An Evaluation of the State of Colorado's Care and Treatment of People with Mental Illness: Title 27, Article 65 (C.R.S. 27-65-101 et seq.)

A Report from the Colorado Department of Human Services

Division of Behavioral Health

Fiscal Year 2011

July 1, 2010 – June 30, 2011

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Executive Summary

Background

This report is the sixth iteration of the Colorado Department of Human Services, Division of Behavioral Health's (DBH) evaluation of the rights-restricted procedures provided to individuals with mental illness as outlined in C.R.S. 27-65-101 et seq. (Care and Treatment of Persons with Mental Illness) legislation (referred to as 27-65). The data in this report are for procedures that took place in the State Fiscal Year 2011 (July 1, 2010 – June 30, 2011) from 54 designated facilities. 27-65 rights restricted procedures include: 72-hour involuntary holds, certifications, seclusions, restraints, involuntary medications, electroconvulsive therapy, court-ordered imposition of legal disability, and deprivation of rights.

Methodology

A standardized data collection tool was distributed to all 27-65 designated facilities to collect their data over the course of FY2011 in the form of an Excel file. Completed data were returned to DBH between July 1, 2011 and August 1, 2011 via encrypted and/or secure e-mail. During April 2012, the data were cleaned, merged, and imported into SPSS for analysis.

Limitations

Limitations included lack a of data reporting from several facilities, data reported in an unusable format, and large amounts of missing data due to technical issues (e.g., facility databases not collecting certain data points, unable to transfer data from database to data collection tool).

Results

During FY2011, over 42,000 different 27-65 procedures were initiated across the State of Colorado, servicing over 28,000 individuals ranging in age from under 5-years-old to over 60-years-old. The majority of those served were Caucasian.

Holds and Certifications

There were over 28,700 holds and certifications in total (including individuals with multiple certifications and holds) from 38 designated facilities. The majority were 72-hour involuntary holds (69.3%) with Dangerous to Self (58.1%) as the main reason for the hold and/or certifications. Of individuals placed on a hold or certification the majority were Caucasian (66.5%), between the ages of 18 and 59 (62.9) with an average age of 35.02. Lastly, 50.5% were female and 49.4% were male.

Seclusion

The number of seclusions reported for FY2011 was 2,831 with 694 unique consumers. The majority were Caucasian (67.4%), male (64.1%) and between the ages of 18 and 59 (57.2%)

Restraint

The number of restraints reported during FY2011 was 2,445 on 921 unique consumers. The majority were male (58.6%), Caucasian (61.6%), and between the ages of 18 and 59 (55.8%).

Simultaneous Seclusion and Restraint

During FY2011, 844 instances of simultaneous seclusion and restraint were reported on 350 individuals. The majority were male, with 57.4%, compared to 24.0% female; however, there were a large amount of missing data (18.3%), therefore gender data must be interpreted with caution. 64.9% of individual consumers were Caucasian and 61.1% were between the age of 18 and 59.

Involuntary Medication Orders

There were 5,437 instances of involuntary medication orders during FY2011, with 65.6% of those being administered on emergency order versus 24.5% ordered by the court. Unique individuals represented 1,520 of this population. The majority were (66.6%) Caucasian and male (56.9%).

Electroconvulsive Therapy (ECT)

There were 2,148 instances of ECT were performed on 254 individuals. Gender was the only demographic variable with enough data integrity to report with the majority of consumers being female (64.6%) versus male (34.6%). Age and ethnicity are not reportable due to an extremely high rate of missing data, over 66% for both variables.

Court-Ordered Imposition of Disability (ILD) and Deprivation of Right (DOR)

Data were provided from six facilities on court orders for imposition of legal disability (ILD) or the deprivation of a right (DOR). Overall, 48 instances of these court orders were reported to DBH for FY2011. However, of those reported instances, many were not court-ordered ILDs or DORs. Many facilities reported rights restrictions, such as phone or visitor restrictions versus a deprivation of rights, such as denial to return home.

Summary

This report reflects a number of success, challenges and areas for growth. Data reporting has continued to improve year over year with the help of facility feedback and collaboration. Training webinars have also been successful in helping facilities understand the data reporting process and allow for enhanced communication and collaboration between 27-65 designated facilities and the Division of Behavioral Health. There is still room for improvement, such as continuing to improve the level of data quality from facilities, and providing the technical support facilities need from DBH. Next year will feature a further refined data collection tool to improve data quality, training webinars to assist with the process at the facility-level, and continued technical support from DBH.

Background

This report is the sixth iteration of the Colorado Department of Human Services, Division of Behavioral Health's (DBH) evaluation of the rights-restricted procedures provided to individuals with mental illness. The data in this report are for procedures that took place in the State Fiscal Year 2011 (July 1, 2010 – June 30, 2011). During FY2011, 54 facilities were designated by DBH to provide rights-restricted procedures (also known as 27-65 procedures). All facilities are required to report data on rights-restricted procedures to DBH.

The C.R.S. 27-65-101 et seq. (Care and Treatment of Persons with Mental Illness) legislation (referred to as 27-65 legislation) provides rules and regulations regarding involuntary processes of individuals with mental illness in the State of Colorado. The legislation was originally adopted in 1977. However, in April 2010's legislative session, S.B. 10-175 (Concerning the Relocation of Provisions Relating to Behavioral Health) changed the C.R.S. 27-10-101 to its current iteration as C.R.S. 27-65-101. Please see Appendix A for a copy of the legislation, as well as Appendix B for common definitions. Data reporting on 27-65 procedures is prudent for several reasons. First, the legislation specifically requires certain data points to be collected (i.e. number of procedures, consumers' demographic information) and the federal government makes requests for 27-65 data on a regular basis. Data reporting also allows procedural oversight, ensuring consumer safety, which is especially important given the sensitive nature of these procedures. Lastly, DBH desires to have an overall picture of 27-65 procedures in Colorado, as well as the people receiving those services.

To be qualified to provide 27-65 services, facilities must apply to become licensed by the Colorado Department of Public Health and Environment (CDPHE) and subsequently obtain approval and designation through the Colorado Department of Human Services (CDHS). Facilities submit a formal application to CDHS via the Division of Behavioral Health (DBH) and participate in an on-site evaluation. Facilities are designated for a one-year period and must reapply annually. DBH is responsible for evaluating compliance with the 27-65 statutes, rules and regulations, procedure manual, and has the responsibility of investigating all 27-65 complaints. Facilities can be designated to provide any or all of the following 27-65 procedures:

- Seventy-two hour treatment and evaluation,
- Short-term certification and treatment,
- Long-term certification and treatment,
- Seclusions,
- Restraints,
- Involuntary medications,
- Electroconvulsive therapy,
- Court-ordered imposition of disability or deprivation of rights, and
- Services to voluntary patients.

In order to collect this data, DBH provides 27-65 designated facilities with a standardized data collection template (Please see Appendix C for a copy of FY2011's template) to use for data collection each year. Despite this standardized tool, there have been challenges to data collection from year to year, with the tool being modified each year to streamline data collection and aid with data accuracy. Such challenges have included the lack of consistent technical support at DBH, facilities

entering invalid data, confusion and misinterpretation of the data requested (i.e. including facility right's restrictions when the state only requires court-ordered deprivation of rights), facilities modifying the collection template to the point of rendering it unusable, and not submitting data altogether.

Over the past six years, DBH has made attempts to refine the data collection tool and reporting process to encourage facility reporting compliance, as well as ensure a higher level of data accuracy over previous years. Moving into FY2012, DBH took the following steps to increase data collection and accuracy:

- Established a permanent project manager to assist with questions and concerns with data collection,
- Further refined the data collection tool with a series of data validation techniques to ensure more accurate data entry (i.e. data validation restrictions), and
- Conducted two training webinars to clarify data collection requirements.

Through the use of a standardized data template and consistent technical support, DBH hopes establish firm expectations for 27-65 data collection compliance, including:

- Any data not meeting the format requirements necessary for data analysis will be returned for correction,
- Any facility turning in data with large amounts of missing data will be returned for correction, and
- Any facility that does not submit data will be mentioned in the annual report as non-compliant and place their 27-65 designation in jeopardy.

Methodology

At the end of FY2010, the standardized data collection tool was distributed to all 27-65 designated facilities to collect their data over the course of FY2011. Completed data were returned to DBH between July 1, 2011 and August 1, 2011 via encrypted and/or secure e-mail. During April 2012, the Excel data was cleaned, merged, and imported into SPSS for analysis. Before descriptive analyses were completed, outliers were removed from the sample. Further details regarding analysis will follow as appropriate.

Limitations

While FY2011 data collection procedures were improved from previous years, as indicated by increased submissions of data and increased compliance with the standardized data format, there were still issues with data collection.

First, not all 27-65 designated facilities submitted data. Out of the 54 designated facilities, 11 did not submit data. For a complete list of facilities and their submission information, please refer to Appendix D. As it stands, the reporting rate for FY2011 was 79.6%, resulting in a large amount of missing data.

While data reporting has consistently improved year to year, the data in this report should be

interpreted with caution due to the following factors:

- Several facilities entered unusable data on the collection tool (i.e. entering multiple responses for single response only),
- DBH was unable to open the data from one site due to technical issues that could not be resolved by DBH or the facility,
- There was a large percent of missing data, especially within the data for involuntary medications, seclusions/restraints, and electroconvulsive therapy, and
- There was confusion as to what qualified as 27-65 procedures. For example, a rights deprivation versus rights restriction (i.e. phone restriction versus court-ordered living arrangement).

As 27-65 data reporting continues to evolve, DBH is making strides to improve data collection for the future. In preparation for FY2012 and FY2013 data collection, DBH further refined the data collection tool to prevent data entry errors (i.e. data validation). DBH also hosted two training webinars for designated facilities and distributed a data collection reference handout, which included clarification on reporting details discussed during the webinars.

Results

Holds and Certifications

What follows are data corresponding to 72-hour holds and certifications conducted in FY2011 (See Appendix D for information on specific facility reporting). There were 28,694 holds/certs in total (including individuals with multiple certifications and holds) from 38 designated facilities. The first set of tables details information about legal status (see Appendix B for applicable definitions), persons responsible for initiating holds and certifications, reasons for the holds and certifications, and outcomes of the holds and certifications for all 28,694 entries.

Regarding legal status, the majority (69.3%) were 72-hour holds. See Table 1 for the distribution of legal status options.

Table 1. Legal Status Distribution

Legal Status	Percentage	Frequency
Involuntary 72-Hour Hold	69.3	20,819
Voluntary	13.1	3,942
Short-term Certification	9.2	2,772
Extended Short-Term Certification	1.1	337
Long-term Certification	1.0	309
Extended Long-Term Certification	1.7	515
Total Reported	95.5	28,694
Missing[1]	4.5	1,316

Data collected regarding who initiated the hold or certification are presented in Table 2. Facility-based personnel can include a variety of professionals based on the type of hold or certification. Peace officers and courts may also initiate holds.

Table 2. Distribution of Parties Responsible for Initiating Holds and Certifications

Party Responsible	Percentage	Frequency
Facility-Based Personnel	75.7	22,714
Police	11.7	3,511
Court	0.6	184
Total Reported	88.0	26,409
Missing[2]	12.0	3,601

[1] This includes a small number of data rendered unusable due to improper formatting.
[2] This includes a small number of data rendered unusable due to improper formatting.

Table 3 presents information on the reported reason for the hold or certification. The "Dangerous to Self" option is the most common reason for hold or certification (58.1%). While there was a 11.1% missing data rate, this does reflect a steady improvement compared with past years. For example, in FY2010 there was a 25.7% missing data rate. Persons who have been detained for a hold and/or a certification can have a variety of disposition outcomes, including:

- Voluntary: individual elects to engage in treatment nullifying the need for a certification or hold,
- Dropped: 72-hour hold or certification expires or is terminated by a professional person as defined in 27-65 legislation,
- Certified: 72-hour hold moves to a short-term certification by a licensed professional,
- Transferred: individual is transferred to another 27-65 designated facility (not to their home),
- Continued: certification is extended (e.g., extended short-term certification moves to a long-term certification), and
- Court-ordered dropped: certification is contested in court and the court decides to terminate the certification.

Table 3. Reason for the Hold and Certification

Reason	Percentage	Frequency
Dangerous to Self	58.1	17,427
Gravely Disabled	16.3	4,902
Dangerous to Others	3.4	1,036
Dangerous to Self and Others	5.3	1,600
Dangerous to Others and Gravely Disabled	1.8	552
Dangerous to Self and Gravely Disabled	2.9	867
Dangerous to Self, Others, and Gravely Disabled	1.0	292
Total Reported	88.9	26,676
Missing[3]	11.1	3,334

The data for outcomes show 38% of certifications or holds were transitioned to a dropped status. However, this is the percentage for those outcomes that are reported; over 17% of the data are missing, requiring cautious interpretation. For the full distribution of outcome options, see Table 4.

[3] This includes 581 (1.9%) unusable data points due to improper formatting.

Table 4. Distribution of Hold and Certification Outcomes

Hold and Certification Outcomes	Percentage	Frequency
Dropped	38.0	11,396
Voluntary	20.5	6,166
Certified	8.3	2,505
Transferred	12.5	3,746
Continued	2.7	806
Court-Ordered Dropped	0.3	82
Total Reported	82.3	24,701
Missing[4]	17.7	5,309

The following includes unique consumer demographic information (i.e., only counting one instance of service per individual). For all holds and certifications, 24,280 unique consumers were served during FY2011, showing a relatively low number of individuals we repeated holds or certifications (n=4,420). Gender represented a high rate of data accuracy, with only 0.1% missing data. Of the unduplicated consumers placed on a hold or a certification, 50.5 % were female, compared to 49.4% male.

Table 5 shows that the majority of holds and certifications consumers were Caucasian (66.4%), followed by Hispanic (11.6%).

Table 5. Ethnic Distribution of Unique Consumers with Holds or Certifications

Ethnicity	Percentage	Frequency
American Indian/Alaskan Native	1.2	284
Asian/Pacific Islander	1.0	252
Black/African American	7.1	1,727
Hispanic	11.7	2,833
White/Caucasian	66.5	16,134
Other	4.9	1,191
Total Reported	92.4	22,421
Missing	7.6	1,849

Table 6 depicts information about the reported age distribution of consumers placed on a certification or hold in FY2011. The average age of an individual placed on a hold or certification was 35.02 years old, with a range of 0 to 99 years. However, these data have a high missing rate (18.2%), indicating a need for cautious interpretation and improved data integrity for future reports.

[4] This includes 328 (1.1%) unusable data points due to improper formatting.

Table 6. Age Distribution for Unique Consumers with Holds or Certifications

Age Group in Years	Percentage	Frequency
0 - 5	.4	90
6 - 11	1.0	249
12 - 17	11.4	2,762
18 - 59	62.9	15,267
60+	6.2	1,504
Total Reported	81.8	19,872
Missing	18.2	4,408

Seclusions and Restraints

The following data correspond to seclusions and restraints. After outliers were removed (±3 standard deviations), there were 6,120 entries in total (including individuals with multiple seclusions and restraints) from 23 designated facilities. As seen in Table 7, the majority (46.3%) of the 6,120 entries were seclusions while 40.0% were restraints and 13.8% were a combination of seclusions and restraints.

Table 7. Total Seclusions and Restraints

Total Seclusions and Restraints	Percentage	Frequency
Restraint	40.0	2,445
Seclusion	46.2	2,831
Seclusion and Restraint	13.8	844
Total Reported	100.0	6,120

The following sections discuss seclusions, restraint, and simultaneous seclusion/restraints for FY2011. In order to capture the most accurate number of unique clients receiving these procedures, the data had to be analyzed by procedure type.

Seclusion

Of the 2,831 seclusions reported, 694 of those were unique consumers. Males accounted for 64.1% of those receiving seclusion (n=445), whereas 34.4 (n=239) were female. Only 1.4% (n=10) of the gender data were missing. Ethnicity is presented below in Table 8.

Table 8. Ethnic Distribution of Unique Consumers Requiring Seclusion

Ethnicity	Percentage	Frequency
American Indian/Alaskan Native	0.6	4
Asian/Pacific Islander	1.4	10
Black/African American	12.5	87
Hispanic	14.6	101
White/Caucasian	67.4	468
Other	2.6	18
Total Reported	99.1	688
Missing	0.9	6

Table 9 contains information about the age distribution of consumers placed on seclusion with the majority being over 18-years-old. There is again a large amount of missing data (12.5%), requiring cautious interpretation.

Table 9. Age Distribution of Unique Consumers Requiring Seclusion

Age Group in Years	Percentage	Frequency
0 - 5	0.9	6
6 - 11	13.0	90
12 - 17	12.5	87
18 - 59	57.2	397
60+	3.9	27
Total Reported	87.5	607
Missing	12.5	87

Restraint

Facilities reported 2,445 restraints during FY2011, 921 were unique consumers with 58.6% (n=540) of those being male and 35.8% (n=330) female. Just over 5% of the data were missing. Table 10 depicts the ethnic distribution for unique consumers requiring restraints.

Table 10. Ethnic Distribution of Unique Consumers Requiring Restraint

Ethnicity	Percentage	Frequency
American Indian/Alaskan Native	0.8	8
Asian/Pacific Islander	1.8	17
Black/African American	13.4	123
Hispanic	15.1	139
White/Caucasian	61.6	567
Other	3.7	34
Total Reported	96.5	888
Missing	3.6	33

Table 11 presents information about the age distribution of consumers placed on seclusion and/or restraints with the majority being over 18-years-old (59.1%).

Table 11. Age Distribution of Unique Consumers Requiring Restraint

Age Group in Years	Percentage	Frequency
0 - 5	0.5	5
6 - 11	12.0	110
12 - 17	21.7	200
18 - 59	55.8	514
60+	3.3	30
Total Reported	93.3	859
Missing	6.7	62

Simultaneous Seclusion and Restraint

Of the 844 reported seclusion and restraints, 350 were unique consumers. Of those 350, 57.4% were male (n=201) and 24.0% (n=84) were female. However, there was a large amount of missing data (18.3%). Table 12 shows the ethnic distribution for these consumers.

Table 12. Ethnic Distribution of Unique Consumers Requiring Simultaneous Seclusion and Restraint

Ethnicity	Percentage	Frequency
American Indian/Alaskan Native	0.8	3
Asian/Pacific Islander	2.9	10
Black/African American	12.0	42
Hispanic	15.4	54
White/Caucasian	64.9	227
Other	3.1	11
Total Reported	99.1	347
Missing	0.9	3

Table 13 presents information about the age distribution of consumers placed on simultaneous seclusion and restraints with the majority being over 18-years-old.

Table 13. Age Distribution of Unique Consumers Requiring Simultaneous Seclusion and Restraint

Age Group in Years	Percentage	Frequency
0 - 5	0.3	1
6 - 11	8.0	28
12 - 17	22.9	80
18 - 59	61.1	214
60+	2.6	9
Total Reported	94.9	332
Missing	5.1	18

Involuntary Medications

What follows are data corresponding to involuntary psychiatric medication administrations. There were 5,437 entries in total (including individuals with multiple orders for involuntary medications) from 27 designated facilities. A descriptive analysis was also conducted to determine the number of unique consumers receiving involuntary psychiatric medication (n = 1,520) as well as the demographic composition of these consumers. The majority of consumers who received involuntary psychiatric medications where on an emergency basis (65.6%), followed by court-ordered (24.2%). See Table 14 for the total number of involuntary psychiatric medication administered during FY2011.

Table 14. Types of Involuntary Medication Orders

Total Involuntary Medication Orders	Percentage	Frequency
Emergency	65.6	3,911
Court Ordered	24.5	1,441
Total Reported	91.0	5,352
Missing	9.0	527

Of the 1,520 unique consumers served, 43.0% were female and 56.9% were male. Ethnic distribution is presented in Table 15.

Table 15. Ethnic Distribution of Unique Consumers Requiring Involuntary Medication Orders

Ethnicity	Percentage	Frequency
American Indian/Alaskan Native	0.3	5
Asian/Pacific Islander	1.8	28
Black/African American	12.7	193
Hispanic	9.8	149
White/Caucasian	66.6	1,013
Other	3.6	53
Total Reported	94.8	1,441
Missing	5.2	79

There was a wide age range for involuntary medication distributions, consumers younger than 1-year-old up to 99 years of age were recorded; however, given the large missing rate (21.6%), it is also highly possible some of these data are in error and must be interpreted with caution. The distribution of age groups is shown in Table 16.

Table 16. Age Distribution of Unique Consumers with Involuntary Medication Orders

Age Group in Years	Percentage	Frequency
0 - 5	0.1	1
6 - 11	0.3	4
12 - 17	2.1	32
18 - 59	63.9	972
60+	12.0	183
Total Reported	78.4	1,192
Missing	21.6	328

The individual medications ordered were collected; however, due to time and resource constraints, these data could not be analyzed for this report. DBH may report on this information in future reports.

Electroconvulsive Therapy (ECT)

Six facilities provided data on electroconvulsive therapy (ECT). Across the years, there has been fluctuation in the number of instances and individuals reported for ETC. Unfortunately, the cause of this fluctuation is unclear. It could be attributed to a lack of reporting by facilities or due to true changes in the number of ECT instances over the years.

Overall, 2,148 instances of ECT were reported for 254 individuals in FY2011, compared to 539 instances of ECT for 179 individuals in FY2010, 653 instances of ECT for 181 individuals in FY2009. Regarding demographics for the unduplicated or unique consumer receiving ECT in FY2011, 64.6% were female and 34.6% were male.

While ethnic distribution is presented in Table 22, the extremely high percentage of missing data (65.7%) prevents meaningful interpretation of the data. In fact, ETC data has the highest missing data rate of all the 27-65 procedures in FY2011, reaching upwards of 67% missing. Due to such a large amount of missing data, it is impossible to determine an accurate mean age for the population who received ECT treatments in FY2011.

Table 17. Ethnic Distribution of Unique Consumers Undergoing ECT

Ethnicity	Percentage	Frequency
American Indian/Alaskan Native	0.8	2
Asian/Pacific Islander	1.2	3
Black/African American	1.6	4
Hispanic	1.2	3
White/Caucasian	29.5	75
Other	0.0	0
Total Reported	34.3	87
Missing	65.7	167

Table 18 shows the age distribution of consumers receiving ECT. Again, these data cannot provide meaningful information about the age distribution of consumer's receiving ECT due to the high rate of missing data (66.9%).

Table 18. Age Distribution of Unique Consumers Receiving ECT

Age Group in Years	Percentage	Frequency
0 - 5	0.4	1
6 - 11	0.0	0
12 - 17	0.4	1
18 - 59	27.2	69
60+	5.1	13
Total Reported	33.1	84
Missing	66.9	170

Court-Ordered Imposition of Disability or Deprivation of Rights

Data were provided from six facilities on court orders for imposition of legal disability (ILD) or the deprivation of a right (DOR). Overall, 48 instances of these court orders were reported to DBH for FY2011. However, of those reported instances, many were not court-ordered ILDs or DORs. Many facilities reported rights restrictions, such as phone or visitor restrictions versus a deprivation of rights, such as denial to return home.

Recommendations

Below are three recommendations that aim to improve the data collection process and improve the integrity of 27-65 data in the future. The recommendations are as follows:

- DBH continues to strive to increase collaboration and communication with facilities in order to assist in understanding data variables and to increase the number of facilities who participate in submission of required data. It the Division's hope that such collaboration will encourage continued facility feedback to improve the data collection process.
- Feedback from facilities about the data collection template will continue to be used to improve it. It is the Division's goal to create a template that is easy to use by both the facility users and the data analysts; specifically, the tool ideally will be comprehensive and self-explanatory and will circumvent the need for facility users to manipulate the form.
- DBH will continue to work towards developing clear criteria for including or not including data from facilities to make this process transparent. The Division is developing a data feedback system in order to both hold facilities accountable for submitting usable data as well as to aid facilities in understanding the data requirements. DBH's goal is to continue to keep this system in place to provide the clear, specific, and timely feedback needed by facilities to improve data submissions in future years.

Summary

This report reflects the evaluation DBH conducted of 27-65 rights-restricted services provided to individuals with mental illness in the State Fiscal Year 2011(July 1, 2010-June 30, 2011). This is the sixth year that data were formally collected in an effort to investigate trends of rights-restricted procedures across all designated 27-65 as required by the C.R.S. 27-65-101 et seq. (Care and Treatment of Persons with Mental Illness) legislation.

This report reflects a number of success, challenges and areas for growth. Data reporting has continued to improve year over year, including facility feedback on the process. Training webinars have also been successful in helping facilities understand the data reporting process and allow for enhanced communication and collaboration between 27-65 designated facilities and the Division of Behavioral Health. There is still room for improvement, such as continuing to improve the level of data quality from facilities, and providing the technical support facilities needs from DBH. Next year will feature a further refined data collection tool to improve data quality, training webinars to assist with this process at the facility-level and continued support from DBH. 27-65 data reporting is vital in helping DBH, as well as other stakeholders in the behavioral health community, understand the services and trends in services provided to a vulnerable population across Colorado.

APPENDIX A

ARTICLE 65
Care and Treatment of Persons
with Mental Illness

27-65-101. [Formerly 27-10-101] Legislative declaration. (1) The general assembly hereby declares that, subject to available appropriations, the purposes of this article are:

(a) To secure for each person who may have a mental illness such care and treatment as will be suited to the needs of the person and to insure that such care and treatment are skillfully and humanely administered with full respect for the person's dignity and personal integrity;

(b) To deprive a person of his or her liberty for purposes of treatment or care only when less restrictive alternatives are unavailable and only when his or her safety or the safety of others is endangered;

(c) To provide the fullest possible measure of privacy, dignity, and other rights to persons undergoing care and treatment for mental illness;

(d) To encourage the use of voluntary rather than coercive measures to provide treatment and care for mental illness and to provide such treatment and care in the least restrictive setting;

(e) To provide appropriate information to family members concerning the location and fact of admission of a person with a mental illness to inpatient or residential care and treatment;

(f) To encourage the appropriate participation of family members in the care and treatment of a person with a mental illness and, when appropriate, to provide information to family members in order to facilitate such participation; and

(g) To facilitate the recovery and resiliency of each person who receives care and treatment under this article.

(2) To carry out these purposes, subject to available appropriations, the provisions of this article shall be liberally construed.

27-65-102. [Formerly 27-10-102] Definitions. As used in this article, unless the context otherwise requires:

(1) "Acute treatment unit" means a facility or a distinct part of a facility for short-term psychiatric care, which may include substance abuse treatment, that provides a total, twenty-four-hour, therapeutically planned and professionally staffed environment for persons who do not require inpatient hospitalization but need more intense and individual services than are available on an outpatient basis, such as crisis management and stabilization services.

~~(1.5)~~ (2) "Certified peace officer" means any certified peace officer as described in section 16-2.5-102, C.R.S.

~~(2)~~ (3) "Court" means any district court of the state of Colorado and the probate court in the city and county of Denver.

~~(2.3)~~ (4) "Court-ordered evaluation" means an evaluation ordered by a court pursuant to ~~section 27-10-106~~ SECTION 27-65-106.

~~(3)~~ (5) "Department" means the department of human services.

~~(4)~~ (6) "Executive director" means the executive director of the department of human services.

~~(4.5)~~ (7) "Facility" means a public hospital or a licensed private hospital, clinic, community mental health center or clinic, acute treatment unit, institution, sanitarium, or residential child care facility that provides treatment for a person with a mental illness.

~~(4.7)~~ (8) "Family member" means a spouse, parent, adult child, or adult sibling of a person with a mental illness.

~~(5)~~ (9) (a) "Gravely disabled" means a condition in which a person, as a result of a mental illness:

(I) Is in danger of serious physical harm due to his or her inability or failure to provide himself or herself with the essential human needs of food, clothing, shelter, and medical care; or

(II) Lacks judgment in the management of his or her resources and in the conduct of his or her social relations to the extent that his or her health or safety is significantly endangered and lacks the capacity to understand that this is so.

(b) A person who, because of care provided by a family member or by an individual with a similar relationship to the person, is not in danger of serious physical harm or is not significantly endangered in accordance with paragraph (a) of this ~~subsection (5)~~ SUBSECTION (9) may be deemed "gravely disabled" if there is notice given that the support given by the family member or other individual who has a similar relationship to the person is to be terminated and the individual with a mental illness:

(I) Is diagnosed by a professional person as suffering from: Schizophrenia; a major affective disorder; a delusional disorder; or another mental disorder with psychotic features; and

(II) Has been certified, pursuant to this article, for treatment of the disorder or has been admitted as an inpatient to a treatment facility for treatment of the disorder at least twice during the last thirty-six months with a period of at least thirty days between certifications or admissions; and

(III) Is exhibiting a deteriorating course leading toward danger to self or others or toward the conditions described in paragraph (a) of this ~~subsection (5)~~ SUBSECTION (9) with symptoms and behavior that are substantially similar to those that preceded and were associated with his or her hospital admissions or certifications for treatment; and

(IV) Is not receiving treatment that is essential for his or her health or safety.

(c) A person of any age may be "gravely disabled", but such term shall not include a person who has a developmental disability by reason of the person's developmental disability alone.

(d) For purposes of paragraph (b) of this ~~subsection (5)~~ SUBSECTION (9), an individual with a relationship to a person that is similar to that of a family member shall not include an employee or agent of a boarding home or treatment facility.

~~(5.5)~~ (10) "Hospitalization" means twenty-four-hour out-of-home placement for mental health treatment in a facility.

~~(5.6)~~ (11) "Independent professional person" means a professional person, as defined in ~~subsection (11)~~ SUBSECTION (17) of this section, who evaluates ~~the~~ A minor's condition as an independent decision-maker and whose recommendations are based on the standard of what is in the best interest of the minor. The professional person may be associated with the admitting mental health facility if he or she is free to independently evaluate the minor's condition and need for treatment and has the authority to refuse admission to any minor who does not satisfy the statutory standards specified in ~~section 27-10-103 (3.1)~~ SECTION 27-65-103 (3).

(6) Repealed.

(7) (Deleted by amendment, L. 2006, p. 1372, § 2, effective August 7, 2006.)

~~(7.2)~~ (12) "Minor" means a person under eighteen years of age; except that the term does not include a person who is fifteen years of age or older who is living separately and apart from his or her parent or legal guardian and is managing his or her financial affairs, regardless of his or her source of income, or who is married and living separately and apart from his or her parent or legal guardian.

~~(7.5)~~ (13) "Patient representative" means a person designated by ~~the~~ A mental health facility to process patient complaints or grievances or to represent patients who are minors pursuant to ~~section 27-10-103 (3.3)~~ SECTION 27-65-103 (5).

(8) (Deleted by amendment, L. 2006, p. 1372, § 2, effective August 7, 2006.)

~~(8.5)~~ (14) "Person with a mental illness" means a person with one or more substantial disorders of the cognitive, volitional, or emotional processes that grossly impairs judgment or capacity to recognize reality or to control behavior. Developmental disability is insufficient to either justify or exclude a finding of mental illness within the provisions of this article.

~~(9)~~ (15) "Petitioner" means any person who files any petition in any proceeding in the interest of any person who allegedly has a mental illness or is allegedly gravely disabled.

~~(10)~~ (16) "Physician" means a person licensed to practice medicine in this state.

~~(11)~~ (17) "Professional person" means a person licensed to practice medicine in this state or a psychologist certified to practice in this state.

~~(11.5)~~ (18) "Residential child care facility" means a facility licensed by the state department of human services pursuant to article 6 of title 26, C.R.S., to provide group care and treatment for children as such facility is defined in section 26-6-102 (8), C.R.S. A residential child care facility may be eligible for designation by the executive director of the department of human services pursuant to this article.

~~(12)~~ (19) "Respondent" means either a person alleged in a petition filed pursuant to this article to have a mental illness or be gravely disabled or a person certified pursuant to the provisions of this article.

~~(13)~~ (20) "Screening" means a review of all petitions, to consist of an interview with the petitioner and, whenever possible, the respondent, an assessment of the problem, an explanation of the petition to the respondent, and a determination of whether the respondent needs and, if so, will accept, on a voluntary basis, comprehensive evaluation, treatment, referral, and other appropriate services, either on an inpatient or an outpatient basis.

27-65-103. [Formerly 27-10-103] Voluntary applications for mental health services. (1) Nothing in this article shall be construed in any way as limiting the right of any person to make voluntary application at any time to any public or private agency or professional person for mental health services, either by direct application in person or by referral from any other public or private agency or professional person. Subject to section 15-14-316 (4), C.R.S., a ward, as defined in section 15-14-102 (15), C.R.S., may be admitted to hospital or institutional care and treatment for mental illness by consent of the guardian for so long as the ward agrees to such care and treatment. Within ten days of any such admission of the ward for such hospital or institutional care and treatment, the guardian shall notify in writing the court ~~which~~ THAT appointed the guardian of the admission.

(2) Notwithstanding any other provision of law, a minor who is fifteen years of age or older, whether with or without the consent of a parent or legal guardian, may consent to receive mental health services to be rendered by a facility or a professional person. Such consent shall not be subject to disaffirmance because of minority. The professional person rendering mental health services to a minor may, with or without the consent of the minor, advise the parent or legal guardian of the minor of the services given or needed.

(3) Repealed.

~~(3.1)~~ (3) A minor who is fifteen years of age or older or a parent or legal guardian of a minor on the minor's behalf may make voluntary application for hospitalization. Application for

hospitalization on behalf of a minor who is under fifteen years of age and who is a ward of the department of human services shall not be made unless a guardian ad litem has been appointed for the minor or a petition for the same has been filed with the court by the agency having custody of the minor; except that such an application for hospitalization may be made under emergency circumstances requiring immediate hospitalization, in which case the agency shall file a petition for appointment of a guardian ad litem within seventy-two hours after application for admission is made, and the court shall appoint a guardian ad litem forthwith. Procedures for hospitalization of such minor may proceed pursuant to this section once a petition for appointment of a guardian ad litem has been filed, if necessary. Whenever such application for hospitalization is made, an independent professional person shall interview the minor and conduct a careful investigation into the minor's background, using all available sources, including, but not limited to, the parents or legal guardian and the school and any other social agencies. Prior to admitting a minor for hospitalization, the independent professional person shall make the following findings:

(a) That the minor has a mental illness and is in need of hospitalization;

(b) That a less restrictive treatment alternative is inappropriate or unavailable; and

(c) That hospitalization is likely to be beneficial.

~~(3.2)~~ (4) An interview and investigation by an independent professional person shall not be required for a minor who is fifteen years of age or older and who, upon the recommendation of his or her treating professional person, seeks voluntary hospitalization with the consent of his or her parent or legal guardian. In order to assure that the minor's consent to such hospitalization is voluntary, the minor shall be advised, at or before the time of admission, of his or her right to refuse to sign the admission consent form and his or her right to revoke his or her consent at a later date. If a minor admitted pursuant to this ~~subsection (3.2)~~ SUBSECTION (4) subsequently revokes his or her consent after admission, a review of his or her need for hospitalization pursuant to ~~subsection (3.3)~~ SUBSECTION (5) of this section shall be initiated immediately.

~~(3.3)~~ (5) (a) The need for continuing hospitalization of all voluntary patients who are minors shall be formally reviewed at least every two months. Review pursuant to this ~~subsection (3.3)~~ SUBSECTION (5) shall fulfill the requirement specified in section 19-1-115 (8), C.R.S., when the minor is fifteen years of age or older and consenting to hospitalization.

(b) The review shall be conducted by an independent professional person who is not a member of the minor's treating team; or, if the minor, his or her physician, and the minor's parent or guardian do not object to the need for continued hospitalization, the review required pursuant to this ~~subsection (3.3)~~ SUBSECTION (5) may be conducted internally by the hospital staff.

(c) The independent professional person shall determine whether the minor continues to meet the criteria specified in ~~subsection (3.1)~~ SUBSECTION (3) of this section and whether continued hospitalization is appropriate and shall at least conduct an investigation pursuant to ~~subsection (3.1)~~ SUBSECTION (3) of this section.

(d) Ten days prior to the review, the patient representative at the mental health facility shall notify the minor of the date of the review and shall assist the minor in articulating to the independent professional person his or her wishes concerning continued hospitalization.

(e) Nothing in this section shall be construed to limit a minor's right to seek release from the facility pursuant to any other provisions under the law.

~~(3.4)~~ (6) Every six months the review required pursuant to ~~subsection (3.3)~~ SUBSECTION (5) of this section shall be conducted by an independent professional person who is not a member of the minor's treating team and who has not previously reviewed the child pursuant to ~~subsection (3.3)~~ SUBSECTION (5) of this section.

~~(3.5)~~ (7) (a) When a minor does not consent to or objects to continued hospitalization, the need for such continued hospitalization shall, within ten days, be reviewed pursuant to ~~subsection (3.3)~~ SUBSECTION (5) of this section by an independent professional person who is not a member of the minor's treating team and who has not previously reviewed the child pursuant to this ~~subsection (3.5)~~ SUBSECTION (7). The minor shall be informed of the results of such review within three days of completion of such review. If the conclusion reached by such professional person is that the minor no longer meets the standards for hospitalization specified in ~~subsection (3.1)~~ SUBSECTION (3) of this section, the minor shall be discharged.

(b) If, twenty-four hours after being informed of the results of the review specified in paragraph (a) of this ~~subsection (3.5)~~ SUBSECTION (7), a minor continues to affirm the objection to hospitalization, the minor shall be advised by the director of the facility or his or her duly appointed representative that the minor has the right to retain and consult with an attorney at any time and that the director or his or her duly appointed representative shall file, within three days after the request of the minor, a statement requesting an attorney for the minor or, if the minor is under fifteen years of age, a guardian ad litem. The minor, his or her attorney, if any, and his or her parent, legal guardian, or guardian ad litem, if any, shall also be given written notice that a hearing upon the recommendation for continued hospitalization may be had before the court or a jury upon written request directed to the court pursuant to paragraph (d) of this ~~subsection (3.5)~~ SUBSECTION (7).

(c) Whenever the statement requesting an attorney is filed with the court, the court shall ascertain whether the minor has retained counsel, and, if he or she has not, the court shall, within three days, appoint an attorney to represent the minor, or if the minor is under fifteen years of age, a guardian ad litem. Upon receipt of a petition filed by the guardian ad litem, the court shall appoint an attorney to represent the minor under fifteen years of age.

(d) The minor or his or her attorney or guardian ad litem may, at any time after the minor has continued to affirm his or her objection to hospitalization pursuant to paragraph (b) of this ~~subsection (3.5)~~ SUBSECTION (7), file a written request that the recommendation for continued hospitalization be reviewed by the court or that the treatment be on an outpatient basis. If review is requested, the court shall hear the matter within ten days after the request, and the court shall give notice to the minor, his or her attorney, if any, his or her parents or legal guardian, his or her guardian ad litem, if any, the independent professional person, and the minor's treating team of the

time and place thereof. The hearing shall be held in accordance with ~~section 27-10-111~~ SECTION 27-65-111; except that the court or jury shall determine that the minor is in need of care and treatment if the court or jury makes the following findings: That the minor has a mental illness and is in need of hospitalization; that a less restrictive treatment alternative is inappropriate or unavailable; and that hospitalization is likely to be beneficial. At the conclusion of the hearing, the court may enter an order confirming the recommendation for continued hospitalization, discharge the minor, or enter any other appropriate order.

(e) For purposes of this ~~subsection (3.5)~~ SUBSECTION (7), "objects to hospitalization" means that a minor, with the necessary assistance of hospital staff, has written his or her objections to continued hospitalization and has been given an opportunity to affirm or disaffirm such objections forty-eight hours after the objections are first written.

(f) A minor may not again object to hospitalization pursuant to this ~~subsection (3.5)~~ SUBSECTION (7) until ninety days after conclusion of proceedings pursuant to this ~~subsection (3.5)~~ SUBSECTION (7).

(g) In addition to the rights specified under ~~section 27-10-117~~ SECTION 27-65-117 for persons receiving evaluation, care, or treatment, a written notice specifying the rights of minor children under this section shall be given to each minor upon admission to hospitalization.

~~(3.6)~~ (8) A minor who no longer meets the standards for hospitalization specified in ~~subsection (3.1)~~ SUBSECTION (3) of this section shall be discharged.

~~(4)~~ (9) For the purpose of this article, the treatment by prayer in the practice of the religion of any church which teaches reliance on spiritual means alone for healing shall be considered a form of treatment.

~~(5)~~ (10) The medical and legal status of all voluntary patients receiving treatment for mental illness in inpatient or custodial facilities shall be reviewed at least once every six months.

~~(6)~~ (11) Voluntary patients shall be afforded all the rights and privileges customarily granted by hospitals to their patients.

~~(7)~~ (12) If at any time during a seventy-two-hour evaluation of a person who is confined involuntarily the facility staff requests the person to sign in voluntarily and he or she elects to do so, the following advisement shall be given orally and in writing and an appropriate notation shall be made in his or her medical record by the professional person or his or her designated agent:

NOTICE

The decision to sign in voluntarily should be made by you alone and should be free from any force or pressure

implied or otherwise. If you do not feel that you are able to make a truly voluntary decision, you may continue

to be held at the hospital involuntarily. As an involuntary patient, you will have the right to protest your

confinement and request a hearing before a judge.

27-65-104. [Formerly 27-10-104] Rights of respondents. Unless specifically stated in an order by the court, a respondent shall not forfeit any legal right or suffer legal disability by reason of the provisions of this article.

27-65-105. [Formerly 27-10-105] Emergency procedure. (1) Emergency procedure may be invoked under either one of the following two conditions:

(a) (I) When any person appears to have a mental illness and, as a result of such mental illness, appears to be an imminent danger to others or to himself or herself or appears to be gravely disabled, then a person specified in subparagraph (II) of this paragraph (a), each of whom is referred to in this section as the "intervening professional", upon probable cause and with such assistance as may be required, may take the person into custody, or cause the person to be taken into custody, and placed in a facility designated or approved by the executive director for a seventy-two-hour treatment and evaluation.

(II) The following persons may effect a seventy-two-hour hold as provided in subparagraph (I) of this paragraph (a):

(A) A certified peace officer;

(B) A professional person;

(C) A registered professional nurse as defined in section 12-38-103 (11), C.R.S., who by reason of postgraduate education and additional nursing preparation has gained knowledge, judgment, and skill in psychiatric or mental health nursing;

(D) A licensed marriage and family therapist or licensed professional counselor, licensed under the provisions of part 5 or 6 of article 43 of title 12, C.R.S., or an addiction counselor licensed pursuant to section 12-43-804 (3), C.R.S., who by reason of postgraduate education and additional preparation has gained knowledge, judgment, and skill in psychiatric or clinical mental health therapy, forensic psychotherapy, or the evaluation of mental disorders; or

(E) A licensed clinical social worker licensed under the provisions of part 4 of article 43 of title 12, C.R.S.

(b) Upon an affidavit sworn to or affirmed before a judge that relates sufficient facts to establish that a person appears to have a mental illness and, as a result of the mental illness, appears to be an imminent danger to others or to himself or herself or appears to be gravely

disabled, the court may order the person described in the affidavit to be taken into custody and placed in a facility designated or approved by the executive director for a seventy-two-hour treatment and evaluation. Whenever in this article a facility is to be designated or approved by the executive director, hospitals, if available, shall be approved or designated in each county before other facilities are approved or designated. Whenever in this article a facility is to be designated or approved by the executive director as a facility for a stated purpose and the facility to be designated or approved is a private facility, the consent of the private facility to the enforcement of standards set by the executive director shall be a prerequisite to the designation or approval.

~~(1.1)~~ (2) (a) When a person is taken into custody pursuant to subsection (1) of this section, such person shall not be detained in a jail, lockup, or other place used for the confinement of persons charged with or convicted of penal offenses; except that such place may be used if no other suitable place of confinement for treatment and evaluation is readily available. In such situation the person shall be detained separately from those persons charged with or convicted of penal offenses and shall be held for a period not to exceed twenty-four hours, excluding Saturdays, Sundays, and holidays, after which time he or she shall be transferred to a facility designated or approved by the executive director for a seventy-two-hour treatment and evaluation. If the person being detained is a juvenile, as defined in section 19-1-103 (68), C.R.S., the juvenile shall be placed in a setting that is nonsecure and physically segregated by sight and sound from the adult offenders. When a person is taken into custody and confined pursuant to this ~~subsection (1.1)~~ SUBSECTION (2), such person shall be examined at least every twelve hours by a certified peace officer, nurse, or physician or by an appropriate staff professional of the nearest designated or approved mental health treatment facility to determine if the person is receiving appropriate care consistent with his or her mental condition.

(b) A sheriff or police chief who violates the provisions of paragraph (a) of this ~~subsection (1.1)~~ SUBSECTION (2), related to detaining juveniles may be subject to a civil fine of no more than one thousand dollars. The decision to fine shall be based on prior violations of the provisions of paragraph (a) of this ~~subsection (1.1)~~ SUBSECTION (2) by the sheriff or police chief and the willingness of the sheriff or police chief to address the violations in order to comply with paragraph (a) of this ~~subsection (1.1)~~ SUBSECTION (2).

~~(2)~~ (3) Such facility shall require an application in writing, stating the circumstances under which the person's condition was called to the attention of the intervening professional and further stating sufficient facts, obtained from the personal observations of the intervening professional or obtained from others whom he or she reasonably believes to be reliable, to establish that the person has a mental illness and, as a result of the mental illness, is an imminent danger to others or to himself or herself or is gravely disabled. The application shall indicate when the person was taken into custody and who brought the person's condition to the attention of the intervening professional. A copy of the application shall be furnished to the person being evaluated, and the application shall be retained in accordance with the provisions of ~~section 27-10-120 (3)~~ SECTION 27-65-121 (4).

~~(3)~~ (4) If the seventy-two-hour treatment and evaluation facility admits the person, it may detain him or her for evaluation and treatment for a period not to exceed seventy-two hours, excluding Saturdays, Sundays, and holidays if evaluation and treatment services are not available on those days. For the purposes of this ~~subsection (3)~~ SUBSECTION (4), evaluation and treatment services are not deemed to be available merely because a professional person is on call during weekends or holidays. If, in the opinion of the professional person in charge of the evaluation, the person can be properly cared for without being detained, he or she shall be provided services on a voluntary basis.

~~(4)~~ (5) Each person admitted to a seventy-two-hour treatment and evaluation facility under the provisions of this article shall receive an evaluation as soon as possible after he or she is admitted and shall receive such treatment and care as his or her condition requires for the full period that he or she is held. The person shall be released before seventy-two hours have elapsed if, in the opinion of the professional person in charge of the evaluation, the person no longer requires evaluation or treatment. Persons who have been detained for seventy-two-hour evaluation and treatment shall be released, referred for further care and treatment on a voluntary basis, or certified for treatment pursuant to ~~section 27-10-107~~ SECTION 27-65-107.

27-65-106. [Formerly 27-10-106] Court-ordered evaluation for persons with mental illness. (1) Any person alleged to have a mental illness and, as a result of the mental illness, to be a danger to others or to himself or herself or to be gravely disabled may be given an evaluation of his or her condition under a court order pursuant to this section.

(2) Any individual may petition the court in the county in which the respondent resides or is physically present alleging that there is a person who appears to have a mental illness and, as a result of the mental illness, appears to be a danger to others or to himself or herself or appears to be gravely disabled and requesting that an evaluation of the person's condition be made.

(3) The petition for a court-ordered evaluation shall contain the following:

(a) The name and address of the petitioner and his OR HER interest in the case;

(b) The name of the person for whom evaluation is sought, who shall be designated as the respondent, and, if known to the petitioner, the address, age, sex, marital status, and occupation of the respondent;

(c) Allegations of fact indicating that the respondent may have a mental illness and, as a result of the mental illness, be a danger to others or to himself or herself or be gravely disabled and showing reasonable grounds to warrant an evaluation;

(d) The name and address of every person known or believed by the petitioner to be legally responsible for the care, support, and maintenance of the respondent, if available;

(e) The name, address, and telephone number of the attorney, if any, who has most recently represented the respondent. If there is no attorney, there shall be a statement as to whether, to the

best knowledge of the petitioner, the respondent meets the criteria established by the legal aid agency operating in the county or city and county for it to represent a consumer.

(4) Upon receipt of a petition satisfying the requirements of subsection (3) of this section, the court shall designate a facility, approved by the executive director, or a professional person to provide screening of the respondent to determine whether there is probable cause to believe the allegations.

(5) Following screening, the facility or professional person designated by the court shall file his or her report with the court. The report shall include a recommendation as to whether there is probable cause to believe that the respondent has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled and whether the respondent will voluntarily receive evaluation or treatment. The screening report submitted to the court shall be confidential in accordance with ~~section 27-10-120~~ SECTION 27-65-121 and shall be furnished to the respondent or his or her attorney or personal representative.

(6) Whenever it appears, by petition and screening pursuant to this section, to the satisfaction of the court that probable cause exists to believe that the respondent has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled and that efforts have been made to secure the cooperation of the respondent, who has refused or failed to accept evaluation voluntarily, the court shall issue an order for evaluation authorizing a certified peace officer to take the respondent into custody and place him or her in a facility designated by the executive director for seventy-two-hour treatment and evaluation. At the time of taking the respondent into custody, a copy of the petition and the order for evaluation shall be given to the respondent, and promptly thereafter to any one person designated by such respondent and to the person in charge of the seventy-two-hour treatment and evaluation facility named in the order or his or her designee.

(7) The respondent shall be evaluated as promptly as possible and shall in no event be detained longer than seventy-two hours under the court order, excluding Saturdays, Sundays, and holidays if treatment and evaluation services are not available on those days. Within that time, the respondent shall be released, referred for further care and treatment on a voluntary basis, or certified for short-term treatment.

(8) At the time the respondent is taken into custody for evaluation or within a reasonable time thereafter, unless a responsible relative is in possession of the respondent's personal property, the certified peace officer taking him or her into custody shall take reasonable precautions to preserve and safeguard the personal property in the possession of or on the premises occupied by the respondent.

(9) When a person is involuntarily admitted to a seventy-two-hour treatment and evaluation facility under the provisions of this section or ~~section 27-10-105~~ SECTION 27-65-105, the person shall be advised by the facility director or his or her duly appointed representative that the person is going to be examined with regard to his or her mental condition.

(10) Whenever a person is involuntarily admitted to a seventy-two-hour treatment and evaluation facility, he or she shall be advised by the facility director or his or her duly appointed representative of his or her right to retain and consult with any attorney at any time and that, if he or she cannot afford to pay an attorney, upon proof of indigency, one will be appointed by the court without cost.

27-65-107. [Formerly 27-10-107] Certification for short-term treatment. (1) If a person detained for seventy-two hours under the provisions of ~~section 27-10-105~~ SECTION 27-65-105 or a respondent under court order for evaluation pursuant to ~~section 27-10-106~~ SECTION 27-65-106 has received an evaluation, he or she may be certified for not more than three months of short-term treatment under the following conditions:

(a) The professional staff of the agency or facility providing seventy-two-hour treatment and evaluation has analyzed the person's condition and has found the person has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled.

(b) The person has been advised of the availability of, but has not accepted, voluntary treatment; but, if reasonable grounds exist to believe that the person will not remain in a voluntary treatment program, his or her acceptance of voluntary treatment shall not preclude certification.

(c) The facility which will provide short-term treatment has been designated or approved by the executive director to provide such treatment.

(2) The notice of certification must be signed by a professional person on the staff of the evaluation facility who participated in the evaluation and shall state facts sufficient to establish reasonable grounds to believe that the person has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled. The certification shall be filed with the court within forty-eight hours, excluding Saturdays, Sundays, and court holidays, of the date of certification. The certification shall be filed with the court in the county in which the respondent resided or was physically present immediately prior to his or her being taken into custody.

(3) Within twenty-four hours of certification, copies of the certification shall be personally delivered to the respondent, and a copy shall be kept by the evaluation facility as part of the person's record. The respondent shall also be asked to designate one other person whom he or she wishes informed regarding certification. If he or she is incapable of making such a designation at the time the certification is delivered, he or she shall be asked to designate such person as soon as he or she is capable. In addition to the copy of the certification, the respondent shall be given a written notice that a hearing upon his or her certification for short-term treatment may be had before the court or a jury upon written request directed to the court pursuant to subsection (6) of this section.

(4) Upon certification of the respondent, the facility designated for short-term treatment shall have custody of the respondent.

(5) Whenever a certification is filed with the court, the court, if it has not already done so under ~~section 27-10-106 (10)~~ SECTION 27-65-106 (10), shall forthwith appoint an attorney to represent the respondent. The court shall determine whether the respondent is able to afford an attorney. If the respondent cannot afford counsel, the court shall appoint either counsel from the legal services program operating in that jurisdiction or private counsel to represent the respondent. The attorney representing the respondent shall be provided with a copy of the certification immediately upon his or her appointment. Waiver of counsel must be knowingly and intelligently made in writing and filed with the court by the respondent. In the event that a respondent who is able to afford an attorney fails to pay the appointed counsel, such counsel, upon application to the court and after appropriate notice and hearing, may obtain a judgment for reasonable attorney fees against the respondent or person making request for such counsel or both the respondent and such person.

(6) The respondent for short-term treatment or his or her attorney may at any time file a written request that the certification for short-term treatment or the treatment be reviewed by the court or that the treatment be on an outpatient basis. If review is requested, the court shall hear the matter within ten days after the request, and the court shall give notice to the respondent and his or her attorney and the certifying and treating professional person of the time and place thereof. The hearing shall be held in accordance with ~~section 27-10-111~~ SECTION 27-65-111. At the conclusion of the hearing, the court may enter or confirm the certification for short-term treatment, discharge the respondent, or enter any other appropriate order, subject to available appropriations.

(7) Records and papers in proceedings under this section and ~~section 27-10-108~~ SECTION 27-65-108 shall be maintained separately by the clerks of the several courts. Upon the release of any respondent in accordance with the provisions of ~~section 27-10-110~~ SECTION 27-65-110, the facility shall notify the clerk of the court within five days of the release, and the clerk shall forthwith seal the record in the case and omit the name of the respondent from the index of cases in such court until and unless the respondent becomes subject to an order of long-term care and treatment pursuant to ~~section 27-10-109~~ SECTION 27-65-109 or until and unless the court orders them opened for good cause shown. In the event a petition is filed pursuant to ~~section 27-10-109~~ SECTION 27-65-109, such certification record may be opened and become a part of the record in the long-term care and treatment case and the name of the respondent indexed.

(8) Whenever it appears to the court, by reason of a report by the treating professional person or any other report satisfactory to the court, that a respondent detained for evaluation and treatment or certified for treatment should be transferred to another facility for treatment and the safety of the respondent or the public requires that the respondent be transported by a sheriff, the court may issue an order directing the sheriff or his or her designee to deliver the respondent to the designated facility.

27-65-108. [Formerly 27-10-108] Extension of short-term treatment. If the professional person in charge of the evaluation and treatment believes that a period longer than three months is necessary for treatment of the respondent, he OR SHE shall file with the court an extended certification. No extended certification for treatment shall be for a period of more than three months. The respondent shall be entitled to a hearing on the extended certification under the same conditions as in an original certification. The attorney initially representing the respondent shall continue to represent that person, unless the court appoints another attorney.

27-65-109. [Formerly 27-10-109] Long-term care and treatment of persons with mental illness. (1) Whenever a respondent has received short-term treatment for five consecutive months under the provisions of ~~sections 27-10-107 and 27-10-108~~ SECTIONS 27-65-107 AND 27-65-108, the professional person in charge of the evaluation and treatment may file a petition with the court for long-term care and treatment of the respondent under the following conditions:

(a) The professional staff of the agency or facility providing short-term treatment has analyzed the respondent's condition and has found that the respondent has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled.

(b) The respondent has been advised of the availability of, but has not accepted, voluntary treatment; but, if reasonable grounds exist to believe that the respondent will not remain in a voluntary treatment program, his or her acceptance of voluntary treatment shall not preclude an order pursuant to this section.

(c) The facility that will provide long-term care and treatment has been designated or approved by the executive director to provide the care and treatment.

(2) Every petition for long-term care and treatment shall include a request for a hearing before the court prior to the expiration of six months from the date of original certification. A copy of the petition shall be delivered personally to the respondent for whom long-term care and treatment is sought and mailed to his or her attorney of record simultaneously with the filing thereof.

(3) Within ten days after receipt of the petition, the respondent or his or her attorney may request a jury trial by filing a written request therefor with the court.

(4) The court or jury shall determine whether the conditions of subsection (1) of this section are met and whether the respondent has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled. The court shall thereupon issue an order of long-term care and treatment for a term not to exceed six months, or it shall discharge the respondent for whom long-term care and treatment was sought, or it shall enter any other appropriate order, subject to available appropriations. An order for long-term care and treatment shall grant custody of the respondent to the department for placement with an agency or facility designated by the executive director to provide long-term care and treatment. When a petition contains a request that a specific legal disability be imposed or that a specific legal right be deprived, the court may order the disability imposed or the right deprived if it or a jury has determined that the respondent has a mental illness or is gravely disabled and that, by reason thereof, the person is unable to competently exercise said right or perform the function as to which the disability is sought to be imposed. Any interested person may ask leave of the court to intervene as a copetitioner for the purpose of seeking the imposition of a legal disability or the deprivation of a legal right.

(5) An original order of long-term care and treatment or any extension of such order shall expire upon the date specified therein, unless further extended as provided in this subsection (5). If an extension is being sought, the professional person in charge of the evaluation and treatment shall certify to the court at least thirty days prior to the expiration date of the order in force that an

extension of the order is necessary for the care and treatment of the respondent subject to the order in force, and a copy of the certification shall be delivered to the respondent and simultaneously mailed to his or her attorney of record. At least twenty days before the expiration of the order, the court shall give written notice to the respondent and his or her attorney of record that a hearing upon the extension may be had before the court or a jury upon written request to the court within ten days after receipt of the notice. If no hearing is requested by the respondent within such time, the court may proceed ex parte. If a hearing is timely requested, it shall be held before the expiration date of the order in force. If the court or jury finds that the conditions of subsection (1) of this section continue to be met and that the respondent has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled, the court shall issue an extension of the order. Any extension shall be for a period of not more than six months, but there may be as many extensions as the court orders pursuant to this section.

27-65-110. [Formerly 27-10-110] Termination of short-term and long-term treatment - escape. (1) An original certification for short-term treatment under ~~section 27-10-107~~ SECTION 27-65-107, or an extended certification under ~~section 27-10-108~~ SECTION 27-65-108, or an order for long-term care and treatment or any extension thereof shall terminate as soon as, in the opinion of the professional person in charge of treatment of the respondent, the respondent has received sufficient benefit from such treatment for him OR HER to leave. Whenever a certification or extended certification is terminated under this section, the professional person in charge of providing treatment shall so notify the court in writing within five days of such termination. Such professional person may also prescribe day care, night care, or any other similar mode of treatment prior to termination.

(2) Before termination, an escaped respondent may be returned to the facility by order of the court without a hearing or by the superintendent or director of such facility without order of court. After termination, a respondent may be returned to the institution only in accordance with the provisions of this article.

27-65-111. [Formerly 27-10-111] Hearing procedures - jurisdiction. (1) Hearings before the court under ~~section 27-10-107, 27-10-108, or 27-10-109~~ SECTION 27-65-107, 27-65-108, OR 27-65-109 shall be conducted in the same manner as other civil proceedings before the court. The burden of proof shall be upon the person or facility seeking to detain the respondent. The court or jury shall determine that the respondent is in need of care and treatment only if the court or jury finds by clear and convincing evidence that the person has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled.

(2) The court, after consultation with respondent's counsel to obtain council's recommendations, may appoint a professional person to examine the respondent for whom short-term treatment or long-term care and treatment is sought and to testify at the hearing before the court as to the results of his or her examination. The court-appointed professional person shall act solely in an advisory capacity, and no presumption shall attach to his or her findings.

(3) Every respondent subject to an order for short-term treatment or long-term care and treatment shall be advised of his or her right to appeal the order by the court at the conclusion of any hearing as a result of which such an order may be entered.

(4) The court in which the petition is filed under ~~section 27-10-106~~ SECTION 27-65-106 or the certification is filed under ~~section 27-10-107~~ SECTION 27-65-107 shall be the court of original jurisdiction and of continuing jurisdiction for any further proceedings under this article. When the convenience of the parties and the ends of justice would be promoted by a change in the court having jurisdiction, the court may order a transfer of the proceeding to another county. Until further order of the transferee court, if any, it shall be the court of continuing jurisdiction.

~~(4.5)~~ (5) (a) In the event that a respondent or a person found not guilty by reason of impaired mental condition pursuant to section 16-8-103.5 (5), C.R.S., or by reason of insanity pursuant to section 16-8-105 (4) or 16-8-105.5, C.R.S., refuses to accept medication, the court having jurisdiction of the action pursuant to subsection (4) of this section, the court committing the person or defendant to the custody of the department ~~of human services~~ pursuant to section 16-8-103.5 (5), 16-8-105 (4), or 16-8-105.5, C.R.S., or the court of the jurisdiction in which the designated facility treating the respondent or person is located shall have jurisdiction and venue to accept a petition by a treating physician and to enter an order requiring that the respondent or person accept such treatment or, in the alternative, that the medication be forcibly administered to him or her. The court of the jurisdiction in which the designated facility is located shall not exercise its jurisdiction without the permission of the court that committed the person to the custody of the department. ~~of human services~~ Upon the filing of such a petition, the court shall appoint an attorney, if one has not been appointed, to represent the respondent or person and hear the matter within ten days.

(b) In any case brought under paragraph (a) of this ~~subsection (4.5)~~ SUBSECTION (5) in a court for the county in which the treating facility is located, the county where the proceeding was initiated pursuant to subsection (4) of this section or the court committing the person to the custody of the department ~~of human services~~ pursuant to section 16-8-103.5 (5), 16-8-105 (4), or 16-8-105.5, C.R.S., shall either reimburse the county in which the proceeding pursuant to this ~~subsection (4.5)~~ SUBSECTION (5) was filed and in which the proceeding was held for the reasonable costs incurred in conducting the proceeding or conduct the proceeding itself using its own personnel and resources, including its own district or county attorney, as the case may be.

(c) In the case of a defendant who is found incompetent to proceed pursuant to section 16-8.5-103, C.R.S., and who refuses to accept medication, the jurisdiction for the petition for involuntary treatment procedures shall be as set forth in section 16-8.5-112, C.R.S.

~~(5)~~ (6) All proceedings under this article, including proceedings to impose a legal disability pursuant to ~~section 27-10-125~~ SECTION 27-65-127, shall be conducted by the district attorney of the county where the proceeding is held or by a qualified attorney acting for the district attorney appointed by the district court for that purpose; except that, in any county or in any city and county having a population exceeding fifty thousand persons, the proceedings shall be conducted by the county attorney or by a qualified attorney acting for the county attorney appointed by the district court. In any case in which there has been a change of venue to a county other than the county of residence of the respondent or the county in which the certification proceeding was commenced, the county from which the proceeding was transferred shall either reimburse the county to which the proceeding was transferred and in which the proceeding was held for the reasonable costs incurred in conducting the proceeding or conduct the proceeding itself using its

own personnel and resources, including its own district or county attorney, as the case may be. Upon request of a guardian appointed pursuant to article 14 of title 15, C.R.S., the guardian may intervene in any proceeding under this article concerning his OR HER ward and, through counsel, may present evidence and represent to the court the views of the guardian concerning the appropriate disposition of the case.

27-65-112. [Formerly 27-10-112] Appeals. Appellate review of any order of short-term treatment or long-term care and treatment may be had as provided in the Colorado appellate rules. Such appeal shall be advanced upon the calendar of the appellate court and shall be decided at the earliest practicable time. Pending disposition by the appellate court, it may make such order as it may consider proper in the premises relating to the care and custody of the respondent.

27-65-113. [Formerly 27-10-113] Habeas corpus. Any person detained pursuant to this article shall be entitled to an order in the nature of habeas corpus upon proper petition to any court generally empowered to issue orders in the nature of habeas corpus.

27-65-114. [Formerly 27-10-114] Restoration of rights. Any person who, by reason of a judicial decree entered by a court of this state prior to July 1, 1975, is adjudicated as a person with a mental illness shall be deemed to have been restored to legal capacity and competency.

27-65-115. [Formerly 27-10-115] Discrimination. No person who has received evaluation or treatment under any provisions of this article shall be discriminated against because of such status. For purposes of this section, "discrimination" means giving any undue weight to the fact of hospitalization or outpatient care and treatment unrelated to a person's present capacity to meet standards applicable to all persons. Any person who suffers injury by reason of a violation of this section shall have a civil cause of action.

27-65-116. [Formerly 27-10-116] Right to treatment. (1) (a) Any person receiving evaluation or treatment under any of the provisions of this article is entitled to medical and psychiatric care and treatment, with regard to services listed in ~~section 27-1-201 (1) (a) to (1) (e)~~ SECTION 27-66-101 and services listed in rules ~~and regulations~~ authorized by ~~section 27-1-202~~ SECTION 27-66-102, suited to meet his or her individual needs, delivered in such a way as to keep him or her in the least restrictive environment, and delivered in such a way as to include the opportunity for participation of family members in his or her program of care and treatment when appropriate, all subject to available appropriations. Nothing in this paragraph (a) shall create any right with respect to any person other than the person receiving evaluation, care, or treatment. The professional person and the agency or facility providing evaluation, care, or treatment shall keep records detailing all care and treatment received by such person, and such records shall be made available, upon that person's written authorization, to his or her attorney or his or her personal physician. Such records shall be permanent records and retained in accordance with the provisions of ~~section 27-10-120 (3)~~ SECTION 27-65-121 (4).

(b) Any person receiving evaluation or treatment under any of the provisions of this article is entitled to petition the court pursuant to the provisions of section 13-45-102, C.R.S., subject to available appropriations, for release to a less restrictive setting within or without a treating facility

or release from a treating facility when adequate medical and psychiatric care and treatment is not administered.

(2) The department shall adopt regulations to assure that each agency or facility providing evaluation, care, or treatment shall require the following:

(a) Consent for specific therapies and major medical treatment in the nature of surgery. The nature of the consent, by whom it is given, and under what conditions, shall be determined by ~~regulations~~ RULES of the department.

(b) The order of a physician for any treatment or specific therapy based on appropriate medical examinations;

(c) Notation in the patient's treatment record of periodic examinations, evaluations, orders for treatment, and specific therapies signed by personnel involved;

(d) Conduct according to the guidelines contained in the regulations of the federal government and the department with regard to clinical investigations, research, experimentation, and testing of any kind; and

(e) Documentation of the findings, conclusions, and decisions in any administrative review of a decision to release or withhold the information requested by a family member pursuant to ~~section 27-10-120 (1) (g) or (1) (h)~~ SECTION 27-65-121 (1) (g) OR (1) (h) and documentation of any information given to a family member.

27-65-117. [Formerly 27-10-117] Rights of persons receiving evaluation, care, or treatment. (1) Each person receiving evaluation, care, or treatment under any provision of this article has the following rights and shall be advised of such rights by the facility:

(a) To receive and send sealed correspondence. No incoming or outgoing correspondence shall be opened, delayed, held, or censored by the personnel of the facility.

(b) To have access to letter-writing materials, including postage, and to have staff members of the facility assist him OR HER if unable to write, prepare, and mail correspondence;

(c) To have ready access to telephones, both to make and to receive calls in privacy;

(d) To have frequent and convenient opportunities to meet with visitors. Each person may see his OR HER attorney, clergyman, or physician at any time.

(e) To wear his OR HER own clothes, keep and use his OR HER own personal possessions, and keep and be allowed to spend a reasonable sum of his OR HER own money.

(2) A person's rights under subsection (1) of this section may be denied for good cause only by the professional person providing treatment. Denial of any right shall in all cases be entered into the person's treatment record. Information pertaining to a denial of rights contained in the person's treatment record shall be made available, upon request, to the person or his OR HER attorney.

(3) No person admitted to or in a facility shall be fingerprinted unless required by other provisions of law.

(4) A person may be photographed upon admission for identification and the administrative purposes of the facility. ~~Such~~ THE photographs shall be confidential and shall not be released by the facility except pursuant to court order. No other nonmedical photographs shall be taken or used without appropriate consent or authorization.

(5) Any person receiving evaluation or treatment under any of the provisions of this article is entitled to a written copy of all his OR HER rights enumerated in this section, and a minor child shall receive written notice of his OR HER rights as provided in ~~section 27-10-103 (3.5) (g)~~ SECTION 27-65-103 (7) (g). A list of such rights shall be prominently posted in all evaluation and treatment facilities.

27-65-118. [Formerly 27-10-117.5] Administration or monitoring of medications to persons receiving care. The executive director has the power to direct the administration or monitoring of medications in conformity with part 3 of article 1.5 of title 25, C.R.S., to persons receiving treatment in facilities created pursuant to this article.

27-65-119. [Formerly 27-10-118] Employment of persons in a facility. The department shall adopt ~~regulations~~ RULES governing the employment and compensation therefor of persons receiving care or treatment under any provision of this article. The department shall establish standards for reasonable compensation for such employment.

27-65-120. [Formerly 27-10-119] Voting in public elections. Any person receiving evaluation, care, or treatment under any provision of this article shall be given the opportunity to exercise his or her right to register and to vote in primary and general elections. The agency or facility providing evaluation, care, or treatment shall assist such persons, upon their request, to obtain voter registration forms, applications for mail-in ballots, and mail-in ballots and to comply with any other prerequisite for voting.

27-65-121. [Formerly 27-10-120] Records. (1) Except as provided in subsection (2) of this section, all information obtained and records prepared in the course of providing any services under this article to individuals under any provision of this article shall be confidential and privileged matter. The information and records may be disclosed only:

(a) In communications between qualified professional personnel in the provision of services or appropriate referrals;

(b) When the recipient of services designates persons to whom information or records may be released; but, if a recipient of services is a ward or conservatee and his or her guardian or

conservator designates, in writing, persons to whom records or information may be disclosed, the designation shall be valid in lieu of the designation by the recipient; except that nothing in this section shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional personnel to reveal information that has been given to him or her in confidence by members of a patient's family or other informants;

(c) To the extent necessary to make claims on behalf of a recipient of aid, insurance, or medical assistance to which he or she may be entitled;

(d) If the department has promulgated rules for the conduct of research. Such rules shall include, but not be limited to, the requirement that all researchers must sign an oath of confidentiality. All identifying information concerning individual patients, including names, addresses, telephone numbers, and social security numbers, shall not be disclosed for research purposes.

(e) To the courts, as necessary to the administration of the provisions of this article;

(f) To persons authorized by an order of court after notice and opportunity for hearing to the person to whom the record or information pertains and the custodian of the record or information pursuant to the Colorado rules of civil procedure;

(g) To adult family members upon admission of a person with a mental illness for inpatient or residential care and treatment. The only information released pursuant to this paragraph (g) shall be the location and fact of admission of the person with a mental illness who is receiving care and treatment. The disclosure of location is governed by the procedures in ~~section 27-10-120.5 (1)~~ SECTION 27-65-122 and is subject to review under ~~section 27-10-120.5~~ SECTION 27-65-122.

(h) To adult family members actively participating in the care and treatment of a person with a mental illness regardless of the length of the participation. The information released pursuant to this paragraph (h) shall be limited to one or more of the following: The diagnosis, the prognosis, the need for hospitalization and anticipated length of stay, the discharge plan, the medication administered and side effects of the medication, and the short-term and long-term treatment goals. The disclosure is governed by the procedures in ~~section 27-10-120.5 (2)~~ SECTION 27-65-122 (2) and is subject to review under ~~section 27-10-120.5~~ SECTION 27-65-122.

(i) In accordance with state and federal law to the agency designated pursuant to the federal "Protection and Advocacy for Mentally Ill Individuals Act", 42 U.S.C. sec. 10801, et seq., as the governor's protection and advocacy system for Colorado.

~~(1.5)~~ (2) Nothing in paragraph (g) or (h) of subsection (1) of this section shall be deemed to preclude the release of information to a parent concerning his or her minor child.

~~(2)~~ (3) (a) Nothing in this article shall be construed as rendering privileged or confidential any information, except written medical records and information ~~which~~ THAT is privileged under section 13-90-107, C.R.S., concerning observed behavior ~~which~~ THAT constitutes a criminal offense committed upon the premises of any facility providing services under this article or any

criminal offense committed against any person while performing or receiving services under this article.

(b) The provisions of subsection (1) of this section shall not apply to physicians or psychologists eligible to testify concerning a criminal defendant's mental condition pursuant to section 16-8-103.6, C.R.S.

~~(3)~~ (4) (a) All facilities shall maintain and retain permanent records, including all applications as required pursuant to ~~section 27-10-105 (2)~~ SECTION 27-65-105 (3).

(b) Outpatient or ambulatory care facilities shall retain all records for a minimum of seven years after discharge from the facility for persons who were eighteen years of age or older when admitted to the facility, or until twenty-five years of age for persons who were under eighteen years of age when admitted to the facility.

(c) Inpatient or hospital care facilities shall retain all records for a minimum of ten years after discharge from the facility for persons who were eighteen years of age or older when admitted to the facility, or until twenty-eight years of age for persons who were under eighteen years of age when admitted to the facility.

27-65-122. [Formerly 27-10-120.5] Request for release of information - procedures - review of a decision concerning release of information. (1) When a family member requests the location and fact of admission of a person with a mental illness pursuant to ~~section 27-10-120 (1) (g)~~ SECTION 27-65-121 (1) (g), the treating professional person or his or her designee, who shall be a professional person, shall decide whether to release or withhold such information. The location shall be released unless the treating professional person or his or her designee determines, after an interview with the person with a mental illness, that release of the information to a particular family member would not be in the best interests of the person with a mental illness. Any decision to withhold information requested pursuant to ~~section 27-10-120 (1) (g)~~ SECTION 27-65-121 (1) (g) is subject to administrative review pursuant to this section upon request of a family member or the person with a mental illness. The treating facility shall make a record of the information given to a family member pursuant to this subsection (1). For the purposes of this subsection (1), an adult person having a similar relationship to a person with a mental illness as a spouse, parent, child, or sibling of a person with a mental illness may also request the location and fact of admission concerning a person with a mental illness.

(2) (a) When a family member requests information pursuant to ~~section 27-10-120 (1) (h)~~ SECTION 27-65-121 (1) (h) concerning a person with a mental illness, the treating professional person or his or her designee shall determine whether the person with a mental illness is capable of making a rational decision in weighing his or her confidentiality interests and the care and treatment interests implicated by the release of information. The treating professional person or his or her designee shall then determine whether the person with a mental illness consents or objects to such release. Information shall be released or withheld in the following circumstances:

(I) If the treating professional person or his or her designee makes a finding that the person with a mental illness is capable of making a rational decision concerning his or her interests and the

person with a mental illness consents to the release of information, the treating professional person or his or her designee shall order the release of the information unless he or she determines that the release would not be in the best interests of the person with a mental illness.

(II) If the treating professional person or his or her designee makes a finding that the person with a mental illness is capable of making a rational decision concerning his or her interests and the person with a mental illness objects to the release of information, the treating professional person or his or her designee shall not order the release of the information.

(III) If the treating professional person or his or her designee makes a finding that the person with a mental illness is not capable of making a rational decision concerning his or her interests, the treating professional person or his or her designee may order the release of the information if he or she determines that the release would be in the best interests of the person with a mental illness.

(IV) Any determination as to capacity under this paragraph (a) shall be used only for the limited purpose of this paragraph (a).

(b) A decision by a treating professional person or his or her designee concerning the capability of a person with a mental illness under subparagraph (III) of paragraph (a) of this subsection (2) is subject to administrative review upon the request of the person with a mental illness. A decision by a treating professional person or his or her designee to order the release or withholding of information under subparagraph (III) of paragraph (a) of this subsection (2) is subject to administrative review upon the request of either a family member or the person with a mental illness.

(c) The director of the treating facility shall make a record of any information given to a family member pursuant to paragraph (a) of this subsection (2) and ~~section 27-10-120 (1) (h)~~ SECTION 27-65-121 (1) (h).

(3) When administrative review is requested either under subsection (1) or paragraph (b) of subsection (2) of this section, the director of the facility providing care and treatment to the person with a mental illness shall cause an objective and impartial review of the decision to withhold or release information. The review shall be conducted by the director of the facility, if he or she is a professional person, or by a professional person whom he or she designates if the director is not available or if the director cannot provide an objective and impartial review. The review shall include, but need not be limited to, an interview with the person with a mental illness. The facility providing care and treatment shall document the review of the decision.

(4) If a person with a mental illness objects to the release or withholding of information, the person with a mental illness and his or her attorney, if any, shall be provided with information concerning the procedures for administrative review of a decision to release or withhold information. The person with a mental illness shall be informed of any information proposed to be withheld or released and to whom and shall be given a reasonable opportunity to initiate the administrative review process before information concerning his or her care and treatment is released.

(5) A family member whose request for information is denied shall be provided with information concerning the procedures for administrative review of a decision to release or withhold information.

(6) A person with a mental illness may file a written request for review by the court of a decision made upon administrative review to release information to a family member requested under ~~section 27-10-120 (1) (h)~~ SECTION 27-65-121 (1) (h) and proposed to be released pursuant to subsection (2) of this section. If judicial review is requested, the court shall hear the matter within ten days after the request, and the court shall give notice to the person with a mental illness and his or her attorney, the treating professional person, and the person who made the decision upon administrative review of the time and place thereof. The hearing shall be conducted in the same manner as other civil proceedings before the court.

(7) In order to allow a person with a mental illness an opportunity to seek judicial review, the treating facility or the treating professional person or his or her designee shall not release information requested pursuant to ~~section 27-10-120 (1) (h)~~ SECTION 27-65-121 (1) (h) until five days after the determination upon administrative review of the director or his or her designee is received by the person with a mental illness, and, once judicial review is requested, information shall not be released except by court order. However, if the person with a mental illness indicates an intention not to appeal a determination upon administrative review that is adverse to him or her concerning the release of information, the information may be released less than five days after the determination upon review is received by the person with a mental illness.

(8) This section provides for the release of information only and shall not be deemed to authorize the release of the written medical record without authorization by the patient or as otherwise provided by law.

(9) For purposes of this section, the treating professional person's designee shall be a professional person.

27-65-123. [Formerly 27-10-121] Treatment in federal facilities. (1) If a person is certified under the provisions of this article and is eligible for hospital care or treatment by an agency of the United States and if a certificate of notification from said agency, showing that facilities are available and that the person is eligible for care or treatment therein, is received, the court may order ~~said person~~ HIM OR HER to be placed in the custody of the agency for hospitalization. When any person is admitted pursuant to an order of court to any hospital or institution operated by any agency of the United States within or without this state, ~~he~~ THE PERSON shall be subject to the rules and regulations of the agency. The chief officer of any hospital or institution operated by an agency and in which the person is so hospitalized shall, with respect to the person, be vested with the same powers as the chief officer of the Colorado mental health institute at Pueblo with respect to detention, custody, transfer, conditional release, or discharge of patients. Jurisdiction shall be retained in the appropriate courts of this state to inquire into the mental condition of persons so hospitalized and to determine the necessity for continuance of their hospitalization.

(2) An order of a court of competent jurisdiction of another state, territory, or the District of Columbia, authorizing hospitalization of a person to any agency of the United States, shall have

the same effect as to said person while in this state as in the jurisdiction in which the court entering the order is situated; the courts of the state or district issuing the order shall be deemed to have retained jurisdiction of the person so hospitalized for the purpose of inquiring into his OR HER mental condition and of determining the necessity for continuance of his OR HER hospitalization. Consent is hereby given to the application of the law of the state or district in which the court issuing the order for hospitalization is located, with respect to the authority of the chief officer of any hospital or institution operated in this state by any agency of the United States to retain custody, to transfer, to conditionally release, or to discharge the person hospitalized.

27-65-124. [Formerly 27-10-122] Transfer of persons into and out of Colorado - reciprocal agreements. ~~(1)~~ The transfer of persons hospitalized voluntarily under the provisions of this article out of Colorado or under the laws of another jurisdiction into Colorado shall be governed by the provisions of the interstate compact on mental health.

(2) to (6) Repealed.

27-65-125. [Formerly 27-10-123] Criminal proceedings. Proceedings under ~~section 27-10-105, 27-10-106, or 27-10-107~~ SECTION 27-65-105, 27-65-106, OR 27-65-107 shall not be initiated or carried out involving a person charged with a criminal offense unless or until the criminal offense has been tried or dismissed; except that the judge of the court wherein the criminal action is pending may request the district or probate court to authorize and permit such proceedings.

27-65-126. [Formerly 27-10-124] Application of this article. The provisions of this article do not apply to or govern any proceedings commenced or concluded prior to July 1, 1975, with the exception of ~~section 27-10-114~~ SECTION 27-65-114. Any proceeding commenced prior to July 1, 1975, shall be administered and disposed of according to the provisions of law existing prior to July 1, 1975, in the same manner as if this article had not been enacted.

27-65-127. [Formerly 27-10-125] Imposition of legal disability - deprivation of legal right - restoration. (1) (a) When an interested person wishes to obtain a determination as to the imposition of a legal disability or the deprivation of a legal right for a person who has a mental illness and who is a danger to himself or herself or others, is gravely disabled, or is insane, as defined in section 16-8-101, C.R.S., and who is not then subject to proceedings under this article or part 3 or part 4 of article 14 of title 15, C.R.S., the interested person may petition the court for a specific finding as to the legal disability or deprivation of a legal right. Actions commenced pursuant to this subsection (1) may include but shall not be limited to actions to determine contractual rights and rights with regard to the operation of motor vehicles.

(b) The petition shall set forth the disability to be imposed or the legal right to be deprived and the reasons therefor.

(2) ~~(a)~~ The court may impose a legal disability or may deprive a person of a legal right only upon finding both of the following:

~~(I)~~ (a) That the respondent is a person with a mental illness and is a danger to himself or herself or others, gravely disabled, or insane, as defined in section 16-8-101, C.R.S.;

~~(II)~~ (b) That the requested disability or deprivation is both necessary and desirable.

(b) Repealed.

(3) To have a legal disability removed or a legal right restored, any interested person may file a petition with the court which made the original finding. No legal disability shall be imposed nor a legal right be deprived for a period of more than six months without a review hearing by the court at the end of six months at which the findings specified in subsection (2) of this section shall be reaffirmed to justify continuance of the disability or deprivation. A copy of the petition shall be served on the person who filed the original petition, on the person whose rights are affected if he OR SHE is not the petitioner, and upon the facility where the person whose rights are affected resides, if any.

(4) Whenever any proceedings are instituted or conducted pursuant to this section, the following procedures shall apply:

(a) Upon the filing of a petition, the court shall appoint an attorney-at-law to represent the respondent. The respondent may replace said attorney with an attorney of the respondent's own selection at any time. Attorney fees for an indigent respondent shall be paid by the court.

(b) The court, upon request of an indigent respondent or his or her attorney, shall appoint, at the court's expense, one or more professional persons of the respondent's selection to assist the respondent in the preparation of his or her case.

(c) Upon demand made at least five days prior to the date of hearing, the respondent shall have the right to a trial of all issues by a jury of six.

(d) At all times the burden shall be upon the person seeking imposition of a disability or deprivation of a legal right or opposing removal of a disability or deprivation to prove all essential elements by clear and convincing evidence.

(e) Pending a hearing, the court may issue an order temporarily imposing a disability or depriving the respondent of a legal right for a period of not more than ten days in conformity with the standards for issuance of ex parte temporary restraining orders in civil cases, but no individual habilitation or rehabilitation plan shall be required prior to the issuance of such order.

(f) Except as otherwise provided in this subsection (4), all proceedings shall be held in conformance with the Colorado rules of civil procedure, but no costs shall be assessed against the respondent.

(5) Any person who, by reason of a judicial decree or order entered by a court of this state prior to July 1, 1979, is under the imposition of a legal disability or has been deprived of a legal right pursuant to this section as it existed prior to July 1, 1979, shall be released from such decree or order on December 31, 1979.

27-65-128. [Formerly 27-10-126] Administration - rules. The department shall make such rules ~~and regulations~~ as will consistently enforce the provisions of this article.

27-65-129. [Formerly 27-10-127] Payment for counsel. In order to provide legal representation to persons eligible therefor as provided in this article, the judicial department is authorized to pay, out of appropriations made therefor by the general assembly, sums directly to appointed counsel on a case-by-case basis or, on behalf of the state, to make lump-sum grants to and contract with individual attorneys, legal partnerships, legal professional corporations, public interest law firms, or nonprofit legal services corporations.

27-65-130. [Formerly 27-10-128] Mental health service standards for health care facilities. ~~(1)~~ The advisory board created by ~~section 27-10-129~~ SECTION 27-65-131 shall be responsible for recommending standards and ~~regulations~~ RULES relevant to the provisions of this article for the programs of mental health services to those patients in any health care facility that has either separate facilities for the care, treatment, and rehabilitation of persons with mental health problems or those health care facilities that have as their only purpose the treatment and care of such persons.

(2) (Deleted by amendment, L. 92, p. 955, § 6, effective March 19, 1992.)

27-65-131. [Formerly 27-10-129] Advisory board - service standards and regulations. ~~(1)~~ There is hereby established an advisory board to the department for the purpose of assisting and advising the executive director in accordance with ~~section 27-10-128~~ SECTION 27-65-130 in the development of service standards and ~~regulations~~ RULES. The board shall consist of not less than eleven nor more than fifteen members appointed by the governor and shall include one representative each from the ~~division of mental health~~ UNIT in the department THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, the department of human services, the department of public health and environment, the university of Colorado ~~medical~~ HEALTH SCIENCES center, and a leading professional association of psychiatrists in this state; at least one member representing proprietary skilled health care facilities; one member representing nonprofit health care facilities; one member representing the Colorado bar association; one member representing consumers of mental health services; one member representing families of persons with mental illness; one member representing children's health care facilities; and other persons from both the private and the public sectors who are recognized or known to be interested and informed in the area of the board's purpose and function. In making appointments to the board, the governor is encouraged to include representation by at least one member who is a person with a disability, as defined in section 24-45.5-102 (2), C.R.S., a family member of a person with a disability, or a member of an

advocacy group for persons with disabilities, provided that the other requirements of this ~~subsection (1)~~ SECTION are met.

(2) (Deleted by amendment, L. 92, p. 955, § 7, effective March 19, 1992.)

APPENDIX B

DEFINITION OF 27-65 TERMS

The following definitions relevant to 27-65 procedures are taken from the Procedure Manual and *Minimum Standards for the Care and Treatment of Persons with Mental Illness* (2 CCR 502-1).

Court means the district court in the county in which the person resides or was physically present immediately prior to being taken into custody. In the City and County of Denver, the court means the probate court.

Deprivation of Legal Right or Imposition of Legal Disability
If a person has a mental illness and is a danger to himself or others, or is gravely disabled or insane as defined in Section 16-8-101, C.R.S., and is not subject to a 72-hour hold or short-term certification, any interested person may petition the court in the county where the person lives (Form M-23) to request that:
A specific legal right be deprived, or
A specific legal disability be imposed.

The court or jury must find both that the person has a mental illness and is a danger to self or others or is gravely disabled; and that the loss of a right is both necessary and desirable.
The burden of proof is on the person seeking to have an imposition placed on another person to meet the above requirements by clear and convincing evidence.
The deprivation of a right or imposition of a legal disability lasts six (6) months and can be reaffirmed for another six (6) months if that is justified.

Designated Facility means a facility approved by the Colorado Department of Human Services pursuant to the provisions of the Care and Treatment of the Mentally Ill Act, C.R.S. 27-10-101, et seq.

Facility means a public hospital or a licensed private hospital, clinic, community mental health center or clinic, institution, sanitarium or residential child care facility (RCCF) that provides treatment for persons with mental illness.

Gravely Disabled means a condition in which a person, as a result of mental illness, is in danger of serious physical harm due to his/her inability or failure to provide him/herself the essential human needs of food, clothing, shelter, and medical care; or lacks judgment in the management of his/her resources, and in the conduct of his/her social relations, to the extent that his/her health or safety is significantly endangered and lacks the capacity to understand that this is so. Please refer to C.R.S. 27-10-102 for the complete statutory definition. This term shall not include persons with mental retardation by reason of their retardation alone.

Involuntary Medication means psychiatric medication administered without a person's consent.

Mechanical Restraint means a physical device used to involuntarily restrict the movement of an individual or the movement or normal function of a portion of his or her body. Types of mechanical restraints include, but are not limited to: restraint sheets, camisoles, belts attached to cuffs, leather

armlets, restraint chairs, and shackles.

Physical restraint means the use of bodily, physical force to involuntarily limit an individual's freedom of movement, except that "physical restraint" does not include the holding of a child by one adult for the purpose of calming or comforting the child.

Seclusion means the confinement of a person alone in a room from which egress is prevented. Seclusion does not include the placement of patients, who are assigned to an intake unit in a secure treatment facility in locked rooms during sleeping hours pursuant to Section 19.312 of these regulations.

Therapy or treatments using special procedures means a therapy that requires an additional, specific consent, including electro-therapy treatment (electro-convulsive therapy), and behavior modifications using physically painful, aversive, or noxious stimuli.

Voluntary is any person who makes a voluntary application at any time to any public or private facility or mental health professional for mental health services, either by direct application in person or by referral from any other public or private facility or professional person. "A ward may be admitted to a hospital or institutional care and treatment for mental illness by consent of the guardian for so long as the ward agrees to such care and treatment. Within ten days of any such admission of the ward for such hospital or institutional care and treatment, the guardian shall notify in writing the court which appointed the guardian of the admission."

APPENDIX C

DATA COLLECTION TOOLS AND DATA DICTIONARIES

Holds and Certifications

Client ID	Date 27-10 Procedure was Initiated	Birth Date	Gender	Ethnicity	Ethnicity Other	County	Legal Status	M1 Initiated By	Reason for M1, STC, LTC	Outcome of M1, STC, LTC	Consumer Transferred to

Data Dictionary: Holds and Certifications

Client ID: Identification number unique to the consumer. Chosen by facility.

Date 27-10 Procedure was Initiated: Date hold/certification began. MM/DD/YYYY format.

Birth Date: Consumer date of birth. MM/DD/YYYY format.

Gender:
1 – Male
2 – Female
3 - Unknown

Ethnicity:
1 - American Indian/Alaska Native
2 - Asian Pacific Islander
3 - African American
4 - Hispanic
5 - Caucasian
6 - Other
7 - Refused

Ethnicity Other: List the ethnicity if "Other" was selected above.

County: County where hold/certification was initiated.

Legal Status:
1 - Seventy Two Hour Hold
2 - Long Term Certification
3 - Short Term Certification
4 - Voluntary
5 - Extended Short Term Cert
6 - Extended Long Term Cert

M1 Initiated By:
1 - Police
2 - Court
3 - Facility-Based Personnel

Reason for M1, STC, LTC:
1 - Dangerous to Self
2 - Dangerous to Others
3 - Gravely Disabled
4 - Dangerous to Self and Others
5 - Dangerous to Self and Gravely
6 - Dangerous to Others and Gravely Disabled
7 - Dangerous to Self, Others and Gravely

Outcome of M1, STC, LTC:
1 - Voluntary
2 - Dropped
3 - Certified
4 - Transferred
5 - Continued
6 - Court ordered

Client Transferred To:
Location client was transferred to. Only if "Outcome" was "Transferred."

Involuntary Medications

Client ID	Date 27-10 Procedure was Initiated	Birth Date	Gender	Ethnicity	Ethnicity Other	Order Date	Type of Order	Name of Medication

Data Dictionary: Involuntary Medications

Client ID:	Identification number unique to the consumer. Chosen by facility.
Date 27-10 Procedure was Initiated:	Date involuntary medication was ordered. MM/DD/YYYY format.
Birth Date:	Consumer date of birth. MM/DD/YYYY format.
Gender:	1 – Male 2 – Female 3 - Unknown
Ethnicity:	1 - American Indian/Alaska Native 2 - Asian Pacific Islander 3 - African American 4 - Hispanic 5 - Caucasian 6 - Other 7 - Refused
Ethnicity Other:	List the ethnicity if "Other" was selected above.
Order Date:	Date Involuntary Medication was administered. MM/DD/YYYY format.
Type of Order:	1 - Emergency 2 - Court-Ordered
Name of Medication:	Please provide the name of the medication.

Seclusions and Restraints

Client ID	Date 27-10 Procedure was Initiated	Birth Date	Gender	Ethnicity	Ethnicity Other	Start Date	Start Time	End Date	End Time	Type

Data Dictionary: Seclusions and Restraints

Client ID: Identification number unique to the consumer. Chosen by facility.

Date 27-10 Procedure was Initiated: Date seclusion/restraint was ordered. MM/DD/YYYY format.

Birth Date: Consumer date of birth. MM/DD/YYYY format.

Gender:
1 – Male
2 – Female
3 - Unknown

Ethnicity:
1 - American Indian/Alaska Native
2 - Asian Pacific Islander
3 - African American
4 - Hispanic
5 - Caucasian
6 - Other
7 - Refused

Ethnicity Other: List the ethnicity if "Other" was selected above.

Start Date: Start Date of Seclusion/Restraint. MM/DD/YYYY format.

Start Time: Start Time of Seclusion/Restraint. 24-hour clock.

End Date End Date of Seclusion/Restraint. MM/DD/YYYY format.

End Time: End Time of Seclusion/Restraint. 24-hour clock.

Type:
1 – Seclusion Only
2 – Restraint Only
3 – Seclusion and Restraint

Electroconvulsive Therapy

Client ID	Date 27-10 Procedure was Initiated	Birth Date	Gender	Ethnicity	Ethnicity Other	Date of ECT	Time of ECT

Data Dictionary: Electroconvulsive Therapy (ECT)

Client ID:	Identification number unique to the consumer. Chosen by facility.
Date 27-10 Procedure was Initiated:	Date seclusion/restraint was ordered. MM/DD/YYYY format.
Birth Date:	Consumer date of birth. MM/DD/YYYY format.
Gender:	1 - Male 2 - Female 3 - Unknown
Ethnicity:	1 - American Indian/Alaska Native 2 - Asian Pacific Islander 3 - African American 4 - Hispanic 5 - Caucasian 6 - Other 7 - Refused
Ethnicity Other:	List the ethnicity if "Other" was selected above.
Date of ECT:	Date of ECT Treatment. MM/DD/YYYY format.
Time of ECT:	Time of ECT Treatment. 24-hour clock.

Court-Ordered Deprivation of Right or Imposition of Legal Disability

Client ID	Date 27-10 Procedure was Initiated	Birth Date	Gender	Ethnicity	Ethnicity Other	Imposition of Legal Disability or Deprivation of Right	Specify Right Deprived

Data Dictionary: Court-Ordered Deprivation of Right (DOR) or Imposition of Legal Disability (ILD)

Client ID:	Identification number unique to the consumer. Chosen by facility.
Date 27-10 Procedure was Initiated:	Date seclusion/restraint was ordered. MM/DD/YYYY format.
Birth Date:	Consumer date of birth. MM/DD/YYYY format.
Gender:	1 - Male 2 - Female 3 - Unknown
Ethnicity:	1 - American Indian/Alaska Native 2 - Asian Pacific Islander 3 - African American 4 - Hispanic 5 - Caucasian 6 - Other 7 - Refused
Ethnicity Other:	List the ethnicity if "Other" was selected above.
ILD or DOR:	1 – Imposition of Disability 2 – Deprivation of Right
Specify Right Deprived:	Enter Description of ILD/DOR.

APPENDIX D

DATA SUBMISSION BY FACILITY FOR FY2011[5]

Agency	Data Submitted and Included in Analysis	Data Submitted and Not Included in Analysis	Did Not Submit Data
Arapahoe/Douglas Mental Health Center	X		
Arapahoe/Douglas Mental Health Center/Bridge House - ATU	X		
AspenPointe Behavioral Health Services	X		
AspenPointe Health System/Lighthouse - ATU	X		
Aurora MHC	X		
Axis Health System	X		
Axis Health System - ATU	X		
Boulder Community Hospital	X		
Cedar Springs Behavioral Health	X		
Centennial MHC	X		
Centennial Peaks Hospital			X
The Children's Hospital	X		
CMHI-Fort Logan	X		
CMHI-Pueblo	X		
Colorado Boys Ranch (Youth Connect)			X

[5] Facilities that did not submit data are highlighted in grey.

Colorado West Psychiatric Hospital	X		
Colorado West Regional MHC	X		
Community Care Corporation			X
Community Reach Center	X		
Denver Health	X		
Devereaux Cleo Wallace			X
Exempla Saint Joseph	X		
Exempla West Pines	X		
HealthOne Presbyterian St. Luke	X		
Highlands Behavioral Health System	X		
Jefferson Center for Mental Health	X		
Jefferson Hills-Aurora	X		
Jefferson Hills-Lakewood	X		
Larimer Center for Mental Health	X		
Longmont United Hospital	X		
Medical Center of Aurora-Gero Psych	X		
Mental Health Center of Denver	X		
Mental Health Center of Boulder County, Inc.	X		
Midwestern Colorado MHC	X		
North Colorado Medical Center	X		
NorthRange Behavioral Health - ATU	X		
NorthRange Behavioral Health	X		
Parkview Medical Center	X		

Peak View Behavioral Health (SHE Colorado)	X		
Penrose-St. Francis Health Services	X		
Porter Adventist Hospital	X		
Poudre Valley Health System/Mountain Crest			X
San Luis Valley Mental Health Center			X
Savio House			X
Southeast Mental Health Center	X		
Spanish Peaks Mental Health Center - ATU	X		
Spanish Peaks Mental Health Center	X		
St. Anthony Central Hospital			X
St. Mary Corwin Medical Center			X
University of Colorado Hospital	X		
VA - Denver	X		
VA - Grand Junction		X	
West Central Mental Health Center, Inc.	X		