



Vice President and Chief Executive Officer of the Medical Center

MEDICAL CENTER POLICY NO. 0140

- A. SUBJECT: Judicial Treatment Orders
- B. EFFECTIVE DATE: July 1, 2011 (R)
- C. POLICY:

Patients 18 years of age or older who are capable of making an informed decision shall provide consent to treatment for themselves. However, under certain limited circumstances permitted by Virginia law, healthcare providers at the Medical Center may attempt to obtain a judicial order related to medical treatment or participate in obtaining emergency custody, temporary detention, involuntary commitment or mandatory outpatient commitment order related to mental health treatment. In making the decision to seek entry of such orders, all providers shall determine whether the patient's situation meets the legal requirements for obtaining the appropriate order.

D. PROCEDURE:

Virginia law establishes the procedures to be followed in obtaining judicial orders treating adults who are incapable of making decisions, who do not have surrogate decision makers and who may need medical or mental health treatment. The attached Charts set out the Procedures to be followed in obtaining Judicial Orders for Medical Treatment and Judicial Orders for Mental Health Treatment.

SIGNATURE:



R. Edward Howell, CEO, UVA Medical Center

6/22/11

DATE:

Medical Center Policy No. 0140 (R)
Approved February 1993
Revised June 2001, June 2003, June 2005, June 2008, June 2011
Reviewed August 1996, December 1999
Approved by Chief Nursing Officer
Approved by Medical Center Administration

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Judicial Orders for Mental Health Treatment

	Emergency Custody	Temporary Detention	Involuntary Commitment	Mandatory Outpatient Commitment
Applicable situation	Adult person is outside the hospital, is in need of hospitalization or treatment, is unwilling to or incapable of volunteering for hospitalization, is mentally ill and there is a substantial likelihood that the person will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting or threatening harm and any other relevant information, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs.	Adult person has been evaluated by Community Services Board and it appears from all available evidence, including the recommendation from the treating physician or clinical psychologist that the person is unwilling to or incapable of volunteering for hospitalization, is mentally ill and there is a substantial likelihood that the person will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting or threatening harm and any other relevant information, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs.	Following a hearing at which special justice finds that the person is unwilling to or incapable of volunteering for hospitalization, is mentally ill and there is a substantial likelihood that the person will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting or threatening harm and any other relevant information, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs and (c) that there are no less restrictive treatment alternatives to involuntary inpatient treatment.	After an involuntary commitment hearing, Special Justice concludes that there is a less restrictive treatment alternative to inpatient treatment and that person has capacity to agree to outpatient treatment and follow conditions of such treatment.
Whom to contact	Magistrate (434) 977-0220 Available 24 hours a day	Magistrate (434) 977-0220 Available 24 hours a day	Special Justice (434) 979-8144 weekdays Available 8:30 a.m. – 5 p.m.	Special Justice (434) 979-8144 weekdays Available 8:30 a.m. – 5 p.m.
Relevant information	Magistrate may consider information contained in petition, as well as the recommendations of any treating or examining physician or psychologist, any past actions of the person, any past mental health treatment of the person, any relevant hearsay evidence, any medical records available, any	Magistrate may consider information contained in petition, as well as the recommendations of any treating or examining physician or psychologist, any past actions of the person, any past mental health treatment of the person, any relevant hearsay evidence, any medical records available, any affidavits submitted and	Special Justice has observed the person, considered the recommendations of any treating physician or psychologist, any past actions of the persons, any past mental health treatment of the person, any examiner’s certification, any available health records and any other relevant evidence. Alternatives to inpatient	Special justice finds that mandatory outpatient treatment is a less restrictive alternative to treatment and that person is capable of agreeing to such treatment and understanding conditions of treatment.

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	affidavits submitted and any other relevant available information.	any other relevant available information.	treatment have been investigated and determined to be inappropriate.	
Action that may be ordered	Law enforcement officer may be ordered to take the person into custody and transport person to a convenient location to be evaluated by a person designated by the Community Services Board.	Person may be ordered to receive inpatient mental health treatment to stabilize the person's psychiatric condition and to avoid involuntary commitment. If it appears, based on evaluation conducted by the psychiatrist or clinical psychologist treating the patient, that the patient would not meet the involuntary commitment criteria, then the special justice or the Chief Nursing Officer, Chief Medical Officer, or Associate Vice President for Hospital and Clinics Operations may authorize release of the patient.	Person may be ordered to receive inpatient mental health treatment.	Person may be ordered to receive mandatory outpatient treatment, with specific monitoring conditions imposed.
Time	Emergency custody order is valid for 6 hours but may be extended for 2 hours for good cause.	Shall not exceed 48 hours unless the period terminates on a weekend or holiday, then until next day after.	Shall not exceed 30 days.	Shall not exceed 90 days.

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Judicial Orders for Medical Treatment

	Emergency Custody	Temporary Detention	Treatment
Applicable situation	Adult person is outside the hospital and is incapable of making an informed decision as a result of physical/medical illness or injury; medical testing, observation or treatment must be provided to prevent imminent harm; person is refusing transportation and there is no surrogate decision maker.	Adult patient is in the hospital, lacks capacity to make decisions or cannot communicate decisions, there is no surrogate decision maker and medical testing, observation or treatment must be provided within 24 hours to prevent death, disability or serious irreversible condition.	Adult patient is in the hospital, lacks capacity to make a decision or cannot communicate a decision, there is no surrogate decision maker and proposed treatment is in the best interest of the patient and is medically and ethically appropriate with respect to the diagnosis and prognosis for the patient.
Whom to contact	Magistrate (434) 977-0220 Available 24 hours a day	Magistrate (434) 977-0220 Available 24 hours a day	Special Justice, (434) 979-8144 Available 8:30 a.m.-5 p.m.
Required information	<p>Physician must attest that: (1) adult person is incapable of making an informed decision as a result of physical injury or illness; (2) the medical standard of care indicates that testing, observation and treatment are necessary to prevent imminent and irreversible harm; (3) the person has refused transport to obtain such necessary treatment or has indicated an intention to resist such transport, and (4) there is no legally authorized person available to give consent to necessary treatment for the adult person.</p> <p>Before providing such an opinion, physician must have communicated electronically or personally with EMS personnel on the scene, have attempted to communicate with the adult person to obtain information concerning the cause of the incapacity and have attempted to obtain consent and failed to do so.</p>	Physician must attest that the patient lacks decision making capacity, that proposed testing, observation or treatment is required by medical standard of care and is necessary within the next 24 hours to prevent death, disability or a serious irreversible condition and that there is no known surrogate decision maker available and willing to consent to the proposed testing, observation and treatment.	<p>Petition form must be filed with Special Justice to request authorization to provide, withhold or withdraw a specific treatment or course of treatment for an adult patient. An attorney will be provided for the patient, either through the Special Justice or, if applicable, through use of the patient’s own attorney. The attorney shall inquire into the risks and benefits of the treatment decision for which authorization is sought and alternatives to the treatment. The attorney shall attempt to determine the patient’s religious beliefs or basic beliefs and values.</p> <p>Special Justice, after a hearing at the Medical Center, must find, from evidence presented that there is no legally authorized person available to give consent, that the patient is incapable of making an informed decision or cannot express an informed decision, that the patient is unlikely to become capable of making an informed decision with the time required to make the decision and that the proposed treatment is in the best</p>

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			interests of the patient.
Action that may be ordered	Law enforcement officer may be ordered to take adult person into custody and transport person to an emergency room for testing, evaluation and/or treatment.	Testing, observation or treatment may be ordered.	Treatment may be ordered. The order should describe the treatment, related examinations, tests or services reasonably related to the ordered treatment.
Time	Emergency custody order is valid for 4 hours.	Temporary detention order for testing, observation or treatment is valid for 24 hours.	Order is valid for the duration of the course of the ordered treatment.