

11.1 Overview

The statute provides that an “incapable person” may be admitted to a 24-hour facility for mental health treatment pursuant to advance instruction or by consent of the health care agent appointed pursuant to a health care power of attorney. There is no judicial review of these admissions because they are authorized by the actions of the principal by execution of the documents. The documents must be duly executed pursuant to statute and must authorize the admission.

Special Counsel and other attorneys may receive calls and questions concerning persons so admitted. As the questions often concern the legal propriety of the admission and whether the person’s due process rights are being violated, it is important for counsel to be familiar with these procedures.