

The “Baker Act” Basics

On almost a weekly basis, I get a call from a client whose loved one has been involuntarily put into one of our local short term mental health facilities. Most of my calls concern someone with dementia who has “acted up” at a nursing home. The facility’s physician has certified that they are a danger to the staff and off the patient goes to either Circles of Care or 2 West at Wuesthoff Hospital, both being our local mental health facilities as we have no long term care mental health facilities in Brevard County. The client has been told that their loved one has been “Baker Acted”. They come to me usually extremely upset and trying to figure out what happened.

The Baker Act has been in place in Florida since 1971 in one form or another. The Baker Act (“the act”) is also known as The Florida Mental Health Act. Florida Statute 394.463 of the act allows for the involuntary examination of persons believed to suffer from mental illness (including dementia) and (a) because of the mental illness they refuse voluntary examination or lack insight as to needing voluntary examination and (b) that without care they will suffer from abuse or neglect which poses a real and present threat of substantial threat of harm or without treatment they will cause serious bodily harm to themselves or others (paraphrased).

There are three parties who can “Baker Act” someone. The first is a court by “Ex Parte” order. “Ex Parte” means the party is not present. The second is a law enforcement officer. The third is a physician or mental health worker (see statute for full list). Once the person is involuntarily placed, they must be examined within 72 hours. Within the 72 hour period, (except if it ends on a weekend or holiday, then the next business day), the person must be released, subject to outpatient treatment, admitted as a voluntary patient, or involuntarily placed when inpatient treatment is needed.

Florida Statute 394.4655 governs involuntary placement and the criteria the Court shall consider. A petition must be filed for involuntary placement.

In the scenario that I used at the beginning of this article, it is not uncommon to see the patient stabilized and then returned to a nursing home facility. However, there are problems when the nursing home refuses to take the patient back or the patient has multiple “Baker Acts” and no other facility will take them. I frequently see spouses and families in my office extremely frustrated because they have to go to St. Cloud, Vero Beach, Daytona or even Clearwater to see their loved one. The best advice I can give you is to pay attention to aggressive behaviors, medication changes including dosage amounts, and repeated complaints from the facility. It is much better to get the situation under control early than to have to go through the Baker Act process.