

IN THE EIGHTH JUDICIAL CIRCUIT OF FLORIDA  
ADMINISTRATIVE ORDER NO. 7.12

**CONFIDENTIALITY OF CERTAIN BAKER ACT AND MARCHMAN ACT FILES**

**WHEREAS**, Florida Rule of Judicial Administration 2.420(c)(7) provides that all records made confidential under the Constitutions and laws of Florida and of the United States are confidential; and

**WHEREAS**, sections 394.4615 and 397.501(7), Florida Statutes, provide that clinical records of patients undergoing treatment ordered under those chapters are confidential; and

**WHEREAS**, in order to determine whether a person meets the criteria for commitment under chapters 394 (the Baker Act) and 397 (the Marchman Act), Florida Statutes, the court or magistrate must consider all available information concerning the person subject to the commitment proceeding; and

**WHEREAS**, the clinical record is an integral part of the proceeding, and information from the clinical record is intertwined and integrated in the papers filed in the court file; and

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

**WHEREAS**, preliminary petitions for assessment or examination do not involve clinical records and thus are not confidential; and

**WHEREAS**, the efficient administration of the courts of the Eighth Judicial Circuit requires that administrative guidelines be adopted to clarify the confidential status of clinical records information contained in court files created in commitment proceedings in Baker Act and Marchman Act cases; It is therefore

**ORDERED** that:

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

2. The documents, and the images of the documents, in Baker Act and Marchman Act examination or assessment cases are not *per se* confidential.

3. Parties' names and the court dockets are not confidential and will be accessible by the public. Such files will not be 'sealed,' but the viewing of a file is restricted to those persons authorized by this order.

4. The following persons may view the documents, and electronic images of the documents, contained in a confidential Baker Act or Marchman Act case file:

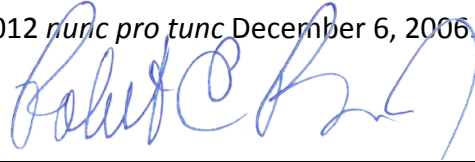
- a. The parties to the case;
- b. The parties' attorneys;
- c. Any governmental agency or its representative authorized by law to view clinical records in such cases;
- d. Any other person or entity authorized by law; and
- e. A person or entity authorized to view a record by written court order.

5. The confidential documents will continue to be imaged and the images will be made available to the court, court staff, and any person or entity entitled to view the documents in such cases.

6. This administrative order is not intended to change any right of access to documents that are sealed by court order, nor to grant access to records that are confidential for other reasons.

This order renumbers and reformats prior Administrative Order No. 6.205 entitled "Confidentiality of Certain Baker Act and Marchman Act Files."

**ORDERED ON** this 5<sup>th</sup> day of October, 2012 *nunc pro tunc* December 6, 2006.

A handwritten signature in blue ink, appearing to read "Robert E. Roundtree, Jr.", is written over a horizontal line.

Robert E. Roundtree, Jr., Chief Judge