



State of Utah

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DEPARTMENT OF HUMAN SERVICES

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DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH

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Director

February 29, 2016

To Whom It May Concern:

In this letter we hope to clarify the understanding of the Division of Substance Abuse and Mental Health (DSAMH) regarding: 1) the statutorily mandated responsibilities for transportation of individuals who have been temporarily committed to a Local Mental Health Authority (LMHA) and 2) substance use disorders in relation to civil commitment procedures.

1. Statutorily Mandated Responsibilities for Transportation of Individuals Temporarily Committed to a LMHA

When an individual is placed under temporary commitment pursuant to Utah Code Ann. Sect. 62A-15-629(1)(b), the statute authorizes "...any peace officer to take the individual into the custody of a local mental health authority and transport the individual to that authority's designated facility."

Utah Code Ann. Sect. 62A-15-629 also states that "[t]ransportation of persons with a mental illness pursuant to Subsections (1) and (2) shall be conducted by the appropriate municipal, or city or town, law enforcement authority or, under the appropriate law enforcement's authority, by ambulance to the extent that Subsection (5) applies."

In practice, the statute is interpreted differently around the state and, consequently, differing practices occur based on individualized circumstances in the various catchment areas. The Division is not in a position to say which practices reflect the correct interpretation of the statute and which do not. The statute is not clear enough to make that determination. After consulting with our legal counsel, Assistant Attorney General Laura Thompson, we must refer back to the statutory mandates, which fall preeminently to the LMHA, law enforcement authority, and the county sheriff.

It is the responsibility of the LMHA to identify the "designated facility." The statute does not clarify if there is only one designated facility or if there can be more than one designated facility. The statute does not provide clarification regarding transportation between facilities. Differences in interpretation of responsibility for transportation of patients, absent a statutory change, may best be resolved through collaboration and agreement between the law enforcement authority, LMHA, emergency departments, treatment facilities, insurance companies, transportation

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companies, and ultimately the patient in accordance with the applicable laws, best practices, policies and procedures. A copy of the full text regarding temporary civil commitment in Utah Code Ann. Sect. 62A-15-629 is attached for your convenience.

2. Substance Use Disorder Diagnoses in Civil Commitments

The second item we will address in this letter is with regard to substance use disorder diagnoses and substance misuse as it relates to civil commitment statute and rule. Although there may be different interpretations of whether or not substance use disorders can be defined as mental health disorders, historically, in Utah, the statute, rule, policies, forms, treatment, and funding of mental health and substance use disorders have been managed separately. Civil commitment law in Utah expressly refers to individuals diagnosed with a mental illness as those potentially qualifying for civil commitment based on additional factors outlined in statute.

Upon initial crisis evaluation of unknown individuals, it is often challenging to determine if the symptoms being observed are related to a mental illness, a substance use disorder, some other condition, or a combination of these. The determination that the conditions necessary to initiate temporary civil commitment exist (documented through use of DSAMH approved pink or blue sheets located at <http://dsamh.utah.gov/provider-information/civil-commitment/>) are the responsibility of individuals trained and authorized by the State and by LMHAs. Mental health officers, physicians, designated examiners, and sworn police officers are those authorized to initiate temporary civil commitment. Temporary civil commitment is initiated based on the understanding that the person has a mental illness and that due to that illness they are a "...substantial likelihood of serious harm to that person or others...". Evidence of current or past substance misuse at the time of application is not automatic grounds for or against temporary civil commitment.

We would welcome any input from impacted governmental, public or private entities. To provide input or for further clarification please contact Jeremy Christensen, Assistant Director, at 801-538-4390 or Jeremy@utah.gov.

Sincerely,



Doug Thomas
Director

62A-15-629. Temporary commitment -- Requirements and procedures.

- (1) (a) An adult may be temporarily, involuntarily committed to a local mental health authority upon:
 - (i) written application by a responsible person who has reason to know, stating a belief that the individual is likely to cause serious injury to self or others if not immediately restrained, and stating the personal knowledge of the individual's condition or circumstances which lead to that belief; and
 - (ii) a certification by a licensed physician or designated examiner stating that the physician or designated examiner has examined the individual within a three-day period immediately preceding that certification, and that the physician or designated examiner is of the opinion that the individual has a mental illness and, because of the individual's mental illness, is likely to injure self or others if not immediately restrained.
- (b) Application and certification as described in Subsection (1)(a) authorizes any peace officer to take the individual into the custody of a local mental health authority and transport the individual to that authority's designated facility.
- (2) If a duly authorized peace officer observes a person involved in conduct that gives the officer probable cause to believe that the person has a mental illness, as defined in Section 62A-15-602, and because of that apparent mental illness and conduct, there is a substantial likelihood of serious harm to that person or others, pending proceedings for examination and certification under this part, the officer may take that person into protective custody. The peace officer shall transport the person to be transported to the designated facility of the appropriate local mental health authority pursuant to this section, either on the basis of the peace officer's own observation or on the basis of a mental health officer's observation that has been reported to the peace officer by that mental health officer. Immediately thereafter, the officer shall place the person in the custody of the local mental health authority and make application for commitment of that person to the local mental health authority. The application shall be on a prescribed form and shall include the following:
 - (a) a statement by the officer that the officer believes, on the basis of personal observation or on the basis of a mental health officer's observation reported to the officer by the mental health officer, that the person is, as a result of a mental illness, a substantial and immediate danger to self or others;
 - (b) the specific nature of the danger;
 - (c) a summary of the observations upon which the statement of danger is based; and
 - (d) a statement of facts which called the person to the attention of the officer.
- (3) A person committed under this section may be held for a maximum of 24 hours, excluding Saturdays, Sundays, and legal holidays. At the expiration of that time period, the person shall be released unless application for involuntary commitment has been commenced pursuant to Section 62A-15-631. If that application has been made, an order of detention may be entered under Subsection 62A-15-631(3). If no order of detention is issued, the patient shall be released unless he has made voluntary application for admission.
- (4) Transportation of persons with a mental illness pursuant to Subsections (1) and (2) shall be conducted by the appropriate municipal, or city or town, law enforcement authority or, under the appropriate law enforcement's authority, by ambulance to the extent that Subsection (5) applies. However, if the designated facility is outside of that authority's jurisdiction, the appropriate county sheriff shall transport the person or cause the person to be transported by ambulance to the extent that Subsection (5) applies.
- (5) Notwithstanding Subsections (2) and (4), a peace officer shall cause a person to be transported by ambulance if the person meets any of the criteria in Section 26-8a-305. In addition, if the person requires physical medical attention, the peace officer shall direct that transportation be to an appropriate medical facility for treatment.