



COMMUNITY MENTAL HEALTH SERVICES PROVIDERS

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Guide to Court-Ordered Treatment of Persons with Mental Illness

Definition of Mental Illness

Ohio Revised Code Chapter 5122 defines mental illness as “a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.”

Definition of Mentally Ill Person Subject to Court Order

R.C. 5122.01 defines mentally ill person subject to court order as a mentally ill person who, because of the person’s illness, *at least one of the following applies:*

1. Represents a substantial risk of physical harm to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm;
2. Represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness;
3. Represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the community;
4. Would benefit from treatment for the person's mental illness and is in need of such treatment as manifested by evidence

of behavior that creates a grave and imminent risk to substantial rights of others or the person;

5. Would benefit from treatment as manifested by evidence of behavior that indicates *all of the following:*

- i. The person is unlikely to survive safely in the community without supervision, based on a clinical determination.
- ii. The person has a history of lack of compliance with treatment for mental illness and one of the following applies:
 - o At least twice within the 36 months prior to the filing of an affidavit seeking court-ordered treatment of the person, the lack of compliance has been a significant factor in necessitating hospitalization in a hospital or receipt of services in a forensic or other mental health unit of a correctional facility. The 36-month period must be extended by the length of any hospitalization or incarceration of the person that occurred within those 36-months.
 - o Within the 48 months prior to the filing of an affidavit seeking court-ordered treatment of the person, the lack of compliance resulted in one or more acts of serious violent behavior toward self or others or threats of, or attempts at, serious physical harm to self or others. The 48-month period must be extended by the length of any hospitalization or incarceration of the person that occurred within those 48-months.
- iii. The person, as a result of the person's mental illness, is unlikely to voluntarily participate in necessary treatment.
- iv. In view of the person's treatment history and current behavior, the person is in need of treatment in order to prevent a relapse or deterioration that would be likely to result in substantial risk of serious harm to the person or others.

Family Members

Any person that has actual knowledge or reliable information that a person is a “mentally ill person subject to court order” may initiate probate court proceedings by filing an affidavit with the probate court in the county where the mentally ill person subject to court order resides.

If you believe a member of your family meets the criteria for court-ordered treatment, you may contact a community mental health services provider who will:

- Schedule time for family members with first-hand knowledge of the situation to meet with a pre-screener.
- Refer the family to the attorney representing the ADAMH Board to file an affidavit with Probate Court, if the pre-screener determines that probate proceedings should be initiated.
- Coordinate with the ADAMH Board attorney and probate court and aid with the scheduling of any independent psychiatric evaluation.

If the pre-screener determines that probate proceedings should not be initiated, or if you choose not to seek the assistance of a community mental health services provider, you or another family member may choose to file the affidavit for mental illness directly with the Probate Court or to contact an attorney to file the affidavit. The Probate Court has a list of attorneys who can assist with probate proceedings.

An Affidavit of Mental Illness can be found on the Probate Court’s website or in section 5122.111 of the Ohio Revised Code.

A person that files an Affidavit of Mental Illness is subject to subpoena by either party at the probate court hearing.

Emergency Admission (R.C. 5122.10)

Custody and Transport Procedures:
Any psychiatrist, clinical psychologist, physician, health officer, police officer or sheriff may take a person into custody and transport that person to a hospital or community mental health services provider for examination if that professional has reason to believe that the person is a “mentally ill person subject to court order” AND would represent a substantial risk of physical harm to self or others if allowed to remain at liberty.

Ohio law requires that every reasonable and appropriate effort be made to take a person into custody in the least conspicuous manner possible. The person taking the individual into custody is required to explain the following:

- the name and professional designation and affiliation of the person taking custody;
- that the custody-taking is not a criminal arrest; and
- that the person is being taken for examination by mental health professionals at a specified mental health facility identified by name.

A written statement, known as an “application for emergency admission” or “pink slip”, must be completed by the psychiatrist, clinical psychologist, physician, health officer, police officer or sheriff and provided to the facility to which the person is transported. The written statement must detail the circumstances under which the person was taken into custody and the reasons that the psychiatrist, clinical psychologist, physician, health officer, police officer or sheriff believes that the person is a “mentally ill person subject to court order” and would represent a substantial risk of physical harm to self or others if allowed to remain at liberty.

**** NOTE:** OhioMHAS has an “Application for Emergency Admission” form available on its website.

Assessment Procedures:
The person must be examined within 24 hours of arrival at the facility.

If the chief clinical officer believes that the person is not a mentally ill person subject to court order, the person must be released or discharged immediately, unless a court has issued a temporary order of detention applicable to the person.

If the chief clinical officer believes that the person *is* a mentally ill person subject to court order, the person may be detained for up to three court days following the day of the examination. During that time the chief clinical officer must either admit the person as a voluntary patient or file an affidavit to initiate probate court proceedings.

If neither of those actions is taken by the end of the three-day period, the person must be discharged.

Probate Court Proceedings
If upon receipt of an affidavit to initiate probate court proceedings, the court has probable cause to believe that the person named in the affidavit is a mentally ill person subject to court order, the judge will schedule a hearing. If not, the affidavit will be dismissed.

The court must send written notice of the hearing and a copy of the affidavit to: the person who is the subject of the hearing, the person’s legal guardian and spouse, if applicable; the parents of a minor; the person who filed the affidavit, a designated person or adult next of kin; legal counsel; the hospital or facility director and the ADAMH Board or its designated community mental health services provider.

Initial Hearing:
An initial hearing must be conducted within five court days from the day on which the person is detained or an affidavit is filed, whichever occurs first, to determine whether or not the respondent is a mentally

ill person subject to court order. If the person does not have an attorney, the court will appoint one.

If the court does not find that the respondent is a mentally ill person subject to court order, the person must be immediately discharged and all records of the proceedings must be expunged. If the court finds that the respondent is a mentally ill person subject to court order, the court may issue an interim order of detention and a full hearing must be held within 30 days.

Full Hearing:
At the full hearing, the ADAMH Board’s attorney and the person’s attorney will present evidence. The court must decide if there is clear and convincing evidence that the person is a mentally ill person subject to court order. If not, the person must be immediately discharged. If so, the court must order the person to a hospital or other facility for a period of 90 days. Such facility must be the least restrictive setting available that is consistent with the person’s treatment goals. A person that only meets the fifth standard in the definition of “mentally ill person subject to court order” is not subject to hospitalization.

At the expiration of the 90 days, an application for continued treatment may be filed if there is reason to believe that the person still meets the criteria for court-ordered treatment. Another hearing will be held to determine if the person is still a “mentally ill person subject to court order”.

**** NOTE:** Per R.C. 5122.34, anyone acting in good faith, either upon actual knowledge or information thought by them to be reliable, who procedurally or physically assist in the hospitalization or discharge, determination of appropriate placement, court-ordered treatment, or in judicial proceedings of a person, do not come within any criminal provisions, and are free from any liability to the person hospitalized or receiving court-ordered treatment or to any other person.

MENTAL STATUS EXAM

Appearance		Physically unkempt; dirty or disheveled; atypical, unusual, clothing; bizarre physical characteristics
Behavior	Posture	Slumped; rigid; tense; atypical; inappropriate
	Facial expression suggest	Anxiety; fear; apprehension; depression; sadness; anger; hostility; decreased variability of expression; bizarre; inappropriateness
	General body movements	Accelerated or increased level; decreased or slowed; atypical; peculiar; inappropriate; restlessness; fidgety
	Quality of speech	Increased; loud; decreased; slowed; atypical quality; slurring; stammering
	Personal Interaction	Domineering; submissive; overly compliant; provocative; suspicious; uncooperative
Mood		Inappropriate thought content; increased liability of affect; Predominate mood is: blunted, absent, unvarying, euphoria, elation, anger, hostility, fear, anxiety, apprehension, depression, sadness
Perception		Auditory, visual, other types of hallucinations; associated with taste or touch
Thinking	Intellectual Functioning	Impaired level of consciousness; Impaired attention span; Impaired abstract thinking; Impaired calculation ability; Impaired intelligence
	Orientation	Disoriented to person, place, time
	Insight	Difficulty in acknowledging the presence of psychological problems, mostly blames others or circumstances for problems
	Judgment	Impaired ability to manage daily living activities; Impaired ability to make reasonable life decisions
	Memory	Impaired immediate recall; impaired recent memory; impaired remote memory
	Thought content	Obsessions, compulsions, phobias, derealization, depersonalization, suicidal or homicidal ideation; delusions; ideas of reference; ideas on influence
	Stream of Thought (manifested by speech)	Associational disturbance; thought flow decreased/slowed; thought flow increased