

REFERENCE TITLE: **psychiatric mental health nurse practitioners**

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

SB 1182

Introduced by
Senators Aguirre, Allen C: Aboud, Burton Cahill, Leff, Lopez, Verschoor;
Representatives Jones, Pancrazi

AN ACT

AMENDING SECTIONS 36-501, 36-514, 36-537, 36-538, 36-539, 36-540, 36-545.04
AND 36-546, ARIZONA REVISED STATUTES; RELATING TO MENTAL HEALTH SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-501, Arizona Revised Statutes, is amended to
3 read:

4 36-501. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Admitting officer" means a psychiatrist or other physician OR
7 PSYCHIATRIC AND MENTAL HEALTH NURSE PRACTITIONER with experience in
8 performing psychiatric examinations who has been designated as an admitting
9 officer of the evaluation agency by the person in charge of the evaluation
10 agency.

11 2. "Chief medical officer" means the chief medical officer under the
12 supervision of the superintendent of the state hospital.

13 3. "Contraindicated" means that access is reasonably likely to
14 endanger the life or physical safety of the patient or another person.

15 4. "Court" means the superior court in the county in this state in
16 which the patient resides or was found ~~prior to~~ BEFORE screening or emergency
17 admission under ~~provisions of~~ this title.

18 5. "Danger to others" means that the ~~judgement~~ JUDGMENT of a person
19 who has a mental disorder is so impaired that ~~he~~ THE PERSON is unable to
20 understand ~~his~~ THE PERSON'S need for treatment and as a result of ~~his~~ THE
21 PERSON'S mental disorder ~~his~~ THE PERSON'S continued behavior can reasonably
22 be expected, on the basis of competent medical opinion, to result in serious
23 physical harm.

24 6. "Danger to self":

25 (a) Means behavior that, as a result of a mental disorder: ~~—~~

26 ~~(a)~~ (i) Constitutes a danger of inflicting serious physical harm ~~upon~~
27 ON oneself, including attempted suicide or the serious threat thereof, if the
28 threat is such that, when considered in the light of its context and in light
29 of the individual's previous acts, it is substantially supportive of an
30 expectation that the threat will be carried out.

31 ~~(b)~~ (ii) ~~Behavior that, as a result of a mental disorder, will,~~
32 Without hospitalization, ~~—~~ WILL result in serious physical harm or serious
33 illness to the person. ~~, except that this definition shall~~

34 (b) DOES not include behavior that establishes only the condition of
35 gravely disabled.

36 7. "Department" means the department of health services.

37 8. "Deputy director" means the deputy director of the division of
38 behavioral health in the department of health services.

39 9. "Detention" means the taking into custody of a patient or proposed
40 patient.

41 10. "Director" means the director of the department.

42 11. "Division" means the division of behavioral health in the
43 department.

1 12. "Evaluation" means a professional multidisciplinary analysis based
2 on data describing the person's identity, biography and medical,
3 psychological and social conditions carried out by a group of persons
4 consisting of not less than the following:

5 (a) Two **PSYCHIATRIC PRACTITIONERS WHO ARE** licensed physicians, ~~who~~
6 ~~shall be~~ **AND** qualified psychiatrists, if possible, or at least experienced in
7 psychiatric matters, **OR A PSYCHIATRIC AND MENTAL HEALTH NURSE PRACTITIONER.**
8 ~~and who~~ **THE PRACTITIONERS** shall examine and report their findings
9 independently. The person against whom a petition has been filed shall be
10 notified that ~~he~~ **THE PERSON** may select one of the ~~physicians~~ **PRACTITIONERS.**
11 A psychiatric resident in a training program approved by the American medical
12 association or by the American osteopathic association may examine the person
13 in place of one of the ~~psychiatrists~~ **PSYCHIATRIC PRACTITIONERS** if ~~he~~ **THE**
14 **RESIDENT** is supervised in the examination and preparation of the affidavit
15 and testimony in court by a qualified psychiatrist appointed to assist in ~~his~~
16 **THE RESIDENT'S** training, and if the supervising psychiatrist is available for
17 discussion with the attorneys for all parties and for court appearance and
18 testimony if requested by the court or any of the attorneys.

19 (b) Two other individuals, one of whom, if available, shall be a
20 psychologist and in any event a social worker familiar with mental health and
21 human services that may be available placement alternatives appropriate for
22 treatment. An evaluation may be conducted on an inpatient basis, an
23 outpatient basis or a combination of both, and every reasonable attempt shall
24 be made to conduct the evaluation in any language preferred by the person.

25 13. "Evaluation agency" means a health care agency that is licensed by
26 the department and that has been approved pursuant to this title, providing
27 those services required of such agency by this chapter.

28 14. "Examination" means an exploration of the person's past psychiatric
29 history and of the circumstances leading up to the person's presentation, a
30 psychiatric exploration of the person's present mental condition and a
31 complete physical examination.

32 15. "Family member" means a spouse, parent, adult child, adult sibling
33 or other blood relative of a person undergoing treatment or evaluation
34 pursuant to this chapter.

35 16. "Gravely disabled" means a condition evidenced by behavior in which
36 a person, as a result of a mental disorder, is likely to come to serious
37 physical harm or serious illness because ~~he~~ **THE PERSON** is unable to provide
38 for ~~his~~ **THE PERSON'S OWN** basic physical needs.

39 17. "Health care decision maker" has the same meaning prescribed in
40 section 12-2801.

41 18. "Health care entity" means a health care provider, the department,
42 the Arizona health care cost containment system **ADMINISTRATION** or a regional
43 behavioral health authority under contract with the department.

1 19. "Health care provider" means a health care institution as defined
2 in section 36-401 that is licensed as a behavioral health provider pursuant
3 to department rules or a mental health provider.

4 20. "Independent evaluator" means a licensed physician, **PSYCHIATRIC AND**
5 **MENTAL HEALTH NURSE PRACTITIONER** or psychologist selected by the person to be
6 evaluated or by such person's attorney.

7 21. "Informed consent" means a voluntary decision following
8 presentation of all facts necessary to form the basis of an intelligent
9 consent by the patient or guardian with no minimizing of known dangers of any
10 procedures.

11 22. "Least restrictive treatment alternative" means the treatment plan
12 and setting that infringe in the least possible degree with the patient's
13 right to liberty and that are consistent with providing needed treatment in a
14 safe and humane manner.

15 23. "Licensed physician" means any medical doctor or doctor of
16 osteopathy who is either:

17 (a) Licensed in this state.

18 (b) A full-time hospital physician licensed in another state and
19 serving on the staff of a hospital operated or licensed by the United States
20 government.

21 24. "Medical director of an evaluation agency" means a psychiatrist, or
22 other licensed physician experienced in psychiatric matters, who is
23 designated in writing by the governing body of the agency as the person in
24 charge of the medical services of the agency for the purposes of this chapter
25 and may include the chief medical officer of the state hospital.

26 25. "Medical director of a mental health treatment agency" means a
27 psychiatrist, or other licensed physician experienced in psychiatric matters,
28 who is designated in writing by the governing body of the agency as the
29 person in charge of the medical services of the agency for the purposes of
30 this chapter and includes the chief medical officer of the state hospital.

31 26. "Mental disorder" means a substantial disorder of the person's
32 emotional processes, thought, cognition or memory. Mental disorder is
33 distinguished from:

34 (a) Conditions that are primarily those of drug abuse, alcoholism or
35 mental retardation, unless, in addition to one or more of these conditions,
36 the person has a mental disorder.

37 (b) The declining mental abilities that directly accompany impending
38 death.

39 (c) Character and personality disorders characterized by lifelong and
40 deeply ingrained antisocial behavior patterns, including sexual behaviors
41 that are abnormal and prohibited by statute unless the behavior results from
42 a mental disorder.

43 27. "Mental health provider" means any physician or provider of mental
44 health or behavioral health services involved in evaluating, caring for,
45 treating or rehabilitating a patient.

1 28. "Mental health treatment agency" means the state hospital or a
2 health care agency that is licensed by the department and that provides those
3 services that are required of the agency by this chapter.

4 29. "Outpatient treatment" or "combined inpatient and outpatient
5 treatment" means any treatment program not requiring continuous inpatient
6 hospitalization.

7 30. "Outpatient treatment plan" means a treatment plan that does not
8 require continuous inpatient hospitalization.

9 31. "Patient" means any person undergoing examination, evaluation or
10 behavioral or mental health treatment under ~~the provisions of~~ this chapter.

11 32. "Peace officers" means sheriffs of counties, constables, marshals
12 and policemen of cities and towns.

13 33. "Persistently or acutely disabled" means a severe mental disorder
14 that meets all the following criteria:

15 (a) If not treated has a substantial probability of causing the person
16 to suffer or continue to suffer severe and abnormal mental, emotional or
17 physical harm that significantly impairs judgment, reason, behavior or
18 capacity to recognize reality.

19 (b) Substantially impairs the person's capacity to make an informed
20 decision regarding treatment, and this impairment causes the person to be
21 incapable of understanding and expressing an understanding of the advantages
22 and disadvantages of accepting treatment and understanding and expressing an
23 understanding of the alternatives to the particular treatment offered after
24 the advantages, disadvantages and alternatives are explained to that person.

25 (c) Has a reasonable prospect of being treatable by outpatient,
26 inpatient or combined inpatient and outpatient treatment.

27 34. "Prepetition screening" means the review of each application
28 requesting court-ordered evaluation, including an investigation of facts
29 alleged in such application, an interview with each applicant and an
30 interview, if possible, with the proposed patient. The purpose of the
31 interview with the proposed patient is to assess the problem, explain the
32 application and, when indicated, attempt to persuade the proposed patient to
33 receive, on a voluntary basis, evaluation or other services.

34 35. "Prescribed form" means a form established by a court or the rules
35 of the division that have been approved by the director or in accordance with
36 the laws of this state.

37 36. "Professional" means a physician WHO IS licensed pursuant to title
38 32, chapter 13 or 17, ~~or~~ a psychologist WHO IS licensed pursuant to title 32,
39 chapter 19.1 OR A PSYCHIATRIC AND MENTAL HEALTH NURSE PRACTITIONER WHO IS
40 CERTIFIED PURSUANT TO TITLE 32, CHAPTER 15.

41 37. "Proposed patient" means a person for whom an application for
42 evaluation has been made or a petition for court-ordered evaluation has been
43 filed.

1 Long-distance calls are allowed if the patient can pay the agency for them or
2 can properly charge them to another number. The agency may restrict the
3 telephone privileges of a patient if it is notified by the person receiving
4 the calls that the person is being harassed by the calls and wishes them
5 curtailed or halted. Restriction of telephone privileges shall be entered
6 into the patient's clinical record and the information ~~therein~~ **IN THE RECORD**
7 shall be made available on request to the person, ~~and~~ and that person's
8 attorney, guardian or agent appointed pursuant to chapter 32 of this title.

9 3. To be furnished with reasonable amounts of stationery and postage
10 and to be permitted to correspond by mail without censorship with any person.

11 4. To enjoy religious freedom and the right to continue the practice
12 of the person's religion in accordance with its tenets during the detainment,
13 except that this right may not interfere with the operation of the agency.

14 Sec. 3. Section 36-537, Arizona Revised Statutes, is amended to read:
15 **36-537. Powers and duties of counsel**

16 A. The medical director of the agency that conducted the evaluation,
17 at least seventy-two hours before the hearing, shall make available to the
18 patient's attorney copies of the petition for evaluation, **THE** prepetition
19 screening report, **THE** evaluation report, the patient's medical records for
20 the current admission and a list of alternatives to court-ordered treatment
21 that are used in similar cases with an explanation of why they are not
22 appropriate or available.

23 B. The patient's attorney, for all hearings, whether for evaluation or
24 treatment, shall fulfill the following minimal duties:

25 1. Within twenty-four hours of appointment, conduct an interview of
26 the patient. The attorney shall explain to the patient the patient's rights
27 pending court-ordered treatment, the procedures leading to court-ordered
28 treatment, the standards for court-ordered treatment, the alternative of
29 becoming a voluntary patient and whether stipulations at the hearing are
30 appropriate. If the attorney is appointed, the attorney also shall explain
31 that the patient can obtain the patient's own counsel at the patient's own
32 expense and that, if it is later determined that the person is not indigent,
33 the person will be responsible for the fees of the appointed attorney for
34 services rendered after the initial attorney-client conference.

35 2. At least twenty-four hours before the hearing, review the petition
36 for evaluation, prepetition screening report, evaluation report, petition for
37 treatment, the patient's medical records and the list of alternatives to
38 court-ordered treatment.

39 3. At least twenty-four hours before the hearing, interview the
40 petitioner, if available, and the petitioner's supporting witnesses, if known
41 and available.

42 4. At least twenty-four hours before the hearing, interview the
43 physicians **OR THE PSYCHIATRIC AND MENTAL HEALTH NURSE PRACTITIONER** who will
44 testify at the hearing, if available, and investigate the possibility of
45 alternatives to court-ordered treatment.

1 C. Failure of the attorney to fulfill at least the duties prescribed
2 by subsection B may be punished as contempt of court.

3 D. At a hearing held pursuant to this article, the patient's attorney
4 may enter stipulations on behalf of the patient.

5 Sec. 4. Section 36-538, Arizona Revised Statutes, is amended to read:
6 36-538. Independent evaluator

7 At all hearings conducted pursuant to sections 36-539, 36-543 and
8 36-546, a person has the right to have an analysis of ~~his~~ THE PERSON'S mental
9 condition by an independent evaluator. If the person is unable to afford
10 ~~such~~ AN evaluation, the court shall appoint an independent evaluator
11 acceptable to the patient from a list of physicians, PSYCHIATRIC AND MENTAL
12 HEALTH NURSE PRACTITIONERS and psychologists who are willing to accept
13 court-appointed evaluations.

14 Sec. 5. Section 36-539, Arizona Revised Statutes, is amended to read:
15 36-539. Conduct of hearing; record; transcript

16 A. The medical director of the agency shall issue instructions to the
17 physicians OR THE PSYCHIATRIC AND MENTAL HEALTH NURSE PRACTITIONER treating
18 the proposed patient to take all reasonable precautions to ~~insure~~ ENSURE that
19 at the time of the hearing the proposed patient shall not be so under the
20 influence of or so suffer the effects of drugs, medication or other treatment
21 as to be hampered in preparing for or participating in the hearing. The
22 court at the time of the hearing shall be presented a record of all drugs,
23 medication or other treatment that the person has received during the
24 seventy-two hours immediately before the hearing.

25 B. The patient and the patient's attorney shall be present at all
26 hearings, and the patient's attorney may subpoena and cross-examine witnesses
27 and present evidence. The patient may choose to not attend the hearing or
28 the patient's attorney may waive the patient's presence. The evidence
29 presented by the petitioner or the patient shall include the testimony of two
30 or more witnesses acquainted with the patient at the time of the alleged
31 mental disorder, which may be satisfied by a statement agreed on by the
32 parties, and testimony of the two physicians who performed examinations in
33 the evaluation of the patient, which may be satisfied by stipulating to the
34 admission of the evaluating physicians' affidavits as required pursuant to
35 section 36-533, subsection B. The physicians shall testify as to their
36 personal examination of the patient. They shall also testify as to their
37 opinions concerning whether the patient is, as a result of mental disorder, a
38 danger to self or to others, is persistently or acutely disabled or is
39 gravely disabled and as to whether the patient requires treatment. Such
40 testimony shall state specifically the nature and extent of the danger to
41 self or to others, the persistent or acute disability or the grave
42 disability. If the patient is gravely disabled, the physicians shall testify
43 concerning the need for guardianship or conservatorship, or both, and whether
44 or not the need is for immediate appointment. Other persons who have
45 participated in the evaluation of the patient or, if further treatment was

1 requested by a mental health treatment agency, persons of that agency who are
 2 directly involved in the care of the patient shall testify at the request of
 3 the court or of the patient's attorney. Witnesses shall testify as to
 4 placement alternatives appropriate and available for the care and treatment
 5 of the patient. The clinical record of the patient for the current admission
 6 shall be available and may be presented in full or in part as evidence at the
 7 request of the court, the county attorney or the patient's attorney.

8 C. If the patient, for medical reasons, is unable to be present at the
 9 hearing and the hearing cannot be conducted where the patient is being
 10 treated or confined, the court shall require clear and convincing evidence
 11 that the patient is unable to be present at the hearing and on such a finding
 12 may proceed with the hearing in the patient's absence.

13 D. The requirements of subsection B **OF THIS SECTION** are in addition to
 14 all rules of evidence and the Arizona rules of civil procedure, not
 15 inconsistent with subsection B **OF THIS SECTION**.

16 E. A verbatim record of all proceedings under this section shall be
 17 made by stenographic means by a court reporter if a written request for a
 18 court reporter is made by any party to the proceedings at least twenty-four
 19 hours in advance of such proceedings. If stenographic means are not
 20 requested in the manner provided by this subsection, electronic means shall
 21 be directed by the presiding judge. The stenographic notes or electronic
 22 tape shall be retained as provided by statute.

23 F. A patient who has been ordered to undergo treatment may request a
 24 certified transcript of the hearing. To obtain a copy, the patient shall pay
 25 for a transcript or shall file an affidavit that the patient is without means
 26 to pay for a transcript. If the affidavit is found true by the court, the
 27 expense of the transcript is ~~to be~~ a charge on the county in which the
 28 proceedings were held, or, if an intergovernmental agreement by the counties
 29 has required evaluation in a county other than that of the patient's
 30 residence, such expense may be charged to the county of the patient's
 31 residence or in which the patient was found before evaluation.

32 Sec. 6. Section 36-540, Arizona Revised Statutes, is amended to read:
 33 36-540. Court options

34 A. If the court finds by clear and convincing evidence that the
 35 proposed patient, as a result of mental disorder, is a danger to self, is a
 36 danger to others, is persistently or acutely disabled or is gravely disabled
 37 and in need of treatment, and is either unwilling or unable to accept
 38 voluntary treatment, the court shall order the patient to undergo one of the
 39 following:

- 40 1. Treatment in a program of outpatient treatment.
- 41 2. Treatment in a program consisting of combined inpatient and
 42 outpatient treatment.
- 43 3. Inpatient treatment in a mental health treatment agency, in a
 44 veterans administration hospital pursuant to article 9 of this chapter, in

1 the state hospital or in a private hospital, if the private hospital agrees,
2 subject to the limitations of section 36-541.

3 B. The court shall consider all available and appropriate alternatives
4 for the treatment and care of the patient. The court shall order the least
5 restrictive treatment alternative available.

6 C. The court may order the proposed patient to undergo outpatient or
7 combined inpatient and outpatient treatment pursuant to subsection A,
8 paragraph 1 or 2 of this section if the court:

9 1. Determines that all of the following apply:

10 (a) The patient does not require continuous inpatient hospitalization.

11 (b) The patient will be more appropriately treated in an outpatient
12 treatment program or in a combined inpatient and outpatient treatment
13 program.

14 (c) The patient will follow a prescribed outpatient treatment plan.

15 (d) The patient will not likely become dangerous or suffer more
16 serious physical harm or serious illness or further deterioration if the
17 patient follows a prescribed outpatient treatment plan.

18 2. Is presented with and approves a written treatment plan that
19 conforms with the requirements of section 36-540.01, subsection B. If the
20 treatment plan presented to the court pursuant to this subsection provides
21 for supervision of the patient under court order by a mental health agency
22 that is other than the mental health agency that petitioned or requested the
23 county attorney to petition the court for treatment pursuant to section
24 36-531, the treatment plan must be approved by the medical director of the
25 mental health agency that will supervise the treatment pursuant to subsection
26 E of this section.

27 D. An order to receive treatment pursuant to subsection A, paragraph 1
28 or 2 of this section shall not exceed three hundred sixty-five days. The
29 period of inpatient treatment under a combined treatment order pursuant to
30 subsection A, paragraph 2 of this section shall not exceed the maximum period
31 allowed for an order for inpatient treatment pursuant to subsection F of this
32 section.

33 E. If the court enters an order for treatment pursuant to subsection
34 A, paragraph 1 or 2 of this section, all of the following apply:

35 1. The court shall designate the medical director of the mental health
36 treatment agency that will supervise and administer the patient's treatment
37 program.

38 2. The medical director shall not use the services of any person,
39 agency or organization to supervise a patient's outpatient treatment program
40 unless the person, agency or organization has agreed to provide these
41 services in the individual patient's case and unless the department has
42 determined that the person, agency or organization is capable and competent
43 to do so.

1 3. The person, agency or organization assigned to supervise an
2 outpatient treatment program or the outpatient portion of a combined
3 treatment program shall be notified at least three days before a referral.
4 The medical director making the referral and the person, agency or
5 organization assigned to supervise the treatment program shall share relevant
6 information about the patient to provide continuity of treatment.

7 4. During any period of outpatient treatment under subsection A,
8 paragraph 2 of this section, if the court, on motion by the medical director
9 of the patient's outpatient mental health treatment facility, determines that
10 the patient is not complying with the terms of the order or that the
11 outpatient treatment plan is no longer appropriate and the patient needs
12 inpatient treatment, the court, without a hearing and based on the court
13 record, the patient's medical record, the affidavits and recommendations of
14 the medical director, and the advice of staff and physicians **OR THE**
15 **PSYCHIATRIC AND MENTAL HEALTH NURSE PRACTITIONER** familiar with the treatment
16 of the patient, may enter an order amending its original order. The amended
17 order may alter the outpatient treatment plan or order the patient to
18 inpatient treatment pursuant to subsection A, paragraph 3 of this section.
19 The amended order shall not increase the total period of commitment
20 originally ordered by the court or, when added to the period of inpatient
21 treatment provided by the original order and any other amended orders, exceed
22 the maximum period allowed for an order for inpatient treatment pursuant to
23 subsection F of this section. If the patient refuses to comply with an
24 amended order for inpatient treatment, the court may authorize and direct a
25 peace officer, on the request of the medical director, to take the patient
26 into protective custody and transport the patient to the agency for inpatient
27 treatment. When reporting to or being returned to a treatment agency for
28 inpatient treatment pursuant to an amended order, the patient shall be
29 informed of the patient's right to judicial review and the patient's right to
30 consult with counsel pursuant to section 36-546.

31 5. During any period of outpatient treatment under subsection A,
32 paragraph 2 of this section, if the medical director of the outpatient
33 treatment facility in charge of the patient's care determines, in concert
34 with the medical director of an inpatient mental health treatment facility
35 who has agreed to accept the patient, that the patient is in need of
36 immediate acute inpatient psychiatric care because of behavior that is
37 dangerous to self or to others, the medical director of the outpatient
38 treatment facility may order a peace officer to apprehend and transport the
39 patient to the inpatient treatment facility pending a court determination on
40 an amended order under paragraph 4 of this subsection. The patient may be
41 detained and treated at the inpatient treatment facility for a period of no
42 more than forty-eight hours, exclusive of weekends and holidays, from the
43 time that the patient is taken to the inpatient treatment facility. The
44 medical director of the outpatient treatment facility shall file the motion
45 for an amended court order requesting inpatient treatment no later than the

1 next working day following the patient being taken to the inpatient treatment
 2 facility. Any period of detention within the inpatient treatment facility
 3 pending issuance of an amended order shall not increase the total period of
 4 commitment originally ordered by the court or, when added to the period of
 5 inpatient treatment provided by the original order and any other amended
 6 orders, exceed the maximum period allowed for an order for inpatient
 7 treatment pursuant to subsection F of this section. If a patient is ordered
 8 to undergo inpatient treatment pursuant to an amended order, the medical
 9 director of the outpatient treatment facility shall inform the patient of the
 10 patient's right to judicial review and to consult with an attorney pursuant
 11 to section 36-546.

12 F. The maximum periods of inpatient treatment that the court may
 13 order, subject to the limitations of section 36-541, are as follows:

- 14 1. Ninety days for a person found to be a danger to self.
- 15 2. One hundred eighty days for a person found to be a danger to
 16 others.
- 17 3. One hundred eighty days for a person found to be persistently or
 18 acutely disabled.
- 19 4. Three hundred sixty-five days for a person found to be gravely
 20 disabled.

21 G. If, on finding that the patient is gravely disabled, the court also
 22 finds that the evidence indicates that the patient is or may be in need of
 23 guardianship or conservatorship, or both, the court shall order an
 24 investigation concerning the need for a guardian or conservator, or both, and
 25 shall appoint a suitable person or agency to conduct the investigation. The
 26 appointee may include the mental health treatment agency that is providing
 27 inpatient or outpatient treatment, a court-appointed visitor or the public
 28 fiduciary if there is no person willing and qualified to act in that
 29 capacity. The court shall give notice of the appointment to the appointee
 30 within three days of the appointment. The appointee shall submit the report
 31 of the investigation to the court within twenty-one days. The report shall
 32 include recommendations as to who should be guardian or who should be
 33 conservator, or both, and a report of the findings and reasons for the
 34 recommendation. If the investigation and report so indicate, the court shall
 35 order the appropriate person to submit a petition to become the guardian or
 36 conservator, or both, of the patient.

37 H. If, on finding that a patient is gravely disabled, the court also
 38 finds that the patient is in need of immediate guardianship for the purpose
 39 of protection of the patient or for the purpose of carrying out alternatives
 40 to court-ordered treatment, the court may appoint as a temporary guardian a
 41 suitable person or the public fiduciary, if there is no person qualified and
 42 willing to act in that capacity.

43 I. If, on finding that a patient is gravely disabled, the court also
 44 learns that the patient has a guardian appointed under title 14, the court

1 ~~may~~ with notice **MAY** impose on the existing guardian additional duties
2 pursuant to section 14-5312.01.

3 J. The court shall file a report as part of the court record on its
4 findings of alternatives for treatment.

5 K. Treatment shall not include psychosurgery, lobotomy or any other
6 brain surgery without specific informed consent of the patient or the
7 patient's legal guardian and an order of the superior court in the county in
8 which the treatment is proposed, approving with specificity the use of the
9 treatment.

10 L. The medical director or any person, agency or organization used by
11 the medical director to supervise the terms of an outpatient treatment plan
12 shall not be held civilly liable for any acts committed by a patient while on
13 outpatient treatment if the medical director, person, agency or organization
14 has in good faith followed the requirements of this section.

15 M. A peace officer who in good faith apprehends and transports a
16 patient to an inpatient treatment facility on the order of the medical
17 director of the outpatient treatment facility pursuant to subsection E,
18 paragraph 5 of this section shall not be subject to civil liability.

19 N. If a person has been found, as a result of a mental disorder, to
20 constitute a danger to self or others or to be persistently or acutely
21 disabled or gravely disabled and the court enters an order for treatment
22 pursuant to subsection A of this section, the court shall grant access to the
23 person's name, date of birth, social security number and date of commitment
24 to the department of public safety to comply with the requirements of title
25 13, chapter 31 and title 32, chapter 26.

26 Sec. 7. Section 36-545.04, Arizona Revised Statutes, is amended to
27 read:

28 **36-545.04. Costs of court proceedings; compensation for**
29 **evaluation and testimony**

30 A. Except as provided in this chapter, costs of court proceedings and
31 cost of services provided by a county pursuant to article 4 are a charge
32 against the county in which the patient resided or was found ~~prior to~~ **BEFORE**
33 hospitalization. The clerk of the superior court in the county where the
34 proceedings are held shall certify to the board of supervisors of the county
35 where the patient resided or was found ~~prior to~~ **BEFORE** hospitalization that
36 such proceedings were held and the amount of the balance of the incurred
37 costs.

38 B. If a physician, psychologist, **PSYCHIATRIC AND MENTAL HEALTH NURSE**
39 **PRACTITIONER** or social worker is not otherwise compensated for evaluating a
40 person or for testifying at a hearing, or both, the physician, psychologist,
41 **NURSE PRACTITIONER** or social worker shall be paid by the county, an amount
42 determined reasonable by the court, subject to the same limitations as
43 imposed ~~upon~~ **ON** compensation for attorneys in hearings, as provided by
44 section 13-4013. These payments shall be made as a part of the costs of
45 court proceedings as in subsection A of this section.

1 F. The patient shall be informed of ~~his~~ THE PATIENT'S right to consult
2 an attorney by the person or court to whom ~~he~~ THE PATIENT makes ~~his~~ THE
3 request for release at the time ~~he~~ THE PATIENT makes ~~such~~ THE request and, in
4 the case of confinement in an agency, by the reviewing court within one day
5 of its receipt of notice from the medical director of the agency ~~wherein~~
6 ~~WHERE~~ the patient is being treated. The patient shall be permitted to
7 consult an attorney to assist ~~him~~ in preparation of a petition for the writ
8 of habeas corpus and to represent ~~him~~ THE PATIENT in the hearing. If ~~he~~ THE
9 PATIENT is not represented by an attorney, the reviewing court ~~shall~~, within
10 two days of its notice to the patient of ~~his~~ THE PATIENT'S right to counsel,
11 ~~SHALL~~ appoint an attorney to assist ~~him~~ THE PATIENT in the preparation of a
12 petition and to represent ~~him~~ THE PATIENT in the hearing.

13 G. The medical director of the mental health treatment agency, at
14 least twenty-four hours ~~prior to~~ BEFORE the hearing, shall provide the
15 patient's attorney with a copy of the patient's medical records.

16 H. The patient's attorney shall fulfill all of the following minimal
17 duties:

18 1. Within twenty-four hours of appointment, conduct an interview with
19 the patient.

20 2. At least twenty-four hours ~~prior to such~~ BEFORE THE hearing,
21 interview the patient's treatment physician OR PSYCHIATRIC AND MENTAL HEALTH
22 NURSE PRACTITIONER if available.

23 3. ~~Prior to~~ BEFORE the hearing, examine the clinical record of the
24 patient.

25 4. ~~Prior to~~ BEFORE the hearing, examine the patient's court records as
26 to ~~his~~ THE PATIENT'S involuntary treatment.

27 I. An attorney who does not fulfill the duties prescribed by
28 subsection H of this section is subject to contempt of court.