

You are admitted to Desert Vista Behavioral Health Center or the Mental Health Annex at Maricopa Medical Center. The court has ordered that you have a mental health evaluation by hospital staff. The court has also appointed the Maricopa County Public Advocate as your lawyer in the court ordered evaluation and treatment process. Your lawyer will give you important legal advice about mental health rights while you are at the hospital. Your lawyer's job is to protect your rights, to represent you during the court ordered evaluation and treatment process, and to make sure that you receive a fair hearing. Your lawyer does not work for the hospital. If you have the money to hire a private lawyer, you must hire your own lawyer and pay that lawyer to represent you.

STEPS IN THE EVALUATION PROCESS:

1. APPLICATION FOR EVALUATION

Someone has expressed concern about your mental health and has applied to a mental health agency to evaluate you. This person may be a family member, a case manager, or another person in the community. The court has ordered that you be evaluated as an inpatient at a hospital. You will receive a copy of the Petition for Court Ordered Evaluation filed with the court. The evaluation must be completed within a 72 hour (three day) period. Holidays and weekends do not count in this evaluation-hour period. Your lawyer will explain how the time limits apply in your case.

During the evaluation period, your lawyer may be able to set a hearing to request your release. The judge will decide if you should be released. Your lawyer will discuss this option with you.

2. EVALUATION

The doctors and hospital staff will evaluate you. You may choose one of the evaluating doctors. Make your choice quickly in writing and give the information to hospital staff. When you talk to the doctors, you should be aware that the information you give them is not confidential and may be passed on to the judge in a written report or in courtroom testimony.

During the evaluation, you may accept or refuse medication and other treatment unless the hospital

staff determines that emergency treatment is necessary. Your decision about accepting or refusing treatment should be made carefully. Medication or other treatment may help you feel better and shorten your need for inpatient hospitalization.

You have the right to be evaluated by an independent doctor who does not work for the hospital. Your lawyer is aware of doctors who are willing to conduct independent evaluations. If the independent doctor disagrees with the hospital's doctors about your condition or treatment plan, you and your lawyer may decide that this doctor should be called as a witness in a hearing about court ordered treatment.

3. EVALUATION OUTCOMES

If the hospital doctors examine you and decide you do not need further treatment, you will be released from evaluation and from the hospital.

You may apply to be a voluntary patient at any time during your hospitalization. If you wish to become a voluntary patient, you should notify your treatment team as soon as possible. You may make a written request and ask that it be placed in your hospital records. The treatment team does not have to accept you for voluntary treatment. If you are accepted as a voluntary patient, the legal proceedings will be dropped. Speak to your lawyer if you have more questions about voluntary treatment.

If the doctors decide that because of a mental disorder you are a danger to yourself or others and/or that you are unable to take care of your basic needs, including treatment for mental illness, the hospital will file two doctors' written reports about you and ask the court to order treatment for you. You will receive a copy of the reports in a Petition for Court Ordered Treatment. Within 6 days, not counting weekends and holidays, the court must hold a hearing to decide whether you should be treated. You must be advised of the hearing date in writing at least 72 hours before the hearing.

4. COURT ORDERED TREATMENT HEARING

Even if the doctors at the hospital believe that you need treatment, you may not be treated against your will unless the court orders that you be treated. A

judge or court commissioner will hear both your point of view and the hospital's point of view about your need, if any, for treatment. At this hearing, the hospital's lawyer will try to convince the court that you should be ordered to treatment. The hospital lawyer must be prepared to call as witnesses the two doctors who evaluated you and two other people from the community who are acquainted with you or have seen you do or say something of concern.

Your lawyer may question the hospital's witnesses and call other witnesses to testify. You have the rights to be present and to testify at the hearing, but you cannot be forced to testify. Before the hearing you should talk with your lawyer to decide the best plan for presenting your point of view to the judge.

At your hearing, you should make the best possible impression. Listen carefully to your lawyer. Do not argue with witnesses. You may whisper to your lawyer, but do not speak aloud unless your lawyer tells you that it is all right. Remember, the judge will decide whether to order you to treatment, and your behavior in court can affect that decision.

5. THE COURT'S ORDER

After the evidence has been presented, the judge decides whether to order treatment. The decision is based upon the judge's analysis of the facts and the applicable law. The judge can order you to treatment by finding that you are unable or unwilling to accept treatment voluntarily and that, as a result of a mental disorder, you are dangerous to yourself, dangerous to others, persistently and acutely disabled, and/or gravely disabled.

If the court orders treatment, the court also decides whether treatment should be inpatient at a hospital like Desert Vista Behavioral Health Center or the Arizona State Hospital, outpatient in a community-based clinic, or a combination of inpatient and outpatient treatment. The court also sets the time limits for both inpatient and outpatient treatment. The maximum period for court ordered treatment is 365 days. The maximum period for inpatient treatment is up to 90 days for a person found dangerous to self, up to 180 days for a person found dangerous to others or persistently and acutely disabled, and up to 365 days

for a gravely disabled person. The court must consider all available and appropriate alternatives for treatment and must order the least restrictive treatment alternative available.

In most cases, the court must order that you receive at least 25 days of treatment at a local treatment agency like Desert Vista Behavioral Health Center or the Mental Health Annex. This rule does not mean that you must be hospitalized for 25 days. It is your guarantee that you will be treated at a short-term stay hospital before you could be transferred to long-term treatment at the Arizona State Hospital.

Your lawyer will explain the court's decision to you.

RIGHTS IN COURT ORDERED TREATMENT:

1. APPEAL

You have a right to appeal the court ordered treatment decision. An appeal must be based on legal grounds and notice filed within 30 days of the court ordered treatment hearing. An appeal may not be decided for more than a year. If you believe your case has legal grounds for appeal, you should notify your lawyer immediately after the hearing.

2. JUDICIAL REVIEW

You have a right to a judicial review 60 days after the court ordered treatment date and every 60 days thereafter. Judicial review is a way to make the court aware of changed circumstances affecting your ongoing need for court ordered treatment. If appropriate, the court may change the terms of court ordered treatment or release you from court ordered treatment entirely. To request judicial review, you should notify your mental health treatment agency in writing. Expect to have an appointment soon after with your doctor. The treatment agency must, upon your request, initiate the judicial review process. If the court denies a judicial review request, another judicial review cannot be requested for 60 days.

3. ADMINISTRATIVE REMEDIES

If you believe that the treatment from either an inpatient or outpatient mental health agency is not

appropriate for you, you can use administrative remedies to request a change. If, for example, you believe that you need specific therapy not provided for you or different residential placement, you may request a meeting with your clinical team. You may bring another person with you to the meeting to help you discuss changes to your treatment plan. You may pursue a grievance if you believe your treatment team is not responsive to your treatment needs. It is not necessary for you to have a lawyer, and the Public Advocate does not assist in the administrative grievance and appeals process.

TERMINATION AND RENEWAL OF COURT ORDERS

Court orders based on grave disability and persistent or acute disability may be legally extended in an annual examination. All others automatically terminate on the last day specified in the treatment order unless the court has taken other action to terminate the treatment order earlier.

Another petition for court ordered evaluation and/or treatment can be started again at the end of a court order for treatment or later if the person formerly under a court order remains or becomes dangerous to self or others, persistently and acutely disabled, or gravely disabled. The same legal rights as described above apply if another Petition for Court Ordered Evaluation or Treatment is filed.

If you would like a more detailed explanation of the court ordered evaluation and treatment process and rights of mentally ill persons, additional sources include the hospital's patient advocate and the Arizona Center for Disability Law.

A NOTE OF CAUTION ABOUT WEAPONS

Court ordered evaluation and treatment proceedings are civil matters, not accusations of crime. You should be aware, however, that a person who has a court order for treatment can be charged with a crime merely by being in possession of dangerous weapons from the date of the court order until rights are restored. If you are subject to a court order for treatment, avoid weapons. Do not take this risk!

YOUR RIGHTS

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COURT ORDERED EVALUATION AND TREATMENT



*Safeguarding the rights of
citizens involved in Juvenile
and Mental Health Court*

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