

Section 35 Petition Affidavit – Supporting Clinical Information Checklist/Guidance

The following list provides information that should be included in the hospital/physician affidavit letter or as an attachment to the letter, as outlined below.

1) Trial Court Affidavit

- a. On the “Affidavit in Support of Petition for Commitment under G.L. c. 123, § 35,” we are requesting that the clinician or appropriate staff to simply write in Section 1: “See Attached Hospital/Physician Affidavit Letter Supporting Section 35 Petition.”
- b. The provider should also sign that affidavit. All other fields should be left blank as the appropriate information will be included in the Affidavit Letter.

2) Presentation – information that must be included in the affidavit letter

- a. Method of arrival into the ED (*e.g., walked in, versus found in the community and brought by ambulance*).
- b. Please indicate information about the current visit as related to the following:
 - i. For opioid use disorder, please include information on any of the following: the reason for the ED visit includes opioid overdose; withdrawal; infections related to injecting drugs such as abscess, sepsis, endocarditis; pregnancy-related complications due to opioid use; falls; accidents; burn. Please also include information on whether the patient received naloxone prior to the ED visit (provided in the field by bystanders, EMTs, others) to treat overdose.
 - ii. For Alcohol Use Disorder, please include information on any of the following: the reason for the ED visit includes alcohol intoxication, withdrawal, seizures, delirium tremens (DTs), blackouts, falls, accidents resulting in injuries, burn, acute hepatitis, acute hepatic failure, acute pancreatitis and encephalopathy. In addition, information about patients presenting or brought to ED for acute safety risks such as suicidal or homicidal ideation or threats and violent acts or threats in the context of intoxication should be included.
 - iii. For polysubstance use: please include information on any of the following: the reason for the ED visit includes that the patient presents with poly substance use (*e.g., patient was mixing opioids with benzodiazepines, alcohol, or cocaine*) and there was a risk of life threatening complications and/or death.
- c. Provide information on any other conditions that are being evaluated for possible treatment (*e.g., physical trauma, DTs, seizures, etc.*).

3) Past History – information to be included in the affidavit letter

- a. Number of ED visits in the last month, or another time frame if there is a consistent presentation over a long period (*e.g., 45 or 60 days*).

- b. Reasons for prior ED visits that are similar to the current presentation outlined above.
- c. If the prior ED visit was related to one of the presentations outlined above, please include the following:
 - i. History of SUD and related complications in the last month or other timeframe, including history of established diagnosis of SUD. For the prior ED visits, please indicate if lab results are similar to those identified in the current ED visit. For prior history of SUD, please indicate how long, frequency of use, amount of use, loss of control, and/ compulsive use despite consequences. If known, please include information on admissions for each prior ED visit (e.g., inpatient medical, surgical, psychiatric, detox placement) that may be due to complications of SUD for the reasons cited in the **Presentation** section). Please describe history of known medical conditions that may be worsened by substance use, including liver disease, Hepatitis C, endocarditis, anoxic brain due to overdose, worsened mental health conditions such as depression, suicidality, aggression, and violence.
 - ii. Please describe history of alcohol use disorder, including information on blood alcohol levels during prior treatments (upon admission or discharge from jail to hospital), specific risk factors of immediate medical harm related to ongoing alcohol use, impact that the alcohol use has on existing medical conditions, and prior medical tests that were required as a result of medical injuries due to alcohol use.
- d. For any of the past history for a known disorder, please include information on involuntary admissions, inability to engage in voluntary treatment (inpatient or outpatient) programs, history of leaving against medical advice (AMA), and the ineffectiveness of previous treatment attempts.

4) Lab Testing for either Alcohol or Substance Use Disorders – results should be attached to the affidavit letter

- a. Blood alcohol level (BAL) on admission if applicable.
- b. Urine or oral toxicology screen results if applicable. Presence of opioids, fentanyl, and evidence of other substance use such as benzodiazepines or cocaine.
- c. Increased liver function tests (LFTs), brain imaging to support presence of anoxia, brain injury, etc.
- d. Provide a list of any other lab tests requested by the treating clinician to help clarify other medical conditions present at time of admission.

5) Course of Treatment in the ED or Inpatient Unit - include applicable clinical notes outlining the course of treatment within the hospital for the current treatment

- a. Describe the treatment provided in the ED:
 - i. Benzodiazepines for alcohol withdrawal,

- ii. Naloxone for treatment of opioid overdose,
- iii. Methadone or buprenorphine-naloxone to treat signs and symptoms of opioid withdrawal,
- iv. Psychiatric medications for agitation,
- v. Medications for liver cirrhosis,
- vi. Antihypertensives, etc.
- vii. Clinician should also include a list of all medications and services provided in the ED or the inpatient unit to treat the SUD and any other condition.

6) Discharge Planning – attach to the affidavit letter the information on the following if known. Please note that this information could be included in the letter if applicable.

- a. Include a copy of the proposed discharge summary from the ED, provided that it is available and assuming that the discharge summary is not already included in the information listed above.
- b. If known, the treating clinician should indicate why community based treatment is not indicated (e.g., detox was offered and rejected, person indicated he/she does not need further treatment).

7) Providers should be aware in their evaluations that the following medical conditions make the patient ineligible for a Section 35 Petition, so alternative placement options will need to be considered prior to seeking a Section 35 petition:

- a. Inability to ambulate independently
- b. Acute medical condition(s) requiring hospitalization
- c. Acute psychiatric condition(s) requiring psychiatric hospitalization
- d. Need for skilled nursing facility placement
- e. The need for a physician on site during alcohol and/or drug treatment
- f. Inability to perform their ADL's without assistance
- g. Intravenous injectable or oxygen is required