

## **DRAFT FAQ on Involuntary Evaluation/302 Process**

### **Are there two ways that an emergency examination may occur with the MHPA?**

Yes. The MHPA (“the Act”) defines two different processes for causing an emergency evaluation to occur.

One process outlined in the statute allows anyone to share information with the county mental health administrator or their delegate, justifying the need for a 302 warrant. Based on this information, a warrant for an emergency evaluation may be issued by the County.

The second process is an evaluation without warrant provision. This provision permits a different standard for physicians, peace officers, or anyone authorized by the county mental health administrator to authorize (i.e. mobile crisis team employee) an emergency evaluation based on a signed/sworn statement of behavior observed.

### **Who can approve a person’s transport to an appropriate location for an evaluation without a warrant?**

The MHPA states that any “physician or peace officer or anyone authorized by the county administrator may take such person to an approved facility for an emergency examination.” Under the *Emergency Examination Without Warrant* clause, authorization is given for one of the above professionals to “make a written statement setting forth the grounds for believing the person to be in need of such examination.” The statement should be signed and dated.

### **When a person is transported by a professional mentioned above, when is a warrant sought, and when does the 120-hour clock start?**

A 302 warrant is not required under this process. While a warrant is not required for an involuntary evaluation, the requirement that the individual is not held for more than 120 hours does begin as soon as the individual is presented at the evaluation site. A 303 would be required to continue to hold the individual past 120 hours.

### **If a person requires medical attention before a mental health evaluation can begin, when does a 302-warrant become necessary?**

Suppose an individual is transported to an evaluation location due to a critical health issue and it is also believed that they meet the standard for an involuntary examination. In such a case, a warrant is not required given that a physician could provide a written statement necessitating an evaluation without warrant. Whether a warrant is or is not secured, the 120 clock begins immediately as the person is already present at the evaluation location.

**When information is shared that a person's actions demonstrate an imminent risk of harm to self or others, but their location is unknown, is a warrant always required for an involuntary evaluation?**

- 1) A warrant may be authorized based on information provided by a member of the public. The Act is silent specifically to how long a warrant remains viable to detain an individual for evaluation beyond the 120 hours that begin when the individual is presented at the evaluation facility. Imminency is inherent in the 302 process as set forth in the Act. The Department interprets the imminency requirement inherent in the Act to necessitate an urgent response.
- 2) Law enforcement and mobile crisis teams should be notified and asked to assist in locating the individual. When the individual is located, the continued need for an examination can be verified by the peace officer or professional authorized by the county mental health administrator (i.e., Crisis team member). If criteria supporting involuntary mental health evaluation continue to exist, the individual may then be transported to an evaluation location by a peace officer, or a person authorized by the county administrator, and an evaluation must then occur. A 302 warrant is not required, but the 120-hour clock begins as soon as the individual is presented at the evaluation location.

**For how long after it is signed does a warrant remain active?**

Current statutes, case law, and regulations are silent concerning how long a warrant remains viable after it is initially signed by the county mental health administrator or their delegate. The Act requires that an imminent risk to self or others exist before a loss of individual liberty occurs. The Department interprets the imminency requirement inherent in the Act necessary to support involuntary emergency evaluation to require that the individual be located within hours, not days. If the individual is not located within a reasonably short period after issuance of the warrant, those persons attempting execution of the warrant must assess whether behaviors evidencing dangerousness to self or others continue to manifest. If the individual continues to exhibit such behaviors, the warrant remains viable and the individual may be transported for evaluation to an appropriate facility and, upon presentation at said facility, the 120-hour clock begins to run. If however the individual is no longer exhibiting behaviors evidencing dangerousness to self or others when the individual is located, then the absence of the criteria required to support the 302 warrant would render the warrant void.

**A physician must evaluate an individual with an active 302 warrant within the first two hours of arrival at the evaluation facility to determine if immediate treatment is needed. What if an individual's physical health condition does not allow for the completion of that exam?**

The law requires that a physician attempt to complete an examination within the first two hours after the individual is presented at the evaluation location (hospital, walk-in centers). 50 P.S. § 7302(b) requires examination by a physician within two hours of the individual's arrival at the facility, but it does not require the physician's final commitment determination within the same two-hour period. If the evaluation is attempted within the initial 2-hour period following presentment at the evaluation facility, but an evaluation could not be completed because the individual is experiencing a medical condition that requires treatment or because the individual is under the influence of alcohol or other substance, where either circumstance prevents the competent assessment of mental status, the physician may delay completing the evaluation until the individual is medically stable or no longer under the influence of alcohol or other substance. The delay in assessment beyond the attempt to evaluate made within the first two hours does not delay the running of the 120-hour period, which begins upon initial presentment at the evaluation facility.

OMHSAS interprets this statutory language to require that absent a determination that treatment is required, an individual "shall be discharged" if no longer in need of treatment *and, in any event, within 120 hours* from the time the individual presents at the facility for evaluation.

**There are three 30-day periods related to the 302 processes. Does that mean the warrant remains valid for 30 days?**

There are three references to 30 days related to events that impact the issuance of a 302 warrant; however, none of these references relate to the time a warrant remains active it is issued. No place in the MHPA references any timeframe associated with the period that warrant remains valid other than the 2-hours for a physician to evaluate and determine whether involuntary treatment is warranted; and that the individual may only be held for a total of 120 hours under the legal parameters of a 302 warrant as set forth in the Act.

State statutes, regulations and case law are silent on how long the 302 warrant remains viable before the individual is located and presented at the evaluation location. Accordingly, it is OMHSAS' interpretation that the warrant remains viable for hours, not days.

DRAFT FOR REVIEW

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