

§ 122C-262. Special emergency procedure for individuals needing immediate hospitalization.

(a) Anyone, including a law enforcement officer, who has knowledge of an individual who is subject to inpatient commitment according to the criteria of G.S. 122C-263(d)(2) and who requires immediate hospitalization to prevent harm to self or others, may transport the individual directly to an area facility or other place, including a State facility for individuals with mental illnesses, for examination by a commitment examiner in accordance with G.S. 122C-263(c).

(b) Upon examination by the commitment examiner, if the individual meets the inpatient commitment criteria specified in G.S. 122C-263(d)(2) and requires immediate hospitalization to prevent harm to self or others, the commitment examiner shall so certify in writing before any official authorized to administer oaths. The certificate shall also state the reason that the individual requires immediate hospitalization. If the commitment examiner knows or has reason to believe that the individual has an intellectual disability, the certificate shall so state.

(c) **(Effective until April 1, 2024)** If the commitment examiner executes the oath, appearance before a magistrate shall be waived. The commitment examiner shall send a copy of the certificate to the clerk of superior court by the most reliable and expeditious means. If it cannot be reasonably anticipated that the clerk will receive the copy within 24 hours, excluding Saturday, Sunday, and holidays, of the time that it was signed, the physician or eligible psychologist shall also communicate the findings to the clerk by telephone.

(c) **(Effective April 1, 2024)** If the commitment examiner executes the oath, appearance before a magistrate shall be waived. The commitment examiner shall send a copy of the certificate to the clerk of superior court (i) through the electronic filing system, if the county has implemented a system approved by the Director of the Administrative Office of the Courts, or (ii) by the most reliable and expeditious means otherwise available. If it cannot be reasonably anticipated that the clerk will receive the copy within 24 hours, excluding Saturday, Sunday, and holidays, of the time that it was signed, the physician or eligible psychologist shall also communicate the findings to the clerk by telephone.

(d) Anyone, including a law enforcement officer if necessary, may transport the individual to a 24-hour facility described in G.S. 122C-252 for examination and treatment pending a district court hearing. If there is no area 24-hour facility and if the respondent is indigent and unable to pay for care at a private 24-hour facility, the law enforcement officer or other designated person providing transportation shall take the respondent to a State facility for individuals with mental illnesses designated by the Commission in accordance with G.S. 143B-147(a)(1)a. and immediately notify the clerk of superior court of this action. The commitment examiner's certificate shall serve as the custody order and the law enforcement officer or other designated person shall provide transportation in accordance with G.S. 122C-251. If a 24-hour facility is not immediately available or appropriate to the respondent's medical condition, the respondent may be temporarily detained under appropriate supervision in accordance with G.S. 122C-263(d)(2) and released in accordance with G.S. 122C-263(d)(2).

In the event an individual known or reasonably believed to have an intellectual disability is transported to a State facility for individuals with mental illnesses, in no event shall that individual be admitted to that facility unless the individual is in one or more of the following categories:

- (1) Persons described in G.S. 122C-266(b).
- (2) Persons admitted pursuant to G.S. 15A-1321.
- (3) Respondents who are so extremely dangerous as to pose a serious threat to the community and to other patients committed to non-State hospital psychiatric inpatient units, as determined by the Director of the Division of Mental

Health, Developmental Disabilities, and Substance Use Services or the Director's designee.

- (4) Respondents who are so gravely disabled by both multiple disorders and medical fragility or multiple disorders and deafness that alternative care is inappropriate, as determined by the Director of the Division of Mental Health, Developmental Disabilities, and Substance Use Services or the Director's designee.

Individuals transported to a State facility for individuals with mental illnesses who are not admitted by the facility may be transported by law enforcement officers or designated staff of the State facility in State-owned vehicles to an appropriate 24-hour facility that provides psychiatric inpatient care.

No later than 24 hours after the transfer, the responsible professional at the original facility shall notify the petitioner, the clerk of court, and, if consent is granted by the respondent, the next of kin, that the transfer has been completed.

(e) Respondents received at a 24-hour facility under this section shall be examined by a second physician in accordance with G.S. 122C-266. After receipt of notification that the district court has determined reasonable grounds for the commitment, further proceedings shall be carried out in the same way as for all other respondents under this Part.

(f) If, upon examination of a respondent presented in accordance with subsection (a) of this section, the commitment examiner finds that the individual meets the criteria for inpatient commitment specified in G.S. 122C-263(d)(2) but does not require immediate hospitalization to prevent harm to self or others, the commitment examiner may petition the clerk or magistrate in accordance with G.S. 122C-261(d) for an order to take the individual into custody for transport to a 24-hour facility described in G.S. 122C-252. If the commitment examiner recommends inpatient commitment and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for inpatient commitment, the clerk or magistrate shall issue an order for transport to or custody at a 24-hour facility described in G.S. 122C-252. If, however, a 24-hour facility is not immediately available or appropriate to the respondent's medical condition, the respondent may be temporarily detained under appropriate supervision in accordance with G.S. 122C-263(d)(2) and released in accordance with G.S. 122C-263(d)(2).

(g) This section applies exclusively to an individual who is transported to an area facility or other place for an examination by a commitment examiner in accordance with subsection (a) of this section. (1973, c. 726, s. 1; c. 1408, s. 1; 1985, c. 589, s. 2; c. 695, s. 2; 1987, c. 596, s. 1; 1995 (Reg. Sess., 1996), c. 739, s. 7; 2018-33, s. 23; 2019-76, s. 8; 2023-65, s. 5.2(b); 2023-103, s. 13(b).)