

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 1436
SENATE BILL 1091

AN ACT TO AMEND GENERAL STATUTES CHAPTER 122, ARTICLE 3, PART 2 (PATIENT'S RIGHTS), AND TO PROVIDE SPECIFIC PATIENT'S RIGHTS FOR MINORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-55.1 is amended by inserting in the first sentence, after "each" and before "patient", the word "adult".

Sec. 2. G.S. 122-55.2(a) is amended by inserting in the first sentence, after "each" and before "patient", the word "adult".

Sec. 3. G.S. 122-55.2(b) is amended by inserting in the first sentence, after "each" and before "patient", the word "adult".

Sec. 4. G.S. 122-55.2(c) is amended by inserting in the first sentence, after "Each" and before "patient", the word "adult".

Sec. 5. G.S. 122-55.2(d) is amended by rewriting paragraph one thereof to read as follows:

"(d) No right enumerated in subsection (b) above may be limited or restricted without a written statement in the patient's treatment or habilitation plan which indicates the detailed reason for such a restriction or limitation. No restriction of rights shall be made except by mental health or mental retardation professionals responsible for the formulation of the patient's treatment or habilitation plan. In each instance of restriction of rights, the patient's next of kin or guardian shall be given written notice of the restriction and the reason therefor. A written restriction shall be effective for a period not to exceed 60 days and shall be renewed only by a written statement entered by a mental health or mental retardation professional in the patient's treatment or habilitation plan which indicates the reason for such renewal of the restriction. In each instance of renewal of a restriction, the patient's next of kin or guardian shall be given written notice of the renewal of the restriction and the reason therefor. The right to receive visitors and to make visits outside the facility shall be subject to reasonable written regulations imposed by the director of the facility and approved in writing by the Secretary of the Department of Human Resources to prevent passage of contraband to patients; provided, however, that no restriction may be placed upon the right of any patient to communicate with an attorney of the patient's choice, to have that attorney visit with him and, with the consent of the patient, to have the attorney provided with copies of all pertinent records and information relating to the patient."

Sec. 6. G.S. 122-55.6 is amended by rewriting the first paragraph thereof to read as follows:

"Each institutionalized patient shall have the right to receive appropriate treatment for mental and physical ailments and for the prevention of illness or disability. Each patient within 30 days after admission shall have an individual written treatment or habilitation plan formulated by the treatment facility's mental health or mental retardation professionals. Each patient who has been institutionalized in a State hospital shall have, as soon as practical but not later than the time of discharge, an individualized written post-institutionalization plan setting forth a program of recommended vocational counseling or out-patient care. A copy of such

plan shall be furnished to the patient or his guardian and, with the consent of the patient, to his attorney and his next of kin."

Sec. 7. G.S. 122-55.6 is amended by deleting the word "patently" in line 6 of the second paragraph.

Sec. 8. Article 3 of G.S. Chapter 122 is amended by inserting a new Part 3, to read as follows: "Part 3. Rights of Minor Patients

"§ 122-55.8. **Declaration of policy on rights of minor patients.** — It is the policy of North Carolina to insure basic rights to each minor patient of a treatment facility. These rights include the right to dignity, humane care, and proper adult supervision and guidance. In recognition of his status as a developing individual, the minor shall be provided opportunities to enable him to mature physically, emotionally, intellectually, socially, and vocationally. In view of the physical, emotional, and intellectual immaturity of the minor, the treatment facility shall stand in loco parentis to the minor when he is in residence.

"§ 122-55.9. **Rights of minor patients.** — (a) Each minor patient of a treatment facility may at all reasonable times:

- (1) Communicate and consult with the agency or individual having legal custody of him; and
- (2) Communicate and consult with legal counsel and private mental health or mental retardation specialists of his or his legal custodian's or guardian's choice, at his own expense.

(b) Except as provided in subsection (c), each minor patient of a treatment facility shall have the right to:

- (1) Receive special education and vocational training in addition to other forms of treatment;
- (2) Participate in play, recreation, physical exercise, and outdoor activity on a regular basis, in accordance with his needs;
- (3) Keep and use his own clothing and personal possessions under appropriate supervision;
- (4) Participate in religious worship;
- (5) Receive such assistance as needed in sending and receiving correspondence, and in making telephone calls at his own expense;
- (6) Receive visitors, under appropriate supervision, between the hours of 8 a.m. and 9 p.m. for a period of at least six hours daily, two hours of which shall be after the hour of 6 p.m., such visiting not to take precedence over school or therapies; and
- (7) Have access to individual storage space for his own use.

(c) No right enumerated in subsection (b) may be restricted without a written statement in the minor's treatment or habilitation plan which indicates the detailed reason for such restriction. No restriction of rights shall be made except by mental health or mental retardation professionals responsible for the formulation of the patient's treatment or habilitation plan. A written restriction shall be effective for a period not to exceed 60 days and shall be renewed only by a written statement entered by a mental health or mental retardation professional in the minor's treatment or habilitation plan which indicates the detailed reasons for such renewal. Provided, however, that no restriction may be placed upon the right of any patient to communicate with an attorney of the patient's choice, to have that attorney visit with him and, with the consent of the patient, to have the attorney provided with copies of all pertinent records and information relating to the patient.

(d) G.S. 122-55.3, 122-55.4, 122-55.5, and 122-55.6 are also applicable to minors."

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.