

Introduction

Mental health problems affect citizens of Lake County regardless of socio-economic status, race or gender. In Illinois, the legislature has created a detailed procedure for dealing with individuals who suffer from severe mental illness and pose a threat to themselves or others. That procedure is set forth in the *Mental Health and Developmental Disabilities Code*, 405 ILCS 5/1-100 *et seq.*—the Mental Health Code.

By law, the State’s Attorney conducts the court proceedings arising under the Mental Health Code. The Civil Division of the Lake County State’s Attorney’s Office works with law enforcement, medical providers and families to navigate the procedures of the Code. Those procedures recognize that depriving individuals of their freedom or decisional autonomy should only be done in rare situations when other options do not exist, and when the individual struggling with a mental illness cannot help him or herself.

This brochure briefly addresses the following questions:

- How can I get someone I care about evaluated by a doctor or psychiatrist? (see Mental Health Evaluations)
- How and when can a hospital hold a mentally ill individual at its facility against that person’s will? (see Petitions for Involuntary Commitment)
- How can individuals receive the mental health treatment they need if they are unwilling and unable to consent to the treatment? (see Petitions for Involuntary Treatment)
- What additional resources exist? (see Resources)

This brochure provides a broad overview of the procedures set forth in the Mental Health Code. For more specific information, please call the number listed on the front of this brochure and speak with a member of the State’s Attorney’s mental health team.

Resources

Illinois Department of Human Services

Forms for petitions and certificates can be downloaded from the website:
www.dhs.state.il.us (click on the link “Forms”)

Lake County State’s Attorney, Civil Division

(847) 377-3050

Guardianship & Advocacy Commission

(847) 294-4264
www.gac.state.il.us

Lake County Health Department

(847) 377-8000
www.lakecountyil.gov/Health

National Association for the Mentally Ill (NAMI)

(800) 950-6264
www.nami.org

Vista Medical Center West

(847) 249-3900
www.vistahealth.com

VA – Capt. Lovell Federal Health Care Center

(800) 393-0865
www.lovell.fhcc.va.gov

This project was supported by Grant # 2007-DJ-BX-0084, awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, through the Illinois Criminal Justice Information Authority. Points of view or opinions contained within this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice, or the Illinois Criminal Justice Information Authority.



Mental Health Issues: Involuntary Commitment & Treatment Petitions

Lake County State’s Attorney’s Office

(847) 377-3050

18 North County Street

Waukegan, IL 60085

www.lakecountyil.gov/StatesAttorney

Mental Health Evaluations:

Petitions to Have Someone Taken to a Hospital

If you are concerned about the mental health and safety of someone you care about, the Mental Health Code permits you to petition a court to have law enforcement transport an individual to a hospital for a mental health evaluation. The process requires the individual to meet certain criteria, which include:

- The person is reasonably expected to engage in conduct placing that person or another in physical harm.
- The person is unable to provide for his or her basic physical needs so as to guard himself or herself from serious harm without the assistance of others.
- The person is refusing treatment or not adhering to prescribed treatment and is reasonably expected, based on his or her history, to deteriorate so that he or she will then meet the criteria of either of the standards stated above.

The State's Attorney's Office can assist you in deciding whether a petition is appropriate, and how to complete one. To view a form petition, go to the website of the Illinois Department of Human Services (see Resources).

If the court orders that a person be taken for an evaluation, the person will be examined by a psychiatrist and one other mental health professional within 24 hours of being brought to the hospital. After the evaluation, the medical personnel decide whether the person must be kept at the facility, and if so, they file a new petition that contains their opinions in "certificates," which accompany the petition.

Upon receiving a second petition, the court will set a hearing to occur within 5 business days to decide if the person may be involuntarily held at the hospital. The maximum length of an admission is 90 days.

Petitions for Involuntary Commitment — Q&A

Q: What kinds of mental illness does the Mental Health Code address?

A: Generally, the Mental Health Code addresses any serious mental illness, and illnesses that manifest serious symptoms often include bipolar disorder, schizophrenia, major depression, and schizoaffective disorder, among others. The Mental Health Code specifically excludes substance abuse, dementia absent psychosis, developmental disabilities, and repeated criminal or antisocial conduct from its scope.

Q: How do I begin the process of having someone involuntarily brought to a hospital?

A: If you are 18 or older and believe that someone with a serious mental illness needs immediate hospitalization, contact the State's Attorney's Office in the county where the person resides or is present to discuss filing a petition for involuntary admission (see Mental Health Evaluations).

Q: If a judge decides that a person should be taken to a hospital for an evaluation, will the person be kept at the hospital and treated?

A: A person will be held and treated only if: (1) the doctors at the hospital determine that it is necessary, using the same standards outlined on page 3 of this brochure, to keep the person hospitalized; and (2) the doctors petition a court for authority to involuntarily hold and treat the person. If the doctors do not perceive a sufficient threat under the standards set forth in the Mental Health Code, the person must be released. Similarly, if the doctors do file a petition but a judge, after a hearing, does not authorize involuntary commitment or treatment, then the person must be released from the hospital. The State's Attorney's Office can help you evaluate the particular circumstances you are facing.

Petitions for Involuntary Treatment

For some patients, mental illness can be controlled through treatment. While the Mental Health Code recognizes a patient's right to refuse treatment, that right is not absolute. A mental health provider may petition a judge for an order mandating involuntary administration of treatment where:

- The patient has a serious mental illness.
- Because of the mental illness, the patient exhibits either: (a) a deterioration in his or her ability to function as compared to the patient's ability to function prior to the current onset of symptoms for which treatment is sought; (b) suffering; or (c) threatening behavior.
- The benefits of the treatment outweigh the harm (the hospital must inform the patient in writing of the risks, benefits and alternatives to the treatment sought).
- The patient lacks the capacity to make a reasoned decision about the treatment.
- Other less-restrictive services have been explored and found inappropriate (this should also be documented in writing).

In considering the foregoing criteria at a hearing, a judge may consider evidence of the patient's history of serious violence, repeated past patterns of specific behavior, actions related to the patient's illness, or past outcomes of various treatment options. If the judge decides that the standards for treatment are met, the judge can order involuntary treatment for up to 90 days.

Petitions for involuntary admission to a hospital are separate from petitions for involuntary treatment, but they are often presented to a judge at the same time.