

# **INVOLUNTARY COMMITMENT**

Mecklenburg County Public Defender's Office – May 2017, version 1.5  
Based on DHHS Publication on Involuntary Commitment

## **What is Involuntary Commitment?**

It is a confidential legal process that is managed through the Court and Clerk's Office Special Proceedings and Estates division. It involves the Court authorizing a hospital or treatment authority to detain someone with an acute and serious state of mental illness and to be in charge of their treatment plan for a limited period of time. The formal paper work is titled "***In the Matter of...***," and ***not "Person v. Person", or "State v. Person"***, which makes it a Special Proceeding about ***a person in need of treatment***. It is ***not*** about a civil or criminal defendant, ***but about a Respondent to a Petition***. North Carolina promotes the **Recovery Model of treatment**, which is about ***self-directed health care*** – including behavioral health, so ***an involuntary commitment may be necessary*** when self-directed behavioral health care is at risk or no longer possible.

## **How does it work?**

If someone is concerned that you may need to be in the hospital to keep you from hurting yourself or others, these are the steps that must be followed:

- An affidavit must be filed with the Clerk of Superior Court or Magistrate of District Court. Current North Carolina Law requires this to happen before someone can get help ***if they are unwilling or unable to seek or find voluntary treatment*** for their mental illness and/or substance abuse problem.
- The Clerk or Magistrate may issue ***a temporary order*** to a law enforcement officer to take you into protective custody for examination by a qualified professional.
- If the qualified professional finds that you have are in an ***acute stage of a mental illness***, and based on recent facts and prior history ***you appear to be dangerous to yourself or others***, you will be taken to a hospital for further treatment.
- Shortly after arrival at the hospital, ***you will be examined*** by a hospital physician.
- ***If the hospital physician agrees with the first examiner*** that hospitalization is necessary, you will be ***admitted for observation and treatment pending a court proceeding*** for civil commitment.
- ***If the physician does not believe*** you should be in the hospital at any time prior to the hearing, ***you will be released***.

## **When Will a Court Hearing be held?**

- A ***court hearing must be scheduled*** no later than ***10 days after you are taken into custody***. Depending on the circumstances, ***it can be continued*** for a short period of time with the permission of the judge.
- If you and your doctor agree that you can sign into the hospital for ***Voluntary Treatment***, or ***if you are discharged before the court date***, ***the case may be dismissed***.

- ***If you do sign for Voluntary Treatment*** and later decide to leave against medical advice, the Hospital ***can hold you up to 72 hours before discharge***, and could initiate another Involuntary Commitment proceeding.
- The hearing may be held either in the county where the commitment was started or at another hospital.
- ***Within a few days after you are admitted***, a lawyer from the Mecklenburg Public Defender's Office or Private Assigned Counsel will contact you.
- ***He or she will be your lawyer at the initial hearing.*** The Petitioner and other witnesses may be present. Your attending Psychiatrist is usually the primary witness on behalf of the hospital or treating agency.
- ***At the hearing, you can consent to or contest the recommendation and the judge will decide*** whether you should be treated in the hospital (Inpatient Commitment) or in the community and discharged (Outpatient Commitment), or be discharged with no order of commitment. ***The judge also will decide how many days*** you may be kept in the hospital before another hearing must be held. ***If a case is dismissed***, the hospital may file a new case based on new information.
- ***Whatever the outcome of the hearing***, hospital stay or return to the community, you may benefit from learning about and practicing a ***Recovery-based health care plan.***

### **What are my Legal Rights?**

If you wish, ***you may retain your own lawyer*** at your expense. At the hearing, you have the following rights:

- ***The right to an attorney.*** You may have your own, or an attorney can be provided for you. An attorney is involved because this proceeding may result in a restriction on your personal freedom for a temporary time period. You can reach an attorney by calling the Mecklenburg County Public Defender's Office at 704-686-0900. ***Bob Ward*** 704-686-0991 is the attorney usually assigned to these cases.
- The ***right to be present*** at the hearing or ***waive your appearance.***
- The ***right to speak for yourself*** and agree or disagree with all or part of what the doctor or others say or recommend at the hearing.

### **What if I choose to leave the hospital?**

If you leave the hospital without authorization, your physician may notify law enforcement agencies and request that you be returned.

### **How can I avoid an Involuntary Commitment or Arrest in the Future?**

Consider preparing a Psychiatric Advance Directive, Health Care Power of Attorney and a Wellness-Recovery-Action (W.R.A.P.) Plan. Ask your provider and lawyer to learn more.

**Additional Information about Commitments can be found at these websites:**

[www.ncdhhs.gov/dsohf/services/commitment.htm](http://www.ncdhhs.gov/dsohf/services/commitment.htm)

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