

CHAPTER 76

APPOINTMENT OF MENTAL HEALTH ADVOCATES

H.F. 468

AN ACT relating to the appointment of mental health advocates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 229.1, Code 2015, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. “*Advocate*” means a mental health advocate.

NEW SUBSECTION. 14A. “*Region*” means a mental health and disability services region formed in accordance with section 331.389.

Sec. 2. Section 229.9A, Code 2015, is amended to read as follows:

229.9A Advocate informed.

The court shall direct the clerk to shall furnish the advocate of the respondent’s county of residence with appointed for the county in which an application is completed a copy of the application and any order issued pursuant to section 229.8, subsection 3. The advocate may attend the hospitalization hearing of any respondent for whom the advocate has received notice of a hospitalization hearing.

Sec. 3. Section 229.12, subsection 2, Code 2015, is amended to read as follows:

2. All persons not necessary for the conduct of the proceeding shall be excluded, except that the court may admit persons having a legitimate interest in the proceeding and shall permit the advocate from the respondent’s county of residence where the respondent is located to attend the hearing. Upon motion of the county attorney, the judge may exclude the respondent from the hearing during the testimony of any particular witness if the judge determines that witness’s testimony is likely to cause the respondent severe emotional trauma.

Sec. 4. Section 229.19, Code 2015, is amended to read as follows:

229.19 Advocates — appointment — duties — employment and compensation — state and county liability.

1. a. In each county with a population of three hundred thousand or more inhabitants the board of supervisors shall appoint an individual who has demonstrated by prior activities an informed concern for the welfare and rehabilitation of persons with mental illness, and who is not an officer or employee of the department of human services nor, an officer or employee of a region, an officer or employee of a county performing duties for a region, or an officer or employee of any agency or facility providing care or treatment to persons with mental illness, to act as an advocate representing the interests of patients involuntarily hospitalized by the court, in any matter relating to the patients’ hospitalization or treatment under section 229.14 or 229.15. In each county with a population of under three hundred thousand inhabitants, the chief judge of the judicial district encompassing the county shall appoint the advocate.

b. ~~The committing court or, if the advocate is appointed by the county board of supervisors, the board shall assign the advocate appointed from a patient’s county of residence to represent the interests of the patient. If a patient has no county of residence or the patient is a state case, the court or, if the advocate is appointed by the county board of supervisors, the board shall assign the advocate appointed from the county where the hospital or facility is located to represent the interests of the patient shall assign the advocate for the county where the patient is located. A county or region may seek reimbursement from the patient’s county of residence or from the region in which the patient’s county of residence is located.~~

c. The advocate’s responsibility with respect to any patient shall begin at whatever time the attorney employed or appointed to represent that patient as respondent in hospitalization proceedings, conducted under sections 229.6 to 229.13, reports to the court that the attorney’s services are no longer required and requests the court’s approval to withdraw as counsel for that patient. However, if the patient is found to be seriously mentally impaired at the

hospitalization hearing, the attorney representing the patient shall automatically be relieved of responsibility in the case and an advocate shall be assigned to the patient at the conclusion of the hearing unless the attorney indicates an intent to continue the attorney's services and the court so directs. If the court directs the attorney to remain on the case, the attorney shall assume all the duties of an advocate. The clerk shall furnish the advocate with a copy of the court's order approving the withdrawal and shall inform the patient of the name of the patient's advocate.

d. With regard to each patient whose interests the advocate is required to represent pursuant to this section, the advocate's duties shall include all of the following:

(1) To review each report submitted pursuant to sections 229.14 and 229.15.

(2) If the advocate is not an attorney, to advise the court at any time it appears that the services of an attorney are required to properly safeguard the patient's interests.

(3) To be readily accessible to communications from the patient and to originate communications with the patient within five days of the patient's commitment.

(4) To visit the patient within fifteen days of the patient's commitment and periodically thereafter.

(5) To communicate with medical personnel treating the patient and to review the patient's medical records pursuant to section 229.25.

(6) To file with the court quarterly reports, and additional reports as the advocate feels necessary or as required by the court, in a form prescribed by the court. The reports shall state what actions the advocate has taken with respect to each patient and the amount of time spent.

(7) To utilize the related best practices for the duties identified in this paragraph "d" developed and promulgated by the judicial council.

e. An advocate may also be ~~appointed~~ assigned pursuant to this section for an individual who has been diagnosed with a co-occurring mental illness and substance-related disorder.

2. The hospital or facility to which a patient is committed shall grant all reasonable requests of the advocate to visit the patient, to communicate with medical personnel treating the patient, and to review the patient's medical records pursuant to section 229.25. An advocate shall not disseminate information from a patient's medical records to any other person unless done for official purposes in connection with the advocate's duties pursuant to this chapter or when required by law.

3. ~~The court or, if the advocate is appointed by the county board of supervisors, the board shall prescribe reasonable compensation for the services of the advocate. The compensation shall be based upon the reports filed by the advocate with the court the duties performed by the advocate and in accordance with the personnel policies set forth by the board for county employees. The advocate's compensation shall be paid by the county in which the court is located, either on order of the court or, if the advocate is appointed by the county board of supervisors, on the direction of the board. If the advocate is appointed by the court, the advocate is an employee of the state for purposes of chapter 669. If the advocate is appointed by the county board of supervisors, the~~ The advocate is an employee of the county, including for purposes of chapter chapters 97B and 670. If the patient or the person who is legally liable for the patient's support is not indigent, the board shall recover the costs of compensating the advocate from that person. If that person has an income level as determined pursuant to section 815.9 greater than one hundred percent but not more than one hundred fifty percent of the poverty guidelines, at least one hundred dollars of the advocate's compensation shall be recovered in the manner prescribed by the county board of supervisors. If that person has an income level as determined pursuant to section 815.9 greater than one hundred fifty percent of the poverty guidelines, at least two hundred dollars of the advocate's compensation shall be recovered in substantially the same manner prescribed by the county board of supervisors as provided in section 815.9.

4. The state mental health and disability services commission created in section 225C.5, in consultation with advocates and county and judicial branch representatives, shall adopt rules pursuant to chapter 17A relating to advocates that include but are not limited to all of the following topics:

a. Quarterly and annual reports.

b. Data collection requirements.

c. Juvenile patient representation.

d. Grievance procedures.

e. Conflict of interest provisions.

f. Workforce coverage.

g. Confidentiality.

h. Minimum professional qualifications and educational requirements.

i. Caseload criteria.

j. Caseload audits.

k. Quality assurance measures.

l. Territory assignments.

5. An advocate appointed by the chief judge of a judicial district or by the county board of supervisors prior to July 1, 2015, shall be considered to be appointed by the county board of supervisors on July 1, 2015, as required in subsection 1. Such an advocate shall be compensated at a minimum at the advocate's wage and benefit level in place immediately prior to July 1, 2015.

Approved April 24, 2015