

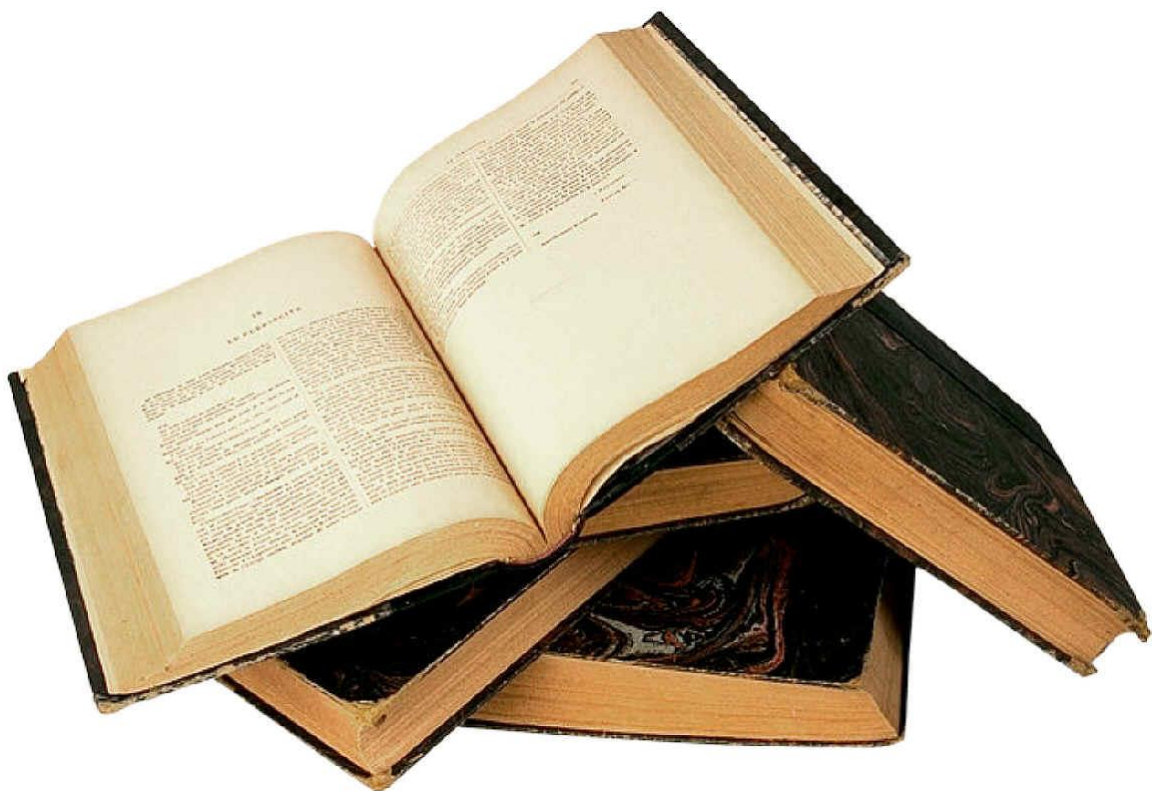
Emergency Hospitalization and the Pink Slip Process

2019 CIT ADVANCED TRAINING CONFERENCE

CHRISTINA SHAYNAK-DIAZ

ATTORNEY AT LAW

SHAYNAK-DIAZ LAW OFFICE



Ohio Revised Code Chapter 5122



Emergency Hospitalization Process

(PINK SLIP PROCESS)

Purpose

- Protect person and others from risk of harm
- Get person to safe environment where they can receive treatment
- Designate persons authorized to carry out process
- Provide information to receiving facility to assist in making determinations
- Initiate civil commitment process
- Require specific due process protections

Emergency Procedure - O.R.C. 5122.10

Certain professionals with reason to believe a person is:

- A “mentally ill person subject to court order”; AND
- represents a substantial risk of physical harm to self or others if allowed to remain at liberty pending examination;

May **take into custody and** immediately **transport** the person to a:

- hospital; OR
- non OhioMHAS-licensed general hospital

Categories of Professionals

- psychiatrist
- licensed physician
- licensed clinical psychologist
- health officer
- parole officer
- police officer
- sheriff
- clinical nurse specialist certified as a psychiatric-mental health CNS (NEW category)
- certified nurse practitioner certified as a psychiatric-mental health NP (NEW category)

Additional Category of Professionals

For parolees, offenders under a community control sanction or post-release control sanction, and offenders under transitional control:

- Chief of the adult parole authority; or
- Parole or probation officers with the approval of the chief of the authority

Definition of Health Officer in Chapter 5122

- Any public health physician
- Any public health nurse
- A person authorized or designated by a city or general health district to perform the duties of a health officer under Chapter 5122
- A person authorized or designated by an ADAMH Board to perform the duties of a health officer under Chapter 5122

“Written Statement” Requirements

A.K.A.

“Application for Emergency Admission” / “Pink Slip”

- Professional must provide “written statement” to the hospital.
- Statement must:
 - specify the circumstances under which person was taken into custody; and
 - reasons for belief that person is a mentally ill person subject to court order and represents a substantial risk of physical harm to self or others if allowed to remain at liberty pending examination

Completing the Form

- Must be completely filled out
 - Exception: “Statement of Observation” will not always be included
- Must list name of hospital to which person is being transported
 - Cannot be altered unless mistake made on original
 - Interim stop for medical clearance should not be/is not required to be listed on form
- Date and time approved by hospital CCO important
- “Statement of Belief” must be based on belief of person completing form

Additional Responsibilities of Professional

- Written statement must be made available to the person upon request
- Must explain the following to the person:
 - name and professional designation and affiliation of the person taking custody
 - the custody-taking is not a criminal arrest
 - the person is being taken for examination by mental health professionals at a specified mental health facility identified by name

Additional Responsibilities of Professional

- Must make every reasonable and appropriate effort to take person into custody in the least conspicuous manner possible
- Person has right at all times to be treated with consideration and respect for the patient's privacy and dignity
- Must take reasonable precautions to preserve and safeguard the personal property in the possession of or on the premises occupied by person

Facility Options

- OhioMHAS-Licensed Hospital or Inpatient Unit
- Public Hospital (“State Hospital”)
- General Hospital (not Ohio-MHAS licensed)
- Community Mental Health Services Provider

Transported to a Ohio-MHAS Licensed Hospital or Inpatient Unit

Chief clinical officer (CCO) of a hospital **may** receive for observation, diagnosis, care, and treatment any person whose admission is applied for under the following procedures

O.R.C. 5122.05

Transported to a Public/State Hospital

CCO of a public hospital, in all cases of psychiatric medical emergencies, ***shall*** receive for observation, diagnosis, care, and treatment any person whose admission is applied for under emergency or judicial procedure.

O.R.C. 5122.05

Transported to a GENERAL HOSPITAL (not OhioMHAS-licensed)

- MAY admit the person or provide care and treatment
- MUST transfer to a OhioMHAS-licensed hospital by the end of twenty-four hours after arrival

O.R.C. 5122.10(D)

Upon Application for Admission

CCO of facility must immediately notify:

- ADAMH Board (or the provider designated by Board) of the patient's county of residence

and

- Person's legal guardian, spouse or next of kin, and legal counsel (if can be determined through exercise of reasonable diligence)

Additional Requirements of Receiving Facility

Person must immediately be ***informed and provided with written statement*** that person may do any of the following:

- Immediately make reasonable number of phone calls to contact an attorney, licensed physician, licensed clinical psychologist or any other person to secure representation by counsel or obtain medical or psychological assistance
- Obtain or have court-appointed counsel and independent expert evaluation of person's mental condition
- Have hearing to determine whether or not person is mentally ill person subject to court order

Board/Designated Community Provider Assessment/Pre-Screen

- ADAMH Board (or designated provider) must promptly assess the patient (unless previously assessed)
- Purpose of assessment/pre-screen is:
 - “to *assist the hospital in determining* whether the patient is subject to involuntary hospitalization and whether alternative services are available”

Examination by Admitting Hospital

Must be examined within 24 hours after arrival

- If CCO believes the person is not a mentally ill person subject to court order, must release or discharge the person immediately (unless a court has issued a TOD)
- If CCO believes the person is a mentally ill person subject to court order, may detain the person for not more than three court days following the day of the examination

3-Day Hold Period

By end of 3-day period, CCO must either:

- admit the person as a voluntary patient;
- file an affidavit with the probate court to initiate proceedings for a mentally ill person subject to court order; OR
- discharge the person
 - unless court has issued a TOD; or
 - person has been sentenced to DRC and has not been released from the person's sentence (returned to DRC)

3-Day Period Requirements

- May not detain person for “more than three court days following the day of the examination”
 - 1st “court day” is day after examination occurs (exam must be within 24 hours of arrival)
 - Court days => no holidays and weekends
 - Example:
 - Arrives at hospital on Tuesday at 4pm
 - Examination occurs on Wednesday at 3pm
 - 1st court day is Thursday
 - 2nd court day is Friday
 - 3rd court day is Monday
 - Disposition must be made by end of court day on Monday!

Important to note!

- During 3 day period, person may be transferred to another hospital if the one to which they were pink-slipped is full, cannot address the person's needs, is not Ohio-MHAS licensed, etc.
- A new pink slip is not required for this purpose.

Immunity (O.R.C. 5122.34)

Persons who procedurally or physically assists in the hospitalization or discharge, determination of appropriate placement, court-ordered treatment, or in judicial proceedings of a person under Chapter 5122

- No criminal or civil liability
- If acting in good faith, either upon actual knowledge or information thought by them to be reliable

Due Process

Statutory requirements must be followed to provide adequate protection of due process rights:

- Follow process
- Provide completed written statement to hospital
- Ensure rights of involuntary patients
- Hearing and representation



Common Scenarios

APPLICATION OF THE LAW

Can law enforcement rely on the statements of others in making the decision to pink slip a person?

Is law enforcement required to transport persons for purposes of emergency hospitalization?

Can state/public hospital refuse admission to person brought in on pink slip?

Can a state/public hospital require interim stop at different facility for medical examination before being transported to the public hospital?

Can hospital to which a person has been pink-slipped choose to pink slip the person to another hospital?

Can facility name on pink slip be left blank?

Can it be changed?

What options does the law provide when a general hospital (non Ohio-MHAS licensed) is utilized?

A person is pink-slipped to a psychiatric hospital but is brought to a local ED as an interim stop for medical clearance. Can the ED determine the person is not a mentally ill person subject to court order and discharge the person?

Can a facility require that a person requesting voluntary admission be pink-slipped for transportation or other purposes?

What if a patient applying for voluntary admission changes his or her mind?

Recommendations

Collaborate

- Board, providers, health officers, pre-screeners, hospital, law enforcement, etc.
- Explain legal requirements of each partner
- Discuss common issues/concerns and determine how to address

Achieve Common Understanding

- Roles and responsibilities
- Required process
- Local process
- Open communication when situations arise

Memorialize Common Understanding

- Written procedure/guidelines
- Contact information
- Adjust as needed for new situations, approaches, requirements, etc.



Questions?

Thank you!
