

# **Final Report of the Task Force for Procedures Related to Mental Health Forms Subcommittee**

## **I. Introduction**

The Supreme Court of Texas and the Texas Court of Criminal Appeals created the Judicial Commission on Mental Health to examine court practices and the administration of justice in our state courts and the ways they relate to behavioral and mental health challenges in Texas. In the Fall of 2019, the Supreme Court created a JCMH task force in accordance with Senate Bill 362.<sup>1</sup> The 362 Task Force was directed to adopt rules to streamline and promote efficiency in court processes under Chapter 573 of the Texas Health and Safety Code (emergency detention) and to implement measures relating to mental health and intellectual and developmental disabilities to create consistency and access to the judicial branch.<sup>2</sup>

The 362 Task Force met on December 2, 2019 and divided its work into three subcommittees: (i) Legislative Recommendations; (ii) Technology Solutions for Emergency Detention Warrants; and (iii) Forms. In this report, the Forms Committee provides a review of the Committee's progress.

## **II. Forms Committee**

**Hon. Brent Carr, Chair 362 Task Force**  
Fort Worth, TX

**Hon. Guy Herman**  
Austin, TX

**Hon. Dave Jahn, Chair Forms Subcommittee**  
Denton, TX

**Hon. Roxanne Nelson**  
Burnet, TX

**Melinda Brents**  
Houston, TX

**Hon. Robin Ramsay**  
Denton, TX

**Hon. Nelda Cacciotti**  
Fort Worth, TX

**Steve Wohleb**  
Austin, TX

**Hon. Clay Harrison**  
Sulphur Springs, TX

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<sup>1</sup> Order of the Supreme Court of Texas Creating Task Force for Procedures Related to Mental Health at 1, (Misc. Docket No. 19-9094) (2019).

<sup>2</sup> See Act of May 15, 2019, 86th Leg., R.S. ch.582 §26 (S.B. 362).

### **III. Identified Forms**

The Committee identified six categories of forms to review:

#### **1. Emergency Detention Forms**

- Notification of Emergency Detention
- Application for Emergency Detention
- Magistrate's Order and Warrant for Emergency Detention
- Advisement to Patient Under Emergency Detention

#### **2. Order of Protective Custody Forms**

- Duties of Attorney
- Motion for Protective Custody
- Order for Protective Custody
- Notification of Probable Cause Hearing
- Probable Cause Hearing Elections/Motions/Orders

#### **3. Court-Ordered Mental Health and IDD Services Forms**

- Mental Health General Information Form
- Application for Court-Ordered Mental Health Services
- Certificate of Examination for Mental Illness
- Order Transferring Venue
- Motion to Have Patient Examined/Order to Submit
- Order Setting Hearing on Application for Extended Commitment
- Notice to Patient of Extended Commitment Hearing
- Patient's Elections & Attorney's Certification to Court for Extended/Temporary Commitment Hearings
- Motion for Continuance
- Judgment and Orders for Court-Ordered Mental Health Services
- Writs of Commitment
- Motion/Orders for Modification/Transfer
- Motion to Dismiss
- Application/Order for Inspection of Records
- Application for Placement/IDD & Residential Commitment Order

#### **4. Jail and Magistration Forms**

- Screening Forms
- 16.22 Interview Orders

#### **5. Incompetency to Stand Trial Forms**

- Certificate of Medical Examination for Mental Illness
- Certification of Competency Evaluator Credentials (TCOOMMI Form)
- Order to Determine Eligibility for Outpatient Competency Restoration
- Order of Commitment for Restoration to Competency

- 60-Day Extension of Commitment for Restoration to Competency
- Temporary Order of Civil Commitment: Charges Pending

## **6. Court-Ordered Administration of Psychoactive Medication Forms**

- **Criminal Court:**
  - Order on State's Motion to Compel Involuntary Administration of Court-Ordered Medication
- **Probate Court:**
  - Non-Forensic:
    - Application for Court-Ordered Psychoactive Medication
    - Order Setting Hearing on Application for Court-Ordered Psychoactive Medication
    - Notice to Patient of Hearing on Court-Ordered Psychoactive Medication
    - Patient's Elections & Attorney's Certification to Court
    - Result of Hearing on Court-Ordered Psychoactive Medication
    - Order to Administer Psychoactive Medication
    - Motion for Writ of Attachment
    - Order Denying Application to Administer Psychoactive Medication
  - Forensic:
    - Application to Authorize Administration of Psychoactive Medication
    - Certification of Medical Examination
    - Order Authorizing Administration of Forced Medication
    - Writ of Attachment

## **IV. Recommended Forms**

The Committee met several times in 2020 and 2021 to review and discuss forms from the following categories. Approved forms have been converted to a consistent format and standardized for use across the state.

### **Emergency Detention Forms**

The Committee found that the Notification of Emergency Detention and the Advisement to Patient Under Emergency Detention are statutory forms, and no changes were needed. The Committee agreed on an Application for Emergency Detention, Magistrate's Order and Warrant for Emergency Detention.

### **Order of Protective Custody Forms**

Because the Duties of Attorney form is statutory, the Committee suggested that courts copy it to the back of an order appointing the attorney or setting the hearing. Both a Motion for Protective Custody and an Order of Protective Custody were adopted by the Committee. The Notification of Probable Cause Hearing proved to be too jurisdictionally specific to standardize, so the Committee will include a basic sample Notification that local courts can tailor to their needs.

### **Court-Ordered Mental Health and IDD Services Forms**

The Committee adopted an Application for Court-Ordered Mental Health Services and a Motion to Have Patient Examined/Order to Submit. The Committee included two Certificates of Examination for Mental Illness (CMEs) and updated them to require only an unsworn declaration instead of notarization, which will assist the growing number of doctors who treat patients by telemedicine. Additionally, the Committee found that the Order Setting Hearing on Application for Extended Commitment was not required by law and there was no reason to standardize the Order Transferring Venue.

### **Jail and Magistration Forms**

Following the 87th legislative session and the passage of S.B. 49, the Committee updated an Order for the Collection of Information Regarding Mental Illness or Disability to include all of the individuals entitled to receive the 16.22 report: counsel for both parties, the trial court, the sheriff or other person who is responsible for the defendant's medical records, and the personal bond office or director of the department responsible for supervision of a defendant on bond with mental health or IDD conditions.

### **Incompetency to Stand Trial Forms**

The Committee found that there was not a need to approve additional CMEs after having approved the CMEs under Court-Ordered Mental Health and IDD Services Forms. The Certificate of Competency Evaluator Credentials was standardized by the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI). The Committee approved Orders of Commitment to the State Hospital (SH), to Jail-Based Competency Restoration (JBCR) and to Outpatient Competency Restoration (OCR) for both felony and misdemeanor cases. An Order of Extension, and a Temporary Order of Civil Commitment were also approved.

### **Court-Ordered Administration of Psychoactive Medication Forms**

A criminal court Order to Compel Involuntary Administration of Court-Ordered Medication was approved. Various non-forensic probate court forms were also approved: an Application and Order Setting Hearing on Application for Court-Ordered Psychoactive Medication; Notice to Patient of Hearing on Court-Ordered Psychoactive Medication and Patient's Elections and Attorney's Certification to Court; and Result of Hearing on Court-Ordered Psychoactive Medication, Order to Administer Psychoactive Medication, and Motion for Writ of Attachment. Three forensic probate court forms were approved: an Application to Authorize Administration of Psychoactive Medication, an Order Authorizing Administration of Forced Medication, and a Writ of Attachment.

## **V. Conclusion**

The Committee has achieved its goal of compiling a collection of forms that courts and attorneys can use to streamline and promote efficiency in court processes. The model forms will be uploaded to a Forms Bank on the JCMH website, where users can download them for use in their practice.