

# STOP!!!

**If your professional license does NOT expire within 30 days from the date you are attempting to take this course, you will not be able to receive recertification at this time.**

**Please revisit and complete the test within 30 days of the expiration date of your professional license.**

# Mandatory Pre-Screening Agent Refresher Course



**Training provided by:**  
**Tennessee Department of Mental Health and  
Substance Abuse Services**  
**Office of Crisis Services and Suicide Prevention**  
**Content guided by Title 33, Chapter 6, Parts 1 & 4**  
**and TDMH Rule 0940-3-8**

Updated February 2014

# Purpose of Training

- To keep **Mandatory Pre-screening Agents (MPA)** up to date on Tennessee law, MPA responsibilities and community resources
- You will be authorized by the state and registered with the **State Claims Commission** to complete the first **Certificate of Need (CON or 6-404)** for emergency involuntary hospitalization.

# What is Mandatory Pre-screening?

**A community-based screening process designed to:**

- Provide alternatives to hospitalization
- Minimize length of confinement
- Promote speedy return to the community
- Maximize service recipient's ability to remain in a community setting

# What is Pre-screening?

- **A face-to-face evaluation, either by physical presence or televideo, of a service recipient to assess eligibility for emergency involuntary admission and to determine whether all available and appropriate less drastic alternative services and supports are unsuitable to meet his or her needs.**

# Who is Qualified to be a Mandatory Pre-screening Agent?

- **Must be a qualified mental health professional (QMHP)**
- **Must be licensed or certified to practice in TN**
- **All disciplines must satisfactorily complete TDMHSAS training on emergency commitment criteria and procedures**

**NOTE: Authority may be limited by the Commissioner if not affiliated with a state contracted crisis response service**

**T.C.A. § 33-6-427**

# What is a QMHP?

- **Psychiatrist**
- **Physician with expertise in psychiatry**
- **Psychologist with health service provider designation**
- **Licensed psychological examiner**
- **Licensed senior psychological examiner**
- **Licensed Physician's Assistant with a master's degree and expertise in psychiatry as determined by training, education or experience**
- **Licensed master's social worker with two years of mental health experience**
- **Licensed clinical social worker**
- **Licensed or certified marital and family therapist**
- **Licensed professional counselor**
- **Licensed nurse with a master's degree in nursing who functions as a psychiatric nurse**

**T.C.A. § 33-1-101 (20)**

# **If Working with Children**

**The professional must have mental health experience with children if providing Mandatory Pre-screening services to service recipients who are children.**



# Who Designates MPAs?

## The Commissioner:

- Designates individuals to serve
- May set limits on an agent's authority
- May decline to designate a person who satisfies the requirements
- May remove designation without cause

T.C.A. § 33-6-104



# About Mandatory Pre-screening Agents

Originally, MPAs had to be associated with a crisis response service but the law was changed in 2000 to allow MPAs to work independently in a variety of settings such as:

- Emergency Rooms
- Community Mental Health Centers
- Jails
- Schools
- Private practice



# **Crisis Response Service**

**A team designated by the Commissioner to provide crisis intervention, pre-screening, and diversion services in a defined service area.**

**MPS Rule Chapter 0940-3-8-.03(3)**

# Who is designated to provide crisis response services in Tennessee?

## ■ East Tennessee

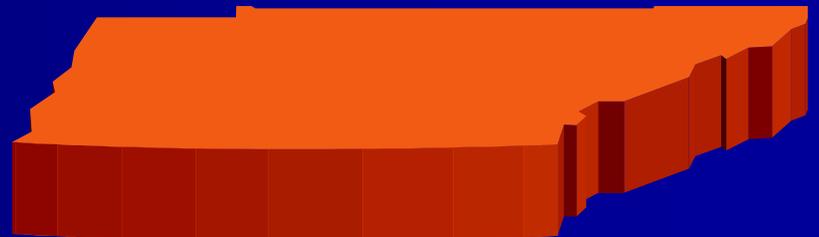
- Frontier Health
- Cherokee
- Helen Ross McNabb
- Ridgeview Psychiatric Services
- Volunteer Behavioral Healthcare Services
- Youth Villages (statewide)

## ■ Middle Tennessee

- Centerstone
- Mental Health Cooperative
- Volunteer Behavioral Healthcare Services

## ■ West Tennessee

- Professional Counseling Services
- Carey Counseling
- Quinco Mental Health Center
- Pathways of Tennessee
- Alliance Healthcare Services



# MPA Responsibilities

- Immediately provide notification of status changes to TDMHSAS
- Complete required refresher course within 30 days of professional license expiration date
- Consider all less drastic alternatives to psychiatric hospitalization before completing a CON
- Locate available inpatient bed and complete required payment pre-authorizations
- Assess and document the need for vehicular security and arrange for all transports

# MPA Notifications to TDMHSAS

**Immediately notify the Department if you:**

- no longer meet the requirements for QMHP
- make changes in service area location(s)
- no longer function as a mandatory pre-screening agent, and/or
- change name, address or contact information.

**Find the status update form on the TDMHSAS website.**



**MPS Rule Chapter 0940-3-8-.04(6)**

# Knowledge of Community Resources

**MPAs must have access to current information about available community resources and referral procedures to access less restrictive alternatives to hospitalization. [This includes requirements imposed by third party payer sources.]**



**MPS Rule Chapter 0940-3-8.05(2)(7)**

# Important Community Resources

- Outpatient treatment
- Partial Hospitalization
- Respite
- Crisis Stabilization Units
- Crisis Walk-in Assessment Centers
- Crisis Hotline
- Behavioral Health Safety net
- Cover Rx
- Medically Monitored Crisis Detox Units
- A&D resources

**Last Resort**



# About the Process

**A Mandatory Pre-screening Agent (MPA) must complete one of the two certificates of need (CONs) for a person with mental illness or serious emotional disturbance to be admitted to a Regional Mental Health Institute (RMHI).**

**Most private psychiatric hospitals/units also accept the authority of a MPA to complete CONs but are not obligated to.**

# **Mandatory Pre-screening Agent Not Available?**

- **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.**

# Requirement for CON by Disinterested Professional

- If a person is to be committed to a private facility, at least 1 of the CONs shall be from a professional who is not an employee of the private facility.
- Employment as a faculty member by a school of medicine at a university or college associated with a hospital is not considered employment by the hospital.

# Detaining for a CON Examination

A person cannot be deprived of liberty on the grounds that the person is believed to have:

- a mental illness,
- serious emotional disturbance,
- developmental disability, or
- is in need of service for such a condition

***except in accordance with Title 33.***



# Detaining for CON Exam

- The authority to detain only applies until examination for a CON occurs. See <http://tn.gov/mental/t33/MHDD5097.pdf> for potential documentation form.
- Once a CON has been completed, arrangements for transportation and placement should immediately occur.

# Detaining for a CON Examination

**The person may be detained by an officer, physician, psychologist or a MPA to obtain examination for CON for care and treatment *IF AND ONLY IF:***

**T.C.A. § 33-6-402**

# Detaining for a CON Examination

- A person has mental illness or serious emotional disturbance **AND**
- The person poses an immediate substantial likelihood of serious harm under T.C.A. § 33-6-501 because of the mental illness or serious emotional disturbance **THEN**
- The person may be detained to obtain examination for CON for care and treatment

# Detaining for a CON Examination

**A person with mental illness, serious emotional disturbance or developmental disability has the *same rights as all other persons* except to the extent that the person's rights are curtailed in accordance with Title 33.**

**T.C.A. § 33-3-101(b)**

# **Emergency Involuntary Admission**

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

**T.C.A. § 33-6-403**



# Criteria for Emergency Involuntary Admission

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

# Definitions

**Mental illness** - A psychiatric disorder, alcohol dependence, or drug dependence, but does not include mental retardation or other developmental disabilities.

**Serious Emotional Disturbance** - A condition in a child who currently or 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.

# **Substantial Likelihood of Serious Harm**

- **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**

**T.C.A. § 33-6-501**

# Invalid Certificates of Need

## Completed by:

- relative by blood
- relative by marriage
- relative by adoption
- legal guardian
- legal conservator
- legal custodian
- professional who has an ownership interest in a private facility in which the person is to be admitted



**T.C.A. § 33-3-125**

# Responsibilities of Mandatory Pre-screening Agents in the Hospitalization Process

- Determine if the service recipient has a durable power of attorney (DPOA) for health care or a declaration for mental health treatment and comply to the extent possible.
- Determine if the service recipient is under a mandatory outpatient treatment (MOT) obligation from an outpatient provider and discharging facility.

## **If the MPA determines the person does not meet admission criteria:**

- ❖ **Assess the availability of alternative services and offer referral, if appropriate**
- ❖ **MPA or designee must contact the person within 12 hours for follow-up**
- ❖ **By agreement, MPA may designate another QMHP or crisis response service to do the follow-up**
- ❖ **Follow-up is not statutorily required if the MPA issues a CON for emergency hospitalization but as a best practice follow-up is recommended to ensure a person who may not be admitted at the psychiatric inpatient facility receives services**

# Required Follow-up

(If MPA Determines Emergency Criteria Not Met)

**Follow-up requires contact with the service recipient or someone knowledgeable of the service recipients condition to:**

- **Determine post-evaluation status,**
- **Assess intervention impact, and**
- **Assure appropriate service referral linkage occurred.**

# Documentation

## **MPAs must maintain the following documentation:**

- **Reason/justification for diversion**
- **Clinical intervention activities, if applicable**
- **Alternative services available and offered to the service recipient, if appropriate**
- **Results of follow-up contact and actions taken**

# Information to be provided to Treatment Resource by the MPA

- CON
- Durable power of attorney or declaration for mental health treatment
- Referral contact
- Current or recent prescription and/or OTC medications
- Any known medical condition(s)
- Current or recent alcohol/substance use
- MOT status
- Community mental health provider
- Recommendations for services and/or supports following discharge

MPS Rule Chapter 0940-3-8.05(8)



# Medical Considerations

- **If it appears that the service recipient has a physical disorder that requires immediate care, the service recipient needs to be taken to the hospital for medical treatment before transporting to a RMHI**
- **There is no statutory requirement to obtain a blood/alcohol test prior to admission.**

**T.C.A. §33-4-104**

## **Confirmation of RMHI Bed Availability If Hospitalization Indicated**

- Call your local RMHI to determine if available, suitable accommodations can be provided.
- If a bed is available, obtain either a written or verbal confirmation number.
- Provide the confirmation number, in writing, to the transportation agent.

## **If Local RMHI Bed Not Available**

- The RMHI will ask if you want to seek a bed at another RMHI.
- If so, the RMHI will contact the other RMHIs, starting with the closest RMHI, to determine bed availability.
- If another RMHI has bed availability, your local RMHI will facilitate your communication with the other RMHI.

# **If Local RMHI Bed Not Available**

- If you decide to wait for a bed at the local RMHI, the service recipient will be placed on a waiting list until such time that a bed becomes available.
- Once the bed is available the RMHI will contact you or the person you designate as the contact.

# **Transportation of the Service Recipient**

- **Comply with county protocol(s) for designated modes of transportation**
- **MPA must determine and document level of security required and mode of transportation needed**

**MPS Rule Chapter 0940-3-8.05(2)(7)**

# Transportation of the Service Recipient

**If the MPA determines that the person does not require physical restraint or vehicle security, these people may transport at the transporter's expense:**

- one or more friends**
- neighbors**
- mental health professionals familiar with the person**
- relatives of the person**
- member of the clergy**

**T.C.A. § 33-6-901**

# Transportation of the Service Recipient

- **Transportation by the sheriff or secondary transport agent designated by the sheriff may only begin after the CON is completed and a confirmation number is provided**
- **Sheriff or transportation agent will transport the service recipient to a hospital or treatment resource**

**T.C.A. §33-6-406**

**T.C.A. §33-6-901**



# **Illegal Deprivation of Liberty by a MPA**

## **Class E felony:**

- ❖ Without probable cause, executes a certificate for hospitalization under Title 33**
- ❖ Knowingly makes any false certificate under Title 33**

**T.C.A. § 33-3-901**

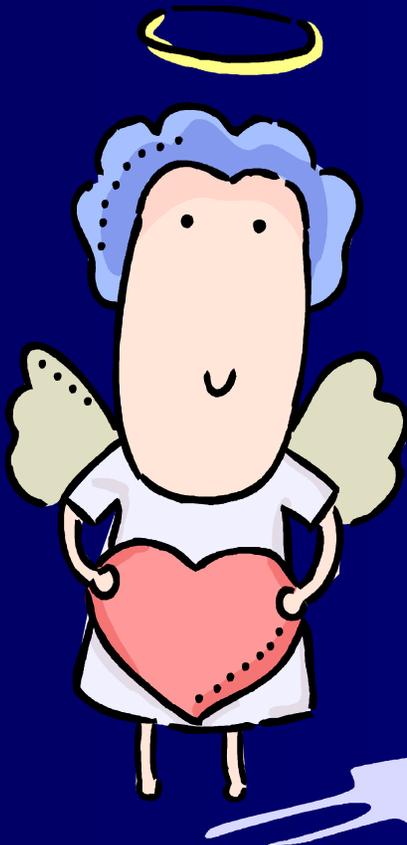
# Illegal Deprivation of Liberty by a MPA

## Possible results of a Class E felony:

- Criminal status
- May result in jail time
- License or certificate would be in jeopardy
- Would most likely lose MPA status



# Illegal Deprivation of Liberty by a MPA



**All persons acting in good faith are free from all liability, civil or criminal, by reason of such acts.**

**T.C.A. § 33-3-901**

# Confidentiality

**Except in compliance with Title 33,** all applications, reports, and legal documents that directly or indirectly identifies a service recipient or former service recipient shall be kept confidential.

# Disclosure Without Consent

**Information may be disclosed without consent if it is:**

- **Necessary to carry out duties under this title**
- **Necessary to assure service/care in least drastic means that are suitable to the service recipient's liberty and interests**
- **A service recipient moves from one service provider to another and exchange of information is necessary for continuity of service**

# Duty to Warn

**Two qualifications of a threat that require you to act under Duty to Warn:**

- ❖ Threat of bodily harm against a clearly identified victim
- ❖ Has the apparent ability to commit such an act and is likely to carry out the threat unless prevented from doing so

# Duty to Warn

## Obligations may be discharged by a QMHP by:

- Informing the identified victim of the threat OR
- Admitting the service recipient to a hospital on a voluntary basis OR
- Taking steps to seek involuntary commitment to a hospital OR
- Following your current professional standards to discharge the duty

# DUTY TO WARN

Tenn. Code Ann. § 33-3-210 (2013)

**Reporting to local law enforcement by a qualified mental health professional or behavior analyst of an actual threat of serious bodily harm or death against an identifiable victim.**

**(a)** If a service recipient has communicated to a qualified mental health professional or behavior analyst an actual threat of serious bodily harm or death against a reasonably identifiable victim or victims, the qualified mental health professional or behavior analyst, using the reasonable skill, knowledge, and care ordinarily possessed and exercised by the professional's specialty under similar circumstances, who has determined or reasonably should have determined that the service recipient has the apparent ability to commit such an act and is likely to carry out the threat unless prevented from doing so, shall immediately report the service recipient to local law enforcement, who shall take appropriate action based upon the information reported.

# Duty To Warn cont...

Tenn. Code Ann. § 33-3-210 (2013)

- **(b)** If a mental health professional or behavior analyst is required to report pursuant to subsection (a), the professional or analyst shall report the following information:
  - (1)** Complete name and all aliases of the service recipient;
  - (2)** Name of the mental health professional or behavior analyst and name of private or state hospital or treatment resource from which the individual may be receiving services; and
  - (3)** Date of birth of the service recipient.

# Duty To Warn cont...

Tenn. Code Ann. § 33-3-210 (2013)

- **(c)** The information in subdivisions (b)(1)-(3), the confidentiality of which is protected by other statutes or regulations, shall be maintained as confidential and not subject to public inspection pursuant to such statutes or regulations, except for such use as may be necessary in the conduct of any proceedings pursuant to §§ 39-17-1316, 39-17-1353 and 39-17-1354.

# Assessment Prior to Bail Determination

- Any officer who has reason to believe that a defendant under arrest may pose a substantial likelihood of serious harm to the defendant or to others may recommend an evaluation by a community mental health crisis response service to determine if the defendant meets criteria for emergency involuntary hospitalization.

**T.C.A. §40-11-150(I)(1)(A)**

# Assessment Prior to Bail Determination

- This assessment shall be completed within 12 hours.
- Only MPAs affiliated with a community mental health crisis team can perform this assessment.
- This assessment does not determine eligibility for bail.

**T.C.A. §40-11-150(I)(1)(A)(B)**

# To Continue Designation

- You must complete the required refresher course every two years within 30 days of the expiration date of your professional license.
- Submit an application for re-designation and copy of training certificate to [MPA.Info@tn.gov](mailto:MPA.Info@tn.gov).
- You may continue to complete CONs uninterrupted until you receive a confirmation email regarding your status which will not occur until license renewal is confirmed.
- All names of Mandatory Pre-screening Agents must be approved by the Commissioner and reported to the Claims Commission.

# Licensure Re-verification by TDMHSAS

- TDMHSAS staff will re-verify the licensure status of MPAs through the Department of Health website every two years.
- If the Department of Health website indicates that a MPA no longer has an active Tennessee license, the MPA will be removed from the active MPA list and the Claims Commission notified.

# Civil Action

- **Mandatory Pre-screening Agents are *state employees* for the purpose of access to defense counsel**
- **Must be registered with the Claims Commission (TDMHSAS will register each MPA with the Claims Commission)**
- **Not eligible for worker's compensation benefits from the State of Tennessee**

**T.C.A. §8-42-101**

# **Legal Counsel for TDMHSAS**

**If you receive notification of a civil action  
against you in your role as an MPA  
contact TDMHSAS as soon as possible:**

**Zack Griffith**

**General Counsel**

**Office of Legal Counsel**

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

**(615) 532-6520**

# Review - Completing Certificates of Need

## Criteria:

- Has 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 emotional disturbance AND
- All available less drastic alternatives to placement in a hospital or treatment resource are unsuitable to meet the needs of the person

# #1. Is mentally ill as shown by:

- Active symptoms of psychiatric disorder
- Previous psychiatric diagnosis
- Previous psychiatric hospitalizations
- Previous prescription of psychiatric medications
- Reported or clinically suspected substance dependence
- Reported history of behaviors clinically indicative of a psychiatric disorder

## **#2. Poses an immediate substantial likelihood of serious harm by:**

**See previous definition of substantial likelihood of serious harm.**

### **Examples of specific statements about the behavior:**

- Clinical depression with suicidal attempt by overdose
- Threatening to kill wife due to paranoid delusions that she was poisoning food
- Entered neighborhood grocery threatening revenge on former co-workers

### **#3. Needs care, training or treatment as shown by:**

#### **Examples of specific statements about treatment:**

- Treatment likely to prove beneficial in symptom reduction
- Medication likely to prove beneficial in behavior control
- Condition is likely to further deteriorate without treatment

## **#4. Less drastic alternatives are unsuitable as shown by:**

- Present condition places self/others at too high a risk for injury
- Inability to contract for safety
- Unable to resist impulses or control behavior
- Will not agree to respite or CSU; suitable respite or CSU not available; failed respite or CSU, etc.
- Unable to provide safe environment; no support persons to provide or assist with supervision

# Certificate of Need

- **Write legibly**
- **Incorporate specific statements**
- **Focus on verb/action statements**
- **Focus on immediate behaviors**
- **Avoid wordiness - the lines provided should be enough room**
- **Avoid use of medical jargon and abbreviations**
- **Make sure information is in the correct section**

# **Mandatory Pre-Screening Agent Training**



**Training provided by:  
Tennessee Department of Mental Health  
and Substance Abuse Services  
Office of Crisis Services**