



Department of  
**Mental Health &  
Substance Abuse Services**

# **Tennessee's New Certificate of Need Document for Emergency Involuntary Psychiatric Hospitalization**

# TN's New Certificate of Need Process

## Public/Private Behavioral Health Crisis and Hospital System Workgroup

### Community Partners

- Dr. Sandy Herman, Past President  
TN College of Emergency Physicians
- Holly Kunz, MHCA, BSN, RN, CEN,  
Assistant Chief Nursing Officer, Maury  
Regional Medical Center
- Dr. Jennie Mahaffey, Chief Medical  
Officer,  
Erlanger Behavioral Health Hospital
- Curtis Newman, RN, Director,  
Emergency Services, Southern TN  
Regional Health System
- Dr. Jeffrey Wood, DNP, CEO Trustpoint  
Hospital

### Cookeville Regional Medical Ctr

- Dr. Sullivan Smith, Medical Director,  
Emergency Services
- Dr. John B. Averitt, Hospitalist
- Jason Brown, Social Services
- Barb Davis, R.N., Care Manager

### THA

- Mike Dietrich, Vice President,  
Member Services
- Adrienne Nordman, Director, Member  
Services

### TDMHSAS

- New CON Committee

# TN's New Certificate of Need Process

## TDMHSAS Committee

- Marie Williams, Commissioner
- Matt Yancey, Deputy Commissioner, Behavioral Health Community Programs
- Bo Turner, Deputy Commissioner, Operations and Hospital Services
- Dr. Terry Holmes, Chief Medical Officer
- Ty Thornton, Acting General Counsel
- Melissa Sparks, Deputy Assistant Commissioner, Hospital Services
- Rob Cotterman, Director of Hospital Services
- Morenike Murphy, Director, Crisis Services
- Vicki Carter, Program Manager, Crisis Services
- Office of Communications

# TN's New Certificate of Need Process

## Tennessee Mental Health Commitment Laws Emergency Involuntary Psychiatric Hospitalization

Leandra Mitchell  
TDMHSAS- Special Counsel

# TN's New Certificate of Need Process

## **An Individual May Be Detained For The Purpose Of A Mental Health Evaluation**

- If an individual is experiencing signs and/or symptoms of a mental illness or serious emotional disturbance that present a risk of harm to the individual experiencing the symptoms or to others they may be detained without a court order for an unlimited amount of time pending completion of a behavioral health evaluation.

T.C.A. § 33-6-401

# TN's New Certificate of Need Process

## How is Substantial Likelihood of Serious Harm defined?

If an individual has:

- Threatened or attempted suicide or to inflict serious bodily harm on him/herself OR
- Threatened or attempted homicide or other violent behavior OR
- Has placed others in reasonable fear of violent behavior and serious physical harm to them OR
- Is unable to avoid severe impairment or injury from specific risks

**AND** there is a substantial likelihood that such harm will occur unless the person is placed under involuntary treatment,

**THEN** the criteria for “substantial likelihood of serious harm” can be met.

T.C.A. § 33-6-501

# TN's New Certificate of Need Process

**An individual may be admitted and detained by a hospital or treatment resource for emergency diagnosis, evaluation, and treatment IF AND ONLY IF the individual:**

- Has a mental illness or serious emotional disturbance, **AND**
- Poses an immediate substantial likelihood of serious harm because of the mental illness or serious emotional disturbance, **AND**
- Needs care, training, or treatment because of the mental illness or serious emotional disturbance, **AND**
- All available less drastic alternatives to placement in a hospital or treatment resource are unsuitable to meet their needs.

# TN's New Certificate of Need Process

## What is a Certificate of Need (CON)?

- A Certificate of Need (CON) is a legal document which is required by the court for an individual who is admitted to an inpatient behavioral health treatment resource without the consent of the individual receiving services.
- To be admitted involuntarily there must be two Certificates of Need completed and approved by the court.



# TN's New Certificate of Need Process

## **Certificate of need requirement for admission of publicly funded person:**

- A Mandatory Pre-screening Agent (MPA) must complete one of the two required CONs for a person with mental illness or serious emotional disturbance to be admitted to a Regional Mental Health Institute (RMHI).
- If a MPA is not available within two hours, then a licensed physician or a licensed psychologist with a health service provider designation may complete the CON.
- The physician or psychologist must consult with a crisis team member regarding less restrictive alternatives.

T.C.A. § 33-6-105

# TN's New Certificate of Need Process

## Certificate of Need Documentation

Morenike Murphy  
TDMHSAS Director, Crisis Services

# TN's New Certificate of Need Process

**In the past, there have been three steps to the CON process:**

- Documentation for detaining the person in a mental health crisis
- Writing the first CON for an involuntary hospitalization recommendation
- Writing the second CON for involuntary hospitalization admission

# Emergency Detention for Immediate Examination for Emergency Admission

**PART 1**

[illegible]



- Complete Part 1 for **EMERGENCY DETENTION** for immediate examination for emergency admission
- Complete Part 2 for the 1st Certificate of Need for **EMERGENCY INVOLUNTARY ADMISSION**
- Complete Part 3 for the 2nd Certificate of Need for **EMERGENCY INVOLUNTARY ADMISSION**

EMERGENCY DETENTION  
FOR IMMEDIATE EXAMINATION FOR EMERGENCY ADMISSION

I am a (check one):

- ☐ Law enforcement officer authorized to make arrest in Tennessee
- ☐ Licensed physician
- ☐ Licensed psychologist with health service provider designation
- ☐ Qualified Mental Health Professional (QMHP), as identified in Tenn. Code Ann. § 33-1-101 and found on page 2, section A of this form, designated by the TDMHSAS Commissioner as a mandatory pre-screening agent

Pursuant to Tenn. Code Ann. § 33-6-401, \_\_\_\_\_, referred to below as "person", shall be detained under Tenn. Code Ann. § 33-6-402 for immediate examination under Tenn. Code Ann. § 33-6-404 to determine whether the person is subject to admission to a hospital or treatment resource under Tenn. Code Ann. § 33-6-403 for emergency diagnosis, evaluation, and treatment under Title 33, Chapter 6, Part 4, Tenn. Code Ann.

I have reason to believe that the person identified above has a mental illness or serious emotional disturbance, AND the person poses an immediate substantial likelihood of serious harm under Tenn. Code Ann. § 33-6-501 because of the mental illness or serious emotional disturbance, as evidenced by the following behavior by the person which I have observed or have reason to believe is true: *(Specifically, include behavior which shows threats or attempts at homicide, suicide, other bodily harm, or behavior placing others in reasonable fear of violent behavior, or which shows that the person is unable to avoid severe impairment or injury from specific risks.)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
Time: \_\_\_\_\_ Printed Name: \_\_\_\_\_

Disposition (i.e. released, transferred, transported to CSU, admitted, etc.): \_\_\_\_\_

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
Time: \_\_\_\_\_ Printed Name: \_\_\_\_\_

# PART 1: Emergency Detention for Immediate Examination for Emergency Admission

Pursuant to Tenn. Code Ann. § 33-6-401, \_\_\_\_\_, referred to below as "person", shall be detained under Tenn. Code Ann. § 33-6-402 for immediate examination under Tenn. Code Ann. § 33-6-404 to determine whether the person is subject to admission to a hospital or treatment resource under Tenn. Code Ann. § 33-6-403 for emergency diagnosis, evaluation, and treatment under Title 33, Chapter 6, Part 4, Tenn. Code Ann.

I have reason to believe that the person identified above has a mental illness or serious emotional disturbance, AND the person poses an immediate substantial likelihood of serious harm under Tenn. Code Ann. § 33-6-501 because of the mental illness or serious emotional disturbance, as evidenced by the following behavior by the person which I have observed or have reason to believe is true: *(Specifically, include behavior which shows threats or attempts at homicide, suicide, other bodily harm, or behavior placing others in reasonable fear of violent behavior, or which shows that the person is unable to avoid severe impairment or injury from specific risks.)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
Time: \_\_\_\_\_ Printed Name: \_\_\_\_\_

Disposition (i.e. released, transferred, transported to CSU, admitted, etc.): \_\_\_\_\_

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
Time: \_\_\_\_\_ Printed Name: \_\_\_\_\_

# PART 2: 1<sup>st</sup> Certificate of Need for Emergency Involuntary Admission

PART 2

Check Here to RESCIND ☐  
 (requires a new examination)  
  
 Date: \_\_\_\_\_ Time: \_\_\_\_\_  
  
 SIGNATURE OF EXAMINING PROFESSIONAL

**FIRST CERTIFICATE OF NEED**  
**FOR EMERGENCY INVOLUNTARY ADMISSION**  
**UNDER TITLE 33, CHAPTER 6, PART 4, TENNESSEE CODE ANNOTATED**

\_\_\_\_\_, of the County of \_\_\_\_\_

PRINT NAME OF EXAMINING PROFESSIONAL

State of Tennessee, certify that I personally examined \_\_\_\_\_

PRINT NAME OF PERSON EXAMINED

on \_\_\_\_\_ at \_\_\_\_\_ AM / PM.

DATE YEAR TIME

**A** Check all that apply:

☐ I am not a Tennessee Department of Mental Health and Substance Abuse Services (TDMHSAS) Commissioner-designated mandatory pre-screening agent and, I am a (check one):

☐ Licensed physician      ☐ Licensed psychologist designated as a health service provider

Please Complete the Following:

☐ I have completed this certificate because a mandatory pre-screening agent was not available within 2 hours  
AND

☐ I have consulted with the mental health crisis team in my area and have determined that all available less drastic alternatives to placement in a hospital or treatment resource are unsuitable to meet the needs of the person as indicated in Section B, # 4 below.

I spoke with \_\_\_\_\_

STAFF NAME TITLE / AGENCY

OR

☐ I am a Qualified Mental Health Professional (QMHP) who has been designated by the TDMHSAS Commissioner as a mandatory pre-screening agent.\*

\*"QMHP" means a person who is licensed in the state, if required for the profession, and who is a psychiatrist; physician with expertise in; psychologist with health service provider designation; psychological examiner; licensed master's social worker with two (2) years of mental health experience or licensed clinical social worker; marital and family therapist; nurse with a master's degree in nursing who functions as a psychiatric nurse; licensed professional counselor; or if the person is providing service to service recipients who are children, any of the above educational credentials plus mental health experience with children. \*A TDMHSAS Commissioner-designated mandatory pre-screening agent must have mental health experience with children in order to complete a certificate of need on a child.

**B** In my professional opinion, based on the examination and the information provided, I certify that this person is subject to involuntary care and treatment under Title 33, Chapter 6, Part 4, Tennessee Code Annotated because, as shown by the following facts and reasoning, the person:

1. has a mental illness or serious emotional disturbance as defined in Tenn. Code Ann. § 33-1-101(16) and (20).  
 (list known mental illness or serious emotional disturbance history and current signs/symptoms):  
*Mental illness* is a psychiatric disorder, alcohol dependence or drug dependence; does not include intellectual and/or developmental disabilities. *Serious emotional disturbance* is a condition in a child who at any time during the past year has had a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet psychiatric diagnostic criteria, that results in functional impairment which substantially interferes with or limits the child's role or functioning in family, school, or community activities and includes any mental disorder, regardless of whether it is of biological etiology.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

# PART 2 Continued: 1<sup>st</sup> Certificate of Need for Emergency Involuntary Admission

## FIRST CERTIFICATE OF NEED - PART 2 CONTINUED

<b>B</b>	<p>2. <b>AND</b>, poses an immediate substantial likelihood of serious harm under Tenn. Code Ann. § 33-6-901 because of the mental illness or serious emotional disturbance (detail specific behavior substantiating this requirement):</p> <p>A person "poses an immediate substantial likelihood of serious harm" IF AND ONLY IF the person:</p> <ul style="list-style-type: none"> <li>* has threatened or attempted suicide or to inflict serious bodily harm on such person, or</li> <li>* has threatened or attempted homicide or other violent behavior, or</li> <li>* has placed others in reasonable fear of violent behavior and serious physical harm to them, or</li> <li>* is unable to avoid severe impairment or injury from specific risks, <b>AND</b></li> <li>* there is a substantial likelihood that such harm will occur unless the person is placed under involuntary treatment.</li> </ul> <hr/> <hr/> <hr/>
<b>C</b>	<p>3. <b>AND</b>, needs care, training, or treatment because of the mental illness or serious emotional disturbance (describe what makes care, training, or treatment necessary):</p> <hr/> <hr/> <hr/> <p>4. <b>AND</b>, all available less drastic alternatives to placement in a hospital or treatment resource are unsuitable to meet the needs of the person (list alternatives considered and rationale for rejection of all alternatives):</p> <hr/> <hr/> <hr/>
<b>D</b>	<p>Having certified that this person is subject to involuntary care and treatment under Title 33, Chapter 6, Part 4, Tennessee Code Annotated, I further certify that this patient:</p> <p><input type="checkbox"/> May be transported to a TDMHSAS designated telehealth location for a second certificate of need (CON) examination; OR <input type="checkbox"/> Requires direct transportation to an admitting psychiatric facility for a second certificate of need (CON) examination; AND <input type="checkbox"/> (1) May be transported to an admitting psychiatric facility or TDMHSAS designated telehealth location for second CON examination pursuant to Tenn. Code Ann. § 33-6-901 by an available friend, neighbor, mental health professional familiar with the individual, relative, or a member of the clergy because the patient does not require physical restraint or vehicle security <b>AND</b> does not pose a reasonable risk of danger to the patient's self or others for purposes of transport; OR <input type="checkbox"/> (2) May be transported to an admitting psychiatric facility or TDMHSAS designated telehealth location for second CON examination by ambulance or secondary transportation agent designated by the sheriff because the patient does not require physical restraint or vehicle security for purposes of transport; OR <input type="checkbox"/> (3) Must be transported to an admitting facility or TDMHSAS designated telehealth location for second CON evaluation by sheriff/law enforcement because the patient poses a reasonable risk of danger to the patient's self or others <b>AND</b> requires physical restraint and vehicle security for purposes of transport; or transport options (1) and (2) above are unavailable.</p>
<b>E</b>	<p><u>WITH MY SIGNATURE:</u></p> <ul style="list-style-type: none"> <li>I conclude that this person is subject to admission to a hospital or treatment resource under Title 33, Chapter 6, Part 4, Tennessee Code Annotated. The information is accurate and based upon my (check one):</li> </ul> <p style="text-align: center;"> <input type="checkbox"/> FACE-TO-FACE examination of the individual     <input type="checkbox"/> TELEHEALTH examination of the individual     </p> <ul style="list-style-type: none"> <li>I understand that completion of this certificate of need initiates a process, which may result in deprivation of an individual's liberty for the purposes of care, training, or treatment. I understand that to willfully provide inaccurate information on this certificate of need constitutes a crime.</li> </ul> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%;"> <p>_____ PRINT NAME OF EXAMINING PROFESSIONAL</p> </div> <div style="width: 45%;"> <p>_____ SIGNATURE OF EXAMINING PROFESSIONAL</p> </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 20%;"> <p>_____ DATE</p> </div> <div style="width: 20%;"> <p>_____ TIME</p> </div> <div style="width: 40%;"> <p>_____ PHONE NUMBER</p> </div> </div>



# PART 3: 2<sup>nd</sup> Certificate of Need for Emergency Involuntary Admission

SECOND CERTIFICATE OF NEED FOR EMERGENCY INVOLUNTARY ADMISSION		PART 3
Name of person examined: _____ Date: _____		
<b>A</b>	<input type="checkbox"/> I am a licensed physician. [ONLY for completing second certificate at the time of admission.]	
<b>B</b>	<p>In my professional opinion, based on the examination and the information provided, I certify that this person is subject to involuntary care and treatment under Title 33, Chapter 6, Part 4, Tennessee Code Annotated because, as shown by the following facts and reasoning, the person:</p> <ol style="list-style-type: none"> <li>has a mental illness or serious emotional disturbance as defined in Tenn. Code Ann. § 33-1-101(16) and (20). (list known mental illness or serious emotional disturbance history and current signs/symptoms):  <i>Mental illness</i> is a psychiatric disorder, alcohol dependence or drug dependence; does not include intellectual and/or developmental disabilities. <i>Serious emotional disturbance</i> is a condition in a child who at any time during the past year has had a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet psychiatric diagnostic criteria, that results in functional impairment which substantially interferes with or limits the child's role or functioning in family, school, or community activities and includes any mental disorder, regardless of whether it is of biological etiology.</li> </ol> <div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> <ol style="list-style-type: none"> <li>AND, poses an immediate substantial likelihood of serious harm under Tenn. Code Ann. § 33-6-501 because of the mental illness or serious emotional disturbance (detail specific behavior substantiating this requirement):               <ul style="list-style-type: none"> <li>* has threatened or attempted suicide or to inflict serious bodily harm on such person, or</li> <li>* has threatened or attempted homicide or other violent behavior, or</li> <li>* has placed others in reasonable fear of violent behavior and serious physical harm to them, or</li> <li>* is unable to avoid severe impairment or injury from specific risks, AND</li> <li>* there is a substantial likelihood that such harm will occur unless the person is placed under involuntary treatment.</li> </ul> <p>A person "poses an immediate substantial likelihood of serious harm" IF AND ONLY IF the person:</p> <div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> </li> <li>AND, needs care, training, or treatment because of the mental illness or serious emotional disturbance (describe what makes care, training or treatment necessary):               <div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> </li> <li>AND, all available less drastic alternatives to placement in a hospital or treatment resource are unsuitable to meet the needs of the person (list alternatives considered and rationale for rejection of all alternatives):               <div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> </li> </ol>	
<b>C</b>	<p><b>WITH MY SIGNATURE:</b></p> <ul style="list-style-type: none"> <li>I conclude that this person is subject to admission to a hospital or treatment resource under Title 33, Chapter 6, Part 4, Tennessee Code Annotated. The information is accurate and based upon my (check one):               <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <span><input type="checkbox"/> FACE-TO-FACE examination of the individual</span> <span><input type="checkbox"/> TELEHEALTH examination of the individual</span> </div> </li> <li>I understand that completion of this certificate of need initiates a process, which may result in deprivation of an individual's liberty for the purposes of care, training, or treatment. I understand that to willfully provide inaccurate information on this certificate of need constitutes a crime.</li> </ul> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 45%;"> <p>PRINT NAME OF EXAMINING PROFESSIONAL _____</p> <p>DATE _____ TIME _____</p> </div> <div style="width: 45%;"> <p>SIGNATURE OF EXAMINING PROFESSIONAL _____</p> <p>PHONE NUMBER _____</p> </div> </div>	



# TN's New Certificate of Need Process

## Some Important Reminders When Completing a Certificate of Need:

- Only write a CON, if and only if, there are no less restrictive, appropriate, alternative options, such as, a Crisis Stabilization Unit (CSU), Crisis Walk-In Center, Crisis Respite or other outpatient resources in your community.
- When Completing a CON, write legibly
- Use black ink and sign using your credentials
- County on the CON is the county you are currently in, not where they reside
- If it is apparent that the individual meets the criteria of the first certificate of need, the detainment portion (Part 1), of the form can be bypassed.

# Case Scenarios

# Case Scenarios

## **#1 Evaluation Findings: CON emergency detention only**

The consumer is a 19-year-old Caucasian female transported to the ED via counseling staff at her University. The school's Dean of Students requested an assessment after she overheard students talking about how the consumer had been cutting on herself the past few days "for attention." The Dean of Students became concerned about her safety because the consumer made statements "a few months ago", after failing her exams, that she wanted to die. She resides out of state and is anxious about informing her parents of her exam grades.

Patient reluctantly agreed to go to the ED with counseling staff. Immediately after arrival she contacted a friend to pick her up.

# Case Scenarios

## **#2 Evaluation Findings: CON and RMHI admission**

The patient is a 39-year-old male reporting two month onset of auditory hallucinations commanding him to kill other people and to kill himself. He arrived at the ED via law enforcement.

He reported voices told him to kill the stranger in front of him with a beer bottle. Patient states, "I barely could pull myself back". The voices are telling him to jump in front of a car and commanding him to die. He denies visual hallucinations and confirms homicidal ideation. He reported he did not feel able to control his impulses any longer.

Reports first use of crack cocaine yesterday. He reports one prior psychiatric hospitalization in another state ten years ago "when voices were telling me to kill my mom". Brief compliance with medication. He refuses current treatment and feels at this point he can manage symptoms on his own.

# Case Scenarios

## **#3 Evaluation Findings: CON and unable to admit because Title 33 involuntary criteria are not met at the time of the second evaluation.**

The patient is a 23-year-old female who arrived at the ED with a friend. She presents tearful reporting that she has been “cutting” with a fingernail clipper and her fingernails over the past two months. This morning the cutting escalated to using the tip of a kitchen knife. The cuts required several stitches each. She reports current stressors of fighting with her boyfriend over the past week with the belief that the relationship cannot be repaired. She states that she “just wants to die to get away from it all.”

Current outpatient treatment with a private therapist, however due to job loss she can no longer afford services. She has been on an antidepressant for a couple of years. She reports a history of one inpatient psychiatric admission when she was 14 for about 2 weeks. Currently presents with increasing agitation and vacillates on receiving treatment or returning home to call her boyfriend.

She would not contract for safety.

# Case Scenarios

## **#4. Evaluation Findings: CON, Psychiatric Protocol, Less Restrictive**

The patient arrived at the ED via EMS after an overdose on heroin. He is administered naran with some improvement in mental status. Patient is no longer obtunded and is breathing on his own, but remains sedated. Stat laboratory reveals a UDS +Methamphetamine, +Opioids, +Benzodiazepines, +MDMA and +Cannabis. His BAL on admission was 0.18.

On the second day in ED, he becomes irritable and combative. The ED attending begins the Psychiatric protocol with Depakote and average doses of Haloperidol. The next day patient is improved greatly. He is alert, oriented X3 and complains of moderate depression and severe anxiety. He is in subjective withdrawal from opioids and states “I would be better off dead”.

# BREAK FOR Q & A

# **New Certificate of Need (CON) Document- 2018**

## **Questions?**

**Contact: Mike Dietrich, THA**

615-401-7459

mdietrich@tha.com

**Contact for ED Physicians: Terry Holmes**

terry.holmes@tn.gov

**Contact For QMHPs: Vicki Carter**

MPA.Info@tn.gov

**Download the new CON form at:**

<https://www.tn.gov/behavioral-health>