

power of attorney by death, disability, or incompetence, is conclusive proof of the nonrevocation or nontermination of the power at that time. If the exercise of the power requires execution and delivery of any instrument which is recordable, the affidavit when authenticated for record is likewise recordable.

DRAFTER'S NOTE:

Error: Misplaced punctuation in § 13-602(b) of the Estates and Trusts Article.

Occurred: Ch. 11, Acts of 1974.

13-709.

(a) When, from personal observation of a law enforcement officer, it appears probable that an adult will suffer immediate and serious physical injury or death if not immediately placed in a health care facility, that the adult is incapable of giving consent, and that it is not possible to follow the procedures of this section, the officer shall transport the person to an appropriate medical facility which shall immediately notify the next of kin and the director. This medical care may not be rendered in a State mental hospital other than, in an appropriate case, the Walter P. Carter Community Mental Health and Retardation Center and the Highland Health Facility unless authorized by the courts in a civil commitment proceeding. The director shall file a petition pursuant to subsection (b) [below] OF THIS SECTION within 24 hours after the transfer of the person has taken place. The court shall hold a hearing on the petition and render its decision within 48 hours after the transfer has occurred.

(b) Upon petition by an interested person, a court may issue an order authorizing the provision of protective services on an emergency basis to an adult after finding on the record, based on clear and convincing evidence, that:

(1) For the purpose of this section the person lacks capacity under the standards enumerated in § 13-705(b) OF THIS SUBTITLE;

(2) An emergency exists, as defined in § 13-101 OF THIS TITLE; and

(3) No person authorized by law or court order to give consent for the person is available to consent to emergency services.

(c) In issuing an emergency order, the court shall adhere to the following limitations:

(5) Notwithstanding the provisions of paragraphs (3) and (4) [above] OF THIS SUBSECTION, the court may extend the terms of the emergency order and the appointment of the temporary guardian until appointment of a guardian of the person pursuant to § 13-705 OF THIS SUBTITLE, upon petition of the temporary guardian, the director, or the Secretary of Aging, as appropriate, and after a showing that the conditions found to exist in subsection (b) [above] OF THIS SECTION will probably continue beyond the expiration of the extended emergency order. Such petition shall be filed before the expiration of the six-day period provided for in paragraph (3) [above] OF THIS SUBSECTION and shall be accompanied by a petition for appointment of a guardian of the person pursuant to § 13-705 OF THIS SUBTITLE.