

2.11 Special Emergency Procedure

A. Transportation for Examination for Immediate Hospitalization

A person in need of immediate inpatient commitment to prevent harm to self or others may be transported by anyone with knowledge of the circumstances, including a law enforcement officer, for examination by a physician or eligible psychologist. The individual may be taken to an area facility or other place, including a state facility for the mentally ill, for this examination. G.S. 122C-262(a).

B. Certification by Examiner of Need for Immediate Hospitalization

If the physician or eligible psychologist finds after examination that the individual meets the criteria for immediate hospitalization, the examiner must so certify in writing before an officer authorized to administer oaths. The certificate must state the reasons immediate hospitalization is necessary, as well as any information regarding whether the person is mentally retarded. G.S. 122C-262(b); *see infra* Appendix A, Forms DMH 5-72-01-A and DMH 5-72-01-B.

C. No Appearance Before Magistrate

The certification of need for immediate hospitalization obviates the need for an appearance by the physician or eligible psychologist before a magistrate. A copy of the certificate must be sent by the physician or eligible psychologist to the clerk “by the most reliable and expeditious means.” If it appears that the certificate will not be delivered within twenty-four hours, the findings also must be communicated to the clerk by telephone. G.S. 122C-262(c).

D. Transportation to 24-Hour Facility Pending Hearing

The certificate of the physician or eligible psychologist serves as the custody order for the person to be transported to a 24-hour facility. Pending the district court hearing, the individual may be transported by anyone, including a law enforcement officer, to the facility. If there is no area 24-hour facility, and the respondent is indigent and cannot pay for care at a private facility, the respondent may be transported to a state facility for the mentally ill. G.S. 122C-262(d).

E. Chief District Court Judge to Examine Certificate

The clerk of superior court must submit the certificate of the physician or eligible psychologist immediately upon receipt to the chief district court judge for review. The chief district court judge reviews the certificate under the same standard used by the clerk or magistrate reviewing a petition under G.S. 122C-261(b)—that is, that there are “reasonable grounds to believe that the facts alleged in the affidavit are true and that the respondent is probably mentally ill and either (i) dangerous to self . . . or dangerous to others . . . or (ii) in need of treatment in order to prevent further disability or deterioration

that would predictably result in dangerousness.” G.S. 122C-261(b), 122C-264(b1).

The judicial review of the certificate is to occur within twenty-four hours, excluding Saturdays, Sundays, and holidays. The clerk must then notify the treatment facility of the findings of the court by telephone. G.S. 122C-264(b1). If the court does not find that reasonable grounds exist, presumably the respondent must be released.

F. Further Proceedings

Upon determination by the court that reasonable grounds exist for immediate hospitalization, the clerk proceeds as in a case initiated by petition or physician’s affidavit. G.S. 122C-264(b1). Procedures for further examination and court hearings are also in accord with cases initiated by petition or affidavit. G.S. 122C-262(e); *see also supra* § 2.3H.