

# Disability Rights Nebraska

Protection and Advocacy for People with Disabilities

This is basic information and  
does not constitute legal advice.

## The Interstate Compact on Mental Health

### What is the Interstate Compact on Mental Health?

The Interstate Compact on Mental Health is an agreement between participating states in which states will work together to ensure that a person with mental illness receives the appropriate treatment that he or she needs. Currently, forty-five states in the U.S. participate in the Compact and Nebraska is one of them.<sup>1</sup> States **not** participating in the Compact are Arizona, California, Mississippi, Nevada, and Virginia.

### When is treatment in an institutional setting necessary?

If a person has a mental illness or is incapable of managing himself, herself, or his or her affairs, he or she shall be able to access treatment in a state institution whether or not he or she is a resident or citizen of that state. While a person can receive treatment within the state that he or she is currently in, he or she may also be transferred to an institution in another state whenever it is determined that the person would receive more appropriate treatment in another state. Even if a person is transferred to another state, he or she will not necessarily receive all of his or her treatment there. He or she will likely only receive the amount of treatment in another state as is necessary.<sup>2</sup>

### Are states required to receive a person for treatment?

Generally states are not required to receive a person for treatment unless the state sending the person has:

- Given advance notice;
- Furnished all available medical and other pertinent records concerning the patient; and
- Given qualified medical and/or clinical authorities of the state receiving the person an opportunity to examine him or her.
- Finally, the state receiving the person is not required to accept him or her unless the state has agreed to do so.<sup>3</sup>

<sup>1</sup> NEB. REV. STAT. §83-801, Article III (a) (1999).

<sup>2</sup> NEB. REV. STAT. §83-801, Article III (b) (1999).

<sup>3</sup> NEB. REV. STAT. §83-801, Article III (c) (1999).

## **How soon will a person go to another state if the state receiving the person accepts him or her?**

The person coming into a state from another state will receive the same priority as a local patient and will be taken in the same order and at the same time that he or she would be taken if he or she was a local patient.<sup>4</sup>

## **What is “after-care?”**

After care is the care, treatment and services provided for a person after he or she has been released from an institution.<sup>5</sup>

## **Where can after-care be provided?**

If medical and/or clinical authorities believe that a person will likely receive more appropriate after-care in another state, and the safety of the public will not be jeopardized, the state to receive the person will examine whether or not it can accept the person for after-care services. Generally, the state to receive the person will need to know where the person would intend to reside, the name of the individual who will care for the person, the complete medical history of the person, and any other pertinent information.<sup>6</sup>

## **Can a person be considered a patient of more than one state at a time?**

No. If a person is relocated from one state to another, he or she becomes a patient in the new state.<sup>7</sup>

## **If a person relocates to another state, does he or she need a new guardian?**

It depends. At times it may be necessary to appoint a supplemental or substitute guardian in the new state where the person receives treatment. If a supplemental or substitute guardian is appointed, the previous guardian is notified of this appointment and a satisfactory accounting of the person's property, etc., has been provided, the previous guardian will no longer be responsible for the person or his or her property to the extent deemed appropriate. However, if the person has a residence in the state in which he or she is leaving, the court of that state will determine whether the guardian will be relieved of his or her power and responsibility. The court in the state to which the person goes may then either confirm or reappoint the guardian from the former state as the person's guardian in the new state instead of making a substitute or supplemental appointment.<sup>8</sup>

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<sup>4</sup> NEB. REV. STAT. §83-801, Article III (d), (e) (1999).

<sup>5</sup> NEB. REV. STAT. §83-801, Article II (e) (1999).

<sup>6</sup> NEB. REV. STAT. §83-801 Article IV (a), (b) (1999).

<sup>7</sup> NEB. REV. STAT. §83-801 Article VII (a) (1999).

<sup>8</sup> NEB. REV. STAT. §83-801 Article VIII (a) (1999).

## **Who is responsible for making decisions under the Interstate Compact on Mental Health?**

Each participating state in the compact has a “compact administrator” who acts as the general coordinator of activities under the compact in his or her state and who receives all copies of reports, correspondence, and other documents relating to the transfer of persons from one state to another if the compact administrator’s state is involved in a potential transfer. In Nebraska, the compact administrator is the Director of Health and Human Services.<sup>9</sup>

## **Who is the compact administrator in other states?**

It depends. Because each state is permitted to appoint its own compact administrator, the person the state appoints will vary from state to state. If you would like information about contacting a compact administrator in a state other than Nebraska, please contact our agency.<sup>10</sup>

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<sup>9</sup> NEB. REV. STAT. §§83-801 Article X (a) (1999), 83-802 (1999).

<sup>10</sup> NEB. REV. STAT. §83-801 Article X (a) (1999).