Involuntary Commitments in North Carolina

By Marjorie J. Brown

Mary awoke one evening to find her husband Tim standing over her. Diagnosed with Alzheimer’s, Tim was in an agitated, confused and enraged state, and threatened to kill her. Mary ran out of the house and called the police. The police responded and recommended that Mary have her husband committed for evaluation and treatment.

Kevin’s mother lived with him and his wife. Not only did she have a diagnosis of Alzheimer’s, but she was also diagnosed with high blood pressure and diabetes. Kevin could not get her to take any of her medications, and she began to lose weight and decline. She refused to go to the doctor and Kevin became increasingly worried.

Kimberly, 73 years old, diagnosed with dementia and deemed incompetent, fell at home. Home health called 911, and her guardian, who met the EMTs at the house. Although her guardian requested she be transported to the hospital to be examined, Kimberly declined transport. The EMTs informed the guardian that they could not transport her since she declined transport and the guardian would have to go through the magistrate in order to get her transported.

These incidents, or ones that are similar, are occurring with regularity throughout the state. As a result, there is an increased request for assistance with the involuntary commitment process. The process may be initiated by any person who has reason to believe a person is mentally ill and is either a danger to themselves or others. (NCGS 122C-261(a)). When applied to an adult, the definition of mental illness, as per NCGS 122C-3(21), is “an illness which so lessens the capacity of the individual to use self-control, judgment, and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to be under treatment, care, supervision, guidance, or control”.

There are three tracks to initiate the process of involuntary commitment: layperson petitionor affidavit (which most of our clients will utilize), clinician petitioner exam and affidavit, and clinician exam and emergency certificate. The main difference between these are when a person is required to appear directly in front of the magistrate. When a layperson is the petitioner, Form AOC-SP-300 Affidavit and Petition For Involuntary Commitment must be filled out with the facts on which the petitioner’s opinion is based and presented in person to the magistrate; whereas if a clinician fills out the paperwork it may be simply faxed into the magistrate.

If the magistrate finds reasonable grounds to believe the respondent probably meets the criteria for commitment, an order will be issued for custody and transportation. The order will be issued to law enforcement or any other person authorized under 122C-251 to take the respondent into custody for examination. The interesting part is that we all know that this part of the process can be particularly unsettling for an individual with dementia or Alzheimer’s. The statute allows for custody and transportation to be completed by family or friends if the danger to self or others by respondent is not substantial. (NCGS 122C-251(f)). Regardless of who carries out the custody and transportation order, transportation must occur within 24 hours of the order or a new custody order must be issued (NCGS 122C-261(e)).

Familiarize yourself with N.C General Statutes Chapter 122C as well as the UNC School of Government “The Magistrate’s Role in Involuntary Commitment” and the December 2014 issue Commitment Issues for Law Enforcement and you can effectively aid your clients as they navigate the Involuntary Commitment process.

1. NC General Statutes Chapter 122C Mental Health, Developmental Disabilities, and Substance Abuse Act of 1985

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