ALLEGHENY COUNTY DEPARTMENT OF HUMAN SERVICES

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Welcome to IRES

Information, Referral & Emergency Services

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Message from Allegheny County Mental Health Office

- While reviewing the "Original" 302 forms (MH 783) that are sent to the Office of Behavioral Health, it is evident that there needs to be **more time and attention** given to the completion of these forms.

- The "302 warrant" is a **LEGAL INSTRUMENT** that curtails the civil liberties of psychiatrically impaired individuals to provide them treatment "against their will". We must make certain that this is done in compliance with the dictates of the 1976 Mental Health Procedures Act of Pennsylvania, as amended in 1978.

- Staff involved in facilitating this process must make certain that the petitions be **completed with accuracy, legibly and completely.** Once the forms are COMPLETED, SIGNED and CALLED IN FOR AUTHORIZATION **NOTHING CAN BE ADDED TO OR DELETED FROM THE FORMS.** Errors made during the completion of the forms CAN BE CORRECTED BY DRAWING A LINE THRU THE ERROR, WRITING ERROR AND INITIALING IT.

IMPORTANT POINTS TO REMEMBER

- Commitment procedures are a **legal** Process governed by the PA Mental Health Act of 1976
- 302 petitions are authorized in the county where the consumer is currently located
- Once a 302 is approved the consumer can be transferred anywhere within the State of Pennsylvania
- If a person is **admitted** to a hospital under commitment, the consumer loses their right to **possess, use, manufacture, control, sell or transfer a firearm** under ACT 77
- Commitment hearings are attended by the Mental Health Review Officer, Public Defender/or Private Attorney, County Solicitor, Petitioner, Doctor, County Mental Health Delegate and Hearing Coordinator or Social Worker. All other attendees must have the approval of the consumer and his/her attorney.

COMMITMENT TYPES

Commitment Levels

- 201 – Voluntary inpatient commitment
- 302 – Involuntary examination and commitment for up to120 hrs. from the time of the physician exam at a designated facility ER.
- 303 - Extension of treatment for up to an additional 20 days from the hearing date and following the 302
- 304b- Extension for up to an additional 90 days from the hearing date and following the 303
- 304c(sec d) Changing Inpatient commitment status from Voluntary to Involuntary status for up to 90 days from the hearing date
- 304c(sec c) Changing Voluntary outpatient status to Involuntary inpatient or outpatient status for up to 90 days from the date of the hearing
- 305 - Extension for up to an additional 180 days from the hearing date and following the 304b or 304c
- 306 - Used to amend the current order

VOLUNTARIES AND ACT 147

VOLUNTARY COMMITMENTS

- Persons who are 14 years of age or older who believe they need treatment and understand the necessity for it, may submit themselves for examination and treatment voluntarily. The parent or guardian of a child less than 14 yrs of age may authorize the child to receive such treatment.

- If a child ages 14-18 admits themselves for voluntary treatment the hospital MUST COMPLETE FORM MH 781-E-8-76 – NOTIFICATION OF ADMISSION OF A CHILD and send it to the Parent or Legal Guardian

- Act 147 allows a parent or legal guardian to sign a child into the hospital under a voluntary commitment if the child is ALREADY AT THE EMERGENCY ROOM

- The Mental Health Act allows for the individual to give notice when requesting to leave the hospital AGAINST MEDICAL ADVICE. The Act states **NOTICE can be from 0 (zero) up to 72 hrs.** The length of time is the **discretion of the individual.**

FORMS NECESSARY FOR VOLUNTARY COMMITMENT

- 1. Consent for Treatment
  MH 781-7/82
- 2. Explanation of Voluntary Admission Rights
  MH 781-BCD – 2/87
- 3. Bill of Rights
  MH 782 – 2/87
- 4. Notification of Admission of Child
  MH 781-E-8/76
- 5. Form Necessary to Withdraw From Treatment
  MH 781F - 2/87

ACT 147

- Act No. 2004-147 gives a Parent or Legal Guardian the authority to sign a juvenile between the ages of 14 & 18 into a hospital on a Voluntary Commitment following the recommendation of a physician for inpatient care.

- If the juvenile between the ages of 14 & 18 is not already in an emergency room they MUST MEET 302 criteria to transport them to the ER against their will.

ACT 147 – Consent to Treatment

Outpatient Treatment

- **Who Can Consent To Outpatient Care?** A juvenile age 14-18 can consent to outpatient mental health examination and treatment for him/herself without parental consent. A parent or legal guardian of a juvenile under age 18 can also provide consent without the juvenile's consent.

- **Can The Non-Consenting Person Override Consent?** No. In either situation, the consent of one is sufficient without the consent of the other. A juvenile cannot abrogate consent that has been provided by a parent or guardian and, likewise, the parent or guardian cannot abrogate consent that a juvenile has provided.

- **Can Parents Object To Outpatient Treatment For Which a Juvenile Provided Consent?** No. Neither the MHPA nor this Act provides a formal procedure through which parents/guardian can object to voluntary outpatient treatment for which a juvenile has provided consent nor do they expressly confer any rights on parents/guardian to do so.

ACT 147 – Consent to Treatment

Inpatient Treatment

(1) **Who Can Consent To Inpatient Care?**

The juvenile age 14-18 can give consent for inpatient care as well as a parent or legal guardian for a child age 0-14.

What is new is that a parent or legal guardian of a juvenile age 14- 18 can now provide consent without the juvenile's consent

(2)Are There Any Extra Requirements When Parents Consent To An Inpatient Admission for a JUVENILE age 14-18? YES

(a) Parental consent must be preceded by the recommendation of a physician who has examined the juvenile and requires a physician's order based on a determination that inpatient treatment was appropriate.

(b) the juvenile must already be in an Emergency Room

(3) Can the child appeal the admission.

Yes A REQUEST FOR AN APPEAL may be filed in the Court of Common Pleas.

302 RULES

WHAT A 302 ALLOWS

- A person to be forcibly taken to a designated facility for examination
- Gives authorization to a Doctor to evaluate a person against their will
- Gives authorization for a person to be held in a designated facility for up to 120 hrs. from the time of the physician examination in the ER.

302

- Anyone who witnesses behavior or anyone to whom a person has admitted the behavior to, can petition for a 302.
-
- Petition must specify dangerous behaviors WITHIN 30 DAYS OF THE FILING OF THE PETITION.
  - To SELF
  - To OTHERS

  And be DUE TO MENTAL ILLNESS

  Drugs and Alcohol Abuse, Intellectual Disabilities & Dementia are not in and of themselves committable behaviors.

DANGER to Self

- Refers to SUICIDE ATTEMPT, SELF MUTILATION or INABILITY TO CARE FOR SELF
- ATTEMPT - any act with the intent to end one's life or acts in furtherance including an articulated plan
- PLAN – must be clearly stated and individual must have the ability to carry out their plan
- SELF-MUTILATION – the intentional injury of body tissue without suicidal intent i.e. burning, scratching, banging or hitting body parts, interfering with wound healing, hair pulling

Harm to Others

- Includes any act or stated plan to harm an individual or group
- Individual must make some gesture in furtherance of the threat i.e., “I am going to kill you” is not sufficient. Individual must have an act of furtherance
- Individual must be able to carry out the threat
- These behaviors must be accompanied by symptoms of Mental Illness.

Inability to Care for Self

Inability to care for self can fall under several categories:

- Medical – due to symptoms of Mental Illness an individual is unable to make an INFORMED DECISION regarding their medical care which may LEAD TO EMMINENT DANGER i.e., individual has hypertension, diabetes, heart disease and refuses to take their medication because it is poisoned or they refuse a life saving operation because "implants will be put in their head."

-Activities of Daily Living – If a person has not eaten for several days due to Mental Illness and has dropped a significant amount of weight, food is left to rot, pots are left to burn on the stove, cigarette burns on the carpet & furniture, these could be grounds for a 302.

- A 302 DOES NOT ALLOW for FORCED MEDICAL CARE

FORMS NECESSARY TO FILE 302 PETITION

- Application For Involuntary Emergency Examination and Treatment
  MH 783 7/07
- Justification for Involuntary Treatment
- Act 77 Notification of Mental Health Commitment
- Allegheny County MH/MR/D&A Acknowledgement Form
- Rights Under Involuntary Emergency Treatment
  MH 783A 2/87
- Bill of Rights
  MH 782 12/06

ACT 77

ACT 77

- Act 77 amended the Mental Health Procedures Act of 1976 and requires all counties to submit to the Pennsylvania State Police the names of all individuals who have been involuntarily committed to inpatient treatment. This Act prohibits anyone committed under Sections 302, 303,304 0r 305 to possess, use, manufacture, control, sell or transfer firearms.
- A person has the right to request this prohibition be lifted by filing a petition in Orphans Court asking the court to consider expungement of the record.

303 RULES and FORMS

303

- A 303 is a request to extend the Involuntary Inpatient Hospitalization time for UP TO an additional 20 days following the 302
- The 303 process:
  - Doctor completes the 303 petition and faxes petition information sheet to county WITHIN 72 HRS OF THE 302 EXAM TIME.
  - County Delegate schedules the hearing.
  - 302 petitioner is notified of date & time of hearing by the county delegate or hospital.
  - Hearing will occur at the hospital.
  - A Public Defender /Private Attorney will interview the individual and represent them at the hearing.
  - A County Solicitor will represent the PETITION.
  - The treating psychiatrist and petitioner will testify.
  - Consumer will testify if they choose to.
  - The Hearing Officer will make a decision to UPHOLD/ DISMISS/WITHDRAW or CONTINUE the petition. If Upheld the hearing officer will designate the number of treatment days for inpatient / out-patient / partial hospitalization or any combination of the three.

303 Guidelines

- 303 must be filed within 72 hours of 302 examination and the hearing MUST BE HEARD within 120 hours of the 302 examination.
- Petitioner must attend the hearing and testify to what they wrote on the 302 petition.
- Doctor must testify that behavior leading to the 302 was DUE **to Mental Illness** and **will likely lead to imminent danger to the individual or others if the individual is released.**

CAN A 303 HEARING BE CONTINUED ?

- A request may be submitted for consideration to the Public Defender assigned to the case if,
- 1) the individual is on a Medical Unit AND is unable to attend the hearing
- 2) the treating psychiatrist has filed a 303 within 72 hrs of the 302 exam.
- **AN AGREEMENT FOR A CONTINUATION IS ALWAYS A DECISION MADE BY THE PUBLIC DEFENDER ALONG WITH THE CONSUMER**

Who May Attend Mental Health Hearings

- **Hearing Officer** – attorney who represents the Orphan's Court Judge and decides the disposition of the petition
- **Public Defender/Private Attorney** – represents the individual
- **County Solicitor** – represents the petition
- **Petitioner**
- **Treating Psychiatrist**
- **County Mental Health Caseworker**
- **Security**
- **Hospital social worker or hospital hearing coordinator**

- Mental Health Hearings are CLOSED PROCEEDINGS. The client or Public Defender/Private Attorney are the only ones who can give permission for anyone to get information about or attend the hearings other than those listed above

FORMS NECESSARY FOR 303 PETITION

- Allegheny County DHS Petition Information / or Medical Continuation Sheet
- Application for Extended Involuntary Treatment Section 303
  MH 784 – 7/82
- Justification for Involuntary Treatment
- Act 77
- Notice of Intent to File Petition and Explanation of Rights
  MH 784A – 7/92

EXPUNGEMENT

Expungement

- Entitlement to Expungement of Commitments
- Hearing Requirements

ACT 53
DRUG
&
ALCOHOL
COMMITMENT
Up to AGE 18

ACT 53 – Drug and Alcohol Commitment of Minors

Act 53 allows for some provisions to the Pennsylvania Drug and Alcohol Abuse Control Act, to adjust for commitment of minors. The provisions of this Act are as follows:

- Provides that a parent or legal guardian who has legal or physical custody of a minor may petition the court of common pleas for commitment of the minor to involuntary drug and alcohol treatment services, including inpatient services, if the minor is incapable of accepting or unwilling to accept voluntary treatment.
- The petition shall set forth sufficient facts and good reason for the commitment.
- Such matters shall be heard by the division or a judge of the court assigned to conduct proceedings relating to juvenile matters, involving children who have been alleged to be dependent or delinquent.

ACT 53 – Drug and Alcohol Commitment of Minors (continued)

- Upon petition, the court shall:
  1. appoint counsel for the minor.
  2. order a minor who is alleged to have a dependency on drugs or alcohol to undergo a drug and alcohol assessment performed by a psychiatrist, a licensed psychologist with specific training in drug and alcohol assessment or a certified addiction counselor.
- Such assessments shall include a recommended level of care and length of treatment.
- Assessments completed by certificate addiction counselors shall be based on the Department of Health approved drug and alcohol level of care criteria and shall be reviewed by a case manager in a single county authority.
- The court shall hear the testimony of the persons performing the assessment at the hearing on the petition for involuntary commitment.

ACT 53 – Drug and Alcohol Commitment of Minors (continued)

- Based on the assessment, the court may order the minor committed to involuntary drug and alcohol treatment, including inpatient services, for up to 45 days if the following apply:

1. The court finds by clear and convincing evidence that:

a. the minor is a drug-dependent person; and

b. the minor is incapable of accepting or unwilling to accept voluntary treatment services.

2. The court finds that the minor will benefit from involuntary treatment services.

3. Where the court decision is inconsistent with the level of care and length of treatment recommended by the assessment, the court shall set forth in its order a statement of facts and reasons for its disposition.

ACT 53 – Drug and Alcohol Commitment of Minors (continued)

- A minor order to undergo such court ordered involuntary treatment shall remain under the treatment designated by the court for a period of 45 days unless discharged sooner.
- Prior to the end of the 45 day period, the court shall conduct a review hearing for the purpose of determining whether further treatment is necessary.
- If the court determines that further treatment is needed, the court may order the minor recommitted to services for an additional period of treatment not to exceed 45 days unless discharged sooner.
- The court may continue the minor in treatment for successive 45 day periods pursuant to determinations that the minor will benefit from services for an additional 45 days.

ACT 53 – Drug and Alcohol Commitment of Minors (continued)

- Unless the court finds that the parent or legal guardian is without financial resources the parent or legal guardian shall be obligated for all of the following:
    1. Court costs.
    2. Counsel fees for the minor.
    3. The costs of assessment and treatment services.
- The Act provides that nothing therein shall relieve, restrict or expand the obligations of any insurer, health maintenance organization, third-party administrators, hospital plan corporation or health services plan corporation doing business in this Commonwealth with respect to the coverage of drug and alcohol benefits.