

THE NEW BAKER ACT?

A Marchman Act Case Study

By Myles B. Schlam, J.D., CCJAP

The client was referred to us by a very respected Psychologist. Her daughter was completely out of control - running away, drinking, and smoking crack in the "hood". She was also suffering from bi-polar disorder and schizophrenia. My job was to have her Marchman Acted or court-ordered into treatment. I was warned that this client could get belligerent. I went to the mother's house on a Saturday to perform an assessment.

It was clear to me that this client was in need of psychiatric therapy in addition to substance abuse treatment. I filed the petition in the mental health division of the clerk's office. When the court date arrived I presented my assessment, which opined that this respondent was a danger to herself and others, and that she could not make rational decisions on her own regarding treatment. Evidence was stated to support this clinical determination.

The court submitted to my findings and ordered the respondent to treatment for a period of 60 days. Because this client was indigent and did not have health insurance, she was ordered into BARC, the county addiction receiving facility. However, BARC declined to treat this client, even with a court order, because they do not treat clients with certain mental disorders, specifically schizophrenia. In addition, this client had been on the "waiting list" for another county-operated residential facility for three months, and was not getting in anytime soon.

After being denied treatment at BARC, it became necessary for this client to be "Baker-Acted" on two occasions. The first was a result of an assault on her then-pregnant sister. The second had been filed in Domestic Violence Court as a result of the client breaking a restraining order. By this time, the client was in the mental health unit of a jail for a period of almost a month. She refused to take her medication and refused to come to court on one occasion.

The case dragged on for almost five months in Marchman Court, with multiple hearings. One treatment facility agreed to admit her for "assessment and stabilization," only to discharge her on the fourth day. Medicaid would not cover anything longer. The respondent could not go home, because her mother and sister were in fear for their safety. It was a sad realization that the mental health unit of the county jail was the only place where this twenty-four year old female could get treatment.

Finally, the judge compelled her to come to court, and I proposed the best plan I could coordinate, under the circumstances. A major issue was the fact that the client had Medicaid, and Medicaid will not cover any residential treatment facilities in the county. I was able to find an Assisted Living Facility (ALF) which specializes in mental health clients.



I arranged for a mental health facility in the community to pick up the client from the ALF a few times a week for out-patient day treatment and case management. It has been a few weeks, her medications have been stabilized, and things seem to be going well. She actually likes the ALF and has made some friends there. I have been coordinating treatment between the facilities as well as attending all court status hearings.

One of the things I learned from this experience is that Broward County is in serious and dire need of county or state-funded residential treatment facilities for clients with co-occurring disorders. I realize that the budget is tight, but we need to make the treatment of mental health and addiction clients a priority. In the end, the dollars spent on treatment will pay for themselves.

The Marchman Act has many "loopholes," and must be approached with caution. For example, had I found a treatment facility outside the county willing to admit this client, the court would have been without authority to enforce an order to that facility. Another issue is due process. Every respondent to a Marchman Act is entitled to be served in person. What if the particular respondent is homeless or has no fixed address because they are jumping from one drug motel to another? We may be excluding the very segment of the population most in need of these interventions.

The first step of a Marchman Act Petition is a "Petition for Assessment" to be filed with the court. The respondent must be evaluated by a qualified addictions professional before the court will order treatment for that individual. At ASI, we have certified addictions professionals who provide assessments to the respondent. This saves time, which is of the essence. In the alternative, the respondent would have to be sent to a county Marchman receiving facility, where there is usually a waiting period to receive the assessment. We prefer to go to court with the assessment in hand, so that treatment can be ordered immediately. The standard time period ordered for treatment is 60 days. If longer treatment is necessary, a "Petition for Extension of Treatment" can be filed with the court, whereby an extension period of up to 90 days may be granted by the court. 🌟

Any questions or comments about the Marchman Act or other Interventions can be sent to ASI at www.marchmanact.org.

In love and service,

Myles B. Schlam, J.D., CCJAP
Advocare Solutions, Inc. CEO