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SUBJECT:

**Mental Health Emergency Services:  
Applying the 120-hour timeframe for  
Emergency Involuntary Commitments**

BY:

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Kristen Houser, Deputy Secretary  
Office of Mental Health and Substance Abuse Services

**SCOPE:**

This bulletin applies to county MH/ID Administrators, Base Service units (BSU), mental health review officers, county crisis intervention programs, and hospital emergency departments.

**PURPOSE:**

The purpose of this bulletin is to clarify the part of the Mental Health Procedures Act (MHPA) referring to the involuntary commitment process under section 302 and the 120-hour limitation on holding a consumer for involuntary emergency examination and treatment.

**BACKGROUND:**

County Mental Health and Intellectual Disability administrators, or their delegates, are responsible for ensuring that Crisis Intervention programs and their corresponding emergency services, including the commitment processes, are provided county wide and conducted appropriately, with sensitivity and care to ensure that the rights of individuals undergoing the emergency involuntary commitment process are respected. OMHSAS has learned of guidance that has been provided to behavioral health providers that is contrary to OMHSAS' interpretation of the MHPA and related regulations. The erroneous interpretation provided identifies the 120-hour clock as commencing upon admission to a psychiatric unit or hospital. While this would allow the Psychiatric Unit or hospital a full 120 hours to complete an evaluation and begin treatment, the Emergency Department (ED) would be in the position of holding individuals and curtailing their freedom without warrant or authority resulting from due process.

**COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:**

Office of Mental Health and Substance Abuse Services, Bureau of Policy, Planning & Program Development, P.O. Box 2675, Harrisburg, PA 17105. General Office Number 717-772-7900.

## **DISCUSSION:**

The purpose of the 120-hour requirement in the MHPA (also see 55 Pa Code 5100.86) is to avoid deprivation of liberty without due process (see In Re S.C., 280 Pa. Super. 539, 421 A.2d 853 (1980)). Therefore, the 120-hour requirement begins when an individual is admitted to a hospital emergency department for an emergency 302 evaluation, because at that juncture the individual's liberty has been curtailed. Constitutional due process requires the balancing of individual liberty interests with the government's interests in ensuring individual and societal safety. The 120-hour period set forth in section 302 of the MHPA represents the maximum period established by the legislature whereby an individual's liberty may be curtailed without further legal proceedings occurring to determine if further curtailment of liberty is warranted to ensure individual and societal safety. Starting the clock upon admission to a specific psychiatric treatment facility results in the period of confinement that occurred in emergency department setting being excluded from the maximum 120-hour period permitted under section 302 of the MHPA. Excluding this period of initial confinement creates the potential to extend the confinement period and deprivation of liberty by multiple days beyond the 120-hour period before the court has the opportunity to consider whether further confinement is warranted under section 303 or 304 and would thus constitute a violation of constitutional due process.