory shall be given to the individual patient and to
146 his or her ~~the patient's~~ guardian, guardian advocate, health
147 care surrogate or proxy, or representative and shall be recorded
148 in the ~~patient's~~ clinical record. This inventory may be amended
149 upon the request of the individual patient or his or her ~~the~~
150 ~~patient's~~ guardian, guardian advocate, health care surrogate or
151 proxy, or representative. The inventory and any amendments ~~to it~~
152 must be witnessed by two members of the facility staff and by
153 the individual patient, if he or she is able. All of the ~~a~~
154 ~~patient's~~ clothing and personal effects held by the facility
155 shall be returned to the individual patient immediately upon his
156 or her ~~the~~ discharge or transfer ~~of the patient~~ from the



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157 facility, unless such return would be detrimental to the
158 individual patient. If personal effects are not returned ~~to the~~
159 ~~patient~~, the reason must be documented in the clinical record
160 along with the disposition of the clothing and personal effects,
161 which may be given instead to the individual's patient's
162 guardian, guardian advocate, health care surrogate or proxy, or
163 representative. As soon as practicable after an emergency
164 transfer ~~of a patient~~, the individual's patient's clothing and
165 personal effects shall be transferred to the individual's
166 ~~patient's~~ new location, together with a copy of the inventory
167 and any amendments, unless an alternate plan is approved by the
168 individual patient, if he or she is able, and by his or her the
169 ~~patient's~~ guardian, guardian advocate, health care surrogate or
170 proxy, or representative.

171 (7) VOTING IN PUBLIC ELECTIONS.—A patient who is eligible
172 to vote according to the laws of the state has the right to vote
173 in the primary and general elections. The department shall
174 establish rules to enable patients to obtain voter registration
175 forms, applications for absentee ballots, and absentee ballots.

176 (8) HABEAS CORPUS.—

177 (a) At any time, and without notice, an individual a person
178 held or admitted for mental health or substance abuse
179 examination or placement in a receiving or treatment facility,