EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

33-15-0873
Office of the Speaker
Judith T. Won Pat, Ed.D
Date: 9/18/2015
Time: 2:43PM
Received By: [illegible]

September 16, 2015

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina' trentai Tres Na Liheslaturan Guåhan
155 Hesler Street
Hagåtna, Guam 96910

Dear Madame Speaker:

Transmitted herewith is Bill No. 115-33 (COR), **"AN ACT TO *ADD* A NEW CHAPTER 82A, AND A NEW SUBSECTION (h) TO § 82201 OF ARTICLE 2 OF CHAPTER 82, ALL OF DIVISION 4, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING ASSISTED OUTPATIENT TREATMENT SERVICES TO PERSONS WITH CERTAIN MENTAL ILLNESSES, WHICH *SHALL* BE KNOWN AS THE "BABY ALEXYA LAW,"** which was signed into law on SEPTEMBER 15, 2015 as **Public Law 33-71.**

RAY TENORIO
I Maga'låhen Guåhan Para Pågo

0873

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I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LÅHEN GUÅHAN*

This is to certify that **Substitute Bill No. 115-33 (COR), "AN ACT TO *ADD* A NEW CHAPTER 82A, AND A NEW SUBSECTION (h) TO § 82201 OF ARTICLE 2 OF CHAPTER 82, ALL OF DIVISION 4, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING ASSISTED OUTPATIENT TREATMENT SERVICES TO PERSONS WITH CERTAIN MENTAL ILLNESSES, WHICH *SHALL* BE KNOWN AS THE "BABY ALEXYA LAW,"** was on the 3rd day of September 2015, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 3rd day of Sept, 2015, at 4:45 o'clock P.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

RAYMOND S. TENORIO
Acting Governor of Guam

Date: SEP 15 2015

Public Law No. 33-71

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

Bill No. 115-33 (COR)
As substituted by the Committee on Health, Economic Development, Homeland Security, and Senior Citizens.

Introduced by:

Dennis G. Rodriguez, Jr.
R. J. Respicio
V. Anthony Ada
Brant T. McCreadie
N. B. Underwood, Ph.D.
Tommy Morrison
Frank F. Blas, Jr.
FRANK B. AGUON, JR.
Mary Camacho Torres
T. R. Muña Barnes
Michael F.Q. San Nicolas
Judith T. Won Pat, Ed.D.
T. C. Ada
B. J.F. Cruz
James V. Espaldon

AN ACT TO *ADD* A NEW CHAPTER 82A, AND A NEW SUBSECTION (h) TO § 82201OF ARTICLE 2 OF CHAPTER 82, ALL OF DIVISION 4, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING ASSISTED OUTPATIENT TREATMENT SERVICES TO PERSONS WITH CERTAIN MENTAL ILLNESSES, WHICH *SHALL* BE KNOWN AS THE "BABY ALEXYA LAW."

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1.** A new Chapter 82A is *added* to Division 4 of Title 10, Guam
3 Code Annotated, to read:

1 "CHAPTER 82A

2 ASSISTED OUTPATIENT TREATMENT

3 Article 1. Legislative Findings and Intent.

4 Article 2. Definitions.

5 Article 3. Voluntary Treatment.

6 Article 4. Petition for Assisted Treatment.

7 Article 5. Assisted Treatment Hearing Procedures.

8 Article 6. Assisted Treatment Hearing Disposition.

9 Article 7. Appeals.

10 Article 8. Safeguards.

11 Article 9. Assisted Outpatient Treatment.

12 Article 10. Review of Status.

13 Article 11. Renewals.

14 Article 12. Procedures for Discharge.

15 Article 13. Emergency Treatment/Observation - Certification.

16 Article 14. Accountability.

17 Article 15. Patient Bill of Rights.

18 ARTICLE 1

19 **§ 82A101. Legislative Findings and Intent.** *I Liheslaturan*
20 *Guåhan* finds that Assisted Outpatient Treatment (AOT) is practiced in
21 forty-five (45) states as an extension of inpatient treatment, while allowing
22 the qualified patient with a treatable mental illness or condition to receive
23 court ordered treatment on an outpatient basis. It is also known in some
24 states as outpatient commitment. A detailed six (6)-month study of New
25 York's Kendra's Law documented a striking decline in the rate of
26 hospitalization among participants. AOT recipients were hospitalized at less
27 than half the rate they were hospitalized in the six (6) months prior to

receiving AOT (i.e., the hospitalization rate dropped from seventy-four (74) percent to thirty-six (36) percent). Further, when they were hospitalized, the length of the stay was greatly reduced. Studies in other states have demonstrated similar benefits.

The continued treatment and management of the patient's condition on an outpatient basis has also been determined to greatly reduce incidents of violence and arrests. Without AOT, the patient's condition often deteriorates directly due to a lack of treatment compliance and the continuing exhibition of "good" adherence to their medication treatment plan.

Another tragic consequence for many individuals with untreated mental illnesses is homelessness. At any given time, there are more people with untreated severe psychiatric illnesses living on America's streets than are receiving care in hospitals. In New York, when compared to the three (3) years prior to their participation in the program, seventy-four (74) percent fewer AOT recipients experienced homelessness (New York State Office of Mental Health 2005). New York and other states have incurred enormous costs in the provision of public assistance for housing assistance and re-hospitalization.

I Liheslaturan Guåhan further finds that the consequences of untreated mental illness are as apparent as they are devastating: homelessness, criminalization, suicide, violence, victimization, lost productivity, permanently decreased medication responses, and the incalculable costs of unnecessary suffering. Due to advances in recent years, treatment is now available that can eliminate or substantially alleviate the symptoms of mental illness for most who suffer from it. People with treated mental illness can now reclaim their lives. But first, there must be treatment.

Treatment voluntarily embraced is always preferable. However, mental illness is a biologically based disease that attacks the brain. As a result, mental illness renders many people incapable of voluntarily entering treatment because they are unable to make rational decisions or unaware that they are ill. When this occurs, such people may require assisted treatment to protect their lives, as well as to avoid tragic personal and societal consequences.

This Act is designed to be the legal framework for the provision of care to individuals who, due to the symptoms of severe mental illness, become either dangerous or incapable of making informed medical decisions concerning their treatment.

The procedural components of this Act are intended to create a flexible mechanism that can be used to secure treatment for those who most need it while still distinguishing those for whom intervention is inappropriate. Paramount are the strict and plentiful safeguards which this Act establishes to protect both the rights and well-being of those subject to it.

It is the intent of *I Liheslaturan Guåhan* to provide for a missing but necessary treatment component in our mental healthcare system. As was the case in New York City in the establishment of Kendra's Law, it took the tragic death of Ms. Kendra Webdale, a young woman who died in January 1999 after being pushed in front of a New York City subway train by a person who was living in the community at the time, but was not receiving treatment for his mental illness. On Guam, we had the recent case of ten (10) month old baby Alexya being punched in the face while in the arms of her mother under similar circumstances by a person not receiving treatment for her mental illness.

1 **§ 82A102.** This Act *shall* be cited as the "Baby Alexya Law."

2 **ARTICLE 2**

3 **§ 82A201. Definitions.**

4 As used in this Chapter, unless the context requires otherwise:

5 (a) *Assisted treatment* means the provision of treatment, in
6 accordance with this Act, to individuals who are either dangerous or
7 incapable of making informed medical decisions because of the effects of
8 severe mental illness.

9 (b) *Assisted outpatient treatment* (AOT) means assisted treatment
10 on an outpatient basis.

11 (c) *Certificate* means a form filed with the court by a psychiatrist
12 or other physician to request an assisted treatment hearing for an individual
13 currently in emergency treatment/observation.

14 (d) *Chronically disabled* may be shown by establishing that the
15 person is incapable of making an informed medical decision and, based on
16 the person's psychiatric history, the person is unlikely to comply with
17 treatment and, as a consequence, the person's current condition is likely to
18 deteriorate until his or her psychiatric disorder significantly impairs the
19 person's judgment, reason, behavior or capacity to recognize reality and has
20 a substantial probability of causing him or her to suffer or continue to suffer
21 severe psychiatric, emotional or physical harm.

22 (e) *Court* means the Superior Court of Guam, which *shall* be the
23 court of judicial review designated to accept petitions and certificates for
24 assisted treatment and related filings, decide on preliminary and ex parte
25 motions, and all other functions assigned to it pursuant to this Act.

26 (f) *Danger to himself or herself* may be shown by establishing that,
27 by his or her behavior, a person is, in the reasonably foreseeable future,

likely to either attempt suicide, to inflict bodily harm on himself or herself or, because of his or her actions or inaction, to suffer serious physical harm in the near future. The person's past behavior may be considered.

(g) *Danger to others* may be shown by establishing that, by his or her behavior, a person is in the reasonably foreseeable future likely to cause or attempt to cause harm to another. Evidence that a person is a danger to others may include, but is *not* limited to:

(1) that he or she has inflicted, or attempted or threatened in an objectively serious manner to inflict, bodily harm on another;

(2) that by his or her actions or inactions, he or she has presented a danger to a person in his or her care; or

(3) that he or she has recently and intentionally caused significant damage to the substantial property of others.

(h) *Gravely disabled*, as defined in § 82101(c) of Chapter 82, may be shown by establishing that a person is incapable of making an informed medical decision and has behaved in such a manner as to indicate that he or she is unlikely, without supervision and the assistance of others, to satisfy his or her need for either nourishment, personal or medical care, shelter, or self-protection and safety so that it is probable that substantial bodily harm, significant psychiatric deterioration or debilitation, or serious illness will result unless adequate treatment is afforded.

(i) *Incapable of making an informed medical decision* means that a person is unaware of the effects of his or her psychiatric disorder or that the person lacks the capacity to make a well-reasoned, willful, and knowing decision concerning his or her medical or psychiatric treatment. Any history of the person's non-compliance with treatment or of criminal acts related to his or her mental illness *shall*, if available, be considered.

(j) *Petition* means a form filed with a court to request an assisted treatment hearing based on the good faith belief of the petitioner that the subject of the petition is eligible for assisted treatment pursuant to the provisions of this Act.

(k) *Petitioner shall only* mean the Director of the Guam Behavioral Health and Wellness Center or his or her designee, in conjunction with the treating psychiatrist or physician who has examined the respondent, and who *shall* file the petition.

(l) *Respondent* means the person who is the subject of a petition or certificate.

(m) *Severe psychiatric disorder* means a substantial impairment of a person's thought processes (e.g., delusions), sensory input (e.g., hallucinations), mood balance (e.g., mania or severe depression), memory (e.g., dementia), or ability to reason that substantially interferes with a person's ability to meet the ordinary demands of living. Severe psychiatric disorders are distinguished from:

(1) conditions that are primarily due to drug abuse or alcoholism, although severe psychiatric disorders may co-exist with these disorders;

(2) other known neurological disorders such as epilepsy, multiple sclerosis, Parkinson's disease, or Alzheimer's disease, although such neurological disorders may also have psychotic features similar to those found in severe psychiatric disorders;

(3) normal age-related changes in the brain;

(4) brain changes related to terminal medical conditions;

(5) personality disorders as defined by the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders" (APA-DSM);

(6) moderate, severe and profound mental retardation as defined by the APA-DSM; and

(7) pervasive developmental disorders, including autistic disorder, Rett's disorder and Asperger's disorder as defined by the APA-DSM.

(n) *Treating professional, professional staff, professional person or qualified mental health professional shall* mean a licensed professional qualified by training or experience in the diagnosis of mental or related illness. The following licensed professionals *shall* be so designated:

(1) a psychiatrist;

(2) a clinical psychologist;

(3) a certified psychiatric nurse at the Master's level; or

(4) a physician.

(o) Guam Behavioral Health and Wellness Center (GBHWC) is the public agency designated by the government of Guam to diagnose or treat persons with mental health disorders.

ARTICLE 3
VOLUNTARY TREATMENT

§ 82A301. Admission to Voluntary Treatment. A person in need of psychiatric care should be admitted into treatment voluntarily whenever possible.

§ 82A302. Discharge From Voluntary Treatment. A voluntary patient may seek discharge at any time. Unless properly invoking the provisions of this Act allowing for their retention, the psychiatric treatment

facility must release voluntary patients who request to be discharged within forty-eight (48) hours, not including Saturdays, Sundays or holidays.

ARTICLE 4

PETITION FOR ASSISTED TREATMENT

§ 82A401. Criteria.

(a) A person may be ordered to receive assisted outpatient treatment (AOT) if the court finds that such person:

(1) is eighteen (18) years of age or older; and

(2) is suffering from mental illness; and

(3) is an inpatient client or a client transitioning out of Mental Health Court; or

(4) is an outpatient client or was a former client who is being treated or has been treated for mental illness at the GBHWC; and

(5) is unlikely to survive safely in the community without supervision, based on clinical determination; and

(6) has a history of poor treatment compliance for mental illness that has:

(A) been a significant factor in his or her being in a hospital, prison or jail at least twice within the last thirty-six (36) months for inflicting serious bodily injury upon others or upon himself; or

(B) resulted in one or more acts, attempts or threats of serious bodily injury toward self or others within the last forty-eight (48) months; and

(7) as a result of mental illness, is unlikely to voluntarily participate in outpatient treatment that would enable him or her to live safely in the community; and

(8) be, in view of his or her treatment and current behavior, in need of assisted outpatient treatment in order to prevent relapse or deterioration which would likely result in:

(A) a substantial risk of physical harm to the consumer as manifested by threats or attempts at suicide or serious bodily injury or conduct demonstrating that the consumer is dangerous to himself or herself, or

(B) a substantial risk of physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious bodily injury; and

(9) be likely to benefit from assisted outpatient treatment.

(b) A petition for an AOT order may be sought within the seventy-two (72) hour hold as provided when initiated pursuant to § 82201(h) of Chapter 82.

ARTICLE 5

ASSISTED TREATMENT HEARING PROCEDURES

§ 82A501. Continuance. The court may, for good cause, order a continuance of up to forty-eight (48) hours or, if this period ends on a Saturday, Sunday or holiday, to the end of the next day on which the court is open. The continuance *shall* extend the emergency treatment/observation period or any temporary treatment order until the time of the hearing.

§ 82A502. Location of Assisted Treatment Hearing. For those currently admitted to an inpatient facility operated by the Guam Behavioral Health and Wellness Center, or its designee, assisted treatment hearings *shall* be held at the court.

§ 82A503. Attendance at Hearing. The hearing *shall* be open to anyone *unless* the respondent requests that it be closed, at which point only parties and their counsels, witnesses, members and staff of the GBHWC, and court personnel may be present. However, the court may approve a motion of an individual to attend the trial upon a showing that the person has a substantial interest in the proceeding.

§ 82A504. Expert Testimony Required at Hearing. For a hearing on a certificate, a treating professional who has examined the respondent since he or she was placed under emergency treatment/observation *shall* testify.

For a hearing on a petition, the testimony of a treating professional who has examined the respondent more recently than seven (7) calendar days before the petition was filed is required. Such testimony may be presented by affidavit, *unless* respondent's counsel requests of the petitioner or petitioner's counsel, in writing, the presence of such a treating professional at the assisted treatment hearing. A copy of this request must be filed with the court and made at least seventy-two (72) hours, excluding Saturdays, Sundays and holidays, prior to the hearing. If planning to present the examining treating professional's testimony by affidavit, counsel for the petitioner must present a copy of the affidavit either to respondent's counsel or at the office of respondent's counsel at least twenty-four (24) hours, excluding Saturdays, Sundays and holidays, prior to the hearing. The procedures applicable when the respondent has not been examined prior to the hearing are delineated in § 82A601.

§ 82A505. Evidence Admissible at Hearing. The court may review any information it finds relevant, material, and reliable, even if normally excluded under rules of evidence.

§ 82A506. Record of Hearing. No transcript is required to be kept of hearings before the court.

§ 82A507. Rights of Family Members. A family member may file a motion for participation in the hearing. The court may approve the preliminary motion of such an individual to participate in the hearing upon a showing that the person has a substantial interest in the proceeding. If the psychiatrist or physician so approves, the family member may have the right to representation by counsel at his or her own expense, present evidence, cross-examine witnesses, and appeal.

ARTICLE 6

ASSISTED TREATMENT HEARING DISPOSITION

§ 82A601. Procedure After Failure to Comply With Ordered Evaluation. If the respondent presents good and credible cause why he or she was not present for an ordered evaluation, the court *shall* continue the proceeding and issue another order for examination. A hearing concerning an individual who fails to comply, without good cause, with a court's evaluation order *shall* still proceed. An individual's refusal, without good cause, to comply with an evaluation order may be used as evidence of his or her need for treatment and incapability of making an informed medical decision. If a continuance is ordered, the respondent *shall* be placed in a designated psychiatric facility and evaluated by a treating professional. The continuance *shall* be for no more than seventy-two (72) hours or, if this period ends on a Saturday, Sunday or holiday, until the end of the next day on which the court is open.

§ 82A602. Consent Order. At the hearing, the petitioner and respondent may proffer a mutually agreed upon proposed assisted treatment order, known as a consent order. The terms of the order must be consistent

with those of an initial order for assisted treatment made pursuant to this Act. The consent order must be accompanied by the testimony, which may be by affidavit, of a treating professional qualifying under § 82A201 that the suggested order is clinically appropriate for the respondent. At its discretion, the court may enter the consent order without a full hearing. Once entered, the consent order has the same effect as an assisted treatment order issued pursuant to § 82A603.

§ 82A603. Assisted Treatment Order. An order for assisted treatment, for its duration, subordinates the individual's right to refuse the administration of medication or other minor medical treatment to the GBHWC, its designee, or any other medical provider obligated to care for the person by the court in its order. The treatment setting *shall* be the least restrictive possible and appropriate alternative. An initial order for assisted treatment on an outpatient basis may be for up to one hundred eighty (180) calendar days.

§ 82A604. Services Included in Order for Assisted Outpatient Treatment. An initial assisted treatment order directing care on an outpatient basis must include provisions for intensive case management. The order may also require the patient to make use of and care providers to supply any or all of the following categories of services to the individual:

(a) medication;

(b) periodic blood tests or urinalysis to determine compliance with treatment;

(c) individual or group therapy;

(d) day or partial day programming activities;

(e) educational and vocational training or activities;

(f) alcohol or substance abuse treatment and counseling, and periodic tests for the presence of alcohol or illegal drugs for persons with a history of alcohol or substance abuse;

(g) supervision of living arrangements; and

(h) any other services prescribed to treat the person's mental illness and to assist the person in living and functioning in the community, or to attempt to prevent a relapse or deterioration.

Any material modifications of the provisions of the assisted treatment order to which the patient does not agree must be approved by the court.

§ 82A605. Effect of Assisted Treatment Determination on Other Rights. The determination that a person is in need of assisted treatment as an outpatient is *not* a determination that the patient is legally incompetent or incapacitated for any purpose other than those set out in this Act.

ARTICLE 7

APPEALS

§ 82A701. Appeal or Review of Assisted Treatment Decision or Status. *Except* where specifically prohibited by this Act, a decision of the psychiatrist or physician may be appealed to an appropriate court of record within ten (10) calendar days of being entered. The hearing of an appeal is *de novo* and must be held within seven (7) calendar days of the filing of the appeal. The subject of the assisted treatment decision, the petitioner, and family members allowed as parties pursuant to § 82A507 have the right to appeal. The court of record may review any information it finds relevant, material, and reliable, even if normally excluded under rules of evidence.

ARTICLE 8

SAFEGUARDS

§ 82A801. Thirty (30)-Day Review for Medication Side Effects. Each patient receiving medication pursuant to an assisted treatment order *shall* be examined every thirty (30) days for serious side effects by his or her treating professional.

§ 82A802. Recommendation for Alternative Appropriate Treatment. After an examination described in § 82A801 determines, in his or her clinical judgment, that the patient has serious side effects from his or her current medication, the treating professional *shall* suggest, if available, an alternative appropriate treatment that will have fewer side effects.

§ 82A803. Grievance Procedure. There *shall* be a one-step grievance procedure made available to patients on assisted outpatient treatment status. Grievances concerning treatment may be made to the medical director of each inpatient facility. Grievances about a patient's treatment regimen may be brought by the patient or on the patient's behalf by his or her legal guardian or conservator; his or her patient advocate; any party at a hearing for the institution of or renewal of assisted treatment; or his or her spouse, parent, adult child or, if there is no relative of such degree, his or her closest living relative. The grievance of a patient whose treating psychiatrist is the facility's medical director *shall* be ruled on by a medical professional generally appointed for this purpose by the GBHWC or its designee.

§ 82A804. Appeal of Grievance. Grievances that are disallowed may be appealed to the court, which *shall* hear the appeal within fourteen (14) calendar days. All rulings on appeals of grievances by the court are final. If the appeal of a grievance is denied, the patient it was brought either by or for is barred from appealing, and others from doing so on his or her behalf, any other grievances to the court for a period of ninety (90) days.

This limitation of appeal *does not* otherwise alter the patient's right to bring grievances in accordance with the provisions of § 82A803.

ARTICLE 9

ASSISTED OUTPATIENT TREATMENT

§ 82A901. Enforcement of Assisted Outpatient Treatment Order. An assisted outpatient treatment order's requirement to maintain treatment can be enforced for non-compliance. On the signature of a supervising psychiatrist, the order may be enforced either at the patient's residence or at a treatment center designated by the GBHWC or its designee, whichever the patient chooses. Patients who physically resist or fail to select a treatment location *shall* be treated at a treatment center designated by GBHWC.

§ 82A902. Transfer to Inpatient Care. The procedures used to determine whether a patient under an assisted treatment order who is on outpatient status should be placed in inpatient care are the same as those for initial placement in assisted treatment. A patient who meets the criteria for emergency treatment *shall* immediately be given care in an inpatient facility, but a hearing is still necessary to confirm this transfer to inpatient status. At the hearing, the court *shall* order the patient's transfer to or continued placement in inpatient care, depending on his or her status pending the hearing, if such treatment setting is the least restrictive form that will meet the patient's clinical needs. A patient's failure to comply with an order for assisted treatment while in the community may be used as evidence that outpatient placement is *not* an appropriate treatment setting for that individual.

ARTICLE 10

REVIEW OF STATUS

Doc No. 33GL-15-0873

§ 82A1001. Request for Review of Assisted Treatment Status. If the time for appeal of his or her most recent assisted treatment order or renewal has expired, a patient may request a review of his or her assisted treatment status by the treating psychiatrist or qualified mental health professional. The psychiatrist or qualified mental health professional *shall* review the request within fourteen (14) calendar days. A patient may request a review of status hearing no more than once every one hundred eighty (180) days.

§ 82A1002. Notice of Status Review Hearing. Notice of the status review hearing *shall* be mailed at least seven (7) calendar days in advance to the patient; the patient's legal guardian or conservator, if known; the patient's counsel, if known; an adult member of the patient's household, if known; and anyone recognized as a party at the initial assisted treatment hearing or any subsequent renewal hearings. Timely actual notice *shall* fulfill the notice requirement for any given individual.

ARTICLE 11

RENEWALS

§ 82A1101. Renewal of Assisted Treatment Order. The process for renewing an assisted treatment order is the same as for the application for an original assisted treatment order by petition, *except* that notice of the renewal hearing, as provided in § 82A504, *shall* also be sent to anyone recognized as a party at the initial assisted treatment hearing or any subsequent renewal hearings.

§ 82A1102. Duration of Renewal Period. The first renewal for an assisted outpatient treatment period may last up to one hundred eighty (180) days and subsequent renewals up to three hundred sixty (360) days

thereafter. A subsequent renewal for an assisted outpatient treatment period may last up to three hundred sixty (360) days.

ARTICLE 12

PROCEDURES FOR DISCHARGE

§ 82A1201. Discharge Prior to the Expiration of Assisted Treatment Period. A patient in assisted outpatient treatment may be discharged on the signature of both the treating medical professional and the medical director of the facility. A patient under an assisted treatment order who is on outpatient status may be discharged on the signature of the treating medical professional and the director of the outpatient program.

§ 82A1202. Notice of Discharge. Notice of discharge from an assisted treatment order *shall* be mailed at least seventy-two (72) hours before the planned discharge to the petitioner; the patient's legal guardian or conservator, if known; the patient's counsel, if known; an adult member of the patient's household, if known; and anyone recognized as a party at the initial assisted treatment hearing or any subsequent renewal hearings.

§ 82A1203. Discharge Plan Requirement. Any patient placed on assisted outpatient treatment must be given a treatment plan at the time of discharge from inpatient care and placement on an assisted outpatient treatment program for a period anticipated being greater than seventy-two (72) hours. An outpatient treatment plan may include, but is *not* limited to, suggested medication; individual or group therapy; day or partial day programming activities; services and training, including educational and vocational activities; residential supervision; intensive case management services; and living arrangements.

§ 82A1204. Early Discharge Hearing. A hearing before the court to determine the appropriateness of the discharge of a patient prior to the

expiration of his or her assisted treatment period may be demanded as a matter of right by the petitioner; the patient's legal guardian or conservator, if known; an adult member of the patient's household, if known; and anyone recognized as a party at the initial assisted treatment hearing or any subsequent renewal hearings.

ARTICLE 13

EMERGENCY TREATMENT/OBSERVATION - CERTIFICATION

§ 82A1301. Emergency Treatment Initiated by Law Enforcement Officers. At the request of the treating physician, or at the discretion of any law enforcement officer with the power of arrest, any person generally designated to do so by the government of Guam may bring to a designated facility for evaluation any person on assisted outpatient treatment that the officer has reasonable cause to believe has a severe psychiatric disorder and, because of the disorder, is a danger to himself, herself or to others or is gravely disabled. If a physician determines that someone under an AOT order is non-compliant with the court order and may need involuntary hospitalization, the physician may arrange for the individual to be transported to a hospital and retained for an evaluation not to exceed seventy-two (72) hours to determine if inpatient care and treatment are necessary.

§ 82A1302. Emergency Treatment Initiated by Others. Any psychiatrist, other physician, or qualified mental health professional as designated pursuant to § 82101(g) of Chapter 82, who has been generally designated to do so by the government of Guam or GBHWC may initiate emergency treatment/observation based on a good faith belief that because of a severe psychiatric disorder a person is either a danger to himself or herself, a danger to others, or gravely disabled. Any such person who

determines the need for emergency treatment/observation but who is *not* authorized to transport such individuals to a psychiatric facility may direct any person enumerated in § 82A1303 to do so.

§ 82A1303. Transportation to Emergency Facility. Protesting individuals may *only* be transported by law enforcement officers with the power of arrest, the Guam Fire Department, or others who have been designated to perform this function by the government of Guam.

§ 82A1304. Evaluation. A psychiatrist or other physician *shall* evaluate an individual in emergency treatment/observation within twenty-four (24) hours of the individual's placement in a designated psychiatric facility.

§ 82A1305. Immediate Release. An individual *shall* be released from emergency treatment/observation *unless* the psychiatrist or other physician who performs the evaluation determines that the individual is either a danger to himself, herself or others or is gravely disabled.

§ 82A1306. Certification. If the examining psychiatrist or other physician who performs the evaluation determines, in his or her clinical opinion, that the individual is a danger to himself, herself or to others or is gravely disabled, he or she must file, or cause to be filed by another psychiatrist or other physician who has also examined the individual, a certificate with the court. The certificate *shall* be filed with the court within twenty-four (24) hours of the initial examination, not including Saturdays, Sundays or holidays.

§ 82A1307. Requirements of Certificate. The certificate *shall* be in writing, executed under oath, and *shall* include the following information:

(a) the name and address, if known, of the respondent;

(b) the name and address, if known, of the respondent's spouse, legal counsel, conservator or guardian, and next-of-kin;

(c) the name and address, if known, of anyone currently providing psychiatric care to the respondent;

(d) the names and addresses, if known, of other persons with knowledge of the respondent's mental illness who may be called as witnesses at the assisted treatment hearing;

(e) the name and work address of the certifying psychiatrist or other physician;

(f) the name and address of the facility in which the respondent is undergoing emergency treatment/observation;

(g) the certifying psychiatrist or other physician's statement that he or she has examined the respondent since the respondent was placed in emergency treatment/observation; and

(h) the certifying psychiatrist or other physician's statement that, in his or her clinical opinion, the respondent is a danger to himself, herself or to others, or gravely disabled, and the clinical basis for this opinion.

§ 82A1308. Criminal Penalty. It *shall* be a crime to knowingly file, or cause to be filed, a certificate that contains a false material statement or information.

§ 82A1309. Initial Responsibilities of Court After Certificate is Filed. After the filing of the certificate, the court *shall*:

(a) schedule a hearing on the certificate that will occur no more than seventy-two (72) hours, not including Saturdays, Sundays and holidays, after the initial examination; and

(b) designate counsel for the respondent no less than twenty-four (24) hours prior to the hearing.

§ 82A1310. Notice of Hearing on Certificate. The court *shall* notify the certifying psychiatrist or other physician, respondent, and the respondent's legal guardian or conservator, if known, of the scheduled hearing on the certificate at least twenty-four (24) hours in advance. The court must also attempt to notify of the pending hearing, at least twenty-four (24) hours in advance, an adult member of respondent's household, *if* known, and up to five (5) individuals of the respondent's choice. Notice may be either by mail, personal delivery, telephone, or reliable electronic means. Timely actual notice *shall* fulfill the notice requirement for any given individual.

§ 82A1311. Duration of Emergency Treatment/Observation. Absent the exercise of other applicable provisions of this Act, the period of emergency treatment/observation may last no more than seventy-two (72) hours after the initial examination, not including Saturdays, Sundays or holidays. Anyone who is determined by the examining or a treating physician not to be a danger to himself, herself, or others, or gravely disabled, must be released from emergency treatment/observation. The initial assisted treatment hearing *shall* take place before the end of the treatment/observation period.

§ 82A1312. Treatment During Emergency Treatment/ Observation. During the emergency treatment/observation period, treatment may be administered if the person is, in the clinical opinion of a treating professional, a danger to himself, herself or others, or is gravely disabled.

ARTICLE 14
ACCOUNTABILITY

§ 82A1401. Treatment Provider Liability. In addition to other limitations on liability set out elsewhere in this Chapter or applicable law, persons providing care to patients placed in assisted treatment pursuant to this Chapter *shall* only be liable for harm subsequently caused by or to individuals who are discharged from assisted outpatient treatment if the discharge of the individual was reckless or grossly negligent.

ARTICLE 15

PATIENT BILL OF RIGHTS

§ 82A1501. Rights of All Individuals in Assisted Treatment. All patients placed in assisted treatment pursuant to this Chapter have the following rights:

(a) the right to appointed counsel at the initial assisted treatment hearing, reviews of status, subsequent renewal hearings of orders for assisted treatment, and appeals of these proceedings;

(b) the right for the patient and his or her legal guardian or conservator, if known, to receive a written list of all rights enumerated in this Chapter;

(c) the right to appropriate treatment, which *shall* be administered skillfully, safely, and humanely. Each patient placed in assisted treatment pursuant to this Chapter *shall* receive treatment suited to his or her needs, which *shall* include such medical, vocational, social, educational, and rehabilitative services as the patient's condition requires; and

(d) the right at all times to be treated with consideration and respect for his or her privacy and dignity."

Section 2. A new Subsection (h) is *added* to § 82201 of Article 2, Chapter 82 of Division 4, Title 10, Guam Code Annotated, to read:

"(h) If, in the judgment of the qualified health professional providing the evaluation or treatment, the person can be properly treated without being detained, the person *shall* be provided an evaluation, crisis intervention, and referral for other services under an Assisted Outpatient Treatment Order when the person:

(1) is a current or former client of GBHWC suffering from a mental illness;

(2) as a result of mental illness, is unlikely to voluntarily participate in outpatient treatment that would enable him or her to live safely in the community;

(3) has a history of poor treatment compliance for mental illness; and

(4) in view of his or her treatment and current behavior, is in need of assisted outpatient treatment in order to prevent relapse or deterioration which would likely result in:

(A) a substantial risk of physical harm to the consumer as manifested by threats or attempts at suicide or serious bodily harm or conduct demonstrating that the consumer is dangerous to himself or herself, or

(B) a substantial risk of physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm."

Section 3. Severability. If any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity *shall not* affect other provisions or applications of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.