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SENATE BILL NO. 360

Offered January 13, 2010

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A *BILL to amend and reenact §§ 37.2-815 and 37.2-817 through 37.2-817.4 of the Code of Virginia, relating to mandatory outpatient treatment following involuntary admission.*

 Patron—Barker

 Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-815 and 37.2-817 through 37.2-817.4 of the Code of Virginia are amended and reenacted as follows:

§ 37.2-815. Commitment hearing for involuntary admission; examination required.

A. Notwithstanding § 37.2-814, the district court judge or special justice shall require an examination of the person who is the subject of the hearing by a psychiatrist or a psychologist who is licensed in Virginia by the Board of Medicine or the Board of Psychology and is qualified in the diagnosis of mental illness or, if such a psychiatrist or psychologist is not available, a mental health professional who (i) is licensed in Virginia through the Department of Health Professions as a clinical social worker, professional counselor, marriage and family therapist, psychiatric nurse practitioner, or clinical nurse specialist, (ii) is qualified in the assessment of mental illness, and (iii) has completed a certification program approved by the Department. The examiner chosen shall be able to provide an independent clinical evaluation of the person and recommendations for his placement, care, and treatment. The examiner shall (a) not be related by blood or marriage to the person, (b) not be responsible for treating the person, (c) have no financial interest in the admission or treatment of the person, (d) have no investment interest in the facility detaining or admitting the person under this chapter, and (e) except for employees of state hospitals, the U.S. Department of Veterans Affairs, and community service boards, not be employed by the facility. For purposes of this section, the term "investment interest" shall be as defined in § 37.2-809.

B. The examination conducted pursuant to this section shall be a comprehensive evaluation of the person conducted in-person or, if that is not practicable, by two-way electronic video and audio communication system as authorized in § 37.2-804.1. Translation or interpreter services shall be provided during the evaluation where necessary. The examination shall consist of (i) a clinical assessment that includes a mental status examination; determination of current use of psychotropic and other medications; a medical and psychiatric history; a substance use, abuse, or dependency determination; and a determination of the likelihood that, as a result of mental illness, the person will, in the near future, suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs; (ii) a substance abuse screening, when indicated; (iii) a risk assessment that includes an evaluation of the likelihood that, as a result of mental illness, the person will, in the near future, cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any; (iv) an assessment of the person's capacity to consent to treatment, including his ability to maintain and communicate choice, understand relevant information, and comprehend the situation and its consequences; (v) a review of the temporary detention facility's records for the person, including the treating physician's evaluation, any collateral information, reports of any laboratory or toxicology tests conducted, and all admission forms and nurses' notes; (vi) a discussion of treatment preferences expressed by the person or contained in a document provided by the person in support of recovery; (vii) *an assessment of whether the person meets the criteria for an order for mandatory outpatient treatment following a period of inpatient treatment pursuant to subsection C1 of § 37.2-817*; (viii) an assessment of alternatives to involuntary inpatient treatment; and ~~(viii)~~ (ix) recommendations for the placement, care, and treatment of the person.

C. All such examinations shall be conducted in private. The judge or special justice shall summons the examiner who shall certify that he has personally examined the person and state whether he has probable cause to believe that the person (i) has a mental illness and there is a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) 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 (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs, and (ii) requires involuntary inpatient treatment. The judge or special justice shall not render any decision on the petition until the examiner has presented his report. The examiner may report orally at the hearing, but he shall provide a written report of his

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59 examination prior to the hearing. The examiner's written certification may be accepted into evidence
60 unless objected to by the person or his attorney, in which case the examiner shall attend in person or by
61 electronic communication. When the examiner attends the hearing in person or by electronic
62 communication, the examiner shall not be excluded from the hearing pursuant to an order of
63 sequestration of witnesses.

64 § 37.2-817. Involuntary admission and mandatory outpatient treatment orders.

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

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

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

100 C. After observing the person and considering (i) the recommendations of any treating or examining
101 physician or psychologist licensed in Virginia, if available, (ii) any past actions of the person, (iii) any
102 past mental health treatment of the person, (iv) any examiner's certification, (v) any health records
103 available, (vi) the preadmission screening report, and (vii) any other relevant evidence that may have
104 been admitted, if the judge or special justice finds by clear and convincing evidence that (a) the person
105 has a mental illness and there is a substantial likelihood that, as a result of mental illness, the person
106 will, in the near future, (1) cause serious physical harm to himself or others as evidenced by recent
107 behavior causing, attempting, or threatening harm and other relevant information, if any, or (2) suffer
108 serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human
109 needs, and (b) all available less restrictive treatment alternatives to involuntary inpatient treatment,
110 pursuant to subsection D, that would offer an opportunity for the improvement of the person's condition
111 have been investigated and determined to be inappropriate, the judge or special justice shall by written
112 order and specific findings so certify and order that the person be admitted involuntarily to a facility for
113 a period of treatment not to exceed 30 days from the date of the court order. Such involuntary
114 admission shall be to a facility designated by the community services board that serves the city or
115 county in which the person was examined as provided in § 37.2-816. If the community services board
116 does not designate a facility at the commitment hearing, the person shall be involuntarily admitted to a
117 facility designated by the Commissioner. Upon the expiration of an order for involuntary admission, the
118 person shall be released unless he is involuntarily admitted by further petition and order of a court,
119 which shall be for a period not to exceed 180 days from the date of the subsequent court order, or such
120 person makes application for treatment on a voluntary basis as provided for in § 37.2-805 or is ordered

121 to mandatory outpatient treatment pursuant to subsection D.
 122 *CI. After observing the person and considering the information specified in subsection C, if the*
 123 *judge or special justice finds that the person meets the criteria for involuntary inpatient treatment as*
 124 *provided in subsection C, and finds by clear and convincing evidence that (i) the person has a history*
 125 *of lack of compliance with treatment for mental illness that has (a) at least twice been a significant*
 126 *factor in necessitating hospitalization in a mental health facility or receipt of services in a mental health*
 127 *unit of a correctional facility, not including any period during which the person was hospitalized or*
 128 *incarcerated immediately preceding the filing of the petition, or (b) resulted in one or more acts of*
 129 *violence directed at himself or others within the previous 48 months, not including any period during*
 130 *which the person was hospitalized or incarcerated immediately preceding the filing of the petition; (ii)*
 131 *in view of the person's treatment history and current behavior, the person is in need of mandatory*
 132 *outpatient treatment following inpatient treatment in order to prevent a relapse or deterioration that*
 133 *would be likely to result in the person meeting the criteria for involuntary inpatient treatment; (iii) as a*
 134 *result of mental illness, the person is unlikely to voluntarily participate in outpatient treatment unless*
 135 *the court enters an order for mandatory outpatient treatment following inpatient treatment; and (iv) the*
 136 *person is likely to benefit from mandatory outpatient treatment, the judge or special justice may*
 137 *authorize the treating physician to discharge the person from involuntary inpatient treatment subject to*
 138 *an order of mandatory outpatient treatment not to exceed the length of the commitment order. Prior to*
 139 *discharging the person to mandatory outpatient treatment, the treating physician shall determine, based*
 140 *upon his professional judgment, that (1) the person no longer needs inpatient hospitalization, (2) the*
 141 *person requires mandatory outpatient treatment at the time of discharge to prevent deterioration of his*
 142 *condition that would likely result in his meeting the criteria for involuntary inpatient treatment, and (3)*
 143 *at the time of discharge, services are actually available in the community and providers of services have*
 144 *actually agreed to deliver the services. In making the determination whether to discharge a person to*
 145 *mandatory outpatient treatment, the treating physician shall enjoy immunity from liability to the same*
 146 *extent as the judge or special justice who entered the order. The discharge plan developed by the*
 147 *treating physician in conjunction with the community services board and the person shall serve as and*
 148 *shall contain all the components of the comprehensive mandatory outpatient treatment plan set forth in*
 149 *subsection G, and no initial mandatory outpatient treatment plan set forth in subsection F shall be*
 150 *required. The discharge plan shall be filed with the court and provided to the person by the community*
 151 *services board at the time of the person's discharge from the inpatient facility and shall be deemed to*
 152 *be incorporated into the order entered pursuant to this subsection at the time the plan is provided to the*
 153 *person. The community services board where the person resides upon discharge shall monitor the*
 154 *person's compliance with the discharge plan and report any material noncompliance to the court.*

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

175 E. Mandatory outpatient treatment may include day treatment in a hospital, night treatment in a
 176 hospital, outpatient involuntary treatment with anti-psychotic medication pursuant to Chapter 11
 177 (§ 37.2-1100 et seq.), or other appropriate course of treatment as may be necessary to meet the needs of
 178 the person. The community services board that serves the city or county in which the person resides
 179 shall recommend a specific course of treatment and programs for the provision of mandatory outpatient
 180 treatment. ~~The~~ *Except as provided in subsection CI, the duration of mandatory outpatient treatment shall*
 181 *be determined by the court based on recommendations of the community services board, but shall not*

182 exceed 90 days. Upon expiration of an order for mandatory outpatient treatment, the person shall be
183 released from the requirements of the order unless the order is continued in accordance with
184 § 37.2-817.4.

185 F. Any order for mandatory outpatient treatment, *except as provided in subsection C1*, shall include
186 an initial mandatory outpatient treatment plan developed by the community services board that
187 completed the preadmission screening report. The plan shall, at a minimum, (i) identify the specific
188 services to be provided, (ii) identify the provider who has agreed to provide each service, (iii) describe
189 the arrangements made for the initial in-person appointment or contact with each service provider, and
190 (iv) include any other relevant information that may be available regarding the mandatory outpatient
191 treatment ordered. The order shall require the community services board to monitor the implementation
192 of the mandatory outpatient treatment plan and report any material noncompliance to the court.

193 G. No later than five days, excluding Saturdays, Sundays, or legal holidays, after an order for
194 mandatory outpatient treatment has been entered pursuant to this section, *except as provided in*
195 *subsection C1*, the community services board where the person resides that is responsible for monitoring
196 compliance with the order shall file a comprehensive mandatory outpatient treatment plan. The
197 comprehensive mandatory outpatient treatment plan shall (i) identify the specific type, amount, duration,
198 and frequency of each service to be provided to the person, (ii) identify the provider that has agreed to
199 provide each service included in the plan, (iii) certify that the services are the most appropriate and least
200 restrictive treatment available for the person, (iv) certify that each provider has complied and continues
201 to comply with applicable provisions of the Department's licensing regulations, (v) be developed with
202 the fullest possible involvement and participation of the person and reflect his preferences to the greatest
203 extent possible to support his recovery and self-determination, (vi) specify the particular conditions with
204 which the person shall be required to comply, and (vii) describe how the community services board
205 shall monitor the person's compliance with the plan and report any material noncompliance with the
206 plan. The community services board shall submit the comprehensive mandatory outpatient treatment plan
207 to the court for approval. Upon approval by the court, the comprehensive mandatory outpatient treatment
208 plan shall be filed with the court and incorporated into the order of mandatory outpatient treatment. Any
209 subsequent substantive modifications to the plan shall be filed with the court for review and attached to
210 any order for mandatory outpatient treatment.

211 H. If the community services board responsible for developing the comprehensive mandatory
212 outpatient treatment plan determines that the services necessary for the treatment of the person's mental
213 illness are not available or cannot be provided to the person in accordance with the order for mandatory
214 outpatient treatment, it shall notify the court within five business days of the entry of the order for
215 mandatory outpatient treatment. Within two business days of receiving such notice, the judge or special
216 justice, after notice to the person, the person's attorney, and the community services board responsible
217 for developing the comprehensive mandatory outpatient treatment plan shall hold a hearing pursuant to
218 § 37.2-817.2.

219 I. Upon entry of any order for mandatory outpatient treatment, *except as provided in subsection C1*,
220 the clerk of the court shall provide a copy of the order to the person who is the subject of the order, to
221 his attorney, and to the community services board required to monitor compliance with the plan. The
222 community services board shall acknowledge receipt of the order to the clerk of the court on a form
223 established by the Office of the Executive Secretary of the Supreme Court and provided by the court for
224 this purpose.

225 J. The court may transfer jurisdiction of the case to the district court where the person resides at any
226 time after the entry of the mandatory outpatient treatment order. The community services board
227 responsible for monitoring compliance with the mandatory outpatient treatment plan *or discharge plan*
228 shall remain responsible for monitoring the person's compliance with the plan until the community
229 services board serving the locality to which jurisdiction of the case has been transferred acknowledges
230 the transfer and receipt of the order to the clerk of the court on a form established by the Office of the
231 Executive Secretary of the Supreme Court and provided by the court for this purpose.

232 K. Any order entered pursuant to this section shall provide for the disclosure of medical records
233 pursuant to § 37.2-804.2. This subsection shall not preclude any other disclosures as required or
234 permitted by law.

235 § 37.2-817.1. Monitoring mandatory outpatient treatment; petition for hearing.

236 A. The community services board where the person resides shall monitor the person's compliance
237 with the mandatory outpatient treatment plan *or discharge plan* ordered by the court pursuant to
238 § 37.2-817. Monitoring compliance shall include (i) contacting the service providers to determine if the
239 person is complying with the mandatory outpatient treatment order *or order for mandatory outpatient*
240 *treatment following inpatient treatment* and (ii) notifying the court of the person's material
241 noncompliance with the mandatory outpatient treatment order *or order for mandatory outpatient*
242 *treatment following inpatient treatment*. Providers of services identified in the plan shall report any
243 material noncompliance to the community services board.

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

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

260 § 37.2-817.2. Court review of mandatory outpatient treatment plan or discharge plan.

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

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

296 C. If the person fails to appear for the hearing, the court shall, after consideration of any evidence
 297 from the person, from the community services board, or from any treatment provider identified in the
 298 mandatory outpatient treatment plan *or discharge plan* regarding why the person failed to appear at the
 299 hearing, either (i) reschedule the hearing pursuant to subsection A, (ii) issue an emergency custody order
 300 pursuant to § 37.2-808, or (iii) issue a temporary detention order pursuant to § 37.2-809.

301 D. After hearing the evidence regarding the person's material noncompliance with the mandatory
 302 outpatient treatment order *or order for mandatory outpatient treatment following inpatient treatment* and
 303 the person's current condition, and any other relevant information referenced in subsection C of
 304 § 37.2-817, the judge or special justice shall make one of the following dispositions:

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

309 2. Upon finding that the person continues to meet the criteria for mandatory outpatient treatment
310 specified in subsection *C1* or D of § 37.2-817, and that a continued period of mandatory outpatient
311 treatment appears warranted, the judge or special justice shall renew the order for mandatory outpatient
312 treatment, making any necessary modifications that are acceptable to the community services board or
313 treatment provider responsible for the person's treatment. In determining the appropriateness of
314 outpatient treatment, the court may consider the person's material noncompliance with the previous
315 mandatory treatment order; or

316 3. Upon finding that neither of the above dispositions is appropriate, the judge or special justice shall
317 rescind the order for mandatory outpatient treatment *or order for mandatory outpatient treatment*
318 *following inpatient treatment.*

319 Upon entry of an order for involuntary inpatient admission, transportation shall be provided in
320 accordance with § 37.2-829.

321 § 37.2-817.3. Rescission of mandatory outpatient treatment order.

322 A. If the community services board determines at any time prior to the expiration of the mandatory
323 outpatient treatment order *or order for mandatory outpatient treatment following inpatient treatment* that
324 the person has complied with the order and no longer meets the criteria for involuntary treatment, or
325 that continued mandatory outpatient treatment is no longer necessary for any other reason, it shall file a
326 petition to rescind the order with the court that entered the order or to which venue has been transferred.
327 If the court agrees with the community services board's determination, the court shall rescind the order.
328 Otherwise, the court shall schedule a hearing and provide notice of the hearing in accordance with
329 subsection A of § 37.2-817.2.

330 B. At any time after 30 days from entry of the mandatory outpatient treatment order *or from the*
331 *discharge of the person from involuntary inpatient treatment pursuant to an order for mandatory*
332 *outpatient treatment following inpatient treatment*, the person may petition the court to rescind the order
333 on the grounds that he no longer meets the criteria for mandatory outpatient treatment as specified in
334 subsection *C1* or D of § 37.2-817. The court shall schedule a hearing and provide notice of the hearing
335 in accordance with subsection A of § 37.2-817.2. The community services board required to monitor the
336 person's compliance with the mandatory outpatient treatment order *or order for mandatory outpatient*
337 *treatment following inpatient treatment* shall provide a preadmission screening report as required in
338 § 37.2-816. After observing the person, and considering the person's current condition, any material
339 noncompliance with the mandatory outpatient treatment order *or order for mandatory outpatient*
340 *treatment following inpatient treatment* on the part of the person, and any other relevant evidence
341 referred to in subsection C of § 37.2-817, shall make one of the dispositions specified in subsection D of
342 § 37.2-817.2. The person may not file a petition to rescind the order more than once during a 90-day
343 period.

344 § 37.2-817.4. Continuation of mandatory outpatient treatment order.

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

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

354 C. Upon receipt of the petition, the court shall appoint an examiner who shall personally examine the
355 person pursuant to subsection B of § 37.2-815. The community services board required to monitor the
356 person's compliance with the mandatory outpatient treatment order *or order for mandatory outpatient*
357 *treatment following inpatient treatment* shall provide a preadmission screening report as required in
358 § 37.2-816.

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