

Guide to Voluntary & Involuntary Treatment

NAMI Chicago strongly recommends that persons suffering from serious mental illness complete an advanced directive called the **Declaration for Mental Health Treatment** which provides guidance to their family and friends and the treatment professions regarding treatment in the event that the person lacks the capacity to consent to mental health treatment. Forms are available by calling NAMI Chicago at (312) 563-0445 and on our website under Legal Fact Sheets.

ACCESSING VOLUNTARY TREATMENT

Who provides mental health services?

Private therapists, community mental health agencies, private and public hospitals, and state-operated mental health centers offer mental health services.

If a person is willing to seek mental health services, how does he/she go about it?

Outpatient mental health services from a private therapist or community mental health agency are usually scheduled in advance. Call the therapist or agency for an appointment. Your local NAMI chapter can provide you with names and phone numbers for mental health service providers. In the Chicago area, call NAMI Chicago at (312) 563-0445.

When your friend or family member is being treated by a doctor or at a community mental health agency program, and you believe that the person's condition is deteriorating, contact the doctor or therapists to discuss your concerns. If necessary, the treating therapists should assist you in initiating the process to have the person evaluated for inpatient admission.

If the person needs hospitalization and is willing?

Inpatient mental health services are available at private hospitals and at state-operated mental health centers. A visit to the Emergency Room of a private hospital, or the Central Intake of a state operated mental health center will result in an evaluation by a staff physician who can approve an admission. Whenever possible, call ahead to determine that the hospital has a psychiatric unit, or in the case of state operated mental health center that it is the correct facility serving the person's home address.

After an evaluation at a hospital or state operated psychiatric facility, and a doctor's determination that the person needs inpatient admission, if the person is willing to sign in as a voluntary patient, the person is admitted. (This is the most common and usual procedure).

If a person is not willing to seek mental health services – continue to read the next section...

For additional information – Call (312) 563-0445

The Alliance on Mental Illness

NAMI Chicago

1536 West Chicago Avenue, Chicago, IL 60642

info@namigc.org / www.namichicago.org

ACCESSING INVOLUNTARY TREATMENT

IN A SERIOUS EMERGENCY - Call 911.

If there is an immediate threat of harm either to the person in need of mental health services or to anyone else - call 911 to summon emergency police assistance, ask for CIT (Crisis Intervention Team) trained officers to be sent. Whenever possible, warn the responding police that the person in need of assistance is in need of medical attention for a mental illness and that police assistance is needed to transport the individual to a mental health treatment hospital or facility. When the police are summoned via a 911 call, they will use their discretion to decide whether the individual needs to go to a hospital, or to jail, and they have the option to do nothing. Ideally, family members or friends will be able to influence the decision in the direction of seeking medical treatment rather than incarceration, but sadly, this is not always possible.

IN A POTENTIALLY SERIOUS SITUATION - File a Petition at a States Attorney's Office

To file a Petition, contact your local States Attorney's office (in Cook County call 312-603-8600). Anyone over the age of eighteen (family member, friend, neighbor, etc.) can complete a petition asserting another person needs mental health services.

Public Act 95-602, Section 1-119 which became effective June 1, 2008 states that a "**person subject to involuntary admission**" is:

- (1) A person with mental illness and who because of his or her illness is reasonably expected to engage in dangerous conduct which may include threatening behavior or conduct that places that person or another individual in reasonable expectation of being harmed;
- (2) A person with mental illness and who because of his or her illness is unable to provide for his or her basic physical needs so as to guard himself or herself from serious harm without the assistance of family or outside help; or
- (3) A person with mental illness who, because of the nature of his or her illness, is unable to understand his or her need for treatment and who, if not treated, is reasonably expected to suffer or continue to suffer mental deterioration or emotional deterioration, or both, to the point that the person is reasonably expected to engage in dangerous conduct.

In determining whether a person meets the criteria specified in paragraph (1), (2), or (3), the court may consider evidence of the person's repeated past pattern of specific behavior and actions related to the person's illness.

Continued →

The petition should list descriptions of behavior including time and place, the name address and phone number of any witness(es) to these acts, the relationship of the person to the person being considered for treatment, and names and addresses of spouse, parent, guardian, close relative, or any known friend of the person being considered for treatment.

After the States Attorney accepts a petition, they issue a WRIT for PSYCHIATRIC EVALUATION. This Writ for Psychiatric Evaluation orders the police to pick up the person in need of treatment and to transport them immediately to a hospital for a psychiatric evaluation. (This method eliminates the possibility that the police could decide either to do nothing and/or to take the person to jail).

**** If the States Attorney is unwilling to file the petition, you can hire a private attorney to do so.**

At the hospital, the person will be evaluated by a physician, and if the physician recommends hospitalization, the person may be given the option to sign into the hospital as a voluntary patient, or the doctor will complete a FIRST CERTIFICATE, which will hold the person in the hospital for up to 24 hours, stating that the person is subject to an involuntary admission. Within these 24 hours, the individual must be examined by another physician, and if this physician agrees that this person needs to be held in the hospital whether or not the person agrees, a SECOND CERTIFICATE will be completed and the process of Court Review by a Judge will be initiated.

What happens at a Court Hearing for Involuntary Admission?

The court hearing takes place about five days after the petition and both certificates are filed with the court in the person's county. At the court hearing, the patient will be represented by an attorney (either a private attorney or a court-appointed attorney), and the petitioner is represented by the States Attorney. Each attorney presents his case to the judge, calling witnesses to testify to the facts in the matter. The States Attorney will be attempting to persuade the court that the person is mentally ill, is in need of treatment for this mental illness because his/her condition is deteriorating and either has already, or is likely to result in harm to the person or to others, and/or that the person cannot provide for their basic physical needs to guard against serious harm. The court-appointed lawyer's task is to protect the rights of the person being subjected to an involuntary admission, to guard against the possibility that persons could be wrongfully deprived of their liberty.

If the court rules that the person is subject to an involuntary admission, the person is then committed to a treatment program.

COURT ORDERED TREATMENT

Court ordered treatment is called COMMITMENT. The person is then said to be "committed" to treatment. In reality, the court order holds both the committed person, and the treating professionals responsible for following through with the order for treatment and for accounting to the court for their actions during the period of the commitment.

How long does the commitment last?

The court order for commitment is effective for a maximum of 90 days, but the court may specify a shorter time. The court order may be extended for an additional 90 days at the request of the facility or program director who must give the court clear indications of the need to extend the commitment.

If the facility or program director determines that a person no longer needs to be committed, they may release them before the expiration of the court order.

Does the person have to be committed to a hospital?

No, a person can be committed to a community mental health program as an outpatient, or even into another person's care instead. The court will require proof that the community program will accept responsibility for the person and may require detailed plans for treatment.

Does commitment mean that a person will be forced to take medication?

No, people who have been committed retain their right to refuse treatment.

Under what circumstances can someone be medicated against their will?

In an emergency to prevent a person from causing serious and imminent harm to her/himself or others, a person may be medicated without a court hearing.

Following a court hearing, a person (whether in-patient or outpatient) can be medicated if s/he meets all of the following criteria: (a) the person has a serious mental illness; (b) the person's ability to function is deteriorating or s/he is suffering or exhibiting threatening behavior; (c) the benefits of treatment outweigh the harm; (d) the person lacks the capacity to make a reasoned decision about the treatment; and (e) less restrictive service have been found inappropriate.

For persons who are hospitalized, this bill amends the conditions under which involuntary medication or other treatment can be authorized to include "current" deterioration "as compared to the recipient's ability to function prior to the current onset of symptoms of the mental illness or disability for which treatment is presently sought."

If someone can be committed so they can't harm anyone in the near future, why can't they be forced to take medication for the same reason?

The difference is the immediacy of the danger. The commitment standard requires a reasonable expectation that harm will occur in the near future. The standard for overriding an objection to medication is to prevent harm from occurring now.

Does someone have to be hurt before a person can be committed or forced to take medication?

No, the court is not required to wait until the person injures himself or someone else before ordering commitment, or ordering the person to take medication over their objection.