**October 24, 2024, Legal Resource Day Involuntary Mental Health Law Outline:**

1. Introduction
   1. How do you help someone who does not understand they need help?
   2. The city attorney “conducts” adversarial proceedings
   3. The “respondent” is the person subject to mental health proceedings
2. Civil Certification
   1. “certification” is the legal authority to involuntarily treat someone
3. Criteria for Certification
   1. Respondent has a mental health disorder
   2. As a result, they are:
      1. A danger to themselves
      2. A danger to others
      3. Gravely Disabled
   3. Respondent has not accepted voluntary treatment
4. Some definitions…
5. Mental health Disorder:
   1. “*Mental health disorder” includes one or more substantial disorders of the cognitive, volitional, or emotional processes that grossly impairs judgment or capacity to recognize reality or to control behavior. An intellectual or developmental disability is insufficient to either justify or exclude a finding of a mental health disorder pursuant to the provisions of this article 65.”*
6. Danger to Self
   1. *“A person poses a substantial risk of physical harm to the person's self as manifested by evidence of recent threats of or attempts at suicide or serious bodily harm to the person's self”*
7. Danger to others
   1. *“A person poses a substantial risk of physical harm to another person or persons, as manifested by evidence of recent homicidal or other violent behavior by the person in question, or by evidence that others are placed in reasonable fear of violent behavior and serious physical harm to them, as evidenced by a recent overt act, attempt, or threat to do serious physical harm by the person in question.”*
8. Gravely Disabled
   1. *“A condition in which a person, as a result of a mental health disorder, is incapable of making informed decisions about or providing for the person's essential needs without significant supervision and assistance from other people. As a result of being incapable of making these informed decisions, a person who is gravely disabled is at risk of substantial bodily harm, dangerous worsening of any concomitant serious physical illness, significant psychiatric deterioration, or mismanagement of the person's essential needs that could result in substantial bodily harm. A person of any age may be “gravely disabled”, but the term does not include a person whose decision-making capabilities are limited solely by the person's developmental disability.”*
9. Voluntary Treatment
   1. *“The person has been advised of the availability of, but has not accepted, voluntary treatment; but, if reasonable grounds exist to believe that the person will not remain in a voluntary treatment program, the person's acceptance of voluntary treatment does not preclude certification”*
10. Who can place a Certification?
    1. A licensed physician or psychologist working in a “designated facility”
11. How long does a certification last?
    1. A doctor can end a certification at any time (hours), or it can be renewed indefinitely with court reviews every 3-6 months
12. Where does a certified person receive treatment?
    1. The certification can be transferred between facilities and even held on an outpatient basis
    2. Must be “least restrictive”
13. Someone might qualify, how do I get them certified?
    1. Ultimately it is up to the doctor
    2. Two ways to get someone evaluated:
       1. 72-hour hold
       2. Petition for Court Ordered Evaluation
14. 72-hour hold
    1. Also called “M1 Hold”
    2. Police, social workers, professional persons, and other mental health professional may take individuals to a hospital to be evaluated by a doctor.
    3. Similar criteria: *“a person appears to have a mental health disorder and, as a result of the mental health disorder, appears to be an imminent danger to the person's self or others or appears to be gravely disabled.”*
    4. Can take individual to hospital for up to 72-hours for evaluation.
15. Petition for Court Ordered Screening and Evaluation
    1. Another way to get an individual evaluated to see if they meet certification criteria
    2. File paperwork in the county where individual resides or is physically present
    3. Court reviews paperwork. If granted, may order individual to receive evaluation. If necessary, certified peace officer or secure transportation can be ordered to take individual to evaluation.
16. Involuntary Medication
    1. A doctor may petition the court for an order allowing involuntary medications once a Respondent is certified
17. Mental Health Court Hearings
    1. Assigned an attorney free of charge
    2. Right to a hearing within 10 days upon request
    3. The Court cannot dictate to the professional person whether or not to certify that individual nor can the Court dictate to the professional person that the respondent must remain in involuntary treatment for a longer period of time than deemed appropriate by the professional person.
18. Other Types of Involuntary Treatment
    1. Involuntary Commitments for Substance Abuse
    2. Imposition of Legal Disability for individuals with intellectual or developmental disability
19. Involuntary Commitment for Substance Abuse
    1. “Substance use disorder” means a chronic relapsing brain disease, characterized by recurrent use of alcohol, drugs, or both, causing clinically significant impairment, including health problems, disability, and failure to meet major responsibilities at work, school, or home.
    2. “Incapacitated” means that a person, as a result of the use of substances, is unconscious, has his or her judgment otherwise so impaired that he or she is incapable of realizing and making a rational decision with respect to his or her need for treatment, is unable to take care of his or her basic personal needs or safety, or lacks sufficient understanding or capacity to make or communicate rational decisions about himself or herself.
    3. More information at:
       1. https://bha.colorado.gov/resources/substance-use-commitment