

### **Cheat Sheet: Kansas Legal Holds/Mental Health Petitions**

For questions please reach out to Leandra Flemming at 316-777-7002 or Jennifer Davidson at 316-777-7621

#### **Definition of Mentally Ill Person Subject to Involuntary Commitment for Care and Treatment**

- Means any person with a “mental illness”
  - mental disorder manifested by a clinically significant behavioral or psychological syndrome or pattern and associated with either a painful symptom or an impairment in one or more important areas of functioning, and involving substantial behavioral, psychological or biological dysfunction, to the extent that the person is in need of treatment;
- Lacks capacity to make an informed decision concerning treatment; AND
- Is likely to cause harm to self or others;
- But not someone whose diagnosis is based solely on one of the following mental disorders: alcohol or chemical substance abuse, antisocial personality disorder, intellectual disability, organic personality syndrome, or an organic mental disorder

#### **Application for Emergency Observation**

- Person can be admitted and detained for emergency observation and treatment based on:
  - emergency custody order issued by a district court;
  - written application of law enforcement officer that has the person in custody; or
  - written application of any individual (including medical staff members).
- Written application must be immediately completed based on belief that the person is mentally ill AND likely to cause harm to self or others if not immediately detained.
- If an application is not completed, the patient has to be allowed to leave.
- The application will expire at the end of the next day the court is open for business so if the patient still needs to be detained for treatment, a petition for involuntary commitment must be filed.
- If the application is not completed timely per above, the patient has to be allowed to leave.
  - Example: If a patient comes in on a Saturday, the petition must be filed by Monday. You cannot do another emergency observation application once the first one runs out (no “stacking”).
- The application must be submitted to [kswic-dl-mentalhealthpetitions@ascension.org](mailto:kswic-dl-mentalhealthpetitions@ascension.org) and placed in the patient’s medical record.

#### **Emergency Detention**

- Initiated by a law enforcement officer with a reasonable belief that a person is mentally ill and is likely to cause harm to self or others.
- Officer is obligated to bring the person to a facility for examination by a physician or psychologist. This evaluation must be completed in a timely manner..
- If physician or psychologist agrees the person is likely to harm self or others and will admit the person, an application to admit and detain must be completed by the law enforcement officer.

- If the physician disagrees that the person is a “mentally ill person subject to involuntary commitment,” the officer is obligated to release the person.
- Prior to the application expiring, a petition for involuntary commitment must be filed as specified below if the patient continues to be subject to involuntary commitment.

### **3 Day Letter**

- This letter is provided to patients that sign themselves in voluntarily via admission consent and then wish to leave AMA but continue to qualify for involuntary commitment.
  - **An application for Emergency Observation is not used in this scenario.**
- Letter is provided to patient by any staff member.
- A patient may refuse to sign the 3 day letter but still wishes to leave AMA. If this occurs, the associate will write “patient refused to sign” on the signature line with date and time of discussion. This requires two witnesses who must sign the document next to the signature line which will initiate the process.
- This means that within 3 business days of this document being signed; the treatment team must either discharge the patient or file a mental health petition.
- The patient may also revoke this letter at any time within the 3 days. If at the end of the 3 days a petition is filed, then the patient becomes involuntary.
- The letter must be submitted to **[kswic-dl-mentalhealthpetitions@ascension.org](mailto:kswic-dl-mentalhealthpetitions@ascension.org)** and placed in the patient’s medical record.

### **Mental Health Petition for Involuntary Commitment**

- This must be submitted prior to the Emergency Hold expiring unless the pt. consents to treatment with a signed Admission Consent form, or is able to safely discharge.
- Initiated by the filing of a petition based on the belief that the person is a mentally ill person subject to involuntary commitment, the name/age of the person, etc.
- Mental Health Certificate must also be sent with the petition.
  - Completed by physician, psychologist, or a qualified mental health professional indicating that they have examined the person and determine that the person is mentally ill and subject to involuntary commitment (an exception may be made where the person does not cooperate with the examination)
  - This must be submitted to **[kswic-dl-mentalhealthpetitions@ascension.org](mailto:kswic-dl-mentalhealthpetitions@ascension.org)** with all required documentation in order for a petition to be filed and placed in the patient’s medical record.
  - Physician psychologist, or a qualified mental health professional signing the certificate must be prepared to testify at the hearing or the case will be dismissed.
- Allows for forced stay for further observation and treatment.
- May include a request for an ex parte emergency custody order (expires after second full business day and can’t be stacked)
- OR may include a request for a temporary custody order (must be set for hearing by the second full business day)

- The completed documentation requirements of the [Mental Health Petition Checklist](#) must be sent to [kswic-dl-mentalhealthpetitions@ascension.org](mailto:kswic-dl-mentalhealthpetitions@ascension.org) in order to be processed.  
**\*\*\*Simply placing this information in the pt's chart will not trigger a petition to be filed.**