

New Protections in the State of Virginia for People with Bipolar Disorder and Addicts- The Medical Power of Ulysses

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Last summer, the Virginia legislature passed a new law called the Psychiatric Advance Medical Directive (or Medical Power of Ulysses) that increases protection for people with bipolar disorder and drug or alcohol addicts. Before this law, there was no protection to help people in crisis. Section 14 of the U.S. Constitution recognizes the right to privacy, including the right to refuse any medical treatment.

One sign of a crisis for a person with bipolar disorder is the refusal to accept medical treatment. The situation is similar for people addicted to drugs or alcohol. Until the Psychiatric Advance Medical Directive was enacted, the families of bipolar or addict persons in crisis had no legal or medical resources to impose treatment.

Every state has procedures allowing for forced imprisonment and psychiatric hospitalization. However, these procedures vary from state to state and are very strict, used only for extreme situations. Not so at the beginning of last century. I suggest you watch the movie *Changeling* in this regard. This article first explains the procedure for involuntary imprisonment, which continues to exist, and then explains the Medical Power of Ulysses.

Involuntary imprisonment:

In Virginia, involuntary imprisonment is restricted to two crisis situations caused by mental illness: (1) the person is an immediate danger for self or others; (2) the person suffers from serious harm due to a lack of capacity to protect against the disease, or a lack of capacity to meet its own basic needs. This procedure can only be initiated based on clear and convincing evidence of the state of crisis and only if no less restrictive alternatives are available. The initial period of imprisonment shall not exceed 30 days and cannot be renewed past 180 days.

This initial imprisonment follows a rigorous procedure. It usually starts with emergency detention order signed by a judge. Within 4 hours of such an arrest, the detainee must be evaluated by a specialist in mental diseases.

Within 48 hours, the detainee must appear in court before a judge. The person may be represented by a private attorney or by a public defender appointed by the State. Finally, a court appointed independent examiner must review the person and report to the judge.

During a period of involuntary imprisonment, the person retains the right to refuse medical treatment. Additional legal proceedings must be initiated to request permission to force

medication. These requests have to be justified. Possible justifications may include: lack of capacity on the part of the detainee; his refusal is due to treatment or mental illness. The judge shall order this procedure only in limited circumstances.

Medical power of Ulysses:

The name comes from the Greek Odyssey's Ulysses and the Sirens, when Ulysses asked his comrades to tie him to the ship's mast as they approached the rocks where the sirens were hiding and to ignore his future pleas to untie him.

The Medical Power of Ulysses must be signed by a physician. It allows for a person with bipolar disorder, other mental illnesses, and addicts to grant an agent the right to imprison him/her against his/her will in case of relapse. The signer can also grant permission to be medicated against his/her will.

The power of attorney is of course limited to the case of relapse and can not be justified by any other cause. This duration is limited to 10 days during which most drugs have time to take effect.

Currently, groups in favor of this legislation are lobbying in Maryland and in the District of Columbia for similar change.