UNIFORM ALCOHOLISM AND INTOXICATION TREATMENT ACT

Drafted by

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

And by it

APPROVED AND RECOMMENDED FOR ENACTMENT IN ALL THE STATES

At its

ANNUAL CONFERENCE MEETING IN ITS EIGHTIETH YEAR AT VAIL, COLORADO AUGUST 21-28, 1971

WITH PREFATORY NOTE AND COMMENTS
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UNIFORM ALCOHOLISM AND INTOXICATION TREATMENT ACT

Prefatory Note

The Uniform Alcoholism and Intoxication Treatment Act was prepared in response to the Nation’s changing attitudes toward alcoholism and alcohol abuse. Although the World Health Organization and the American Medical Association recognized alcoholism as a disease in the 1950’s, it was not until the mid-1960’s that significant changes began to take place in society’s view and treatment of the alcoholic and public inebriate.

During the past five years, dramatic changes in attitude and approach have come about initially as the result of court decisions, then the recommendations of governmental and private commissions, and finally legislative reform. The first landmark decisions, Easter v. District of Columbia, 361 F.2d 50 (D.C. Cir. 1966) (en banc), and Driver v. Hinnant, 356 F.2d 761 (4th Cir. 1966), held that because alcoholism is an illness, a homeless alcoholic could not avoid being drunk in public and therefore could not be punished for his public intoxication. Although the U.S. Supreme Court, in Powell v. Texas, 392 U.S. 514 (1968), declined to extend this holding to include an alcoholic who has a home and family, a majority of the court indicated that the punishment of a homeless alcoholic for public intoxication would violate the Eighth Amendment to the U.S. Constitution. The most important aspect of that decision was the unanimous recognition that current facilities, procedures, and legislative responses to the problem had been wholly inadequate.

In 1967 three authoritative commissions, the U.S. and the D.C. Crime Commissions and the Cooperative Commission on the Study of Alcoholism, found that the criminal law was an ineffective, inhumane, and costly device for the prevention and control of alcoholism or public drunkenness. All recommended that a public health approach be substituted for current criminal procedures. Another major effort to change public policy toward alcoholism and the treatment of public intoxication came in 1969 when the American Bar Association and American Medical Association, which earlier had collaborated on new model legislation based on the Crime Commission Reports, released a “Joint Statement of Principles Concerning Alcoholism” in which they urged State governments to adopt new comprehensive legislation in which alcoholism would be viewed as an illness and public intoxication would no longer be handled as a criminal offense.

The first jurisdiction to begin active legislative consideration of these new proposals was the District of Columbia, where Congress enacted the District of Columbia Alcoholism Rehabilitation Act in 1968 (Public Law 90-452). Hawaii, Maryland, North Dakota, Florida, and other States have also reformed their laws governing alcoholism and intoxication in the past four years.

The growing awareness and concern with the treatment of alcoholism and public intoxication also brought a Federal response. In 1968, Congress passed the Alcoholic
Rehabilitation Act of 1968 (Public Law 90-574) the first Federal law dealing specifically with the treatment of alcoholism on a national basis. Congress declared in that Act that the “handling of chronic alcoholics within the system of criminal justice perpetuates and aggravates the broad problem of alcoholism whereas treating it as a health problem permits early detection and prevention of alcoholism and effective treatment and rehabilitation, relieves police and other law enforcement agencies of an inappropriate burden that impedes their important work, and better serves the interest of the public.” In 1970, this Federal initiative in the field was substantially expanded with the enactment of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (Public Law 91-616), and the establishment of the National Institute on Alcohol Abuse and Alcoholism.

The Uniform Alcoholism and Intoxication Treatment Act is designed to provide States with the legal framework within which to approach alcoholism and public intoxication from a health standpoint, as recommended by the courts, commissions, and professional organizations. The Act draws heavily upon the authoritative recommendations of the U.S. and D.C. Crime Commissions, on the recent District of Columbia and State statutes, and on model laws drafted by both the Joint Committee of the American Bar Association and the American Medical Association and the Legislative Drafting Research Fund of Columbia University.
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§ 1. [Declaration of Policy] It is the policy of this State that alcoholics and intoxicated persons may not be subjected to criminal prosecution because of their consumption of alcoholic beverages but rather should be afforded a continuum of treatment in order that they may lead normal lives as productive members of society.

COMMENT

This section is intended to preclude the handling of drunkenness under any of a wide variety of petty criminal offense statutes, such as loitering, vagrancy, disturbing the peace, and so forth. As the Crime Commissions pointed out, drunkenness by itself does not constitute disorderly conduct. The normal manifestations of intoxication – staggering, lying down, sleeping on a park bench, lying unconscious in the gutter, begging, singing, etc. – will therefore be handled under the civil provisions of this Act and not under the criminal law. See District of Columbia v. Greenwell, 96 Daily Wash.L.Reptr. 2133 (D.C.Ct.Gen.Sess. December 31, 1968).

§ 2. [Definitions] For purposes of this Act:

(1) "alcoholic" means a person who habitually lacks self-control as to the use of alcoholic beverages, or uses alcoholic beverages to the extent that his health is substantially impaired or endangered or his social or economic function is substantially disrupted;

(2) "approved private treatment facility" means a private agency meeting the standards prescribed in Section 9(a) and approved under Section 9(c);

(3) "approved public treatment facility" means a treatment agency operating under the direction and control of the division or providing treatment under this Act through a contract with the division under Section 8(g) and meeting the standards prescribed in Section 9(a) and approved under Section 9(c);
(4) "commissioner" means the commissioner [or ....... of the department;

(5) "department" means [the state department of health or mental health];

(6) "director" means the director of the division of alcoholism;

(7) "division" means the division of alcoholism within the department established under Section 3;

(8) "emergency service patrol" means a patrol established under Section 17;

(9) "incapacitated by alcohol" means that a person, as a result of the use of alcohol, is unconscious or has his judgment otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment;

(10) "incompetent person" means a person who has been adjudged incompetent by [the appropriate state court];

(11) "intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol;

(12) "treatment" means the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation and career counseling, which may be extended to alcoholics and intoxicated persons.

**COMMENT**

The term "alcoholic" is defined in two alternative ways for two different purposes. The first alternative is a relatively narrow definition based on lack of self-control regarding the use of alcoholic beverages. Lack of self-control may be manifested either by the inability to abstain from drinking for any significant time period, or by the ability to remain sober between drinking episodes but an inability to refrain from drinking to intoxication whenever drinking an alcoholic beverage. This relatively narrow definition has been the basis for the court decisions holding an alcoholic not criminally responsible for his intoxication.
The second alternative definition adopts the World Health Organization's broad approach, that alcoholism can be defined as the use of alcoholic beverages to the extent that health or economic or social functioning are substantially impaired. The purpose of this broad definition is to make as large a group as possible eligible for treatment for alcoholism and related problems. Encouraging early treatment for drinking problems will ultimately lead to prevention. This broad definition of alcoholism is useful in making voluntary treatment available to as large a group as possible, but would be wholly inappropriate to define those alcoholics who justify civil commitment for involuntary treatment.

The Act defines "treatment" broadly to include a wide range of types and kinds of services to reflect the fact that there is no single or uniform method of treatment that will be effective for all alcoholics. The Act provides a flexible approach with a variety of kinds of medical, social, rehabilitative, and psychological services according to the individual's particular needs.

§ 3. [Division of Alcoholism] A division of alcoholism is established within the department. The division shall be headed by a director appointed by the commissioner. The director shall be a qualified professional who has training and experience in handling medical-social problems or the organization or administration of treatment services for persons suffering from medical-social problems.

§ 4. [Powers of Division] The division may:

(1) plan, establish, and maintain treatment programs as necessary or desirable;

(2) make contracts necessary or incidental to the performance of its duties and the execution of its powers, including contracts with public and private agencies, organizations, and individuals to pay them for services rendered or furnished to alcoholics or intoxicated persons;

(3) solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services, or property from the Federal government, the State, or any
political subdivision thereof or any private source, and do all things necessary to cooperate with the Federal government or any of its agencies in making an application for any grant;

(4) administer or supervise the administration of the provisions relating to alcoholics and intoxicated persons of any State plan submitted for Federal funding pursuant to Federal health, welfare, or treatment legislation;

(5) coordinate its activities and cooperate with alcoholism programs in this and other states, and make contracts and other joint or cooperative arrangements with state, local, or private agencies in this and other states for the treatment of alcoholics and intoxicated persons and for the common advancement of alcoholism programs;

(6) keep records and engage in research and the gathering of relevant statistics; and

(7) do other acts and things necessary or convenient to execute the authority expressly granted to it.

[(8) acquire, hold, or dispose of real property or any interest therein, and construct, lease, or otherwise provide treatment facilities for alcoholics and intoxicated persons.]

§ 5. [Duties of Division] The division shall:

(1) develop, encourage, and foster statewide, regional, and local plans and programs for the prevention of alcoholism and treatment of alcoholics and intoxicated persons in cooperation with public and private agencies, organizations, and individuals and provide technical assistance and consultation services for these purposes;

(2) coordinate the efforts and enlist the assistance of all public and private agencies, organizations, and individuals interested in prevention of alcoholism and treatment of alcoholics and intoxicated persons;
(3) cooperate with the [department of correction and board of parole] in establishing and conducting programs to provide treatment for alcoholics and intoxicated persons in or on parole from penal institutions;

(4) cooperate with the [department of education], [boards of education], schools, police departments, courts, and other public and private agencies, organizations and individuals in establishing programs for the prevention of alcoholism and treatment of alcoholics and intoxicated persons, and preparing curriculum materials thereon for use at all levels of school education;

(5) prepare, publish, evaluate, and disseminate educational material dealing with the nature and effects of alcohol;

(6) develop and implement, as an integral part of treatment programs, an educational program for use in the treatment of alcoholics and intoxicated persons, which program shall include the dissemination of information concerning the nature and effects of alcohol;

(7) organize and foster training programs for all persons engaged in treatment of alcoholics and intoxicated persons;

(8) sponsor and encourage research into the causes and nature of alcoholism and treatment of alcoholics and intoxicated persons, and serve as a clearing house for information relating to alcoholism;

(9) specify uniform methods for keeping statistical information by public and private agencies, organizations, and individuals, and collect and make available relevant statistical information, including number of persons treated, frequency of admission and readmission, and frequency and duration of treatment;
(10) advise the governor in the preparation of a comprehensive plan for treatment of alcoholics and intoxicated persons for inclusion in the State's comprehensive health plan;

(11) review all State health, welfare, and treatment plans to be submitted for Federal funding under Federal legislation, and advise the governor on provisions to be included relating to alcoholism and intoxicated persons;

(12) assist in the development of, and cooperate with, alcohol education and treatment programs for employees of State and local governments and businesses and industries in the State;

(13) utilize the support and assistance of interested persons in the community, particularly recovered alcoholics, to encourage alcoholics voluntarily to undergo treatment;

(14) cooperate with [the commissioner of public safety] [highway commission] in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while [intoxicated];

(15) encourage general hospitals and other appropriate health facilities to admit without discrimination alcoholics and intoxicated persons and to provide them with adequate and appropriate treatment;

(16) encourage all health and disability insurance programs to include alcoholism as a covered illness; and

(17) submit to the governor an annual report covering the activities of the division.

**COMMENT**

Section 5(9) gives the division the responsibility of specifying uniform methods for keeping statistical information, and collecting and disseminating such information. Confidentiality of individual patient records will be protected in accordance with Section 15.
Sections 5(10) and (11) authorize the division to advise the Governor with respect to the inclusion of alcoholism and intoxication under the State comprehensive health plan, and under all other State health, welfare, and treatment plans submitted for Federal funding. Under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (Public Law 91-616), each State must prepare a comprehensive alcoholism plan for Federal funding. The Comprehensive Health Planning and Public Health Services Amendments of 1966 (Public Law 89-749) and the Partnership for Health Amendments of 1967 (Public Law 90-174) have also been amended by the 1970 Act to require that comprehensive State health plans must "provide for services for the prevention and treatment of alcohol abuse and alcoholism, commensurate with the extent of the problem" in order to receive Federal Funds. Finally, numerous other relevant State plans, such as for vocational rehabilitation, are submitted for Federal funding. It will be the responsibility of the division to be certain that alcoholism and intoxication are included in all such pertinent State plans.

Section 5(15) gives the division the responsibility of encouraging general hospitals and other appropriate health facilities to admit and provide adequate treatment to alcoholics and intoxicated persons. This provision is particularly important because the 1970 Federal Act includes a provision under which a general hospital can be denied Federal funds under this law for discriminating against alcoholics.

Section 5(16) gives the division the responsibility of encouraging all health and disability insurance programs to include alcoholism as a covered illness. This provision applies to both private and governmental programs.

§ 6. [Interdepartmental Coordinating Committee]

(a) An interdepartmental coordinating committee is established, composed of the
[Commissioners of public health, mental health, education, public welfare, correction, highway,
public safety, vocational rehabilitation, and other appropriate agencies] and the director. The committee shall meet at least twice annually at the call of the commissioner, who shall be its chairman. The committee shall provide for the coordination of, and exchange of information on, all programs relating to alcoholism, and shall act as a permanent liaison among the departments engaged in activities affecting alcoholics and intoxicated persons. The committee shall assist the commissioner and director in formulating a comprehensive plan for prevention of alcoholism and for treatment of alcoholics and intoxicated persons.
(b) In exercising its coordinating functions, the committee shall assure that:

(1) the appropriate state agencies provide all necessary medical, social, treatment, and educational services for alcoholics and intoxicated persons and for the prevention of alcoholism, without unnecessary duplication of services;

(2) the several state agencies cooperate in the use of facilities and in the treatment of alcoholics and intoxicated persons; and

(3) all state agencies adopt approaches to the prevention of alcoholism and the treatment of alcoholics and intoxicated persons consistent with the policy of this Act.

§ 7. [Citizens Advisory Council on Alcoholism]

(a) The governor shall appoint a citizens advisory council on alcoholism, composed of [15] members. The members shall serve for overlapping terms of 3 years each; one/third of the members first appointed [, as nearly as may be practicable], shall be appointed for one-, two-, and three-year terms respectively. Members shall have professional, research, or personal interest in alcoholism problems. The council shall meet at least once every [3] months and report on its activities and make recommendations to the director at least once a year.

(b) The council shall advise the director on broad policies, goals, and operation of the alcoholism program and on other matters the director refers to it, and shall encourage public understanding and support of the alcoholism program.

(c) Members of the council shall serve without compensation but shall receive reimbursement for travel and other necessary expenses actually incurred in the performance of their duties.

COMMENT
The qualifications of the members are defined broadly. It is expected that the Governor would appoint to the council individuals representing a broad range of background and experience, including representatives of citizens groups, voluntary organizations, professional groups, and recovered alcoholics.

§ 8. [Comprehensive Program for Treatment; Regional Facilities]

(a) The division shall establish a comprehensive and coordinated program for the treatment of alcoholics and intoxicated persons. [Subject to the approval of the commissioner, the director shall divide the state into appropriate regions for the conduct of the program and establish standards for the development of the program on the regional level. In establishing the regions, consideration shall be given to city, town, and county lines and population concentrations.]

(b) The program of the division shall include:

   (1) emergency treatment provided by a facility affiliated with or part of the medical service of a general hospital;

   (2) inpatient treatment;

   (3) intermediate treatment; and

   (4) outpatient and followup treatment.

(c) The division shall provide for adequate and appropriate treatment for alcoholics and intoxicated persons admitted under Sections 11 to 14. Treatment may not be provided at a correctional institution except for inmates.

(d) The division shall maintain, supervise, and control all facilities operated by it subject to policies of the department. The administrator of each facility shall make an annual report of its activities to the director in the form and manner the director specifies.
(e) All appropriate public and private resources shall be coordinated with and utilized in the program if possible.

(f) The director shall prepare, publish, and distribute annually a list of all approved public and private treatment facilities.

(g) The division may contract for the use of any facility as an approved public treatment facility if the director, subject to the policies of the department, considers this to be an effective and economical course to follow.

**COMMENT**

Whether or not the director divides the State into regional units for purposes of administration, it is desirable that all treatment services be community based. Alcoholics and other ill persons are treated more effectively through treatment services in their own communities, located conveniently to population centers so as to be quickly and easily accessible to patients and their families, rather than in large institutional settings.

The Act uses the concept of emergency treatment rather than the more popular phrase "detoxification center" as the latter concept tends to stigmatize alcoholics and set them apart from people with other illnesses or problems. These emergency services should be available 24 hours a day and readily accessible to those who need this assistance. In addition to medical services, emergency social services and appropriate diagnostic and referral services should be included.

"Inpatient treatment" refers to full time residential treatment in an institution. Although alcoholics and intoxicated persons ordinarily do not require full time inpatient treatment services, such care must be available for those who do need it. Since long-term inpatient services are inappropriate for alcoholics, inpatient treatment should be designed to facilitate the patient's return to his family and the community or to other appropriate care services as rapidly as possible.

"Intermediate treatment" refers to residential treatment that is less than full time and that can be provided in a variety of community facilities, such as halfway houses, day or night hospitals, or foster homes.

"Outpatient and follow-up treatment" includes the same wide range of treatment services and modalities offered in inpatient or intermediate service settings, but in outpatient treatment, the client is not a full or part-time resident of the treatment facility. Such services may be offered in a wide variety of settings in the community, such as clinics and social centers and even in the patient's own home.
Section 8(a) requires that all existing appropriate private and public resources be coordinated with and used whenever possible. For example, general hospitals may be used for emergency care services, and community mental health centers may be utilized for a variety of kinds of services for alcoholics. The creation of a new and separate network of treatment facilities for alcoholics would not be desirable, practical, or effective.

Section 8(c) requires the department to provide adequate and appropriate treatment for all alcoholics and intoxicated persons, including both the vast majority of persons who will come to these facilities voluntarily and the small minority who may be involuntarily committed, in accordance with the provisions of Sections 13 and 14 of the Act.

§ 9. [Standards for Public and Private Treatment Facilities; Enforcement Procedures; Penalties]

(a) The division shall establish standards for approved treatment facilities that must be met for a treatment facility to be approved as a public or private treatment facility, and fix the fees to be charged by the division for the required inspections. The standards may concern only the health standards to be met and standards of treatment to be afforded patients.

(b) The division periodically shall inspect approved public and private treatment facilities at reasonable times and in a reasonable manner.

(c) The division shall maintain a list of approved public and private treatment facilities.

(d) Each approved public and private treatment facility shall file with the division on request, data, statistics, schedules, and information the division reasonably requires. An approved public or private treatment facility that without good cause fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent returns thereof, shall be removed from the list of approved treatment facilities.

(e) The division, after holding a hearing, may suspend, revoke, limit, or restrict an approval, or refuse to grant an approval, for failure to meet its standards.
(f) The [district] court may restrain any violation of this section, review any denial, restriction, or revocation of approval, and grant other relief required to enforce its provisions.

(g) Upon petition of the division and after a hearing held upon reasonable notice to the facility, the [district] court may issue a warrant to an officer or employee of the division authorizing him to enter and inspect at reasonable times, and examine the books and accounts of, any approved public or private treatment facility refusing to consent to inspection or examination by the division or which the division has reasonable cause to believe is operating in violation of this Act.

§ 10. [Acceptance for Treatment; Rules] The director shall adopt and may amend and repeal rules for acceptance of persons into the treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of alcoholics and intoxicated persons. In establishing the rules the director shall be guided by the following standards:

(1) If possible a patient shall be treated on a voluntary rather than an involuntary basis.

(2) A patient shall be initially assigned or transferred to outpatient or intermediate treatment, unless he is found to require inpatient treatment.

(3) A person shall not be denied treatment solely because he has withdrawn from treatment against medical advice on a prior occasion or because he has relapsed after earlier treatment.

(4) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.
(5) Provision shall be made for a continuum of coordinated treatment services, so that a person who leaves a facility or a form of treatment will have available and utilize other appropriate treatment.

COMMENT

Section 10(1) expresses the Act's clear preference for voluntary over involuntary treatment. Voluntary treatment is more desirable from both a medical and legal point of view. Experience has shown that the vast majority of alcoholics are quite willing to accept adequate and appropriate treatment. Section 14 of the Act makes it clear that involuntary treatment is permitted only in exceptional and very clearly prescribed circumstances.

Section 10(2) is based on the fact that most alcoholics do not need long term inpatient care, but can be more successfully treated in outpatient or intermediate care settings (such as halfway houses). This section covers both voluntary and involuntary treatment, for Section 14(h) allows the division to transfer a committed patient from a more restrictive to a less restrictive treatment modality whenever such transfer is "medically advisable."

Section 10(3) recognizes that alcoholics, like persons with other chronic illnesses, may relapse. Such relapses are to be expected as part of the illness and the individual should not be penalized. Prior treatment and withdrawal from treatment, even if repeated, should not bar a person from subsequent participation in a treatment program. It was deemed desirable to include this specific provision in the Act in view of the more punitive provisions against readmission in many older laws.

Section 10(4) provides that an individualized treatment plan must be prepared and maintained for each patient on a current basis. Such an individualized plan would include the factual record of all treatment provided and must be specifically tailored to meet the needs of each patient. A "boiler plate" treatment form for all patients would not meet the requirements of this section. This provision will ensure that patients are receiving treatment in accordance with their specific needs, and is crucial in the case of civilly committed patients in order to guard against the possibility of commitment without appropriate treatment.

Section 10(5) reinforces the Act's strong emphasis on the need for a continuum of coordinated treatment services (see also Section 1 and Section 8(a)) and requires the division to ensure that when a person leaves a form of treatment other appropriate treatment services will be available to him.

§ 11. [Voluntary Treatment of Alcoholics]
(a) An alcoholic may apply for voluntary treatment directly to an approved public treatment facility. If the proposed patient is a minor or an incompetent person, he, a parent, a legal guardian, or other legal representative may make the application.

(b) Subject to rules adopted by the director, the administrator in charge of an approved public treatment facility may determine who shall be admitted for treatment. If a person is refused admission to an approved public treatment facility, the administrator, subject to rules adopted by the director, shall refer the person to another approved public treatment facility for treatment if possible and appropriate.

(c) If a patient receiving inpatient care leaves an approved public treatment facility, he shall be encouraged to consent to appropriate out-patient or intermediate treatment. If it appears to the administrator in charge of the treatment facility that the patient is an alcoholic who requires help, the division shall arrange for assistance in obtaining supportive services and residential facilities.

(d) If a patient leaves an approved public treatment facility, with or against the advice of the administrator in charge of the facility, the division shall make reasonable provisions for his transportation to another facility or to his home. If he has no home he shall be assisted in obtaining shelter. If he is a minor or an incompetent person the request for discharge from an inpatient facility shall be made by a parent, legal guardian, or other legal representative or by the minor or incompetent if he was the original applicant.

COMMENT

Most patients treated under this Act will voluntarily seek treatment. The provisions of this section allow the patient to seek treatment in the same manner as he would for any other health problem or illness. The Act encourages voluntary treatment by not requiring the patient to agree to "voluntarily" commit himself for a specified length of time or to accept any of the other restrictions that apply to involuntarily committed patients. Section 11 does not require either a
predetermined minimum voluntary stay or a specified number of days of notice prior to seeking discharge. Such provisions would discourage treatment and would subject patients to restrictions that do not apply to patients with other medical problems.

Section 11 also requires the division to provide coordinated services (see also Sections 1, 8(a), and 10(e)) and to assist the patient in getting from one service to another, including the arranging of transportation if necessary. Section 11(d) expressly provides that the division must make such provision even if the patient leaves the treatment facility against medical advice.

§ 12. [Treatment and Services for Intoxicated Persons and Persons Incapacitated by Alcohol]

(a) An intoxicated person may come voluntarily to an approved public treatment facility for emergency treatment. A person who appears to be intoxicated in a public place and to be in need of help, if he consents to the proffered help, may be assisted to his home, an approved public treatment facility, an approved private treatment facility, or other health facility by the police or the emergency service patrol.

(b) A person who appears to be incapacitated by alcohol shall be taken into protective custody by the police or the emergency service patrol and forthwith brought to an approved public treatment facility for emergency treatment. [If no approved public treatment facility is readily available he shall be taken to an emergency medical service customarily used for incapacitated persons.] The police or the emergency service patrol, in detaining the person and in taking him to an approved public treatment facility, is taking him into protective custody and shall make every reasonable effort to protect his health and safety. In taking the person into protective custody, the detaining officer may take reasonable steps to protect himself. A taking into protective custody under this section is not an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.
(c) A person who comes voluntarily or is brought to an approved public treatment facility shall be examined by a licensed physician as soon as possible. He may then be admitted as a patient or referred to another health facility. The referring approved public treatment facility shall arrange for his transportation.

(d) A person who by medical examination is found to be incapacitated by alcohol at the time of his admission or to have become incapacitated at any time after his admission, may not be detained at the facility (1) once he is no longer incapacitated by alcohol, or (2) if he remains incapacitated by alcohol for more than 48 hours after admission as a patient, unless he is committed under Section 13. A person may consent to remain in the facility as long as the physician in charge believes appropriate.

(e) A person who is not admitted to an approved public treatment facility, is not referred to another health facility, and has no funds, may be taken to his home, if any. If he has no home, the approved public treatment facility shall assist him in obtaining shelter.

(f) If a patient is admitted to an approved public treatment facility, his family or next of kin shall be notified as promptly as possible. If an adult patient who is not incapacitated requests that there be no notification, his request shall be respected.

(g) The police or members of the emergency service patrol who act in compliance with this section are acting in the course of their official duty and are not criminally or civilly liable therefor.

(h) If the physician in charge of the approved public treatment facility determines it is for the patient's benefit, the patient shall be encouraged to agree to further diagnosis and appropriate voluntary treatment.

**COMMENT**

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A small minority of intoxicated persons are "incapacitated" in that they are unconscious or incoherent or similarly so impaired in judgment that they cannot make a rational decision with regard to their need for treatment. Section 12(b) authorizes the police or emergency service patrol to take such individuals into protective custody and to a public treatment facility for emergency care. This is intended to assure that those most seriously in need of care will get it.

Protective custody under (b) is similar to the way in which the police provide emergency assistance to other ill people, such as those in accidents or those who have sudden heart attacks. It is a civil procedure, and no arrest record or record which implies a criminal charge is to be made. Since the police officer may sometimes have to decide whether a man who refuses help appears to be incapacitated by alcohol or because of some other reason, Section 12(g) protects the policeman should his conclusion, made in good faith, be incorrect. It provides that he cannot be held criminally or civilly liable for false arrest or imprisonment as long as he is acting in compliance with this section. Willful malice or abuse, however, would not be considered to be in compliance with this section of the Act.

Section 12(d) provides that an incapacitated person can be held at a treatment facility without consent or further civil procedures for not longer than 48 hours. By the end of 48 hours most persons who have been incapacitated by alcohol will be sufficiently detoxified to be able to make a rational decision about their need for further treatment. To provide for those very few individuals who may still be incapacitated (perhaps even unconscious) at the end of 48 hours, Section 13 provides for an emergency commitment procedure based on a written application and a certificate from a physician who is not employed by the division.

Other provisions of Section 12 provide that the individual in a public treatment facility must be examined by a licensed physician as soon as possible. This is to ensure, in accordance with Section 8(b), that these facilities will provide the necessary medical services.

§ 13. [Emergency Commitment]

(a) An intoxicated person who (1) has threatened, attempted, or inflicted physical harm on another and is likely to inflict physical harm on another unless committed, or (2) is incapacitated by alcohol, may be committed to an approved public treatment facility for emergency treatment. A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment.
(b) The certifying physician, spouse, guardian, or relative of the person to be committed, or any other responsible person, may make a written application for commitment under this section, directed to the administrator of the approved public treatment facility. The application shall state facts to support the need for emergency treatment and be accompanied by a physician's certificate stating that he has examined the person sought to be committed within 2 days before the certificate's date and facts supporting the need for emergency treatment. A physician employed by the admitting facility or the division is not eligible to be the certifying physician.

(c) Upon approval of the application by the administrator in charge of the approved public treatment facility, the person shall be brought to the facility by a peace officer, health officer, emergency service patrol, the applicant for commitment, the patient's spouse, the patient's guardian, or any other interested person. The person shall be retained at the facility to which he was admitted, or transferred to another appropriate public or private treatment facility, until discharged under subsection (e).

(d) The administrator in charge of an approved public treatment facility shall refuse an application if in his opinion the application and certificate fail to sustain the grounds for commitment.

(e) When on the advice of the medical staff the administrator determines that the grounds for commitment no longer exist, he shall discharge a person committed under this section. No person committed under this section may be detained in any treatment facility for more than [5] days. If a petition for involuntary commitment under Section 14 has been filed within the [5] days and the administrator in charge of an approved public treatment facility finds that grounds
for emergency commitment still exist, he may detain the person until the petition has been heard and determined, but no longer than 10 days after filing the petition.

(f) A copy of the written application for commitment and of the physician's certificate, and a written explanation of the person's right to counsel, shall be given to the person within [24] hours after commitment by the administrator, who shall provide a reasonable opportunity for the person to consult counsel.

COMMENT

The test contained in the definition of "incapacitated by alcohol" is whether the person's judgment is "so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment." (a)(2) may, therefore, cover the alcoholic who threatens suicide. If he falls within the definition, he would be subject to commitment for emergency treatment.

It is anticipated that the need to resort to short term commitment for emergency medical care under this section will arise most infrequently, but the procedure does provide a means of dealing with situations not covered by other parts of the Act. It is meant to be utilized only in true emergency situations where immediate action to cope with the crisis is essential and where the delay of court proceedings would be dangerous. For example, it might be necessary to use this emergency commitment procedure for an alcoholic who becomes intoxicated at home and whose behavior becomes assaultive, or for an incapacitated alcoholic already involuntarily in a treatment facility for the 48-hour maximum who continues to be so severely incapacitated, perhaps because of brain damage, that he cannot make a rational decision about his continuing need for care.

§ 14. [Involuntary Commitment of Alcoholics]

(a) A person may be committed to the custody of the division by the [district] court upon the petition of his spouse or guardian, a relative, the certifying physician, or the administrator in charge of any approved public treatment facility. The petition shall allege that the person is an alcoholic who habitually lacks self-control as to the use of alcoholic beverages and that he (1) has threatened, attempted, or inflicted physical harm on another and that unless committed is
likely to inflict physical harm on another; or (2) is incapacitated by alcohol. A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment. The petition shall be accompanied by a certificate of a licensed physician who has examined the person within 2 days before submission of the petition, unless the person whose commitment is sought has refused to submit to a medical examination, in which case the fact of refusal shall be alleged in the petition. The certificate shall set forth the physician's findings in support of the allegations of the petition. A physician employed by the admitting facility or the division is not eligible to be the certifying physician.

(b) Upon filing the petition, the court shall fix a date for a hearing no later than 10 days after the date the petition was filed. A copy of the petition and of the notice of the hearing, including the date fixed by the court, shall be served on the petitioner, the person whose commitment is sought, his next of kin other than the petitioner, a parent or his legal guardian if he is a minor, the administrator in charge of the approved public treatment facility to which he has been committed for emergency care, and any other person the court believes advisable. A copy of the petition and certificate shall be delivered to each person notified.

(c) At the hearing the court shall hear all relevant testimony, including, if possible, the testimony of at least one licensed physician who has examined the person whose commitment is sought. The person shall be present unless the court believes that his presence is likely to be injurious to him; in this event the court shall appoint a guardian ad litem to represent him throughout the proceeding. The court shall examine the person in open court, or if advisable, shall examine the person out of court. If the person has refused to be examined by a licensed physician, he shall be given an opportunity to be examined by a court-appointed licensed physician. If he refuses and there is sufficient evidence to believe that the allegations of the
petition are true, or if the court believes that more medical evidence is necessary, the court may make a temporary order committing him to the division for a period of not more than [5] days for purposes of a diagnostic examination.

(d) If after hearing all relevant evidence, including the results of any diagnostic examination by the division, the court finds that grounds for involuntary commitment have been established by clear and convincing proof, it shall make an order of commitment to the division. It may not order commitment of a person unless it determines that the division is able to provide adequate and appropriate treatment for him and the treatment is likely to be beneficial.

(e) A person committed under this section shall remain in the custody of the division for treatment for a period of [30] days unless sooner discharged. At the end of the [30] day period, he shall be discharged automatically unless the division before expiration of the period obtains a court order for his recommitment upon the grounds set forth in subsection (a) for a further period of [90] days unless sooner discharged. If a person has been committed because he is an alcoholic likely to inflict physical harm on another, the division shall apply for recommitment if after examination it is determined that the likelihood still exists.

(f) A person recommitted under subsection (e) who has not been discharged by the division before the end of the [90] day period shall be discharged at the expiration of that period unless the division, before expiration of the period, obtains a court order on the grounds set forth in subsection (a) for recommitment for a further period not to exceed [90] days. If a person has been committed because he is an alcoholic likely to inflict physical harm on another, the division shall apply for recommitment if after examination it is determined that the likelihood still exists. Only 2 recommitment orders under subsections (e) and (f) are permitted.
(g) Upon the filing of a petition for recommitment under subsections (e) or (f), the court shall fix a date for hearing no later than [10] days after the date the petition was filed. A copy of the petition and of the notice of hearing, including the date fixed by the court, shall be served on the petitioner, the person whose commitment is sought, his next of kin other than the petitioner, the original petitioner under subsection (a) if different from the petitioner for recommitment, one of his parents or his legal guardian if he is a minor, and any other person the court believes advisable. At the hearing the court shall proceed as provided in subsection (c).

(h) The division shall provide for adequate and appropriate treatment of a person committed to its custody. The division may transfer any person committed to its custody from one approved public treatment facility to another if transfer is medically advisable.

(i) A person committed to the custody of the division for treatment shall be discharged at any time before the end of the period for which he has been committed if either of the following conditions is met:

1. in case of an alcoholic committed on the grounds of likelihood of infliction of physical harm upon another, that he is no longer an alcoholic or the likelihood no longer exists; or

2. in case of an alcoholic committed on the grounds of the need of treatment and incapacity, that the incapacity no longer exists, further treatment will not be likely to bring about significant improvement in the person's condition, or treatment is no longer adequate or appropriate.

(j) The court shall inform the person whose commitment or recommitment is sought of his right to contest the application, be represented by counsel at every stage of any proceedings relating to his commitment and recommitment, and have counsel appointed by the court or
provisioned by the court, if he wants the assistance of counsel and is unable to obtain counsel. If
the court believes that the person needs the assistance of counsel, the court shall require, by
appointment if necessary, counsel for him regardless of his wishes. The person whose
commitment or recommitment is sought shall be informed of his right to be examined by a
licensed physician of his choice. If the person is unable to obtain a licensed physician and
requests examination by a physician, the court shall employ a licensed physician.

(k) If a private treatment facility agrees with the request of a competent patient or his
parent, sibling, adult child, or guardian to accept the patient for treatment, the administrator of
the public treatment facility shall transfer him to the private treatment facility.

(l) A person committed under this Act may at any time seek to be discharged from
commitment by writ of habeas corpus.

[m] The venue for proceedings under this section is the place in which person to be
committed resides or is present.

**COMMENT**

The Act specifically states that a refusal to undergo treatment does not by itself constitute
evidence of lack of judgment with respect to the need for treatment. Thus, involuntary
commitment would not be warranted merely because the person needs treatment, or has
substantially inconvenienced his family, or has frequently been intoxicated in public, or because
his drinking is harmful to his health. Commitment would be warranted, however, if the alcoholic
exhibited cognitive deficiencies and was so debilitated that his thinking was confused not only
with respect to his drinking problem but in other areas of behavior as well.

Section 14(d) prohibits mere custodial care by providing that a person may not be
committed unless the division is able to provide "adequate and appropriate treatment for him and
the treatment is likely to be beneficial."

The burden of proof in each recommitment is on the petitioner since each is an
independent action.

If it is necessary to hold an individual beyond the maximum period, other provisions of
state law must be used.
§ 15. [Records of Alcoholics and Intoxicated Persons]

(a) The registration and other records of treatment facilities shall remain confidential and are privileged to the patient.

(b) Notwithstanding subsection (a), the director may make available information from patients' records for purposes of research into the causes and treatment of alcoholism. Information under this subsection shall not be published in a way that discloses patients' names or other identifying information.

COMMENT

The treatment of privileged information in the courts and disclosure with the consent of the patient are matters of general State law. The section does, however, provide for the use of treatment records for research purposes so long as patients' names and other identifying information are not disclosed.

§ 16. [Visitation and Communication of Patients]

(a) Subject to reasonable rules regarding hours of visitation which the director may adopt, patients in any approved treatment facility shall be granted opportunities for adequate consultation with counsel, and for continuing contact with family and friends consistent with an effective treatment program.

(b) Neither mail nor other communication to or from a patient in any approved treatment facility may be intercepted, read, or censored. The director may adopt reasonable rules regarding the use of telephone by patients in approved treatment facilities.

§ 17. [Emergency Service Patrol; Establishment; Rules]
(a) The division and [counties, cities and other municipalities] may establish emergency service patrols. A patrol consists of persons trained to give assistance in the streets and in other public places to persons who are intoxicated. Members of an emergency service patrol shall be capable of providing first aid in emergency situations and shall transport intoxicated persons to their homes and to and from public treatment facilities.

(b) The director shall adopt rules for the establishment, training, and conduct of emergency service patrols.

COMMENT

The experience of using civilians and plain-clothes policemen, has demonstrated the effectiveness of this method. In some communities, for example, existing "rescue squads" that supply help and transportation in other medical emergencies might be used to assist intoxicated and incapacitated individuals. This provision does not require the establishment of an emergency service patrol, but authorizes such a patrol, should it meet the needs of a particular community.

§ 18. [Payment for Treatment; Financial Ability of Patients]

[(a) ] If treatment is provided by an approved public treatment facility and the patient has not paid the charge therefor, the division is entitled to (1) any payment received by the patient or to which he may be entitled because of the services rendered, and (2) from any public or private source available to the division because of the treatment provided to the patient.

[(b) A patient in an approved treatment facility, or the estate of the patient, or a person obligated to provide for the cost of treatment and having sufficient financial ability, is liable to the division for cost of maintenance and treatment of the patient therein in accordance with rates established.]
[(c) The director shall adopt rules governing financial ability that take into consideration
the income, savings and other personal and real property of the person required to pay, and any
support being furnished by him to any person he is required by law to support.]

§ 19. [Criminal Laws Limitations]

(a) No county, municipality, or other political subdivision may adopt or enforce a local
law, ordinance, resolution, or rule having the force of law that includes drinking, being a
common drunkard, or being found in an intoxicated condition as one of the elements of the
offense giving rise to a criminal or civil penalty or sanction.

(b) No county, municipality, or other political subdivision may interpret or apply any law
of general application to circumvent the provision of subsection (a).

(c) Nothing in this Act affects any law, ordinance, resolution, or rule against drunken
driving, driving under the influence of alcohol, or other similar offense involving the operation
of a vehicle, aircraft, boat, machinery, or other equipment, or regarding the sale, purchase,
dispensing, possessing, or use of alcoholic beverages at stated times and places or by a particular
class of persons.

COMMENT

An important corollary to Section 19 is Section 37, which provides for the repeal of the
State laws that are inconsistent with this Act. Under Section 37, therefore, States would be
expected to repeal all the relevant portions of their criminal statutes under which drunkenness is
the gravamen of the offense with the exception of (c).

§ 20. [Severability] If any provision of this Act or the application thereof to any person
or circumstance is held invalid, the invalidity does not affect other provisions or applications of
the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

[§ 21. [Application of Administrative Procedure Act] Except as otherwise provided in this Act, the State Administrative Procedure Act applies to and governs all administrative action taken by the director.]

[§ 22. [Applicability and Scope] Sections 23 to 34 apply to the director and prescribe the procedures to be observed by him in exercising his powers under this Act.]

[§ 23. [Public Information; Adoption of Rules; Availability of Rules and Orders] (a) In addition to other rule-making requirements imposed by law, the director shall:

(1) adopt as a rule a description of the organization of his office, stating the general course and method of the operations of his office and methods whereby the public may obtain information or make submissions or requests;

(2) adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available, including a description of all forms and instructions used by the director or his office;

(3) make available for public inspection all rules and all other written statements of policy or interpretations formulated, adopted, or used by the director in the discharge of his functions;

(4) make available for public inspection all final orders, decisions, and opinions.
(b) No rule, order, or decision of the director is effective against any person or party, nor may it be invoked by the director for any purpose, until it has been made available for public inspection as herein required. This provision is not applicable in favor of any person or party who has knowledge thereof.]

[§ 24. [Procedure for Adoption of Rules]

(a) Prior to the adoption, amendment, or repeal of any rule, the director shall

   (1) give at least 20 days' notice of his intended action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon. The notice shall be mailed to all persons who have made timely request of the director for advance notice of his rule-making proceedings and shall be published in [here insert the medium of publication appropriate for the adopting State];

   (2) afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. In case of substantive rules, opportunity for oral hearing must be granted if requested by 25 persons, by a governmental subdivision or agency, or by an association having not less than 25 members. The director shall consider fully all written and oral submissions respecting the proposed rule. Upon adoption of a rule the director, if requested to do so by an interested person either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein his reasons for overruling the considerations urged against its adoption.

   (b) No rule is valid unless adopted in substantial compliance with this section. A proceeding to contest any rule on the ground of non-compliance with the procedural
requirements of this section must be commenced within 2 years from the effective date of the rule.]

[§ 25. [Filing and Taking Effect of Rules]

(a) The director shall file in the office of the [Secretary of State] a certified copy of each rule adopted by him. The [Secretary of State] shall keep a permanent register of the rules open to public inspection.

(b) Each rule hereafter adopted is effective 20 days after filing, except that, if a later date is specified in the rule, the later date is the effective date.]

[§ 26. [Publication of Rules]

(a) The [Secretary of State] shall compile, index, and publish all effective rules adopted by the director. Compilations shall be supplemented or revised as often as necessary.

(b) Compilations shall be made available upon request to [agencies and officials of this State] free of charge and to other persons at prices fixed by the [Secretary of State] to cover mailing and publication costs.]

[§ 27. [Petition for Adoption of Rules] An interested person may petition the director requesting the adoption, amendment, or repeal of a rule. The director shall prescribe by rule the form for petitions and the procedure for their submission, consideration, and disposition. Within 30 days after submission of a petition, the director either shall deny the petition in writing (stating his reasons for the denials) or shall initiate rule-making proceedings in accordance with the provisions on procedure for adoption of rules (Section 24).]
§ 28. [Declaratory Judgment on Validity or Applicability of Rules] The validity or applicability of a rule may be determined in an action for declaratory judgment in the [_______ court] if it is alleged that the rule, or its threatened application, interferes with or impairs, or threatens to interfere with or impair, the legal rights or privileges of the plaintiff. The director shall be made a party to the action. A declaratory judgment may be rendered whether or not the plaintiff has requested the director to pass upon the validity or applicability of the rule in question.]

§ 29. [Declaratory Rulings by Director] The director shall provide by rule for the filing and prompt disposition of petitions or declaratory rulings as to the applicability of any statutory provision or of any rule of the director. Rulings disposing of petitions have the same status as decisions or orders in contested cases.]

§ 30. [Contested Cases; Notice; Hearing; Records]

(a) In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice.

(b) The notice shall include:

(1) a statement of the time, place, and nature of the hearing;

(2) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(3) a reference to the particular provisions of the statutes and rules involved;
(4) a short and plain statement of the matters asserted. If the director or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished.

(c) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

(d) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

(e) The record in a contested case shall include:

(1) all pleadings, motions, intermediate rulings;
(2) evidence received or considered;
(3) a statement of matters officially noticed;
(4) questions and offers of proof, objections, and rulings thereon;
(5) proposed findings and exceptions;
(6) any decision, opinion, or report by the officer presiding at the hearing;
(7) all staff memoranda or data submitted to the hearing officer or members of the office of the Administrator in connection with their consideration of the case.

(f) Oral proceedings or any part thereof shall be transcribed on request of any party [at his expense].

(g) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

[§ 31. [Rules of Evidence; Official Notice] In contested cases:
(1) irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in [nonjury] civil cases in the [_______ court of this State] shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The director shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form;

(2) documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original;

(3) a party may conduct cross-examinations required for a full and true disclosure of the facts;

(4) notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the director's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material notices, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The director's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.]

[§ 32. [Decisions and Orders] A final decision or order adverse to a party in a contested case shall be in writing or stated in the record. A final decision shall include findings of fact and
conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with rules of the director, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Parties shall be notified either personally or by mail of any decision or order. Upon request a copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney of record.

§ 33. [Judicial Review of Contested Cases]

(a) A person who has exhausted all administrative remedies available before the director and who is aggrieved by a final decision in a contested case is entitled to judicial review under this Part. This section does not limit utilization of or the scope of judicial review available under other means of review, redress, relief, or trial de novo provided by law. A preliminary, procedural, or intermediate action or ruling of the director is immediately reviewable if review of the final decision of the director would not provide an adequate remedy.

(b) Proceedings for review are instituted by filing a petition in the [_______ court] within [30] days after [mailing notice of] the final decision of the director or, if a rehearing is requested within [30] days after the decision thereon. Copies of the petition shall be served upon the director and all parties of record.

(c) The filing of the petition does not itself stay enforcement of the decision of the director. The director may grant, or the reviewing court may order, a stay upon appropriate terms.

(d) Within [30] days after the service of the petition, or within further time allowed by the court, the director shall transmit to the reviewing court the original or a certified copy of the
entire record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

(e) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the director, the court may order that the additional evidence be taken before the director upon conditions determined by court. The director may modify his findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

(f) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the director, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

(g) The court shall not substitute its judgment for that of the director as to the weight of the evidence on questions of fact. The court may affirm the decision of the director or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

(1) in violation of constitutional or statutory provisions;
(2) in excess of the statutory authority of the director;
(3) made upon unlawful procedure;
(4) affected by other error of law;

(5) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

(6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.]

[§ 34. [Appeals] An aggrieved party may obtain a review of any final judgment of the [_______ court] under this Part by appeal to the [_______ court]. The appeal shall be taken as in other civil cases.]

§ 35. [Short Title] This Act may be cited as the Uniform Alcoholism and Intoxication Treatment Act.

§ 36. [Application and Construction] This Act shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this Act among those states which enact it.

§ 37. [Repeal] The following acts and parts of acts are repealed:

(1)

(2)

(3)

§ 38. [Effective Date] This Act shall become effective [90] days after its passage.