



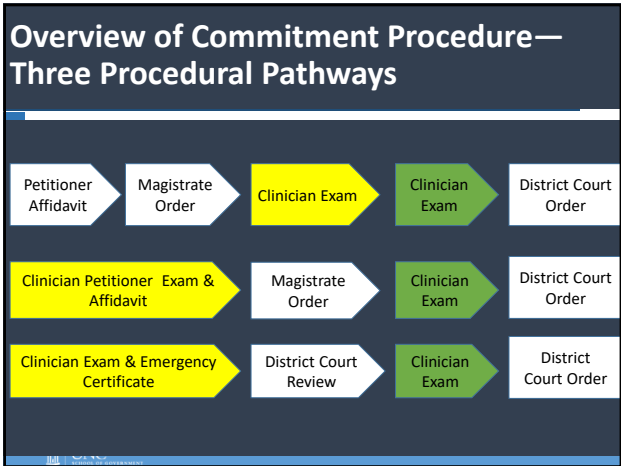
**Involuntary Commitment:
The Procedure for Commitment**

January 2022

Mark Botts





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**The Layperson
Petition Procedure**



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The Petitioner

- Anyone with knowledge may petition
- Petitioner must appear personally
- Jurisdiction is in the county where respondent resides or is found



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Magistrate Role

If the magistrate finds that the commitment criteria are met for either

- outpatient commitment,
- inpatient commitment, or
- substance abuse commitment

the magistrate shall issue a custody and transportation order (AOC-SP-302A)

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Custody-GS 122C-261

The magistrate shall issue the order to

- a law enforcement officer or
- any other person authorized under G.S. 122C-251

to take the respondent into custody for examination by a physician or psychologist

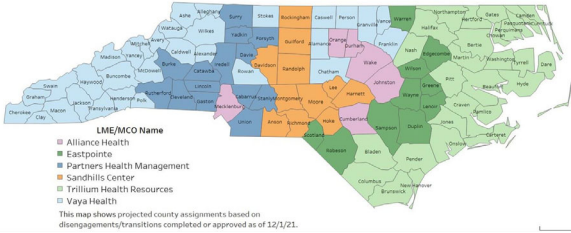
❖ S.L. 2018-33, sec. 8, requires LME/MCOs to create a “community crisis plan”—developed with the participation of acute care hospitals, other first examination facilities, law enforcement agencies, and magistrates—that identifies where the respondent shall be taken for the first exam. Intended to divert some respondents from hospital ED to mental health facilities with commitment examiners.

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LME-MCO service regions—2022

Regional Behavioral Health and Intellectual/Developmental Disability Tailored Plans - Projected County Alignments at Tailored Plan Launch for December 1, 2022



- Tailored Plan contracts awarded to all existing LME/MCOs
- DHHS working with future Tailored Plan to prepare for December 2022 implementation



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Magistrate Must Explain Next Steps to Petitioner

- Next steps in the commitment process
- Other useful information:
 - Law enforcement protocol on restraint
 - Likely wait time at community hospital
- Useful contact information
 - Other resources/options for petitioner if the commitment process terminates at the first examination



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Crisis Services Brochure

What happens next?

Once you are connected to a service provider, they are your "first responder" and will give you contact information so you can reach them at any time in case of a crisis. Your provider works with you to develop a safety plan that is unique to you. They can address what you, your family, and your friends can do in a behavioral health crisis situation in the future.



Want to learn more?

To learn more about behavioral health services in your community, call Partners at 1-888-235-4375 or visit our website at www.Partners4Behavior.org. Partners is a Local Management Entity, Managed Care Organization (LME/MCO) responsible for providing access to care for people who need services for mental health, intellectual/developmental disabilities and substance use disorders (MHC/MCOs) in central and western North Carolina. Partners manages all Medicaid, state and local funding to the MHC/MCOs across its covered areas.

Access to Care: 1-888-235-4375 (4375)
Administrative Offices: 1-877-868-1654
Website: www.Partners4Behavior.org
Email: members@partners4behavior.com
Customer Office: 807 S. Stone House Rd., Charlotte, NC 28294



What is a behavioral health crisis?

A behavioral health crisis happens when you are unable to cope with a range of emotions, impulses and behaviors. Below are examples of a behavioral health crisis:

- Feeling of panic or anxiety that cause you to avoid people and decisions.
- Believing people are out to get you or wanting to hurt you.
- Withdrawing from alcohol or drugs.
- Major changes in alcohol or drug use.
- Seeing or hearing things other people do not see or hear.
- Intense feelings of hopelessness, helplessness or worthlessness.
- Thinking or talking about hurting yourself or others.

Need help now?

Call 1-888-235-4375 (4375) anytime day or night. Partners' Access to Care Call Center staff will connect you to the service you need.

- Scheduling an appointment.
- Directing you to a nearby clinic.
- Sending crisis professionals out to meet you.

Program services using drugs and alcohol are provided on a case-by-case basis. If you are in a crisis, you will receive the first open appointment.



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2015 Legislation

- A custody order may be delivered to the law enforcement officer by electronic or facsimile transmission.
- Applies to all custody orders including
 - Transfer from one 24-hour facility to another
 - Outpatient pick up order



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Custody-GS 122C-261, -251

Upon receipt of the custody order, the law enforcement officer must take the respondent into custody within 24 hours after the order is signed



Without unnecessary delay, the officer must take the respondent to a physician or psychologist for examination.

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Hospital ED Role

Commitment Examination—As soon as possible and w/n 24 hours after respondent is presented


- Outpatient commitment
- Inpatient commitment
- Substance abuse commitment




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Hospital ED Role—Findings and Recommendations

Findings	Result
No commitment criteria	→ Release
Outpatient commitment	→ Release pending hearing
Inpatient commitment	→ Inpatient facility
Substance abuse commitment	→ Release or inpatient facility

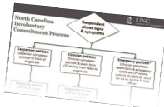





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Summary: Procedure for the Layperson

1. Petition
2. Custody Order
3. Custody and Transportation
4. Examination and Health Screen
5. Release or 24-Hour Facility






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The Clinician Petition Procedure

Authorized Clinicians

- Physicians
- PhD psychologists with a health services provider certificate
- If qualified through DHHS training and certification → licensed clinical social workers, masters level or higher nurse practitioners, physician assistants, licensed clinical mental health counselors, licensed marital and family therapists and—for substance abuse commitment only--licensed clinical addictions specialists



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Forms

- “First Examination For Involuntary Commitment” (DMH 5-72-19)
 - <https://www.ncdhhs.gov/assistance/mental-health-substance-abuse/involuntary-commitments>
 - “Affidavit and Petition for Involuntary Commitment” (AOC-SP-300)
 - <https://www.nccourts.gov/documents/forms?>
- ❖ To petition the magistrate for a custody order under the clinician procedure, a clinician must complete and submit both forms



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Petitioner May Avoid Personal Appearance Before Magistrate

If the petitioning commitment examiner:

- Examines the respondent (physical face to face presence or via telemedicine equipment and procedures), and
- Signs the “Affidavit and Petition” before an official authorized to administer oaths (notary),



- Then petitioner may file the examination and affidavit forms by delivering copies through facsimile transmission
- Must mail originals within 5 days to the clerk of superior court



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AOC-SP-300

STATE OF NORTH CAROLINA		File No.	
County		In The General Court Of Justice District Court Division	
IN THE MATTER OF		AFFIDAVIT AND PETITION FOR INVOLUNTARY COMMITMENT	
Name And Address Of Respondent			
Social Security No. Of Respondent (if available)	Date Of Birth	Driver's License No. Of Respondent	G.S. 122C-261, 122C-261 State
I, the undersigned affiant, being first duly sworn, and having sufficient knowledge to believe that the respondent is a proper subject for involuntary commitment, allege that the respondent is a resident of, or can be found in the above named county, and is: (check as 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 probably result in dangerousness. <input type="checkbox"/> in addition to being mentally ill, respondent is also "mentally retarded" pursuant to G.S. 122C-261. <input type="checkbox"/> 2. 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.)			



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Name And Address Of Nearer Relative Or Guardian		Name And Address Of Person Other Than Petitioner Who May Testify	
Home Telephone No.	Business Telephone No.	Home Telephone No.	Business 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
Date	Signature	Name And Address Of Petitioner (Type or print)	
<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Clerk Of Superior Court	<input type="checkbox"/> Magistrate
<input type="checkbox"/> Notary (use only with physician or psychologist/petitioner)	Date Notary Commission Expires	Relationship To Respondent	
SEAL	County Where Notarized	Home Telephone No.	Business Telephone No.
Original File Copy Hospital Copy Special Counsel Copy Attorney General (Over)			
AOC-SP-300, Rev. 5/17 © 2017 Administrative Office of the Courts			

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STATE OF NORTH CAROLINA Department of Health and Human Services Division of Mental Health, Developmental Disabilities, and Substance Abuse Services						County _____
						Client Record # _____
						File # _____
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:						

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HEALTH SCREENING	
<small>A health screening (N.C. G.S. § 122C-3(16a)) does not constitute a medical evaluation and should be completed at the same location as the first examination or by utilizing telemedicine equipment and procedures (N.C. G.S. § 122C-26.3(a)).</small>	
Check box below and sign to attest if a health screening is being replaced by a medical evaluation	
<input type="checkbox"/> Sign/Print Name, Credentials, Date & Time	
Vital Signs	
BP _____ HR _____ RR _____ Temp _____ Date & Time _____	
If person taking vitals is different than person completing this form, sign/print name & credentials below:	

Known/reported medical problems (diabetes, hypertension, heart attacks, sickle cell anemia, asthma, etc.):	

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Commitment Examiner—Identify the Recommended Commitment on Exam Form

Section III: Recommendation—page 4 of Examination Form

- Inpatient commitment
- Outpatient commitment
- Substance abuse commitment

SECTION III - RECOMMENDATION FOR DISPOSITION

Inpatient Commitment for _____ days (respondent must be mentally ill 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 and Phone Number) _____

Substance Abuse Commitment (respondent must meet both criteria outlined in Section I, **Substance Abuse**)

Release respondent pending hearing - Referred to: _____

Hold respondent at 24-hour facility pending hearing - Facility _____

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Magistrate is Guided by the Clinician’s Recommendation

If the petitioning examiner recommends:


- Outpatient commitment, then evaluate the facts presented in the examiner’s affidavit according to the outpatient commitment criteria
- Inpatient commitment, then evaluate the facts presented in the affidavit according to the inpatient commitment criteria
- Substance abuse commitment, then evaluate the facts presented in the affidavit according to the substance abuse commitment criteria

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Examiner Role → Magistrate Role

Examiner Recommendation	→	Magistrate Order
Outpatient commitment	→	Hearing Order (release)
Inpatient commitment	→	Custody Order (inpatient facility)
Substance abuse commitment and hold pending hearing	→	Custody Order (inpatient facility)
Substance abuse commitment and release pending hearing	→	Hearing Order (release)



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Custody Order

The magistrate shall issue an order to

- a law enforcement officer or
- any other person authorized under G.S. 122C-251

To take the respondent into custody and transport to a 24-hour facility for custody, examination, and treatment pending hearing



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Custody Order—AOC-SP-302B

IN THE MATTER OF: Name And Address Of Respondent		FINDINGS AND CUSTODY ORDER INVOLUNTARY COMMITMENT (PETITIONER IS CLINICIAN WHO HAS EXAMINED RESPONDENT) G.S. 122C-282, -281, -283, -281, -283	
Social Security No. Of Respondent	Date Of Birth	Divorce License No. Of Respondent	State
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. <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-281(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 transport the respondent directly 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"/> Assessor 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 the respondent served and taken into custody as follows:			
Date Respondent Taken into Custody	Time	<input type="checkbox"/> AM <input type="checkbox"/> PM	



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Order that a Hearing be Held AOC-SP-305

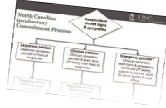
STATE OF NORTH CAROLINA		In The General Court Of Justice Superior Court Division	
County			
IN THE MATTER OF: Name And Address Of Respondent		FINDINGS AND ORDER INVOLUNTARY COMMITMENT PHYSICIAN-PETITIONER RECOMMENDS OUTPATIENT COMMITMENT G.S. 122C-281	
NOTICE: This form is to be used instead of the Findings And Custody Order (AOC-SP-302) only when the petitioner is a physician or psychologist who recommends outpatient commitment or release pending hearing for a substance abuser.			
FINDINGS			
The petitioner in this case is a physician/eligible psychologist who has recommended outpatient commitment/substance abuse commitment with the respondent being released pending hearing.			
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:			
<input type="checkbox"/> mentally ill and in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness.			
<input type="checkbox"/> a substance abuser and dangerous to himself/herself or others.			
ORDER			
It is ORDERED that a hearing before the district court judge be held to determine whether the respondent will be involuntarily committed.			



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Summary: Commitment Examiner Petition Process

1. Examination
2. Petition
3. Custody Order
4. Custody and Transportation



- To use this procedure, petitioner must;
- Be qualified to perform the 1st examination
 - Perform the commitment examination
 - Notarize the affidavit/petition
- If so, petitioner can avoid personal appearance



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Next Steps

After 1st exam and recommendation of inpatient commitment:

- If a 24-hour facility is not
- Immediately available or
 - Medically appropriate

The respondent may be temporarily detained under appropriate supervision at the site of first examination.



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Seven Day Limit

- Seven days after issuance of custody order, commitment must be terminated if 24-hour facility still not available or medically appropriate
 - Physician must report to clerk of court
 - Proceedings must be terminated
- New commitment proceedings may be initiated
 - Requires new petition
 - Requires new examination if petitioner is clinician
 - Requires new custody order



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Change in Respondent's Status

1. If at any time a physician or psychologist determines respondent no longer meets the inpatient criteria:
 - Respondent must be released (proceedings terminated), or
 - Physician may recommend outpatient commitment
2. Decision to release or recommend outpatient commitment must
 - Be made in writing (conduct exam and use exam form)
 - Reported to the clerk of superior court by most reliable and expeditious means



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Change in Respondent's Status

<input type="checkbox"/> Respondent was held at first evaluation site pending placement at a 24-hour facility and no longer meets criteria for inpatient commitment: <ul style="list-style-type: none"><input type="checkbox"/> Terminate proceedings and release respondent<input type="checkbox"/> Recommend outpatient commitment<ul style="list-style-type: none">Proposed Outpatient Treatment Center or Physician: (Name) _____(Address & Phone Number) _____<input type="checkbox"/> LMEMCO notified of appointment: (Name of LMEMCO) _____ Date: _____ <input type="checkbox"/> Release respondent and Terminate Proceedings (insufficient findings to indicate that respondent meets commitment criteria)	
Signature of Commitment Examiner _____ Print Name of Examiner	This is to certify that this is a true and exact copy of the Examination and Recommendation for Involuntary Commitment
Credentials (check one): <input type="checkbox"/> MD/DO <input type="checkbox"/> Eligible Psychologist <input type="checkbox"/> PA <input type="checkbox"/> NP (Master's level or higher) <input type="checkbox"/> LCSW <input type="checkbox"/> LPC <input type="checkbox"/> LCAS (Substance Abuse Evaluation Only)	Original Signature - Record Custodian _____ Title _____ Address of Facility _____



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The Emergency Procedure



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Criteria for Emergency Commitment—Mental Illness

1. Mentally ill + Dangerous
2. Requires immediate hospitalization to prevent harm to self or others

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Transportation and Custody



- Magistrate is not involved
- No custody order needed



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Emergency Procedure Forms—Commitment Examiner

- “First Examination For Involuntary Commitment” (DMH 5-72-19)
- “Supplement to Support Immediate Hospitalization” (DMH 572-01-A)

www.ncdhhs.gov/assistance/mental-health-substance-abuse/involuntary-commitments

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Emergency Certificate

SUPPLEMENT TO SUPPORT IMMEDIATE HOSPITALIZATION
(To be used in addition to "Examination and Recommendation for Involuntary Commitment, Form 572-01)

CERTIFICATE

The Respondent, _____
requires immediate hospitalization to prevent harm to self or others because:

I certify that based upon my examination of the Respondent, which is attached hereto,
the Respondent is (check all that apply):

- Mentally ill and dangerous to self
- Mentally ill and dangerous to others
- In addition to being mentally ill, is also mentally retarded

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Emergency Certificate

Name of 24-hour facility: _____
Address of 24-hour facility: _____

NORTH CAROLINA _____ County
Sworn to and subscribed before me this _____ day of _____, 20____

(seal)

Notary Public

My commission expires: _____
Pursuant to G.S. 122C-202 (d), this certificate shall serve as the Custody Order and the law enforcement officer or other person shall provide transportation to a 24-hr. facility in accordance with G.S. 122C-251.

LIC: 24-hour facility
Clerk of Court in county of 24-hour facility
Note: If it cannot be reasonably anticipated that the clerk will receive the copy within 24 hours (excluding Saturday, Sunday and holidays) of the time that it was signed, the physician or eligible psychologist shall also communicate the findings to the clerk by telephone.

TO LAW ENFORCEMENT: See back side for Return of Service

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Examiner Opts to Petition for a Custody Order

- If upon examination of a respondent presented under the emergency procedure, the commitment examiner finds that the respondent
 - Does not require immediate hospitalization to prevent harm to self or others, but
 - Does meet the criteria for inpatient commitment
- The commitment examiner may petition the magistrate for a custody order in accordance with the clinician petition procedure

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Questions?

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