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Using the Involuntary Commitment process in Wake County, NC

Sometimes, the person in crisis is unwilling or unable to accept that mental health care is needed in order to keep himself or herself, or others, safe. When that happens, North Carolina law allows anyone with knowledge of facts showing a person is dangerous to himself or others to start the involuntary commitment process. Starting the involuntary commitment process means an individual will be evaluated against his/her own wishes, and if the professionals agree that he or she poses a danger, the person may be hospitalized, even over his or her objection. Initiating an involuntary commitment is usually a choice of “last resort,” and there are multiple steps in the process. If you decide to start the process, you should be prepared to be available by phone or in person to assist the professionals involved along the way. You will need to describe specific examples for why you think the person needs to be evaluated and hospitalized. Common questions are answered below.

Who can file involuntary commitment papers? Anyone with knowledge that a person is dangerous to himself or others due to mental illness and/or substance abuse may go to the local magistrate’s office to file a petition for involuntary commitment. Sometimes this is a family member, a friend, or a health care professional. In Wake County, about half of the time the involuntary commitment papers are begun by emergency department physicians after a family member, EMS worker, or law enforcement officer brings the patient to the emergency department.

What does the magistrate do? If the magistrate finds the criteria are met, an order will be issued for custody and transportation of the person alleged to be in need of examination and treatment. This custody order is not an order of commitment yet, though. Rather, it authorizes a law enforcement officer to take the person into custody and transport him or her to a doctor or other mental health professional for examination (or to keep him at the hospital where the petition began). The person is not under arrest, but he or she cannot leave. The custody order assures the person’s safety and the safety of others so that there is time to evaluate whether the person needs treatment and if so, where that treatment will happen.

Where will the person be taken by law enforcement if he or she isn’t already at the hospital? A law enforcement officer will take the person to a facility for the examination. In Wake County, UNC Wakebrook is where most assessments occur, but sometimes the assessment happens at a hospital emergency department.

What happens if the medical professional finds the person needs inpatient commitment? If the examiner (doctor) finds the person meets the criteria for inpatient commitment, the staff of the crisis center or hospital emergency department will search for a bed in a psychiatric (24 hour) facility. This may take a short time and the patient may be admitted to a 24-hour facility close to home. Or, the person may be held for hours or even days in the crisis center or emergency department until a bed is available somewhere in the state. Inpatient bed availability depends on numerous factors including the individual’s diagnosis and symptoms, financial resources, the age of the person, other medical factors, and the number of open beds at any particular time. When a bed is available the person will again be transported by a law enforcement officer to the 24-hour facility. Another examination must be performed at admission or within 24 hours of arrival.

How long does the involuntary commitment process last? If the examiner (doctor) finds the person does not meet the criteria for commitment, the involuntary commitment proceeding ends. When this occurs, the law enforcement officer will release the person from custody and return him to his residence.
Also, if a patient has been waiting for seven days without a bed at a 24-hour facility being located, the process must start over.

**Will the patient have a lawyer?** The patient will be assigned a lawyer who specializes in involuntary commitments *after he or she arrives at a psychiatric (24-hour) facility* and has the second exam. Until that time, though, the patient is in the middle of the process where the state does not yet appoint a lawyer. The patient or the patient’s family certainly may contact a lawyer for assistance at any time during the process, but a lawyer is not provided for him or her by the state until after placement in a 24-hour facility is found. Remember, the patient is not under arrest, and involuntary commitment is civil, not criminal.

The civil involuntary commitment procedure can be an extremely difficult process—for both the individual and the caregiver, but it may also be the ultimate life-saving choice. Committing an individual does not mean that you are giving up on them. If anything it shows that you are determined to help them get onto a path of recovery and stability.

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For more information:
UNC School of Government On-line training on the Involuntary Commitment Process:  

Mental Health Services in Wake County:  http://nami-wake.org/files/MentalHealthServicesGuide2.pdf

NAMI Wake County  http://www.nami-wake.org/ 1-919-848-4490