

IC 12-28-2

Chapter 2. Interstate Compact on Mental Health

IC 12-28-2-1

Enactment and text of compact

Sec. 1. The Interstate Compact on Mental Health is hereby enacted into law and entered into by this state with all other states legally joining therein in the form substantially as follows:

INTERSTATE COMPACT ON MENTAL HEALTH

The contracting states solemnly agree that:

Article 1.

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

Article 2.

As used in this compact, the following terms have the following meanings:

- (a) "Sending state" means a party state from which a patient is transported pursuant to this compact or from which it is contemplated that a patient may be so sent.
- (b) "Receiving state" means a party state to which a patient is transported pursuant to this compact or to which it is contemplated that a patient may be so sent.
- (c) "Institution" means any hospital or other facility maintained by a party state or political subdivision of a party state for the care and treatment of mental illness or mental deficiency.
- (d) "Patient" means any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to this compact.
- (e) "After-care" means care, treatment, and services provided a patient, as defined in this compact, on convalescent status or conditional release.
- (f) "Mental illness" means mental disease to the extent that a person so afflicted requires care and treatment for that person's own welfare, the welfare of others, or the welfare of the community.
- (g) "Mental deficiency" means mental deficiency as defined by

appropriate clinical authorities to the extent that a person so afflicted is incapable of managing the person's self and the person's affairs. However, the term does not include mental illness as defined in this compact.

(h) "State" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(i) "Guardian" includes any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with the power to act for or exercise responsibility for the person or property of a patient.

Article 3.

(a) Whenever a person physically present in any party state is in need of institutionalization by reason of mental illness or mental deficiency, the person shall be eligible for care and treatment in an institution in that state irrespective of the person's residence, settlement, or citizenship qualifications.

(b) Notwithstanding the provisions of paragraph (a) of this article, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of the patient would be facilitated or improved by this transfer. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions of the care and treatment of the patient. The factors referred to in this paragraph shall include:

- (1) the patient's full record with due regard for the location of the patient's family;
- (2) the character of the illness and probable duration thereof; and
- (3) any other factors considered to be appropriate.

(c) No state shall be obliged to receive any patient pursuant to paragraph (b) of this article unless the sending state has given advance notice of its intention to send the patient, furnished all available medical and other pertinent records concerning the patient, given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish, and unless the receiving state agrees to accept the patient.

(d) If the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

(e) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and any further transfer of the patient may be made as seems likely to be in the best interest of the patient.

Article 4.

(a) Whenever, pursuant to the laws of the state in which a patient is physically present, it is determined that the patient should receive

after-care or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such after-care in the receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served, and if the public safety would not be jeopardized, the patient may receive after-care or supervision in the receiving state.

(c) In supervising, treating, or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

Article 5.

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, the patient shall be detained in the state where found pending disposition in accordance with law.

Article 6.

The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

Article 7.

(a) No person shall be deemed a patient of more than one (1) institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

(b) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two (2) or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

(c) Nothing in this compact may be construed to alter or affect any

internal relationships among the departments, agencies, and officers of and in the government of a party state, or between a party state and its subdivisions as to the payment of costs or responsibilities for the costs.

(d) Nothing in this compact may be construed to prevent any party state or subdivision of a party state from asserting any right against any person, agency, or other entity in regard to costs for which such party state or subdivision may be responsible pursuant to this compact.

(e) Nothing in this compact may be construed to invalidate any reciprocal agreement between a party state and a non-party state relating to institutionalization, care, or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which those agreements may be made.

Article 8.

Nothing in this compact may be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on the guardian's own behalf or in respect of any patient for whom a guardian may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances. However, in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by the court or continue the guardian's power and responsibility, whichever the court determines is advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state instead of making a supplemental or substitute appointment.

Article 9.

(a) No provision of this compact except Article 5 shall apply to any person institutionalized:

- (1) while under sentence in a penal or correctional institution;
- (2) while subject to trial on a criminal charge; or
- (3) whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, the person would be subject to incarceration in a penal or correctional institution.

(b) To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail, or lock-up, but the patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

Article 10.

(a) Each party state shall appoint a compact administrator who, on behalf of the state, shall act as general coordinator of activities under the compact in that state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by that state either in the capacity of sending or receiving state. The compact administrator or the administrator's duly designated representative shall be the official with whom other party states shall deal in any manner relating to the compact or any patient processed thereunder.

(b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

Article 11.

(a) The duly constituted administrative authorities of any two (2) or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency.

(b) No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

Article 12.

This compact shall enter into full force and effect as to any state when enacted by the state into law and the state shall thereafter be a party to the compact with any and all states legally joining in the compact.

Article 13.

(a) A state party to this compact may withdraw from the compact by enacting a statute repealing the compact. Such withdrawal shall take effect one (1) year after notice of the withdrawal has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to that state or sent out of that state pursuant to this compact.

(b) Withdrawal from any agreement permitted by Article 7(b) as to costs or from any supplementary agreement made pursuant to Article 11 shall be in accordance with the terms of that agreement.

Article 14.

(a) This compact shall be liberally construed so as to effectuate the purposes thereof.

(b) The provisions of this compact are severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby.

(c) If this compact is held contrary to the constitution of any state party to the compact, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

As added by P.L.2-1992, SEC.22.

IC 12-28-2-2

Compact administrator; rules; cooperation

Sec. 2. (a) Pursuant to the compact described in section 1 of this chapter, the director or a person authorized to act on behalf of the director shall perform the duties of compact administrator.

(b) The compact administrator may, acting jointly with like officers of other party states, adopt rules to carry out more effectively the terms of the compact.

(c) The compact administrator shall cooperate with all departments, agencies, and officers of the state and subdivisions of the state in facilitating the proper administration of the compact or of any supplementary agreement entered into by Indiana under the compact.

As added by P.L.2-1992, SEC.22.

IC 12-28-2-3

Supplementary agreements

Sec. 3. The compact administrator may enter into supplementary agreements with appropriate officials of other states pursuant to articles 7 and 11 of the compact. If a supplementary agreement requires or contemplates:

(1) the use of an institution or a facility of Indiana; or

(2) the provision of any service by Indiana;

the agreement does not have force or effect until approved by the head of the department or agency under whose jurisdiction the particular institution or facility is operated or whose department or agency will be charged with provision of the service.

As added by P.L.2-1992, SEC.22.

IC 12-28-2-4

Financial obligations; discharge

Sec. 4. The compact administrator may, subject to the approval of the chief state fiscal officer, make or arrange for any payments necessary to discharge any financial obligations imposed upon Indiana by the compact or by a supplementary agreement.

As added by P.L.2-1992, SEC.22.