

Senate Bill No. 35—Committee on  
Health and Human Services

CHAPTER.....

AN ACT relating to mental health; ratifying and enacting the Interstate Compact on Mental Health; designating the Administrator of the Division of Public and Behavioral Health of the Department of Health and Human Services as the Compact Administrator; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

The Interstate Compact on Mental Health is an interstate compact which addresses issues relating to the treatment of persons with mental illness or mental deficiencies that prevents such persons from caring for themselves in states that are members of the Compact. The Compact provides for the transfer of any patient to another state for treatment when factors based on clinical determinations indicate that the care and treatment of the patient would be facilitated or improved through such a transfer. The Compact requires a state that transfers a patient to another state to pay costs of transporting the patient unless the states between which the patient is transferred arrange for a different allocation of such costs. Additionally, the Compact authorizes a court in a state to which a patient is transferred to appoint a supplemental or substitute guardian for a patient in certain circumstances. **Section 2** of this bill adopts the language used in 45 other states necessary to enter the Compact.

The Compact requires each state that is a party to the Compact to appoint a Compact Administrator and authorizes the administrative authorities of any two or more party states to enter into supplementary agreements concerning services, facilities and institutional care and treatment of persons with mental illness or mental deficiencies. **Section 3** of this bill appoints the Administrator of the Division of Public and Behavioral Health of the Department of Health and Human Services as the Compact Administrator. **Section 3** requires the Compact Administrator to: (1) cooperate with all departments, agencies and officers of and within the government of this State to facilitate proper administration of the Compact; (2) enter into supplementary agreements with officials of other states pursuant to the Compact; and (3) adopt any regulations necessary or convenient to carry out the Compact.

**Section 4** of this bill provides that any provisions of Nevada law governing the same circumstances as the Compact apply insofar as they do not conflict with the Compact, but requires any conflict between the provisions of the Compact and provisions of Nevada law to be resolved in favor of the provisions of the Compact. **Section 4** also provides that the Compact shall not be construed to abrogate certain rights of consumers of mental health services.

Existing law authorizes the Administrator to enter into agreements for the return of nonresident consumers of mental health services to their state of residence under certain circumstances. (NRS 433.444) **Section 5** of this bill requires such agreements to comply with the provisions of the Compact when applicable.

Existing law prescribes the requirements for the return of certain indigent residents discharged as having recovered from mental illness to their county of residence within this State. (NRS 433A.400) Because the Compact provides that a patient may receive care or services in another state that is a party to the Compact while the patient is on convalescent status or conditional release, **section 6** of this



bill authorizes the delivery of such a person to a state that is a party to the Compact in the manner provided in the Compact.

Existing law authorizes the Administrator to contract with the appropriate officials in another state for the reception, detention, care or treatment of a person with mental illness under certain circumstances. (NRS 433A.430) Because the Compact allows for the transfer of persons with mental illness to another state without a formal contract, **section 7** of this bill authorizes the Administrator to transfer a person with mental illness to another state in the manner provided in the Compact.

Existing law authorizes the return of any person involuntarily admitted by a court to any facility of the Division of Public and Behavioral Health or of the Division of Child and Family Services of the Department of Health and Human Services who is found by the court not to be a resident of this State and to be a resident of another state to his or her state of residence if an appropriate institution of that state is willing to accept the person. (NRS 433A.016, 433A.440) **Section 8** of this bill requires a transfer that is subject to the Compact to be conducted in accordance with the Compact.

Existing law requires the Administrator of the Division of Child and Family Services to comply with certain agreements made by the Administrator of the Division of Public and Behavioral Health concerning the return of nonresident consumers of mental health services to their state of residence. (NRS 433.444, 433B.140) **Section 9** of this bill also requires the Administrator of the Division of Child and Family Services to comply with agreements made by the Administrator of the Division of Public and Behavioral Health pursuant to the Compact.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 433 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

**Sec. 2.** *The Interstate Compact on Mental Health is hereby ratified, enacted into law and entered into with all jurisdictions legally joining in the Compact, in substantially the form set forth in this section:*

***INTERSTATE COMPACT ON MENTAL HEALTH***

***The contracting states solemnly agree that:***

***ARTICLE I.***

***The party states find that the proper and expeditious treatment of persons with mental illness and mental deficiencies 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 II.

### *As used in this Compact:*

(a) *“Aftercare” means care, treatment and services provided to a patient on convalescent status or conditional release.*

(b) *“Institution” means any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency.*

(c) *“Mental deficiency” means mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself or herself and his or her affairs, but does not include mental illness as defined herein.*

(d) *“Mental illness” means mental disease to such extent that a person so afflicted requires care and treatment for his or her own welfare, or the welfare of others, or of the community.*

(e) *“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 the provisions of this Compact.*

(f) *“Receiving state” means a party state to which a patient is transported pursuant to the provisions of the Compact or to which it is contemplated that a patient may be so sent.*

(g) *“Sending state” means a party state from which a patient is transported pursuant to the provisions of the Compact or from which it is contemplated that a patient may be so sent.*

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



### ARTICLE III.

*(a) Whenever a person physically present in any party state is in need of institutionalization by reason of mental illness or mental deficiency, he or she is eligible for care and treatment in an institution in that state irrespective of his or her residence, settlement or citizenship qualifications.*

*(b) The provisions of paragraph (a) of this Article to the contrary notwithstanding, 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 said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this paragraph include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof and such other factors as are considered appropriate.*

*(c) No state is obliged to receive any patient pursuant to the provisions of 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 and 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 the receiving state agrees to accept the patient.*

*(d) In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this Compact must receive the same priority as a local patient and must be taken in the same order and at the same time that he or she would be taken if he or she 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 such further transfer of the patient may be made as seems likely to be in the best interest of the patient.*

### ARTICLE IV.

*(a) Whenever, pursuant to the laws of the state in which a patient is physically present, it is determined that the patient should receive aftercare 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 have reason to believe that aftercare 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 aftercare in said receiving state, and such investigation must be made with all reasonable speed. The request for investigation must 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 thereby, and if the public safety would not be jeopardized thereby, the patient may receive aftercare or supervision in the receiving state.*

*(c) In supervising, treating or caring for a patient on aftercare 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 V.**

*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, he or she must be detained in the state where found pending disposition in accordance with law.*

#### **ARTICLE VI.**

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



## ARTICLE VII.

*(a) No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state has 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 or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.*

*(c) No provision of this Compact shall 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 therefor.*

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

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

## ARTICLE VIII.

*(a) Except as otherwise provided in paragraph (b) of this Article, nothing in this Compact shall be construed to abridge, diminish or in any way impair the rights, duties and responsibilities of any patient's guardian on his or her own behalf or in respect of any patient for whom he or she may serve.*

*(b) Except as otherwise provided in paragraph (c) of this Article, 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 is appropriate in the circumstances.*

*(c) In the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state has the sole discretion to relieve a guardian appointed by it or continue his or her power and responsibility, whichever it deems 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 in lieu of making a supplemental or substitute appointment.*

*(d) The term "guardian" as used in paragraphs (a), (b) and (c) of this Article includes any guardian, trustee, legal committee, conservator or other person or agency, however denominated, who is charged by law with power to act for or responsibility for the person or property of a patient.*

#### **ARTICLE IX.**

*(a) No provision of this Compact except Article V applies to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.*

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

#### **ARTICLE X.**

*(a) Each party state shall appoint a Compact Administrator who, on behalf of his or her state, shall act as general coordinator of activities under the Compact in his or her state and who shall receive copies of all reports, correspondence and other documents relating to any patient processed under the Compact by his or her state either in the capacity of sending or receiving state. The Compact Administrator or his or her duly designated representative is the official with whom other party states shall deal in any matter relating to the Compact or any patient processed thereunder.*



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

#### **ARTICLE XI.**

*The duly constituted administrative authorities of any two 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 find that such agreements will improve services, facilities or institutional care and treatment in the fields of mental illness or mental deficiency. 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 XII.**

*This Compact enters into full force and effect as to any state when enacted by it into law and such state shall thereafter be a party thereto with any and all states legally joining therein.*

#### **ARTICLE XIII.**

*(a) A state party to this Compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal takes effect 1 year after notice thereof has been communicated officially and in writing to the Governors and Compact Administrators of all other party states. However, the withdrawal of any state does not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the Compact.*

*(b) Withdrawal from any agreement permitted by paragraph (b) of Article VII as to costs or from any supplementary agreement made pursuant to Article XI must be in accordance with the terms of such agreement.*

#### **ARTICLE XIV.**

*This Compact shall be liberally construed so as to effectuate the purposes thereof. 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 will not be affected thereby. If this Compact is held contrary to the constitution of any state party thereto, the Compact remains 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.*

**Sec. 3.** *The Administrator shall serve as the Compact Administrator of the Interstate Compact on Mental Health. The Compact Administrator shall:*

*1. Cooperate with all departments, agencies and officers of and in the government of this State and its subdivisions in facilitating the proper administration of the Compact or of any supplementary agreement entered into by this State under the Compact.*

*2. Enter into supplementary agreements with appropriate officials of other states pursuant to the Compact. If a supplementary agreement requires or contemplates the use of any institution or facility of this State or the provision of any service by this State, the supplementary agreement has no force or effect until approved by the head of the department or agency under whose jurisdiction the institution or facility is operated or whose department or agency will be charged with the rendering of the service.*

*3. Adopt any regulations necessary or convenient to carry out the Compact.*

**Sec. 4.** *1. To the extent possible, the provisions of the Interstate Compact on Mental Health are intended to supplement other statutory provisions governing the treatment and transfer of persons with mental illness and persons with intellectual disabilities and the return of such persons to their place of residence must be given effect to the extent that those provisions do not conflict with the provisions of the Compact.*

*2. Except as provided in subsection 3, if there is a conflict between the provisions of the Compact and any other provisions of NRS, the provisions of the Compact prevail.*

*3. Nothing in the Compact shall be construed to restrict any rights of a consumer as provided in NRS 433.456 to 433.536, inclusive.*



**Sec. 5.** NRS 433.444 is hereby amended to read as follows:

433.444 1. For the purpose of facilitating the return of nonresident consumers to the state in which they have legal residence, the Administrator may enter into reciprocal agreements ~~†, consistent with the provisions of chapters 433 to 433C, inclusive, of NRS,†~~ with the proper boards, commissioners or officers of other states for the mutual exchange of consumers confined in, admitted or committed to a mental health facility in one state whose legal residence is in the other. ~~†, and†~~ *Such reciprocal agreements must be consistent with the provisions of chapters 433 to 433C, inclusive, of NRS, including, if applicable, the Interstate Compact on Mental Health ratified and enacted in section 2 of this act.*

2. *The Administrator* may give written permission for the return and admission to a division facility of any resident of this state when such permission is conformable to the provisions of chapters 433 to 433C, inclusive, of NRS governing admissions to a division facility ~~†~~

~~—2.†~~ *, including, if applicable, the Interstate Compact on Mental Health ratified and enacted in section 2 of this act.*

3. The county clerk and board of county commissioners of each county, upon receiving notice from the Administrator that an application for the return of an alleged resident of this state has been received, shall promptly investigate and report to the Administrator their findings as to the legal residence of the consumer.

**Sec. 6.** NRS 433A.400 is hereby amended to read as follows:

433A.400 1. An indigent resident of this state discharged as having recovered from his or her mental illness, but having a residual medical or surgical disability which prevents him or her from obtaining or holding remunerative employment, must be returned to the county of his or her last residence, except as otherwise provided pursuant to ~~†subsection†~~ *subsections 2 †† and 3.* A nonresident indigent with such disabilities must be returned to the county from which he or she was involuntarily court-admitted, except as otherwise provided in ~~†subsection†~~ *subsections 2 †† and 3.* The administrative officer of the mental health facility shall first give notice in writing, not less than 10 days before discharge, to the board of county commissioners of the county to which the person will be returned and to the person's legal guardian.

2. Delivery of the indigent person must be made to an individual or agency authorized to provide further care. If the person has a legal guardian, the facility shall notify the guardian before discharging the person from the facility. The legal guardian has discretion to determine where the person will be released, taking



into consideration any discharge plan proposed by the facility assessment team. If the legal guardian does not inform the facility as to where the person will be released within 3 days after the date of notification, the facility shall discharge the person according to its proposed discharge plan.

3. *An indigent person may be delivered to a state that is a party to the Interstate Compact on Mental Health ratified and enacted in section 2 of this act regardless of residency in the manner provided in the Compact.*

4. This section does not authorize the release of any person held upon an order of a court or judge having criminal jurisdiction arising out of a criminal offense.

**Sec. 7.** NRS 433A.430 is hereby amended to read as follows:

433A.430 1. Whenever the Administrator determines that division facilities within the State are inadequate for the care of any person with mental illness, the Administrator may designate two physicians, licensed under the provisions of chapter 630 or 633 of NRS, and familiar with the field of psychiatry, to examine that person. If the two physicians concur with the opinion of the Administrator, the Administrator may ~~contract~~ :

(a) *Transfer the person to a state that is a party to the Interstate Compact on Mental Health ratified and enacted in section 2 of this act in the manner provided in the Compact; or*

(b) *Contract with appropriate corresponding authorities in any other state of the United States ~~having~~ that is not a party to the Compact and has* adequate facilities for such purposes for the reception, detention, care or treatment of that person, but if the person in any manner objects to the transfer, the procedures in subsection 3 of NRS 433.484 and subsections 2 and 3 of NRS 433.534 must be followed. The two physicians so designated are entitled to a reasonable fee for their services which must be paid by the county of the person's last known residence.

2. Money to carry out the provisions of this section must be provided by direct legislative appropriation.

**Sec. 8.** NRS 433A.440 is hereby amended to read as follows:

433A.440 1. If any person involuntarily court-admitted to any division facility pursuant to NRS 433A.310 is found by the court not to be a resident of this State and to be a resident of another state, the person may be transferred to the state of his or her residence pursuant to NRS 433.444 , *and, if applicable, the Interstate Compact on Mental Health ratified and enacted in section 2 of this act*, if an appropriate institution of that state is willing to accept the person.



2. The approval of the Administrator of the Division of Public and Behavioral Health of the Department must be obtained before any transfer is made pursuant to subsection 1.

**Sec. 9.** NRS 433B.140 is hereby amended to read as follows:

433B.140 The Administrator shall:

1. Comply with any agreements made by the Administrator of the Division of Public and Behavioral Health of the Department pursuant to NRS 433.444 ~~†~~ and , *if applicable, the Interstate Compact on Mental Health ratified and enacted in section 2 of this act; and*

2. Accept for admission to a division facility any resident child of this State for whom written permission for return and admission to a division facility was given by the Administrator of the Division of Public and Behavioral Health of the Department pursuant to NRS 433.444 ~~†~~ *and, if applicable, the Interstate Compact on Mental Health ratified and enacted in section 2 of this act.*

**Sec. 10.** The Secretary of State of the State of Nevada shall transmit a duly certified copy of sections 2, 3 and 4 of this act to the governor of each state, and to the Attorney General and Secretary of State of the United States.

**Sec. 11.** This act becomes effective upon passage and approval.

