


Corrections to this opinion/decision not affecting the outcome, at the Court's discretion, can occur up to the time of publication with NM Compilation Commission. The Court will ensure that the electronic version of this opinion/decision is updated accordingly in Odyssey.

1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

2 Opinion Number: \_\_\_\_\_

Court of Appeals of New Mexico  
Filed 12/19/2024 11:12 AM

3 Filing Date: December 19, 2024



Ramon J. Maestas  
Chief Clerk

4 **No. A-1-CA-41992**

5 **IN THE MATTER OF ISAAC MATA,**  
6 **a person alleged to be in need of**  
7 **mental healthcare.**

8 **STATE OF NEW MEXICO,**

9 Petitioner-Appellee,

10 v.

11 **ISAAC MATA,**

12 Respondent-Appellant.

13 **APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY**

14 **Robert Lara, District Court Judge**

15 Raúl Torrez, Attorney General

16 Santa Fe, NM

17 Lawrence M. Marcus, Assistant Solicitor General

18 Justin Lauriano, Honors Attorney

19 Albuquerque, NM

20 for Appellee

21 Elliot A. Mohler

22 Las Cruces, NM

23 for Appellant

1 **OPINION**

2 **YOHALEM, Judge.**

3 {1} Respondent Isaac Mata appeals his involuntary commitment for a period not  
4 to exceed thirty days under the provisions of the Mental Health and Developmental  
5 Disabilities Code (the Code), NMSA 1978, §§ 43-1-1 to -25 (1976, as amended  
6 through 2024). We affirm.

7 **BACKGROUND**

8 {2} Respondent was admitted to Memorial Medical Hospital (Memorial) in Las  
9 Cruces, New Mexico on March 29, 2024, after he attempted suicide by burning down  
10 his trailer while he was inside it. On April 16, 2024, the State filed a petition in  
11 district court to commit Respondent to the New Mexico Behavioral Health Institute  
12 for thirty days. The petition was supported by the affidavit of Hector Perez, a  
13 psychiatric nurse practitioner, who testified that he was employed as the primary  
14 psychiatric provider at Memorial, was involved in Respondent’s admission, and that  
15 he had been Respondent’s primary treating physician since his admission.

16 {3} Perez’s affidavit was attached to the petition to the district court seeking a  
17 thirty-day commitment. The affidavit served as the initial screening report required  
18 by Section 43-1-11(A). Section 43-1-11(A) requires, in relevant part, that an initial  
19 screening report be prepared “by the evaluating physician individually or with the  
20 assistance of a mental health professional or, if a physician is not available, by a

1 mental health professional acceptable to the court,” and that the report be submitted  
2 with the petition.

3 {4} Respondent contested the commitment. At the start of the hearing,  
4 Respondent’s counsel objected to proceeding without a showing by the State that a  
5 physician was not available at Memorial to prepare the initial screening report.  
6 Respondent argued that without such a showing, the phrase in Section 43-1-11(A),  
7 “if a physician is not available,” would be superfluous. When the district court asked  
8 what would happen to his client if no such showing were made by the State, counsel  
9 responded that his client would have to be released. Stating that it was relying on the  
10 language of the commitment statute as a whole, the district court found that the  
11 Legislature intended for it to be the responsibility of the evaluating facility to apply  
12 to the court if they believed a commitment was needed and “there was not a  
13 physician available for some reason.” Concluding that the preparation of the report  
14 by a nurse practitioner, rather than a physician was not “a fatal flaw,” the court  
15 proceeded with the hearing.

16 {5} Perez was sworn as the State’s only witness. Perez testified that he is a nurse  
17 practitioner, and that he is the primary provider of psychiatric services at Memorial.<sup>1</sup>

---

<sup>1</sup>We note that since Section 43-1-11(A) was enacted in 1977, the Legislature has since provided for the licensing of nurse practitioners, *see* NMSA 1978, § 61-3-23.2(E) (2014, amended 2022), and has permitted them to practice independently, *see* § 61-3-23.2(B)(2) (2014). In 2024, the Legislature required that hospitals and other health facilities give nurse practitioners parity with physicians in credentialing

1 The State asserted that Perez was “acceptable as an evaluator and a treating  
2 physician” in preparing the screening report, and the district court found that Perez  
3 is qualified to testify. *See* § 43-1-11(A).

4 {6} Respondent neither cross-examined Perez nor called a mental health expert of  
5 his own, as the Code permits. *See* § 43-1-11(B). At the conclusion of the testimony,  
6 Respondent’s counsel challenged the sufficiency of the evidence to establish that his  
7 client was likely to benefit from the proposed treatment, and that a thirty-day  
8 commitment was consistent with the least drastic means principle, two of the three  
9 findings necessary for an order of commitment. *See* § 43-1-11(E). The evidence  
10 supporting the third required finding, that Respondent was a danger to himself or  
11 others, was not challenged.

12 {7} The district court found that unrefuted testimony established Respondent’s  
13 high level of risk of harm both to himself and others, Respondent’s need for  
14 treatment and a likelihood that he would benefit from treatment, and that  
15 Respondent’s commitment for thirty days was consistent with the least drastic means  
16 principle. The district court ordered Respondent involuntarily committed for  
17 evaluation and treatment for no more than thirty days. Respondent timely appealed.

---

to serve on the medical staff. *See* § 24A-1-13(B) (2024). Although we note these changes in the law subsequent to the enactment of the Code provision at issue, to resolve this case, we need not, and, therefore, do not, decide whether a psychiatric nurse practitioner should be treated in all cases as equivalent to a physician under the Code.

1 **DISCUSSION**

2 **I. The District Court Was Permitted to Accept the Screening Report and**  
3 **Testimony of a Psychiatric Nurse Practitioner Without Evidence**  
4 **Documenting the Unavailability of a Physician**

5 {8} First, Respondent claims that evidence establishing that there was no  
6 physician available at Memorial to prepare the screening report is necessary to  
7 support the order of commitment, and, that in the absence of such evidence, the  
8 commitment must be vacated and Respondent released. We do not agree.

9 {9} Respondent’s argument raises a question of statutory interpretation.  
10 Respondent’s argument focuses on a single phrase in Section 43-1-11(A). That  
11 section states as follows:

12 A. Every adult client involuntarily admitted to an evaluation  
13 facility pursuant to Section 43-1-10 . . . has the right to a hearing within  
14 seven days of admission unless waived after consultation with counsel.  
15 If a physician or evaluation facility decides to seek commitment of the  
16 client for evaluation and treatment, a petition shall be filed with the  
17 court within five days of admission requesting the commitment. The  
18 petition shall include a description of the specific behavior or symptoms  
19 of the client that evidence a likelihood of serious harm to the client or  
20 others and shall include an initial screening report by the evaluating  
21 physician individually or with the assistance of a mental health  
22 professional *or, if a physician is not available, by a mental health*  
23 *professional acceptable to the court.* The petition shall list the  
24 prospective witnesses for commitment and a summary of the matters to  
25 which they will testify. Copies of the petition shall be served on the  
26 client, the client’s guardian, and treatment guardian if one has been  
27 appointed, and the client’s attorney.

28 (Emphasis added). Respondent focuses on the italicized phrase above.

1 {10} We review questions of statutory construction de novo. *State v. Smith*, 2004-  
2 NMSC-032, ¶ 8, 136 N.M. 372, 98 P.3d 1022. Our ultimate goal in construing a  
3 statute “is to ascertain and give effect to the intent of the Legislature.” *Id.* (internal  
4 quotation marks and citation omitted). We analyze a statute’s function within a  
5 comprehensive legislative scheme, with reference to the statute as a whole and to  
6 statutes dealing with the same general subject matter. *See State ex rel. Helman v.*  
7 *Gallegos*, 1994-NMSC-023, ¶ 26, 117 N.M. 346, 871 P.2d 1352. Although we begin  
8 by looking to the plain language of the statute, we cannot neglect our obligation to  
9 interpret that language in light of “the purpose to be achieved and the wrong to be  
10 remedied.” *State ex rel. Child., Youth & Fams. Dep’t v. Djamila B.*, 2015-NMSC-  
11 003, ¶ 25, 342 P.3d 698 (internal quotation marks and citation omitted). Where this  
12 Court or our Supreme Court has previously explored the intent of the Legislature in  
13 enacting a statute, we rely on that precedent. *See D.W. v. B.C.*, 2022-NMCA-006,  
14 ¶ 18, 504 P.3d 559.

15 {11} Respondent claims on appeal that any construction of Section 43-1-11(A) that  
16 does not require the State to prove by clear and convincing evidence, whenever a  
17 mental health professional prepares the screening report, that no physician was  
18 available renders the phrase “if a physician is not available,” superfluous. We do not  
19 agree.

1 {12} In order to place the responsibility for preparing the screening report in  
2 context, we begin by reviewing the procedures adopted by our Legislature for  
3 involuntary commitment. We are guided by our Supreme Court’s opinion in *N.M.*  
4 *Dep’t of Health v. Compton*, 2001-NMSC-032, 131 N.M. 204, 34 P.3d 593, where  
5 the Court reviewed the Code’s procedures for involuntary civil commitment. In  
6 *Compton*, the Court noted that the Code contemplates three stages of involuntary  
7 civil commitment, “each with different procedural requirements.” *Id.* ¶ 8. The first  
8 two of those procedures, those associated with initial detention and thirty-day  
9 involuntary commitment, are relevant to this case.

10 {13} The Court in *Compton* begins by describing the procedures mandated by the  
11 Code for involuntary emergency mental health evaluation and care. *See* § 43-1-10.  
12 The provisions governing emergency detention allow a peace officer to transport an  
13 individual to a mental health facility for evaluation if one of four factors are met:  
14 “(1) the person is otherwise subject to lawful arrest; (2) the peace officer has  
15 reasonable grounds to believe the person has just attempted suicide; (3) the peace  
16 officer . . . has reasonable grounds to believe that the person, as a result of a mental  
17 disorder, presents a likelihood of serious harm to [themselves] or others and that  
18 immediate detention is necessary to prevent such harm; or (4) a physician, a  
19 psychologist or a qualified mental health professional licensed for independent  
20 practice who is affiliated with a community mental center or core service agency has

1 certified that the person, as a result of a mental disorder, presents a likelihood of  
2 serious harm to [themselves] or to others and that immediate detention is necessary  
3 to prevent such harm.” Section 43-1-10(A)(1)-(4). The evaluation facility may  
4 involuntarily detain the person for evaluation and treatment “[i]f the admitting  
5 physician or certified psychologist [finds] reasonable grounds [for that detention].”  
6 Section 43-1-10(E). Respondent was apparently admitted to Memorial pursuant to  
7 these procedures following his attempted suicide on March 29, 2024.

8 {14} The next stage of commitment contemplated by the Code is the thirty-day  
9 commitment for evaluation and treatment at issue in this case. *See* § 43-1-11(E).  
10 Unlike the emergency commitment, where first a peace officer and then an admitting  
11 psychologist or physician are the decision-makers, a thirty-day commitment must be  
12 authorized by a court. *Id.* “[C]ivil commitment for any purpose constitutes a  
13 significant deprivation of liberty that requires due process protection.” *Compton*,  
14 2001-NMSC-032, ¶ 7 (internal quotation marks and citation omitted). In accordance  
15 with a respondent’s right to due process, Section 43-1-11(B) provides a respondent  
16 with an evidentiary hearing in which the respondent has a right to counsel, to take  
17 the testimony of witnesses, and to conduct cross-examination.

18 {15} Section 43-1-11(A) addresses the information that must be provided by the  
19 evaluating facility to petition the district court to conduct a thirty-day involuntary  
20 commitment hearing. The petition to the court described in Section 43-1-11(A) is



1 the bridge between the initial emergency short-term detention for evaluation and  
2 treatment, authorized by a physician or psychologist, and the thirty-day involuntary  
3 civil commitment, authorized by a court, following a full due process hearing.  
4 Section 43-1-11(A) requires the evaluation and treatment facility to support the  
5 petition for a commitment hearing with a screening report sufficient to assure the  
6 court that there is a sound professional justification for the commitment proceedings.  
7 *See In re v. Dean*, 1980-NMCA-010, ¶ 10, 94 N.M. 45, 607 P.2d 132 (holding that  
8 “the [L]egislature made the requirement that the report be attached to the petition to  
9 insure that there was sound professional justification for the commitment  
10 proceedings”).

11 {16} Given the purpose of the screening report, we construe the Legislature’s  
12 language directing that “the evaluating physician” prepare a screening report  
13 describing the patient’s condition, symptoms, and behavior—“or, if a physician is  
14 not available,” the screening report be prepared by “a mental health professional  
15 acceptable to the court”—as a direction to the facility to ensure that one of the  
16 facility’s most highly qualified professionals prepares the report. Section 43-1-  
17 11(A). The statute refers to a “physician[,]” but allows the facility to rely on a  
18 different professional if a physician is unavailable. This language gives the facility  
19 flexibility to use other highly qualified staff if it does not employ physicians to  
20 evaluate and treat its patients, or employs both physicians and other highly qualified

1 professionals. The focus is on ensuring that the report is prepared by a professional  
2 who is qualified to provide a sound, professional justification to the district court for  
3 conducting a commitment proceeding. The court does not select the professional or  
4 supervise the preparation of the report. That is assigned by statute to the facility. The  
5 sole role for the district court is the requirement that the court finds the professional  
6 chosen by the facility to be “acceptable.” *Id.*

7 {17} We also do not find support in the plain language of the Code for  
8 Respondent’s argument that the district court must find that a physician was not  
9 available to prepare the screening report. Such a finding is not an element required  
10 to be proved to justify a thirty-day commitment. Section 43-1-11(E) lists the findings  
11 by a court necessary to support a thirty-day commitment. There are only three  
12 elements listed: (1) Respondent presents a likelihood of serious harm to self or  
13 others; (2) Respondent needs and can benefit from treatment; and (3) the proposed  
14 commitment is consistent with Respondent’s treatment needs and with the least  
15 drastic means principle. Clear and convincing evidence of the unavailability of a  
16 physician to prepare the screening report is not included among the enumerated  
17 elements in Section 43-1-11(E).

18 {18} Finally, we do not agree with Respondent’s argument that construing the  
19 choice of professional as the responsibility of the evaluation and treatment facility,  
20 rather than the court, renders the phrase superfluous. The Code creates a complex

1 procedure for civil commitment, relying on both the evaluation of mental health  
2 professionals and, for this thirty-day commitment, on the findings of the court after  
3 a full hearing. Direction from the Legislature to the mental health facility and their  
4 staff on the procedure to be followed to petition the court for a hearing plays an  
5 important role, and is not superfluous.

6 **II. The District Court’s Findings of Fact Are Supported by Sufficient Clear**  
7 **and Convincing Evidence**

8 {19} As already discussed, the district court may order a commitment for  
9 evaluation and treatment not to exceed thirty days upon finding by clear and  
10 convincing evidence that “(1) as a result of a mental disorder, the client presents a  
11 likelihood of serious harm to the client’s own self or others; (2) the client needs and  
12 is likely to benefit from the proposed treatment; and (3) the proposed commitment  
13 is consistent with the treatment needs of the client and with the least drastic means  
14 principle.” *Id.* This Court reviews the district court’s findings for substantial  
15 evidence as to each of these statutory elements. *See In re v. Pernell*, ¶ 20, 1979-  
16 NMCA-008, 92 N.M. 490, 590 P.2d 638. “[I]n such a review, we consider the  
17 evidence in the light most favorable to the trial court’s findings.” *Id.*

18 {20} Respondent does not contest the district court’s finding that he presents a  
19 likelihood of serious harm to himself or to others. He challenges the other two  
20 required findings—that Respondent would be likely to benefit from treatment, and  
21 that a thirty-day commitment is the least drastic alternative. Respondent claims that

1 the absence of a direct statement of expert opinion in the hearing testimony<sup>2</sup> renders  
2 the evidence insufficient to support the order of commitment. We do not agree that  
3 an explicit statement was required. Rather, the district court was permitted to rely on  
4 the evidence describing Respondent’s diagnosis, his behavior, and his level of  
5 cooperation with treatment to reasonably conclude that continued in-patient  
6 treatment was necessary, was likely to benefit Respondent, and was the least drastic  
7 alternative.

8 {21} We “review the evidence in the light most favorable to the prevailing party,  
9 indulging all reasonable inferences in support of the verdict and disregarding all  
10 inferences or evidence to the contrary.” *State ex rel. N.M. Dep’t of Hum. Servs. v.*  
11 *Williams*, 1989-NMCA-008, ¶ 7, 108 N.M. 332, 772 P.2d 366. Respondent was  
12 admitted to Memorial after attempting suicide by burning down his trailer while he  
13 was inside it. Perez testified at the hearing to his diagnosis of Respondent with  
14 schizoaffective disorder, and described Respondent’s thought process as continuing  
15 to be “highly disorganized.” Perez described Respondent as threatening homicide,  
16 and naming family members and peers as potential victims.

17 {22} Perez reported that Respondent had repeated “outbursts,” generally arising  
18 from internal stimulation rather than any outside stimulus. Staff was required to be

---

<sup>2</sup>Perez’s affidavit does state explicitly that Respondent was likely to benefit from treatment and that in-patient treatment was the least drastic alternative, but testimony to this effect was not elicited by the State at the hearing.


1 vigilant and to intervene to redirect him and to provide emergency medication due  
2 to his outbursts. Perez also testified that Respondent needed to comply with his  
3 prescribed medication regime to improve, and that he could not and would not follow  
4 a medication regime on his own. He needed staff to administer the medication.

5 {23} This evidence is sufficient to support the district court's findings that  
6 Respondent needed treatment and would likely benefit from it. The danger of  
7 another suicide attempt or an attempt to murder a family member or peer, together  
8 with Respondent's inability to take necessary medication if released, supports the  
9 district court's finding that involuntary in-patient treatment is the least drastic  
10 alternative for Respondent.

11 **CONCLUSION**

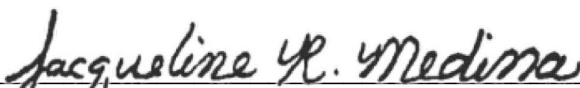
12 {24} For these reasons, we affirm the district court.

13 {25} **IT IS SO ORDERED.**

14   
15 **JANE B. YOHALEM, Judge**

16 **WE CONCUR:**

17   
18 **KRISTINA BOGARDUS, Judge**

19   
20 **JACQUELINE R. MEDINA, Judge**