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Indigent Defense Services

NUTS AND BOLTS OF NORTH CAROLINA INVOLUNTARY COMMITMENT LAW

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COMMITMENTS INVOLVE TWO FUNDAMENTAL INTERESTS

Need for treatment

- A patient may require inpatient treatment without the insight to recognize this need



Right to liberty

- "The State"
- No one shall be "deprived of life, liberty or property without due process of law."

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Due process



For Commitments:

- Right to hearing
- Right to Counsel
- Patient as decision
- Maker
- Right to judicial review

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CRITERIA FOR USE OF INVOLUNTARY PROCESS + DEFINITIONS

Must show an individual is Mentally ill/Substance abuser AND dangerous to self OR others within the relevant past.

DEFINITIONS:

Mental illness (Adult) = an illness that impairs judgment and self control to a degree that treatment or supervision is necessary or advisable.

Mental illness (Minor) = a mental condition (other than ID alone) that impairs ability to use age-adequate self control or judgment in activities or relationships to extent treatment is needed.

Substance Abuse = the pathological use or abuse of alcohol or drugs in a way that impairs personal, social or occupational functioning.

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MORE DEFINITIONS

Danger to Self:

A person is deemed dangerous to him/herself when, within the relevant past, there is

Inability to care for self + a probability of serious physical debilitation,

OR

An attempt or threat of suicide + probability of suicide,

OR

Actual or attempted self-mutilation.

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Definitions continued

Danger to Others:

A person is deemed dangerous to others when, within the relevant past, the person has

Threatened, attempted, inflicted, or created a substantial risk of bodily harm + there is a probability of the conduct recurring,

OR

Engaged in extreme destruction of property + there is a probability of conduct recurring.

Previous episodes of **dangerousness to self** may be considered, when applicable, when determining reasonable probability of physical debilitation, suicide or self-mutilation.

Previous episodes of **dangerousness to others**, when applicable, may be considered when determining reasonable probability of future dangerous conduct.

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IVC PROCEDURES

Three paths to Involuntary Commitment:
Community Initiated, Clinician Initiated, and Emergency Certificate

Steps for **Community Initiated** IVC:

1. An Affidavit and Petition for Involuntary Commitment may be initiated by any person who has knowledge that
 - a. A person is mentally ill and dangerous to self or others,
 - OR
 - b. Is a substance abuser and is a danger to self or others.

Intellectual Disability ("I.D.") **alone** is no longer a criterion for involuntary commitment. Must fall within categories listed in G.S. 122C-263(d)(2).

2. A Petition is taken at magistrate's office or clerk of court's office and is sworn to.

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Community initiated IVC cont'd

3. The Petition must contain facts to support a petitioner's belief that the individual, now the "respondent", meets criteria for commitment.
4. Magistrate satisfied that criteria for IVC are met issues a Findings and Custody Order allowing Respondent to be taken into custody for a first examination by a commitment examiner.
5. The Petition and Custody Order must be served on Respondent within 24 hours of issuance.
6. The time on the custody order starts the clock on deadline to District court hearing.

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IVC PROCEDURES cont'd

Clinician initiated Petition –

1. An individual with behavioral health symptoms presents at hospital and is examined by a **commitment examiner (“CE”)**, which is “a physician, an eligible psychologist, or any health professional or mental health professional who is certified under G.S. 122C-263.1 to perform the first examination for involuntary commitment.” (e.g. LCSW, LCAS, Master’s or higher NP, LPC, PA)
2. If the CE recommends inpatient level of treatment based on the first examination, he/she completes a Petition which is notarized and transmitted to the magistrate.
3. Magistrate issues a custody order allowing respondent to be taken into custody for transport to a 24-hour facility

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STATE OF NORTH CAROLINA
 Department of Health and Human Services
 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

FIRST EXAMINATION FOR INVOLUNTARY COMMITMENT

Name of Respondent DOB Age Sex Race M.S.
 Address (Street or Box Number) City State Zip County Phone
 Legally Responsible Person or Next of Kin (Name) Relationship Address (Street or Box Number) City State Zip County Phone
 Petitioner (Name) Relationship Address (Street or Box Number) City State Zip County Phone

EXAMINATION INFORMATION

The First-Level examination and evaluation for the above-named respondent:
 was conducted on / / (MM/DD/YYYY) at A.M. P.M.
 In person at the following facility OR Via telemedicine technology

Included in the examination was an assessment of the respondent's:
 (1) Current and previous mental illness and intellectual disability including, if available, previous treatment history; (2) Dangerousness to self or others as defined in G.S. 122C-3 (11*); (3) Ability to survive safely without inpatient commitment, including the availability of supervision from family, friends, or others; and (4) Capacity to make an informed decision concerning treatment.
 (1) Current and previous substance abuse including, if available, previous treatment history; and (2) Dangerousness to self or others as defined in G.S. 122C-3 (11*).

The following findings and recommendations are made based on this examination*:

SECTION I – CRITERIA FOR COMMITMENT

It is my opinion that the respondent meets the criteria for the selected type of commitment as the respondent is:

<input type="checkbox"/> Inpatient (* Exam – Commitment Examiner: eligible Psychologist or Physician) <input type="checkbox"/> An individual with a mental illness; Dangerous to: <input type="checkbox"/> Self or <input type="checkbox"/> Others; <input type="checkbox"/> In addition to having a mental illness is also intellectually disabled; <input type="checkbox"/> None of the above	<input type="checkbox"/> Outpatient (* Exam – Commitment Examiner: eligible Psychologist or Physician) <input type="checkbox"/> An individual with a mental illness; Capable of surviving safely in the community with available supervision; Based upon the respondent's treatment history, the respondent is in need of treatment in order to prevent further disability or deterioration which would predictably result in dangerousness as defined by G.S. 122C-3 (11*); Current mental status or the nature of his/her illness levels or negates his/her ability to make an informed decision to seek treatment voluntarily or comply with recommended treatment; <input type="checkbox"/> None of the above	<input type="checkbox"/> Substance Abuse (* Exam – LCAS CE: eligible Psychologist or Physician) <input type="checkbox"/> A Substance Abuser; Dangerous to: <input type="checkbox"/> Self or <input type="checkbox"/> Others; <input type="checkbox"/> None of the above
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First exam –

Form now includes Inpatient, Outpatient, and Substance Abuse Options

*For telemedicine evaluations only: I certify to a reasonable degree of medical certainty that the results of the examination via telemedicine were the same as if I had been personally present with the respondent OR The respondent needs to be taken for a face-to-face evaluation. (*Statutory definitions begin on page 3)

Form No. DMH 5-72-19 (10/12/19) Page 1 FIRST EXAMINATION FOR INVOLUNTARY COMMITMENT

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First exam

- Needs to include facts that support findings – no conclusory statements
- Complete health screening

Name of Respondent: _____ **DOB:** _____

Section I – DESCRIPTION OF CHARGE
 Clear description of incident leading to this commitment of respondent. (Prior to description of incident, describe respondent's condition.)

Section II – HISTORY

Part A: Presenting Complaint

Part B: History of Present Illness

Part C: Past Medical History

Part D: Social History

Part E: Family History

Part F: Review of Systems

Part G: Medication History

Part H: Substance Use

Part I: Mental Status

Part J: Physical Examination

Part K: Diagnostic Test Results

Part L: Other Information

Signature of Commitment Examiner: _____
 Title: _____
 Address of Facility: _____
 City and State: _____
 Zip: _____

Original Signature – Record Custodian: _____
 Title: _____
 Address of Facility: _____
 Date: _____

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First exam – Part 3 - recommendation for inpatient stay

- type of commitment recommended or release and termination

- signature of CE and credentials

Name of Respondent: _____ **DOB:** _____

Local management entity/managed care organization or LMEMCO - A local management entity that is under contract with the Department to operate the combined Medicaid Waiver program authorized under Section 1915(b) and Section 1915(i) of the Social Security Act.

Local management entity or LME - An area authority.

Mental illness - When applied to an adult, an illness which so impairs the capacity of the individual to use self-control, judgment, and discretion in the conduct of the individual's affairs and social relations as to make it necessary or advisable for the individual to be under treatment, care, supervision, guidance or control. When applied to a minor, a mental condition, other than an intellectual disability alone, that so lessens or impairs the minor's capacity to exercise age adequate self-control and judgment in the conduct of the minor's activities and social relationships so that the minor is in need of treatment.

Substance abuser - An individual who engages in the pathological use or abuse of alcohol or other drugs in a way or to a degree that produces an impairment to personal, social, or occupational functioning. Substance abuse may include a pattern of tolerance and withdrawal.

SECTION III – RECOMMENDATION FOR DISPOSITION

Inpatient Commitment for _____ days (respondent must have a mental illness and dangerous to self or others)

Outpatient Commitment (respondent must meet ALL of the first four criteria outlined in Section I, Outpatient) (Proposed Outpatient Treatment Center or Physician: (Name) _____ (Address & Phone Number) _____)

Substance Abuse Commitment (respondent must meet both criteria outlined in Section I, Substance Abuse) (Respondent pending hearing - Referred to: _____ (Address & Phone Number) _____) (Hold respondent at 24-hour facility pending hearing - Facility: _____)

Respondent or Legally Responsible Person Consented to Voluntary Treatment

Respondent was held at the evaluation site pending placement at a 24-hour facility and no longer meets criteria for inpatient commitment.

Terminate proceedings and release respondent (Recommend outpatient commitment) (Proposed Outpatient Treatment Center or Physician: (Name) _____ (Address & Phone Number) _____)

Release respondent and Terminate Proceedings (insufficient findings to indicate that respondent meets commitment criteria)

Signature of Commitment Examiner: _____
 Title: _____
 Address of Facility: _____
 City and State: _____
 Zip: _____

Original Signature – Record Custodian: _____
 Title: _____
 Address of Facility: _____
 Date: _____

CC: Clerk of District Court (when present) and District Clerk of District Court when 24-hour facility is located or when outpatient treatment is approved. Respondent or Respondent's Attorney and State's Attorney, when applicable. Proposed Outpatient Treatment Center or Physician (Outpatient Commitment) and Facility/Physician (Substance Abuse Commitment). NOTE: It is noted for necessary anticipation that the clerk will receive the copies within 48 hours of the time that it was signed, the examiner shall communicate his findings to the clerk by telephone.

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 Form No. DMH 6-72-19 (10/12019) FIRST EXAMINATION FOR INVOLUNTARY COMMITMENT

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IVC Procedures cont'd

Emergency Certificate – (mental illness)

Anyone, including law enforcement, who has knowledge of an individual who is subject to inpatient commitment and who requires immediate hospitalization to prevent harm to self or others, may transport the individual directly to an area facility for examination by a commitment examiner.

Upon examination by the CE, if the individual meets the criteria (mental illness + danger) and requires immediate hospitalization to prevent harm to self/others, the CE executes an affidavit certifying the reason for requiring immediate hospitalization.

The CE's affidavit is transmitted to the clerk of court and serves as the custody order, bypassing the magistrate review.

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IVC Procedures – Emergency Certificate (mental illness) cont'd

Respondents received at 24-hour facility must be examined by a second physician.

After receipt of notification that the District Court has determined reasonable grounds for this commitment, further proceedings shall be carried out in the same way as for all other respondents.

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IVC Procedures cont'd

Emergency Certificate – (substance abuse)


- Criteria must exist for substance abuser and dangerous to self or others.
- He/she must be violent and require restraint and delaying intervention by seeking treatment would likely endanger life or property.
- A law enforcement officer takes the individual into custody, takes him/her before a magistrate or clerk, and swears that the individual meets the above criteria.
- The clerk or magistrate must find by clear, cogent and convincing evidence that the individual meets the criteria and can then order the respondent to be taken directly to a 24-hour facility.

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Affidavit and petition

STATE OF NORTH CAROLINA		File No.
County		In the General Court of Justice District Court Division
IN THE MATTER OF		
Name and Address of Respondent		AFFIDAVIT AND PETITION FOR INVOLUNTARY COMMITMENT
State Security No. of Respondent, if available	Date of Birth	Driver's License No. of Respondent
G.S. 122C-261, 122C-261		Date
I, the undersigned affiant, being first duly sworn, and having sufficient knowledge to believe that the respondent is a proper subject for involuntary commitment, depose that the respondent is a resident of, or can be found in the above named county, and:		
<i>(check all that apply)</i>		
<input type="checkbox"/> 1. has a mental illness and is dangerous to self or others or has a mental illness and is in need of treatment in order to prevent further disability or deterioration that would probably result in dangerousness.		
<input type="checkbox"/> 2. in addition to having a mental illness, respondent also has an intellectual disability.		
<input type="checkbox"/> 3. is a substance abuser and dangerous to self or others.		
The facts upon which this opinion is based are as follows: (State facts, not conclusions, to support ALL blocks checked.)		
Name and Address of Alleged Next-of-Kin		Name and Address of Person Other Than Petitioner who may Notify
Name Telephone No.	Business Telephone No.	Name Telephone No.
Petitioner requests the court to issue an order to a law enforcement officer to take the respondent into custody for examination by a person authorized by law to conduct the examination for the purpose of determining if the respondent should be involuntarily committed.		
SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME		Signature of Petitioner
City	Signature	Name and Address of Petitioner (date of birth)
<input type="checkbox"/> Deputy Clerk	<input type="checkbox"/> Assistant Clerk	<input type="checkbox"/> Clerk of Superior Court
<input type="checkbox"/> Magistrate	<input type="checkbox"/> Notary Public/Commissioner of Superior Court	
Name and Address of Notary		Signature of Notary
SEAL	County Where Notarized	Name Telephone No.
Original File Copy-Health Copy-Court Clerk Copy-Attorney General (over)		
AOC-GP-300, Rev. 10/19 © 2019 Administrative Office of the Courts		

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Examples:

Legally **sufficient** factual basis for Petition –
“Respondent with long history of schizophrenia was found in early morning hours lying disrobed in the center of the road in sub-freezing temperatures in a self-described purification ritual he says he learned telepathically. Mother states he has been off all medications for two weeks as part of a ritual. He has also refused food for three days. Without treatment, respondent will likely suffer physical debilitation.”

Legally **insufficient** factual basis for Petition –
“Respondent with long history of mental illness and multiple hospitalizations stopped taking prescribed medications recently, began talking out of his head about traveling to California. He is a danger to himself and others and requires inpatient treatment.”

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Legally Insufficient Petitions

Threshold legal document.

Defects in the Petition subject it to Motion to Dismiss, such as -

- Conclusory statement and vague descriptions
- Incorrect dates/times
- Failure to notarize

Dismissal is typically remedied with new Petition.

Always inspect all of the commitment documents for defects!

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FINDINGS AND CUSTODY ORDER

STATE OF NORTH CAROLINA		File No.
County		In The General Court Of Justice District Court Division
IN THE MATTER OF: Name And Address Of Respondent		FINDINGS AND CUSTODY ORDER INVOLUNTARY COMMITMENT (PETITIONER APPEARS BEFORE MAGISTRATE OR CLERK)
Social Security No. Of Respondent	Date Of Birth	Driver's License No. Of Respondent
G.S. 122C-252, -261, -263, -281, -283		
I. FINDINGS		
The Court finds from the petition in the above matter that there are reasonable grounds to believe that the facts alleged in the petition are true and that the respondent is probably: (Check all that apply)		
<input type="checkbox"/> 1. mentally ill and dangerous to self or others or mentally ill and in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness. <input type="checkbox"/> In addition to being mentally ill, the respondent probably is also mentally retarded. (If this finding is made, see G.S. 122C-261(b) and (d) for special instructions.)		
<input type="checkbox"/> 2. a substance abuser and dangerous to self or others.		
II. CUSTODY ORDER		
TO ANY LAW ENFORCEMENT OFFICER:		
The Court ORDERS you to take the above named respondent into custody WITHIN 24 HOURS AFTER THIS ORDER IS SIGNED and take the respondent for examination by a person authorized by law to conduct the examination. (A COPY OF THE EXAMINER'S FINDINGS SHALL BE TRANSMITTED TO THE CLERK OF SUPERIOR COURT IMMEDIATELY.)		
<input checked="" type="checkbox"/> IF the examiner finds that the respondent IS NOT a proper subject for involuntary commitment, then you shall take the respondent home or to a consenting person's home in the originating county and release him/her. <input checked="" type="checkbox"/> IF the examiner finds that the respondent IS mentally ill and a proper subject for outpatient commitment, then you shall take the respondent home or to a consenting person's home in the originating county and release him/her. <input checked="" type="checkbox"/> IF the examiner finds that the respondent IS mentally ill and a proper subject for inpatient commitment, then you shall transport the respondent to a 24-hour facility designated by the State for the custody and treatment of involuntary clients and present the respondent for custody, examination and treatment pending a district court hearing. <input checked="" type="checkbox"/> IF the examiner finds that the respondent IS a substance abuser and subject to involuntary commitment, the examiner must recommend whether the respondent be taken to a 24-hour facility or released, and then you shall either release him/her or transport the respondent to a 24-hour facility designated by the State for the custody and treatment of involuntary clients and present the respondent for custody, examination and treatment pending a district court hearing.		
Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Signature <input type="checkbox"/> Deputy CSC <input type="checkbox"/> CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Magistrate
This Order is valid throughout the State. If the respondent is taken into custody, this Order is valid for seven (7) days from the date and time of issuance.		
III RETURN OF SERVICE A. CUSTODY CERTIFICATION		
<input type="checkbox"/> Respondent WAS NOT taken into custody for the following reason: <input type="checkbox"/> I certify that this Order was received and respondent served and taken into custody as follows:		
Date Respondent Taken Into Custody	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Signature Of Law Enforcement Officer
Name Of Law Enforcement Officer (Type Or Post)	Name Of Law Enforcement Agency	
		Badge No. Of Officer
NOTE TO LAW ENFORCEMENT OFFICER: If respondent is not taken into custody within 24 hours after this Order is signed, check the appropriate box above and return to the Clerk of Superior Court immediately. If respondent is served and taken into custody, complete return of service on the reverse. When taking respondent into custody you must inform him or her that he or she is not under arrest and has not committed a crime, but is being transported to receive treatment and for his or her own safety and that of others.		
<small>Original File Copy-24-Hour Facility Copy-Special Counsel Copy-Attorney General</small>		

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Findings and Custody Order Procedure

- The Order must be served on Respondent within 24 hours of issuance by magistrate.
- The Order authorizes detention of Respondent in an emergency room/department after the first exam but before admission to a 24-hour facility for up to 7 days if no bed is available.
- If the admission is untimely, the Order is invalid. Typically, the facility will initiate a new petition if the Respondent continues to meet criteria.
- The timing of the Petition and Custody Order must follow statutory chronology or is subject to a Motion to Dismiss!

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The 7-day Rule

- If a Respondent is detained in an ER/ED pursuant to an Order and no bed is available at the 24-hour facility, the CE MUST report this fact to the clerk and proceedings on that Petition and Order are terminated.
- The CE may initiate new proceedings prior to the expiration of the first 7-day period as long as the Respondent continues to meet criteria.
- “Affidavits filed in support of proceedings terminated pursuant to this subdivision *shall not be submitted in support of any subsequent petitions for involuntary commitment.*” G.S. 122C-263(d)(2)
- And “If the affiant initiating new commitment proceedings is a commitment examiner, the affiant shall conduct a new examination and **shall not rely upon examinations conducted as part of proceedings terminated pursuant to this subdivision.**”
- Unintended consequence of well-intentioned law is multiple 7-day petitions with duplicate examinations.

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SECOND EXAM

- Second exam must be performed within 24 hours of admission to a 24-hour facility
- Cannot be performed by the same clinician who performed the first
- *Must* be performed by a physician

STATE OF NORTH CAROLINA
Department of Health and Human Services
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

County: _____
Client Record #: _____
File #: _____

24 HOUR FACILITY EXAM FOR INVOLUNTARY COMMITMENT*

Name of Respondent	DOB	Age	Sex	Race	M.I.
Address (Street or Box Number)	City	State	Zip	County	Phone
Legally Responsible Person or Next of Kin (Name)	Relationship				
Address (Street or Box Number)	City	State	Zip	County	Phone
Physician (Name)	Relationship				
Address (Street or Box Number)	City	State	Zip	County	Phone

EXAMINATION INFORMATION

The second examination and evaluation for the above named respondent was conducted on ____/____/____MMDDYYYY at ____ A.M. ____ P.M.

was conducted:
 in person at the following facility: _____

Included in the examination was an assessment of the respondent's:
 (1) Current and previous mental illness and intellectual disability including, if available, previous treatment history; (2) Dangerousness to self or others as defined in G.S. 122C-3(11)*; (3) Ability to survive safely without equivalent supervision, including the availability of supervision from family, friends, or others; and (4) Capacity to make an informed decision concerning treatment.

(1) Current and previous substance abuse including, if available, previous treatment history; and (2) Dangerousness to self or others as defined in G.S. 122C-3(11)*.

The following findings and recommendations are made based on this examination**:

SECTION C - CRITERIA FOR COMMITMENT		SECTION D - CRITERIA FOR COMMITMENT	
<input type="checkbox"/> Impaired <input type="checkbox"/> 2 nd Exam - Physician Only <input type="checkbox"/> An individual with a mental illness; <input type="checkbox"/> Dangerous to: <input type="checkbox"/> Self or <input type="checkbox"/> Others; <input type="checkbox"/> In addition to having a mental illness to also be intellectually disabled; <input type="checkbox"/> None of the above	<input type="checkbox"/> Impaired <input type="checkbox"/> 2 nd Exam - Physician Only <input type="checkbox"/> An individual with a mental illness; <input type="checkbox"/> Capable of surviving safely in the community with available supervision; <input type="checkbox"/> Based upon the respondent's treatment history, the respondent is in need of treatment in order to prevent further disability or deterioration which would probably result in dangerousness as defined by G.S. 122C-3(11)*; <input type="checkbox"/> Current mental status or the nature of his/her illness limits or negates his/her ability to make an informed decision to seek treatment voluntarily or comply with recommended treatment; <input type="checkbox"/> None of the above	<input type="checkbox"/> Substantial Abuse <input type="checkbox"/> 2 nd Exam - Physician if 1 st exam was not done by a Physician. Certified Professional Physician performed the exam) <input type="checkbox"/> Dangerous to: <input type="checkbox"/> Self or <input type="checkbox"/> Others; <input type="checkbox"/> None of the above	<input type="checkbox"/> Substantial Abuse <input type="checkbox"/> 2 nd Exam - Physician if 1 st exam was not done by a Physician. Certified Professional Physician performed the exam) <input type="checkbox"/> Dangerous to: <input type="checkbox"/> Self or <input type="checkbox"/> Others; <input type="checkbox"/> None of the above

* Physician performing the 1st exam cannot be the same physician that completed the 1st exam or the emergency certificate (G.S. 122C-304 or G.S. 122C-305) (G.S. 122C-306(a))

Page 1 SECOND EXAMINATION FOR INVOLUNTARY COMMITMENT

Form No. DMH-173 (02/19/2016)

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Pre-hearing outcomes

Discharge before hearing –

- The attending physician must release Respondents who no longer meet criteria for commitment, except those admitted under incapable-to-proceed status, which often occurs prior to the scheduled court hearing.

Continuances -

- Once admitted, Respondent's case may need to be continued for further evaluation.
- May only be continued one week at a time.

Not resisting/Not contesting –

- Respondents unable to fully understand their legal situation but unwilling to undergo a hearing, or those who agree with need for treatment may waive their right by not resisting or contesting commitment, whichever is applicable.

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Hearings

- Patients have the right to a District Court hearing *no later than* 10 days after being taken into custody on the most recent valid custody order.
- Counsel for the State/Hospital has the burden of proof by clear, cogent and convincing evidence that Respondent meets criteria for involuntary commitment.
- Respondent is represented by appointed counsel if indigent or retained counsel, who represents the express wishes of the client.



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Hearings cont'd

- Must be held in an appropriate room at the facility where Respondent is being treated, or in judge's chambers, but NOT in a regular courtroom open to the public.
- May be held virtually unless Respondent objects.
- Closed to the public unless Respondent requests otherwise.
- "Certified copies of reports and findings of commitment examiners and previous and current medical records are admissible in evidence, **but the respondent's right to confront and cross-examine witnesses may not be denied.**" G.S. 122C-268(f)
- Respondent may be called to testify.

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Role of Court

- District Court judges rotate
 - Hears motions and argument of counsel
 - Weighs evidence of *mental illness* or *substance abuse* and *dangerousness*
 - If evidence of mental illness is clear/cogent/convincing, sets *maximum* initial commitment order
 - No hearing necessary to discharge before time is up*
 - Initial commitment: max 90 days
 - First rehearing: max 180 days
 - Second and subsequent hearings: max 365 days
 - May order split commitments of inpatient treatment followed by outpatient commitment.
 - Substance abuse commitment is 180 days to appropriate treatment provider.
- *except respondents committed as incapable to proceed.

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Contents of the Court Order

“To support an inpatient commitment order, the court shall find by clear, cogent and convincing evidence that the respondent is mentally ill and dangerous to self or to others. The court **shall** record the facts that support its findings.” G.S. 122C-268(j)

It is not enough to incorporate the last commitment examiner’s report or check the boxes!

The court’s factual findings must reflect the provisions in the definition of dangerousness:

- Reasonable probability of serious physical debilitation
- Reasonable probability of suicide if untreated
- Reasonable probability of self-mutilation
- Reasonable probability of conduct creating risk of bodily harm to another being repeated

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Post-hearing outcomes

- Patient discharged before end of max commitment
 - Notice of commitment change
- Patient needs additional time
 - Request for hearing (5-76)
 - New “medical” (5-72 or 5-73)

STATE OF NORTH CAROLINA
Department of Health and Human Services
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

NOTICE OF COMMITMENT CHANGE

Facility Name: _____ File # _____
Facility Address: _____ (Physical location) File # _____

IN THE MATTER OF: Respondent's Name: _____
Client Record Number: _____

Unlawfully/When (When Applicable)
Date of Inpatient Outpatient Substance Abuse Commitment _____

TO: Clerk of Superior Court, _____ County

This is to certify that the commitment status of the above-named respondent has changed due to the following:

The respondent is no longer in need of inpatient hospitalization and is unconditionally discharged on _____ (date).

The respondent no longer meets the criteria for outpatient substance abuse commitment and is discharged on _____ (date).

The respondent is no longer in need of inpatient treatment and is conditionally released on _____ (date) to be followed by unconditional discharge on _____ (date).

Conditions of release are:

The respondent escaped breached conditions of release on _____ (date) and is discharged from unauthorized absence on _____ (date).

The respondent or legally responsible person signed a consent for voluntary treatment on _____ (date).

The respondent was admitted as a voluntary minor and has turned 18 years of age. The respondent signed a consent for voluntary treatment on _____ (date).

The respondent was admitted to a 24-hour facility on an involuntary basis on _____ (date). Therefore, outpatient commitment is terminated.

The respondent has moved to another state or location of respondent is unknown so commitment is terminated on _____ (date).

The respondent is no longer in need of inpatient treatment. The respondent is released from inpatient commitment and is committed by the court to outpatient treatment for _____ (date) on _____ (date). The respondent was discharged from the 24-hour facility on _____ (date).

The respondent is on a split commitment and is no longer in need of inpatient treatment. The respondent is released from inpatient hospitalization and is committed to outpatient treatment for _____ (date).

The respondent was transferred to _____ in _____ County on _____ (date).

The respondent expired on _____ (date).

Other (Specify): _____

Signature/Title _____ Date _____

NOTE: If current status is Inpatient Commitment, signature must be that of Attending Physician. If current status is Outpatient or Substance Abuse Commitment, signature must be that of Responsible Professional.

Original: Clerk of Superior Court where petition initiated _____ (date) (Specify: _____)
Clerk of Superior Court where facility treated _____ (date)
Clerk of Superior Court where outpatient or substance abuse commitment supervised _____ (date)
Specify: _____

Medical Record _____ (date)
Respondent and State's Attorney _____ (date)
Designated Outpatient Treatment Center or provider _____ (date)

Form No. DMH 579-01
Revised September 2001

NOTICE OF COMMITMENT CHANGE

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Outpatient Commitment

- Court-ordered treatment of Respondent by a provider outside of the inpatient setting.
- LME/MCO contracts with the providers, “Outpatient treatment physician or center,” who must be designated on outpatient commitment order.
- Appropriate when the court finds Respondent has a mental illness and
 - is capable of surviving safely in the community with support and supervision;
 - based on history, is in need of treatment to prevent deterioration that would predictably result in danger to self/others;
 - current mental status/nature of illness impairs ability to seek treatment on his/her own.
- Maximum period of outpatient commitment is 180 days.

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Resources

NC AOC Forms: <https://www.nccourts.gov/documents/forms>

UNC SOG Involuntary Commitment resources:

<https://www.sog.unc.edu/resources/microsites/mental-health/involuntary-commitment-resources-o>

DHHS IVC Resources:

<https://www.ncdhhs.gov/divisions/mhddsas/ivc>

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