

"whether care should be continued" and an order for "further care" -- as distinguished from the references in former Article 43B, § 9(n)(2) to review if an individual is "still receiving initial inpatient care" and an order for "further inpatient care". The differences in language suggested that Article 43B, § 12(c) might require semiannual review of the commitment, whether the individual is receiving inpatient care or outpatient care at the time of the review. However, the second sentence of former Article 43B, § 12(c), which limited the total period of initial inpatient care and prohibited discharge of an individual -- and, thus, discontinuation of care --- until at least 2 years after commitment suggested that the review applies to review of inpatient care. The Administration indicates that this revision is in accord with its understanding of the intent of Ch. 601, Acts of 1981, which amended former Article 43B, §§ 9(n) and 12(c). The Administration indicates that the amendments were intended to address the constitutional problems inherent in confinement without review. However, the Commission to Revise the Annotated Code notes, for consideration by the General Assembly, that under subsection (c)(2) of this section, if the court does not authorize continued inpatient care, the court apparently must terminate the commitment -- i.e., the court cannot order outpatient care. The General Assembly may wish to enable expressly a court to order outpatient care. The General Assembly may wish instead to consider whether subsection (b) of this section should apply to all commitments.

The introductory phrase of subsection (a) of this section, "Notwithstanding any other provision of this section", is new language added to clarify that a court order issued under subsections (b) or (c) of this section cannot extend the 2-year limitation on this inpatient care.

Defined term: "Administration" § 9-101

9-649. OUTPATIENT CARE.

(A) GROUNDS.

(1) THE ADMINISTRATION SHALL RELEASE AN INDIVIDUAL FOR OUTPATIENT CARE, ON THE CONDITIONS THAT THE ADMINISTRATION SETS, IF THE ADMINISTRATION DETERMINES THAT THE INDIVIDUAL HAS MADE SUFFICIENT PROGRESS TO WARRANT RELEASE.