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HOUSE BILL NO. 2257

Offered January 14, 2009

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A BILL to amend and reenact §§ 37.2-814, 37.2-817 through 37.2-817.4, and 37.2-818 of the Code of Virginia, relating to mandatory outpatient treatment following involuntary admission; voluntary admission.

 Patron—Albo

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-814, 37.2-817 through 37.2-817.4, and 37.2-818 of the Code of Virginia are amended and reenacted as follows:

§ 37.2-814. Commitment hearing for involuntary admission; written explanation; right to counsel; rights of petitioner.

A. The commitment hearing for involuntary admission shall be held after a sufficient period of time has passed to allow for completion of the examination required by § 37.2-815, preparation of the preadmission screening report required by § 37.2-816, and initiation of mental health treatment to stabilize the person's psychiatric condition to avoid involuntary commitment where possible, but shall be held within 48 hours of the execution of the temporary detention order as provided for in § 37.2-809; however, if the 48-hour period herein specified terminates on a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed, the person may be detained, as herein provided, until the close of business on the next day that is not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed.

B. At the commencement of the commitment hearing, the district court judge or special justice shall inform the person whose involuntary admission is being sought of his right to apply for voluntary admission for inpatient treatment as provided for in § 37.2-805 and shall afford the person an opportunity for voluntary admission. The district court judge or special justice shall advise the person whose involuntary admission is being sought that if the person chooses to be voluntarily admitted pursuant to § 37.2-805, such person will be prohibited from possessing or purchasing a firearm pursuant to § 18.2-308.1:3. The judge or special justice shall ascertain if the person is then willing and capable of seeking voluntary admission for inpatient treatment. *In determining whether a person is capable of consenting to voluntary admission, the judge or special justice shall hear evidence regarding the person's past compliance with treatment and the likelihood that the person will comply with the treatment that would be provided upon his voluntary admission for inpatient treatment. If the judge or special justice finds that the person is incapable of consenting to voluntary admission, the judge or special justice shall proceed with the commitment hearing.* If the judge or special justice finds that the person is capable and willingly accepts voluntary admission for inpatient treatment, the judge or special justice shall require him to accept voluntary admission for a minimum period of treatment not to exceed 72 hours. After such minimum period of treatment, the person shall give the facility 48 hours' notice prior to leaving the facility. During this notice period, the person shall not be discharged except as provided in § 37.2-837, 37.2-838, or 37.2-840. The person shall be subject to the transportation provisions as provided in § 37.2-829 and the requirement for preadmission screening by a community services board as provided in § 37.2-805.

C. If a person is incapable of accepting or unwilling to accept voluntary admission and treatment, the judge or special justice shall inform the person of his right to a commitment hearing and right to counsel. The judge or special justice shall ascertain if the person whose admission is sought is represented by counsel, and, if he is not represented by counsel, the judge or special justice shall appoint an attorney to represent him. However, if the person requests an opportunity to employ counsel, the judge or special justice shall give him a reasonable opportunity to employ counsel at his own expense.

D. A written explanation of the involuntary admission process and the statutory protections associated with the process shall be given to the person, and its contents shall be explained by an attorney prior to the commitment hearing. The written explanation shall describe, at a minimum, the person's rights to (i) retain private counsel or be represented by a court-appointed attorney, (ii) present any defenses including independent evaluation and expert testimony or the testimony of other witnesses, (iii) be present during the hearing and testify, (iv) appeal any order for involuntary admission to the circuit court, and (v) have a jury trial on appeal. The judge or special justice shall ascertain whether the

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59 person whose involuntary admission is sought has been given the written explanation required herein.

60 E. To the extent possible, during or before the commitment hearing, the attorney for the person
61 whose involuntary admission is sought shall interview his client, the petitioner, the examiner described
62 in § 37.2-815, the community services board staff, and any other material witnesses. He also shall
63 examine all relevant diagnostic and other reports, present evidence and witnesses, if any, on his client's
64 behalf, and otherwise actively represent his client in the proceedings. A health care provider shall
65 disclose or make available all such reports, treatment information, and records concerning his client to
66 the attorney, upon request. The role of the attorney shall be to represent the wishes of his client, to the
67 extent possible.

68 F. The petitioner shall be given adequate notice of the place, date, and time of the commitment
69 hearing. The petitioner shall be entitled to retain counsel at his own expense, to be present during the
70 hearing, and to testify and present evidence. The petitioner shall be encouraged but shall not be required
71 to testify at the hearing, and the person whose involuntary admission is sought shall not be released
72 solely on the basis of the petitioner's failure to attend or testify during the hearing.

73 § 37.2-817. Involuntary admission and mandatory outpatient treatment orders.

74 A. The district court judge or special justice shall render a decision on the petition for involuntary
75 admission after the appointed examiner has presented the report required by § 37.2-815, and after the
76 community services board that serves the county or city where the person resides or, if impractical,
77 where the person is located has presented a preadmission screening report with recommendations for that
78 person's placement, care, and treatment pursuant to § 37.2-816. These reports, if not contested, may
79 constitute sufficient evidence upon which the district court judge or special justice may base his
80 decision. The examiner, if not physically present at the hearing, and the treating physician at the facility
81 of temporary detention shall be available whenever possible for questioning during the hearing through a
82 two-way electronic video and audio or telephonic communication system as authorized in § 37.2-804.1.

83 B. An employee or a designee of the local community services board, as defined in § 37.2-809, that
84 prepared the preadmission screening report shall attend the hearing in person or, if physical attendance is
85 not practicable, shall participate in the hearing through a two-way electronic video and audio or
86 telephonic communication system as authorized in § 37.2-804.1. Where a hearing is held outside of the
87 service area of the community services board that prepared the preadmission screening report, and it is
88 not practicable for a representative of the board to attend or participate in the hearing, arrangements
89 shall be made by the board for an employee or designee of the board serving the area in which the
90 hearing is held to attend or participate on behalf of the board that prepared the preadmission screening
91 report. The community services board that prepared the preadmission screening report shall remain
92 responsible for the person subject to the hearing and, prior to the hearing, shall send the preadmission
93 screening report through certified mail, personal delivery, facsimile with return receipt acknowledged, or
94 other electronic means to the community services board attending the hearing. Where a community
95 services board attends the hearing on behalf of the community services board that prepared the
96 preadmission screening report, the attending community services board shall inform the community
97 services board that prepared the preadmission screening report of the disposition of the matter upon the
98 conclusion of the hearing. In addition, the attending community services board shall transmit the
99 disposition through certified mail, personal delivery, facsimile with return receipt acknowledged, or other
100 electronic means.

101 At least 12 hours prior to the hearing, the court shall provide to the community services board that
102 prepared the preadmission screening report the time and location of the hearing. If the representative of
103 the community services board will be present by telephonic means, the court shall provide the telephone
104 number to the board.

105 C. After observing the person and considering (i) the recommendations of any treating or examining
106 physician or psychologist licensed in Virginia, if available, (ii) any past actions of the person, (iii) any
107 past mental health treatment of the person, (iv) any examiner's certification, (v) any health records
108 available, (vi) the preadmission screening report, and (vii) any other relevant evidence that may have
109 been admitted, if the judge or special justice finds by clear and convincing evidence that (a) the person
110 has a mental illness and there is a substantial likelihood that, as a result of mental illness, the person
111 will, in the near future, (1) cause serious physical harm to himself or others as evidenced by recent
112 behavior causing, attempting, or threatening harm and other relevant information, if any, or (2) suffer
113 serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human
114 needs, and (b) all available less restrictive treatment alternatives to involuntary inpatient treatment,
115 pursuant to subsection D, that would offer an opportunity for the improvement of the person's condition
116 have been investigated and determined to be inappropriate, the judge or special justice shall by written
117 order and specific findings so certify and order that the person be admitted involuntarily to a facility for
118 a period of treatment not to exceed 30 days from the date of the court order. Such involuntary
119 admission shall be to a facility designated by the community services board that serves the city or
120 county in which the person was examined as provided in § 37.2-816. If the community services board

does not designate a facility at the commitment hearing, the person shall be involuntarily admitted to a facility designated by the Commissioner. Upon the expiration of an order for involuntary admission, the person shall be released unless he is involuntarily admitted by further petition and order of a court, which shall be for a period not to exceed 180 days from the date of the subsequent court order, or such person makes application for treatment on a voluntary basis as provided for in § 37.2-805 or is ordered to mandatory outpatient treatment pursuant to subsection D I.

D. After observing the person and considering (i) the recommendations of any treating or examining physician or psychologist licensed in Virginia, if available, (ii) any past actions of the person, (iii) any past mental health treatment of the person, (iv) any examiner's certification, (v) any health records available, (vi) the preadmission screening report, and (vii) any other relevant evidence that may have been admitted, if the judge or special justice finds by clear and convincing evidence that (a) the person has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (1) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (2) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs; (b) less restrictive alternatives to involuntary inpatient treatment that would offer an opportunity for improvement of his condition have been investigated and are determined to be appropriate; and (c) the person (A) has sufficient capacity to understand the stipulations of his treatment, (B) has expressed an interest in living in the community and has agreed to abide by his treatment plan, and (C) is deemed to have the capacity to comply with the treatment plan and understand and adhere to conditions and requirements of the treatment and services; and (d) the ordered treatment can be delivered on an outpatient basis by the community services board or designated provider, the judge or special justice shall by written order and specific findings so certify and order that the person be admitted involuntarily to mandatory outpatient treatment. Less restrictive alternatives shall not be determined to be appropriate unless the services are actually available in the community and providers of the services have actually agreed to deliver the services.

E. Mandatory outpatient treatment may include day treatment in a hospital, night treatment in a hospital, outpatient involuntary treatment with anti-psychotic medication pursuant to Chapter 11 (§ 37.2-1100 et seq.), or other appropriate course of treatment as may be necessary to meet the needs of the person. The community services board that serves the city or county in which the person resides shall recommend a specific course of treatment and programs for the provision of mandatory outpatient treatment. The duration of mandatory outpatient treatment shall be determined by the court based on recommendations of the community services board, but shall not exceed 90 days. Upon expiration of an order for mandatory outpatient treatment, the person shall be released from the requirements of the order unless the order is continued in accordance with § 37.2-817.4.

F. Any order for mandatory outpatient treatment shall include an initial mandatory outpatient treatment plan developed by the community services board that completed the preadmission screening report. The plan shall, at a minimum, (i) identify the specific services to be provided, (ii) identify the provider who has agreed to provide each service, (iii) describe the arrangements made for the initial in-person appointment or contact with each service provider, and (iv) include any other relevant information that may be available regarding the mandatory outpatient treatment ordered. The order shall require the community services board to monitor the implementation of the mandatory outpatient treatment plan and report any material noncompliance to the court.

G. No later than five days, excluding Saturdays, Sundays, or legal holidays, after an order for mandatory outpatient treatment has been entered pursuant to this section, the community services board where the person resides that is responsible for monitoring compliance with the order shall file a comprehensive mandatory outpatient treatment plan. The comprehensive mandatory outpatient treatment plan shall (i) identify the specific type, amount, duration, and frequency of each service to be provided to the person, (ii) identify the provider that has agreed to provide each service included in the plan, (iii) certify that the services are the most appropriate and least restrictive treatment available for the person, (iv) certify that each provider has complied and continues to comply with applicable provisions of the Department's licensing regulations, (v) be developed with the fullest possible involvement and participation of the person and reflect his preferences to the greatest extent possible to support his recovery and self-determination, (vi) specify the particular conditions with which the person shall be required to comply, and (vii) describe how the community services board shall monitor the person's compliance with the plan and report any material noncompliance with the plan. The community services board shall submit the comprehensive mandatory outpatient treatment plan to the court for approval. Upon approval by the court, the comprehensive mandatory outpatient treatment plan shall be filed with the court and incorporated into the order of mandatory outpatient treatment. Any subsequent substantive modifications to the plan shall be filed with the court for review and attached to any order for mandatory outpatient treatment.

182 H. If the community services board responsible for developing the comprehensive mandatory
183 outpatient treatment plan determines that the services necessary for the treatment of the person's mental
184 illness are not available or cannot be provided to the person in accordance with the order for mandatory
185 outpatient treatment, it shall notify the court within five business days of the entry of the order for
186 mandatory outpatient treatment. Within two business days of receiving such notice, the judge or special
187 justice, after notice to the person, the person's attorney, and the community services board responsible
188 for developing the comprehensive mandatory outpatient treatment plan shall hold a hearing pursuant to
189 § 37.2-817.2.

190 1. Prior to the expiration of an order for involuntary admission, and upon the petition of the
191 director of the treating facility or his designee, the community services board, or the person who is the
192 subject of the order for involuntary admission, the court that entered the order or the court where the
193 person resides may enter an order for mandatory outpatient treatment following involuntary admission
194 for a period not to exceed 90 days if it finds by clear and convincing evidence, based on the person's
195 current condition and treatment history, including the person's past compliance with treatment, that the
196 person (i) has mental illness; (ii) no longer needs inpatient hospitalization but requires mandatory
197 outpatient treatment to prevent rapid deterioration of his condition that would likely result in his
198 meeting the criteria for inpatient treatment as specified in subsection C; (iii) is not likely to obtain
199 outpatient treatment unless the court enters an order; and (iv) is likely to comply with an order. In
200 addition, services must actually be available in the community, and providers of services must have
201 actually agreed to deliver the services.

202 2. The court shall hold a hearing within five days after receiving the petition; however, if the fifth
203 day is a Saturday, Sunday, or legal holiday, the hearing shall be held by the close of business on the
204 next day that is not a Saturday, Sunday, or legal holiday. The clerk shall provide notice of the hearing
205 to the director of the treating facility or his designee, the community services board, the person who is
206 the subject of the order for involuntary admission, and the original petitioner for the person's
207 involuntary admission. If the person is not represented by counsel, the court shall appoint an attorney to
208 represent the person in this hearing, giving consideration to appointing the attorney who represented the
209 person at the proceeding that resulted in the order for involuntary admission. If requested by any party
210 receiving notice of the hearing, the court shall appoint an examiner in accordance with § 37.2-815 who
211 shall personally examine the person who is the subject of the order for involuntary admission and
212 certify to the court whether or not he has probable cause to believe that the person meets the criteria
213 for mandatory outpatient treatment following involuntary admission as specified in subsection 1. The
214 examiner's certification may be admitted into evidence without the appearance of the examiner at the
215 hearing if not objected to by the person or his attorney. The same judge or special justice who presided
216 over the hearing resulting in the involuntary admission order need not preside at the hearing or any
217 subsequent hearings.

218 3. At the hearing, the community services board where the person resides shall file a comprehensive
219 mandatory outpatient treatment plan in accordance with subsection G. If the community services board
220 is the petitioner, the plan shall be filed with the petition. The community services board where the
221 person resides shall be responsible for monitoring the implementation of the mandatory outpatient
222 treatment plan and reporting any material noncompliance to the court. Modifications to the plan shall
223 be made in accordance with subsection G.

224 4. If the director of the treating facility or his designee, the community services board, and the
225 person who is the subject of the order for involuntary admission join in the petition under subdivision 1,
226 the court may grant the petition and enter an order for mandatory outpatient treatment following
227 involuntary admission without further hearing.

228 J. Upon entry of any order for mandatory outpatient treatment or order for mandatory outpatient
229 treatment following involuntary admission, the clerk of the court shall provide a copy of the order to the
230 person who is the subject of the order, to his attorney, and to the community services board required to
231 monitor compliance with the plan. The community services board shall acknowledge receipt of the order
232 to the clerk of the court on a form established by the Office of the Executive Secretary of the Supreme
233 Court and provided by the court for this purpose.

234 JK. The court may transfer jurisdiction of the case to the district court where the person resides at
235 any time after the entry of the mandatory outpatient treatment order or order for mandatory outpatient
236 treatment following involuntary admission. The community services board responsible for monitoring
237 compliance with the mandatory outpatient treatment plan shall remain responsible for monitoring the
238 person's compliance with the plan until the community services board serving the locality to which
239 jurisdiction of the case has been transferred acknowledges the transfer and receipt of the order to the
240 clerk of the court on a form established by the Office of the Executive Secretary of the Supreme Court
241 and provided by the court for this purpose.

242 KL. Any order entered pursuant to this section shall provide for the disclosure of medical records
243 pursuant to § 37.2-804.2. This subsection shall not preclude any other disclosures as required or

permitted by law.

§ 37.2-817.1. Monitoring mandatory outpatient treatment; petition for hearing.

A. The community services board where the person resides shall monitor the person's compliance with the mandatory outpatient treatment plan ordered by the court pursuant to § 37.2-817. Monitoring compliance shall include (i) contacting the service providers to determine if the person is complying with the mandatory outpatient treatment order and (ii) notifying the court of the person's material noncompliance with the mandatory outpatient treatment order. Providers of services identified in the plan shall report any material noncompliance to the community services board.

B. If the community services board determines that the person materially failed to comply with the order, it shall petition the court for a review of the mandatory outpatient treatment order *or order for mandatory outpatient treatment following involuntary admission* as provided in § 37.2-817.2. The community services board shall petition the court for a review of the mandatory outpatient treatment order *or order for mandatory outpatient treatment following involuntary admission* within three days of making that determination, or within 24 hours if the person is being detained under a temporary detention order, and shall recommend an appropriate disposition. Copies of the petition shall be sent to the person and the person's attorney.

C. If the community services board determines that the person is not materially complying with the mandatory outpatient treatment order *or order for mandatory outpatient treatment following involuntary admission* or for any other reason, and there is a substantial likelihood that, as a result of the person's mental illness that the person will, in the near future, (i) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting or threatening harm and other relevant information, if any, or (ii) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs, it shall immediately request that the magistrate issue an emergency custody order pursuant to § 37.2-808 or a temporary detention order pursuant to § 37.2-809.

§ 37.2-817.2. Court review of mandatory outpatient treatment plan.

A. The district court judge or special justice shall hold a hearing within five days after receiving the petition for review of the mandatory outpatient treatment plan; however if the fifth day is a Saturday, Sunday, or legal holiday, the hearing shall be held by the close of business on the next day that is not a Saturday, Sunday, or legal holiday. If the person is being detained under a temporary detention order, the hearing shall be scheduled within the same time frame provided for a commitment hearing under § 37.2-814. The clerk shall provide notice of the hearing to the person, the community services board, all treatment providers listed in the comprehensive mandatory outpatient treatment order *or order for mandatory outpatient treatment following involuntary admission*, and the original petitioner for the person's involuntary treatment. If the person is not represented by counsel, the court shall appoint an attorney to represent the person in this hearing and any subsequent hearings under §§ 37.2-817.3 and 37.2-817.4, giving consideration to appointing the attorney who represented the person at the proceeding that resulted in the issuance of the mandatory outpatient treatment order *or order for mandatory outpatient treatment following involuntary admission*. The same judge or special justice that presided over the hearing resulting in the mandatory outpatient treatment order *or order for mandatory outpatient treatment following involuntary admission* need not preside at the noncompliance hearing or any subsequent hearings. The community services board shall offer to arrange the person's transportation to the hearing if the person is not detained and has no other source of transportation.

B. If requested by the person, the community services board, a treatment provider listed in the comprehensive mandatory outpatient treatment plan, or the original petitioner for the person's involuntary treatment, the court shall appoint an examiner in accordance with § 37.2-815 who shall personally examine the person and certify to the court whether or not he has probable cause to believe that the person meets the criteria for involuntary inpatient admission ~~or~~, mandatory outpatient treatment, *or mandatory outpatient treatment following involuntary admission* as specified in subsections C ~~and~~, D, and I of § 37.2-817. The examination shall include all applicable requirements of § 37.2-815. The certification of the examiner may be admitted into evidence without the appearance of the examiner at the hearing if not objected to by the person or his attorney. If the person is not detained in an inpatient facility, the community services board shall arrange for the person to be examined at a convenient location and time. The community services board shall offer to arrange for the person's transportation to the examination, if the person has no other source of transportation and resides within the service area or an adjacent service area of the community services board. If the person refuses or fails to appear, the community services board shall notify the court, or a magistrate if the court is not available, and the court or magistrate shall issue a mandatory examination order and capias directing the primary law-enforcement agency in the jurisdiction where the person resides to transport the person to the examination. The person shall remain in custody until a temporary detention order is issued or until the person is released, but in no event shall the period exceed four hours.

C. If the person fails to appear for the hearing the court shall, after consideration of any evidence

305 from the person, from the community services board, or from any treatment provider identified in the
306 mandatory outpatient treatment plan regarding why the person failed to appear at the hearing, either (i)
307 reschedule the hearing pursuant to subsection A, (ii) issue an emergency custody order pursuant to
308 § 37.2-808 or (iii) issue a temporary detention order pursuant to § 37.2-809.

309 D. After hearing the evidence regarding the person's material noncompliance with the mandatory
310 outpatient treatment order *or order for mandatory outpatient treatment following involuntary admission*
311 and the person's current condition, and any other relevant information referenced in subsection C of
312 § 37.2-817, the judge or special justice shall make one of the following dispositions:

313 1. Upon finding by clear and convincing evidence that the person meets the criteria for involuntary
314 admission and treatment specified in subsection C of § 37.2-817, the judge or special justice shall order
315 the person's involuntary admission to a facility designated by the community services board for a period
316 of treatment not to exceed 30 days;

317 2. Upon finding that the person continues to meet the criteria for mandatory outpatient treatment *or*
318 *mandatory outpatient treatment following involuntary admission* specified in subsection D *or I* of
319 § 37.2-817, and that a continued period of mandatory outpatient treatment appears warranted, the judge
320 or special justice shall renew the order for mandatory outpatient treatment *or order for mandatory*
321 *outpatient treatment following involuntary admission*, making any necessary modifications that are
322 acceptable to the community services board or treatment provider responsible for the person's treatment.
323 In determining the appropriateness of outpatient treatment, the court may consider the person's material
324 noncompliance with the previous mandatory treatment order; or

325 3. Upon finding that neither of the above dispositions is appropriate, the judge or special justice shall
326 rescind the order for mandatory outpatient treatment *or order for mandatory outpatient treatment*
327 *following involuntary admission*.

328 Upon entry of an order for involuntary inpatient admission, transportation shall be provided in
329 accordance with § 37.2-829 or 37.2-830.

330 § 37.2-817.3. Rescission of mandatory outpatient treatment order.

331 A. If the community services board determines at any time prior to the expiration of the mandatory
332 outpatient treatment order *or order for mandatory outpatient treatment following involuntary admission*
333 that the person has complied with the order and no longer meets the criteria for involuntary treatment,
334 or that continued mandatory outpatient treatment is no longer necessary for any other reason, it shall file
335 a petition to rescind the order with the court that entered the order or to which venue has been
336 transferred. If the court agrees with the community services board's determination, the court shall rescind
337 the order. Otherwise, the court shall schedule a hearing and provide notice of the hearing in accordance
338 with subsection A of § 37.2-817.2.

339 B. At any time after 30 days from entry of the mandatory outpatient treatment order *or order for*
340 *mandatory outpatient treatment following involuntary admission*, the person may petition the court to
341 rescind the order on the grounds that he no longer meets the criteria for mandatory outpatient treatment
342 *or mandatory outpatient treatment following involuntary admission* as specified in subsection D *or I* of
343 § 37.2-817. The court shall schedule a hearing and provide notice of the hearing in accordance with
344 subsection A of § 37.2-817.2. The community services board required to monitor the person's
345 compliance with the mandatory outpatient treatment order *or order for mandatory outpatient treatment*
346 *following involuntary admission* shall provide a preadmission screening report as required in § 37.2-816.
347 After observing the person, and considering the person's current condition, any material noncompliance
348 with the mandatory outpatient treatment order *or order for mandatory outpatient treatment following*
349 *involuntary admission* on the part of the person, and any other relevant evidence referred to in
350 subsection C of § 37.2-817, *the court* shall make one of the dispositions specified in subsection D of
351 § 37.2-817.2. The person may not file a petition to rescind the order more than once during a 90-day
352 period.

353 § 37.2-817.4. Continuation of mandatory outpatient treatment order.

354 A. At any time within 30 days prior to the expiration of a mandatory outpatient treatment order *or*
355 *order for mandatory outpatient treatment following involuntary admission*, the community services board
356 that is required to monitor the person's compliance with the order, the treating physician, or other
357 responsible person may petition the court to continue the order for a period not to exceed 180 days.

358 B. If the person who is the subject of the order and the monitoring community services board, if it
359 did not initiate the petition, join the petition, the court shall grant the petition and enter an appropriate
360 order without further hearing. If either the person or the monitoring community services board does not
361 join the petition, the court shall schedule a hearing and provide notice of the hearing in accordance with
362 subsection A of § 37.2-817.2.

363 C. Upon receipt of the petition, the court shall appoint an examiner who shall personally examine the
364 person pursuant to subsection B of § 37.2-815. The community services board required to monitor the
365 person's compliance with the mandatory outpatient treatment order *or order for mandatory outpatient*
366 *treatment following involuntary admission* shall provide a preadmission screening report as required in

§ 37.2-816.

D. If, after observing the person, reviewing the preadmission screening report and considering the appointed examiner's certification and any other relevant evidence, including any relevant evidence referenced in subsection D of § 37.2-817, the court shall make one of the dispositions specified in subsection D of § 37.2-817.2. If the court finds that a continued period of mandatory outpatient treatment is warranted, it may continue the order for a period not to exceed 180 days. Any order of mandatory outpatient treatment that is in effect at the time a petition for continuation of the order is filed shall remain in effect until the disposition of the hearing.

§ 37.2-818. Commitment hearing for involuntary admission; recordings and records.

A. The district court judge or special justice shall make or cause to be made a tape or other audio recording of any hearings held under this chapter with no more than one hearing recorded per tape, and shall submit the recording to the clerk of the district court in the locality in which the hearing is held to be retained in a confidential file. The person who was the subject of the hearing shall be entitled, upon request, to obtain a copy of the tape or other audio recording of such hearing. These recordings shall be retained for at least three years from the date of the commitment hearing.

B. Except as provided in this section and § 37.2-819, the court shall keep its copies of recordings made pursuant to this section, relevant medical records, reports, and court documents pertaining to the hearings provided for in this chapter confidential. The person who is the subject of the hearing may, in writing, waive the confidentiality provided herein. In the absence of such waiver, access to the dispositional order only may be provided upon court order. Any person seeking access to the dispositional order may file a written motion setting forth why such access is needed. The court may issue an order to disclose the dispositional order if it finds that such disclosure is in the best interest of the person who is the subject of the hearing or of the public. The Executive Secretary of the Supreme Court and anyone acting on his behalf shall be provided access to the court's records upon request. Such recordings, records, reports, and documents shall not be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

C. After entering an order for involuntary admission or mandatory outpatient treatment *or an order for mandatory outpatient treatment following involuntary admission*, the judge or special justice shall order that copies of the relevant records of the person be released to (i) the facility in which he is placed, (ii) the community services board of the jurisdiction where the person resides, (iii) any treatment providers identified in a treatment plan incorporated into any mandatory outpatient treatment order *or order for mandatory outpatient treatment following involuntary admission*, and (iv) any other treatment providers or entities.