SENATE BILL NO. 120

INTRODUCED BY FRANKLIN BY REQUEST OF THE DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES

IN THE SENATE

`	IN THE SENATE
JANUARY 11, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY.
	FIRST READING.
FEBRUARY 16, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 17, 1993	PRINTING REPORT.
FEBRUARY 18, 1993	SECOND READING, DO PASS.
FEBRUARY 19, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 50; NOES, 0.
	TRANSMITTED TO HOUSE.
1	IN THE HOUSE
FEBRUARY 23, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.
	FIRST READING.
MARCH 9, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 11, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
MARCH 12, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
MARCH 13, 1993	SECOND READING, CONCURRED IN.
MARCH 16, 1993	THIRD READING, CONCURRED IN. AYES, 98; NOES, 2.
MARCH 17, 1993	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 19, 1993	RECEIVED FROM HOUSE.
	ON MOTION, CONSIDERATION PASSED TILL 64TH LEGISLATIVE DAY.

MARCH 22, 1993 SECOND READING, AMENDMENTS CONCURRED IN.

MARCH 23, 1993 THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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1 2	INTRODUCED BY TAX DUA DEPARTMENT OF CORDECTIONS
3	BY REQUEST OF THE DEPARTMENT OF CORRECTIONS
4	AND HUMAN SERVICES
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A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO TREATMENT AND DISCHARGE OF PATIENTS ADMITTED TO A MENTAL HEALTH FACILITY: REVISING THE REQUIREMENTS GOVERNING ESTABLISHMENT AND PERIODIC REVIEW OF PATIENT TREATMENT 10 PLANS, THE KEEPING OF PATIENT RECORDS, AND THE DEVELOPMENT OF INDIVIDUALIZED DISCHARGE PLANS: 11 AMENDING SECTIONS 12 53-21-162 AND 53-21-165, MCA: AND REPEALING SECTION 13 53-21-163, MCA."

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-21-162, MCA, is amended to read:

"53-21-162. Establishment of patient treatment plan -patient's rights. (1) Each patient admitted as an inpatient
to a mental health facility shall must have a comprehensive
physical and mental examination and review of behavioral
status within 48 hours after admission to the mental health
facility.

(2) Each patient shall must have an individualized treatment plan. This plan shall must be developed by appropriate professional persons, including a psychiatrist,

1	and shell must be implemented no later than 10 days a	fter
2	the patient's admission. Each individualized treatment	plan
3	shall must contain:	

- 4 (a) a statement of the nature of the specific problems
 5 and specific needs of the patient;
- 6 (b) a statement of the least restrictive treatment
 7 conditions necessary to achieve the purposes of commitment
 8 hospitalization;
- 9 (c) a description of intermediate---and---long-range
 10 treatment goals, with a projected timetable for their
 11 attainment:
- (d) a statement and rationale for the plan of treatment for achieving these intermediate-and-long-range goals;
- (e) a specification of staff responsibility and—a

 description—of—proposed—staff—involvement—with—the—patient

 in-order—to—attain—these—treatment—goals; for attaining each

 treatment goal; and
- 18 (f)--criteria-for-release-to-less-restrictive--treatment
 19 conditions-and-criteria-for-discharge;-and
- 20 (g)(f) a notation of any therapeutic tasks and labor to 21 be performed by the patient.
- 22 (3)--As--part--of-his-treatment-plan;-each-patient-shall
 23 have-an-individualized-aftercare-plan;-This--plan--shall--be
 24 developed--by--a--professional-person-as-soon-as-practicable
 25 after-the-patient's-admission-to-the-facility;

LC 0379/01

(4)In-the-interests-of-continuityofcare;whenever
possibleoneprofessionalpersontwho-need-not-have-been
involved-with-the-development-of-the-treatmentplan}shall
beresponsibleforsupervisingthe-implementation-of-the
treatment-plan;integratingthevariousaspectsofthe
treatmentprogram,andrecordingthe-patient's-progress:
This-professionalpersonshallalsoberesponsiblefor
ensuringthatthepatient-is-released;-where-appropriate;
into-a-less-restrictive-form-of-treatment-

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- (5)--The-treatment-plan-shall-be--continuously--reviewed by--the--professional-person-responsible-for-supervising-the implementation-of--the--plan--and--shall--be--modified---if necessary---Moreovery--at--least--every-90-days-each-patient shall-receive-a-mental-examination-from--and--his--treatment plan--shall--be-reviewed-by-a-professional-person-other-than the-professional--person--responsible--for--supervising--the implementation-of-the-plan-
- 18 (3) Overall development, implementation, and
 19 supervision of the treatment plan must be assigned to an
 20 appropriate professional person.
- 21 (4) The inpatient mental health facility shall
 22 periodically reevaluate the patient and revise the
 23 individualized treatment plan based on changes in the
 24 patient's condition. At a minimum, the treatment plan must
 25 be reviewed:

- 1 (a) at the time of any transfer within the facility;
- (b) at the time of discharge;
- 3 (c) upon any major change in the patient's condition;
- 4 (d) at the conclusion of the initial estimated length
- of stay and subsequent estimated lengths of stay; and
- (e) no less than every 90 days.
 - (6)(5) A patient has the right:
- 8 (a) to ongoing participation, in a manner appropriate
- 9 to the patient's capabilities, in the planning of mental
- 10 health services to be provided and in the revision of the
- ll plan;

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- 12 (b) to a reasonable explanation of the following, in
- 13 terms and language appropriate to the patient's condition
- 14 and ability to understand:
- 15 (i) the patient's general mental condition and, if
- 16 given a physical examination, the patient's physical
- 17 condition:
- 18 (ii) the objectives of treatment;
- 19 (iii) the nature and significant possible adverse
- 20 effects of recommended treatments;
- 21 (iv) the reasons why a particular treatment is
- 22 considered appropriate;
- 23 (v) the reasons why access to certain visitors may not
- 24 be appropriate; and
- 25 (vi) any appropriate and available alternative

-4-

LC 0379/01 LC 0379/01

- treatments, services, or providers of mental health
 services; and
- 3 (c) not to receive treatment established pursuant to
 4 the treatment plan in the absence of the patient's informed,
 5 voluntary, and written consent to the treatment, except
 6 treatment:
- 7 (i) during an emergency situation if the treatment is 8 pursuant to or documented contemporaneously by the written 9 order of a responsible mental health professional; or
- (ii) permitted under the applicable law in the case of a person committed to a facility by a court.

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- (7)(6) In the case of a patient who lacks the capacity to exercise the right to consent to treatment described in subsection (6)(c) (5)(c), the right must be exercised on behalf of the patient by a guardian appointed pursuant to the provisions of Title 72, chapter 5.
- (6)(7) The department shall develop procedures for initiating limited guardianship proceedings in the case of a patient who appears to lack the capacity to exercise the right to consent described in subsection (6)(c)."
- Section 2. Section 53-21-165, MCA, is amended to read:
- records shall must be kept by the mental health facility for the length of time required by rules established by the department of health and environmental sciences. All records

- kept by the mental health facility shall must be available
- 2 to any person authorized by the patient in writing to
- 3 receive these records and upon approval of the authorization
- 4 by the board. The records shall must also be made available
- 5 to any attorney charged with representing the patient or any
- professional person charged with evaluating or treating the
- 7 patient. These records shall must include:
- 8 (1) identification data, including the patient's legal
 9 status:
- 10 (2) a patient history, including but not limited to:
- 11 (a) family data, educational background, and employment
 12 record:
- (b) prior medical history, both physical and mental,including prior hospitalization;
- 15 (3) the chief complaints of the patient and the chief 16 complaints of others regarding the patient;
- 17 (4) an evaluation which that notes the onset of
- 18 illness, the circumstances leading to admission, attitudes,
- 19 behavior, estimate of intellectual functioning, memory
- 20 functioning, orientation, and an inventory of the patient's
- 21 assets in descriptive rather than interpretative fashion;
- 22 (5) a summary of each physical examination which that
 23 describes the results of the examination;
- 24 (6) a copy of the individual treatment plan and any modifications thereto to the plan;

LC 0379/01

LC 0379/01

(7) a detailed summary of the findings made by the
reviewing professional person after each periodic review of
the treatment plan which, required under 53-21-162(4), that
analyzes the successes and failures of the treatment program
and directs-whatever-modificationsarenecessary includes
recommendations for appropriate modification of the
treatment plan;

(8) a copy of the individualized aftercare discharge plan and any modifications thereto to the plan and a summary of the steps that have been taken to implement that plan;

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- (9) a medication history and status which that includes the signed orders of the prescribing physician. The staff person administering the medication shall indicate by signature that orders have been carried out.
- (10)-a-detailed-summary-of-each-significant-contact-by-a
 professional-person-with-the-patient;
- (ii)-a--detailed-summary,-on-at-least-a-weekly-basis,-by
 a-professional-person-involved-in-the--patient's--treatment,
 of-the-patient's-progress-along-the-treatment-plan;
- fi2?-a--weekly--summary--of-the-extent-and-nature-of-the
 patient's-work-activities-and-the-effect--of--such--activity
 upon-the-patient's-progress-along-the-treatment-plan;
- 23 (10) documentation of the implementation of the 24 treatment plan;
- 25 (11) documentation of all treatment provided to the

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- 2 (12) chronological documentation of the patient's
- 3 clinical course;
- 4 (13) descriptions of any changes in the patient's
- 5 condition;
- (14) a signed order by a professional person for any
- 7 restrictions on visitations and communications;
- 8 (±4)(15) a signed order by a professional person for any
- 9 physical restraints and isolation; and
- 10 $(\pm 5)(16)$ a detailed summary of any extraordinary
- 11 incident in the facility involving the patient, to be
- 12 entered by a staff member noting that he the staff member
- has personal knowledge of the incident or specifying his any
- other source of information and-initialed. The summary of
- 15 the incident must be initialed within 24 hours by a
- 16 professional person;-and
- 17 (16)-a--summary--by-the-professional-person-in-charge-of
- the-facility-or-his-appointed-agent-of--his--findings--after
- 19 the-30-day-review-provided-for-in-53-21-163."
- 20 NEW SECTION. Section 3. Discharge plan. Each patient
- 21 admitted as an inpatient to a mental health facility must
- 22 have an individualized discharge plan developed within 10
- 23 days after admission. The discharge plan must be updated as
- 24 necessary. Each individualized discharge plan must contain:
 - 5 (1) an anticipated discharge date;

- 1 (2) identification of the facility staff member
 2 responsible for discharge planning;
- 3 (3) identification of the community-based agency or
- 4 individual that is assisting in arranging postdischarge
- 5 services; and
- 6 (4) other information necessary to ensure an
- 7 appropriate discharge and adequate postdischarge services.
- 8 NEW SECTION. Section 4. Repealer. Section 53-21-163,
- 9 MCA, is repealed.
- 10 NEW SECTION. Section 5. Codification instruction.
- 11 [Section 3] is intended to be codified as an integral part
- 12 of Title 53, chapter 21, part 1, and the provisions of Title
- 13 53, chapter 21, part 1, apply to [section 3].

-End-

SB 0120/02 APPROVED BY COMMITTEE ON PUBLIC HEALTH: WELFARE & SAFETY

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1	SENATE BILL NO. 120
2	INTRODUCED BY FRANKLIN
3	BY REQUEST OF THE DEPARTMENT OF CORRECTIONS
4	AND HUMAN SERVICES
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO TREATMENT
7	AND DISCHARGE OF PATIENTS ADMITTED TO A MENTAL HEALTH
8	FACILITY; REVISING THE REQUIREMENTS GOVERNING THE
9	ESTABLISHMENT AND PERIODIC REVIEW OF PATIENT TREATMENT
10	PLANS, THE KEEPING OF PATIENT RECORDS, AND THE DEVELOPMENT
11	OF INDIVIDUALIZED DISCHARGE PLANS; AND AMENDING SECTIONS
12	53-21-162 AND 53-21-165, MCA; ANDREPEALINGSECTION
13	53-21-163 ₇ -MEA."
14	
15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16	Section 1. Section 53-21-162, MCA, is amended to read:
17	"53-21-162. Establishment of patient treatment plan
18	patient's rights. (1) Each patient admitted as an inpatient
19	to a mental health facility shall must have a comprehensive
20	physical and mental examination and review of behavioral
21	status within 48 hours after admission to the mental health
22	facility.
23	(2) Each patient shall must have an individualized
24	treatment plan. This plan shall must be developed by
25	appropriate professional persons, including a psychiatrist,

and shall must be implemented no later than 10 days after
the patient's admission. Each individualized treatment pla
shall must contain:
(a) a statement of the nature of the specific problem
and specific needs of the patient;
(b) a statement of the least restrictive treatmen
conditions necessary to achieve the purposes of commitmen
hospitalization;
(c) a description of intermediateandlong-rang
treatment goals, with a projected timetable for their
attainment;
(d) a statement and rationale for the plan of treatmen
for achieving these intermediate-and-long-range goals;
(e) a specification of staff responsibility and
descriptionofproposed-staff-involvement-with-the-patien
in-order-to-attain-these-treatment-goals; for attaining eac
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treatment goal; and
(f)criteria-for-release-to-less-restrictivetreatmen
conditions-and-criteria-for-discharge;-and
tgt(f) CRITERIA FOR RELEASE TO LESS RESTRICTIV
TREATMENT CONDITIONS; AND
(G) a notation of any therapeutic tasks and labor to b
performed by the patient.
(3)As-part-of-his-treatment-plany-eachpatientshall

have--an--individualized--aftercare-plant-This-plan-shall-be

developed-by-a-professional-person-as--soon--as--practicable after-the-patient's-admission-to-the-facility:

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- f4)--In--the--interests--of-continuity-of-care;-whenever possible-one-professional-person-(who--need--not--have--been involved -- with -- the -development - of - the - treatment - plant - shall be-responsible-for-supervising--the--implementation--af--the treatment--plany--integrating--the--various--aspects--of-the treatment-programy-and--recording--the--patient+s--progress; This--professional--person--shall--also--be--responsible-for ensuring-that-the-patient-is--released,--where--appropriate, into-a-less-restrictive-form-of-treatment-
- f5}--The--treatment--plan-shall-be-continuously-reviewed by-the-professional-person-responsible-for--supervising--the implementation---of--the--plan--and--shall--be--modified--if necessary:-Moreover;-at-least-every--90--days--each--patient shall--receive--a--mental-examination-from-and-his-treatment plan-shall-be-reviewed-by-a-professional-person--other--than the--professional--person--responsible--for--supervising-the implementation-of-the-plan-
- (3) Overall development, implementation, and supervision of the treatment plan must be assigned to an appropriate professional person.

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23 (4) The inpatient mental health facility shall periodically reevaluate the patient 24 and revise the individualized treatment plan based on changes in the 25

- patient's condition. At a minimum, the treatment plan must 1 2 be reviewed:
- 3 (a) at the time of any transfer within the facility;
- 4 (b) at the time of discharge:
- (c) upon any major change in the patient's condition;
- 6 (d) at the conclusion of the initial estimated length
- of stay and subsequent estimated lengths of stay; and 7
- (e) no less than every 90 days; AND
- 9 (F) BY A TREATMENT TEAM THAT INCLUDES AT LEAST ONE
- PROFESSIONAL PERSON WHO IS NOT PRIMARILY RESPONSIBLE FOR THE 10
- 11 PATIENT'S TREATMENT PLAN.
- 12 (6) (5) A patient has the right:
- 13 (a) to ongoing participation, in a manner appropriate
- to the patient's capabilities, in the planning of mental 14
- 15 health services to be provided and in the revision of the
- 16 plan;
- 17 (b) to a reasonable explanation of the following, in
- 18 terms and language appropriate to the patient's condition
- 19 and ability to understand:
- 20 (i) the patient's general mental condition and, if
- given a physical examination, the patient's physical 21
- 22 condition:
- 23 (ii) the objectives of treatment;
- 24 (iii) the nature and significant possible adverse

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25 effects of recommended treatments;

SB 0120/02

- (iv) the reasons why a particular treatment is 1 considered appropriate;
- (v) the reasons why access to certain visitors may not 3 be appropriate; and 4

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- and available alternative appropriate (vi) any treatments, services, or providers of mental health services; and
- (c) not to receive treatment established pursuant to 8 the treatment plan in the absence of the patient's informed, 9 voluntary, and written consent to the treatment, except 10 treatment: 11
- (i) during an emergency situation if the treatment is 12 pursuant to or documented contemporaneously by the written 13 order of a responsible mental health professional; or 14
- (ii) permitted under the applicable law in the case of a 15 person committed to a facility by a court. 16
 - +7+(6) In the case of a patient who lacks the capacity to exercise the right to consent to treatment described in subsection (6)(c), the right must be exercised on behalf of the patient by a guardian appointed pursuant to the provisions of Title 72, chapter 5.
- (7) The department shall develop procedures for 22 initiating limited guardianship proceedings in the case of a 23 patient who appears to lack the capacity to exercise the 24 right to consent described in subsection (6)(c) . " 25

- Section 2. Section 53-21-165, MCA, is amended to read:
- 2 "53-21-165. Records to be maintained. Complete patient
- 3 records shall must be kept by the mental health facility for
- the length of time required by rules established by the 4
- 5 department of health and environmental sciences. All records
- kept by the mental health facility shall must be available
- to any person authorized by the patient in writing to 7
- receive these records and upon approval of the authorization
- by the board. The records shall must also be made available 9
- 10 to any attorney charged with representing the patient or any
- professional person charged with evaluating or treating the 11
- 12 patient. These records shall must include:
- 13 (1) identification data, including the patient's legal
- 14 status:
- 15 (2) a patient history, including but not limited to:
- 16 (a) family data, educational background, and employment 17
 - record:
- 18 (b) prior medical history, both physical and mental,
- 19 including prior hospitalization;
- (3) the chief complaints of the patient and the chief 20
- 21 complaints of others regarding the patient;
- 22 (4) an evaluation which that notes the onset of
- illness, the circumstances leading to admission, attitudes, 23
- 24 behavior, estimate of intellectual functioning, memory
- functioning, orientation, and an inventory of the patient's

SB 0120/02

describes the results of the examination; (6) a copy of the individual treatment plan and modifications thereto to the plan; (7) a detailed summary of the findings made by reviewing professional person after each periodic review the treatment plan which, required under 53-21-162(4), analyzes the successes and failures of the treatment professional person after each periodic review and directs-whatever-modifications-are-necessary inc. 10 and directs-whatever-modifications-are-necessary inc. 11 recommendations for appropriate modification of treatment plan; (8) a copy of the individualized aftercare disc. 14 plan and any modifications thereto to the plan and a sum of the steps that have been taken to implement that plan (9) a medication history and status which that inc. 15 the signed orders of the prescribing physician. The signature that orders have been carried out. 16 (9)-a-detailed-summary-of-each-significant-contact professional-person-with-the-patient; 17 (10)-a-detailed-summary-on-at-least-a-weekly-basical-person-with-the-patient;	1	assets in descriptive rather than interpretative fashion;
modifications thereto to the plan; (7) a detailed summary of the findings made by reviewing professional person after each periodic review the treatment plan which, required under 53-21-162(4), analyzes the successes and failures of the treatment professional person after each periodic review and directs-whatever-modificationsarenecessary inc. recommendations for appropriate modification of treatment plan; (8) a copy of the individualized aftercare disclusion plan and any modifications thereto to the plan and a sum of the steps that have been taken to implement that plan (9) a medication history and status which that inc. the signed orders of the prescribing physician. The signature that orders have been carried out. (10)-a-detailed-summary-of-each-significant-contact professional-person-with-the-patient;	2	(5) a summary of each physical examination which that
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reviewing professional person after each periodic review the treatment plan which, required under 53-21-162(4), analyzes the successes and failures of the treatment professional-person-with-the-patient; and directs-whatever-modifications-are-necessary inc. recommendations for appropriate modification of treatment plan; (8) a copy of the individualized aftercare disc. plan and any modifications thereto to the plan and a sur of the steps that have been taken to implement that plan (9) a medication history and status which that inc. the signed orders of the prescribing physician. The signature that orders have been carried out. (10)-a-detailed-summary-of-each-significant-contact professional-person-with-the-patient;	5	modifications thereto to the plan;
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the signed orders of the prescribing physician. The person administering the medication shall indicate signature that orders have been carried out. (10)-a-detailed-summary-of-each-significant-contact professional-person-with-the-patient; (11)-a-detailed-summary,-on-at-least-a-weekly-basic	15	of the steps that have been taken to implement that plan;
person administering the medication shall indicate signature that orders have been carried out. ti0)-a-detailed-summary-of-each-significant-contact professional-person-with-the-patient; til)-adetailed-summary,-on-at-least-a-weekly-basic	16	(9) a medication history and status which that includes
signature that orders have been carried out. (10)-a-detailed-summary-of-each-significant-contact professional-person-with-the-patient; (11)-a-detailed-summary;-on-at-least-a-weekly-basi	17	the signed orders of the prescribing physician. The staff
20 (10)-a-detailed-summary-of-each-significant-contact 21 professional-person-with-the-patient; 22 (11)-adetailed-summary;-on-at-least-a-weekly-basi	18	person administering the medication shall indicate by
professional-person-with-the-patient; (ii)-adetailed-summary;-on-st-least-a-weekly-basi	19	signature that orders have been carried out.
22 (11)-adetailed-summary,-on-at-least-a-weekly-basi	20	(10)-a-detailed-summary-of-each-significant-contact-by-a
	21	professional-person-with-the-patient;
23 a-professional-person-involved-in-thepatient'streat	22	+11)-adetailed-summary;-on-at-least-a-weekly-basis;-by
	23	a-professional-person-involved-in-thepatient'streatment;

		rk-activit								ity
upon-the	-pat	ient-s-pro	gres	s-alon	g-the	-treat	ment-	płan;		
(10)	<u>A</u>	SUMMARY	OF	EACH	SIGN	<u>IFICAN</u>	T CC	NTACT	ВУ	A
PROFESS	ONAL	PERSON WI	TH TE	E PAT	IENT;					
(10	(11)	documenta	tion	of	the	implem	entat	ion	o£	the
treatmen	it pl	an;								
<u> </u>	(12)	documenta	tion	of al	l tre	atment	prov	ided	to	ţhe
patient;	<u>.</u>								-	
(12)	(13)	chronolog	ical	docu	menta	tion	of t	he pa	tien	t's
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		ions on vi							.	
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nas pers	onal	knowledge	of t	he in	ciden	t or s	pecif	ying	tis	any
other so	urce	of inform	ation	and-	initi	ałed <u>.</u>	The	summ	ary	of
the inc	iden	t must b	e ir	itial	ed w	ithin	24	hours	by	a
professi	onal	person;-a	nd.							

fl67-a--summary--by-the-professional-person-in-charge-of

the-facility-or-his-appointed-agent-of--his--findings--after

-8-

SB 120

tl27-a--weekly--summary--of-the-extent-and-nature-of-the

of-the-patient's-progress-along-the-treatment-plan;

- 1 the-30-day-review-provided-for-in-53-21-163
- 2 (18) A SUMMARY BY THE PROFESSIONAL PERSON IN CHARGE OF
- 3 THE FACILITY OR BY AN APPOINTED AGENT OF THE FINDINGS AFTER
- 4 THE 30-DAY REVIEW PROVIDED FOR IN 53-21-163."
- 5 NEW SECTION. Section 3. Discharge plan. Each patient
- 6 admitted as an inpatient to a mental health facility must
- 7 have an individualized discharge plan developed within 10
- 8 days after admission. The discharge plan must be updated as
- 9 necessary. Each individualized discharge plan must contain:
- 10 (1) an anticipated discharge date;
- 11 (2) CRITERIA FOR DISCHARGE;
- 12 (2)(3) identification of the facility staff member
- 13 responsible for discharge planning;
- 14 (3)(4) identification of the community-based agency or
- 15 individual that is assisting in arranging postdischarge
- 16 services; and
- 17 (4)(5) other information necessary to ensure an
- 18 appropriate discharge and adequate postdischarge services.
- 19 NEW-SECTION:--Section-4:--Repealer:--Section--53-21-163;
- 20 MCA;-is-repealed:
- 21 NEW SECTION. Section 4. Codification instruction.
- 22 [Section 3] is intended to be codified as an integral part
- 23 . of Title 53, chapter 21, part 1, and the provisions of Title
- 24 53, chapter 21, part 1, apply to [section 3].

-End-

	SERVIE BILL NO. 120
2	INTRODUCED BY FRANKLIN
3	BY REQUEST OF THE DEPARTMENT OF CORRECTIONS
4	AND HUMAN SERVICES
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO TREATMENT
7	AND DISCHARGE OF PATIENTS ADMITTED TO A MENTAL HEALTH
8	FACILITY; REVISING THE REQUIREMENTS GOVERNING THE
9	ESTABLISHMENT AND PERIODIC REVIEW OF PATIENT TREATMENT
10	PLANS, THE KEEPING OF PATIENT RECORDS, AND THE DEVELOPMENT
11	OF INDIVIDUALIZED DISCHARGE PLANS; AND AMENDING SECTIONS
12	53-21-162 AND 53-21-165, MCA;ANDREPEALINGSECTION
13	53-21-163 ₇ -MCA."
14	
15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16	Section 1. Section 53-21-162, MCA, is amended to read:
17	"53-21-162. Establishment of patient treatment plan
18	patient's rights. (1) Each patient admitted as an inpatient
19	to a mental health facility shall must have a comprehensive
20	physical and mental examination and review of behavioral
21	status within 48 hours after admission to the mental health
22	facility.
23	(2) Each patient shall must have an individualized
24	treatment plan. This plan shall must be developed by
25	appropriate professional persons, including a psychiatrist,

1	and shall must be implemented no later
2	the patient's admission. Each individualize
3	shall must contain:
4	(a) a statement of the nature of the
5	and specific needs of the patient;
6	(b) a statement of the least rest
7	conditions necessary to achieve the purpo
8	hospitalization;
9	(c) a description of intermediate-
10	treatment goals, with a projected time
11	attainment;
12	(d) a statement and rationale for the
13	for achieving these intermediate-and-long-
14	(e) a specification of staff response
15	descriptionofproposed-staff-involvement
16	in-order-to-attain-these-treatment-goals;
17	treatment goal; and
18	tf;criteria-for-release-to-less-rest
19	conditions-and-criteria-for-discharge;-and
20	tg)(f) CRITERIA FOR RELEASE TO
21	TREATMENT CONDITIONS; AND
22	(G) a notation of any therapeutic task

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1	and shall must be implemented no later than 10 days after
2	the patient's admission. Each individualized treatment plan
3	shall must contain:
4	(a) a statement of the nature of the specific problems
5	and specific needs of the patient;
6	(b) a statement of the least restrictive treatment
7	conditions necessary to achieve the purposes of commitment
В	hospitalization;
9	(c) a description of intermediateandlong-range
0	treatment goals, with a projected timetable for their
1	attainment;
2	(d) a statement and rationale for the plan of treatment
3	for achieving these intermediate-and-long-range goals;
4	(e) a specification of staff responsibility anda
5	descriptionofproposed-staff-involvement-with-the-patient
6	in-order-to-attain-these-treatment-goals; for attaining each
7	treatment goal; and
8	tf)criteria-for-release-to-less-restrictivetreatment

performed by the patient.

have--an--individualized--aftercare-plan-This-plan-shall-be

(G) a notation of any therapeutic tasks and labor to be

(3)--As-part-of-his-treatment-plan;-each--patient--shall

RELEASE TO LESS RESTRICTIVE

1	developed-by-a-professional-person-assoonaspracticable
2	after-the-patient's-admission-to-the-facility:
3	<pre>+4}Intheinterestsof-continuity-of-care;-whenever</pre>
4	possible-one-professional-person-(whoneednothavebeen
5	involvedwiththe-development-of-the-treatment-plan)-shall
6	be-responsible-for-supervisingtheimplementationofthe
7	treatmentplanyintegratingthevariousaspectsof-the
8	treatment-program,-andrecordingthepatient'sprogress;
9	Thisprofessionalpersonshallalsoberesponsible-for
10	ensuring-that-the-patient-isreleased;whereappropriate;
11	into-a-less-restrictive-form-of-treatment-
12	<pre>f5}Thetreatmentplan-shall-be-continuously-reviewed</pre>
13	by-the-professional-person-responsible-forsupervisingthe
14	implementationoftheplanandshallbemodifiedif
15	necessary:-Moreover:-at-least-every90dayseachpatient
16	shallreceiveamental-examination-from-and-his-treatment
17	płan-shałł-be-reviewed-by-a-professional-personotherthan
18	theprofessionalpersonresponsibleforsupervising-the
19	implementation-of-the-plan-
20	(3) Overall development, implementation, and
21	supervision of the treatment plan must be assigned to an

appropriate professional person.

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1	patient's condition. At a minimum, the treatment plan must
2	be reviewed:
3	(a) at the time of any transfer within the facility;
4	(b) at the time of discharge;
5	(c) upon any major change in the patient's condition;
6	(d) at the conclusion of the initial estimated length
7	of stay and subsequent estimated lengths of stay; and
8	(e) no less than every 90 days; AND
9	(F) BY A TREATMENT TEAM THAT INCLUDES AT LEAST ONE
10	PROPESSIONAL PERSON WHO IS NOT PRIMARILY RESPONSIBLE FOR THE
11	PATIENT'S TREATMENT PLAN.
12	(6) A patient has the right:
13	(a) to ongoing participation, in a manner appropriate
14	to the patient's capabilities, in the planning of mental
15	health services to be provided and in the revision of the
16	plan;
17	(b) to a reasonable explanation of the following, in
18	terms and language appropriate to the patient's condition
19	and ability to understand:
20	(i) the patient's general mental condition and, if
21	given a physical examination, the patient's physical
22	condition;
23	(ii) the objectives of treatment;
24	(iii) the nature and significant possible adverse
25	effects of recommended treatments;

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[4] The inpatient mental health facility shall

periodically reevaluate the patient and revise the

individualized treatment plan based on changes in the

(iv) the reasons why a particular treatment is considered appropriate;

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- (v) the reasons why access to certain visitors may not be appropriate; and
- 5 (vi) any appropriate and available alternative 6 treatments, services, or providers of mental health 7 services; and
 - (c) not to receive treatment established pursuant to the treatment plan in the absence of the patient's informed, voluntary, and written consent to the treatment, except treatment:
 - (i) during an emergency situation if the treatment is pursuant to or documented contemporaneously by the written order of a responsible mental health professional; or
- (ii) permitted under the applicable law in the case of a person committed to a facility by a court.
 - t7+(6) In the case of a patient who lacks the capacity to exercise the right to consent to treatment described in subsection (6)(e) (5)(c), the right must be exercised on behalf of the patient by a guardian appointed pursuant to the provisions of Title 72, chapter 5.
- 22 (8)(7) The department shall develop procedures for 23 initiating limited guardianship proceedings in the case of a 24 patient who appears to lack the capacity to exercise the 25 right to consent described in subsection (6)(c)."

-5-

- Section 2. Section 53-21-165, MCA, is amended to read:
- 2 *53-21-165. Records to be maintained. Complete patient 3 records shall must be kept by the mental health facility for 4 the length of time required by rules established by the 5 department of health and environmental sciences. All records 6 kept by the mental health facility shall must be available 7 to any person authorized by the patient in writing to 8 receive these records and upon approval of the authorization 9 by the board. The records shall must also be made available 10 to any attorney charged with representing the patient or any 11 professional person charged with evaluating or treating the 12 patient. These records shall must include:
- (1) identification data, including the patient's legal status;
- 15 (2) a patient history, including but not limited to:
- 16 (a) family data, educational background, and employment 17 record:
- (b) prior medical history, both physical and mental,including prior hospitalization;
- 20 (3) the chief complaints of the patient and the chief 21 complaints of others regarding the patient;
- 22 (4) an evaluation which that notes the onset of illness, the circumstances leading to admission, attitudes, 24 behavior, estimate of intellectual functioning, memory

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functioning, prientation, and an inventory of the patient's

assets in descriptive rather than interpretative fashion	l	assets in	n descriptive	rather	than	interpretative	fashion
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- (5) a summary of each physical examination which that describes the results of the examination;
- (6) a copy of the individual treatment plan and any modifications thereto to the plan;
- (7) a detailed summary of the findings made by the reviewing professional person after each periodic review of the treatment plan which, required under 53-21-162(4), that analyzes the successes and failures of the treatment program and directs-whatever-modifications-are-necessary includes recommendations for appropriate modification of the treatment plan:
- (8) a copy of the individualized aftercare discharge plan and any modifications thereto to the plan and a summary of the steps that have been taken to implement that plan;
- (9) a medication history and status which that includes the signed orders of the prescribing physician. The staff person administering the medication shall indicate by signature that orders have been carried out.
- (18)-a-detailed-summary-of-each-significant-contact-by-a professional-person-with-the-patient;
- (11)-a--detailed-summary;-on-at-least-a-weekly-basis;-by a-professional-person-involved-in-the--patientis--treatment7 of-the-patient's-progress-along-the-treatment-plans

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+121-a--weekly--summary--of-the-extent-and-nature-of-the 25

1	patient's-work-activities-and-the-effectofsuchactivity
	•

- 2 upon-the-patient's-progress-along-the-treatment-plan;
- 3 (10) A SUMMARY OF EACH SIGNIFICANT CONTACT BY A
- PROFESSIONAL PERSON WITH THE PATIENT;
- 5 †10)(11) documentation of the implementation of the
- treatment plan;
- 7 (12) documentation of all treatment provided to the
- 8 patient;
- 9 t+2)(13) chronological documentation of the patient's
- 10 clinical course;
- 11 (13)(14) descriptions of any changes in the patient's
- 12 condition;
- 13 t13)t14)(15) a signed order by a professional person for
- 14 any restrictions on visitations and communications;
- 15 t14)t15)(16) a signed order by a professional person for
- 16 any physical restraints and isolation; and
- 17 t15†t16†(17) a detailed summary of any extraordinary
- incident in the facility involving the patient, to be 18
- 19 entered by a staff member noting that he the staff member
- 20 has personal knowledge of the incident or specifying his any
- 21 other source of information and-initialed. The summary of
- 22 the incident must be initialed within 24 hours by a
- 23 professional person; -and.
- 24 tl6)-a--summary--by-the-professional-person-in-charge-of
- 25 the-facility-or-his-appointed-agent-of--his--findings--after

1	+he-38-day		-habitar-	or-in-53-2	1-163
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- 2 (18) A SUMMARY BY THE PROFESSIONAL PERSON IN CHARGE OF
- 3 THE PACILITY OR BY AN APPOINTED AGENT OF THE PINDINGS AFTER
- THE 30-DAY REVIEW PROVIDED FOR IN 53-21-163."
- 5 NEW SECTION. Section 3. Discharge plan. Each patient
- 6 admitted as an inpatient to a mental health facility must
- 7 have an individualized discharge plan developed within 10
- 8 days after admission. The discharge plan must be updated as
- 9 necessary. Each individualized discharge plan must contain:
- 10 (1) an anticipated discharge date;
- 11 (2) CRITERIA FOR DISCHARGE;
- 12 (2)(3) identification of the facility staff member
- 13 responsible for discharge planning;
- 14 (3)(4) identification of the community-based agency or
- 15 individual that is assisting in arranging postdischarge
- 16 services; and
- 17 (4)(5) other information necessary to ensure an
- 18 appropriate discharge and adequate postdischarge services.
- 19 NEW-SBCTION: -- Section-4: -- Repealer: -- Section--53-21-163;
- 20 MCAy-is-repealed:
- 21 NEW SECTION. Section 4. Codification instruction.
- 22 [Section 3] is intended to be codified as an integral part
- 23 of Title 53, chapter 21, part 1, and the provisions of Title
- 24 53, chapter 21, part 1, apply to [section 3].

-End-

HOUSE STANDING COMMITTEE REPORT

March 12, 1993 Page 1 of 1

Mr. Speaker: We, the committee on <u>Human Services and Aging</u> report that <u>Senate Bill 120</u> (third reading copy -- blue) be concurred in as amended.

Signed:

Bill Boharski, Chair

And, that such amendments read:

Carried by: Rep. Smith

1. Page 4, line 9.

Following: "(F)"
Insert: "at each of the times specified in subsections (4)(a)
through (4)(e),"

2. Page 9, line 3.
Strike: "FINDINGS"

Insert: "determination made"

-END-

HOUSE

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Committee Vote: Yes ___, No ___.

2	INTRODUCED BY FRANKLIN
3	BY REQUEST OF THE DEPARTMENT OF CORRECTIONS
4	AND HUMAN SERVICES
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO TREATMENT
7	AND DISCHARGE OF PATIENTS ADMITTED TO A MENTAL HEALTH
8	FACILITY; REVISING THE REQUIREMENTS GOVERNING THE
9	ESTABLISHMENT AND PERIODIC REVIEW OF PATIENT TREATMENT
.0	PLANS, THE KEEPING OF PATIENT RECORDS, AND THE DEVELOPMENT
.1	OF INDIVIDUALIZED DISCHARGE PLANS; AND AMENDING SECTIONS
. 2	53-21-162 AND 53-21-165, MCA7ANDREPEALINGSECTION
.3	53-21-1637-MCA."
. 4	
.5	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
6	Section 1. Section 53-21-162, MCA, is amended to read:
١7	*53-21-162. Establishment of patient treatment plan
LB	patient's rights. (1) Each patient admitted as an inpatient
19	to a mental health facility shall must have a comprehensive
20	physical and mental examination and review of behavioral
21	status within 48 hours after admission to the mental health
22	facility.
23	(2) Each patient shall must have an individualized
	
24	treatment plan. This plan shall must be developed by
25	appropriate professional persons, including a psychiatrist,

SENATE BILL NO. 120

and shall must be implemented no later than 10 days after
the patient's admission. Each individualized treatment plan
shall must contain:
(a) a statement of the nature of the specific problems
and specific needs of the patient;
(b) a statement of the least restrictive treatment
conditions necessary to achieve the purposes of commitment
hospitalization;
(c) a description of intermediateandlong-range
-
treatment goals, with a projected timetable for their
attainment;
(d) a statement and rationale for the plan of treatment
for achieving these intermediate-and-long-range goals;
(e) a specification of staff responsibility anda
descriptionofproposed-staff-involvement-with-the-patient
in-order-to-attain-these-treatment-goals; for attaining each
treatment goal; and
(f)criteria-for-release-to-less-restrictivetreatment
conditions-and-criteria-for-discharge;-and
tg)(f) CRITERIA FOR RELEASE TO LESS RESTRICTIVE
TREATMENT CONDITIONS; AND
(G) a notation of any therapeutic tasks and labor to be
performed by the patient.
t3}As-part-of-his-treatment-plany-eachpatientshall
haveanindividualizedaftercare-plan;-This-plan-shall-be

developed-by-a-professional-person-as--soon--as--practicable

after-the-patient's-admission-to-the-facility:

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- (4)--In-the--interests--of-continuity-of-care7-whenever possible-one-professional-person-(who--need--not--have--been involved--with--the-development-of-the-treatment-plan)-shall be-responsible-for-supervising--the--implementation--of--the treatment--plan7--integrating--the--various--aspects--of-the treatment-program7-and--recording--the--patient's--progress7 This--professional--person--shall--also--be--responsible-for ensuring-that-the-patient-is--released7--where--appropriate7 into-a-less-restrictive-form-of-treatment7
- (5)--The--treatment--plan-shall-be-continuously-reviewed by-the-professional-person-responsible-for--supervising--the implementation---of--the--plan--and--shall--be--modified--if necessary--Moreovery-at-least-every--90--days--each--patient shall--receive--a--mental-examination-from-and-his-treatment plan-shall-be-reviewed-by-a-professional-person--other--than the--professional--person--responsible--for--supervising-the implementation-of-the-plan-
- (3) Overall development, implementation, and supervision of the treatment plan must be assigned to an appropriate professional person.

-3-

23 (4) The inpatient mental health facility shall
24 periodically reevaluate the patient and revise the
25 individualized treatment plan based on changes in the

- patient's condition. At a minimum, the treatment plan must
- 2 be reviewed:
- 3 (a) at the time of any transfer within the facility;
- 4 (b) at the time of discharge;
- 5 (c) upon any major change in the patient's condition;
- 6 (d) at the conclusion of the initial estimated length
- 7 of stay and subsequent estimated lengths of stay; and
- 8 (e) no less than every 90 days; AND
- 9 (F) AT EACH OF THE TIMES SPECIFIED IN SUBSECTIONS
- 10 (4)(A) THROUGH (4)(E), BY A TREATMENT TEAM THAT INCLUDES AT
- 11 LEAST ONE PROFESSIONAL PERSON WHO IS NOT PRIMARILY
- 12 RESPONSIBLE FOR THE PATIENT'S TREATMENT PLAN.
- 13 (6)(5) A patient has the right:
- 14 (a) to ongoing participation, in a manner appropriate
- 15 to the patient's capabilities, in the planning of mental
- 16 health services to be provided and in the revision of the
- 17 plan;
- (b) to a reasonable explanation of the following, in
- 19 terms and language appropriate to the patient's condition
- 20 and ability to understand:
- 21 (i) the patient's general mental condition and, if
- 22 given a physical examination, the patient's physical
- 23 condition;
- 24 (ii) the objectives of treatment;
- 25 (iii) the nature and significant possible adverse

SB 120

-4-

SB 120

SB 0120/03 SB 0120/03

effects of recommended treatments; 1

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- (iv) the reasons why a particular treatment is 2 considered appropriate; 3
- (v) the reasons why access to certain visitors may not be appropriate; and 5
- and available alternative appropriate (vi) any 6 treatments, services, or providers of mental health 7 services: and
- (c) not to receive treatment established pursuant to 9 the treatment plan in the absence of the patient's informed, 10 voluntary, and written consent to the treatment, except 11 treatment: 12
 - (i) during an emergency situation if the treatment is pursuant to or documented contemporaneously by the written order of a responsible mental health professional; or
- (ii) permitted under the applicable law in the case of a 16 person committed to a facility by a court. 17
- (7)(6) In the case of a patient who lacks the capacity 18 to exercise the right to consent to treatment described in 19 subsection (6)(c), the right must be exercised on 20 behalf of the patient by a guardian appointed pursuant to 21 the provisions of Title 72, chapter 5. 22
- +8+(7) The department shall develop procedures for 23 initiating limited guardianship proceedings in the case of a 24 patient who appears to lack the capacity to exercise the 25

- right to consent described in subsection (6)(c)." 1
- Section 2. Section 53-21-165, MCA, is amended to read: 2
- *53-21-165. Records to be maintained. Complete patient 3
- records shall must be kept by the mental health facility for
- the length of time required by rules established by the
- department of health and environmental sciences. All records
- 7 kept by the mental health facility shall must be available
- to any person authorized by the patient in writing to
- by the board. The records shatt must also be made available 1.0

receive these records and upon approval of the authorization

- to any attorney charged with representing the patient or any 11
- professional person charged with evaluating or treating the 12
- patient. These records shall must include: 13
- 14 (1) identification data, including the patient's legal
- 15 status:

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- (2) a patient history, including but not limited to: 16
 - (a) family data, educational background, and employment
- record: 18
- 19 (b) prior medical history, both physical and mental,
- 20 including prior hospitalization;
- 21 (3) the chief complaints of the patient and the chief
- complaints of others regarding the patient; 22
- 23 (4) an evaluation which that notes the onset of
- 24 illness, the circumstances leading to admission, attitudes,
- behavior, estimate of intellectual functioning, memory

functioning, orientation, and an inventory of the patient's 2 assets in descriptive rather than interpretative fashion;

- (5) a summary of each physical examination which that describes the results of the examination:
- (6) a copy of the individual treatment plan and any 5 6 modifications thereto to the plan;
 - (7) a detailed summary of the findings made by the reviewing professional person after each periodic review of the treatment plan which, required under 53-21-162(4), that analyzes the successes and failures of the treatment program and directs-whatever-modifications--are--necessary includes recommendations for appropriate modification of the treatment plan;
 - (8) a copy of the individualized aftercare discharge plan and any modifications therete to the plan and a summary of the steps that have been taken to implement that plan;
 - (9) a medication history and status which that includes the signed orders of the prescribing physician. The staff person administering the medication shall indicate by signature that orders have been carried out.
- (10)-a-detailed-summary-of-each-significant-contact-by-a 21 professional-person-with-the-patient; 22
- +11)-a--detailed-symmary,-on-at-least-a-weekly-basis,-by 23 a-professional-person-involved-in-the--patient_s--treatment; 25 of-the-patient's-progress-along-the-treatment-plan;

-7-

1	(12)-aweeklysummaryof-the-extent-and-nature-of-the
2	patient's-work-activities-and-the-effectofsuchactivity
3	upon-the-patient+s-progress-along-the-treatment-plan;

- 4 (10) A SUMMARY OF EACH SIGNIFICANT CONTACT BY A
- 5 PROFESSIONAL PERSON WITH THE PATIENT;
- 6 $(\pm \theta)$ (11) documentation of the implementation of the treatment plan;
- (12) documentation of all treatment provided to the 9 patient;
- 10 $t^{\pm 2}$ (13) chronological documentation of the patient's 11 clinical course:
- 12 (±3)(14) descriptions of any changes in the patient's 13 condition;
- 14 (± 3) (± 4) (15) a signed order by a professional person for 15 any restrictions on visitations and communications;
- 16 $(\pm 4)(\pm 5)(16)$ a signed order by a professional person for 17 any physical restraints and isolation; and
- 18 $t^{\frac{1}{2}5}t^{\frac{1}{2}6}(17)$ a detailed summary of any extraordinary 19 incident in the facility involving the patient, to be
- 20 entered by a staff member noting that he the staff member
- has personal knowledge of the incident or specifying his any 21
- other source of information and-initialed. The summary of 22
- 23 the incident must be initialed within 24 hours by a
- 24 professional person; -and.
- 25 (16)-a--summary--by-the-professional-person-in-charge-of

SB 120

SB 0120/03

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- 1 the-facility-or-his-appointed-agent-of--his--findings--after
- 2 the-30-day-review-provided-for-in-53-21-163
- 3 (18) A SUMMARY BY THE PROFESSIONAL PERSON IN CHARGE OF
- 4 THE FACILITY OR BY AN APPOINTED AGENT OF THE FINDINGS
- 5 DETERMINATION MADE AFTER THE 30-DAY REVIEW PROVIDED FOR IN
- 6 53-21-163."
- 7 NEW SECTION. Section 3. Discharge plan. Each patient
- 8 admitted as an inpatient to a mental health facility must
- 9 have an individualized discharge plan developed within 10
- 10 days after admission. The discharge plan must be updated as
- 11 necessary. Each individualized discharge plan must contain:
- 12 (1) an anticipated discharge date;
- 13 (2) CRITERIA FOR DISCHARGE;
- 14 (2)(3) identification of the facility staff member
- 15 responsible for discharge planning;
- 16 (+3)(4) identification of the community-based agency or
- 17 individual that is assisting in arranging postdischarge
- 18 services; and
- 19 (4)(5) other information necessary to ensure an
- 20 appropriate discharge and adequate postdischarge services.
- 21 NEW-SECTION: -- Section 4: -- Repealer: -- Section -- 53-21-163;
- 22 MCA;-is-repealed:
- 23 NEW SECTION. Section 4. Codification instruction.
- 24 [Section 3] is intended to be codified as an integral part
- 25 of Title 53, chapter 21, part 1, and the provisions of Title

1 53, chapter 21, part 1, apply to [section 3].
-End-

SB 120