INTERSTATE MENTAL HEALTH COMPACT: (HOUSE BILL NO. 47 ENACTED BY THE 70th GENERAL ASSEMBLY): The Missouri Compact Administrator of the Interstate Mental Health Compact is not given any authority under Article III (a) of House Bill No. 47 enacted by the 70th General Assembly. The Compact administrator in Missouri is not given the authority to authorize the admission of an individual in the situation set forth in the aforesaid Article III (a). Commitment procedures in Missouri, when a patient is received from another state, are necessary unless the patient qualifies for admittance under the voluntary admittance provision of the Mental Health Act. The institution in the receiving state is not liable for the cost of such commitment.

November 9, 1959

FILED 25

Honorable Addison M. Duval, M. D.
Director, Division of Mental Diseases
State Office Building
Jefferson City, Missouri

Dear Dr. Duval:

Your recent request for an official opinion reads:

"I would appreciate your opinion concerning several questions dealing with the effectuation of legislation known as the Interstate Mental Health Compact which was authorized under House Bill No. 47 in the 70th General Assembly. Clarification of these questions will help materially in our setting up the necessary procedures.

"My questions are as follows:

1. What is the extent of authority of the Compact Administrator in effecting Article III(a)?

2. If the Compact Administrator authorizes the admission of such an individual (as mentioned therein) to a state hospital, (a) Can the Superintendent force the admission over the patient's objection, and (b) How long may the Superintendent hospitalize the patient before taking steps for legal commitment if this is indicated?

3. Under Article VII(a), are commitment procedures in a receiving state (Missouri) necessary? May the patient voluntarily waive such procedures? If commitment is necessary, who should properly bear the costs of commitment?

"Your early attention to this matter will be very much appreciated as this legislation becomes effective on August 29, 1959."

We will consider your several questions in the order in which they are stated above.

Honorable Addison M. Duval, M. D.

Paragraph (a) of Article 3 of House Bill No. 47 referred to by you above reads:

> "Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship qualifications."

We note that the above paragraph makes a person who is physically present in any state which is a member of the Compact eligible for care and treatment. It would seem that in this situation the meaning of the word "eligible" would simply be that, regardless of legal residence, a person could be admitted for treatment in a Missouri mental hospital if he were physically present in Missouri.

We do not see that the Compact administrator would be in any way involved by virtue of Article III (a).

Your second question, which is composed of parts (a) and (b) is predicated upon the assumption that the Compact administrator authorizes the admission of such an individual as is here under consideration. Since we have held above that the Compact administrator is not involved in the admission to a state hospital of such an individual as we are here considering, we feel that your entire second question is thereby disposed of.

Your third question is in regard to the necessity of commitment procedure in Missouri when this state receives a patient from another state member of the Compact.

Numbered paragraph (a) of Article VII of House Bill No. 47 reads:

> "(a) No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state."

The meaning of the above clearly is that when a patient from another state is received in Missouri he is a patient of the Missouri institution and of no other institution in any other state. We believe that his status is exactly the same as that of a person committed from Missouri by the regular Missouri commitment procedure as set forth in Sections 202.780 through 202.870, RSMo Cum. Supp. 1957, and that unless similar commitment procedures are followed in regard to the patient received from another state, then by

what authority will he be held in the Missouri institution? Not by any procedure which may have been held in the sending state, because by virtue of section (a) of Article VII, supra, he is cut off from such state. He is distinctly not a bi-state patient. It would seem that Missouri commitment procedure should be followed in order that Missouri not be placed in the position of holding a person and depriving him of his liberty without legal authority for so doing. This, of course, is clearly contrary to the fundamental laws of this state. Section 10, Article I of the Missouri Constitution states:

> "That no person shall be deprived of life, liberty or property without due process of law."

In the case of Ivie v. Bailey, 5 SW2d 50, the Missouri Supreme Court stated (l.c. 54 [9, 10]):

> "* * * By due process of law, defined in terms of the equal protection of the law, means, in each particular case, such an exercise of the powers of government as the settled maxims and rules of procedure sanction, and such safeguards for the protection of individual rights as those maxims and rules prescribe for the class of cases to which the one in question belongs. It means, in short, the law of the land. No requisite is lacking in these sections to afford the respondents due process or the equal protection of the law. The Constitution creates the liability, the statutory sections prescribe the remedy, and in the enforcement of the same, notice and a hearing is accorded to the respondents. Further than this, in the enforcement of the remedy prescribed by these sections no right was denied to the respondents to which any litigant would have been entitled under like circumstances. There is therefore no tenable ground of complaint on this score."

In the case of State vs. Broaddus, 289 SW 792, the Missouri Supreme Court stated (l.c. 795 [5, 6]):

> " * * * He therefore could not have been deprived of due process of law, which means nothing more than that every citizen shall hold his life, liberty, and property under the protection of the general law which governs society, and, in the concrete, that

> in a contest concerning these rights he will be given the opportunity to contest the propriety of each step in the action sought to be taken against him. City of St. Louis v. Railroad, 278 Mo. loc. cit. 211, 211 S. W. 671; Dartmouth College Case, 4 Wheat, 518, 4 L. Ed. 629. There is therefore no merit in this contention."

We believe that if Missouri commitment procedures are not followed that any patient received from another state not admitted as a voluntary patient would be subject to release from the Missouri institution on the filing of a writ of habeas corpus.

In connection with the above question you inquire whether, if commitment procedures are necessary, "who should properly bear the costs of commitment?" On July 27, 1959, this department rendered an opinion to you, a copy of which is enclosed, which we believe answers this question to the effect that the receiving institution in Missouri would not be liable for such costs.

Your final question is whether a patient received from another state may voluntarily waive such procedure of commitment.

Section 202.783, RSMo Cum. Supp. 1957, of the Mental Health Act reads:

> "The head of a private hospital may and the head of a public hospital, subject except in case of medical emergency to the availability of suitable accommodations, shall admit for observation, diagnosis, care and treatment any individual who is mentally ill or has symptoms of mental illness and who, being sixteen years of age or over, applies therefor, and any individual under sixteen years of age who is mentally ill or has symptoms of mental illness, if his parent or legal guardian applies therefor in his behalf."

We see no reason why a patient received from another state would not be upon the same basis, so far as admittance of voluntary patients is concerned, as a Missouri resident who made a similar application.

CONCLUSION

It is the opinion of this department that: the Missouri Compact administrator of the Interstate Mental Health Compact is not given any authority under Article III (a) of House Bill No. 47 enacted by the 70th General Assembly;

Honorable Addison M. Duval, M. D.

That the Compact administrator in Missouri is not given authority to authorize the admission of an individual in the situation set forth in the aforesaid Article III (a);

That commitment procedures in Missouri, when a patient is received from another state, are necessary unless the patient qualifies for admittance under the voluntary admittance provision of the Mental Health Act.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Hugh P. Williamson.

Very truly yours,

JOHN M. DALTON
Attorney General

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Enclosure