

Section: Medical Operations General
Subject: BAKER ACT
Section #: 300.02
Issue Date: March 21, 2011
Revision Date:
Approved By:

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Michael Lozano, Jr., M.D., HCFR Medical Director



1. The Baker Act (F.S. Chapter 394 – Mental Health) relates to the authorization of police, physicians, and the courts to dictate certain medical care for persons who pose a threat to themselves or others.
 - a. The purpose of this policy is to describe the Act and how it relates to Hillsborough County Fire Rescue.
 - b. Special Note: The information presented in this policy is selected information from Florida Statutes Chapter 394.
 - i. Any additional questions to legal reference(s) made in your management of patient care should be through Medic-1 contact.
 - ii. Additional information about this law should be researched using Florida Statutes or legal counsel.
2. F.S. Chapter 394 – Mental Health
 - a. F.S. 394.461 Facilities – Transfer of Patients
 - i. Criminally charged or convicted mentally ill persons – no receiving facility shall be required to accept for examination and treatment any person with pending felony charges involving a crime of violence against another person.
 - b. F.S. 394.463 – Involuntary Examination
 - i. Criteria – A person may be taken to a receiving facility for involuntary examination if there is reason to believe he or she is mentally ill and because of his or her mental illness:
 1. The person has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination, - OR -
 2. The person is unable to determine for himself or herself whether examination is necessary, - AND -
 3. Without care or treatment, the person is likely to suffer from neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and it is not apparent that such harm may be avoided through the help of willing family members of friends or the provision of other services; - OR -
 4. There is a substantial likelihood that without care or treatment the person will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.
3. Involuntary Examination:
 - a. Initiation of involuntary examination – An involuntary examination may be initiated by any one of the following means:
 - i. A court may enter an ex parte order stating that a person appears to meet the criteria for involuntary examination, giving the findings on which that conclusion is based.
 1. The ex parte order for involuntary examination must be based on sworn testimony, written or oral.
 2. If other less restrictive means are not available, such as voluntary appearance for outpatient evaluation, a law enforcement officer, or other designated agent of the court, shall take the person into custody and deliver him or her to the nearest receiving facility for involuntary examination.
 3. The order of the court of the court shall be made a part of the patient's record.

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4. No fee shall be charged for the filing of an order under this subsection.
 5. Any receiving facility accepting the patient based on this order must send a copy of the order to the agency for Health Care Administration on the next working day.
 6. The order shall be valid only until executed or, if not executed, for the period specified in the order itself.
 7. If no time limit is specified in the order, the order shall be valid for 72 hours after the date the order was signed.
- ii. A law enforcement officer shall take a person who appears to meet the criteria for involuntary examination into custody and deliver the person, or have him or her delivered, to the nearest receiving facility for examination.
1. The officer shall execute a written report detailing the circumstances under which the person was taken into custody, and the report shall be made a part of the patient's clinical record.
 2. Any receiving facility accepting the patient based on this report must send a copy of the report to the Agency for Health Care Administration on the next working day.
- iii. A physician, clinical psychologist, psychiatric nurse, or clinical social worker may execute a certificate stating that he or she has examined a person within the preceding 48 hours and finds that the person appears to meet the criteria for involuntary examination and stating the observations upon which that conclusion is based.
1. If other less restrictive means are not available, such as voluntary appearance for outpatient examination, a law enforcement officer shall take the person named in the certificate into custody and deliver him or her to the nearest available receiving facility for involuntary examination.
 2. The law enforcement officer shall execute a written report detailing the circumstances under which the person was taken into custody.
 3. The report and certificate shall be made a part of the patient's clinical record.
 4. Any receiving facility accepting the patient based on this certificate must send a copy of the certificate to the Agency for Health Care Administration on the next working day.