



INTRODUCTION TO THE BAKER ACT: PART 1

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THREE PART SERIES: INTRODUCTION TO THE BAKER ACT

- ➔ JUNE 16, 2020
- ➔ JUNE 18, 2020
- ➔ JUNE 23, 2020

PART 1. ACCESSING SERVICES IN A BAKER ACT RECEIVING FACILITY

Purpose of Part 1

- Who qualifies for Baker Act services?
- How are Baker Act services initiated?

Topics

- History of the Baker Act
- Examination, Evaluation, and Admission
- Emergency Medical Conditions
- Transportation and Transfers
- Case Study

Introduction

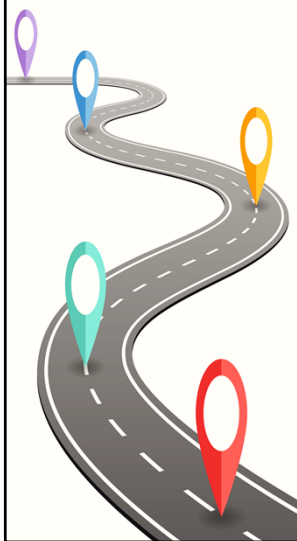
Baker Act facilities provide emergency psychiatric services to provide individuals with mental health conditions assistance with

- a safe, secure environment.
- completion of activities of daily living.





Timeline: 1874 - 1972



- An individual could be sent to a state hospital if:
 - ❖ *three individuals signed an affidavit, and*
 - ❖ *a county judge approved the placement*
- Children as young as 12 could be held in a state hospital
- Children could cohabitate with adults
- Individuals could only correspond with one person outside of the hospital
- Individuals could be held in the hospital indefinitely
- Individuals could only be discharged by a judge

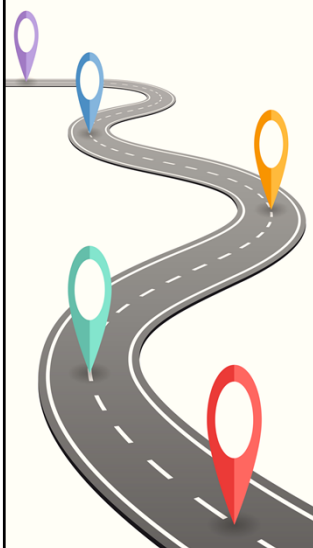
Timeline: July 1, 1972



Florida Mental Health Act

- Referred to as the Baker Act
- Provided additional protections and rights for individuals receiving services including attorney representation
- Case review for potential discharge at least once every six months
- Changed legislative intent by shifting the focus from involuntary holds to voluntary treatment

Timeline: Revisions to the Baker Act Law



Significant Revisions to Improve Baker Act Protections

- 1996 and 2015
- 2016 – Senate Bill 12
 - *No-wrong-door approach*
 - *Streamlined process*
 - *Improved rights for individuals receiving services*

Florida Mental Health Act

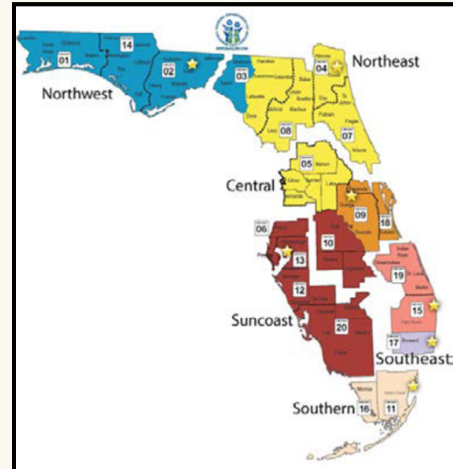
- Chapter 394, Part I, Florida Statutes
 - http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0394/0394PARTIContentsIndex.html
- Chapter 65E-5, Florida Administrative Code
 - <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=65E-5>
- Chapter 65E-12, Florida Administrative Code
 - <https://www.flrules.org/gateway/chapterhome.asp?chapter=65E-12>

Primary Purposes of the Baker Act

- To provide short-term evaluation, treatment, and stabilize the symptoms of acute mental health conditions.
- To provide guidelines and procedures for the way services are delivered including:
 - *required timeframes for evaluation and treatment,*
 - *rights of individuals served, and*
 - *maintenance of the treatment environment for individuals under both voluntary and involuntary status.*

Oversight

- Florida Department of Children and Families, Office of Substance Abuse and Mental Health
- Agency for Health Care Administration
- Managing Entities (7)
- Baker Act Reporting Center
- Disability Rights Florida



System of Baker Act Designated Receiving Facilities



- Voluntary and involuntary services
- Designation as
 - ❖ *Public or private facility*
 - ❖ *Hospital or crisis stabilization unit*
- Designated Receiving Systems
- Central Receiving Facilities

Examination, Evaluation, and Admission



Admission to a Facility

The process for each type of admission has different criteria and procedures.



✓ an involuntary examination has been initiated

✓ express and informed consent has been provided for voluntary admission

Involuntary Examination Initiation & Forms

- An involuntary examination may be initiated by any of the following ways:
 - A qualified professional may initiate a Certificate of a Professional
 - Mandatory Form CF-MH 3052b
 - A law enforcement officer must initiate a Report of Law Enforcement Officer
 - Mandatory Form CF-MH 3052a
 - A circuit or county court may issue an Ex Parte Order
 - Recommended Form CF-MH 3001
- Forms must be submitted within five (5) business days
- Receiving facilities must submit the forms above along with the required Cover Sheet (CF-MH 3118) to the Baker Act Reporting Center(BARC)

Baker Act Reporting Center

- The Baker Act Reporting Center (BARC) receives forms and collects data on behalf of the Department.
- The data entered on these forms is used to create the Annual Baker Act Report
- Forms must be electronically submitted to the BARC, per 65E-5.280, F.A.C.
 - They must be sent via secure file transfer (SFT) to the BARC
 - Email BARC at bakeract@usf.edu for technical support in sending forms via SFT
 - Additional information available by visiting the BARC website:
<https://www.usf.edu/cbcs/baker-act/>

Criteria for Voluntary Admission

- Experiencing an active mental health condition that would benefit from inpatient services due to the condition either:
 - ❖ *Causing significant disruption in completing activities of daily living, or*
 - ❖ *Placing the individual or others at imminent risk of serious physical harm*
- Able and willing to provide express and informed consent for services



Criteria for Involuntary Examination

- Refuse voluntary examination or be unable to determine whether examination is necessary, and
- Will likely cause significant physical harm to self or others
- Involuntary examination does not equal admission



Transferring Legal Status

■ Involuntary → Voluntary

- *Meets criteria for inpatient services*
- *Able and willing to provide express and informed consent for services*

■ Voluntary → Involuntary

- *Meets criteria for involuntary placement*
- *Unable or unwilling to provide express and informed consent for services*

Voluntary Admission and Services



- Competent
- Express and Informed Consent
- Criteria for Inpatient Services

Competence Required for Voluntary Services

- Adults are considered competent unless proven otherwise
- Generally cannot be considered competent under the Baker Act if the individual:
 - ❖ *lives in a long-term care facility, or*
 - ❖ *has a substitute decision-maker for health care*

Express and Informed Consent

Express Consent

- Voluntary
- Without coercion
- In writing by a competent individual



Informed Consent

- Benefits and risks of:
 - ❖ *proposed treatment*
 - ❖ *alternative treatments*
 - ❖ *lack of treatment*

Individual Arrives for Voluntary Admission

- Assessment is completed
- If criteria for inpatient services is not met, the individual is provided with appropriate referrals
- If criteria appears to be met, the psychiatrist is called for admission orders
- If admission orders are provided, the individual completes admission forms and consents
- Belongings are collected and inventoried
- Report is given to receiving unit

Initiation of an Involuntary Examination



- Qualified professional
- Law enforcement officer
- Judge or magistrate

Qualified Professional

Clinical
Psychologist

Clinical
Social
Worker

Marriage
and Family
Therapist

Mental
Health
Counselor

Physician

Psychiatric
Nurse

Law Enforcement Officers

- Elected, appointed, or employed by any municipality or political subdivision
- Has the following primary duties or provides supervision to officers who fulfill the following duties:
 - *Prevention and detection of crime or enforcement of state laws*
 - *Has the authority to bear arms and make arrests*



Individual Arrives Under Involuntary Status

- Qualified Professional
 - ❖ *must personally observe the behavior or symptoms within the preceding 48 hours*
- Law Enforcement Officer
 - ❖ *must initiate if criteria appears to be met*
 - ❖ *may base decision on third party reports*
- Judge or Magistrate in Circuit or County Court
 - ❖ *must base decision on sworn testimony*

Individual Arrives Under Involuntary Status

- Initiating paperwork is reviewed
- Preliminary screening is conducted to assess if the criteria for involuntary examination is met. If admission is ordered:
 - ❖ *Belongings are collected and inventoried*
 - ❖ *Initial assessment is completed*
 - ❖ *Admission forms and consents are explained with request for signature*
 - ❖ *Psychiatrist is called for admission orders*
 - ❖ *Report is given to receiving unit*
- If admission is not recommended, the individual is released

Initial Assessments

- Initial determination must be made on the appropriate legal status and level of care for each individual
 - *Admissions Staff*
 - *Nursing Staff*
 - *Psychiatrist*
 - *Social Worker*



Examination and Evaluation

- Competence determined within 24 hours of admission
- Evaluation conducted by psychiatrist, other physician, or psychiatric nurse
- Includes:
 - *Personal observation and review of recent behaviors*
 - *Review of the required documentation*
 - *Brief psychiatric history*
 - *Face-to-face examination*



Additional Requirements for Minors

- Initiated within 12 hours of arrival at the facility
- In addition to the requirements for adults, must also include:
 - *Overview of current and past mental and physical health*
 - *Overall functioning and coping skills*
 - *Intellectual ability and academic performance*
 - *Social and family interactions and relationships*
 - *Behavioral and emotional management and expression*
 - *Discharge needs*



Physical Examination

- Medical stability
- Potential physical or organic causes



Medical Clearance

- Symptoms beyond the capability of a Baker Act facility
- 72-hour clock can be suspended
- Transfer to a Baker Act facility must occur within 12 hours of medical clearance
- Emergency Departments that are part of a receiving facility may authorize an individual's release from involuntary examination



Determination Following an Involuntary Examination

- Transfer to voluntary status
- Release from a designated Baker Act receiving facility or emergency department
- File a petition for involuntary inpatient placement or involuntary outpatient services



*(THOSE WHO MEET CRITERIA FOR
ADMISSION ALSO MEET CRITERIA FOR AN
EMERGENCY MEDICAL CONDITION)*

Emergency Medical Treatment and Labor Act (EMTALA)

Emergency Medical
Treatment and Active
Labor Act

EMTALA

- Federal law in 1986
- Tagged the “anti-dumping” law
- Prohibits denying or delaying emergency examination and treatment based on the individual’s financial status
- Applies to all hospitals that accept Medicare



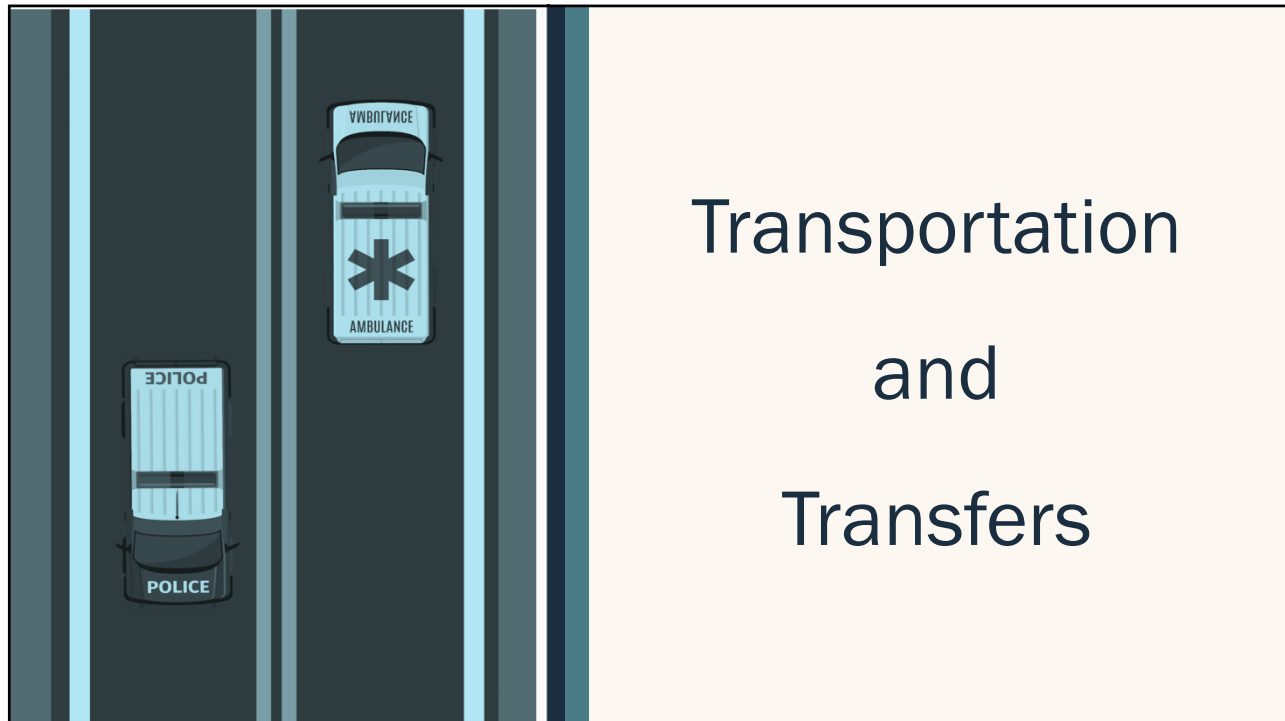
Emergency Medical Conditions

- Physical and behavioral health conditions
- If left untreated would reasonably lead to significant physical harm to the individual or others



EMTALA – Additional Provisions

- Individuals must have access to appropriate examination and treatment for emergency medical conditions regardless of ability to pay for services.
- The emergency medical condition must be resolved or stabilized prior to a discharge or lateral transfer from the hospital.
- EMTALA no longer applies once an individual is admitted to the hospital.



Transportation for Initial Exams

- Transport is frequently provided by Law Enforcement

- ❖ *Policies and procedures to ensure safe transport*
- ❖ *Initiating an involuntary examination is not an arrest*



Mode of Transportation

Transportation is typically provided by a private, non-emergent medical transport company for:

- Transfers to another Baker Act facility for continued services
- Transfers to a medical hospital
- Transfers to certain community facilities at discharge



Co-occurring Legal Charges

- Process for the legal charge first
- Jail must notify the appropriate designated receiving facility
- Designated receiving facility must arrange for appropriate services



Restrictions on Inter-facility Transfers

- Time frames
- Court regulations



Bed Hold

Facilities are expected to hold an individual's bed when:

- The individual is transferred to another facility for specialized care
- The individual is expected to return to the sending facility for continued services



Case Study



David's Criteria for Inpatient Services

- History of depression
- Anhedonia
- Decreased engagement
- Increased stress
- Passive suicidal ideation
- Access to a firearm
- Recent visit to a gun range



Appropriate Follow-Up

- David refuses to be evaluated for voluntary admission
 - *Monica calls the local non-emergent law enforcement phone number*
 - *Monica asks for a CIT officer to assist her*
- David agrees to voluntarily assessment at a local Baker Act receiving facility and follows recommendations for admission



conclusion

Summary - Policies, Procedures, and Laws

- *Point of entry*
 - *Legal status*
 - *Method of arrival*
 - *Time frames*
-
- Remember to join us for *Introduction to the Baker Act – Part 2* on June 18th!

Resources

- Baker Act forms
 - <http://www.myflfamilies.com/service-programs/mental-health/baker-act-forms> (WEB)
- Baker Act Annual Reports
 - <https://www.myflfamilies.com/service-programs/samh/publications/>
- Chapter 394, Part I Florida Statutes
 - http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0394/0394PARTIContentsIndex.html (WEB) & (DOC)
- Your Rights While Receiving Mental Health Services
 - <http://www.dcf.state.fl.us/programs/samh/publications/i155-en.pdf> (PDF)
- Baker Act Reporting Center
 - <https://www.usf.edu/cbcs/baker-act/>