



## OFFICE OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES BULLETIN

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November 29, 2022

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OMHSAS-22-07

SUBJECT:

**Mental Health Emergency Services: Applying the  
120-hour timeframe for Emergency Involuntary  
Commitments- Revised**

BY:

A handwritten signature in black ink, appearing to read "Dale K. Adair", is written over a white background.

**Dr. Dale K. Adair, Acting Deputy Secretary  
Office of Mental Health and Substance Abuse Services**

### **SCOPE:**

This bulletin applies to Mental Health/Intellectual Disability (MH/ID) Administrators, Base Services Units (BSU), Mental Health Review Officers, county crisis intervention programs, and hospital emergency departments (ED).

### **PURPOSE:**

The purpose of this bulletin is to provide clear guidelines for any party involved in the 302 involuntary commitment process as outlined in the Mental Health Procedures Act (MHPA) of 1976.

### **BACKGROUND:**

The MHPA of 1976 places authority with County MH/ID administrators, or their delegates, for initiating the involuntary commitment of individuals at risk of harming themselves or others due to behaviors associated with acute mental illness. Authorizing language limits the amount of time a person can be held under a 302 involuntary commitment warrant to 120 hours.

On April 1, 2022, the Office of Mental Health and Substance Abuse Services (OMHSAS) issued bulletin OMHSAS-22-01, "Mental Health Emergency Services: Applying the 120-hour timeframe for Emergency Involuntary Commitments", to clarify the application of the involuntary commitment process under section 302; specifically, the 120-hour limitation on holding an individual for involuntary examination and treatment. This revision provides specificity on the two-hour timeframe outlined in the MHPA for examination by a physician.

### **COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:**

Office of Mental Health and Substance Abuse Services, Bureau of Policy, Planning and Program Development, P.O. Box 2675, Harrisburg, PA 17105. General Office Number 717-772-7900

## **DISCUSSION:**

The legislature designated a specific time frame to avoid deprivation of liberty without further due process (see *In Re S.C.*, 280 Pa Super. 539, 421 A.2d 853 (1980)). The mandated time limit reflects the expectation of meeting the constitutional due process requirement to balance individual liberty interests with the government's interests in ensuring individual and societal safety.

When an individual presents with an urgent need for evaluation and treatment due to concerns for the safety of that person or others, the 302 petition is the instrument through which the county mental health administrator provides the authority to temporarily suspend an individual's right to liberty.

The 120-hour limit on deprivation of liberty begins once the county administrator or the administrator's delegate signs the warrant or authorizes the individual for transport prior to signing the warrant, to an appropriate emergency setting, for an emergency 302 evaluation. Within the statutorily authorized 120-hours, the individual shall receive an evaluation by a physician within two-hours of the individual's arrival at an evaluation setting. The purpose of a doctor's evaluation is to determine if further involuntary treatment should be provided in an inpatient setting over the individual's objection.

The Office of Mental Health and Substance Abuse Services (OMHSAS) has been made aware of incorrect information being shared including that the time limit to hold an individual does not start after the individual has been evaluated by a physician or when the process to identify a specific psychiatric inpatient treatment facility has begun. These actions would ignore the full period of confinement that commenced upon an individual's loss of individual freedom. Therefore, these actions could result in violating someone's due process by extending past the maximum 120-hour liberty deprivation period permitted under section 302 of the MHPA.

If an individual arrives at an ED voluntarily seeking treatment under Section 201 of the MHPA, the 120-hour limit would not apply. If a determination is made after their arrival that a 302 commitment is necessary, and is executed, the 120-hour clock would then begin.

A physician must evaluate an individual held on a 302 within the first two hours after an individual's arrival at the evaluation site. If an evaluation does not occur within the required two-hour timeframe, the individual must be discharged and returned to a place of their reasonable request. A new 302 warrant would be necessary to continue to detain the individual. At this time, the two-hour time expectation for the physician examination would begin again. If the legal expectations of a 302 warrant cannot be met within the permitted timeframe, it is not appropriate to execute an additional 302 to allow for more time to complete the required process.

When a physician is unable to determine the disposition of a 302 evaluation due to the individual's physical state (such as a medical condition or intoxication), the physician should note this in the individual's medical record along with a plan for follow-up examination. The 120-hour limit on deprivation of liberty is still in progress regardless of the need for further medical examination to determine disposition.

It is imperative that parties understand that the presence of a medical condition that requires time to clear, or significantly improve, before there can be an effective psychiatric reevaluation, does not delay the start of the 120-hour 302 detention limit. Should 120 hours be insufficient to determine an appropriate disposition, and the individual continues to be identified as a danger to self or others, then legal steps should be taken to extend the period of involuntary treatment as described in Section 303 of the MHPA. Authority to hold an individual past the 120-hour time limit must be secured before the 120-hour limit has expired.

**OBSOLETE:**

This Bulletin obsoletes Bulletin OMHSAS-22-01, “Mental Health Emergency Services: Applying the 120-hour timeframe for Emergency Involuntary Commitments.”