



**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN HOPKINS COUNTY SHERIFF'S OFFICE, THE HOPKINS COUNTY**  
**COMMISSIONERS COURT, THE HOPKINS COUNTY ATTORNEY, THE SULPHUR**  
**SPRINGS POLICE DEPARTMENT, HOPKINS COUNTY EMS, & LAKES REGIONAL**  
**COMMUNITY CENTER**

*Effective the 1st day of July, 2020*

On this date, pursuant to Texas Health and Safety Code 573.005, a Memorandum of Understanding ("MOU") is hereby executed between the Hopkins County Sheriff's Office ("HCSO"), the Hopkins County Commissioners Court ("Commissioners"), the Hopkins County Attorney ("County Attorney"), the Sulphur Springs Police Department ("SSPD"), the Director of Hopkins County EMS ("EMS"), and the Director of Lakes Regional Community Center ("Lakes Regional"). The terms of said MOU are as follows:

1. Limitation of Liability for Peace Officers, Transport, EMS, Physicians, and Others:

All parties to this MOU understand that, pursuant to Texas Health and Safety Code 571.019(a), "a person who participates in the examination, certification, apprehension, custody, transportation, detention, treatment, or discharge of any person or in the performance of any other act required or authorized by this subtitle and who acts in good faith, reasonably, and without negligence is not criminally or civilly liable for that action."

2. Limitation of Liability for Christus Physicians:

Additionally, both parties understand that, pursuant to Texas Health and Safety Code 571.019(b) "a physician performing a medical examination and ... providing information to a peace officer to demonstrate the necessity to apprehend a person under Chapter 573 [Emergency Detention] is considered an officer of the court and is not liable for the examination or testimony when acting without malice."

3. APOWW Cases Only:

Pursuant to Health and Safety Code 573.005, this MOU applies only to APOWW cases, which stands for Apprehension by a Peace Officer Without a Warrant, and is also known as a warrantless Emergency Detention ("ED"). An APOWW and a warrantless ED are the same. This MOU does not apply to EDs ordered pursuant to a mental health warrant issued by a magistrate.

4. APOWW by Peace Officers of HCSO and SSPD:

Pursuant to Health and Safety Code 573.001, peace officers of HCSO and SSPD may, without a warrant, conduct an APOWW. Officers will be trained by their respective agencies on the appropriate legal standard for conducting an APOWW.

5. Cases Which Originate in the Christus Emergency Room:

When hospital personnel become aware of a mental health crisis which may rise to the level of requiring an APOWW, they will call local law enforcement. A peace officer will arrive at the Christus Emergency Room as soon as possible to determine whether an APOWW is appropriate. If the peace officer conducts an APOWW, the patient will be informed that they have been placed under a warrantless Emergency Detention at the Christus Emergency Room. If the officer's continued presence at the hospital is required for safety reasons, they will remain until it is safe to depart. Before releasing the detained patient into the care of EMS, however, the officer will fill out a *Notification of Emergency Detention* form and an *Advisement to Patient Under Emergency Detention* form and provide a copy to the patient and to EMS personnel, pursuant to Health and Safety Code 573.002. If EMS later transports the patient to another facility, EMS will provide a copy of the *Notification* and *Advisement* to the new facility. A peace officer will assist with the transportation if needed for safety reasons.

6. Cases Which Do Not Originate in the Christus Emergency Room:

Pursuant to Health and Safety Code 573.001, a peace officer who has detained a patient under an APOWW, may immediately transport the patient to the Christus Emergency Room. If the officer's continued presence at the hospital is required for safety reasons, they will remain until it is safe to depart. Before releasing the detained patient into the care of EMS, however, the officer will fill out a *Notification of Emergency Detention* form and an *Advisement to Patient Under Emergency Detention* form and provide a copy to the patient and to EMS personnel, pursuant to Health and Safety Code 573.002. If EMS later transports the patient to another facility, EMS will provide a copy of the *Notification* and *Advisement* to the new facility. A peace officer will assist with the transportation if needed for safety reasons.

7. Costs of Transporting the Patient and Termination of Agreement:

Hopkins County shall pay the costs of transporting the patient, pursuant to Health and Safety Code 573.024. See attached schedule A "Fee Schedule". EMS has the right to terminate this agreement by giving Commissioners ninety (90) day notice with or without cause.

8. Patients Detained Under an Order of Protective Custody:

Pursuant to Health and Safety Code 574.045, the Hopkins County Commissioners Court hereby selects EMS as a qualified transportation service provider for mental health cases which originate in Hopkins County. The rules and procedures for transporting a patient

under an Order of Protective Custody (“OPC”) shall be the same as the rules for transporting a patient under an APOWW.

9. Transportation of Patient After Release:

If a patient detained under an APOWW or OPC is later released by a physician because they no longer meet the criteria for ED, the law enforcement agency who initiated the ED shall make arrangements to transport the patient to the location of their apprehension, the patient’s residence, or another suitable location, unless the patient objects. Hopkins County shall pay the costs of transporting the patient, pursuant to Health and Safety Code 573.024.

Timelines for Conducting ED:

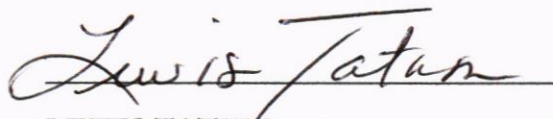
An ED may only last for 48 hours, unless it would expire on a weekend or legal holiday, in which case the ED expires at 4 p.m. on the first business day after the weekend or legal holiday. Within 12 hours of the ED being initiated, a Christus physician will conduct a Preliminary Examination on the patient and make a determination of whether the patient meets the criteria for continued detention. If the patient does not meet the criteria for detention, the physician will immediately terminate the ED. If the patient does meet the criteria for continued detention, the physician will complete and sign a Certificate of Medical Examination and a Christus representative will initiate the *Application for Court-Ordered Mental Health Services* process with the County Attorney, if necessary. The County Attorney will then decide whether to file a *Motion for Protective Custody* with the appropriate magistrate and ensure that an *Application for Court-Ordered Mental Health Services* is on file.

In cases which originate in the Christus Emergency Room, the clock starts when a peace officer informs the patient that they have been detained under an APOWW. In cases which originate outside of the Christus Emergency Room, the clock starts when a peace officer presents the detained patient to Christus personnel.

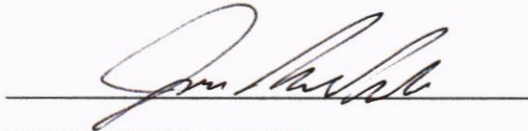
10. State Hospital Option:

If the peace officer believes that the most appropriate course of action is to take the patient directly to Terrell State Hospital or another appropriate facility, for safety or other reasons, the peace officer may elect to transport the patient directly to that facility instead of the Christus Emergency Room.

*Effective the 1st day of July, 2020*



**LEWIS TATUM**  
**SHERIFF, HOPKINS COUNTY, TEXAS**

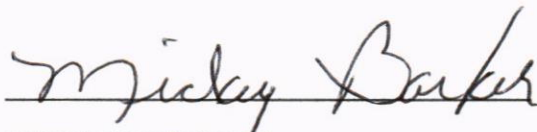


**JASON RICKETSON**  
**CHIEF, SULPHUR SPRINGS POLICE DEPARTMENT**

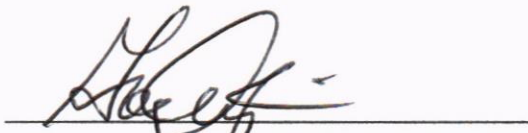
**ABSENT**

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**HON. ROBERT NEWSOM**  
**CONSTITUTIONAL COUNTY COURT**



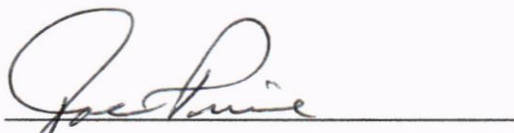
**MICKEY BARKER**  
**HOPKINS COUNTY COMMISSIONER, PRECINCT 1**



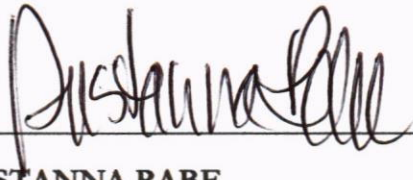
**GREG ANGLIN**  
**HOPKINS COUNTY COMMISSIONER, PRECINCT 2**



**WADE BARTLEY**  
**HOPKINS COUNTY COMMISSIONER, PRECINCT 3**

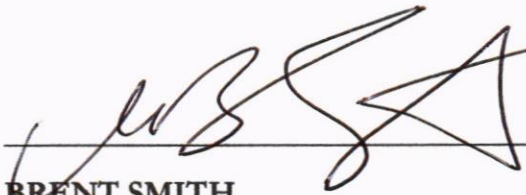


**JOE PRICE**  
**HOPKINS COUNTY COMMISSIONER, PRECINCT 4**



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**DUSTANNA RABE  
HOPKINS COUNTY ATTORNEY**



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**BRENT SMITH  
HOPKINS COUNTY EMS**

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**LAKES REGIONAL COMMUNITY CENTER DIRECTOR**

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**DUSTANNA RABE  
HOPKINS COUNTY ATTORNEY**

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**BRENT SMITH  
HOPKINS COUNTY EMS**



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**LAKES REGIONAL COMMUNITY CENTER DIRECTOR**

**NOTIFICATION OF EMERGENCY DETENTION (BY PEACE OFFICER)**

Now comes \_\_\_\_\_, a peace officer with \_\_\_\_\_ (name of agency), of the State of Texas, and states as follows:

1. I have reason to believe and do believe that \_\_\_\_\_ (name of Patient to be detained) evidences mental illness.
2. I have reason to believe that the Patient evidences a substantial risk of serious harm to himself/herself or others. I have reason to believe and do believe that the above risk of harm is imminent unless the Patient is immediately restrained.
3. My beliefs are based upon the following recent behavior, overt acts, attempts, statements, or threats observed by me or reliably reported to me:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The names, addresses, and relationship to the Patient of those persons who reported or observed recent behavior, acts, attempts, statements, or threats of the Patient are (if applicable):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

For the above reasons, I present this notification to seek temporary admission to the \_\_\_\_\_ (name of facility) inpatient mental health facility for the detention of \_\_\_\_\_ (name of Patient to be detained) on an emergency basis.

5. Was the Patient restrained in any way?                      YES/NO

\_\_\_\_\_  
PEACE OFFICER'S SIGNATURE

\_\_\_\_\_  
BADGE NUMBER

Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**Legal Notice: Pursuant to Texas Health and Safety Code §573.002, a mental health facility may not require a Texas peace officer to execute any form other than this form as a predicate to accepting for temporary admission a Patient detained under §573.001.**

**ADVISEMENT TO PATIENT  
UNDER EMERGENCY DETENTION  
(TO BE COMPLETED BY PEACE OFFICER)**

TO: \_\_\_\_\_ (Name of Patient)

You are being temporarily detained to determine if you are suffering from mental illness such that you need mental health services for the protection of yourself and others.

Among your rights, you have the right to know the following information.

1. You are being detained at \_\_\_\_\_ (name of facility).
  - a. The reasons for your detention are:  
\_\_\_\_\_  
\_\_\_\_\_
  - b. This temporary detention could result in a longer period of involuntary commitment to a mental health facility.
2. You have the right to contact an attorney of your own choosing, and the right to a reasonable opportunity to contact that attorney.
3. If you are not admitted for emergency detention, you have the right to be transported back to the location of your apprehension or to your place of residence in Texas or other suitable locations, unless you are arrested or object to the return.
4. You have the right to be released from detention if the administrator of this facility where you are being held determines that any one of the following four criteria for emergency detention no longer apply:
  - a. That you are mentally ill; or
  - b. That you show that a substantial risk of serious harm to yourself or others would result from your release, as determined either by your behavior or by evidence of severe emotional distress and deterioration in your mental condition to the extent that you cannot remain at liberty; or
  - c. That the risk of harm to yourself or to others is imminent unless you are immediately restrained at this time; or
  - d. That emergency detention is the least restrictive means by which necessary restraint may be accomplished.
5. If you talk with or communicate with a mental health professional, those communications may be used in proceedings for further detention.

\_\_\_\_\_  
SIGNATURE OF PATIENT

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF PEACE OFFICER

\_\_\_\_\_  
DATE

**COPY TO BE RETURNED TO COURT**



## The Emergency Detention (“ED”) Process

### ED’s in General:

The purpose of the ED is to detain a Patient who has a mental illness and must be immediately restrained for safety reasons. An ED can be completed in two ways: by a peace officer (§573.001) or by a magistrate (§573.011).

### ED by Peace Officer:

A peace officer ED does not require a warrant. Sometimes officers refer to an ED as an APOWW (Apprehension by Peace Officer Without a Warrant). The legal standard for a peace officer to detain a Patient under an ED is that officer (1) reasonably believes that the Patient has a **mental illness**, and (2) as a result of it, there is a **substantial risk of serious harm** to the Patient or to others unless the Patient is **immediately** restrained, and (3) there is **not enough time** to get a warrant.

A peace officer can base the ED on their own personal observations such as the Patient’s conduct, words, and the surrounding circumstances. Importantly, however, a peace officer can base an ED entirely on the observations of a witness, as long as the peace officer finds the witness to be credible. In other words, a peace officer ED can be based on hearsay statements from the witness to the officer.

Example One: A police officer personally observes the Patient walking in the middle of a busy street and upon further investigation determines that they are suffering from a mental illness. An ED may be appropriate.

Example Two: A police officer responds to a 911 call at a Patient’s home. At the scene, a family member says that the Patient is mentally ill and has been engaging in suicidal behavior. The officer does not personally observe suicidal behavior, but determines that the family member is a credible witness and that there is not enough time to get a warrant. An ED may be appropriate.

Example Three: A police officer responds to the local emergency room where medical staff inform the officer of a patient’s severe mental health crisis and suicidal threats. After speaking with the patient and emergency room staff, the officer informs the patient that they have been placed under an ED in the emergency room.

The officer has a duty to immediately inform the Patient in simple terms what is happening, why they have been detained, and that a staff member of the mental health facility will inform them of their rights within 24 hours of admission to the facility. When the officer presents the Patient to the facility, they must provide a Notification of ED form to the staff.

**Checklist for Peace Officer**  
**Conducting ED**  
**"APOWW"**

1. Based on your own observations or based on the representations of a credible witness, have the criteria for ED been met? **Do you reasonably believe that:**
  - a. *The Patient has a mental illness; and*
  - b. *As a result of it, there is a substantial risk of serious harm to the Patient or to others unless the patient is immediately restrained; and*
  - c. *There is not enough time to get a warrant*
2. Detain the Patient
3. Transport patient to inpatient mental health facility
4. Fill out "Notification of ED" and "Advisement to Patient"
5. Follow process of mental health facility to get the Patient admitted

**Attachment A – Fee Schedule**  
**EMS non-ambulance transport fees**

1. Transports per person up to 110 miles one way	\$150.00
2. Transports per person over 111 – 199 miles one way	\$175.00
3. Transports per person over 200 - greater miles one way	\$300.00