

Civil Commitment/Involuntary Mental Health Treatment in Colorado

Emergency Procedures (C.R.S. §27-65-105)

- Can be taken to an approved facility (or to an ER if such a facility is not available) for 72-hour treatment and evaluation (NOT including Saturdays, Sundays, holidays)
- Sometimes referred to as “M1” or “72-hour hold”
- Can be invoked¹ when someone 1) appears to have a mental health disorder AND as a result 2) appears to be an “imminent danger” to self or others OR appears to be “gravely disabled”
- Can also be taken for “immediate evaluation for treatment” if:
 - 1) person appears to have a mental health disorder, and 2) is in need of immediate evaluation for treatment in order to “prevent physical or psychiatric harm” to self or others²
- Rights: to be evaluated as soon as possible, to be released if determined to no longer need evaluation and treatment
- At the end of the 72 hours, you must be:
 - Released
 - Referred for additional care on a voluntary basis
 - Certified for treatment pursuant to C.R.S. §27-65-107 (see below)

“Gravely disabled:” as a result of a mental health disorder, someone is incapable of making informed decisions about or providing for his or her essential needs without significant supervision and assistance from other people...
C.R.S. §27-65-102(9)

Short-Term Certification (C.R.S. §27-65-107)

- Can be certified (ordered to complete) not more than 3 months of “short-term treatment” IF:
 - The agency or facility who evaluated the person during the 72-hour hold finds 1) that the person has a mental health disorder AND 2) is a danger to self or others OR is gravely disabled
 - The person has refused voluntary treatment (or there are reasonable grounds to believe person won’t attend)
 - The facility which will provide short-term treatment has been designated to do so
- Procedure
 - A “notice of certification” must be signed the evaluating professional and filed with the court within 48 hours of the date of certification (NOT including Saturdays, Sundays, and court holidays)
 - A copy of the certification should be provided to the person receiving treatment (“respondent”) within 24 hours and to one other person of the patient’s choosing
 - The patient should also receive written notice about the right to have a hearing on the certification. This hearing can be in front of a judge or a jury.
 - The court shall appoint an attorney to represent the respondent, if it hasn’t already done so (may be free, depending on person’s income)
 - At any time, the respondent or their attorney can request that the certification be reviewed by the court or that treatment be done outpatient
 - If a review is requested, the court must hear the matter within 10 days of the filing of the request for review³

Extension of Short-Term Treatment (§27-65-108)

Note: This initial period of 3 months can be extended for up to 3 additional months if the professional in charge of the evaluation believes it is necessary for treatment of the respondent. The respondent is entitled to a hearing regarding the extension and will continue to be represented by the court-appointed attorney.

Long-Term Certification (§27-65-109)

¹ May be initiated by an “intervening professional,” which includes certified peace officer, registered professional nurse with additional psych knowledge, LMFT, LPC, Addiction counselor, LCSW (some require additional knowledge/training in forensic issues, etc.)

² See also C.R.S. §27-65-106, Court-ordered evaluation for persons with mental health disorders

³ Hearing is conducted as discussed in C.R.S. §27-65-111

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- Must have already received treatment for 5 consecutive months
- The professional in charge of the evaluation can file a request for long-term care and treatment IF
 - Staff at the agency or facility providing short-term treatment find that the person 1) has a mental health disorder AND 2) as a result, is a danger to self or others, or is gravely disabled, AND
 - The person has refused voluntary treatment (or there are reasonable grounds to believe person won't attend)
 - The facility to provide long-term care has been designated or approved to do so
- Every request for long-term care must include a request for a hearing PRIOR TO the end of a 6-month term
- A copy of the petition will be given to the respondent and to his/her lawyer
- Within 10 days of getting the request, the respondent or respondent's lawyer can request a jury trial IN WRITING
- Court or jury will decide whether the above conditions have been met. If so, the court will issue and order for a period of long-term treatment not more than 6 months. If not, the court shall "discharge" the respondent, or enter other appropriate orders.
- Note: the court *may* impose "specific legal disability" or order that a specific legal right be deprived, IF there is a finding that the respondent is "unable to competently exercise said right or perform the function."
- An original order for long-term care and treatment expires on the date specified, unless further extended
- Term can be extended if: professional in charge of care and treatment files a request for an extension with the court *at least 30 days prior to* the expiration of the current order
 - Must state that the extension is necessary for the care and treatment of the respondent
 - The court must give a copy of the request for an extension to the respondent and his/her attorney at least 20 days before the end of the current treatment term
 - Respondent or his/her attorney can request a hearing to the court or a jury *within 10 days* of receiving notice
 - The test for whether the court grants an extension is the same as for the original certification, and the extension cannot be longer than an additional 6 months

All people receiving care and treatment as outlined above are entitled to the following rights:⁴

- To medical and psychiatric care and treatment, suited to meet one's individual needs, delivered in a way that keeps him/her in the least restrictive environment
- Participation by family members in the treatment plan "when appropriate"
- To have records kept about your treatment, and the ability to access your records or consent to your records being given to your attorney or doctor⁵
- To request that you be released to a less restrictive setting or released from a facility, pursuant to C.R.S. §13-45-102, if the treating facility fails to provide "adequate medical and psychiatric care."
- To send and receive mail, without it being read or censored (as well as letter writing materials and help writing letters if necessary)
- Access to phones, to make and receive calls
- To have "frequent and convenient" visits, visits any time with clergy, attorney, doctor⁶
- To wear your own clothes, possess your own belongings, and to keep and spend "a reasonable sum" of your own money
- Note: Denial of any of these rights MUST be based on "good cause," by the treating professional, and documented in your treatment records (which you can access or have provided to your attorney)

⁴ C.R.S. §§27-65-116, 117

⁵ Note: You also have rights under HIPAA to access your own medical records unless the record has specifically been designated "not for patient's eyes." If this designation is made, you can challenge it by getting a second opinion about whether it can be withheld from you.

⁶ Note: Current Executive Orders related to COVID-19 may limit the right to visitation