INVOLUNTARY COMMITMENT PROCESS

N.C.G.S. Chapter 122C NORTH CAROLINA CIVIL COMMITMENT MANUAL

NORTH CAROLINA CIVIL COMMITMENT MANUAL

2006

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North Carolina Indigent Defense Manual Series John Rubin, Editor



Production of this series is made possible by funding from the North Carolina Office of indigent Defense Service

OVERVIEW OF MANUAL

- <u>WWW.NCIDS.ORG</u>
 - "Reference Materials"
 - Civil Commitment
- Purpose of Manual
 - Assist Attorneys in representing respondents or minors facing a commitment
- Eight Chapters
 - Every conceivable admission and commitment under
 - Forms and Motions/Collateral Consequences/Capacity

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Involuntary Commitment for Mental Health Treatment	
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■ Second Evaluation	<u> </u>
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2.1 Overview of Involuntary Commitment Process	
Right to countel. Involuntary commitment is the policial procedure for	
compelling persons to receive mental health treatment, either on an impatient or	
outpatient basis. Special Countel or an appointed attenuey represents all minors and incompetent adults in impatient proceedings, or well as all indigent adults who	
have not arranged for private representation, because there is restriction on	
Beeding of purveyage decoupling the process former Consent and report	
transcent, including through the concurrence of new appears, Appearance of	
counsel for indigent adults in outpotient connutneer proceedings is discretionary with the court. Non-indigent competent adults have the right to him provate	
counel.	
Statutory procedures. The statutory involuntary commitment procedures eggly	
to both adults and manors. Chapter 122C of the North Carolina General Statutes	
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INVOLUNTARY MENTAL HEALTH

- AFFIDAVIT AND PETITION
 - Before Magistrate or Clerk
 - In County of residence or of location
 - Sworn, signed by Petitioner
 - Allegations: "mentally ill" and "dangerous to self or others"
 - Based upon personal knowledge or hearsay
 - May allege Mental Retardation

A. Affidants and Business Reform Clock on Manistran

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The states also requires the efficact to state of these is reason to believe the repondent as its measurily resented. So 3 1222-250(1). This is necessary because state policy in to treat people who are anomaly resented in faculties separate from those deducated to because people with meant illures indeer. The cleak or magicines amont benefitive contact the areas anticative point to insing a curvoly crede for a person adapted to be meanfully breached, and the sent endurity material designates the facility to which the person will be taken for examination, G.S. 1222-2334(6).

Case law: University petition and petition without facts supporting conclusory

In re Ingress, 74 N.C. App. 579 (1985).

Uneverse petition. The North Carolian Court of Appeals held that fealure of a peritation to be inguestly under a efficient of helder a derive advanced contribute collice in ground for demission of the petition. In Beyons, decided under frames memory previous Geo. 3:124-53, nor Ge. 3:127-53, the responsable is habitually filled as currently peritation. The desirat creat received relationey and ordered anotheracy commission of the responsable to up to 90 days. The appellies court held that the instructy requirements for the raginage of the peritation under out much or followed disposition. The desiration of the responsable of the followed disposition. The desiration of the responsable of the followed disposition.

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Ch. 2: Involuntary Commitment for Mental Health Treatment

A. Affidavit and Petition Before Clerk or Magistrate

Affidavit and petition. Involuntary commitment begins with an individual appearing before either the clerk of superior court or a magistrate to file a petition seeking the involuntary commitment of another person. The petition is filed in either the county in which the respondent resides or is present. The petitioner must have knowledge that the person 'is mentally ill and either (i) dangerous to self. . . or dangerous to others. . . or (ii) in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness. . . "G.S. 122C-261(a). An affidavit containing the underlying facts supporting the request for commitment is executed by the petitioner. See infra Appendix A, Form AOC-SP-300.

Case law: Unsworn petition and petition without facts supporting conclusory statements are grounds for dismissal.

In re Ingram, 74 N.C. App. 579 (1985).

Unsworn petition. The North Carolina Court of Appeals held that failure of a petition to be signed by oath or affirmation before a duly authorized certifying officer is ground for dismissal of the petition. In Ingram, decided under former statutory provision G.S. 122-583, now G.S. 122-626, the respondent's husband filed an unsworn petition. The district court received testimeny and ordered involuntary commitment of the respondent for up to 90 days. The appellate court held that the statutory requirements for the signing of the petition under oath must be "followed diligently," and that failure to do so deprived the respondent of "liberty without legal process."

Although a motion to dismiss based upon an unsworn petition should be granted, counsel should advise the respondent of the possible consequences. Because an order of dismissal on this basis is not res judicata, the original petitioner or a current treatment provider may file a sworn petition that could initiate a new involuntary commitment proceeding. Prevailing on the motion to dismiss could serve in effect as an unwanted continuance because the hearing date would be within 10 days of the respondent being taken into custody on the new petition.

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No facts supporting conclusory statements. The petition must contain facts supporting the allegations that the respondent is mentally ill and dangerous to self or others. In Jugoree, the petition stored: "Respondent has stronge behavior and imational in her thinking. Leaves home and no one knows of her whereabouts, and at times spends might away from home. Accures hasband of improprieties." he or 2 mblength; ILO NC. Capp 445, (2004). The North Cavalana Court of the 2 mblength; ILO NC. Capp 445, (2004). The North Cavalana Court of the North Cavalana Court of the North Cavalana Court of committees to be based upon between sufferments. In 20th (1904), the responded committees to be based upon between the surface of the surface of committees the surface of the surface of the surface of the surface of present the surface of the surface of the surface of the surface of presents believe the surface part to the surface or court which the Cavalana surface of the sur No facts supporting conclusory statements. The petition must contain facts supporting the allegations that the respondent is mentally ill and dangerous to self or others. In Ingram, the petition stated: "Respondent has strange behavior and irrational in her thinking. Leaves home and no one knows of her whereabouts, and at times spends night away from home. Accuses husband of improprieties." 74 N.C. App. at 579. The Court held that the paragraph quoted above contained conclusory statements that did not constitute facts alleging mental illness and danger to self or others. They did not form a sufficient basis for a determination of reasonable grounds for issuance of a commitment order. Id. at 581. Receipt and Review of Documents Recept and Kerley at Devenment

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by efficiently of ensurance. This will never by different number depending as
local practice, Counsil choiced pures of the closel or couns and the present of the
foliation of networks bendering the first deal of cours and the recentle closel
of the foliation of networks bendering with statutory requirements.

Petition Gram AOC-SP-3010 Findings and Custody Order Involuntary Commitment (Form AOC-5P-302) Tabling and Corrady Order hardware; Commitment O'man, ACC-479-102.

5 the County Order properly signed and she with the time sent of the 20 to 2 Affidevit of Examining Physician or Eligible Psychologist (First Examination Report) (Form DMH 572-45) Was the examination performed within 24 hours of the time the respondent was these anto custody of the law enforcement efficient? Was the first examination performed by either a physician or eligible porchalingus?
A the examination report properly signed?

Petition	(Form	AOC-	SP-300

- Spetition signed and swom before an authorized officer? G.S. 122C-261(a).

 Was the petition properly clocked in with a date and time stamp?

 Is box 1, alleging mental illness and danger to self or others, checked?

 Do the allegations in the petition support on their face a finding of reasonable grounds to believe that the respondent is mentally ill and either dangerous to self or others or in need of treatment to prevent further disability or deterioration that would predictably result in dangerounness?

 Who does the petition indicate are witnesses to the behaviors and actions alleged in the petition?

	OMITOEINA		The General Court Of Austine
	County		The General Court Of Justice District Court Division
IN THE I	MATTER OF		
			ND PETITION FOR BY COMMITMENT
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and is: jCheck at that epoly: 1. mentally if and dange or defendation that is in addition to bein 2. a substance abuser is	erous to self or others or ments would predictably result in dang g mentally III, respondent is als and dangerous to self or others	ily it and in need of treatment in erousness. o mentally ratianted.	und in the above named county, order to prevent further disability and above the above
Name, augment and the Coar Of Names	Feate D Sures	Turner, Assess And 2to Door St Other S	New and the York Street
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		10.100	General Court Of Justice
Coun	Ly		District Court Division
IN THE MATTER OF	1		
Name, Address And Zlp Code Of Respondent			
		AFFIDAVIT AND	PETITION FOR
		INVOLUNTARY	COMMITMENT
			G.S. 122C-261, 122C-281
Social Security No. Of Respondent	Date Of Birth	Drivers License No. Of Respondent	State
and is: (Phece at finat apply) I mentally ill and dangerous to self or detervision that would predic or detervision that would predic in addition to being mentally if in addition to being mentally if it is abustance abuser and dangero. The facts upon which this opinion is bas	tably result in dangero l, respondent is also n us to self or others.	ousness. nentally retarded.	,
Name, Address And Zip Code Of Nearest Relative Or Gus	rollen	Name, Address And Zip Code Of Other Person	1 Who May Testify To Facts

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III.

Case law:	Petition	may be	based	on	hearsa
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In r Zollicoffer, 165 N.C. App. 462 (2004). The North Carolina Court of Appeals has affirmed that it is permissible for a petition for involuntary commitment to be based upon heavesy information. In Zollicoffer, the respondent appealed the failure of the lower court to grant his motion to dismiss the petition absed upon the heartary contained therein. The Court held that there was no requirement that the petition be based upon first-hand knowledge, and that the petition before the magistrate for clerk of superior court, which the Court characterized as a hearing, was not subject to the rules of evidence.

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Filing a motion to dismiss based upon the insufficiency of the allegations in the petition may be a better strategy than moving to dismiss because of an unsworm petition, as it is based more upon the substance of the case. The petitioner would not be allowed to refile a petition with the same allegations and the original petitioner might not have observed the more recent actions of the respondent. On the other hand, the attending physician at the facility might have sufficient information upon which to file a new petition. This might lead to a delay in the hearing, just as with a dismissal based upon the technical insufficiency of the petition. Counsel should discuss the pros and cons of filing a motion to dismiss with the client to enable the client to make an informed decision on how to proceed.

MAGISTRATE'S HEARING

- The hearing is ex parte;
- Respondent has no right to counsel;
- Not subject to the Rules of Evidence;
- May be based upon hearsay;
- Procedural defenses to Affidavit:
 - Unsigned;
 - Unsworn;
 - failure of personal appearance by petitioner;
 - Admitted fabrication;
 - Conclusions alleged without supporting facts.

CUSTODY ORDER

- Magistrate finds "reasonable grounds to believe facts alleged are true."
- Allows LEO to take respondent into custody for first examination
- Order must be served within 24 hours or new order required
- Allows LEO to use reasonable force necessary to take custody

Involuntary Commitment for Mental Health Treatment: Checklist for Reipondents' Attorneys

This checklist applies after Special Counsel or the appointed attorney receives notice of the patient's adminism. Council the indicated forum as necessary.

- Petition (Form AOC-SP-300)

- age and Correle, Order Earshauter, Committees of Drim, DCC-SP-312.

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 The Correle, Order Correle, Corre

Affidavit of Examining Physician or Eligible Psychologist (First Examination Report) (Form DMH 512-43)

- Was the examination performed within 34 hours of the time the responsibles and custody of the law enforcement offices?
 Was the first examination performed by either a physician or eligible psychologist?
 In the examination report properly signed?

Findings and Custody Order Involuntary Commitment (Form AOC-SP-302)

- Is the Custody Order properly signed and dated with the time noted by the appropriate court official?

 Is box 1, alleging mental illness and danger to self or others under "Findings," checked?

 Is box 1 and/or 2 checked under "Custody Order"?

 Does the "Return of Service" on the back undicate that the respondent was taken into custody within 24 hours of issuance of the custody order?

 Did the law enforcement officer complete either Section A, B, C, or D appropriately on the back of the custody order?

STATE OF NORTH CAL	ROLINA			
	County	in The	General Court Of Justice Natrict Court Division	
IN THE MATTI	ER OF			
Tarte And Appeals Of Requiries?		FINDINGS AND C	COMMITMENT	
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	1.00	CONCA		
The Court finds from the petition in the true and that the respondent is probat	e above matter that there are		he facts alleged in the petition are	
(Check all that appp) 1. mentally ill and dangerous to sidelesissation that would predict in addition to being mentals	fably result in dangerousness ly iii, the respondent probably		went further disability or	
2. a substance abuser and dange	erous to self or others.			
		OY ORDER		
TO ANY LAW ENFORCEMENT OFF				
The Court ORDERS you to take the a				
If the examiner finds that the home or to a consenting person If the examiner finds that the respondent home or to a correct the examiner finds that the respondent to the 24-hour facility. If the examiner finds that the recommend withhelf the recommend of the the that the recommend of the their the recommend of the their the recommend of the their the recommend of their the recommend of their the recommend of their the recommend of their thei	LL, 66 TRANSMITTED TO TI respondent IS NOT a proper in oirs home in the originating to respondent IS mentally if and enting person's home in the oil respondent IS mentally if and lifty named before for temporar respondent IS a substance all motion be substance as on motion to substance as	HE CLÉRK OF SUPERIOR COURT : subject for involuntary commitment, if	MMB(CATTELY) hen you shall take the respondent, notment, then you shall take the to ment, then you shall transport the it pending a district court hearing, notment, the examiner would.	
 2. and transport the respondent of pending a district court hearing transport frames for territor. 	directly to the 24-hour facility on B. (FOR PHYSICWNIPS) CH	named below, for temporary custody, OLOGIST PETITIONERS ONLY.)	examination and treatment	
James Co. December Lateral and Lateral Co.		Date .		
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have Orlandor Recity for Substance Abuser		Sgrature		
Or following facility consignated by sens authority:		D States COC Assister COC	Det of Superior Stud	
NOTE TO MAGISTRATE OR CLERK First appointed in medicily selected in A final specific to the elegonistic selected in a serial authority in selection in the lan- man authority in selection in the plantise. NOTE TO ANY LAW ENFORCEMENT The analysis of the selection of the selection in the selection of the selection, previously, you may be represent the selection, considering to the Selection Of Service Complete the Selection Of Service	action to being mentally if, you into a program from the program of the program o	noity where the replanter readed has a ent define assuing any custody under. the Order is signed. Without unnecessary distributed by any to constant the exeminate any authorities designed could be assuint in its assistance, if any area Socity is not a top or come. On a persease insporter, our top or come.	a single portal pain, you must can the delay after assuming custody, you or. Fan authorized examiner is not 2 an authorized examiner is not 2 an authorized examiner or assume, you may allow the respondent or in a pair or three years facility.	

STATE OF NORTH CA	AROLINA	<u> </u>	
	County		In The General Court Of Justice District Court Division
IN THE MAT	TER OF:		
Name And Address Of Respondent			ND CUSTODY ORDER TARY COMMITMENT
	Loate Of Rich	Onlivers License No. Of Responde	G.S. 122C-261, -263, -281,
Social Security No. Of Respondent	Date Of Siles	Drivers License No. Of Hesponse	nr James
	1	FINDINGS	
true and that the respondent is prob (Check all that apply) 1. mentally ill and dangerous to deterioration that would pred In addition to being menta	self or others or mentally ill ictably result in dangerousne	PSS.	er to prevent further disability or
(Check all that apply)	self or others or mentally ill ictably result in dangerousne illy ill, the respondent probab	PSS.	er to prevent further disability or
(Check all that apply) 1. mentally ill and dangerous to deterioration that would pred	self or others or mentally ill ictably result in dangerousna ally ill, the respondent probab gerous to self or others.	PSS.	er to prevent further disability or
(Check all that apply) 1. mentally ill and dangerous to deterioration that would pred	self or others or mentally ill ictably result in dangerousne ally ill, the respondent probat gerous to self or others.	ess. oly is also mentally retarded.	er to prevent further disability or
(Check all that apply) 1. mentally ill and dangerous to deterioration that would pred in addition to being ment. 2. a substance abuser and dan	self or others or mentally ill ictably result in dangerousn ally ill, the respondent probat gerous to self or others. CUST FICER: above named respondent in	ess. ODY ORDER to custody	

EXAMINE IF the examous the example of the example	RPS FINDINGS SHALL BE TRA miner finds that the respondent o a consenting person's home is miner finds that the respondent it home or to a consenting pers miner finds that the respondent in to the 24-hour facility named miner finds that the respondent be to the respondent to the 24-hour find the respondent to the 24-hour findings and the respondent the tops are the respondent to the 24-hour findings are the 24-hour findings are the respondent to the 24-hour findings are the 24-	NSMITTED TO THE CLERK O IS NOT a proper subject for inv in the originating county and rele IS mentally ill and a proper sub on's home in the originating cou IS mentally ill and a proper sub below for temporary custody, ex- IS a substance abuser and sub- aken to a 24-hour facility or rele-	ject for outpatient commitment, then you shall take the
		he 24-hour facility named below. HYSICIAN/PSYCHOLOGIST PE	for temporary custody, examination and treatment TITIONERS ONLY.)
Name Of 24-Hour Faci	ity For Mentally III	Date	
Or following facility des	ignated by area authority:	Time	
Name Of 24-Hour Faci	ity For Substance Abuser	Signature	
Or following facility des	ignated by area authority:	Deputy C	
If the respondent facility to which the area authority to con- NOTE TO ANY You shall take the shall take the respondent immediately aural available, yournal available, yournal	e respondent will be taken. If the all letermine the appropriate 24-hour is LAW ENFORCEMENT OFFICE respondent into custody within 24 is sondent to an area facility, you shall tak y temporarily detain the respondent supervision, in the respondent is no supervision, in the respondent is no supervision.	ea mental fiealth authority where the cultity or other treatment before issuit ER: hours after the date this Order is sig- nation by a person authorized by law is the respondent to any authorized in an area facility if one is available, me. In a nyther hossibilar clinic, or me. In a nyther hossibilar clinic, or	e area authority before resump a custody order to retermine the exeponeerin resides has a single portial plan, you music call the exponeerin resides has a single portial plan, you music call the end. Without universessing visities assuming custody, you to conduct the amministrum, if an absolution as mainter is not if a mainter is not a mainter in the amministrum of an absolution assumer in the to conduct the amministrum of a single plan and assume an assumer in our soundaries, you may deat the exponent on a general residual, you can be a good order press facility, when of Supperior Court immediately.
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TI RETI	JRN OF SERVICE	
Respondent WAS NOT taken into custody for the follo	wing reason:	
☐ I certify that this Order was received and served as fol	llows:	
ate Respondent Taken Into Custody	Time	□ AM □ PM
1 The respondent was presented to an authorized eva	PRELIMINARY EXAMINATION miner locally available as shown below.	
2. The respondent was temporarily detained at the faci authorized examiner locally available.	lity named below until the respondent coul	d be examined by an
Date Presented Time	Name Of Examiner	
lame Of Local Facility	rw	
1. Upon examination, the examiner named above foun	d that the respondent is mentally ill and m	eets the criteria for
outpatient commitment, or is a substance abuser an recommends release pending a hearing. I returned to consenting person.	the respondent to his/her regular residence	or the home of a
Upon examination, the examiner named above four inpatient commitment, or is a substance abuser and	d that the respondent is mentally ill and m	eets the criteria for
that the respondent be held pending the district cour	rt hearing.	
I transported the respondent and placed the resp observation and treatment.		
☐ I placed the respondent in the custody of the age ☐ 3. Upon examination, the examiner named above foun		
outpatient commitment. I returned the respondent to	o his/her regular residence or the home of	a consenting person.
The examiner's written statement is attached.	will be forwarded.	
Name Of 24-Hour Facility	Date Delivered Time Delivered	AM Date Of Return PM
one Of Transporting Agency	Signature Of Law Enforcement Official	
Triplaced the respondent in the obstody of the age	поу пашео ветом тог ватгэрогавот то вте	z-r-nour recently.
 3. Upon examination, the examiner named above foun outpatient commitment. I returned the respondent to 	d that the respondent did not meet the crit o his/her regular residence or the home of	eria for inpatient or a consenting person.
	will be forwarded.	
The examiner's written statement	Date Delivered Time Delivered	AM Date Of Return
Name Of Transporting Agency	Signature Of Law Enforcement Official	PM
B. FOR USE WHEN PETITIO	NER IS PHYSICIAN/PSYCHOLOGIST	
☐ I transported the respondent directly to and placed him	n/her in the temporary custody of the facili	
Name Of 24-Hour Facility		AM Date Of Return PM
Name Of Transporting Agency	Signature Of Law Enforcement Official	
I took custody of the respondent from the officer name	ENCY TRANSPORTS THE RESPONDEN and above, transported the respondent and	
temporary oustody of the facility named below for obs- Name Of 26-Hour Facility	ervation and treatment. Date Delivered Time Delivered	AM Date Of Return
Name Of Transporting Agency	Signature Of Law Enforcement Official	PM
D. FOR USE WHEN STATE FACI	LITY TRANSFERS WITHOUT ADMISSIO	N .
Pursuant to G.S. 122C-261(f), I took oustody of the re he/she was not admitted, and transported the respond	spondent from the state 24-hour facility na	med above, where
named below for observation and treatment.		
	Date Delivered Time Delivered Signature Of Law Enforcement Or State Facility Office	AM Date Of Return
Name Of Transporting Agency	orgnature or Law Entercement Or State Racility Office	ner .
AOC-SP-302, Side Two, Rev. 9/03, 1/2003 Administrative Office of the	Courts	
EMERGENCY	CERTIFIC	ATE
	CLITITIC	
STATE OF NORTH CAROUNA SUPPLEM Department of Health and Hearen Services Overion of Mental Health, Developments Chabilities, and Substa	ENT TO EXAMINATION AND RECOMMENDATION FOR INVOLUNTARY COMMITMENT	
Swison of Mental Health, Developmental Stabilities, and Substate SUPPLEMENT TO SUPPORT IN (To be used in addition to "Recognition and English	FOR POURE DEVICES	
(To be used in addition to Teamination and Economic CERTIFE	manage and a second contract of the second co	
The Respondent, requires immediate hospitalization	to prevent harm to self or others because:	
regures immediate noightalization	- p in manney was to others because:	
I certify that based upon no examination of the Research	dent, which is attached bereto,	
the Hespondent in (check, all that apply):		
 Mentally ill and dangerous to self Mentally ill and dangerous to others In addition to being mentally ill, in all 		
Signature of Physic	rian or Eligible Psychologist	
Address: City State Zip: Telephone		
Tolophone Data/Time:		
Name of 24-hour facility: Address of 24-hour facility:		
	NORTH CAROLINA County Swom to and authorithed before me this	
OC: 20 now facility Own of Court in country of 20-nour facility	day of, 20 (mal)	
hade if it cannot be reasonably articipated that the care all modes the care after 34 hours are useful fall-rise, burnles and hallowing of the		

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STATE OF NORTH CAROLINA Department of Health and Human Services Diversor of Mental Health, Developmental Disabilities	SUPPLEMENT TO EXAMINATION AND RECOMMENDATION FOR MODULATION FOR MODULATION FOR MODULATION COMMENSATION FOR MODULATION COMMENSATION FOR MODULATION COMMENSATION FOR MODULATION FOR MODULATI	
☐ Respondent WAS NOT taken into cue		
☐ I certify that this Order was received a Cate Respondent Taken reto Custody	170	
Name of 24-Hour Facility	Cale Colvered Zene Colvered Cale of Return	
Name of Transporting Agency	Signature of Law Enforcement Official	

FIRST EXAMINATION

- Performed by physician or psychologist;
- Performed within 24 hours after arrival at local facility;
- Must be a personal examination;
- Examiner determines if Criteria are met: MI, Dangerous;
- Also considers Survivability, Resources, Capacity

D. Custody and Transport to First Examination

The law enforcement officer or other authorized person is to take the respondent into custody within 24 hours after the order is issued. G.S. 122C-261(e). A new custody order must be obtained if the time expires without custody being assumed. The law enforcement officer has no authority to assume custody after the order expires, and a respondent taken into custody without a valid order would have grounds to move to dismiss the petition.

After being taken into custody, the respondent must be transported to an area facility for examination by a physician or eligible psychologist. GS. 122C-263(a). If there is no physician or eligible psychologist at the area facility available to perform the examination, the respondent may be taken to any physician or eligible psychologist in the local area. Occasionally, nether a physician or an eligible psychologist is immediately available; in which case the respondent may be temporately detained pending examination. Temporary detention is allowed in an area facility if syntable, in the respondent house the respondent may be a supported to the control of th

E. First Examination Requirements

Factors to be evaluated. The physician or eligible psychologist must perform the examination as soon as possible, and no later than 24 hours after respondent's arrival. G.S. 122C-263(c); see infra Appendix A, Form DMH 5-72-01.

STATE OF NORTH CAROUAL Operations of invatile and its new between Services. Service of Meterial News, Development Services, and Endorson Services. COMMUNICATION OF SERVICES
LISALLY RESPONSELE FERSON NEXT OF 2014 (ferm and address) Response
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Section 1 - The section of the Teach of
I we append to some more can be a control of the first control of the

	Notable Physical Conditions:	Current Medications (medical and psychiatric)	
	Impression/Dagnosis		
		l	
		EATION FOR DISPOSITION	
	Inguiser Commitment for days (sepportent may Outside Commitment (sepportent may are ALL) or the for Proposed Culpatient Treatment Center or Physician (Name) [Address and Phone Number)	the mentally ill and dangerous to set or others) as four orders outlined in Section I, Outputient)	
a	Substance Rouse Commitment (respondent must meet both Ralease respondent pending hearing. Rafemed St. midd respondent at 24-hour facility pending hearing.		
3	Respondent does not meet the orberts for conventment but our more motiving a crime modeling assess with a feedly weapon, of proceeding the three to be selected under the existence of proceeding the twelver, the respondent or the existence for the	and that he was found not guilty by reason of insanity or incapable	
		This is to certify that this is a true and exact copy of the	
	M.D. Physician Signature	Examination and Recommendation for Involuntary Commitment	
	Signature Title - Eligible Psychologist Qualified Professional	- Original Signature - Record Custodian	
	- Print Name of Examiner	- Title	
	Address or Facility	Address or Facility	
	City and State		
	O () or O () Telephone Number	Code NOTE: Only oppies to be introduced as evidence need to be sertified.	
	Original: Medical Record CC: Cent of Superior Court where petition was initiated (initial heart Cent of Superior Court where be-hour facility is located or whe	ng only)	

Second Examination

- Transport to 24 hour Facility for Admission
- A physician must perform a second exam;
- Physician cannot be first examiner nor psychologist;
- Failure to perform is fatal procedural error, vacating commitment;
- Admission as involuntary inpatient subjects respondent to Restraints and Seclusion 122C-60;

I. Second Examination by Physician

A physician must perform a second examination within 24 hours of the respondent's admission to a 24-hour facility. The examiner cannot be the physician who performed the first examination or an eligible psychologist. As with the initial examination, the respondent must be assessed to determine if the criteria for impatient or outpatient commitment are present. Again, if the criteria for neither are present, the respondent must be released. G.S. 122C-266(a); see infra Appendix A, Form DMH 5-72-01.

Inpatient. If the criteria for inpatient commitment are met, the respondent is held at the 24-hour facility pending the district court hearing. G.S. 122C-266(a)(1).

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DISTRICT COURT HEARING

- Must be held within 10 days of custody on involuntary admission;
- Closed to Public;
- Criteria: Mentally Ill and Dangerous;
- May be continued;
- Release pending hearing results in dismissal of
- Initial commitment is 90 days; then 180; then
- Split commitment possible.

self and others
Dana dan aman

Does the examiner's report recommend inpatient commitment?
Recommendation:

Medical Records Review

- Review records in patient's chart(s) at 24-hour facility.
 Do Progress Notes contain staff observations of manifestation of symptoms of mental illness?
- Do Progress Notes contain staff observations of dangerous behavior toward self or to others?
 Results of drug testing:

- □ Current medications:
 □ Psychological examination or other special examinations or reports?
- □ Any pending criminal charges noted in record?

Interview with Client

- Meet with client as soon as possible. Explain you represent client, no one else

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J. Evidence: Inpatient Commitment

Burden of proof. The Attorney General assigned to a State facility or the UNC Hospitals Psychiatric Services will present evidence on behalf of the State. G.S. 122C-288(b). As noted in § 2.58 supra, there is no statutory mandate for representation of the petitioner at other facilities. The burden is on the petitioner, however, to prove by "clear, cogent, and convincing evidence that the respondent is mentally ill and dangerous to self, . . . or dangerous to others. . . "G.S. 122C-268(b).

Admissible certified copies. The petitioner is allowed to present "[c]ertified copies of reports and findings of physicians and psychologists and previous and current medical records.)..." G.S. 122C-268(f). A respondent has the right

curse medical records. ... "G.S. 122C-288(D.A. recorded has been related by the control and rest-coming some set. If it is unclear whether a petitioner can initially offer certified documents only, forcing the respondent to object. If so, who is their responsible for subposening the witness? If the petitioner can first offer the documents without the witness, the proceeding will likely have to be continued to give the witness time to appear. This scenario forces the respondent to endure a delay in the hearing to enforce the right to cross-examine.

Inadmissibility of voluntary admission. The statutes specifically prohibit the admission of evidence regarding a voluntary admission in a hearing on involuntary inpatient commitment. G.S. 122C-208.

Case law: Admission of physician's report when physician does not appear at hearing constitutes denial of respondent's right to confront and cross-examine witness.

In re Hogan; 32 N.C. App. 429 (1977). In Hogan, the State's only evidence was the written report of the physician who performed the second examination of the respondent, admitted over respondent's objection. The respondent called as a

Cb. 2 Spreingray Compainment for Means Health Treatment

Court stated that this demial would "set least entitle respondent to a new hearing." All as 433. The Court reversed the celler, howevers, on the ground that the findings of fact in the crider did not support the finding fifth the respondent was imminestly dangerous to herself (under the old states) and that there was not any competent readence to support that finding. But as 433–43.

In ve Machie, 16 N.C. App. 638 (1978). As in Nogon, discussed above, the Nort Corolina Court of Appeals addressed the inne of administrat of aphysician's written report without his appearance. In Machie, the pericioner sendided as respondent is releasing and stated that the had not seen the respondent in almost eight months. The only other wisdoms presented by the State was the written report of a physician as Brangham Short.

Section 1. Section 1. Section 1. Section 1. Section 2. Section 2.

Other hearsy evidence may be harder to recognize. A stuff person may begin to sensity to an ancient illustrating a dauget to self or clears without hursing variances of the conversaria. Responders a tensory may have to object when the retinuous branch in the first a sciential whether the wines of the conversarial to the conv

Witnessen. The respondent's anothery must determine, in consultation with it respondent as appropriate, who to call as a writtens and what documents to subposen. Some of these decisions may depend on the trivingh of the peritomic case. For example, if the peritomer presents a weak case, counsel might concerned that the respondent on the widthy and this may be subject to creat-estimations. Some respondences will find that their cases have not been fully presented if they have not restricted. If the charact must not exerciting the right is

MENTAL ILLNESS

■ 122C-3(21): An illness which so lessens the capacity of the individual to use self control, judgment, and discretion in the conduct of affairs and social relations as to make it necessary or advisable for him to be under treatment, care, supervision, guidance or control.

N.C.G.S. § 8C-1, R. EVID. 702

■ If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence, or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education may testify thereto in the form of an opinion or otherwise.

THE MENTAL HEALTH **EXPERT**

- Alphabet Soup:
 - MD, DO, PhD, PsyD, EdD, ABPP, LCSW, MSW, PA, BCD, MPH, MPA, MA, MS, LPC, **CRC**

QUALIFYING AS AN EXPERT

- Academic Training
 - Graduation with a Degree
 - MD or DO for medicine/psychiatry
 - PhD or PsyD for Psychology (possibly EdD)
 - LCSW masters degree
 - Accredited Program
- Supervised Experience
 - Internship
 - Residency

 - Specialty FellowshipsMember of Treatment Team
- Licensure
- Board Certification

SCHIZOPHRENIA

- DSM-IV: Diagnostic and Statistical Manual of Mental Disorders
- Characterized by:
 - Delusions,
 - Hallucinations,
 - Disorganized Speech,
 - Grossly Disorganized Behavior or Catatonic;
 - Negative Symptoms, affective flattening, alogia, avolition

BI-POLAR DISORDER

- A recurrent disorder in which 90% of individuals suffer a manic episode followed by a depressive episode.
- Mania is a period of abnormally and persistently euphoric, expansive or irritable mood.
- Depression is a period of loss of interest or pleasure in all activities, decreased energy, loss of sleep, difficulty thinking, difficulty concentrating, having feelings of worthlessness

DANGEROUS TO OTHERS G.S. 122C-3(11)b

- Within the Relevant Past;
- Inflict or Attempt to inflict Serious Bodily Harm (SBH) on another;
- Threatened to inflict SBH on another;
- Creates a substantial risk of SBH;
- Engages in extreme destruction of property;
- Homicide is prima facie evidence

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DANGEROUS TO SELF G.S. 122C-3(11)a

- Suicide, Mutilation;
- Needs supervision or assistance in conduct of daily affairs and social relations; or
- Needs assistance in feeding, clothing, securing, medical care, shelter, self protection, safety; and
- Reasonable probability of suffering serious physical debilitation without treatment

DANGEROUS TO SELF (Cont.)

- Prima Facie Inference of Inability to Care for Self:
 - Grossly irrational behavior;
 - Uncontrollable behavior;
 - Grossly inappropriate behavior;
 - Severely impaired insight.

DISPOSITION

- **Inpatient**: up to 90 days on initial commitment;
- Outpatient: up to 90 days on initial commitment;
- **Split Commitment**: combination inpatient and outpatient equal to 90 days (e.g. "30/60" split)
- Outpatient/Release Pending Hearing: Court must find criteria by "clr/cog/con evidence."
- Discharge

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	<u> </u>	

SUBSTANCE ABUSE Chapter 3

- Procedure to compel a "Dangerous" Substance Abuser to submit to treatment;
- Substance abuse: Pathological abuse that produces impairment in personal, social or occupational functioning;
- Not an inpatient commitment. Commitment to care of the area authority for 180 days;
- The examiner only recommends "holding" abuser in a 24 hour facility up to 45 days;
- Respondent cannot waive hearing or accept the recommendation of substance abuse commitment.

COLLATERAL CONSEQUENCES Chapter 12

- Driving Privileges;
- Firearm Ownership and Possession;
 - Federal Law;
 - New State Legislation;
- Restrictions on Patient Rights;
 - Forced Meds/Restraint/Seclusion;
 - Visitors, Personal Property, Phone Calls; Worship;
- Expunction of Minor's Record of IVC;

12.4 Driving Privileges

Report of involuntary substance abuse commitment to DMV. The North Carolina Stantuse provide that the clerk of superior court of the county of adjudication must report to the Commissioner of the Department of Motor Vehicles (DMV). (If we were shall be adopted as a respect of its resolution).

G.S. 20-17.1(b)

Determination by DMV. The statute requires the Commissioner to "make inquiry into the facts for the purpose of determining whether such person is competent to operate a motor vehicle." G.S. 20-17(a)

In Commissioner, with the "right to a review by the review board . . . upon written request filed with the Division." Id.

Medical report form. The DMV may require a rectical evaluation as part of a person's driving privileges. The DMV has developed a Medical Report Form to be filled on by the physician performing the evaluation. Failure to obtain an evaluation and to return the medical report to the DMV can lead to revocation of driving privileges.

Advising the client. A client facing involuntary commitment for substance abuse treatment should be advised of the possible loss of diving privileges. After involuntary valuatione abuse commitment, the client may receive a notice of a receive by the DNV along with a request to cloud a medical evaluation in some matters, however, giving privileges have reported by been received by the DNV upon receipt of the notice of substance abuse commitment. The client must then appeal and present violence of the abulty to drive suchey. Actioner prepresentation

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122	Timesama	Ownership	and Possession

Generally. The Federal Gun Control Act contains provisions prohibiting the ownership or possession of a firearm by certain persons because they have been committed or have been adjudicated as a "mental defective." The federal statute provides:

"It shall be unlawful for any person—

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

The statute prohibits not only gun ownership but also possession by certain persons. In North Carolina a person "adjudicated as a mental defective" would appear to encompass one adjudicated to be incompetent in a special proceeding before the clerk of superior court. Determining who is included in the phrase "committed to a mental institution", however, is not clear-cut. Involuntarily committed solution would evidently fall under the statutory definition. It is less clear whether involuntarily committed minors, voluntarily admirted incompetent adults and minors, and adults admirted pursuant to a petition for involuntary commitment but discharged prior to bearing are included. Conneel should therefore inform all of these clients of the federal law and its possible application.

The ability to own or possess a firearm can be important for a number of reasons. Military service and law enforcement are two of a number of professions that

Appendix E

Robert Stranahan, "Involuntary Commitment and the Federal Gun Control Act," from Second Amual Civil Commitment Conference (Jan. 23, 2004) (training program co-sponsored by Office of Indigent Defense Services and Institute of Government)

(D) ADVISING YOUR CLIENT

Commitment result	Is right to firearm lost?
Inpatient or split commitment	Yes
Substance abuse commitment	Probably
Outpatient commitment	Probably
Conversion to voluntary status before hearing	Maybe
Direct discharge before hearing	Maybe
Discharge by the court at commitment hearing	Maybe
Voluntary from start to finish	No

Your client is in the hospital on involuntary commitment papers, pending the 10-day hearing. What can you do to minimize the damage to his firearm rights?

- If the client agrees to be in the hospital for treatment, convince the doctor to allow him to sign in voluntarily. For minors, get the parent or guardian to sign a request for voluntary admission (if the doctor will allow it).
- 2) Get the doctor to directly discharge the client before hearing. This can include continuing the case a week at a time until the client leaves.

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Mechanism for Enforcement: NICS

- National Instant Criminal Background Check System;
- Established as part of Brady Handgun Violence Prevention Act 1998;
- Maintained by FBI;
- Until December 1, 2008, Clerks of Court were not required to report;
- Early 2008: NICS Improvement Act;
- Clerk now reports inpatient commitments.

NEW LEGISLATION Effective Dec. 1, 2008

- 122C-54(d)(1):Clerk shall notify NICS of R who
 - is IVC as **inpatient**;
 - is IVC as outpatient and Found Dangerous;
 - a non-statutory result: see 122C-266(a)(2);
 - Is NGRI;
 - Is Incapable of Proceeding to Trial;
- 122C-54.1: Restoration of Rights by DCJ
 - R no longer suffers from condition requiring IVC;
 - R no longer represents danger relative to firearms.

INCAPABLE TO PROCEED Chapter 8 of Manual

- Any Crime
- Defendant unable by reason of MI or defect:
 - Understand nature of proceedings;
 - Comprehend situation in reference to proceedings;
 - Assist in her defense in a rational and reasonable manner.
- Issue Raised by defense, prosecutor or Court in criminal case

Prehearing Procedures ICP

- Ex-Parte Motion requesting funds for confidential competency examination
- Motion/Order: AOC-CR-207 or AOC-CR- 208;
 - Appendix D of Manual;
 - Local Exam for Misdemeanors;
 - Dix Exam for Felonies;
- A hearing shall be held after competency eval; 15A-1002(b).

Interplay IVC and Criminal Case

- Criminal Trial Judge issues custody order for IVC:
 - Non violent Crime: to local facility for 1st evaluation;
 - 2nd evaluation at 24 hour facility for admission.
 - R may be released pending hearing "detainer status;"
 - Violent Crime: to 24 hour facility for HB 95 status;
 - No release pending hearing;
 - Commitment Court must approve of discharge;
 - D.A. can retain jurisdiction and conduct hearings.

THERAPEUTIC LIMITATIONS

- "House Bill 95" patients are held under close custody i.e. supervision ratio 2:1;
- Close custody inhibits recreational and work therapy;
- Apparently, HB95 patients are considered more "dangerous" than other IVC patients;
- Dix has the only unit dedicated to restoration;
 - Cherry Hospital Psychology Dept. offers instruction;

-		

REVOLVING DOOR COMMITMENT

- Until treating psychiatrist is willing to declare stable, commitment continues (liability issues);
- Often, MD won't recommend dischg. ØVol. D.;
- No authority for forensic evaluations prior to discharge;
- Dix Forensic has backlog of requests for evals;
- Defendant is discharged to jail, re-evaluated at Dix and re-committed within several weeks.

Defender's Responsibility

- Advise client of collateral consequences of commitment;
- Communicate with Special Counsel;
- Strategic pursuit of forensic reevaluation;
- Discourage D.A.'s dismissal with leave;
- Inform the Criminal Court about progress;
 - Request Pre-trial release if discharge imminent;
- Urge prosecutor to dismiss with prejudice;
- When client is Non-Restorable or "served time," move the court for dismissal!

N.C.G.S. 15A-1008

- The Court may dismiss the charge with prejudice when:
 - Patient is non-restorable;
 - After five years confinement on a misdemeanor;
 - After ten years confinement on a felony;
 - When patient has been confined for a period equal to or greater than the maximum sentence for the offense charged;
- 15A-1007 requires court to consider motion to dismiss in spite of prosecutor's "VL" dismissal.

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NGRI Chapter 7

- Automatic Civil Commitment upon determination;
- Felony Injury/Death cases at Dix Forensic;
- Misdemeanor and non-injury cases at other State Facilities;
- Re-commitment hearing at 50 days; Venue: Trial Court;
- Rehearing at 180 and 365 days from commitment order:
- Forensic psychiatrist offers opinion MI and Dangerous;
- Respondent has BOP by preponderance on issues.

The End

- Procedural Defenses:
 - Review Basic Documents for errors;
 - Zollicoffer "mechanism" against unlawful detention;
 - Be critical of the petitioner and the examiner.
- Substantive Defenses:
 - "Mental Illness" requires Competent Expert Testimony;
 - Demand Clear, Cogent, Convincing and Relevant evidence of "Dangerousness"
 - Demand right to confront and cross examine witnesses:
- Counsel clients re: Collateral Consequences;
- Defense Attorney Vigilance when 122C impacts 15A.

STATE OF NORTH CAI	ROLINA	File No.				
	County		In The General Court Of Justice District Court Division			
IN THE MATTE Name, Address And Zip Code Of Respondent	ER OF:					
name, Address And Zip Code Of Respondent			AND PETITION FOR ARY COMMITMENT			
			G.S. 122C-261, 122C-281			
Social Security No. Of Respondent	Date Of Birth	Drivers License No. Of Respondent	State			
and is: (Check all that apply)	nt, allege that the respond to self or others or mental predictably result in dang tally ill, respondent is als ingerous to self or others	dent is a resident of, or can be ally ill and in need of treatment erousness. o mentally retarded.	found in the above named county, in order to prevent further disability			
Name, Address And Zip Code Of Nearest Relative	e Or Guardian	Name, Address And Zip Code Of Other	er Person Who May Testify To Facts			
Home Telephone No. Busin	ness Telephone No.	Home Telephone No.	Business Telephone No.			
Petitioner requests the court to is examination by a person authoriz should be involuntarily committed	ed by law to conduct the					
SWORN AND SUBSCRIBE	D TO BEFORE ME	Signature Of Petitioner				
Date		Name, Address And Zip Code Of Peti	tioner (Type Or Print)			
Signature						
☐ Deputy CSC ☐ Assistant CSC ☐ Cler ☐ Notary (use only with physician or psycholog	k Of Superior Court	Relationship To Respondent				
Date Notary Commission Expires SEAL	• •	Home Telephone No.	Business Telephone No.			

ure Of Witness	Date	
	Signature Of Petitioner	

PETITIONER'S WAIVER OF NOTICE OF HEARING

STATE OF NORT	H CAROLIN	A		File No.	
	County				al Court Of Justice Court Division
IN TH	E MATTER OF:				
Name And Address Of Respondent				E OF HEARING/ VOLUNTARY CO	_
Date Of Birth			-		
					2C-264, -274, -276, -284, -292
/ -	NOTIC	E TO THE RESPO	NDENT NAMED	ABOVE	
(Check only one) 1. It has been alleged commitment.	d that you are mer	ntally ill and a prop	er subject for invo	luntary 🔲 inpat	tient
2. It has been alleged	d that you are a su	ıbstance abuser a	nd a proper subje	ct for involuntary con	nmitment.
3. The physician now present period of o	- ·	determined that yo	ou are in need of f	urther care and treat	ment beyond your
	t guilty by reason	of insanity. The ph	nysician now treati	nd being found incap ng you has determin the hearing referred	ed that further
A hearing will be held be determined if you should					that hearing it will be
At this hearing you will be substance abuser, you happointed for you.					
If the hearing is for an o attorney, you may ask the upon the facts in your page.	ne court to appoint				
Date Of Hearing			Place Of Hearing		
Time Of Hearing		AM PM			
		NOTICE T	O SHERIFF		
This Notice must be ser	ved on the respon	dent at least seve	nty-two (72) hours	before the hearing.	
Date	Signature		Deputy (CSC Assistant CSC	Clerk Of Superior Court
	ı				

	RETURN O	F SERVICE	
I certify that this Notice wa	as received and served on the resp		
Date Served	Time Served	Name Of Respon	dent
2. By leaving a copy of age and discretion th	espondent named above a copy of this Notice at the respondent's dw en residing therein.		or usual place of abode with a person of suitable
Name Of Person With Whom Copies Le	ft		
Address Where Copies Delivered Or Le	oft		
☐ Service Accepted By At	torney For Respondent		
Signature			Date Accepted
☐ Respondent WAS NOT	served for the following reason:		
Date Received	Date Returned	Name Of Sheriff	
County		Deputy Sheriff Ma	aking Return
The clerk in the county where 72 hours before the hearing to form AOC-SP-300. If the restound incapable of proceeding in the county in which the defended of the county in which the examination of the clerk in the county where before the hearing to the propright to notice. If the respondabove for additional persons of the clerk in the county where was initiated if not held in a 2 hearing to the respondent's control of the clerk in the respondent's control of the clerk in the county where was initiated if not held in a 2 hearing to the respondent's control of the clerk in the county where was initiated if not held in a 2 hearing to the respondent's control of the county where was initiated if not held in a 2 hearing to the respondent's control of the county where was initiated if not held in a 2 hearing to the respondent's control of the county where was initiated if not held in a 2 hearing to the respondent's control of the county where was initiated if not held in a 2 hearing to the respondent's control of the county where was initiated if not held in a 2 hearing to the respondent's control of the county where was initiated if not held in a 2 hearing to the respondent's control of the county where was initiated if not held in a 2 hearing to the county where was initiated if not held in a 2 hearing to the county where we have	o the respondent's counsel and the perpondent has been found not guilty by a g, the clerk must also mail a copy of the rendant was found not guilty by reason the recommends outpatient commitmed the petition was initiated must deposition on the petition was initiated must deposition of the petition was initiated must deposit on the petition was initiated must deposit in the mail of the clerk must deposit in the c	eposit in the matitioner, unless reason of insarium enotice to the of insanity or it ent for a person tin the mail a chysician and thand found incapate the enotice abuser: held in a 24-ho a copy of this letitioner has we commitment.	ail a copy of this Notice by first-class mail at least the petitioner has waived his/her right to notice on hity or has been charged with a violent crime and been chief district court judge and the district attorney incapable of proceeding. In who is mentally ill: Copy of this Notice by first-class mail at least 72 hours be petitioner, unless the petitioner has waived his/her coable of proceeding, see instructions immediately Four facility or the clerk in the county where the petition Notice by first-class mail at least 72 hours before the valved his/her right to notice. Notice should also be
I certify that I have mailed	•		72 hours before the hearing to the persons
	are listed below (fill in only those		
Name And Address Of Petitioner		Name And Add	lress Of Counsel For Respondent
Name And Address Of Proposed Outpa	tient Treatment Center/Physician	Name And Add	lress Of Area Authority/Physician
Date	Signature		Deputy CSC Assistant CSC Clerk Of Superior Court

STATE OF NORTH CAR	OLINA		File No.	
Co	County			General Court Of Justice strict Court Division
IN THE MATTE	R OF:			
Name And Address Of Respondent				JSTODY ORDER COMMITMENT
Social Security No. Of Respondent	Date Of Birth	Drivers License No. Of	Respondent	G.S. 122C-261, -263, -281, -283 State
	I.	FINDINGS		
The Court finds from the petition in the true and that the respondent is probabl (Check all that apply) 1. mentally ill and dangerous to se deterioration that would predicta In addition to being mentally 2. a substance abuser and danger	above matter that there a y: If or others or mentally ill ably result in dangerousne ill, the respondent probab	are reasonable grounds and in need of treatments.	nt in order to preve	•
2. a substance abuser and danger	ous to sell of others.			
TO ANY LAW ENFORCEMENT OFFIC		ODY ORDER		
home or to a consenting person IF the examiner finds that the re respondent home or to a conser	mination by a person aut L BE TRANSMITTED TO spondent IS NOT a properson to the originating spondent IS mentally ill and an anting person's home in the spondent IS mentally ill as y named below for temporation spondent IS a substance dent be taken to a 24-hour facility named be rectly to the 24-hour facility has be taken to a 24-hour facility to the 24-hour facility to the 24-hour facility to the 24-hour facility has been as the property of the 24-hour facility has been as the property of the 24-hour facility has been as the property of the 24-hour facility has been as the property of the pr	horized by law to condu THE CLERK OF SUPI er subject for involuntar county and release hir and a proper subject for e originating county and and a proper subject for orary custody, examinat e abuser and subject to ur facility or released, a ellow for temporary custon ty named below, for ten	ERIOR COURT IN y commitment, the n/her. outpatient commit drelease him/her. inpatient commitmion and treatment involuntary commind then you shall ody, examination and porary custody, e	MMEDIATELY.) en you shall take the respondent tment, then you shall take the nent, then you shall transport the pending a district court hearing. itment, the examiner must either release him/her or and treatment pending a district
Name Of 24-Hour Facility For Mentally III	•	Date	•	
Or following facility designated by area authority:		Time		АМ РМ
Name Of 24-Hour Facility For Substance Abuser		Signature		
Or following facility designated by area authority:		Deputy CSC Magistrate	Assistant CSC	Clerk Of Superior Court
NOTE TO MAGISTRATE OF CLERK				

If the respondent is mentally retarded in addition to being mentally ill, you must contact the area authority before issuing a custody order to determine the facility to which the respondent will be taken. If the area mental health authority where the respondent resides has a single portal plan, you must call the area authority to determine the appropriate 24-hour facility or other treatment before issuing any custody order.

NOTE TO ANY LAW ENFORCEMENT OFFICER:

You shall take the respondent into custody within 24 hours after the date this Order is signed. Without unnecessary delay after assuming custody, you shall take the respondent to an area facility for examination by a person authorized by law to conduct the examination; if an authorized examiner is not immediately available in the area facility, you shall take the respondent to any authorized examiner locally available. If an authorized examiner is not available, you may temporarily detain the respondent in an area facility if one is available; if an area facility is not available, you may detain the respondent under appropriate supervision, in the respondent's home, in a private hospital or clinic, or in a general hospital, but not in a jail or other penal facility.

Complete the Return Of Service on the reverse and return to the Clerk of Superior Court immediately.

	II. RETURN	OF SERVICE				
Respondent WAS NOT taken into custody for the following reason:						
☐ I certify that this Order was	received and served as follows	:				
Date Respondent Taken Into Custody		Time			□ АМ	☐ PM
	A. FOR USE AFTER PREI	IMINARY EXAMINA	TION			
·	sented to an authorized examine porarily detained at the facility nally available.	•			examine	d by an
Date Presented	Time	Name Of Examiner				
Name Of Local Facility	│					
 1. Upon examination, the examiner named above found that the respondent is mentally ill and meets the criteria for outpatient commitment, or is a substance abuser and meets the criteria for commitment and the examiner recommends release pending a hearing. I returned the respondent to his/her regular residence or the home of a consenting person. 2. Upon examination, the examiner named above found that the respondent is mentally ill and meets the criteria for inpatient commitment, or is a substance abuser and meets the criteria for commitment and the examiner recommends 					of a ia for	
•	eld pending the district court head condent and placed the responde ment	•	ustody of the	facility	named be	elow for
	nt in the custody of the agency	named below for trans	sportation to t	he 24-h	our facilit	ïV.
☐ 3. Upon examination, the ex	xaminer named above found that I returned the respondent to his	at the respondent did	not meet the	criteria	for inpatie	ent or
The examiner's written staten	nent 🗌 is attached. 🗆	will be forwarded.				
Name Of 24-Hour Facility		Date Delivered	Time Delivered	☐ AM ☐ PM	Date Of Reti	urn
Name Of Transporting Agency		Signature Of Law Enforcemen	nt Official			
В.	FOR USE WHEN PETITIONER	IS PHYSICIAN/PSY	CHOLOGIST			
☐ I transported the responder	nt directly to and placed him/he	in the temporary cus	tody of the fa	cility na	med belo	w.
Name Of 24-Hour Facility		Date Delivered	Time Delivered	AM PM	Date Of Reti	urn
Name Of Transporting Agency		Signature Of Law Enforcemen	nt Official			
C. FOR U	SE WHEN ANOTHER AGENC	Y TRANSPORTS TH	E RESPOND	ENT		
	ndent from the officer named ab acility named below for observat		respondent ar	nd plac	ed him/he	er in the
Name Of 24-Hour Facility		Date Delivered	Time Delivered	AM PM	Date Of Ret	um
Name Of Transporting Agency		Signature Of Law Enforcemen	nt Official			
D. FOR	USE WHEN STATE FACILITY	TRANSFERS WITH	OUT ADMISS	ION		
	I (f), I took custody of the respondent and transported the respondent and treatment.					
Name Of Facility To Which Transferred		Date Delivered	Time Delivered	AM PM	Date Of Ret	um
Name Of Transporting Agency		Signature Of Law Enforcement	nt Or State Facility		l	

STATE OF NORTH CAROLINA Department of Health and Human Services Division of Mental Health, Developmental Disabilities, and Substance Abuse Services County _ File # ___ **EXAMINATION AND RECOMMENDATION TO** Client Record # ___ Film # **DETERMINE NECESSITY FOR INVOLUNTARY COMMITMENT** NAME OF RESPONDENT: AGE **BIRTHDATE** SEX RACE M.S. ADDRESS (Street, Apt., Route, Box Number, City, State, Zip - Use facility address after 1 year in County facility) Phone LEGALLY RESPONSIBLE PERSON NEXT OF KIN (Name and address) Relationship Phone PETITIONER (Name and address) Relationship Phone . 20___ at _ The above-named respondent was examined on ____ o'clock _ _. Included in the examination was an assessment of the respondent's: (1) current and previous mental illness or mental retardation 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 himself or others as defined in G.S. 122C-3 (11*). The following findings and recommendations are made based on this examination. *See Statutory Definitions on Reverse Side. **SECTION I - CRITERIA FOR COMMITMENT** Inpatient. It is my opinion that the respondent is: ☐ mentally ill; ☐ dangerous to self; ☐ dangerous to others (1st Exam - Physician or Psychologist) ☐ In addition to being mentally ill is also mentally retarded (2nd Exam - Physician only) $\hfill \square$ the respondent is mentally ill Outpatient. It is my opinion that: (Physician or Psychologist) the respondent is 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*) the respondent's current mental status or the nature of his illness limits or negates his/her ability to make an informed decision to seek treatment voluntarily or comply with recommended treatment **Substance Abuse.** It is my opinion that the respondent is: ☐ a substance abuser (1st Exam -Physician or Psychologist; 2nd Exam - If 1st dangerous to himself or others exam done by Physician, 2nd exam may be done by Qual. Prof.) **SECTION II - DESCRIPTION OF FINDINGS** Clear description of findings (findings for each criterion checked above in Section I must be described):

(over)

Notable Physical Conditions:	Current Medications (medical and psychiatric)
Impression/Diagnosis:	
SECTION III - RECOMMENDA	TION FOR DISPOSITION
	e mentally ill and dangerous to self or others)
Outpatient Commitment (respondent must meet ALL of the first Proposed Outpatient Treatment Center or Physician: (Name)(Address and Phone Number)	four criteria outlined in Section I, Outpatient)
☐ Substance Abuse Commitment (respondent must meet both crit ☐ Release respondent pending hearing - Referred to: ☐ Hold respondent at 24-hour facility pending hearing - F	
Respondent does not meet the criteria for commitment but custor violent crime, including a crime involving assault with a deadly weap incapable of proceeding: therefore, the respondent will not be releated. Respondent or Legally Responsible Person Consented to Voluntal Release Respondent and Terminate Proceedings (insufficient fine Other (Specify)	ody order states that the respondent was charged with a con, and that he was found not guilty by reason of insanity or sed until so ordered following the court hearing. tary Treatment
Physician Signature M.D.	This is to certify that this is a true and exact copy of the Examination and Recommendation for Involuntary Commitment
Signature/Title - Eligible Psychologist/Qualified Professional	Original Signature - Record Custodian
Print Name of Examiner	
	Title
Address or Facility	Address or Facility
City and State	
	Date NOTE: Only copies to be introduced as evidence need to be certified.
Telephone Number	

Original: Medical Record

CC: Clerk of Superior Court where petition was initiated (initial hearing only)

Clerk of Superior Court where 24-hour facility is located or where outpatient treatment is supervised

Respondent and State's Attorneys, when applicable

Proposed Outpatient Treatment Center or Physician (Outpatient Commitment); Area Program / Physician (Substance abuse Commitment) NOTE: If it cannot be reasonably anticipated that the clerk will receive the copies within 48 hours of the time that it was signed, the physician or eligible psychologist/qualified professional shall communicate his findings to the clerk by telephone.

*STATUTORY DEFINITIONS

- "Dangerous to self". Within the recent past: (a) the individual has acted in such a way as to show: (1) that he would be unable without care, supervision, and the continued assistance of others not otherwise available, to exercise self-control, judgment, and discretion in the conduct of his daily responsibilities and social relations or to satisfy his need for nourishment, personal or medical care, shelter, or self-protection and safety; and (2) that there is a reasonable probability of his suffering serious physical debilitation within the near future unless adequate treatment is given. A showing of behavior that is grossly irrational, of actions that the individual is unable to control, of behavior that is grossly inappropriate to the situation, or of other evidence of severely impaired insight and judgment shall create a prima facie inference that the individual is unable to care for himself; or (b) the individual has attempted suicide or threatened suicide and that there is a reasonable probability of suicide unless adequate treatment is given; or (c) the individual has mutilated himself or attempted to mutilate himself and that there is a reasonable probability of serious self-mutilation unless adequate treatment is given. NOTE: Previous episodes of dangerousness to self, when applicable, may be considered when determining reasonable probability of physical debilitation, suicide, or self-mutilation.
- "Dangerous to others". Within the recent past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct.
- "Mental illness: (a) when applied to an adult, an illness which so lessens the capacity of the individual to use self-control, judgment, and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to be under treatment, care, supervision, guidance or control; and (b) when applied to a minor, a mental condition, other than mental retardation alone, that so lessens or impairs the youth's capacity to exercise age adequate self-control and judgment in the conduct of his activities and social relationships so that he 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 in personal, social, or occupational functioning. Substance abuse may include a pattern of tolerance and withdrawal.

Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

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 hospital	lization to prevent harm to self or others because:
ertify 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	ıll, ıs also mentally retarded
Signature of	of Physician or Eligible Psychologist
Address:	
City State Zip:	
Telephone:	
Date/Time:	
Name of 24-hour facility:	
Address of 24-hour facility:	
	NORTH CAROLINA
	County
CC: 24-hour facility	Sworn to and subscribed before me this day of, 20
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	(seal)
(excluding Saturday, Sunday and holidays) of the	
time that it was signed, the physician or eligible psychologist shall also communicate the findings	Notary Public
to the clerk by telephone.	My commission expires:
	Pursuant to G.S. 122C-262 (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.

TO LAW ENFORCEMENT: See back side for Return of Service

SUPPLEMENT TO EXAMINATION AND RECOMMENDATION FOR INVOLUNTARY COMMITMENT

	RETURN	OF SERVICE						
□ Respondent WAS NOT taken into custody for the following reason:								
☐ I certify that this Order was received and served as follows:								
Date Respondent Taken into Custo	ody	Time			AM DPM			
Name of 24-Hour Facility		Date Delivered	Time Delive	ered AM □ PM □	Date of Return			
Name of Transporting Agency		Signature of Law Enfo	orcement Of	ficial				

Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

SUPPLEMENT TO SUPPORT IMMEDIATE HOSPITALIZATION

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

CERTIFICATE

q	talization to prevent harm to self or others because:
	xamination of the Respondent, which is attached hereto,
the Respondent is (check all t	hat apply):
☐ Mentally ill and da	ngerous to self
☐ Mentally ill and dan	
	ngerous to others g mentally ill, is also mentally retarded
	mentally ill, is also mentally retarded
☐ In addition to being	
☐ In addition to being Address:	mentally ill, is also mentally retarded
In addition to being Address: City State Zip:	mentally ill, is also mentally retarded
☐ In addition to being Address:	mentally ill, is also mentally retarded
☐ In addition to being Address: City State Zip: Telephone:	s mentally ill, is also mentally retarded Signature of Physician or Eligible Psychologist
☐ In addition to being Address: City State Zip: Telephone:	Signature of Physician or Eligible Psychologist NORTH CAROLINA
☐ In addition to being Address: City State Zip: Telephone:	s mentally ill, is also mentally retarded Signature of Physician or Eligible Psychologist
☐ In addition to being Address: City State Zip: Telephone: Date/Time:	Signature of Physician or Eligible Psychologist NORTH CAROLINA County
☐ In addition to being Address: City State Zip: Telephone: Date/Time:	NORTH CAROLINA Sworn to and subscribed before me this day of, 20
☐ In addition to being Address: City State Zip: Telephone: Date/Time:	Signature of Physician or Eligible Psychologist NORTH CAROLINA County Sworn to and subscribed before me this
☐ In addition to being Address: City State Zip: Telephone: Date/Time:	NORTH CAROLINA Sworn to and subscribed before me this day of, 20
☐ In addition to being Address: City State Zip: Telephone: Date/Time:	NORTH CAROLINA Sworn to and subscribed before me this day of, 20 (seal)