

72-Hour Legal Hold

Introduction

Laws and regulations for 72-hour holds vary from state to state, so make sure you're familiar with your state's regulations.

Individuals with uncontrolled mental health problems or those who may cause self-harm or harm to others may be unwilling to participate in treatment voluntarily. In such cases, a 72-hour legal hold may be necessary. With this form of involuntary commitment, a patient who is identified as having psychiatric issues is evaluated by personnel from a psychiatric facility or the psychiatric unit to determine whether additional inpatient psychiatric care is necessary.

In order to place a patient on a 72-hour hold, the doctor must first medically clear the patient and the appropriate paperwork must be completed. Depending on the results of a psychiatric evaluation, it may be necessary to make arrangements to transfer the patient to a psychiatric facility or the psychiatric unit.

If a bed isn't available in a psychiatric facility or unit, the patient remains in the acute care setting while a petition is filed for a 72-hour hold. A superior court judge then determines whether a 72-hour hold is necessary after hearing the facts of the case and opinions of mental health professionals.

Equipment

- Legal hold form

Implementation

1. Confirm the patient's identity using two patient identifiers according to your facility's policy.¹
2. Perform a complete psychiatric assessment of the patient. (See the "Psychiatric nursing assessment" procedure.) Report indications of a mental health disorder, suicidal ideation, or an intent to harm others to the doctor for further evaluation.
3. After the patient is medically cleared by the doctor, have the doctor complete the legal commitment form as required by your county and state *to start the process for establishing a 72-hour legal hold*.
4. Notify the appropriate psychiatric facility or the psychiatric unit as dictated by the patient's insurance (or the county if the patient is uninsured).
5. Provide appropriate care and ensure that the patient isn't harmful to himself or others.
6. After the patient is evaluated by the psychiatric facility or psychiatric unit staff, follow the recommendations given for further care. If the patient is unwilling or incapable of seeking psychiatric treatment on his own, make sure that the required paperwork is completed for a legal hold on the patient so they may receive the appropriate care.
7. If a bed is available in the psychiatric facility or on the psychiatric unit, arrange for transportation to the facility or unit, per facility policy.

8. If a bed isn't available, notify case management and risk management to file a petition with the court to continue a legal hold on the patient until a bed is available in a psychiatric facility.
9. If the patient is required to appear in court, arrange transportation through the case manager. On the day of the hearing, a designated staff member and security personnel, if necessary, will escort the patient to court. Be sure the patient's medical record is also taken to the hearing. Two doctors from the court assessment team should also be present at the hearing to provide feedback regarding the patient's state of mental health.
10. Follow recommendations of the court to continue care until a bed in a psychiatric facility or unit is available or discharge the patient with scheduled follow-up psychiatric care.
11. Document the procedure.³

Special Considerations

- Paperwork may be different per county or state. Know which forms are required and have them completed accurately.

Documentation

Document patient behaviors and assessment findings that help determine the mental state of the patient. Record any patient statements that indicate intent to do self-harm or harm to others. Complete the required paperwork to file for a legal hold, per county requirements. Create and update the multidisciplinary care plan as needed.

References

1. The Joint Commission. *Comprehensive Accreditation Manual for Hospitals: The Official Handbook*. Standard NPSG.01.01.01. Oakbrook Terrace, Ill.: The Joint Commission, 2010.
2. The Joint Commission. *Comprehensive Accreditation Manual for Hospitals: The Official Handbook*. Standard RC.01.02.01. Oakbrook Terrace, Ill.: The Joint Commission, 2010.
3. The Joint Commission. *Comprehensive Accreditation Manual for Hospitals: The Official Handbook*. Standard RC.01.03.01. Oakbrook Terrace, Ill.: The Joint Commission, 2010.
4. Laengle, G., et al. "What Is the Benefit of Involuntary Short-Term Psychiatric Hospitalisation?" *Medicine and Law* 19(1):73-85, 2000.
5. Zavotsky, K., and Scipione, K. "Developing a MASH (Management of Acute Psychiatric Health) Task Force in the Emergency Department," *Advanced Emergency Nursing Journal* 30(4):339-43, October/December 2008.

72-hour legal hold (Procedure)

1. Confirm the patient's identity.
2. Perform a complete psychiatric assessment.
3. After the patient is medically cleared by the doctor, have the doctor complete the legal commitment form.
4. Notify the appropriate psychiatric facility or unit.
5. Provide appropriate care and ensure that the patient isn't harmful to himself or others.
6. Follow recommendations given by the psychiatric facility or unit for further care.
7. If a bed is available, arrange for transportation, per facility policy.
8. If a bed isn't available, notify case management and risk management to file a petition with the court to continue a legal hold.
9. If the patient is required to appear in court, arrange transportation through the case manager.
10. Follow recommendations of the court to either continue care until a bed in a psychiatric facility or unit is available or discharge the patient with scheduled follow-up psychiatric care.
11. Document the procedure.