

IN THE CIRCUIT COURT OF THE SEVENTEENTH
JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

Order Number 2011-11 -PRC

ADMINISTRATIVE ORDER ON CONFIDENTIALITY OF
CERTAIN BAKER ACT AND MARCHMAN ACT FILES

(a) Florida Rule of Judicial Administration 2.215(b)(3) states the chief judge shall “develop an administrative plan for the efficient and proper administration of all courts within that circuit.”

(b) Florida Rule of Judicial Administration 2.420(c)(8) provides that all records deemed confidential by Florida Statutes and prior case law are confidential.

(c) Florida Rule of Judicial Administration 2.420(d)(viii) provides that identifying information in clinical records under §394.4615 (7), Fla. Stat., is confidential.

(d) Florida Rule of Judicial Administration 2.420(d)(ix) provides that records of substance abuse providers pertaining to the identity, diagnosis, prognosis and services to individuals under §397.501(7), Fla. Stat., are confidential.

(e) §§394.4615 and 397.501(7), Fla. Stat., provide the clinical records of patients undergoing treatment ordered under these chapters are confidential.

(f) In order to determine whether a person meets the criteria for commitment under chapters 394 (the Baker Act) and 397 (the Marchman Act), Fla. Stat., the court or magistrate must consider all available information concerning the respondent during the commitment proceeding.

(g) The clinical record is an integral part of the proceeding, and information from the clinical record is intertwined and integrated in the pleadings and papers filed in the court file.

(h) Preliminary petitions for assessment or examination do not involve clinical records and thus are not confidential.

(i) It is impractical to close only the portions of the court file that contain clinical records or identifying information and thus the entire file should be made confidential. *See, Tribune Company v. D.M.L.*, 566 So.2d 1333 (Fla. 2d DCA 1990).

(j) The efficient administration of the Circuit requires that administrative guidelines be adopted to clarify the confidential status of clinical record information contained in court files created for commitment proceedings in Baker Act and Marchman Act cases.

(k) In accordance with the authority vested in the chief judge by Florida Rule of Judicial Administration 2.215, it is, therefore ordered

(1) All pleadings, papers, documents, and the images of all documents, filed in Baker Act and Marchman Act commitment or treatment cases are confidential. Such

files will not be 'sealed,' but the viewing of a file is restricted to those persons authorized by this order.

(2) The identities of individuals subject to Baker Act and Marchman Act proceeding are confidential.

(3) The court dockets are not confidential and will be accessible by the public.

(4) The following persons may view the court record in a confidential Baker Act or Marchman Act: judges and judicial staff; the parties to the case; the parties' attorneys; any governmental agency or its representative authorized by law to view court records in such cases; any other person or entity authorized by law; and person or entity authorized to view a court record by written court order.

DONE AND ORDERED in chambers at Fort Lauderdale, Broward County, Florida on March 3, 2011.

s/Victor Tobin
Victor Tobin, Chief Judge