

Section: Medical Operations General
Subject: MARCHMAN ACT
Section #: 300.07
Issue Date: March 21, 2011
Revision Date:
Approved By:

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



1. The information presented in this policy is selected information from F.S. 397.
 - a. The information presented in this policy is selected information from F. S. Chapter 415.
 - i. Any additional question to any legal reference(s) made in your management of patient care should be through Medic-1.
 - ii. Additional information needed about this law should be researched using Florida Statutes and legal counsel.
2. The purpose of this policy is to describe the Marchman Act and how it relates to Hillsborough County Fire Rescue operations.
3. The Marchman Act (F.S. 397) concerns the detention and treatment of persons found incapacitated and impaired in public places.
 - a. Impaired, or substance abuse impaired, means a condition involving the use of alcoholic beverages or any psychoactive or mood altering substance in such a manner as to induce mental, emotional, or physical problems and causes socially dysfunctional behavior.
4. F.S. Chapter 397:
 - a. F.S. 397.675 – Criteria for involuntary admissions, including protective custody, emergency admission, and other involuntary assessment, involuntary treatment, and alternative involuntary assessment for minors, for purpose of assessment and stabilization, and for involuntary treatment.
 - b. A person meets the criteria for involuntary admission if there is good faith reason to believe the person is substance abuse impaired and because of such impairment has lost the power of self-control with respect to substance use **and** either:
 - i. Has inflicted, or threatened or attempted to inflict, or unless admitted is likely to inflict, physical harm on himself or herself or another, – **or** –
 - ii. Is in need of substance abuse services and, by reason of substance abuse impairment, his or her judgment has been so impaired that the person is incapable of appreciating his or her need for services and of making a rational decision in regard to such services.
 1. However; mere refusal to receive such services does not constitute evidence of lack of judgment with respect to his or her need for such services.
5. F.S. 397.6759 – Parental participation in treatment:
 - a. A parent, legal guardian, or legal custodian who seeks involuntary admission of a minor pursuant to F.S. 397.675 & 397.6977 is required to participate in all aspects of treatment as determined appropriate by the director of the licensed service provider.
6. F.S. 397.677 – Protective custody, circumstances justifying:
 - a. A law enforcement officer may implement protective custody as specified in this part when a minor or an adult appears to meet the involuntary admission criteria is:
 - i. Brought to the attention of law enforcement, – **or** –
 - ii. In a public place.

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7. F.S. 397.6771 – Protective custody with consent:
 - a. A person in circumstances which justify protective custody, as described in F.S. 397.6771, may consent to be assisted by a law enforcement officer to his or her home, to a hospital, or licensed detoxification or addictions receiving facility, whichever the officer determines is most appropriate.
8. F.S. 397.6772 – Protective custody without consent:
 - a. If a person, in circumstances which justify protective custody, as described in F.S. 397.6772, fails or refuses to consent to assistance and a law enforcement officer has determined that a hospital or a licensed detoxification or addiction receiving facility is the most appropriate place for the person; the officer, after giving due consideration to the expressed wishes of person may:
 - i. Take the person to a hospital or licensed detoxification or addiction receiving facility against the person's will but without using unreasonable force, – or –
 - ii. In the case of an adult, detain the person for his or her own protection in any municipal or county jail or other appropriated detention facility.
 1. Such detention is not to be considered an arrest for any purpose, and not entry or other record may be made to indicate that the person has been detained or charged with any crime.
 2. The officer in charge of the detention facility must notify the nearest appropriate licensed service provider within the first 8 hours after the person has been detained.
 3. It is the duty of the detention facility to arrange, as necessary, for transportation of the person to an appropriate licensed service provider with an available bed.
 4. Person taken into protective custody must be assessed by the attending physician within the 72-hour period (without unnecessary delay) to determine the need for further assistance.
 - iii. The nearest relative of a minor in protective custody must be notified by the law enforcement officer, as must the nearest relative of an adult, unless the adult requests that there be no notification.
9. F.S. 397.6774 – Department to maintain lists of licensed facilities:
 - a. The department shall provide each municipal and county public safety office with a list of licensed hospitals, detoxification facilities, and addictions receiving facilities; including the name, address, phone number, and services offered by the licensed service provider.
10. F.S. 397.6775 – Immunity from liability:
 - a. A law enforcement officer acting in good faith pursuant to this part may not be held criminally or civilly liable for false imprisonment.