The University of Toledo Medical Center ("UTMC") recognizes every patient’s rights with respect to decisions regarding health care and at the same time recognizes its obligation to mentally ill patients, their families and the public to get persons to a safe environment.

To know and recognize when a patient needs involuntary civil commitment (emergency or judicial hospitalization) and to set forth the procedures for handling the patient once that determination has been made; To know and recognize when a patient lacks decision-making capacity.

This policy applies to all UTMC sites and clinics and University faculty, employees (UT Security/Police, staff, Residents) and medical staff members, excluding Kobacker or potential patients of Kobacker that arrive in the UTMC Emergency Department.

1. Generally.
   a. There are two situations when a person may be hospitalized against his/her wishes, known as an involuntary civil commitment: (1) emergency hospitalization; or (2) judicial hospitalization. A person may also request to be hospitalized, or not object, to hospitalization for mental health issues, known as voluntary admission. Mental illness alone is not justification for involuntary civil commitment. Additional elements of substantial risk of harm to self or others, substantial and immediate risk of serious physical impairment or injury to self or a grave and imminent risk to substantial rights of others or the person must exist.

   b. Under emergency hospitalization, licensed physicians, licensed clinical psychologists, health officers may order and police officers or sheriffs may take a person into custody
if they have reason to believe the person is mentally ill and subject to hospitalization and believe the person represents a substantial risk of harm to self or others if allowed to remain at liberty pending a psychiatric evaluation. A person may be detained for no longer than 24 hours under an emergency hospitalization at UTMC (this excludes Kobacker).

c. As for a judicial hospitalization, anyone, including physicians, UTMC staff, court personnel, police officers, family or friends may pursue a judicial involuntary commitment if they have reason to believe the person is mentally ill and subject to hospitalization and is currently in a safe place but is refusing treatment for the mental illness. The affiant begins the process by filing an affidavit with the probate court in the county where the ill person resides that includes alleging facts sufficient to provide the probate court probable cause to believe the respondent is mentally ill, needs hospitalization and refused treatment. The probate court may issue an order of detention or direct transportation of the ill person to a hospital licensed by the Ohio Department of Mental Health.

2. Liability for Retaining Patients.

Per ORC 5122.34, persons and agencies acting in good faith, either upon actual knowledge or information thought by them to be reliable, who procedurally or physically assist in the hospitalization or discharge, determination of appropriate placement or in judicial proceedings of a person do not come within any criminal provisions and are free from any liability to the persons hospitalized or to any other person. Hospital staff and UT Security/Police may assist in restraining patients according to a practitioner’s request.

a. Patients who are not medically cleared should not be involuntarily detained through the Emergency Hospitalization process. Consideration should be given to voluntary patient inter-hospital transfer, the initiation of proceedings for Judicial Hospitalization or whether the person lacks decision-making capacity in which case the family should be advised that a guardianship should be obtained.

b. Once a patient is medically cleared and the patient meets the criteria for Emergency Hospitalization, the form may be completed and Rescue Crisis contacted.

c. Risk Management /Legal Affairs may be consulted with respect to risk-balancing decision-making regarding the above.

3. Procedure. Application for Emergency and Judicial Hospitalization per the Ohio Revised Code (“ORC”). Prior to beginning proceedings for emergency or judicial hospitalization, all efforts should be taken to convince the patient to voluntarily submit to the recommended care. Persons who have serious non-psychiatric illness but no mental health problems defined as a “Mentally Ill Person Subject to Hospitalization” set forth below are to be offered voluntary treatment only. Persons who are intoxicated are not automatically considered Mentally Ill Persons Subject to Hospitalization or lacking capacity, and the appropriate analysis needs to be conducted on each patient.

A) Definition of Mentally Ill Person Subject to Hospitalization

1 Taken from the Ohio Revised Code 5122.01 for purposes of 5122.10 Emergency Hospitalization and 5122.11 for Judicial Hospitalization
(1) This definition of a **Mentally Ill Person Subject to Hospitalization** is to be used for both Emergency and Judicial Involuntary Hospitalization: This means that the person:

a. Represents a **substantial risk of physical harm** to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm;

b. Represents a **substantial risk of physical harm** to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness;

c. Represents a **substantial and immediate risk of serious physical impairment or injury to self** as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs because of the person's mental illness (defined below) and that appropriate provision for those needs cannot be made immediately available in the community; OR

d. Would benefit from treatment in a hospital or inpatient unit licensed by the Ohio Department of Mental Health ("ODMH") under section 5119.20 of the Revised Code, or any institution, hospital, or other place established, controlled, or supervised by ODMH under Chapter 5119. of the Revised Code (collectively referred to as "Licensed Hospital") for the person's mental illness and is in need of such treatment as manifested by evidence of behavior that creates a **grave and imminent risk to substantial rights of others or the person**;

(2) "**Mental illness**" as used in (1) c. and d. above means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

**B) Emergency Hospitalization**

1) **Who May Sign a Form for Emergency Hospitalization?**— Any of the following persons may sign the form for emergency Hospitalization (Pink Slip) and take a person in need into custody or ask that a person be taken into custody:

   a. psychiatrist,
   b. other licensed physician,
   c. licensed clinical psychologist,
   d. Health Officer (defined as public health physician; public health nurse; or other person authorized by or designated by a city health district; a general health district; or a board of alcohol, drug addiction, and mental health services to perform the duties of a health officer under this chapter,
   e. parole officer, police officer or sheriff;

2) **On What basis may the person be taken into custody for Emergency Hospitalization ("Pink Slipped")?** A person may be taken into custody for Emergency Hospitalization (Pink Slip) if a psychiatrist, licensed clinical psychologist, licensed physician, health officer, parole officer, police officer, or sheriff has reason to believe:

   a. That the person is a **Mentally Ill Person Subject to Hospitalization** (definition above);
b. That the person represents a **substantial risk of physical harm to self or others if allowed to remain at liberty pending examination.**

C) **What Must be Done to Effectuate An Emergency Hospitalization?**

(1) A written statement (the pink slip) is signed by a psychiatrist or other licensed physician, a licensed clinical psychologist or police officer stating the circumstances under which such person was taken into custody and the reasons for this person’s belief. **Exhibit A** to this Policy contains the form to be used for Emergency Hospitalization. This statement shall be made available to the patient or the patient’s attorney upon request of either.

(2) If a person taken into custody under this section UTMC may provide safety for the person, but by the end of twenty-four hours after signature of the form, the person is required to be transferred to a Licensed Hospital (one that has a psychiatric inpatient unit, or other hospital licensed with the Ohio Department of Health for providing psychiatric care).

D) **Procedures for any Patient for which a form for Emergency Hospitalization has been completed:**

(1) Every reasonable and appropriate effort shall be made to take a patient into custody in the least conspicuous manner possible.

(2) A person taking the patient into custody pursuant to this section must explain to the patient: the name, professional designation, and agency affiliation of the person taking the patient into custody; that the custody-taking is not a criminal arrest; and that the patient is being taken for examination by mental health professionals.

(3) Immediately upon being taken into custody, the patient will be informed and provided with a written statement that the person may do any of the following:

   a. Immediately make a reasonable number of telephone calls or use other reasonable means to contact an attorney, a licensed physician, or a licensed clinical psychologist, to contact any other person or persons to secure representation by counsel, or to obtain medical or psychological assistance, and be provided assistance in making calls if the assistance is needed and requested;

   b. Retain counsel and have independent expert evaluation of the patient’s mental condition and, if the patient is unable to obtain an attorney or independent expert evaluation, be represented by court-appointed counsel or have independent expert evaluation of the patient’s mental condition, or both, at public expense if the person is indigent;

   c. Have a hearing to determine whether or not the person is a mentally ill person subject to hospitalization by court order (right granted to person under law).

E) **Involuntary Judicial Commitment:** Process for any Patient fits the definition of **Mentally Ill Person Subject to Hospitalization and is not medically cleared:**

(1) A physician or psychiatrist who has examined the patient and believes that a mental health illness meets the criteria of a **"Mentally Ill Person Subject to Hospitalization"** set forth in

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3 These requirements are in compliance with Ohio Revised Code 5122.10 Emergency Hospitalization
4 These requirements are in compliance with Ohio Revised Code 5122.11 Judicial Hospitalization
Section 1 B (1) above, should begin proceedings for judicial hospitalization (Ohio Revised Code sections 5122.11 to 5122.15) by contacting the House Supervisor. The House Supervisor, enlisting the assistance of social workers as needed, will coordinate the filing of an affidavit for court ordered hospitalization. The form for Lucas County is attached as Exhibit B. The primary service of the patient will be responsible for completing the affidavit unless another person is available and willing to complete the affidavit. Staff/social workers will assist physicians of the primary service in completing the forms and filing with the Court.

(2) Any person may pursue a judicial involuntary commitment, including the physician of the patient, a social worker, family or friends, but the court may require that the affidavit be accompanied by a certificate of a psychiatrist, other licensed physician, or a licensed clinical psychologist.

(3) The person seeking to cause involuntary hospitalization of another believed to be Mentally Ill and Subject to Hospitalization is called the affiant. The affiant will work with the House Supervisor, who will engage UTMC social workers or other staff as needed to complete and have the appropriate person file the affidavit with the probate court in the county where the ill person resides. This affidavit requires the affiant to allege facts sufficient to provide the probate court probable cause to believe the respondent is mentally ill and needs hospitalization. In the alternative, the affidavit will need to be accompanied by a written statement by the affiant, under oath, that the patient has refused to submit to an examination by a psychiatrist, or by other licensed physician or by a licensed clinical psychologist.

(4) Upon receipt of the affidavit, if a judge of the court or a referee who is an attorney at law appointed by the court has probable cause to believe that the person named in the affidavit is a Mentally Ill person Subject to Hospitalization by court order, the judge or referee may issue a temporary order of detention ordering any health or police officer or sheriff to take into custody and transport the person to:

a. Licensed Hospital (one that has a psychiatric inpatient unit, or other hospital licensed with the Ohio Department of Health for providing psychiatric care);

b. temporarily retained at UTMC for such period of time as indicated by the judge or referee pending removal to a Licensed Hospital, except that such period of time will not exceed forty eight (48) hours from the time issued by the judge or referee (in which case the affiant may have to attest to the lack of transferability of the patient to a Licensed Hospital to the court), or

c. The Court may set the matter for further hearing in which case the person may be observed and treated until the hearing provided for in section 5122.141 of the Ohio Revised Code. If no such hearing is held, the person may be observed and treated until the hearing provided for in section 5122.15 of the Ohio Revised Code.

F) If the Patient is temporarily detained at UTMC per (E) (4) b. above at the request of anyone other than the person’s legal guardian, spouse, or next of kin:

(1) If a member of UTMC files an affidavit, the Chief Executive Officer of UTMC will be immediately notified.

5 These requirements are in compliance with Ohio Revised Code 5122.11 Judicial Hospitalization
(2) The Chief Executive Officer of UTMC or designee will immediately notify the person’s legal
guardian, spouse or next of kin, and counsel, if these persons can be ascertained through
exercise of reasonable diligence.

(3) If a person voluntarily remains at or is admitted to UTMC, such notification will not be given
without his or her consent. The Chief Executive Officer or designee will inform a person
voluntarily remaining at or admitted to UTMC that he or she may authorize such notification.


Refusing recommended treatment may be a poor choice and could be evidence of a mental disorder,
but refusal itself may not be used as a mental disorder. The practitioner needs to determine whether the
patient lacks competency to make health care decisions. Assessment of capacity does not require the
opinion of a psychiatrist or psychologist, however, it should be noted that psychiatrists do have more
experience in assessing the capacity of patients whose decision-making seems impaired and in
detecting subtle indications of mental disorders that compromise decision-making capacity.* An
independent physician’s review of a patient’s status also assists in removing other influences that may
be present regarding a patient’s treatment. See also policy 3364-100-10-10 regarding AMA.7

A) “Incompetent” means any person who is so mentally impaired as a result of a mental or physical
illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person
is incapable of taking proper care of the person’s self or property or fails to provide for the
person’s family or other persons for whom the person is charged by law to provide.

If a patient is believed to be “Incompetent” as defined by this Section, UTMC staff may contact
Outcomes Management to begin the process for appointment of guardian, whether limited,
interim, emergency, or standby. Outcomes Management will work to find an appropriate
guardian and determine the appropriate persons to complete the paperwork for the application.
Outcomes Management may work with Risk Management/Legal Counsel through this process.

B) Where representations are made by a patient’s family that a guardianship or other legal document
with respect to decision making for the patients’ health care exists, like a durable power of
attorney for health care, documentation should be obtained by UTMC and placed into the medical
record in accordance with policy and measures taken to ensure that staff at UTMC involved in the
care of the patient are fully informed as to the requirements of the documentation.

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7 http://www.utoledo.edu/policies/utmc/administrative/pdfs/3364-100-10-10.pdf
Exhibit A
APPLICATION FOR EMERGENCY ADMISSION
(“PINK SLIP FORM”)

I am a (select one):

☐ psychiatrist,
☐ licensed clinical psychologist,
☐ licensed physician,
☐ health officer,
☐ parole officer, police officer or sheriff

and have reason to believe that ____________________________ (“Person”)
(Printed name of Person for which this application is being completed)

And that the Person (select one of the following):

☐ Represents a substantial risk of physical harm to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm;

☐ Represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness;

☐ Represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the community; OR

☐ Would benefit from treatment in a hospital for the person's mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person;

AND

That the person represents a substantial risk of physical harm to self or others if allowed to remain at liberty pending examination.

Printed Name and Title of Psychiatrist, Physician, Psychologist or Officer Completing this Form

Signature of Psychiatrist, Physician, Psychologist or Officer Completing this Form

Date: ________________

[See Policy 3364-100-45-23 for Proper Use and Completion of this Form]
AFFIDAVIT (Mental Illness)
In Accordance with 5122.01 & 5122.11 of O.R.C.

The State of Ohio, Lucas County, s.s. PROBATE COURT

The undersigned, residing at _______________________, says that he or she has information to believe,
Or has actual knowledge that _______________________, represents a substantial risk of physical harm to self as manifested by evidence of
threats of or attempts at suicide or serious self-inflicted bodily harm; OR

Represents a substantial risk of physical harm to others as manifested by evidence of
recent homicidal or other violent behavior or evidence of recent threats that place
another in reasonable fear of violent behavior and serious physical harm; OR

Represents a substantial and immediate risk of physical impairment or injury to self as
manifested by evidence that he is unable to provide for and is not providing for his
basic physical needs because of his mental illness and that appropriate provision for
such needs cannot be made immediately available in the community; OR

Would benefit from treatment in a hospital for mental illness and is in need of such
treatment as manifested by evidence of behavior that creates a grave and imminent risk
to substantial rights of others or self.

(Specify category(ies) above with X)

further states that the facts supporting this
belief are as follows: ________________________

(Describe what you’ve seen or heard respondent do)

These facts being sufficient to indicate probable cause that the above-named person is a mentally ill person subject
to hospitalization by Court order.

The name and address of patient’s last physician or licensed clinical psychologist is ________________________

(Doctor, LCP name)

whose hospital residence address is: ________________________

The name and address of respondent’s legal guardian or spouse is: ________________________
who resides at ___________________________; and that the names and addresses of the competent adult next of kin of ____________________________ who are residents of the County are as follows:

<table>
<thead>
<tr>
<th>NAME</th>
<th>AGE</th>
<th>KINSHIP</th>
<th>ADDRESS</th>
</tr>
</thead>
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That the following constitutes additional information which may be necessary for the purpose of determining respondent's County of residence:

Dated this __________ day of ________________, 20____.

__________________________________________
Sworn to before me and signed in my presence on the day and year above date.

PROBATE JUDGE

DEPUTY CLERK

WAIVER

I, the undersigned affiant, hereby waive the issuing and service of Notice of the Hearing on the Affidavit and voluntarily enter my appearance herein.

Dated __________________, 20____
Person enters UTMC ED or inpatient unit with no ability or limited ability to make personal health care decisions

Person fits the definition of a mentally ill person subject to hospitalization (Represents a **substantial risk of physical harm** to self or others)

Person **DOES NOT fit** the definition of a mentally ill person subject to hospitalization (does not represent a **substantial risk of physical harm** to self or others)

If patient **IS** medically stable and refuses voluntary transfer:
- Primary Service for Patient contacts House Supervisor, who works with Social Workers as needed to complete documentation for Emergency Hospitalization (aka Pink Slip – found on Exhibit A) and calls Rescue Crisis
- Patient may be retained at UTMC for only 24 hours after form signed

If patient **IS NOT** medically stable hospital staff works to maintain the patient safely through UT Security/Police or other security as necessary. Staff consults with Social Workers to pursue potential Judicial Hospitalization or Order of Detention if necessary.

Patient has at least minimal decision-making capacity and is not mentally ill and wishes to leave --> Patient signs AMA forms. Transportation arranged if necessary

Patient meets definition of person lacking capacity: *any person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person’s self or property or fails to provide for the person’s family or other persons for whom the person is charged by law to provide*

UT Security/Police and Hospital nursing/staff will provide assistance with retaining patients upon the issuance of a practitioner’s request.

Department of Psychiatry may be consulted to determine whether the person meets the definition of a mentally ill person or lacks the capacity to make health care decisions

Primary Service will work with House Supervisor, who will work with Psychiatry/Social Workers/Outcomes Management as necessary to determine whether to advise the family that a guardianship is appropriate