


# **EXHIBIT 12**

 <b>Sheppard Pratt</b> HEALTH SYSTEM		Policy Number: CM-210.5
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Manual: Health System Clinical Manual		Effective: 11/5/2014
Section: 200 - Admission, Transfer and Discharge	Sub-section: 210 - Admission	Prepared by: Carol McKenzie
Title: Involuntary Admissions		

## **PURPOSE:**

To outline the SPHS policy and procedure for involuntary admissions.

## **POLICY:**

The Sheppard Pratt Health System seeks to protect individuals' rights as it provides for their psychiatric and/or medical needs in accordance with applicable State law. This protection is especially important in cases where an individual is not here as a voluntary patient. A health system representative informs all individuals admitted or brought to SPHS of his/her legal rights under Maryland law.

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## I. Observation Status

### A. Definition

Observation Status is defined as the interval between the time an individual is involuntarily confined in the facility and the time he/she is voluntarily admitted, released by either the attending psychiatrist or by the Administrative Law Judge, or retained as an involuntary patient by an Administrative Law Judge. During the observation period the observee shall receive care and treatment as medically required but may not, absent an emergency, be forced to take medication. The purpose of observation is for assessment of need for involuntary admission, voluntary admission, or release without admission.

### B. Adult individual with a guardian of the person

An adult individual with a guardian of the person must have an involuntary admission hearing to determine his/her admission status, even if the guardianship documentation provides the guardian with medical decision-making authority.

### C. Adult individual with a health care agent

A health care agent appointed in an advance directive can admit an individual into the hospital voluntarily if the advance directive gives the health care agent the decision making authority for mental health services. The advance directive must be provided to the Admission Office staff for review prior to accepting a voluntary admission by a health care agent. If the individual disagrees with the decision for admission, the involuntary admission process shall be initiated if the individual meets criteria. A hearing must then occur.

### D. Observation Status initiated at time of admission

1. The Admissions Office is responsible for initiating the process leading to a hearing for an involuntary admission (IVA) when an individual is brought in for observation. When an individual is brought to the Admissions Office for observation for involuntary admission, Admissions shall obtain:
  - a. An Application for Involuntary Admission (form DHMC-34) completed and signed by a person who has a legitimate interest in the welfare of the individual;
  - b. Two copies of the State of Maryland Certification by Physician or Psychologist (DHMH-2 REV. 3/90), completed and signed by either two physicians licensed to practice in the State of Maryland, or by one physician and one Maryland licensed psychologist listed in the National Register;
  - c. A report which explains how and why the individual meets each of the five certification criteria and summarizes the individual's medical history and current symptoms; and

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- d. If the individual is an emergency evaluatee, a copy of a fully completed Petition for Emergency Evaluation.
  2. If the individual has been transferred from an inpatient facility after that facility completed an application and certificates for IVA, these documents are required in addition to copy of the individual's most recent treatment plan, the discharge summary, and copies of all voluntary and involuntary admissions documents relating to the admission to that inpatient facility.
  3. Within twelve hours of the commencement of the observation period, Admissions staff will read and explain in clear and understandable terms the Notification to Patient of Admission Status and Rights (form DHMH-35) and the Notice of Hearing (form OAH-1051). The Notification of Patient of Admission Status and Rights must be completed, signed, and made a permanent part of the observee's record. If the observee refuses to sign this form, his/her refusal will be noted on the form. A copy of the notification must also be given to the observee. The Notice of Hearing will be completed, signed, and given to the observee. Remaining copies of the Notice of Hearing should be filed in the observee's record. In the event the individual is a minor, the parent or guardian, if present, must sign the Notification to Patient of Admission Status and Rights. The parent or guardian must be given a copy of the Notice of Hearing.
    1. The Admissions staff then gives a copy of the Notice of Hearing to the next of kin, if present. If not present, the Admissions staff will mail the Next of Kin copy of the Notice of Hearing to the identified next of kin if sufficient identifying information is available at that time. If this is not possible, then the inpatient social worker or the individual's treatment team will attempt to provide the copy to the next of kin as soon as possible.
- E. Observation Status initiated during an inpatient stay
- If the attending physician determines that a voluntary patient meets the criteria for certification or if a patient submits a Three-Day Notice and the attending physician determines that the patient at the time meets the criteria for certification for IVA, then the certification process may be initiated by informing unit nursing staff and the social worker.
1. The social worker or RN on the unit will sign the Application for Involuntary Admission (DHMH-34). Then nursing staff will contact two licensed physicians or one licensed physician and one licensed psychologist listed on the National Register, who will examine the individual and determine if and why each of the five certification criteria are met.
  2. Within twelve hours of the completion of the second certificate, nursing staff must complete the Notification to Individual of Admission Status and Rights and the Notice of Hearing, review both with the observee, and given the observee copies of these forms. The social worker will provide the identified next of kin with a copy of the Notice of Hearing form.

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3. If a doctor accepts a Three Day Notice Retraction after two certificates have been completed, then another Application for Voluntary Admission and Notification to Individual of Admission Status and Rights must be executed.
4. After completion or termination of the certification process, nursing staff must notify the Admissions Office.
5. If a patient's Three Day Notice expires prior to the completion of two certificates, the patient is unwilling to retract the notice, and the attending psychiatrist believes that the patient represents a serious imminent danger, then the doctor can complete a Petition for Emergency Evaluation.
6. A Three-Day Notice retraction must be reviewed and signed by the attending psychiatrist in order to validate acceptance.

F. Steps toward placing an outpatient on Observation Status

If an outpatient is in need of involuntary admission and is physically on the grounds of the Health System, two licensed Sheppard Pratt doctors, one of which may be a psychologist listed in the National Register, may examine the outpatient and each complete a Certification by Physician or Psychologist.

If an outpatient refuses to be examined, a Petition for Emergency Evaluation (Emergency Petition or EP) can be completed by a clinician. The clinician may complete the petition without endorsement by a judge if he/she is one of the following: a licensed physician, a licensed psychologist listed in the National Register, a Nurse Practitioner with a specialty in psychiatry, a R.N. Clinical Specialist in psychiatry, a Licensed Clinical Professional Counselor (LCPC), or a Licensed Certified Social Worker - Clinical (LCSW-C). On the Towson campus, the clinician shall notify the Security Department that an Emergency Petition is being completed. Security shall contact the Baltimore County Police Department and may detain the outpatient until Baltimore County Police arrive. For Sheppard Pratt at Ellicott City, the petition would be given to the Howard County Police Department.

If the outpatient is not on the grounds of the Health System, the Emergency Petition shall be completed by the clinician and, on the Towson campus, given to the Security Department for service through the Baltimore County Police Department. For Sheppard Pratt at Ellicott City, the Emergency Petition would be given to the Howard County Police Department.

For other clinicians, the petition must be completed, signed and taken to the local District Court for endorsement by a judge. There is a judge sitting and accessible through the Police Department at all times. At the Towson campus, the Security Department may be contacted to facilitate this process.

Copies of the Emergency Petition are available in the Security Office, Admissions Office, or through the Police Department. The petition must contain a description of the individual's behavior demonstrating dangerousness to self or others, and any statements made by the individual to the petitioner which leads the petitioner to believe that: (a) the

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individual has a mental disorder and (b) there is clear and imminent danger of the person's doing bodily harm to him/herself or others.

G. Roles and responsibilities during the observation period.

1. Psychiatrist, Psychiatric Resident or Psychologist (all licensed) ("doctor")

- a. Assisted by the treatment team, the doctor determines whether the observee meets the following criteria:
  - i. The individual has a mental disorder,
  - ii. The individual needs inpatient care or treatment,
  - iii. The individual presents a danger to the life or safety of the individual or of others,
  - iv. The individual is unable or unwilling to be admitted voluntarily, and
  - v. There is no available, less restrictive form of intervention that is consistent with the welfare and safety of the individual.
- b. If the observee meets each of the criteria, a hearing will be scheduled. If the observee is also refusing recommended psychiatric medication, a Clinical Review Panel may be scheduled to convene as soon as possible after the hearing. To request a Clinical Review Panel, the Patient Relations Coordinator at Towson campus or Patient Relations Coordinator designee at Ellicott City campus must be contacted. Clinical Review Panels may be scheduled prior to the hearing date; though it cannot be held until after the hearing is held and the patient is retained.
- c. If the observee does not meet the above criteria, the doctor must determine if the observee meets all the criteria for Voluntary Admission as follows:
  - i. The individual has a mental disorder,
  - ii. The mental disorder is susceptible to care or treatment,
  - iii. The individual understands the nature of the request for treatment,
  - iv. The individual is able to give continuous assent to retention by the facility, and
  - v. The individual is able to ask for release.
- d. If the observee meets the above criteria, he/she may sign an Application for Voluntary Admission for endorsement by a licensed physician. The hearing should be canceled. The licensed physician or his/her designee must also complete the Notification to Individual of Admission Status and Rights designating the changed status, review it with the patient, and give the patient a copy of this form.
  - d. If the observee does not meet the criteria for IVA and does not sign an Application for Voluntary Admission, then the observee must be released from observation and the hearing

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canceled. The observee's record must state that the individual is being "Released from Observation Status."

2. Social Worker

a. Shall be responsible for these functions:

- i. Inform the family/guardian of the date, time and place of the hearing, assist them in understanding the nature and implications of the hearing, and help them prepare for the hearing if their evidence is to be given (to be determined in conjunction with the treatment team and the hearing presenter),
- ii. Notify the hearing office of any family/others who will be attending the hearing or who will be available for telephone testimony, and
- iii. Provide family support as necessary.

H. Individuals' right to legal counsel

Individuals on observation may obtain private legal counsel and may obtain the assistance of the social worker or the Patient Relations Coordinator. Lawyer Referral Services can also be contacted and assist in obtaining private counsel. The Hearing Presenter will refer the individual to the Public Defender's Office if the individual does not have or want private legal counsel.

**II. The Hearing**

An administrative hearing must be held to determine whether the observee may be involuntarily committed under Maryland Law. An impartial Administrative Law Judge will hear the case and decide whether the observee is to be admitted to or release from the Hospital.

A. Scheduling hearings

1. Hearings must be held within ten calendar days of the observee's confinement unless a postponement has been arranged. Hearings are usually conducted on Tuesdays at Sheppard Pratt at Ellicott City and on Wednesdays at Sheppard Pratt (Towson Campus). The observee's hearing will take place on the designated hearing day following confinement. For individuals entering the Hospital on observation after midnight on Saturday at Sheppard Pratt at Ellicott City and after midnight on Sunday at Sheppard Pratt (Towson Campus), the hearing will be held the following week in order to allow the observee time to obtain legal counsel and to allow an adequate period for observation.
2. The date of the hearing may be postponed or continued by the Administrative Law Judge for good cause shown, but in any event, the hearing shall be concluded and a decision made within 17 calendar days from the date of confinement. If an observee and/or his/her legal counsel requests a different hearing date, every effort will be made to schedule the hearing at a time acceptable to all involved.

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B. Observee's rights

1. The observee must be present at the hearing unless he/she refuses or waives the right to attend. Any waiver must be knowingly and intelligently made by the observee in the presence of the Administrative Law Judge and the observee's legal representative. The observee's lawyer, the Administrative Law Judge, and the Hospital staff will determine if the hearing will be held on the unit. If the hearing is to be held on the unit, a room with a phone jack is required.
2. Hearings are held with the observee, a nursing staff escort, his/her attorney, his/her doctor, the Administrative Law Judge, the Hearing Presenter, and any called witnesses. The observee may request that witnesses not be present during aspects of the hearing.

C. Roles and responsibilities during the hearing

1. Hearing Presenter

The Hearing Presenter presents the legal documentation leading to the observee's confinement, calls witnesses for the Hospital, and guides their testimony.

2. Doctor

a. Definition

For purposes of testimony at a hearing for IVA, the term "doctor" is defined as (a) a physician who is identified as a specialist in psychiatry by the Board of Physician Quality Assurance; or (b) an individual licensed under Health Occupational Article, Title 18, Annotated Code of Maryland, to practice psychology; or a physician licensed under Health Occupations Article, Title 14, Annotated Code of Maryland in the residency program in psychiatry and under the supervision of the psychiatrist who is responsible for the treatment of the individual who is the subject of the hearing.

b. Examination and attendance

The doctor, who has examined the observee within 48 hours of the hearing, must be in attendance at the hearing. If attendance is not possible, the doctor must identify another doctor meeting the above definition and notify the Admissions Office of the change prior to the hearing.

3. Resident in Psychiatry (unlicensed) or Post-Doctoral Fellow in Psychology may be called as a material witness by the hearing presenter.
4. Social Worker



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If asked to appear as a witness at the hearing, the social worker shall prepare to testify regarding information pertinent to the testimony, in consultation with the doctor and the hearing presenter.

D. Hearing outcomes

1. Retained

If an observee is retained by the Administrative Law Judge, he/she is certified for IVA for six months (180 days) at the hospital. The patient may obtain legal counsel to appeal this decision. Pending further judicial decision, it is the doctor's decision as to when the patient will be discharged before the end of the six-month period. If the patient remains in the hospital, the doctor must then decide whether discharge is appropriate, whether to accept an Application for Voluntary Admission, or whether the patient meets the criteria for certification and should again go to hearing.

2. Release from Observation Status by the Doctor

If an observee is released prior to the hearing, the doctor shall document an order stating that the observee was "released from Observation Status."

3. Release from Observation Status by the Administrative Law Judge

If an observee is released by the Administrative Law Judge, the doctor shall note in the observee's record that the observee was released at hearing for IVA by the Administrative Law Judge. A "Discharge Information for Patients" form (#0481) must be completed and given to the individual (except those individuals released to nursing homes) before he/she leaves the premises.

If the individual is released by the Administrative Law Judge by merit of the case or due to a technicality (problem with the required documentation obtained for IVA status) and the individual's doctor determines, based on the individual's behavior and clinical condition after the hearing, that the individual meets the requirements for certification by a physician or psychologist, the doctor may complete and file a Petition for Emergency Evaluation with the Security Department once the individual has been given the opportunity to exit an external Hospital door.

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**References:**

CM-110.3 Elopement of Inpatients  
CM-210.2 EMTALA (Emergency Medical Treatment and Labor Act)  
CM-210.3 Inpatient Admissions  
CM-310.4 Informed Consent  
CM-520.8 Refusal of Psychiatric Medication by Inpatients (Med Panel Process)  
Privacy Manual

**Attachments:****Revision Dates:****Reviewed Dates:**

1/87, 9/88, 4/89, 8/90, 9/92, 11/93, 6/94, 6/96, 11/99, 9/02, 11/05, 10/09, 9/14

**Signatures:**

Ernestine Cosby: 10/10/14  
Robert Roca: 11/05/14