

**WHAT TO DO IN A PSYCHIATRIC CRISIS IN MARYLAND:
COMPLETING A PETITION FOR AN EMERGENCY EVALUATION**

(From the July/August 2005 NAMI News, Part 1 of a 2-part series)

NAMI Member Evenly Burton gave an excellent presentation at our June Education Meeting on dealing with a psychiatric crisis in Maryland. The following are highlights from the presentation.

In most situations, a psychiatric crisis is characterized by at least one of the following:

- Active danger to self or others (this includes suicidal thinking or behavior, high risk behavior, thinking about or doing harm to others and violence toward property)
- Passive danger to self or others (this includes serious neglect of self or of others in one's care)
- Sudden change in mental status
- Acute psychotic symptoms

Sometimes it is difficult to assess whether or not a person will become violent toward self or others. Some signs of possible impending agitated violence include¹:

- Speech that is loud, threatening and profane
- Increased muscle tension, such as sitting on the edge of the chair or gripping the arms; clenched fists and teeth
- Rapid breathing, flushed face; eyes widen, nostrils flare
- Hyperactivity – restless and repetitive movements, pacing
- Slamming doors or knocking over furniture

The first choice in dealing with a person in a psychiatric emergency is for that person to seek treatment voluntarily. If he or she has a mental health care provider, contact that provider for advice. If the person has insurance, Maryland law requires that the insurance company cover emergency hospitalization or residential crisis services. If the person has no mental health provider, encourage him or her to go to the Crisis Center, a psychiatric hospital (such as Potomac Ridge in Rockville) or the emergency room. In Montgomery County, the Mobile Crisis Team can be called to the home between 8 am and midnight. To access the Mobile Crisis Team, call the Crisis Hotline at 240-777-4000. If possible, accompany the person in crisis to the hospital or crisis center so you can provide information about his or her illness and current behavior.

If the individual will not seek treatment voluntarily, one can petition the court for an involuntary mental health evaluation. Currently Maryland law does not allow for outpatient *civil* commitment, only involuntary evaluation and involuntary hospitalization. Outpatient civil commitment means that a judge has ordered a person to comply with psychiatric treatment and if s/he fails to do so, s/he will be hospitalized involuntarily. Such a law is in place in other states, most notably in New York where the law is called "Kendra's Law." Maryland *criminal* law provides for involuntary outpatient treatment through the parole and probation system. If a person fails to comply with treatment, he or she will be sent back to jail.

In order to obtain an involuntary psychiatric evaluation of an individual, one must petition the court. As of October 1, 2003, **the petitioner must have reason to believe that the individual has a mental disorder and presents a danger to the life or safety of the individual or of others.** (The law no longer requires that there be imminent danger of bodily harm).

¹ Adapted from: Hyman, SE and Tesar, GE (1994) *Manual of Psychiatric Emergencies*, 3rd Ed., p. 29, Boston: Little Brown

DEFINITION OF “MENTAL DISORDER”

“Mental disorder” means the behavioral or other symptoms indicate

- to a lay person: a clear disturbance in the mental functioning of another individual; or
- to a physician, psychologist, clinical social worker or licensed clinical professional counselor doing an examination: at least one mental disorder that is described in the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders (DSM).

DEFINITION OF “DANGEROUSNESS”

“The individual presents a danger to the life or safety of the individual or of others” has been interpreted by administrative law judges as:

- Active dangerousness: Overt acts such as threats of violence or acts of violence.
- Passive Dangerousness: Inability to care for self or others in one’s care, such that the individual’s life or safety are at risk. Examples include endangering oneself by not eating or drinking, neglect of serious medical conditions, or an inability resulting from the mental disorder to recognize actions with serious harmful consequences (e.g., not calling 911 if a child in their care attempts suicide, dangerously inadequate clothing/shelter in cold weather, unable to cross street safely).

The danger need not be imminent in order to be considered by the judge.

DEFINITION OF “REASON TO BELIEVE”

“Reason to believe” is a standard somewhat less than “probable cause.” Certainty is not required. The facts should “warrant the belief of a prudent person.” “Reason to believe” may be based on an examination by a health care professional or observation. If a police officer observes the individual, s/he does not necessarily have to observe the behavior that indicates a mental disorder or dangerousness. “Reason to believe” may also be based on information obtained from family members concerning the mental disorder or dangerousness.

If the Emergency Petition form is completed by a health care professional, the professional can give the form directly to a law enforcement officer and the individual in crisis will be picked up and taken to the nearest hospital. The provider must have personally examined the ill individual, although the law does not specify the timeframe within which this examination must have been performed. If the individual has no provider and it is an emergency, the Mobile Crisis Team can perform this examination or a police officer can observe the individual and complete the Emergency Petition form.

The Emergency Petition form can be completed by a lay person, but it must be reviewed and approved by an administrative law judge. The form can be obtained on the internet (<http://www.courts.state.md.us/courtforms/joint/ccdc13.pdf>), and at the District Courthouse in Rockville. Take the petition to the District Court during court hours or the Rockville police station (on Seven Locks Road) during non-court hours. It may take several hours before the judge reviews the petition. Bring the individual’s medical records including hospital records, doctor reports, diagnoses and a list of his/her prescribed medications.

The judge will only grant the petition if the court finds probable cause to believe the individual has shown symptoms of a mental disorder and meets the dangerousness criteria. The petitioner’s job is to draw a vivid portrait of a person in mental distress that is so serious that s/he meets the dangerousness standard and should be evaluated. Describe the current situation, giving as many details as possible. Details matter. If appropriate, also provide information about dangerousness in similar situations that occurred in the past.

Some examples of how to provide details about the person’s mental status and dangerousness are as follows:

- Evidence of potential for assaulting others (e.g. throwing dishes)
- Makes clearly threatening statements-list the statements verbatim
- Victims show injury, premises show recent signs of struggle or destruction (e.g., large hole in wall)
- Self-harm: suicidal statements, self inflicted wounds.
- Gross self neglect or neglect of those in care (e.g., failure to eat)
- Poor judgment, inability to recognize dangerous situations (e.g., acts on delusions or hallucinations, takes great risks without thinking, grossly overestimates or underestimates own abilities, does not anticipate serious adverse of own actions, etc.)

If the judge grants the Emergency Petition, the petitioner may need to take the petition to the Sheriff's office and be interviewed. The police or sheriffs will find the person in crisis and will transport him/her (often in handcuffs) to the hospital. The petitioner need not be on hand when the law enforcement officers pick up the individual. If the situation is dangerous, leave the scene or call 911. The law requires that the person be taken to the nearest hospital but the petitioner may be able to request that the ill person be taken to another hospital.

Part 2 of this series will present the law concerning treatment in the hospital as a result of an emergency petition.

WHAT TO DO IN A PSYCHIATRIC CRISIS IN MARYLAND: INVOLUNTARY TREATMENT IN A HOSPITAL

(From the September 2005 NAMI News, Part 2 of a 2-part series)

The following is the second in a series summarizing a presentation made by NAMI member Evelyn Burton on how to deal with a psychiatric crisis. We are grateful to Evelyn for her in-depth research on this topic and her excellent presentation.

When an individual is in a psychiatric crisis, s/he may be in need of hospitalization, but may be unwilling to go to the hospital voluntarily. Maryland law allows for a family member, a mental health professional, or another person to petition the court to have a person hospitalized involuntarily for a psychiatric evaluation. Part 1 of this series discussed the process of completing the petition. This section will discuss what happens in the hospital after a person has been transported there involuntarily.

Once a person arrives in the emergency room (usually accompanied by a sheriff's deputy), the law requires that s/he receive a psychiatric evaluation by two physicians or a physician and a psychologist within six hours. Family members or those accompanying the individual should give the emergency room examiners information relating to the five criteria for involuntary hospitalization, including current symptoms, dangerousness (past and present), history of mental illness, hospitalizations, medications, recent refusals or attempts at outpatient treatment. This is best done with a one-page written summary. If the family member is not present in the emergency room, the summary may be faxed and then receipt of the fax should be confirmed by telephone.

If possible, arrange for the individual's outpatient mental health provider (psychiatrist or therapist) to speak to the ER personnel. Tell the ER examiners if you are unwilling to accept the person back in your home, or if the person would be homeless if released from the ER.

The criteria for involuntary hospital admission are:

- Has a mental disorder AND
- Needs inpatient care or treatment AND

- Presents a danger to the life or safety of the person or others AND
- Is unable or unwilling to be admitted voluntarily AND
- There is not available less restrictive form of intervention that is consistent with their welfare and safety.

If the person does not meet the above criteria, s/he will not be “certified” for hospital admission. If not certified, the person is immediately free to go. A family member may request that the ER staff discuss with the individual a referral to a residential crisis bed or other appropriate services. The individual may be “re-petitioned” at any time under new circumstances.

If a person is certified for admission but the hospital does not have a bed available, the hospital must notify the Maryland Department of Health and Mental Hygiene within 24 hours. A person may not be held in an ER for more than 30 hours. One may request admission to a specific hospital but the request may not necessarily be honored.

Once an individual has been admitted to a hospital, a hearing before an administrative law judge must take place within 10 days of admission. The individual’s parent, guardian or next of kin must receive notice of the hearing and may testify in person or by speaker phone. Others may notify the hospital of their wish to testify as well.

At any time before the hearing decision, a patient may request a change in status to “voluntary admission” if the hospital physician finds the patient able to understand and agree to treatment. Voluntary status allows the patient to sign out of the hospital at any time unless physicians determine that the patient meets the criteria for involuntary admission and is re-certified. Family members should let the hospital staff know if the patient has previously refused treatment after conversion to voluntary status.

The commitment hearing should take place in the hospital within ten days of admission. The original petition, hospital certifications and records may be reviewed. Witnesses are usually called but may not speak spontaneously; they can only answer the judge’s questions. Family members should primarily address issues of dangerousness. Before the hearing advise the hospital presenter of a family member’s wish to present so s/he can ask appropriate questions.

If a person does not meet the criteria for involuntary admission, s/he may leave or request voluntary admission. As noted above, s/he may be re-petitioned for evaluation under new circumstances. Errors in the emergency petition can lead to discharge from the hearing. If the petition is vaguely worded, did not document dangerous behavior or was not completely filled out, the judge may decide that the patient should be released.

If a person meets the criteria for involuntary admission, s/he may be held in the hospital for up to six months without a new hearing. Note however, that currently, the average stay in an acute care hospital is about five days.

The criteria for discharge after a person is involuntarily admitted are:

- Inpatient care is not needed to protect the individual or others;
- Discharge would not endanger the individual or the person or property of others; and
- The person can care for himself or will be cared for properly by a responsible person who is able and willing to care for the individual.

In summary, involuntary hospitalization is needed in situations where hospitalization may help avoid a tragic outcome. It may be the best chance for a person to begin to stabilize, but is not a long-term solution and may put significant stress on the relationship between the petitioner and the ill person.

NAMI recommends the book, “I Am Not Sick, I Don’t Need Help” by Xavier Amador, for family members of consumers who are non-compliant with treatment, including information on mending your relationship

after you have petitioned and testified for involuntary hospitalization.

From the editor: Part 1 of this series needed some additional information about obtaining and filing emergency petition forms. The forms are available at all district courthouses, not just the courthouse in Rockville, and can be filed at all district courts.

Basic information about how to file a petition and the phone numbers for local district courts can be found in the brochure, "What to do in a Psychiatric Crisis in Maryland." Please contact the NAMI office if you would like a copy of this brochure.

The NAMI office also has two copies of the book, "I Am Not Sick, I Don't Need Help" in the library and sells copies of the book for \$18.00.