

**INVOLUNTARY**  
**INPATIENT AND OUTPATIENT TREATMENT**  
**PETITIONS AND ORDERS**  
**for**  
**GEORGIA PROBATE COURTS**

These Materials Are an Update from Those Provided at the  
1998 Probate Judges Annual Spring Seminar.  
Updated: January 2017.

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Pursuant to the Drug Abuse Treatment and Education Program, O.C.G.A. ' 26-5-2 et seq.,  
As Approved by the Cherokee County Board of Commissioners.

The Purpose of These Materials Is To Facilitate the Carrying Out of Statutory Duties  
By Probate Judges, Law Enforcement, Mental Health Officials, and Their Attorneys.  
The Forms Are Not Copyrighted.

These Materials Are Not Official Forms and Should Be Considered a Guide.

Note: The original manual was converted from Word Perfect. Alignment may be off.

*Upon request, a copy of this document in Word will be e-mailed as an attachment.*

INVOLUNTARY OUTPATIENT TREATMENT  
PETITIONS AND ORDERS  
for  
COUNTIES WITHOUT MENTAL HEALTH HOSPITALS

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**INVOLUNTARY OUTPATIENT TREATMENT  
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**Introduction to Materials**

At the 1997 spring seminar, Probate Judges in counties not having mental hospitals were encouraged to use *involuntary outpatient treatment* proceedings to address local mental health needs. Because materials for outpatient treatment overlap with inpatient commitment, both appear. The emphasis here is to benefit counties which do not have a State regional mental hospital or private mental hospital and to provide tools for handling outpatient proceedings.

*Who are the patients who would benefit from this type proceeding?*

The easiest ones to identify are those who have already been before the court, either for guardianship proceedings or based on orders for evaluation at a State regional facility because of possible danger to themselves or others. These are people who typically are treatable and might avoid re-hospitalization if they would take prescribed medicine and/or continue treatment. They fail to do so and deteriorate to the point where family members or friends file another petition for involuntary medical evaluation.

*Why is a proceeding necessary?*

Medical treatment can not be given involuntarily, so a court order is necessary. The involuntary outpatient treatment proceeding allows the local mental health agency to come in and seek authority to give treatment. Why not encourage proceedings which help avoid anguish, suffering, deterioration and re-hospitalization?

*Who can bring such a proceeding?*

It appears that only a State or local mental health agency can file a petition for involuntary outpatient treatment. Local agencies are expected to try to serve citizens on a local basis, rather than have them go to State regional facilities, so they should welcome the opportunity to file for involuntary outpatient treatment in appropriate cases. Bringing a petition is in the best interests of the patient's mental health and avoids the cost of long term care.

*Why won't or hasn't the local mental health agency filed such a petition?*

Actually, over twenty years ago the mental health community was trying to get Probate Court judges involved in this procedure. A meeting with local mental health agency staff could be used to reactivate cooperation, explain the proceeding, solicit interest, and address concerns.

An evaluation by the mental health agency is necessary for it to file a petition for involuntary outpatient treatment. If the patient will not appear voluntarily for an evaluation, the local mental health agency may need an order from the Probate Court directing it to carry out the evaluation while the patient is at the Regional Hospital [pursuant to O.C.G.A. ' ' 37-3-41 (b) and 37-7-41 (b)]. The Court's order could alternatively direct that the local mental health agency work with the regional facility or its liaison there to include in the discharge planning a medical order which requires the patient to appear for evaluation.

**Further Introduction to Materials**  
***The following is a discussion "in progress":***

Four major roadblocks to help those with mental, drug and alcohol problems include:

(1) The Federal court decision that persons may not be required to undergo evaluation unless there is an allegation of mental, drug, or alcohol problem and that there is danger to the person or others. O'Conner vs. Donaldson, 422 U.S. 563 (1975).

(2) The Federal health privacy law which prevents family members from gaining information from health providers in order to help the patient. Health Insurance Portability and Accountability Act. (HIPAA).

(3) The least restrictive form of treatment must be provided such that, as soon as a patient is stable, he/she can reject further beneficial treatment and leave. O'Conner vs. Donaldson, 422 U.S. 563 (1975); Barefoot vs. Estelle, 263 U.S. c. 890; Addition vs. Texas, 441 U.S. 433.

(4) State and local funding, such that there are few or no crisis treatment centers; limited treatment within the community; and limited outpatient treatment.

**DEFINITIONS of interest:**

Community mental health center: O.C.G.A. ' 37-3-1 (3); O.C.G.A. ' 37-7-1 (6)  
Emergency receiving facility: O.C.G.A. ' 37-3-1 (5); O.C.G.A. ' 37-7-1 (9)  
Evaluating facility : O.C.G.A. ' 37-3-1 (6); O.C.G.A. ' 37-7-1 (10)  
Facility: O.C.G.A. ' 37-3-1 (7); O.C.G.A. ' 37-7-1 (11)  
Hearing examiner (appointed by Court): See O.C.G.A. ' 37-3-1 (8); ' 37-7-1 (12)  
Individualized service or treatment plan: O.C.G.A. ' 37-3-1 (9); O.C.G.A. ' 37-7-1 (14)  
Inpatient: O.C.G.A. ' 37-3-1 (9.1); O.C.G.A. ' 37-7-1 (14.1)  
Involuntary treatment: O.C.G.A. ' 37-3-1 (9.3); O.C.G.A. ' 37-7-1 (14.3)  
Outpatient: O.C.G.A. ' 37-3-1 (12.1); O.C.G.A. ' 37-7-1 (15.1)  
Private facility: O.C.G.A. ' 37-3-1 (14); O.C.G.A. ' 37-7-1 (17)  
Receiving facility: : O.C.G.A. ' 37-3-91(b); O.C.G.A. ' 37-7-91(b)  
Referring facility: O.C.G.A. ' 37-3-91(b); O.C.G.A. ' 37-7-91(b)  
Treatment facility: O.C.G.A. ' 37-3-1 (18); O.C.G.A. ' 37-7-1 (21)

**TERMS used:**

He/she is used to give versatility to the forms. Where both are not shown, Ahe@ includes Ashe.@

See also: the Protocol section of these materials.

Letter Confirming Understanding with Local Mental Health Agency

(Date)

(To: Local Mental Health agency)

Dear \_\_\_\_:

Thank you for meeting with me on \_\_\_\_\_ to discuss matters which involve both of our offices. I am writing to confirm our discussion.

First, the Probate Court does not have mental health professionals, but persons come here without full knowledge of what State Regional Hospitals do and what alternatives there are. We will refer these persons to you for that information.

Second, the Probate Court joins the mental health community in its objective of having \_\_\_\_\_ County citizens treated in their own county rather than at \_\_\_\_\_ Regional.

To that end, the Court may order your agency to investigate any case where the Probate Court is ordering a person to be apprehended and taken to the Regional Hospital for evaluation and possible treatment, if:

(1) that person is one who has previously received mental health treatment based on court order or voluntarily in a private facility for essentially the same condition, and

(2) that person is one who has recurrent or chronic mental health problems for which cooperation with treatment is sometimes voluntary but for which cooperation at other times is lacking, resulting in harm, or the potential for harm, to the patient or to others.

Your agency may either carry out the investigation itself, or have someone at the evaluating facility to so. If your agency does not find that involuntary outpatient mental health treatment is necessary or appropriate, it should report back to the Probate Court, giving reasons for declining to file a petition for involuntary outpatient mental health treatment. That response would become part of the patient's mental health file for review if future cases arise.

If the need for involuntary outpatient mental health treatment is found necessary or appropriate, your agency would need to file a petition for a full and fair hearing for the patient. The facility where the patient is presently inpatient may include in the patient's discharge planning a provision that the patient see a physician or psychologist for the evaluation which is attached as part of the petition.

The procedure for giving the patient notice, having counsel appointed, and holding a hearing would be followed thereafter by this office after receiving the complete petition. Your agency would be expected to attend the hearing and present information and testimony by the examining physician or psychologist.

I look forward to establishing protocols and procedures which will be for the good of our citizens.

**Re: Affidavit in support of order issued by the Judge of the Probate Court, under Section 37-3-41(b) and Section 37-7-41(b) of the Official Code of Georgia Annotated.**

**INSTRUCTIONS**

I. Specific Instructions

1. This form is to be used where a person presents a substantial risk of imminent harm to himself or others as manifested by either recent overt acts or recent expressed threats of violence which present a probability of physical harm to himself or to other person,

OR

is unable to care for his/her own physical health and safety as to create an imminently life-endangering crisis.

2. The procedure which takes place based on this form is not a substitute for a guardianship proceeding.

3. If the patient is presently incarcerated, he/she will be transported for evaluation and then returned to incarceration.

3. This procedure involves the filing of the affidavit; a hearing on the matter; a possible referral by the Court to the State designated local mental health agency if it appears that you are able to transport the person; the transport of the person to an appropriate State designated *emergency receiving facility* in such a manner as the patient's condition demands; medical clearance by the designated local hospital if the patient appears to be in such medical distress that he/she can not be transported; and the return of the person after evaluation and stabilization.

4. The policy of most *emergency receiving facilities* is to provide an evaluation within thirty (30) minutes of the arrival of a prospective patient. If the person is not kept for treatment, that person will need to be returned home.

5. The person can be transported to the *emergency receiving facility* by family members or friends if the local mental health agency determines that it can be safely done. This is, in fact, encouraged by the law. You should be ready to undertake this responsibility.

6. There is no charge for the filing of these proceedings.

II. General Instructions

General instructions applicable to all Georgia probate court standard forms appear in Volume 255 of the Georgia Reports and are available in each probate court.

*Form updated July 19, 2001*

Filed in Office  
This \_\_\_ day of \_\_\_\_\_, 20\_\_\_,  
At \_\_\_\_\_ o'clock \_\_\_ M.

\_\_\_\_\_  
Deputy Clerk, \_\_\_\_\_ County Probate Court

STATE OF GEORGIA  
COUNTY OF \_\_\_\_\_

Re: \_\_\_\_\_, also referred to here in as APatient@,  
Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
Residence or location where Patient may be found: \_\_\_\_\_

**AFFIDAVIT CONCERNING PATIENT NEEDING EMERGENCY EVALUATION**

Affidavit in support of order issued by the Judge of the Probate Court, under Section 37-3-41(b) and Section 37-7-41(b) of the Official Code of Georgia Annotated.

COME NOW the First Affiant, \_\_\_\_\_ who has resided at  
in the County of \_\_\_\_\_, State of \_\_\_\_\_ for \_\_\_\_\_ (mos)(yrs); and the Second Affiant,  
who has resided at \_\_\_\_\_ in the County of  
, State of \_\_\_\_\_, for \_\_\_\_\_ (mos)(yrs):

The First Affiant has known the above named Patient for over a period of  
(mos)(yrs). The Second Affiant has known the above named Patient for over a period of  
(mos)(yrs). We know the Patient to be a resident of the County in which this Affidavit is filed.

Each of us have had an opportunity to observe the demeanor of the Patient and conduct  
by actually seeing the Patient within the preceding 48 hours. Predicated on what we have  
actually observed the Patient do or say, it is our confirmed lay opinion that the Patient is (check  
all that apply):

- (1) \_\_\_ A **MENTALLY** ill person requiring involuntary treatment and
- (a) \_\_\_ who presents a substantial risk of imminent harm to himself/herself or others as manifested by either recent overt acts or recent expressed threats of violence which present a probability of physical harm to himself/herself or to other person,
  - OR
  - (b) \_\_\_ who is unable to care for his/her own physical health and safety as to create an imminently life-endangering crisis.
  - (c) \_\_\_ who because of the person's current mental status, mental history, or nature of the person's mental illness is unable to voluntarily seek or comply with outpatient treatment and who is in need of involuntary treatment.

- (2) \_\_\_ An **ALCOHOLIC** requiring involuntary treatment and
- (a) \_\_\_ who presents a substantial risk of imminent harm to himself/herself or others as manifested by either recent overt acts or recent expressed threats of violence

which present a probability of physical injury to himself/herself or to other persons, OR

(b)\_\_\_ who is incapacitated by alcohol on a recurring basis, OR

(c)\_\_\_ who because of the person's current mental status and recurrent lack of self-control regarding the use of alcoholic beverages or nature of the person's alcoholic behavior is unable to voluntarily seek or comply with outpatient treatment and who is in need of involuntary treatment.

(3) \_\_\_ A **DRUG DEPENDENT** individual or drug abuser requiring involuntary treatment and

(a)\_\_\_ who presents a substantial risk of imminent harm to himself/herself or others as manifested by either recent overt acts or recent expressed threats of violence which present a probability of physical injury to himself/herself or to other persons, OR

(b)\_\_\_ who is incapacitated by drugs on a recurring basis, OR

(c)\_\_\_ who because of the person's current mental status and recurrent lack of self-control regarding the use of drugs or controlled substances or nature of the person's drug dependency is unable to voluntarily seek or comply with outpatient treatment and who is in need of involuntary treatment.

To be more particular, we have offered ourselves as witnesses for examination before the Probate Court of this County, so that the truth and particular facts of these allegations may be more fully explored by the Court.

**We understand that this document is a sworn statement and we further understand that the Official Code of Georgia Ann. Section 16-5-43 provides that a person who maliciously causes the confinement of a sane person, knowing such person to be sane, in any asylum, public or private, shall upon conviction be punished by imprisonment for not less than one or more than ten years.**

SWORN TO, this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Signature of First Affiant)

\_\_\_\_\_  
(Signature of Second Affiant)

Signed and sworn to before me on the date above stated.

\_\_\_\_\_  
DEPUTY CLERK OF THE PROBATE COURT

JUDGES NOTES ON HIS/HER CHECKLIST

1. Evidence showing problems: To be more particular, the aforesaid Patient has actually done or said the following things which form the basis for this declaration, to wit:  
(Witnessed by whom?)

The Affiants believe that condition is so serious that the Patient should be examined immediately at an Emergency Receiving Facility according to law.

The Affiants further gave the following information to questions asked by the Court:

First Affiant: I am related to or know the Patient as follows:

Second Affiant: I am related to or know the Patient as follows:

2. Prior Treatment: The Patient is known to have been hospitalized or received treatment for the mental, drug or alcohol problems before as follows:  
(State at what hospital or facility or doctor where treated, the city and state of that treatment, the dates or approximate dates, the number of days hospitalized in each case. If the treatment was pursuant to court order, give the name, city and state of the Court.)

3. Normally the Sheriff is ordered to deliver the Patient directly to an emergency receiving facility for evaluation. Select One:

The Affiants do not believe the Patient is in danger medically.

The Affiants believe that the Patient may be in medical danger for which reason he/she needs to be medically cleared and/or treated at a general hospital prior to be taken to the emergency receiving facility.

The following are details in support of their concern and include information available on prior hospitalizations and treatment:

4. If there are any civil cases which have been filed by either Affiant against or concerning the Patient or by the Patient concerning the Affiants in the last five years as follows, the name and county of the court; the year the proceeding was filed; the case number of the proceeding if filed in the last twelve months; the type of case; whether the matter is still pending; the outcome of the case if already disposed of:

As to any pending case, does either of the Affidants intend to make reference to this proceeding in that case?

3. If there has ever been, or are there now, any criminal charges which either Affiant has made against the Patient or the Patient has made against either Affiant; if so, the name and county of the court; the year the proceeding was filed; the case number of the proceeding if filed in the last twelve months; the type of case; whether the matter is still pending; the outcome of the case if already disposed of and, if the charges are still pending, what the next court date is.

4. Does each Affiant understand that State regional hospitals provide limited assistance for mental, alcohol and drug related problems, primarily to evaluate patients and hopefully to stabilize them so that they are not a danger to themselves or others. (State Ayes@ or Ano@.)

In other words, do the Affiants understand that this procedure will not provide regular and on-going treatment? (State Ayes@ or Ano@.)

5. The Affiants have been aware of the Patient's mental, drug, or alcohol problems for the following period of time:

Affiant Number One:

Affiant Number Two:

6. Each Affiant has tried to educate **himself/herself** about how to get help for the Patient and are familiar with the following awareness about mental-drug-alcohol treatment programs, or services to families of persons with mental-drug-alcohol problems, which are offered by health professionals as follows:

Affiant Number One:

Affiant Number Two:

7. Each Affiant understands that the Probate Court Judge can decline to sign an order for evaluation of the patient until we have consulted with an appropriate mental-drug-alcohol health professional and that the Judge may decline to issue the order if the local mental health office or mental-drug-alcohol health professional does not believe it is appropriate to take this patient to the regional hospital ? (Ayes@ or Ano@.)

8. If this Court issues an order that the Patient should be evaluated, each Affiant understands that they, their family members, and/or their friends can transport the Patient to the State facility in Rome, if it can be done safely? (Ayes@ or Ano@.)

Each Affiant understands that if the Sheriff transports the Patient, the Patient may be restrained in handcuffs and leg chains for safety reasons? (Ayes@ or Ano@.)

Understanding all that, would the Affiants prefer to transport the Patient to Rome rather than have the Sheriff do it? (Ayes@ or Ano@.)

Does the local mental health agency find that they, or those on their behalf can transport the Patient safely? (Ayes@ or Ano@.)

9. If the Sheriff is to transport the Patient, do the Affiants understand that they must provide information as to where the Patient is? (Ayes@ or Ano@.)

If the Sheriff is to transport the Patient, who will be present so that the Patient will know that someone is aware that he/she has been taken to Rome and also to lessen the trauma of the situation?

If neither Affiant is the one to be present, the name, address, and phone numbers of the person(s) who can:

10. The following information is given to assist the Sheriff in locating and verifying the identity of the Patient who is to be apprehended:

Patient's Height: \_\_\_\_\_

Weight: \_\_\_\_\_ Hair

Color: \_\_\_\_\_

Other identifying characteristics (glasses, scars, facial hair, etc.)

Other locations where the Patient may be found if not at the residence given on the first page:

Any prior history of violence by the Patient which the Sheriff should be aware of:

Whether the Patient may be armed or in possession of dangerous weapons?

Any known outstanding arrest warrants against the Patient and, if so, issued in what county(ies):

### Information on Possible Medical Coverage

In the event medical clearance is needed at a general hospital before the patient is taken to the regional hospital, or in the event Affiants are requesting that the patient be taken to a private mental/drug/alcohol treatment facility, the following information is obtained:

Is the Patient currently on Medicaid? If so, since approximately when?

Is the Patient currently on Medicare? If so, since approximately when?

Does the Patient have medical insurance or is he/she covered under someone else's policy? If so, the following must be provided to the Court: a copy of the insurance identification card or the name of the entity which provides the insurance, the name that the insurance policy is in, the name of the insurance company, the policy number, the type insurance, and the group number (if any):

Is the Patient a United States Military Veteran? If so, is he retired or does he have service related injuries which may qualify him for treatment at a VA Hospital?

If the patient does not have insurance but does have net assets which would pay for medical treatment in a general hospital if required to address a medically distressed condition, describe those assets and, if real estate, where located.

Information on Contacting the Affiants

The following information is necessary in the event someone from the Court, the Sheriff's office, local mental health agent or the regional hospital needs to contact affiants concerning the Patient:

First Affiant

Name printed:

Mailing address:

Residential street address if different from mailing address:

Home telephone number: \_\_\_\_\_ Work telephone number: \_\_\_\_\_

Pagers, cellular telephone numbers, E-mail addresses, and other means of contacting Affiant:

Second Affiant

Name printed:

Information that is different from First Affiant:

Mailing address:

Residential street address if different from mailing address:

Home telephone number: \_\_\_\_\_ Work telephone number: \_\_\_\_\_

Pagers, cellular telephone numbers, E-mail addresses, and other means of contacting Affiant:

FILED IN OFFICE  
This \_\_\_\_ day of \_\_\_\_\_, 20\_\_.  
at \_\_\_\_\_ M.

\_\_\_\_\_  
Deputy Clerk, \_\_\_\_\_ County Probate Court

IN THE PROBATE COURT OF \_\_\_\_\_ COUNTY  
STATE OF GEORGIA

**Re:** \_\_\_\_\_ (**Referred to below as APatient@**)  
Date of Birth: \_\_\_\_\_; Social Security # \_\_\_\_\_

**ORDER**

**TO: THE HONORABLE SHERIFF OF THIS COUNTY OR AGENT**  
**TO: THE STATE APPROVED EMERGENCY RECEIVING FACILITY**  
**TO: THE LOCAL MENTAL HEALTH CENTER**  
**TO: THE LOCAL HOSPITAL (if applicable)**

Affidavits or a medical affidavit having been filed with the Court, the following findings and order are entered:

The affidavits or medical affidavit filed in the above case complies with legal requirements of Title 37 of the Official Code of Georgia Annotated for the apprehension of the above Patient and transport for evaluation, and, further, that evidence was taken concerning any special needs of the Patient.

IT IS THEREFORE ORDERED AS FOLLOWS:

**I.**

**Confidentiality**

The Court finds that, without further information concerning the stability of the Patient, it would be unsafe for the Patient to receive copies of any documents filed in this Court except this Order.

Therefore a copy of only the Order in the case shall be served on the Patient by the Sheriff.

No other documents emanating from this Court shall be provided to the Patient by any party except pursuant to further Court order, so that the Patient's best interests can be safeguarded.

The State approved emergency receiving facility is specifically ordered not to provide a copy of any document filed with this Court to the Patient except for this Order. Any private facility unable to abide by this Order shall not receive the Patient.

## II.

### Apprehension

Law Enforcement is ordered to take into custody the above Patient who is, upon affidavits on file in the office of the \_\_\_\_\_ County Probate Court, alleged to be:

- (1) \_\_ A **MENTALLY** ill person requiring involuntary treatment and
  - (a) \_\_ who presents a substantial risk of imminent harm to himself/herself or others as manifested by either recent overt acts or recent expressed threats of violence which present a probability of physical injury to himself/herself or to other persons, or
  - (b) \_\_ who is so unable to care for his/her own physical health and safety as to create an imminently life-endangering crisis.
  - (c) \_\_\_ who because of the person's current mental status, mental history, or nature of the person's mental illness is unable to voluntarily seek or comply with outpatient treatment and who is in need of involuntary treatment.
- (2) \_\_ An **ALCOHOLIC** requiring involuntary treatment and
  - (a) \_\_ who presents a substantial risk of imminent harm to himself/herself or others as manifested by either recent overt acts or recent expressed threats of violence which present a probability of physical injury to himself/herself or to other persons, or
  - (b) \_\_ who is incapacitated by alcohol on a recurring basis, or
  - (c) \_\_ who because of the person's current mental status and recurrent lack of self-control regarding the use of alcoholic beverages or nature of the person's alcoholic behavior is unable to voluntarily seek or comply with outpatient treatment and who is in need of involuntary treatment.

- (3) \_\_\_\_\_ A **DRUG DEPENDENT** individual or drug abuser requiring involuntary treatment and
- (a) \_\_\_\_\_ who presents a substantial risk of imminent harm to himself/herself or others as manifested by either recent overt acts or recent expressed threats of violence which present a probability of physical injury to himself/herself or to other persons, or
- (b) \_\_\_\_\_ who is incapacitated by drugs on a recurring basis, or
- (c) \_\_\_\_\_ who because of the person's current mental status and recurrent lack of self-control regarding the use of drugs or controlled substances or nature of the person's drug dependency is unable to voluntarily seek or comply with outpatient treatment and who is in need of involuntary treatment.

### III.

#### **Institution to Which Patient Is To Be Delivered**

Law Enforcement shall deliver the above Patient to the nearest Emergency Receiving Facility as may be further described herein, for an examination as prescribed by law. The facility to which the Patient shall be delivered shall include the following:

\_\_\_\_\_ (Initialed by the Court if applicable) A private institution, based on the acceptance by that institution of the Patient's insurance (a copy of which is made a part of the paperwork in this case; the applicability of Medicaid or Medicare (a copy of proof of coverage or a card is made part of the paperwork in this case); or the appropriateness for a United States Veteran (a copy of acceptance by a Veterans Administration Hospital is made part of the paperwork in this case). The agent approving of acceptance at said institution for evaluation of this Patient, the location, and the phone number are as follows:

---

The order to deliver the Patient to this facility does not in any way indicate that the \_\_\_\_\_ County Sheriff may be held financially responsible for any charges at said facility and it is specifically found that the said facility has stipulated the same.

OR:

\_\_\_\_\_ (Initialed by the Court if applicable) To \_\_\_\_\_, the local mental health center, located at: \_\_\_\_\_, Telephone: \_\_\_\_\_, a private nonprofit institution, based on the agreement with said institution, unless (a) the said Patient is violent or may become violent such that, in the opinion of Law Enforcement, Northwest Georgia Regional Hospital is the more appropriate institution to handle the Patient, or (b) Dalton communicates to Law Enforcement that there is not a bed available or that a review of the paperwork indicates that the Patient can not be appropriately handled at that institution;

OR:

\_\_\_\_\_ (Initialed by the Court if applicable) To the nearest regional hospital, being \_\_\_\_\_ **REGIONAL HOSPITAL**, located at \_\_\_\_\_, \_\_\_\_\_, Admissions Telephone: \_\_\_\_\_; a State institution, OR:

ANY OTHER STATE APPROVED EMERGENCY RECEIVING FACILITY, in such event that the Regional Hospital indicates that it can not accommodate the Patient due to space constraints. The Sheriff is authorized and ordered to deliver the Patient to the next available State authorized emergency receiving facility which will take the Patient for evaluation.

#### IV.

#### **Transfers by Hospitals**

IT IS FURTHER ORDERED THAT, if the Patient is taken by Law Enforcement to a Local Hospital for screening for fitness to travel or medical clearance, the Local Hospital may direct the Patient be delivered to such other State Approved Receiving Facility as is preferable or appropriate in the event the Regional Hospital can not accommodate the Patient .

If the Regional Hospital does have space for the Patient, but the Local Hospital determines that a referral to another State Approved Receiving Facility is preferable, then, unless this Order is amended, transportation of the Patient shall be carried out by the interested parties in this case or by the Local Hospital pursuant to applicable laws and the Sheriff is relieved of the duty to transport.

It is further ordered that Northwest Regional Hospital may determine that delivery to a crisis center or other institution is a more appropriate institution for this Patient be transferred, but the Cherokee County Sheriff is not required to wait for such determination.

\_\_\_\_\_ (Initials) IT IS FURTHER ORDERED THAT in any case where Law Enforcement encounters difficulty in delivering the Patient to the facility designated, Law Enforcement shall deliver the Patient to the next nearest **State Regional Hospital**.

**or:**

IT IS REQUESTED THAT, if the Regional Hospital determines that delivery to the local mental health center is a more appropriate institution for this Patient and the local mental health center has a bed for the Patient and will take the Patient, that the Regional Hospital have the Patient delivered to the local mental health center.

**V.**

**Special Requirements concerning the Patient**

The Court finds that Law Enforcement has authority to pick up such items as it deems necessary for the Patient, such as glasses, a wheelchair, crutches, walker, prosthetics, etc., and to deliver the same along with the Patient for the Patient's use. The receiving facility shall insure that such items are turned over to the Patient upon discharge.

The Court finds that the Probate Court does not have the authority to order a patient for examination at a local hospital, only for evaluation at an approved emergency receiving facility;

but that Law Enforcement has its own authority to seek medical clearance where it deems it is necessary prior to delivery of the Patient.

Based on the evidence presented in this case, the Court finds that either:

\_\_\_\_\_ (Initialed by the Court if applicable) No evidence was presented suggesting that the Patient has a medical problem for which reason clearance at the local hospital is necessary prior to delivery to the emergency receiving facility,

**THEREFORE IT IS ORDERED** that the Patient be immediately transported to the emergency receiving facility unless Law Enforcement determines otherwise;

**OR:**

\_\_\_\_\_ (Initialed by the Court if applicable) Evidence presented indicates that the Patient may have a medical problem for which reason clearance at the local hospital should be considered prior to delivery to the emergency receiving facility,

**THEREFORE IT IS ORDERED** that Law Enforcement determine based on its own protocol whether the Patient should first be cleared at the local hospital.

IT IS FURTHER ORDERED that if a Patient alleged to have a drug problem is required to obtain medical clearance, the local hospital may submit a billing to the Court for consideration for payment of the cost of the examination and laboratory work from funding available, if any, in the Court's budget established pursuant to the Drug Abuse Treatment and Education Programs (D.A.T.E.) law. (O.C.G.A. ' 26-5-1).

## VI.

### **Authority of Law Enforcement To Seek Additional Order**

**IT IS FURTHER ORDERED**, in the best interest of the Patient whose emergency interests are being served, that, upon encountering difficulty in carrying out this Order, Law Enforcement may request further orders in the case from the Undersigned Judge during regular

hours at the Office of the Probate Court, \_\_\_\_\_ or \_\_\_\_\_, and after regular hours by having the Undersigned Judge paged by \_\_\_\_\_ County 911.

**VII.**

**Order as to Transportation**

It is further ordered that transportation of the Patient shall be in compliance with the provisions of O.C.G.A. ' 37-3-101; ' 37-7-101.

**VIII.**

**Order to \_\_\_\_\_ Mental Health Center**

\_\_\_\_\_ (Initialed by the Court if applicable) The Court makes further finding in this case, based on the evidence received and taking judicial notice of all past cases filed with the Court on the Patient and judicial notice of any other judicial proceeding on file in the Blue Ridge Circuit, that the said Patient has a history of mental, drug, and/or alcohol problems for which reason a referral should be made for the purpose of investigation as to what services may be provided to the Patient in order to prevent involuntary inpatient hospitalizations in the future.

\_\_\_\_\_ (Initialed by the Court if applicable) **IT IS THEREFORE FURTHER ORDERED** that the HIGHLAND RIVERS, 191 Lamar Haley Parkway, Canton, Georgia 30114 (telephone 770-704-1600), a non-profit agency designated pursuant to State law as the local mental agency, is directed to review this case and its own records, if any, and investigate the same with its liaisons at any other facility to which the Patient has been sent for evaluation, to determine whether a petition for involuntary outpatient treatment should be brought. Highland Rivers may petition this Court for subpoenas for records as may be needed. If Highland Rivers is not able, the said agency should so respond to the Court, said response becoming part of the nonpublic mental health file on the Patient for purposes of consideration in possible future cases. If The local mental health center determines that such a petition should be brought, it shall determine if the action should be brought in the probate court of the county of

residence of the Patient or where the Patient will be located. The local mental health center may submit a billing to the Court for consideration for payment of the cost of the examination from funding available, if any, in the Court's budget for professional services or from funds established for carrying out the Court's program pursuant to the Drug Abuse Treatment and Education Programs (D.A.T.E.) law. (O.C.G.A. Section 26-5-1).

**IX.**

**Exception to HIPAA**

*Exception is made to the provisions of the United States Health Insurance Portability and Accountability Act (HIPAA), such that, in The Patient's interest, copies of this Order shall be provided to The Patient, Respondent; Respondent's attorney; Highland Rivers, Petitioner; Petitioner's attorney; the Respondent's listed interested parties. Further exception is made to the provisions of HIPAA and all of the named parties herein are ordered to share information and cooperate with each other so that the best program possible may be carried out for The Patient and so that he is able to obtain the health services which he needs and must have for her own wellbeing.*

**X.**

**Expiration of Limited Parts of this Order; Continuation of Remainder of Order**

The apprehension part of this Order expires on \_\_\_\_\_ (seven days after it is issued) at \_\_\_\_\_ o'clock \_\_\_\_ M. [Section 37-3-41(b) or 37-7-41(b) of the Official Code of Georgia Annotated.]

The remainder of the provisions of this Order does not expire.

So ordered this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Judge, \_\_\_\_\_ County Probate Court

STATE OF GEORGIA

COUNTY OF \_\_\_\_\_

**RETURN OF SERVICE BY PEACE OFFICER**

To: The Probate Court

Re: \_\_\_\_\_  
Patient Ordered Taken to Regional State Receiving Facility for Evaluation

Report of Peace Officer

The report of the Peace Officer detailing circumstances under which the person was taken into custody, as required pursuant to O.C.G.A. SECTION 37-3-41 (c) and ' 37-7-41 (c), is set out below and/or attached to this document:

Date Order was complied with:

Peace Officer's Name and Title

**INDIVIDUALIZED SERVICE PLAN  
FOR INPATIENT PRIOR TO DISCHARGE FROM FACILITY  
PURSUANT TO O.C.G.A. SECTION 37-3-91 (b) and SECTION 37-7-91 (b)**

Patient Name: \_\_\_\_\_

Social Security Identification Number: \_\_\_\_\_

Starting Date: Upon discharge from emergency receiving facility; evaluating facility; or community mental health center.

Notice:

1. The treating psychologist, \_\_\_\_\_, has developed this individualized service plan with the concurrence of a physician, \_\_\_\_\_.
2. The Patient is in the physical custody of an emergency receiving facility; an evaluating facility; or a community mental health center.
3. The Patient is being discharged pending a full and fair hearing, or waiver thereof, pursuant to O.C.G.A. SECTION 37-3-92 or O.C.G.A. SECTION 37-7-92.
4. The discharge is made within the time provisions set out in O.C.G.A. SECTION 37-3-91 (a) or O.C.G.A. SECTION 37-7-91 (a)
5. An individualized service plan has been developed for the Patient, set out below.
6. The Receiving facility@ to which the Patient is referred is to provide interim outpatient treatment in accordance with the said Plan pending the full and fair hearing, or waiver thereof.
7. Written notice of the time, date, place and address for the interim outpatient treatment is set out below.
8. The Patient will receive separate notice of the date, time and place of the full and fair hearing.
9. Notice of this discharge is provided to the Patient and may be provided to other persons based on O.C.G.A. SECTION 37-3-43 (c) and O.C.G.A. SECTION 37-7-64 (d).

**INDIVIDUALIZED SERVICE PLAN**

1.     **The Patient shall go to the community mental health center,**  
\_\_\_\_\_, located at \_\_\_\_\_, \_\_\_\_\_,  
**Georgia for an appointment on \_\_\_\_\_, \_\_\_\_\_, for the purpose of evaluation by the**  
**mental health center for its petition for involuntary outpatient care.**

2.     **If the Patient needs transportation to the appointment, he/she may contact the**  
**community mental health center by calling telephone number \_\_\_\_\_ - \_\_\_\_\_.**

3.     **Pending a new individualized service plan going into effect, the Patient is prescribed**  
**and shall take medications as follows:**

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4.     **If applicable, the Patient shall keep the following other appointments as have been**  
**determined necessary pending a new individualized service plan going into effect:**

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5.     **Other requirements (if any) pending a new individualized service plan going into**  
**effect:**

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Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Treating Psychologist  
Title:

Copy to:

The Patient.

The receiving facility within three days of discharge.

Other persons as determined proper under O.C.G.A. SECTION 37-3-43 (c) or O.C.G.A. SECTION 37-7-64 (d).

FILED IN OFFICE  
This \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_

\_\_\_\_\_  
Clerk, \_\_\_\_\_ County Probate Court

IN THE PROBATE COURT OF \_\_\_\_\_ COUNTY  
STATE OF GEORGIA

\_\_\_\_\_, Local Mental Health Agency, Petitioner

In Re: \_\_\_\_\_, Respondent  
Social Security Number \_\_\_\_\_

Docket Number \_\_-MH-\_\_

PETITION FOR ORDER OF COMMITMENT TO OUTPATIENT TREATMENT OF  
ALLEGED MENTALLY ILL PERSON OR SUBSTANCE ABUSER  
REQUIRING INVOLUNTARY TREATMENT

ALLEGED MENTALLY ILL PERSON OR SUBSTANCE  
ABUSER REQUIRING INVOLUNTARY TREATMENT

LEGAL AUTHORITY O.C.G.A. SECTION ' 37-3-81.1, 37-3-90 through 95 et. seq., 37-7-81.1,  
37-7-90 through 95 et. seq.

1.

Petitioner, \_\_\_\_\_, is the duly authorized agent

for \_\_\_\_\_ which is a facility within the  
meaning of the Official Code of Georgia Annotated, Sections 37-3-1, 37-7-1.

2.

\_\_\_\_\_ an alleged mentally ill person or substance  
abuser requiring involuntary treatment hereinafter, the APatient@, is a resident of  
\_\_\_\_\_ County and subject to the jurisdiction of this Court.

3.

The following person(s) serve as the Patient's representative(s) or guardian:

Name	Relationship or Capacity
Address and Telephone Number	

Name	Relationship or Capacity
Address and Telephone Number	

4.

The Patient was received at \_\_\_\_\_ facility on \_\_\_\_\_, \_\_\_\_\_, and was personally examined by a physician/psychologist and found to be a mentally ill person or a substance abuser requiring involuntary treatment and an outpatient who meets all the outpatient requirements, pursuant to the Official Code of Georgia Annotated, Sections 37-3-90, 37-7-90, which finding is entered on a certificate accompanying this petition.

5.

It is further found by the examining physician/psychologist at said facility that there is available outpatient treatment for the Patient that meets the requirements of the individualized service/treatment plan proposed to the court, pursuant to the Official Code of Georgia Annotated, Sections 37-3-1(.1), 37-7-1(3.1), and that the Patient will likely comply with the outpatient treatment so as to minimize the likelihood of the Patient's becoming an inpatient.

6.

The filing of this petition is accompanied by the following:

- (a) A copy of the examination report, which includes the AExamining Physician's or Psychologist's Evaluation@ and the APhysician's Certificate for Involuntary Treatment@; and
- (b) A copy of the Individualized Treatment Plan.

7.

For service purposes, the address to which the Patient is known to reside, or, the address to which the Patient was released upon completion of the evaluation is:

Telephone

Fax Number (if any)

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8.

At least ten days prior to the hearing, as required under the Official Code of Georgia Annotated, Sections 37-3-92, 37-7-92, it is requested that the Court serve on the Patient, the Patient's representatives, and the petitioner for the hearing a notice of the date, time, and place of the hearing, such notice to include:

- (a) A copy of the petition;
- (b) A notice that the Patient has a right to counsel and that the Patient or the Patient's representatives may apply immediately to the court to have counsel appointed if the Patient cannot afford counsel, and that the court will appoint counsel for the Patient unless the Patient either indicates in writing that the Patient will have retained counsel by the time for hearing or waives the right to counsel;
- (c) A copy of the individualized service/treatment plan;
- (d) A notice that the Patient has a right to be examined by a physician of his or her own choice at his or her own expense and to have that physician submit a suggested service/treatment plan that conforms with the requirements of the Official Code of Georgia Annotated, Sections 37-3-1(9), 37-7-1(14); and
- (e) A notice that the Patient may waive in writing the hearing, but if the Patient does not either attend or waive the hearing, absent a showing of good cause for not appearing, the court may order any peace officer to take such person into custody and deliver that person to an emergency receiving facility or the referring facility, the facility at which or on behalf of which the Patient was examined, if there is a physician or psychologist available there for examination, as if the Patient was received pursuant to Official Code of Georgia Annotated Sections 37-3-41(b), 37-7-41(b).

9.

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The court is requested to hold the full and fair hearing requested by this petition within thirty days after the filing of this petition, pursuant to the Official Code of Georgia Annotated, Sections 37-3-92, 37-7-92.

WHEREFORE, The petitioner prays:

- (a) That service be perfected as required by law:
- (b) That a full and fair hearing be conducted as provided in the Official Code of Georgia Annotated, Sections 37-3-92, 37-7-92, not later than thirty days after the filing of this petition;
- (c) That the court order that the Patient obtain outpatient treatment at said facility for a period not to exceed one year, subject to the power of the physician in charge of the Patient's outpatient treatment to discharge the Patient from further compliance with the treatment, pursuant to the Official Code of Georgia Annotated, Sections 37-3-94, 37-7-94; and
- (d) That the court make findings of fact and conclusions of law in support of and as part of such order.

\_\_\_\_\_  
SIGNATURE OF PETITIONER

**VERIFICATION**

GEORGIA, \_\_\_\_\_ COUNTY

Personally appeared before me the undersigned petitioner who on oath states that the facts set forth in the foregoing petition are true and correct to the best of his/her knowledge and belief.

\_\_\_\_\_  
Signature of Petitioner  
Typed/Printed Name:  
Office Address:

Sworn to and subscribed before me,  
this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Clerk, Probate Court/Notary Public

**Examining Physician's or Psychologist's Evaluation**

I. Identification of Patient:

Name \_\_\_\_\_ Social Security # \_\_\_\_\_

Address \_\_\_\_\_

Phone, Fax and other Numbers \_\_\_\_\_

II. Present Illness:

\_\_\_\_\_  
\_\_\_\_\_

III. Reasons for Mandated Outpatient Treatment:

A. Describe patient's treatment history:

\_\_\_\_\_  
\_\_\_\_\_

B. Explain reason why the Patient does not meet criteria for hospitalization at time of evaluation:

\_\_\_\_\_  
\_\_\_\_\_

C. Explain how mandated outpatient treatment would be beneficial in lieu of hospitalization:

\_\_\_\_\_  
\_\_\_\_\_

IV. Patient Profile--Document if yes

- | Yes                      | No                       |                              |
|--------------------------|--------------------------|------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Dangerous to self/others     |
| <input type="checkbox"/> | <input type="checkbox"/> | Able to take care of self    |
| <input type="checkbox"/> | <input type="checkbox"/> | History of suicide attempt   |
| <input type="checkbox"/> | <input type="checkbox"/> | History of cardiac problems  |
| <input type="checkbox"/> | <input type="checkbox"/> | History of diabetes mellitus |
| <input type="checkbox"/> | <input type="checkbox"/> | History of hypertension      |
| <input type="checkbox"/> | <input type="checkbox"/> | Allergies                    |
| <input type="checkbox"/> | <input type="checkbox"/> | Other medical history        |
| <input type="checkbox"/> | <input type="checkbox"/> | Current medication(s)        |

V. Physical Examination

General Description \_\_\_\_\_  
Head and Neck \_\_\_\_\_  
Chest \_\_\_\_\_  
Cardiovascular \_\_\_\_\_  
Abdomen \_\_\_\_\_  
Extremities \_\_\_\_\_  
Skin Neurologic \_\_\_\_\_  
Other Remarks \_\_\_\_\_

Date of clinic appointment \_\_\_\_\_

Location \_\_\_\_\_

VI. Diagnostic Impression (DSM-III-R) Include Codes

Axis I

\_\_\_\_\_  
\_\_\_\_\_

Axis II

\_\_\_\_\_  
\_\_\_\_\_

Axis III

\_\_\_\_\_  
\_\_\_\_\_

VII. Further comments (if necessary)

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_, M.D. \_\_\_\_\_  
Signature and License Number Date and Time

cc: Patient  
First Representative  
Second Representative  
Guardian (if applicable)

Probate Court  
Clinical Record

**PHYSICIAN'S/PSYCHOLOGIST' S CERTIFICATE  
FOR INVOLUNTARY OUTPATIENT TREATMENT**

Patient Information:

Name: \_\_\_\_\_  
Social Security or ID# \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone, fax, and other numbers: \_\_\_\_\_

By authority of 1986 Georgia Laws 1098; O.C.G.A. 37-3-90, 37-7-90, State of Georgia, in the County of \_\_\_\_\_, \_\_\_\_\_ facility.

This is to certify that I have personally examined the above Patient on \_\_\_\_\_, \_\_\_\_\_.

(NOTE: In the statement below, please underline the appropriate criteria so as to distinguish between a mentally ill person and a substance abuser)

In my opinion, there is reason to believe the above-named person is a mentally ill person substance abuser requiring involuntary outpatient treatment, and I further determine and certify that this person appears to meet the following OUTPATIENT criteria:

A. This person is a patient who, based on his/her treatment history or current mental status / recurrent lack of self control regarding the use of alcohol or drugs or any other substances listed in Code Section 37-7-1(8), will require outpatient treatment in order to avoid predictably and imminently becoming an inpatient again; AND

B. Who, because of his/her current mental state, mental history, or nature of his/her mental illness, current mental state and recurrent lack of self control regarding the use of alcohol or drugs, or any other substances listed in Code Section 37-7-1(8) or nature of his/her alcoholic behavior or drug dependency, is unable voluntarily to seek or comply with outpatient treatment; AND

C. Who is in need of involuntary outpatient treatment.

This opinion is based upon the following observations:

\_\_\_\_\_  
\_\_\_\_\_

Furthermore, I have determined and certify that there is available outpatient treatment for this patient, within the meaning of O.C.G.A. 37-3-1 (.1), 37-7-1 (3.1), AND the patient will likely comply with the outpatient treatment so as to minimize the likelihood of his/her becoming an inpatient.

This determination and certification was made within the time period required for determining whether a patient is a mentally ill person requiring involuntary treatment, except that if such determination was made by a physician at or on behalf of a Community Mental health Center, the determination and certification shall be completed within four hours after the patient was examined.

Signature of Physician/Psychologist: \_\_\_\_\_

Printed or Typed Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

- cc:
- Patient
- First Representative
- Second Representative
- Guardian (if applicable)
- Probate Court
- Clinical Record

**INDIVIDUALIZED SERVICE PLAN FOR OUTPATIENT TREATMENT**

Patient Name: \_\_\_\_\_

Social Security Identification Number: \_\_\_\_\_

Starting Date: Upon entry of an order by the Probate Court

The following sets out the Plan for psychiatric, medical, and/or nursing assessment and care; crisis management, diagnosis and assessment; individual, family, and/or group counseling; medication administration; activity therapy; day treatment; or other; which is proposed for the Patient's individualized service plan for outpatient treatment. The Plan includes proceedings by the Mental Health Agency in the event the Patient becomes non-compliant with this Plan and must be brought involuntarily to the Mental Health Center or to another mental health facility appropriate for the Patient's condition at that time.

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FILED IN OFFICE  
This \_\_\_\_ day of \_\_\_\_, \_\_\_\_

\_\_\_\_\_  
Clerk, \_\_\_\_\_ County Probate Court

IN THE PROBATE COURT OF \_\_\_\_\_ COUNTY

STATE OF GEORGIA

\_\_\_\_\_, Local Mental Health Agency, Petitioner

In Re: \_\_\_\_\_, Respondent

Social Security Number \_\_\_\_\_ Docket Number \_\_-MH-\_\_

**ORDER SETTING CASE FOR HEARING**

A petition for commitment to outpatient treatment having been filed with the Court, the following findings of fact, conclusions of law, and order are entered:

Findings of Fact

The above named Respondent, \_\_\_\_\_, has been and continues to be a resident of \_\_\_\_\_ County, State of Georgia, currently residing at \_\_\_\_\_, \_\_\_\_\_, Georgia. This Court has jurisdiction over him/her.

The Respondent has been the subject of an application granted for involuntary medical treatment pursuant to O.C.G.A. SECTION ' 37-3-81.1, 37-3-92, 37-3-93, et seq., 37-7-81.1, 37-7-92, 37-7-93, et seq., based on Amental health affidavits.@

Petitioner submitted a Petition for Order of Commitment to Outpatient Treatment of Alleged Mentally Ill Person or Substance Abuser Requiring Involuntary Treatment, received by this Court on \_\_\_\_\_.

The said Petition complied with all requirements of the law for an application for an

order of commitment to outpatient treatment, including, among other things, the certification that the above named Respondent is a mentally ill person or an alcoholic or a drug dependent individual requiring involuntary treatment pursuant to O.C.G.A. SECTION 37-3-90 and/or ' 37-7-90.

Conclusions of Law

[Upon proper medical certification that a person is a mentally ill, alcoholic, or drug dependent person requiring involuntary treatment, a full and fair hearing, unless waived, is required to be held within thirty days of the filing of the petition, the hearing to take place no less than ten days after notice is given. A hearing for outpatient involuntary treatment is conducted pursuant to Section 37-3-81.1 or 37-7-81.1 of the Code. O.C.G.A. SECTION 37-3-92 (a); O.C.G.A. SECTION 37-7-92 (a). ]

ORDER

It is therefore ordered as follows:

(1) The Respondent, \_\_\_\_\_, shall be served with a copy of the petition by the \_\_\_\_\_ County Sheriff.

(2) The Respondent is further given notice that he/she has the right to retain legal counsel, confront and cross-examine witnesses, and subpoena witnesses and that application may be made immediately to this Court to have counsel appointed if he/she cannot afford counsel.

The Respondent shall indicate in writing if counsel has been retained by the time set for hearing or if he/she waives the right to counsel.

Unless separate counsel is retained or legal counsel is waived, Attorney \_\_\_\_\_ is appointed as legal counsel to represent the Respondent.

(3) A copy of this Order shall be provided to the Petitioner and to the persons who, as

required by law, are named to serve as representatives and who are requested to attend Court at the hearing set in this case.

(4) This case is set for hearing before the undersigned Judge at: \_\_\_\_\_

\_\_\_\_\_

on the \_\_ day of \_\_\_\_\_, \_\_\_\_ at \_\_\_\_\_ .M.

(5) **The Respondent is ordered to be and appear in court at said date and time.**

(6) The Sheriff is ordered to transport the Respondent to Court in the event of failure to appear as ordered.

So ordered this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_

Judge, \_\_\_\_\_ County Probate Court

IN THE PROBATE COURT OF \_\_\_\_\_ COUNTY

STATE OF GEORGIA

\_\_\_\_\_, Local Mental Health Agency, Petitioner

In Re: \_\_\_\_\_, Respondent                      Docket Number \_\_-MH-\_\_

WAIVER OF HEARING FOR COMMITMENT TO OUTPATIENT TREATMENT OF  
ALLEGED MENTALLY ILL PERSON OR SUBSTANCE ABUSER

REQUIRING INVOLUNTARY TREATMENT

Pursuant to O.C.G.A. SECTION ' 37-3-62; 37-7-62.

The above-named Patient, Respondent in this case, now comes, and upon advice and approval of legal counsel, or pro se after having waived legal counsel, states that he/she was not an inpatient at the time of the filing of the Petition for involuntary outpatient treatment by the Petitioner; that he/she therefore has the right to waive a hearing in this case; that he/she exercises the right to waive a hearing in the above case; and that he/she understands that, by waiving a hearing, the certificate of the physician or psychologist shall serve as authorization for treatment to begin under the terms of the individualized service plan, which plan shall be made the order of the Court.

This \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Witness (unless witnessed by  
Patient's attorney)

\_\_\_\_\_  
Patient

\_\_\_\_\_  
Patient's Attorney (if not pro se)

Filed in Office  
This \_\_\_ day of \_\_\_\_\_, 2002,  
at \_\_\_\_\_ o'clock \_\_\_ M.

\_\_\_\_\_  
Deputy Clerk,  
\_\_\_\_\_ County Probate Court

IN THE PROBATE COURT OF \_\_\_\_\_ COUNTY  
STATE OF GEORGIA

In Re: \_\_\_\_\_ Docket Number:  
A Patient Ordered To Appear for Hearing of a Petition for Outpatient Commitment

**ORDER TO APPREHEND NON-APPEARING PATIENT**

The above case having come before the Court on this date, the following is found and ordered:

Findings of Fact

In an order dated \_\_\_\_\_ and served on the above-named person, hereinafter the APatient,@ by the Sheriff on \_\_\_\_\_, the above Patient was ordered to be and appear before the Court on this date.

The said Patient has failed and refused to appear.

Findings of Law

Various laws apply to failure to appear for court. Among them are criminal contempt and inpatient commitment of a person not appearing for an outpatient commitment hearing.

Criminal contempt

Criminal contempt is disrespect to or contumacious conduct towards the court. Wagner v. Commercial Printers, Inc., supra; Farmer v. Hudson, 146 Ga.App.102, 245 S.E.2d 457 (1978), cert. den., 440 U.S. 958, 99 S.Ct. 1499, 59 L.Ed.2d 771 (1979); In re Crane, 253 Ga. 667, 324 S.E.2d 443 (1985).

Criminal contempt involves action by the court to compel respect thereto, to vindicate its authority, and to enforce the lawful processes and actions of the court. Farmer v. Holton, supra; Hopkins v. Hopkins, 244 Ga. 66, 257 S.E.2d 900 (1979); In re Crane, supra.

A person failing to appear before the Court for hearing as ordered may be ordered brought before the Court by Law Enforcement for a hearing as to why he or she should not be held in contempt. See, Farmer v. Holton, 146 Ga.App.102, 245 S.E.2d 457 (1978), cert. den., 440 U. S. 958, 99 S.Ct. 1499, 59 L.Ed.2d 771 (1979)..

Inpatient commitment of a person not appearing for an outpatient commitment hearing.

Alf the patient is notified of the hearing as required under subsection (a) of this Code section and does not appear at or waive that hearing, absent a showing of good cause for not appearing, the court may issue an order commanding any peace officer to take such person into custody and deliver that person to an emergency receiving facility or the referring facility if there is a physician or psychologist available there, and this chapter shall thereafter apply to that patient as though the patient had been admitted to that facility pursuant to subsection (b) of Code Section 37-3-41. O.C.G.A. SECTION 37-3-92 (b).

ORDER

IT IS THEREFORE ORDERED that the above Patient be apprehended by Law Enforcement and brought before the Court for hearing on the issue of criminal contempt of court,

EXCEPT THAT, where Law Enforcement finds the said Patient in such a state that he or she is unable or unsuitable to appear in Court for reasons of disability due to mental, drug, or alcohol problems, then it is ordered that Law Enforcement immediately notify the Court so that it may recess and Law Enforcement shall take the said Patient into custody and, as soon as practical, deliver him or her to the emergency receiving facility for this area, **Northwest Regional Hospital** in Rome, Georgia.

The Court finds that the Probate Court does not have the authority to order a patient for examination at a local hospital, only for evaluation at an approved emergency receiving facility; but that Law Enforcement has its own authority to seek medical clearance where it deems it is necessary prior to delivery of the Patient. Absent such a finding, Law Enforcement should deliver the Patient immediately and directly to Rome Regional Hospital.

So ordered this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Judge,

\_\_\_\_\_  
County Probate

Court

FILED IN OFFICE  
This \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_

\_\_\_\_\_  
Clerk, \_\_\_\_\_ County Probate Court

IN THE PROBATE COURT OF \_\_\_\_\_ COUNTY

STATE OF GEORGIA

\_\_\_\_\_, Local Mental Health Agency, Petitioner

In Re: \_\_\_\_\_, Respondent                      Docket Number \_\_-MH-\_\_  
Social Security Number \_\_\_\_\_

**FINAL ORDER FOR COMMITMENT TO INVOLUNTARY TREATMENT**

The above-styled case having been filed and after hearing evidence and arguments of Petitioner and Respondent the court makes the following findings and facts and conclusion of law.

**FINDINGS OF FACT**

This matter is before the Court pursuant to a petition filed by or on behalf of \_\_\_\_\_, Chief Medical Officer/Designee of \_\_\_\_\_ Mental Health Agency, in the Probate Court of \_\_\_\_\_ County, Georgia, alleging that \_\_\_\_\_, a Patient of the above Agency is in need of involuntary treatment. After adequate notice a hearing was held in accordance with O.C.G.A. ' ' 37-3-81.1, 37-3-90 through 95 et seq.; 37-7-81.1, 37-7-90 through 95 et seq. with the below signed Judge of the Probate Court presiding. The hearing for the above named person was held on \_\_\_\_\_, \_\_\_\_\_, at m. at \_\_\_\_\_ in \_\_\_\_\_, Georgia.

**ISSUE AND LAW**

The issue before the Court in this matter is to determine the need for involuntary outpatient treatment of the above-named Patient in accordance with provisions of with O.C.G.A. ' ' 37-3-81.1, 37-3-90 through 95 et seq. 37-7-81.1, 37-7-90 through 95 et seq. of the Official Code of Georgia, or some alternative program that may accomplish the treatment goals, or whether the Patient requires discharge.

FINDINGS OF FACT

The Court has considered and reviewed all available relevant testimony and evidence in this matter, and based on clear and convincing evidence presented at this hearing, the Court makes the following specific findings of fact:

11. The above Patient was evaluated by  
on \_\_\_\_\_, \_\_\_\_\_.
12. The Petitioner, local mental health agency, filed with the Court an individualized service plan outlining the objectives and a plan of treatment for the Respondent which was approved by the Petitioner local mental health agency.
13. The above Patient has a diagnosis of
14. The Patient is mentally ill or a substance abuser and
  - a. Based on his/her treatment history and/or current mental status will require outpatient treatment in order to avoid predictably and imminently becoming an inpatient; and
  - b. This Patient, because of his/her current mental state, mental history, or nature of his/her mental illness is unable voluntarily to seek or comply with outpatient treatment; and
15. This Patient is in need of involuntary treatment.
16. The above-named Patient is a mentally ill person or substance abuser who, to achieve treatment goals, requires involuntarily treatment at the Mental Health Clinic for a period of  
. This is the least restrictive alternative necessary and available for treatment of this Patient.

CONCLUSION OF LAW

WHEREUPON, IT IS CONSIDERED, ORDERED AND ADJUDGED THAT by the facts proven, it is found that the Respondent, \_\_\_\_\_, meets the criteria of Official Code of Georgia 37-3-81.1, 37-3-90 through 95 et seq., 37-7-81.1, 37-7-90 through 95 et seq. requiring involuntary outpatient treatment.

ORDER

IT IS THEREFORE ORDERED that the Respondent receive involuntary outpatient

treatment pursuant to the individualized service plan submitted by the Petitioner for a period not to exceed one year, being \_\_\_\_\_ months.

It is ordered that any subsequent order entered based on non-compliance with this Order includes involuntary administration of medications or other treatment at the local mental health center or any of its affiliates, at a State Regional Hospital, or any other appropriate medical facility where the medication to be administered involuntarily.

Renewals of this Order shall be pursuant to O.C.G.A. SECTION ' 37-3-93(b) and 37-7-93 (b) and other applicable law.

***Exception is made to the provisions of the United States Health Insurance Portability and Accountability Act (HIPAA), such that, in the Patient's best interest, copies of this Order shall be provided to the Patient, Respondent; Respondent's attorney; Georgia Highland, Petitioner; Petitioner's attorney; the Respondent's listed interested parties. Further exception is made to the provisions of HIPAA and all of the named parties herein are ordered to share information and cooperate with each other so that the best program possible may be carried out for the Patient and so that the Patient is able to obtain the health services which are needed and which are necessary for the Patient's own wellbeing.***

So ordered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Judge, Probate Court of \_\_\_\_\_ County

FILED IN OFFICE  
This \_\_\_\_ day of \_\_\_\_, \_\_\_\_

\_\_\_\_\_  
Clerk, \_\_\_\_\_ County Probate Court

IN THE PROBATE COURT OF \_\_\_\_\_ COUNTY

STATE OF GEORGIA

\_\_\_\_\_, Local Mental Health Agency, Petitioner

In Re: \_\_\_\_\_, Respondent                      Docket Number \_\_-MH-\_\_  
Social Security Number \_\_\_\_\_  
Address where Patient may be found: \_\_\_\_\_

**PETITION FOR ORDER TO APPREHEND NON-COMPLIANT PATIENT**  
**SUBJECT TO THE ORDER OF THIS COURT OR ANOTHER COURT**

The below physician or psychologist in charge of the outpatient service plan, or his/her designee, now comes and petitions the Court as follows:

The above-named Patient who has a diagnosis of \_\_\_\_\_  
and was Court-ordered on \_\_\_\_\_ to involuntary outpatient treatment, having met the criteria of O.C.G.A. SECTION ' 37-3-81.1, 37-7-81.1 requiring involuntary treatment, has failed, without good cause, or refused, to comply with the outpatient service plan. The Court issuing said Order was (check one) \_\_\_\_ this Court, which may take judicial notice of its order; or \_\_\_\_ **another Court, a copy of which order is attached as an Exhibit hereto.**

This Court is (check one) \_\_\_\_ the Court originally ordering the outpatient service plan or

\_\_\_ the Court in which the Patient is a resident or \_\_\_ the Court of the county in which the patient may be found.

This Court is requested to order any peace officer to take the said Patient into custody and deliver that person to the community Mental Health Center in charge of the Patient's outpatient service plan, to wit: \_\_\_\_\_, or, as directed by the Center, to the nearest emergency receiving facility serving the county in which the Patient is found, pursuant to Official Code of Georgia Annotated Sections 37-3-82 (b), 37-7-82(b).

Sworn to and signed before me this

\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Name printed:

Title:

\_\_\_\_\_  
NOTARY PUBLIC

Name Printed: \_\_\_\_\_

My Commission Expires:

FILED IN OFFICE  
This \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_  
at \_\_\_\_\_ M.  
\_\_\_\_\_  
Deputy Clerk  
\_\_\_\_\_ County Probate Court

STATE OF GEORGIA  
COUNTY OF \_\_\_\_\_

\_\_\_\_\_, Local Mental Health Agency, Petitioner

In Re: \_\_\_\_\_, Patient, Respondent                      Docket Number \_\_-MH-\_\_  
Social Security Number \_\_\_\_\_  
Address where Patient may be found: \_\_\_\_\_

**ORDER TO APPREHEND NON-COMPLIANT PATIENT**  
**SUBJECT TO THE ORDER OF THIS COURT OR ANOTHER COURT**

**TO: THE HONORABLE SHERIFF OF \_\_\_\_\_ COUNTY OR AGENT**  
**TO: THE STATE APPROVED EMERGENCY RECEIVING FACILITY**  
**TO: THE LOCAL MENTAL HEALTH CENTER**  
**TO: THE LOCAL HOSPITAL (if applicable)**

A Petition for Order to Apprehend Noncompliant Patient having been filed with the Court pursuant to law, the same is hereby granted.

It is therefore ordered that the Peace Office of this County receiving this order take into custody the above-named Patient, whose known address or location is set out above.

The said Patient has a diagnosis of \_\_\_\_\_ and was ordered by this Court, or the Probate Court of \_\_\_\_\_ County, on \_\_\_\_\_ to involuntary outpatient treatment, having met the criteria of O.C.G.A. ' ' 37-3-81.1, 37-7-81.1 requiring involuntary treatment. A copy of the order upon which this Order may be requested from law enforcement. Pursuant to Official Code of Georgia Annotated Sections 37-3-82 (b), 37-7-82(b), the peace officer shall take the said Patient into custody and deliver that person to the community Mental Health Center in charge of the Patient's outpatient service plan; or, if directed

by the community Mental Health Center, to the designated Crisis Response Staff of the community Mental Health Center, for a physician or psychologist is available there to examine the Patient or for the appropriate staff member to determine whether services pursuant to the Court's order may be carried out by the Mental Health Center at that location or another. In the latter case, the said peace officer shall transport the Patient to the designation location.

In the event there is no community Mental Health Center staff member available to act, the Patient shall be transported to the nearest emergency receiving facility serving the county in which the Patient is found. The Patient shall be given such emergency or other medical treatment as is indicated by good medical practice. The Patient shall be released from the custody of the community Mental Health Center within four hours and from the custody of the emergency receiving facility within 48 hours after being taken into the custody of that Center or facility unless the examining physician or psychologist concludes that, because of a change in the Patient's condition, the least restrictive alternative which would accomplish the treatment goals is hospitalization of the Patient. The physician or a psychologist may then execute a certificate under the conditions specified therefore in subsection (a) of Code Section 37-3-41 or 37-7-41, if the examination is done in a community mental health center, or under the conditions specified therefore in Code Section 37-3-43 or 37-7-43, if the examination is done in an emergency receiving facility. That certificate shall have the same duration and effect as a certificate issued pursuant to subsection (a) of Code Section 37-3-41 or Code Section 37-3-43, Code Section 37-7-41 or Code Section 37-7-43 as applicable.

So ordered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Judge, \_\_\_\_\_ County Probate Court

**Sheriff: Please Return Document to Probate Court**

IN THE PROBATE COURT OF \_\_\_\_\_ COUNTY

STATE OF GEORGIA

\_\_\_\_\_, Local Mental Health Agency, Petitioner

In Re: \_\_\_\_\_, Respondent                      Docket Number \_\_-MH-\_\_  
Non-compliant Patient Under Court Order for Outpatient Treatment  
To Be Taken to Mental Health Center or Other Facility

**SHERIFF'S ENTRY OF SERVICE**  
or  
**RETURN OF SERVICE BY OTHER PEACE OFFICER**

Report of Peace Officer

I have this day served the Respondent \_\_\_\_\_ personally with a copy of the within action and order.

Pursuant to statute, it is my further report detailing circumstances under which the person was taken into custody is as follows:

This \_\_\_ day of \_\_\_\_\_, 20\_\_.

Deputy or Peace Officer's Name and Title

FILED IN OFFICE  
This \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_

\_\_\_\_\_  
Clerk, \_\_\_\_\_ County Probate Court

IN THE PROBATE COURT OF \_\_\_\_\_ COUNTY  
STATE OF GEORGIA

**PETITION FOR RENEWAL OF ORDER PURSUANT TO  
O.C.G.A. SECTION ' 37-3-93(b) and 37-7-93 (b) AND OTHER APPLICABLE LAW**

\_\_\_\_\_, Local Mental Health Agency, Petitioner

In Re: \_\_\_\_\_, Respondent                      Docket Number \_\_-MH-\_\_  
Social Security Number \_\_\_\_\_  
Location where Patient may be served in this County:

The below physician or psychologist in charge of the outpatient service plan, or his/her designee, now comes and petitions the Court as follows:

The above-named Patient who has a diagnosis of \_\_\_\_\_  
and was Court-ordered on \_\_\_\_\_ to involuntary outpatient treatment, having met the criteria of O.C.G.A. SECTION ' 37-3-81.1, 37-7-81.1 requiring involuntary treatment. The Court issuing said Order was (check one) \_\_\_\_ this Court, which may take judicial notice of its order; or \_\_\_\_ **another Court, a copy of which order is attached as an Exhibit hereto.**

This Court is (check one) \_\_\_\_ the Court originally ordering the outpatient service plan or \_\_\_\_ the Court in which the Patient is a resident or \_\_\_\_ the Court of the county in which the patient may be found.

It is necessary to continue available outpatient treatment beyond the period authorized by law.

This petition is filed at least 60 days prior to the expiration of that period the physician or psychologist responsible for that treatment or the person responsible for the patient's treatment under the direction and with approval of the physician or psychologist.

Attached and made a part of this petition are:

- (1) The patient's updated individualized service plan; and
- (2) A report containing evidence that the patient meets all the requirements for available outpatient treatment under paragraphs (1) and (2) of subsection (c) of Code Section 37-3-90.

The Petitioner requests the Court to hold a hearing pursuant to the law and to issue an order requiring the above Patient to obtain available outpatient treatment beyond the period previously ordered.

As required by law, this petition sets out the following:

- a. The Patient or the Patient's representatives may file a request for a hearing with the Court to hold a hearing pursuant to Code Section 37-3-83, within 15 days after service of the petition.
- b. The patient has a right to counsel at the hearing and the Patient or the Patient's representatives may apply immediately to the court to have counsel appointed if the Patient cannot afford counsel.
- c. If a hearing is required, the court will appoint counsel for the Patient unless the Patient indicates in writing that the Patient does not desire to be represented by counsel or has made the Patient's own arrangements for counsel.

Notice is given that if a hearing is not requested by the Patient or the representatives

within 15 days of service of the petition on the Patient and the Patient's representatives, the Court will make an independent review of the report, the updated individualized service plan, and the petition. If the Court concludes from that review that the Patient is no longer a mentally ill person requiring involuntary treatment, then the Court will order that a hearing be held pursuant to subsection (d) of this Code section. If the Court concludes that the Patient meets all the requirements for available outpatient treatment under paragraphs (1) and (2) of subsection (c) of Code Section 37-3-90, then the Court will order continued outpatient treatment for a period not to exceed one year.

This Court is requested to have the Patient served as provided by law.

This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Sworn to and signed before me this

\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Name printed:

Title:

\_\_\_\_\_  
NOTARY PUBLIC

Name Printed: \_\_\_\_\_

My Commission Expires:

FILED IN OFFICE  
This \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_

\_\_\_\_\_  
Clerk, \_\_\_\_\_ County Probate Court

IN THE PROBATE COURT OF \_\_\_\_\_ COUNTY

STATE OF GEORGIA

\_\_\_\_\_, Local Mental Health Agency, Petitioner

In Re: \_\_\_\_\_, Respondent      Docket Number \_\_\_\_\_

**ACKNOWLEDGMENT OF SERVICE**  
**AND WAIVER OF SERVICE**

The undersigned, being a person over 18 years of age, laboring under no legal disability, hereby acknowledges service of a copy of the petition in the above-styled case and waive service by sheriff.

This acknowledgment is given with advice of legal counsel and is in conjunction with a waiver of hearing which is also the subject of the above-styled case.

\_\_\_\_\_  
PATIENT

Sworn to and subscribed before  
me this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

\_\_\_\_\_  
Notary

IN THE PROBATE COURT OF CHEROKEE COUNTY

STATE OF GEORGIA

Highland Rivers Center for Mental Health,  
Local Mental Health Agency, Petitioner

**Re:**

**ORDER SETTING DATE FOR AUTHOMATIC RENEWAL  
AND, ALTERNATELY, FOR HEARING**

A petition for commitment to outpatient treatment having been filed with the Court, the following findings of fact, conclusions of law, and order are entered:

Findings of Fact

The above named Respondent has been and continues to be a resident of Cherokee County, State of Georgia, having as his/her residence \_\_\_\_\_. This Court has jurisdiction over the Respondent.

The Respondent has previously been the subject of orders for involuntary evaluation and of an application granted for involuntary medical treatment pursuant to O.C.G.A. §§ 37-3-81.1, 37-3-92, 37-3-93, et seq., 37-7-81.1, 37-7-92, 37-7-93, et seq., said order being in the Probate Court for Floyd County, and for numerous orders to apprehend from this Court based on failure to comply with medical treatment.

Petitioner submitted a Petition for Order of Commitment to Outpatient Treatment of Alleged Mentally Ill Person or Substance Abuser Requiring Involuntary Treatment, received by this Court on \_\_\_\_\_.

The current order for involuntary outpatient treatment was entered on

\_\_\_\_\_.

The said order may be renewed automatically pursuant to O.C.G.A. SECTION ' 37-3-93(b) and 37-7-93 (b) where no request for hearing is made.

Petitioner alleges that it is necessary to continue available outpatient treatment beyond the period authorized by law.

Petitioner's pleading was filed at least 60 days prior to the expiration of that period the physician or psychologist responsible for that treatment or the person responsible for the patient's treatment under the direction and with approval of the physician or psychologist; and, as required by law, included (1) The patient's updated individualized service plan; and (2) A report containing evidence that the patient meets all the requirements for available outpatient treatment under paragraphs (1) and (2) of subsection (c) of Code Section 37-3-90.

The Petitioner requests the Court to hold a hearing pursuant to the law and to issue an order requiring the above Patient to obtain available outpatient treatment beyond the period previously ordered.

Notice is given to Respondent Patient that:

- a. The Patient or the Patient's representatives may file a request for a hearing with the Court to hold a hearing pursuant to Code Section 37-3-83, within **15 days after service of this petition.**
- b. The patient has a right to counsel at the hearing and the Patient or the Patient's representatives may apply immediately to the court to have counsel appointed if the Patient cannot afford counsel.
- c. If a hearing is required, the court will appoint counsel for the Patient unless the Patient indicates in writing that the Patient does not desire to be represented by counsel or has made the

Patient's own arrangements for counsel.

Notice is further given that if a hearing is not requested by the Patient or the representatives within 15 days of service of the petition on the Patient and the Patient's representatives, the Court will make an independent review of the report, the updated individualized service plan, and the petition. If the Court concludes from that review that the Patient is no longer a mentally ill person requiring involuntary treatment, then the Court will order that a hearing be held pursuant to subsection (d) of this Code section. If the Court concludes that the Patient meets all the requirements for available outpatient treatment under paragraphs (1) and (2) of subsection (c) of Code Section 37-3-90, then the Court will order continued outpatient treatment for a period not to exceed one year.

#### Conclusions of Law

Upon proper medical certification that a person is a mentally ill, alcoholic, or drug dependent person requiring involuntary treatment, a full and fair hearing, unless waived, is required to be held within thirty days of the filing of the petition, the hearing to take place no less than ten days after notice is given. A hearing for outpatient involuntary treatment is conducted pursuant to Section 37-3-81.1 or 37-7-81.1 of the Code. O.C.G.A. § 37-3-92 (a); O.C.G.A. § 37-7-92 (a).

#### ORDER

It is therefore ordered as follows:

- (1) The Respondent shall be served with a copy of the petition by the Cherokee County Sheriff.
- (2) The Respondent is further given notice that he/she has the right to retain legal counsel, confront and cross-examine witnesses, and subpoena witnesses and that application may

be made immediately to this Court to have counsel appointed if he/she cannot afford counsel.

The Respondent or Representative shall indicate in writing to the Court within fifteen (15) days after service of this Order whether he/she wishes to have a hearing in this case.

Regardless of whether hearing is requested, Attorney \_\_\_\_\_ is appointed as legal counsel to represent the Respondent, so that Respondent has access to legal counsel in making his decision whether to request a hearing. The attorney's phone number to all for an appointment is: \_\_\_\_\_.

(3) A copy of this Order shall be provided to the Court-appointed attorney, the Petitioner and its attorney, to listed interested persons, next friend, and/or named representatives of Respondent.

(4) IF A REQUEST FOR HEARING IS MADE, then this case is set for hearing before the undersigned Judge at \_\_\_\_\_ M on the \_\_\_\_\_ day of \_\_\_\_\_, 2005, in Courtroom D, Third Floor, Cherokee County Probate Court, Cherokee County Justice Center, 90 North Street, Suite 340, Canton, GA 30114.

(5) If the Respondent requests a hearing, he/she is ordered to be and appear in court at said date and time unless the case is rescheduled by necessity.

(7) Upon failure to appear, the Patient shall be provided transportation by the Cherokee County Sheriff's office.

So ordered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

FILED IN OFFICE  
This \_\_\_\_ day of \_\_\_\_, \_\_\_\_

\_\_\_\_\_  
Deputy Clerk, \_\_\_\_\_ County Probate Court

IN THE PROBATE COURT OF \_\_\_\_\_ COUNTY

STATE OF GEORGIA

Highland Rivers Center for Mental Health,  
Local Mental Health Agency, Petitioner

**Re:** Docket Number \_\_\_\_ MH \_\_\_\_\_

**ORDER SETTING DATE FOR AUTHOMATIC RENEWAL  
AND, ALTERNATELY, FOR HEARING**

A petition for commitment to outpatient treatment having been filed with the Court, the following findings of fact, conclusions of law, and order are entered:

Findings of Fact

The above named Respondent has been and continues to be a resident of Cherokee County, State of Georgia, having as his/her residence \_\_\_\_\_. This Court has jurisdiction over the Respondent.

The Respondent has previously been the subject of orders for involuntary evaluation and of an application granted for involuntary medical treatment pursuant to O.C.G.A. §§ 37-3-81.1, 37-3-92, 37-3-93, et seq., 37-7-81.1, 37-7-92, 37-7-93, et seq., said order being in the Probate Court for Floyd County, and for numerous orders to apprehend from this Court based on failure to comply with medical treatment.

Petitioner submitted a Petition for Order of Commitment to Outpatient Treatment of Alleged Mentally Ill Person or Substance Abuser Requiring Involuntary Treatment, received by this Court on \_\_\_\_\_.

The current order for involuntary outpatient treatment was entered on

\_\_\_\_\_.

The said order may be renewed automatically pursuant to O.C.G.A. SECTION ' 37-3-93(b) and 37-7-93 (b) where no request for hearing is made.

Petitioner alleges that it is necessary to continue available outpatient treatment beyond the period authorized by law.

Petitioner's pleading was filed at least 60 days prior to the expiration of that period the physician or psychologist responsible for that treatment or the person responsible for the patient's treatment under the direction and with approval of the physician or psychologist; and, as required by law, included (1) The patient's updated individualized service plan; and (2) A report containing evidence that the patient meets all the requirements for available outpatient treatment under paragraphs (1) and (2) of subsection (c) of Code Section 37-3-90.

The Petitioner requests the Court to hold a hearing pursuant to the law and to issue an order requiring the above Patient to obtain available outpatient treatment beyond the period previously ordered.

Notice is given to Respondent Patient that:

- a. The Patient or the Patient's representatives may file a request for a hearing with the Court to hold a hearing pursuant to Code Section 37-3-83, within **15 days after service of this petition.**
- b. The patient has a right to counsel at the hearing and the Patient or the Patient's representatives may apply immediately to the court to have counsel appointed if the Patient cannot afford counsel.
- c. If a hearing is required, the court will appoint counsel for the Patient unless the Patient indicates in writing that the Patient does not desire to be represented by counsel or has made the

Patient's own arrangements for counsel.

Notice is further given that if a hearing is not requested by the Patient or the representatives within 15 days of service of the petition on the Patient and the Patient's representatives, the Court will make an independent review of the report, the updated individualized service plan, and the petition. If the Court concludes from that review that the Patient is no longer a mentally ill person requiring involuntary treatment, then the Court will order that a hearing be held pursuant to subsection (d) of this Code section. If the Court concludes that the Patient meets all the requirements for available outpatient treatment under paragraphs (1) and (2) of subsection (c) of Code Section 37-3-90, then the Court will order continued outpatient treatment for a period not to exceed one year.

#### Conclusions of Law

Upon proper medical certification that a person is a mentally ill, alcoholic, or drug dependent person requiring involuntary treatment, a full and fair hearing, unless waived, is required to be held within thirty days of the filing of the petition, the hearing to take place no less than ten days after notice is given. A hearing for outpatient involuntary treatment is conducted pursuant to Section 37-3-81.1 or 37-7-81.1 of the Code. O.C.G.A. § 37-3-92 (a); O.C.G.A. § 37-7-92 (a).

#### ORDER

It is therefore ordered as follows:

- (1) The Respondent shall be served with a copy of the petition by the Cherokee County Sheriff.
- (2) The Respondent is further given notice that he/she has the right to retain legal counsel, confront and cross-examine witnesses, and subpoena witnesses and that application may

be made immediately to this Court to have counsel appointed if he/she cannot afford counsel.

The Respondent or Representative shall indicate in writing to the Court within fifteen (15) days after service of this Order whether he/she wishes to have a hearing in this case.

Regardless of whether hearing is requested, Attorney \_\_\_\_\_ is appointed as legal counsel to represent the Respondent, so that Respondent has access to legal counsel in making his decision whether to request a hearing. The attorney's phone number to all for an appointment is: \_\_\_\_\_.

(3) A copy of this Order shall be provided to the Court-appointed attorney, the Petitioner and its attorney, to listed interested persons, next friend, and/or named representatives of Respondent.

(4) IF A REQUEST FOR HEARING IS MADE, then this case is set for hearing before the undersigned Judge at \_\_\_\_\_ M on the \_\_\_\_\_ day of \_\_\_\_\_, 2005, in Courtroom D, Third Floor, Cherokee County Probate Court, Cherokee County Justice Center, 90 North Street, Suite 340, Canton, GA 30114.

(5) If the Respondent requests a hearing, he/she is ordered to be and appear in court at said date and time unless the case is rescheduled by necessity.

(7) Upon failure to appear, the Patient shall be provided transportation by the Cherokee County Sheriff's office.

So ordered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Judge

FILED IN OFFICE  
This \_\_\_\_ day of \_\_\_\_, \_\_\_\_

\_\_\_\_\_  
Deputy Clerk, \_\_\_\_\_ County Probate Court

IN THE PROBATE COURT OF \_\_\_\_\_ COUNTY

STATE OF GEORGIA

\_\_\_\_\_ Center for Mental Health,  
Local Mental Health Agency, Petitioner

**Re:** Docket Number \_\_\_\_ MH \_\_\_\_\_

**FINAL ORDER FOR COMMITMENT TO INVOLUNTARY TREATMENT**

The above-styled case having come before the Court, the court makes the following findings and facts and conclusions of law.

FINDINGS OF FACT

This matter is before the Court pursuant to a petition filed by or on behalf of \_\_\_\_\_ (\_\_\_\_\_ Center for Mental Health), by and through Dr. \_\_\_\_\_, in the Probate Court of \_\_\_\_\_ County, Georgia, alleging that the above person, a Patient of the above Agency, is in need of involuntary treatment.

An order was issued on \_\_\_\_\_, providing that the prior involuntary outpatient treatment order would be renewed without hearing until hearing was requested.

The Respondent did not request a hearing and therefore the prior order is continued in effect.

Respondent was appointed an attorney, \_\_\_\_\_, with whom Petitioner could confer with. Mr. \_\_\_\_\_ reviewed the case pleadings on behalf of his client.

The issue before the Court in this matter is to determine the need for involuntary outpatient treatment of the above-named Patient in accordance with provisions of O.C.G.A. § § 37-3-81.1, 37-3-90 through 95 et. seq. of the Official Code of Georgia, or some alternative program that may accomplish the treatment goals, or, confined, whether the Patient requires discharge.

FINDINGS OF FACT

The Court has considered and reviewed all available relevant evidence in this matter, and based on clear and convincing evidence presented at this hearing, the Court incorporates by

reference the findings of fact of the \_\_\_\_\_ order entered in this case and makes them the findings of the Court for purposes of this renewal order.

It is further found that:

17. This Patient is in need of involuntary treatment.
18. The above-named Patient is a mentally ill person who, to achieve treatment goals, requires involuntary treatment at the Highland Rivers Center and based on the treatment plan for a period of one year. This is the least restrictive alternative necessary and available for treatment of this Patient.
19. The treatment plan of the Patient shall include the plan submitted by the Mental Health Center and attached hereto as Exhibit "A."

#### CONCLUSIONS OF LAW

WHEREUPON, IT IS CONSIDERED, ORDERED AND ADJUDGED THAT by the facts proven, it is found that the Respondent meets the criteria of Official Code of Georgia 37-3-81.1, 37-3-90 through 95 et. seq. requiring involuntary outpatient treatment.

#### ORDER

IT IS THEREFORE ORDERED that the Respondent receive involuntary outpatient treatment pursuant to the individualized service plan submitted by the Petitioner for a period not to exceed one year, being twelve (12) months from the filing date of this Order.

Renewals of this Order shall be pursuant to O.C.G.A. § 37-3-93 and other applicable law.

***Exception is made to the provisions of the United States Health Insurance Portability and Accountability Act (HIPAA), such that, in the Patient's best interest, copies of this Order shall be provided to the Patient, Respondent; Respondent's attorney; Georgia Highlands, Petitioner; Petitioner's attorney; the Respondent's listed interested parties. Further exception is made to the provisions of HIPAA and all of the named parties herein are ordered to share information and cooperate with each other so that the best program possible may be carried out for the Patient and so that the Patient is able to obtain the health services which are needed and which are necessary for the Patient's own wellbeing.***

This \_\_\_\_\_, 2005.

\_\_\_\_\_  
Judge, Probate Court of \_\_\_\_\_ County



## OUTLINE OF MENTAL HEALTH PROCEDURES AND DEADLINES

### Step 1 - getting the person into emergency receiving facility

37-3-41/37-7-41 - how to get person into facility

#### (a) physician executes certificate

\*must personally examine

\*must set forth observations in the certificate that person is mentally ill or a substance abuser, requiring involuntary treatment

\* expires within 7 days

peace officer must make diligent effort to take person into custody and deliver to emergency receiving facility within 72 hours of receiving certificate

#### (b) court may order person taken into custody

\* must be court where patient found

\* must be based upon either

- unexpired physician's certificate

- affidavits of at least 2 people who have observed person within preceding 48 hours and believe person is mentally ill or a

substance abuser, requiring involuntary treatment

#### (c) peace officer then takes person into custody and delivers for examination

\*must execute written statement, detailing circumstances person taken under custody

### Step 2 - Examination once admitted

37-3-43/37-7-43 - upon admission

#### (a) patient examined by physician

\* must be as soon as possible, but no later than 48 hours

\* may be given emergency treatment as indicated by good medical

practice

\* must be discharged within 48 hours unless:

-physician believes person may be mentally ill or a substance abuser, requiring involuntary treatment and issues certificate to effect

that

-patient is under criminal charges

(b) patient must be transferred to evaluating facility within 24 hours of execution of physician's certificate

(c) notice of discharge must be given to:

\*patient

\*patient's representatives

\*physician and psychologist if patient admitted under 37-3-41(a)

\*to court if admitted under 37-3-41(b)

37-3-44/37-7-44 - notice upon admission

(a) written notice of right to petition for habeas corpus or protective order

\* must be given to patient

\* shall also give notice of right to counsel, appointed if can't afford

- (b) written notice to representatives of:
  - \* patient's hospitalization
  - \*representatives may petition for habeas corpus or protective order

Step 3 - Getting person into evaluating facility

37-3-61/37-7-61 - how to get person into facility

(a) any person may file an application under oath with the community health center for an evaluation, community health center makes investigation and if determines allegation may be true, shall petition the court for admission of person for evaluation

(b) any person under oath may file a petition, accompanied by a physician's certificate

\*certificate must state doctor examined patient within preceding 5 days

\*doctor has found the patient might be mentally ill or a substance abuser, requiring involuntary treatment

(c) 37-3-63/37-7-63 - transferred from emergency receiving facility, any person who is brought to an evaluating facility under 37-3-43/37-7-43 as provided in 37-3-62/37-7-62 shall be received for evaluation and treatment as indicated by good medical practice

Step 4 - hold hearing on 37-3-61 petition for whether or not should be evaluated

37-3-62/37-7-62

(a) court reviews 37-3-61/37-7-61 petition and if finds reasonable cause of mental illness:

\* holds full and fair hearing

\* no sooner than 10 and no later than 15 days after petition filed

\* gives notice of hearing to patient, representatives, and petitioner within 5 days that includes:

- time and place of hearing

- notice of right to counsel, if can't afford may appoint

- will appoint unless patient waives in writing

- notice may waive hearing

- copy of petition

(b) if after hearing or after waiver a full review of evidence, court is satisfied evaluation is necessary, court will issue order for peace officer to deliver patient to

to

evaluating facility

Step 5 - In Evaluating Facility

37-3-64/37-7-64 - evaluation period

(a) can only stay 5 days (note that Federal law may limit it to 72 hours), discharged if not mentally ill or a substance abuser or meets outpatient requirements

(b) if hospitalization needed, encourage voluntary hospitalization unless:

\*patient does not understand,

- \*would be harmful,
  - \*or in need of involuntary treatment
  - (c) if involuntary treatment needed, individualized service plan developed during 5 day evaluation period
  - (d) if discharged, notice given:
    - \* to patient
    - \* to representatives
    - \* if admitted from emergency receiving facility, to doctor
    - \* if under criminal charges, to law enforcement agency having custody
    - \* if admitted straight to evaluating facility, to court
- 37-3-81/37-7-81 - if need to stay in evaluating facility beyond evaluation period(5 days)
- (a) must have recommendation of chief medical officer that is:
    - \*supported by 2 physicians or a physician and psychologist who have examined patient within preceding 5 days
    - \* who agree person is mentally ill or a substance abuser, requiring involuntary treatment
    - \* who agree person doesn't meet outpatient requirements
    - \* recommendations entered on certificate
    - \* certificate filed within 5 days of patient's admission, along with petition for hearing
    - \* copies of certificate served on patient and representatives, within 5 days after filed along with:
      - notice of hearing, time and place
      - notice of right to counsel, may apply immediately for counsel, court will appoint unless indicates in writing doesn't want
      - copy of individualized service plan
      - notice patient has right to be evaluated by own doctor at own expense
      - notice patient may waive hearing
  - (b) if hearing waived, certificate shall serve as authorization for patient to begin treatment under terms of individualized service plan
  - (c) full and fair hearing held no sooner than 7, no later than 10 days
- 37-3-81.1/37-7-81.1 - after the hearing for need to stay beyond evaluation period
- (a) court will determine whether person:
    - \*mentally ill or a substance abuser requiring involuntary treatment
    - \*if so, whether inpatient or outpatient
    - \*unless otherwise provided, type of involuntary treatment needed
  - If court determines:
    - \*patient isn't mentally ill or a substance abuser, patient discharged
    - \*patient outpatient, whether there is available outpatient treatment which meets the needs of the plan chosen by the court and which patient is likely to obtain, will order treatment and discharge subject to order
    - \*patient outpatient, which doesn't meet requirements of discharge,

whether has received evaluation within 45 days prior to hearing. If so, discharged, if not, sent to evaluating facility

\*patient inpatient, patient transported to treatment facility

(b) court will make findings of fact and conclusions of law part of its order

(c) if inpatient hospitalization needed, court may order for period not to exceed 6 months

(d) court may order additional outpatient treatment under 37-3-93, 94/37-7-93,94.

37-3-90/37-7-90 -at evaluating facility and determined need involuntary outpatient care

shall

(a) if physician or psychologist at evaluating facility determines that the patient is mentally ill or a substance abuser, requiring involuntary treatment, the doctor further determine:

\* whether patient inpatient or outpatient

\* if outpatient, whether there is available outpatient treatment

(b) determination shall be made in the 5 days

(c) if person determined to be outpatient for whom treatment is available, shall be in need of involuntary outpatient treatment

(d) if person determined to be mentally ill or a substance abuser, requiring involuntary treatment but who isn't outpatient and there isn't available outpatient treatment, person will be in need of involuntary inpatient treatment

37-3-91/37-7-91 - if meets involuntary outpatient requirements:

(a) patient must be discharged

\*if in community health center, within 4 hours of examination

\*if in emergency receiving facility, within 48 hours of admission

\*if in evaluating facility, no later than 5 day evaluation period

(b) if psychologist discharges, physician must concur

(c) interim treatment

(d) within 3 days after referring facility discharges, shall transmit to receiving facility a copy of exam report, individualized service plan, and any other necessary information

within 5 days after receiving report, plan and information, receiving facility shall petition the court in the county where patient located for full and fair hearing and include with the petition a copy of the exam report, the individualized service plan, the address to which the patient was discharged

Step 6 - Hearing on Involuntary Outpatient Treatment

37-3-92/37-7-92

(a) unless hearing waived, hearing held within 30 days of petition under 37-3-91(d)/37-7-91(d). Court will have served on the patient at least 10 days before hearing, notice shall include:

\* same notices and info as under 37-3-81.1(a) (1)-(4) /37-7-81.1(a) (1)-(4)

\*as well as notice the patient may waive in writing the hearing, but if the

patient doesn't attend or waive, the court may order the patient taken into custody, hospitalized, evaluated and treated.

Hearings will be the same as under 37-3-81.1/37-7-81.1 and the court may issue orders as under 37-3-81.1/37-7-81.1

(b) if patient notified of hearing and doesn't appear or waive:

\* court may issue order for peace officer to take person in custody,

\*deliver to emergency receiving facility or referring facility and

\*this chapter shall apply as though patient admitted under 37-3-41/37-7-41

(c) if hearing waived, patient ordered to begin treatment under individualized service plan submitted with the petition for hearing.

#### Step 7 - Patient Ordered to Obtain Treatment

37-3-93/37-7-93

(a) under 37-3-81.1/37-7-81.1 or 37-3-92/37-7-92, the court may order the patient to obtain treatment for period not to exceed 1 year.

(b) if necessary to obtain treatment beyond one year, at least 60 days before treatment period ends, psychologist or physician in charge of treatment shall:

\*update the individualized service plan

\*prepare a report containing evidence the patient meets all the requirements of 37-3-90(c) (1) and (2)/37-7-90(c) (1) and (2)

\*petition the hearing examiner appointed for an order requiring the patient to obtain available outpatient treatment beyond the previously ordered time (See also 37-3-83/37-7-83)

the petition should contain:

\*plain and simple statement that the patient or representatives may file a request for a hearing within 15 days after service of the petition

\*the patient has a right to counsel at the hearing, patient or representatives may apply immediately for counsel to be appointed, if the patient can't afford, counsel will be appointed unless waived in writing or patient obtains own counsel (See also 37-3-83/37-7-83)

(c) if hearing isn't requested, hearing examiner will make an independent review of the report, individualized service plan and petition.

\*if determines the patient is no longer mentally ill or a substance abuser, then the hearing will be held pursuant to (d)

\*if determined the patient meets requirements for outpatient care under 3-90, then treatment ordered to continue not beyond one year

37-

(d) if hearing ordered under (c) or (e), or requested within 15 days, time and date for hearing shall be set within 25 days of request, but no later than when treatment expires

\*at hearing, order may be issued as under 37-3-81.1/37-7-81.1

\*if patient doesn't appear, court is authorized an order as under 37-3-92(b)/37-7-92(b)

(e) if patient was juvenile, and reached 17 without hearing or waiver, court will order a hearing pursuant to (d)

Step 8 - Other Duties of the facility

37-3-94/37-7-94 - review individualized service plan

(a) each individualized service plan should be reviewed at regular intervals to determine the patient's progress toward stated goals and objectives and determine whether the plan should be modified.

(b) any time the patient is found to no longer be mentally ill or a substance abuser by the physician or psychologist, the patient shall be discharged without further treatment

(c) notice of discharge should be given to:

\*patient

\*patient's representatives

\*court which ordered involuntary treatment

\*if under criminal charges, to law enforcement agency having custody of the patient

37-3-83/37-7-83 - setting up committee to review service plans

(a) if necessary to continue treatment, chief medical officer will seek an order authorizing continued treatment in the manner provided in this code section and under 37-3-93/37-7-93.

(b) if criminal or juvenile needs continued treatment, chief medical officer shall seek order under this code section

(c) a committee for continued involuntary treatment review shall be established by the chief medical officer of each hospital and should consist of:

\*not less than 5 people of professional status

\*at least one of the 5 should be a physician

\*at least 2 of the others shall be physicians or psychologists

committee should review and evaluate each individualized service plan if each patient and report to the chief medical officer its recommendations concerning the patient's needs for continued involuntary treatment, No person who has responsibility for the care and treatment of the individual patient for who

continued involuntary care is sought, shall serve on any committee which reviews such individualized case.

(d) if the chief medical officer seeks an order for continued involuntary treatment for up to 12 months, he must 1st file a notice of intended action with the

committee for continued involuntary treatment review, which notice shall be forwarded to the committee at least 60 days prior to the expiration of that period.

(e) within 10 days of notice, committee shall meet. Prior to the meeting, the patient and patient's representatives shall be notified of the following:

\*time and place of the meeting

\*purpose of the meeting

\*their right to be present

\*their right to submit any alternative individualized service plan at their own expense

in cases where the patient will not or cannot appear:

\*at least one member of the committee will make reasonable efforts to interview the patient and report to the committee.

The committee will report to the chief medical officer (other than the doctor proposing the plan or a member of the committee) its recommendations, along with any minority recommendations which were also submitted. Such report will specify whether or not the patient is mentally ill or a substance abuser requiring involuntary treatment and whether continued hospitalization is the least restrictive alternative.

(f) if after considering the committee's recommendations, the chief medical officer determines the patient is not mentally ill or a substance abuser requiring involuntary treatment, the patient will be immediately discharged.

(g) if after considering the committee's recommendations, the chief medical officer determines the patient is mentally ill or a substance abuser requiring involuntary treatment, he shall:

\*within 10 days of receiving the recommendation, serve a petition for an order authorizing continued involuntary treatment along with copies of the individualized service plan on the patient.

\*The patient's representatives will also be served the petition along with:

- a statement that the patient or his representatives may file a request for a hearing within 15 days after service of the petition,
- that the patient has a right to counsel and may apply immediately for appointed counsel, and court will appoint counsel unless waived or arranges for own.

(h) if hearing not requested by patient or representatives, within 15 days, hearing examiner will make independent review of the committee's report, updated individualized service plan and petition.

\*If concludes involuntary may be unnecessary or if any of the committee members concluded so, he shall order a hearing.

\*If concludes continued involuntary treatment is necessary, he shall order treatment involving inpatient, outpatient, or both

(I) if hearing requested within 15 days, or if court orders under (h) or (j), hearing examiner shall set a time and place for hearing to be held within 25 days of request, but no later that day on which current order expires. Notice of the hearing will be served on the patient, his representatives, the facility and where appropriate, on counsel for patient.

(j) hearing examiner for patient who was admitted under jurisdiction of juvenile court who reaches 17 without hearing or waiver, hearing will be held pursuant to (I).

#### Step 9 - If patient doesn't comply with treatment

37-3-82/37-7-82

(a) if during a period of involuntary outpatient treatment, the physician or psychologist in charge of the outpatient service plan determines that because of a change in the patient's condition, the least restrictive alternative which would accomplish the treatment goals is hospitalization of the patient, then the physician

or psychologist may execute a certificate under the conditions specific in 37-3-41(a).

(b) if at any time during a period of involuntary outpatient treatment, the patient fails without good cause or refuses to comply with the outpatient service plan, the physician or psychologist in charge of the outpatient service plan or their designee:

\* may petition the court originally approving the involuntary treatment

\*or the court where the patient is a resident

\*or where found for an order authorizing the peace officer to take the patient and deliver to community mental health center in charge of patient's care, if a physician or psychologist is there to examine to patient, or to the nearest emergency receiving facility.

Patient must be released:

\*within 4 hours from community health center

\*within 48 hours from emergency receiving facility

Unless examining physician or psychologist determines that because of a change in the patient's condition, the least restrictive alternative would be hospitalization, the physician or psychologist may then execute a certificate as under 37-3-41/37-7-41 if community health center or 37-3-43/37-7-43 if emergency receiving facility.

(c) with regards to a patient required to obtain involuntary outpatient treatment, the court may issue an order under 37-3-42/37-7-42, but if the court knows the patient is required to obtain involuntary outpatient treatment, the court may issue such order only upon the determination that the patient has not complied with the involuntary outpatient treatment or the person appears to be an inpatient.

(d) any patient detained in a facility shall not be required during that period of detention to obtain outpatient treatment required by an order then in effect and issued pursuant to this chapter. The order will remain in effect unless the facility obtains a suppression of the prior order.

# **Protocol for Emergency Admission into Emergency Receiving Facilities**

## **Step One - Admitting to Emergency Receiving Facility**

The first step in having a person believed to be mentally ill or a substance abuser admitted to an emergency receiving facility is to have the person taken into custody and delivered to the facility. There are two ways to do this: a physician may execute a certificate or the Probate Court may order that the person to be taken into custody.

In order to have a person taken to an emergency receiving facility by physician's certificate, the physician must have personally examined the patient and set forth the observations from that examination on a certificate. The certificate should state that the person is mentally ill or a substance abuser requiring involuntary treatment. The certificate expires in seven days, and once it is received, a peace officer must make diligent efforts to take the person into custody and deliver that person to the emergency receiving facility within 72 hours.

[O.C.G.A. SECTION ' 37-3-41(a); 37-7-41(a)]

The second way for a person to be admitted to an emergency receiving facility is by the Probate Court or juvenile court ordering a person to be taken into custody. The Probate Court of the county in which the patient is found, if the patient has reached age 17, and the juvenile court of the county in which the patient is found, if the patient is under 17, is the correct court to issue an order to have a person examined in an emergency receiving facility. [O.C.G.A. SECTION ' 37-3-1(4)(A),(B); 37-7-1(7)(A), (B)]

The order must be based either on an unexpired physician's certificate as explained above, or the affidavits of at least two people who have observed the person within the preceding 48 hours and believe that the person is mentally ill or a substance abuser requiring

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involuntary treatment. The order authorizes a peace officer to take the person into custody and deliver that person to the nearest emergency receiving facility or to a physician who has agreed to examine the person and issue a certificate to permit delivery of the person to an emergency receiving facility. The court order will expire within seven days of its execution. [O.C.G.A.

SECTION ' 37-3-41(b); 37-7-41(b)]

### **Step Two - Reporting Events Under Which Taken into Custody**

After the person is taken by a peace officer to an emergency receiving facility, either by authority of physician's certificate or court order, the peace officer must execute a written statement detailing the circumstances under which the person was taken into custody. [O.C.G.A.

SECTION ' 37-3-41(c); 37-7-41(c)]

### **Step Three - Examining the Patient and Determining Status**

Upon admission to an emergency receiving facility, the patient must be examined by a physician as soon as possible, but no later than 48 hours after admission. If necessary, the patient must be given any emergency care as indicated by good medical practice. [O.C.G.A. SECTION '

37-3-43(a), 37-7-43(a)]

The patient must be discharged within 48 hours unless the physician believes the person is mentally ill or a substance abuser requiring involuntary treatment and issues a certificate to that effect, or the person is under criminal charges. [O.C.G.A. SECTION ' 37-3-43(a), 37-7-

43(a)]

If the patient is believed to be mentally ill or a substance abuser, then the patient must be transferred to an evaluating facility within 24 hours of execution of the physician's certificate.

[O.C.G.A. SECTION ' 37-3-43(b), 37-7-43(b)]

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### **Step Four - Giving Notice**

Upon discharge, notice must be given to the patient, the patient's representatives, the physician or psychologist if the patient was admitted under ' 37-3-41(a) or ' 37-7-41(a), and to the court if the patient was admitted under ' 37-3-41(b) or ' 37-7-41(b). [O.C.G.A. SECTION ' 37-3-43(c), 37-7-43(c)]

Upon admission to the emergency receiving facility, written notice of the patient's right to petition for habeas corpus or for a protective order must be given to the patient along with notice of the patient's right to counsel. Written notice must also be given to the patient's representatives of the patient's hospitalization and that the representatives may petition for habeas corpus or for a protective order. [O.C.G.A. SECTION ' 37-3-44, 37-7-44]

### **Summary**

The Court must make sure before issuing an order, that:

- X the Court is the correct court of the county in which the patient is found,
- X there is either a physician's certificate that is under seven days old, or two affidavits from people who have personally observed the patient within the preceding 48 hours and the people believe the person to be mentally ill or a substance abuser requiring involuntary treatment, and
- X that a peace officer takes a person into custody before seven days pass and the order expires.

The physician executing a certificate to have a person examined at an emergency receiving facility is under a duty to:

- X personally examine the patient,
- X set forth observations from that examination in a certificate,
- X state on the certificate that the person is mentally ill or a substance abuser requiring involuntary treatment, and

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X give the certificate to a peace officer who will take the person into custody.

The peace officer given the assignment of taking the person believed to be mentally ill or a substance abuser into custody and delivering that person to the emergency receiving facility is under a duty to:

- X execute a written statement, detailing the circumstances under which the person was taken into custody,
- X make a diligent effort to obtain and deliver that person to the emergency receiving facility within 72 hours of receiving the physician's certificate,
- X check to see that the court order or the physician's certificate has not expired before taking the person into custody.

It is the duty of the local emergency receiving facility to:

- X receive the person believed to be mentally ill or a substance abuser for examination, only upon either a physician's certificate or court order issued no more than seven days prior to admission,
- X check to make sure that the order or certificate has not expired,
- X have the patient examined by a physician, as quickly as possible, but no later than 48 hours after admission,
- X determine whether the patient is mentally ill or a substance abuser requiring involuntary treatment,
- X issue a certificate if the patient is in need of involuntary treatment, and have the patient transferred to an evaluating facility within 24 hours,
- X discharge the patient if not mentally ill or a substance abuser and give notice of such discharge to the necessary parties,
- X do not discharge if person is mentally ill, a substance abuser, or under criminal charges, and
- X give any emergency medical care required by the situation.

The emergency receiving facility is also under a duty to protect the patient's rights and must

**PROTOCOL: EMERGENCY INPATIENT**

given written notice to the patient, upon admission, of:

- X the patient's rights to petition for habeas corpus or a protective order, and
- X the patient's rights to counsel and that the court will appoint counsel if the patient cannot afford one.

The Facility must also give the patient's representatives notice of:

- X the patient's hospitalization, and
- X the representative's right to petition for habeas corpus or for a protective order.

PROTOCOL: EMERGENCY INPATIENT

# **Protocol for Involuntary Outpatient Care**

## **Step One - Petitioning the Court**

The first step is to petition the Court for a hearing to determine whether the person may be admitted for evaluation at an evaluation center. The court will either be the Probate Court if the person is over 17, or the juvenile court if the person is under 17. [O.C.G.A. ' ' 37-3-1(4)(A),(B); 37-7-1(7)(A)(B)]

There are two ways to petition the court for a hearing. The first is through the local community health center. Any person, while under oath, may file an application with the community health center to have a suspected mentally ill person or substance abuser evaluated. The community health center will then make an investigation into the matter and if the center determines that the allegations of mental illness or substance abuse may be true, that center will petition the court for admission of the person for evaluation. [O.C.G.A. SECTION ' 37-3-61(a), 37-7-61(a)]

The second way to petition for a hearing is through a physician's certificate. A person who believes someone to be mentally ill or a substance abuser may, while under oath, petition the court for a hearing. The petition should be accompanied by a physician's certificate stating that the doctor has examined the patient within the preceding five days and determines that patient may be mentally ill or a substance abuser. [O.C.G.A. SECTION ' 37-3-61(b), 37-7-61(b)]

## **Step Two - Holding Hearing**

After the petition has been filed, the court will review the petition and if it finds reasonable cause of mental illness or substance abuse, will hold a hearing. The hearing must be no sooner than ten and no later than 15 days after the petition was filed. The court must give

notice of the hearing to the patient, the patient's representatives, and the petitioner within five days of the petition being filed. Notice of the time and place of hearing; notice of patient's right to counsel, and that counsel will be appointed if patient cannot afford one; notice that the hearing may be waived by the patient; and a copy of the petition will also be given to the patient and the patient's representatives. [O.C.G.A. SECTION ' 37-3-62(a), 37-7-62(a)]

### **Step Three - Delivering to Evaluating Facility**

If after a hearing or if the hearing was waived, after a full review of the evidence, the court is satisfied that an evaluation is necessary, an order will be issued for a peace officer to deliver the patient to an evaluating facility. [O.C.G.A. SECTION ' 37-3-62(b), 37-7-62(b)]

### **Step Four - Evaluating the Patient to Determine Patient's Status**

In the evaluating facility, the patient may only stay for five days. The patient will be discharged if it is determined he or she is not mentally ill or is not a substance abuser, or the patient meets outpatient requirements. Notice of a patient's discharge must be given to the patient, the patient's representatives, to the doctor if the patient was admitted through an emergency receiving facility, to the law enforcement agency having custody of the patient if the patient was under criminal charges, and to the court that gave the order to send the patient to the evaluating facility. [O.C.G.A. SECTION ' 37-3-64(a), (d); 37-7-64(a), (d)]

If it is determined that involuntary treatment is needed, an individualized service plan should be developed within the five day evaluation period. If the patient needs hospitalization, the facility should encourage voluntary hospitalization unless the patient does not understand, voluntary hospitalization would be harmful to the patient, or the patient is in need of involuntary treatment.

### **Step Five - Determining if Need Involuntary Outpatient Care**

If at the evaluating facility it is determined that the patient needs involuntary care, the examining physician or psychologist should further determine whether the patient is inpatient or outpatient, and if outpatient whether there is available outpatient care. This determination must be made in the five day evaluation period. If patient is of outpatient status and treatment is available, the patient will be in need of involuntary outpatient care. [O.C.G.A. SECTION ' 37-3-90, 37-7-90]

### **Step Six - Discharging if Involuntary Outpatient**

If the patient meets the involuntary outpatient requirements, then the patient must be discharged. If the patient was being evaluated at a community health center, discharge must occur within four hours of examination. If the patient was at an emergency receiving facility, discharge must occur within 48 hours of admission, and if the patient was in an evaluating facility, discharge must be no later than the five day evaluation period. [O.C.G.A. SECTION ' 37-3-91(a), 37-7-91(a)]

### **Step Seven - Petitioning Court for Hearing on Involuntary Outpatient Treatment**

If the patient was evaluated at a referring facility, within three days after discharge, the referring facility should transmit to the receiving facility a copy of the examination report, individualized service plan, and any other relevant information. Within five days after receiving the information, the receiving facility should petition the court in the county where the patient is located for a full and fair hearing and include in the petition a copy of the examination report, the individualized service plan, and the address to which the patient was discharged. If the referring and receiving facilities are the same, the time period to petition will be the five days after the

physician completes certification. [O.C.G.A. SECTION ' 37-3-91(d), 37-7-91(d)]

### **Step Eight - Holding Hearing on Involuntary Outpatient Treatment**

Unless a hearing is waived by the patient, the hearing will be held within 30 days of petition. At least ten days before the hearing, the patient should be served with: (1) a notice of the hearing, time and place; (2) notice of the patient's right to counsel, and that the patient may apply immediately for counsel, but the court will appoint counsel unless the patient indicates in writing otherwise; (3) a copy of the individualized service plan; (4) notice the patient has a right to be evaluated by his or her own doctor at his or her own expense; and (5) notice that the patient may waive the hearing, but if the patient does not waive the hearing and fails to appear, he or she may be taken into custody, hospitalized, evaluated and treated. [O.C.G.A. SECTION ' 37-3-92(a), 37-7-92(a)]

The court will then hold a hearing, where it will be determined whether the patient is mentally ill or a substance abuser requiring involuntary treatment, whether the patient is of inpatient or outpatient status, and unless otherwise provided, the type of involuntary treatment needed. [O.C.G.A. SECTION ' 37-3-92(a), 37-3-81.1(a); 37-7-92(a), 37-7-81.1(a)]

If the court determines that the patient is not mentally ill or a substance abuser requiring involuntary treatment, then the patient should be discharged. If the patient is determined to be of outpatient status, and there is available outpatient treatment which meets the needs of the plan chosen by the court and which the patient is likely to obtain, the court will order the treatment and discharge the patient subject to that order. If the patient is determined to be an outpatient, but does not meet the requirements of discharge, then if the patient has been evaluated within the 45 days prior to the hearing, the patient will be discharged. If the patient has not been evaluated,

then the patient will be sent to an evaluating facility. If the court determines the patient to be of inpatient status, then the patient will be transported to a treatment facility. As part of its order, the court will include findings of fact and conclusions of law, and the court may also order additional outpatient treatment under ' ' 37-3-93, 94 or ' ' 37-7-93, 94. [O.C.G.A. SECTION ' 37-3-92(a), 37-3-81.1; 37-7-92(a), 37-7-81.1]

If the patient does not waive a hearing and fails to show up at the hearing, the court may issue an order for a peace officer to take the person into custody and deliver to an emergency receiving facility or referring facility. If the patient waives the hearing, then he or she will be ordered to begin treatment under the individualized service plan submitted with the petition for hearing. [O.C.G.A. SECTION ' 37-3-92, 37-7-92]

### **Step Nine - Receiving Treatment**

The court may order a person determined to be an involuntary outpatient to receive treatment for a period not to exceed one year. [O.C.G.A. SECTION ' 37-3-93(a), 37-7-93(a)]

If the patient fails without good cause or refuses to comply with the involuntary outpatient treatment plan, the physician or psychologist in charge of the outpatient service plan or the doctor's designee, may petition the court originally approving the involuntary treatment or the court where the patient is found or is a resident. The petition will ask for an order authorizing a peace officer to take and deliver the patient to the community mental health center in charge of the patient's care or to the nearest emergency receiving facility. The patient must be released within four hours from the community health center and within 48 hours from the emergency receiving facility. [O.C.G.A. SECTION ' 37-3-82, 37-7-82]

### **Step Ten - Receiving Treatment Beyond One Year**

If it is necessary for the patient to receive treatment beyond the time of one year, at least 60 days before the treatment period ends, the psychologist or physician in charge of the patient's treatment should update the individualized service plan, prepare a report containing evidence that the patient is of involuntary outpatient status and meets all the requirements thereof, and then petition for an order requiring the patient to obtain treatment beyond the previously ordered time. [O.C.G.A. SECTION ' 37-3-93, 37-7-93]

The petition for an order should contain a statement that the patient or the patient's representatives may file a request for a hearing within 15 days after service of the petition, that the patient has a right to counsel at the hearing, that the patient or the patient's representatives may apply immediately for counsel to be appointed if the patient cannot afford one, and that counsel will be appointed by the court unless it is waived in writing or patient obtains personal counsel. [O.C.G.A. SECTION ' 37-3-93(b), 37-7-93(b)]

If no hearing is requested by the patient or the patient's representatives, there will be an independent review of the report, individualized service plan, and petition by the hearing examiner appointed to hear the case. If the hearing examiner determines that the patient is no longer mentally ill, then a hearing will be ordered. If the hearing examiner determines that the patient meets the requirements for outpatient care, then treatment will be ordered to continue for a period under a year. [O.C.G.A. SECTION ' 37-3-93(c), 37-7-93(c)]

If a hearing is ordered or requested by the patient or the patient's representatives, the hearing will be held within 25 days of the request, but no later than the date the treatment expires. At the hearing, an order may be passed the same as under ' ' 37-3-81.1, 37-7-81.1. If

the patient does not appear at the hearing, an order may be passed as under ' ' 37-3-92(b), 37-7-92(b). [O.C.G.A. SECTION ' 37-3-93(d), 37-7-93(d)]

**Step Eleven - Discharging the Patient**

If at any time the patient is found to no longer be mentally ill or a substance abuser by the physician or psychologist in charge of the patient's outpatient treatment, the patient shall be discharged without further treatment. [O.C.G.A. SECTION ' 37-3-94(b), 37-7-94(b)]

## Summary

Therefore, in order to have a person believed to be either mentally ill or a substance abuser evaluated in an evaluating facility, there must be:

- X a petition to the court, either through the community mental health center, or a physician,
- X a hearing by the court and a determination that there is reasonable cause of mental illness or substance abuse, and
- X an order of the court to have the person picked up by a peace officer and delivered to an evaluating facility.

It is then the duty of the evaluating facility to:

- X determine the status of the patient, whether mentally ill or a substance abuser, whether inpatient or outpatient,
- X discharge the patient within five days from admission, if not mentally ill, not a substance abuser, or meets the requirements of outpatient treatment,
- X give notice upon discharge to the appropriate parties listed under the statute,
- X develop an individualized service plan during the five day evaluation period, if involuntary treatment is needed, and
- X encourage voluntary hospitalization if hospitalization is needed, unless the patient does not understand, it would be harmful, or involuntary treatment is necessary.

If at the evaluating facility, it is determined that the patient is in need of involuntary care, it will further be determined whether:

- X the patient is inpatient or outpatient, and
- X whether there is available outpatient care.

If the patient is determined to meet the requirements of involuntary outpatient care:

- X the patient must be discharged within the time required by the statute,

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- X the referring facility must transfer to the receiving facility within three days of discharge, a copy of the examination report, the individualized service plan, and any other information,
- X the receiving facility must then petition the court in the county in which the patient is located for a hearing, within five days of receiving the examination report, individualized service plan, and other information.

The court will:

- X hold a hearing within 30 days of the petition unless the hearing was waived by the patient,
- X give required notice to the patient at least ten days prior to the hearing. The notices should be the same as under ' 37-3-81(a)(1)-(4), or ' 37-7-81(a)(1)-(4), as well as notice the patient may waive the hearing in writing, but if the patient does not waive or attend the hearing, the patient may be taken into custody, hospitalized, and treated, and
- X order the patient to obtain necessary treatment for a period not to exceed one year, if the patient is in need of involuntary outpatient treatment.

If the patient fails without good cause or refuses to comply with the involuntary outpatient treatment requirements, the physician or psychologist in charge of the patient's treatment should:

- X petition the court originally approving the involuntary treatment, the court where the patient is found, or the court where the patient is a resident,
- X for an order authorizing a peace officer to take the patient into custody and deliver the patient to the community health center in charge of the patient's care, or the nearest emergency receiving facility.

The patient must then:

- X be released from a community health center within four hours, or
- X be released from an emergency receiving facility within 48 hours.

If the patient is ever determined to no longer be mentally ill or a substance abuser by the physician or psychologist in charge of the outpatient treatment, then the patient should be

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discharged without further treatment.

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(booklet cover)

**INVOLUNTARY**  
**INPATIENT AND OUTPATIENT TREATMENT**  
**PETITIONS AND ORDERS**  
**for**  
**GEORGIA PROBATE COURTS**

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