

CHAPTER 35

MENTAL HEALTH — PROCEEDINGS FOR SHORT-TERM TREATMENT OR LONG-TERM CARE AND TREATMENT OF THE MENTALLY ILL UNDER C.R.S. TITLE 27, ARTICLE 65

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35:1 STATEMENT OF THE CASE AND MECHANICS FOR SUBMITTING SPECIAL VERDICT — SHORT-TERM TREATMENT

In this proceeding, the petitioner, (*name of person or agency submitting the certification for short-term treatment*) has filed a certification seeking the mental health treatment of the respondent, (*name*), for a term not to exceed three months.

The petitioner contends that the respondent is a person with a mental illness or mental health disorder and, as a result, (is a danger [to (*insert applicable pronoun*)] [or] [to others]) (or) (is gravely disabled).

The respondent denies (*insert applicable pronoun*) is (*insert the appropriate language, e.g., “a person with a mental illness or mental health disorder,” or “a danger to (*insert applicable pronoun*) or to others,” or “gravely disabled,” etc.*).

The respondent further contends that (*insert an appropriate description of any one or more of the conditions required in § 27-65-107(1)(a), (b), and (c), C.R.S., for a valid certification which the respondent contends has not been met*).

You are instructed to answer the following questions that will be on a Special Verdict form. You must all agree to your answers to each question for which an answer is required. The burden of proof is on the petitioner to prove any “yes” answers to the following questions.

Any “yes” answer to 1 or 2 must be proved by clear and convincing evidence.

(1. Is the respondent a person with a mental illness or mental health disorder and, as a result of such mental illness or mental health disorder, is the respondent a danger [to (*insert applicable pronoun*)] [or] [to other persons]?)

(2. Is the respondent a person with a mental illness or mental health disorder and, as a result of such mental illness or mental health disorder, is the respondent gravely disabled?)

If you answer “no” to both questions 1 and 2, stop here, enter your answers on the Special Verdict form and all jurors shall sign it.

If you answer “yes” to either question 1 or 2, then answer the following questions.

Any “yes” answer to any of the following questions must be proved by a preponderance of the evidence.

(3. Did the professional staff of the [*insert name of the agency or facility providing the previous seventy-two hour treatment and evaluation*] analyze the respondent’s condition, and did they find that the respondent is a person with a mental illness or mental health disorder and, as a result of such mental illness or mental health disorder, [is a danger (to [*insert applicable pronoun*]) (or) (to others)] [or] [is gravely disabled]?)

(4. Has [insert name of facility which is to provide short-term treatment] been designated or approved by the executive director of the State Department of Human Services as a facility authorized to provide short-term mental health treatment?)

(5. Has the respondent been advised of the availability of voluntary treatment?)

(If you answer the preceding question number 5 “yes,” then also answer the following question:

6. Has the respondent not accepted such voluntary treatment or, if the respondent has accepted voluntary treatment, would a reasonable person believe that the respondent will not remain in a voluntary treatment program?)

(Insert any other questions which may be necessary to resolve properly any other claims of the parties.)

Enter your answers on the Special Verdict form and all jurors shall sign it.

Notes on Use

1. This instruction is to be used only in proceedings for short-term mental health treatment commenced under section 27-65-107, C.R.S.

2. With one exception noted below, proceedings are to be conducted “in the same manner as other civil proceedings.” § 27-65-111(1), C.R.S. For this reason:

a. If the parties have stipulated pursuant to C.R.C.P. 48 that the verdict shall be by some stated majority, the instruction should be appropriately modified;

b. The burden of proof, which is on the “person or facility seeking to detain the respondent,” § 27-65-111(1), is by a preponderance of the evidence, § 13-25-127(1), C.R.S., except as to the issues of whether the respondent is mentally ill and whether, as a result of such mental illness, the respondent is a danger to himself or herself or others or is gravely disabled, which must be established by clear and convincing evidence, § 27-65-111(1). *See also* **People in Interest of King**, 795 P.2d 273 (Colo. App. 1990). As to what evidence is sufficient to constitute “clear and convincing” evidence, see the cases cited in Source and Authority to Instruction 3:2. For at least short-term commitments, the statutory standard of clear and convincing evidence is sufficient to satisfy state procedural due process requirements. **People v. Stevens**, 761 P.2d 768 (Colo. 1988) (requirements that liberty not be deprived unless the person’s mental illness results in a present danger to him or herself or others or renders the person gravely disabled, and that such be proved by clear and convincing evidence, satisfy due process); *see also* **Addington v. Texas**, 441 U.S. 418 (1979) (same standard sufficient under federal due process requirements for civil commitments of an indefinite period); **People v. Taylor**, 618 P.2d 1127 (Colo. 1980); **People v. Pflugbeil**, 834 P.2d 843 (Colo. App. 1992).

c. A waiver of the right to counsel in a short-term treatment proceeding must be knowing, voluntary, intelligent, and in writing. § 27-65-107(5). Failure to secure a waiver in compliance with these requirements undermines confidence in the fairness of the proceeding and is reversible error. **People v. Ofengand**, 183 P.3d 688 (Colo. App. 2008).

3. Use whichever bracketed or parenthesized portions of the instruction are appropriate in light of the contentions of the parties and the evidence in the case.

4. For the definition of a “person with a mental illness or mental health disorder,” see Instruction 35:3, and for “gravely disabled,” see Instruction 35:4; *see also* § 27-65-102(11.5), C.R.S. Such other definitional instructions should be given as are appropriate. As to when a person may be considered a danger to others, see **People in Interest of King**, 795 P.2d at 274-75.

5. Under section 27-65-107, in addition to the requisite findings of mental illness and either dangerousness or grave disability on which a certification for short-term treatment depends, § 27-65-106(1) and (6), C.R.S., two other sets of conditions must be met. The first set of conditions found in the first paragraph of section 27-65-107(1) and in sections 27-65-107(2) and (3), goes to the validity of the certification itself and, therefore, any dispute of fact relating to them would appear to present a question for the court to determine as a preliminary matter. *See People in Interest of Bailey*, 745 P.2d 280 (Colo. App. 1987). The second set of conditions found in sections 27-65-107(1)(a), (b), and (c), and set out in numbered questions 3, 4, 5, and 6 of this instruction, is to be determined by the jury, if a jury has been requested pursuant to section 27-65-107(3), and if the nature of the evidence going to any dispute of fact concerning such condition is not such that the issue of fact should be determined by the court in favor of the petitioner. As to rules governing when a court may direct a finding on an issue of fact in favor of the party having the burden of proof on the issue, see the discussion and cases cited in Note 2 of the Notes on Use to Instruction 2:5. As to the sufficiency of the evidence concerning compliance with the condition set out in numbered paragraph 5 of this instruction, see **People in Interest of Kleinfeldt**, 680 P.2d 864 (Colo. App. 1984).

6. The appropriate special verdict form to be submitted to the jury with this instruction is Instruction 35:7.

7. This instruction may need to be modified in cases involving minors who are voluntary patients who have revoked their consent, but for whom continued hospitalization is being sought. *See* §§ 27-65-103(4)-(8), C.R.S. Concerning the constitutionality of admitting a minor for treatment on the voluntary application of the minor’s parent or legal guardian, but without the consent of the minor, see **P. F. v. Walsh**, 648 P.2d 1067 (Colo. 1982).

8. The failure to appoint counsel “forthwith” for the respondent as required by statute, section 27-65-107(5), “does not create either a personal or subject matter jurisdictional defect.” **People in Interest of Clinton**, 762 P.2d 1381, 1388 (Colo. 1988). Neither does the failure to hold a hearing within ten days after a request by the respondent for review of the certification for short-term care or treatment under section 27-65-107(6). **People in Interest of Lynch**, 783 P.2d 848 (Colo. 1989). However, failure to file the certification for short-term treatment within forty-eight hours as required by section 27-65-107(2) deprives the court of jurisdiction. **People in**

Interest of Santorufo, 844 P.2d 1234 (Colo. App. 1992). Also, the initiation of a seventy-two hour “hold for evaluation” under section 27-65-105, C.R.S., by a person not authorized by statute, deprives the court of subject matter jurisdiction. **People in Interest of Lloyd-Pellman**, 844 P.2d 1309 (Colo. App. 1992).

9. A person being certified for short-term treatment has a statutory right to have the factual issues presented to and determined by a jury. §§ 27-65-107(3), 27-65-111(1); **People in Interest of Hoylman**, 865 P.2d 918 (Colo. App. 1993).

Source and Authority

1. This instruction is supported by the authorities cited above in the Notes on Use. *See also* **Sisneros v. District Court**, 199 Colo. 179, 606 P.2d 55 (1980) (citing the substantially similar earlier version of this instruction with approval, and holding that affirmative findings of fact as to questions 5 and 6 of the instruction are essential to the court’s jurisdiction to order commitment).

2. The statutory provision, § 27-65-107(6), which places the burden on a respondent to initiate judicial review of the basis for detaining him or her under a “certification for short-term treatment,” rather than requiring mandatory judicial review of such certification prior to detaining a respondent beyond the initial 72-hour evaluation period, does not, at least on its face, violate due process or equal protection. **People v. Stevens**, 761 P.2d 768 (Colo. 1988) (also, due process does not require that, as a condition precedent to certification, a finding be made that there is no less restrictive alternative available); **Curnow v. Yarbrough**, 676 P.2d 1177 (Colo. 1984).

35:2 STATEMENT OF THE CASE AND MECHANICS FOR SUBMITTING SPECIAL VERDICT — LONG-TERM CARE AND TREATMENT

In this proceeding, the petitioner, (*name*), who is the professional person presently in charge of the mental health evaluation and treatment of the respondent, (*name*), has filed a petition for an order directing the continued mental health care and treatment of the respondent, (*name*).

The petitioner contends that the respondent is a person with a mental illness or mental health disorder and, as a result, (is a danger [to (*insert applicable pronoun*)] [or] [to others]) (or) (is gravely disabled). (The petitioner further contends that because of such mental illness or mental health disorder the respondent is not competent to [*insert an appropriate description of any one or more specific legal disabilities the petitioner or copetitioner is seeking to have imposed on the respondent or any one or more of the respondent's legal rights the petitioner or copetitioner is seeking to take away*].)

The respondent denies (*insert applicable pronoun*) is (*insert the appropriate language, e.g., "a person with a mental illness or mental health disorder," or "a danger to himself or to others," or "gravely disabled," etc.*).

The respondent further contends that (*insert an appropriate description of any one or more of the conditions required in § 27-65-109(1)(a), (b), and (c), C.R.S., for a valid order which the respondent contends has not been met*).

You are instructed to answer the following questions that will be on a Special Verdict form. You must all agree to your answers to each question for which an answer is required. The burden of proof is on the petitioner to prove any “yes” answers to the following questions.

Any “yes” answer to 1 or 2 must be proved by clear and convincing evidence.

(1. Is the respondent a person with a mental illness or mental health disorder and, as a result of such mental illness or mental health disorder, is the respondent a danger [to (*insert applicable pronoun*)] [or] [to other persons]?)

(2. Is the respondent a person with a mental illness or mental health disorder and, as a result of such mental illness or mental health disorder, is the respondent gravely disabled?)

If you answer “no” to both questions 1 and 2, stop here, enter your answers on the Special Verdict form and all jurors shall sign it.

If you answer “yes” to either question 1 or 2, then answer the following questions.

Any “yes” answer to any of the following questions must be proved by a preponderance of the evidence.

(3. Is the respondent because of [his] [her] mental illness or mental health disorder unable to do any of the following competently:

a. *[insert an appropriate description of any one or more (using identifying letters “b.,” “c.,” etc., if there is more than one) specific legal disabilities sought to be imposed or any one or more specific legal rights sought to be taken away under § 27-65-109(4), C.R.S.)]?*

(4. Did the professional staff of the [insert name of the agency or facility providing the previous short-term treatment] analyze the respondent’s condition, and did they find that the respondent is a person with a mental illness or mental health disorder and, as a result of such mental illness or mental health disorder, [is a danger (to [insert applicable pronoun]) (or) (to others)] [or] [is gravely disabled]?)

(5. Has [insert name of facility which is to provide long-term care and treatment] been designated or approved by the executive director of the State Department of Human Services as a facility authorized to provide long-term mental health care and treatment?)

(6. Has the respondent been advised of the availability of voluntary treatment?)

(If you answer the preceding question number 6 “yes,” then also answer the following question:

7. Has the respondent not accepted such voluntary treatment or, if the respondent has accepted voluntary treatment, would a reasonable person believe that the respondent will not remain in a voluntary treatment program?)

(Insert any other questions which may be necessary to resolve properly any other claims of the parties.)

Enter your answers on the Special Verdict form and all jurors shall sign it.

Notes on Use

1. This instruction is to be used only in proceedings for long-term mental health care and treatment under section 27-65-109, C.R.S. It should be used in original proceedings and in proceedings under section 27-65-109(5) for an order extending long-term care.

2. With one exception noted below, proceedings are to be conducted “in the same manner as other civil proceedings.” § 27-65-111(1), C.R.S. For this reason:

a. If the parties have stipulated pursuant to C.R.C.P. 48 that the verdict shall be by some stated majority, the instruction should be appropriately modified;

b. The burden of proof, which is on the “person or facility seeking to detain the respondent,” § 27-65-111(1), is by a preponderance of the evidence, § 13-25-127(1), C.R.S., except as to the issues of whether the respondent is mentally ill and whether, as a result of such mental illness, the respondent is a danger to himself or herself or others or

is gravely disabled, which must be established by clear and convincing evidence, § 27-65-111(1). As to what evidence is sufficient to constitute “clear and convincing” evidence, see the cases cited in Source and Authority to Instruction 3:2. *See also Addington v. Texas*, 441 U.S. 418 (1979) (holding that in a civil commitment proceeding, brought to commit a person involuntarily for an indefinite period, due process requires that the minimum burden of proof which may be used as to the facts of mental illness and danger to oneself or others is that of “clear and convincing evidence”); **People in Interest of King**, 795 P.2d 273 (Colo. App. 1990);

c. Failure personally to serve a copy of the petition for long-term certification on the individual for whom the treatment is sought, as required by section 27-65-109(2) deprives the probate court of jurisdiction over the matter. **Gilford v. People**, 2 P.3d 120 (Colo. 2000).

3. Use whichever bracketed or parenthesized portions of the instruction are appropriate in light of the issues and the evidence in the case.

4. Numbered paragraph 3 is to be used only if there is a request to impose a legal disability or for a specific legal right be taken away. *See* § 27-65-109(4).

5. If, pursuant to section 27-65-109(4), a copetitioner has been permitted to intervene for the purpose of “seeking the imposition of a legal disability or the deprivation of a legal right,” this instruction must be appropriately modified to identify that person by name, his or her status as a “copetitioner,” and the relief being sought. Such other modifications as may be necessary should also be made.

6. For the definition of a “person with a mental illness or mental health disorder,” see Instruction 35:3, for “gravely disabled,” see Instruction 35:4, and for “danger to self or others,” see Instruction 35:5. Such other definitional instructions should be given as are appropriate. § 27-65-102(11.5), C.R.S.

7. Under section 27-65-109, in addition to the requisite findings of mental illness and either dangerousness or grave disability on which a valid order for long-term treatment depends, section 27-65-109(4), two other sets of conditions must be met. The first set of conditions, found in the first paragraph of section 27-65-109(1), and in section 27-65-109(2), goes to the validity of the petition itself and, therefore, any dispute of fact relating to them would appear to present a question for the court to determine as a preliminary matter. However, the second set of conditions found in section 27-65-109(1)(a) – (c), and set out in numbered questions 4, 5, 6, and 7 of this instruction, is to be determined by the jury, *see* § 27-65-109(4), if a jury has been requested pursuant to section 27-65-109(3), and if the nature of the evidence going to any dispute of fact concerning such condition is not such that the issue of fact should be determined by the court in favor of the petitioner. As to the rules governing when a court may direct a finding on an issue of fact in favor of the party having the burden of proof on the issue, see the discussion and cases cited in note 2 of the Source and Authority to Instruction 2:5. *See also People in Interest of Lees*, 745 P.2d 281 (Colo. App. 1987) (authority of trial court to grant petitioner judgment on question 7 of this instruction notwithstanding the jury’s finding in favor of respondent). As to the sufficiency of the evidence concerning compliance with the condition set out in numbered

paragraph 6 of this instruction, see **People in Interest of Kleinfieldt**, 680 P.2d 864 (Colo. App. 1984).

8. The appropriate special verdict form to be submitted to the jury with this instruction is Instruction 35:8.

9. The fact that a certification for short-term treatment is set aside does not invalidate subsequent, otherwise valid certifications for long-term treatment. **People in Interest of Dveirin**, 755 P.2d 1207 (Colo. 1988).

10. This instruction may need to be modified in cases involving minors who are voluntary patients who have revoked their consent, but for whom continued hospitalization is being sought. *See* §§ 27-65-103(4)–(8), C.R.S. Concerning the constitutionality of admitting a minor for treatment on the voluntary application of the minor’s parent or legal guardian, but without the consent of the minor, see **P. F. v. Walsh**, 648 P.2d 1067 (Colo. 1982).

11. As to when a person may be considered a danger to others, see **People in Interest of King**, 795 P.2d at 274-75.

Source and Authority

This instruction is supported by the authorities cited above in the Notes on Use.

**35:3 PERSON WITH A MENTAL ILLNESS OR MENTAL HEALTH DISORDER —
DEFINED**

“Person with a mental illness or mental health disorder” means a person with 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. (Developmental disability is insufficient to either justify or exclude a finding of mental illness.)

Notes on Use

1. This instruction must be given whenever Instruction 35:1 or Instruction 35:2 is given and the phrase “a person with a mental illness” is used in such instruction.

2. Unless some reference has been made to developmental disability in the evidence or in some other aspect of the proceedings in the presence of the jury, the parenthesized sentence should be omitted.

Source and Authority

1. This instruction is supported by the statutory definition of “mental health disorder.” § 27-65-102(11.5), C.R.S.

2. A prior statutory definition of “mentally ill person,” former § 27-10-102(7), C.R.S., that was substantially similar to this one, was held not to be unconstitutionally vague in **People v. Taylor**, 618 P.2d 1127 (Colo. 1980).

35:4 GRAVELY DISABLED — DEFINED

A person is “gravely disabled” if, as a result of a mental health disorder, the person is incapable of making informed decisions about or providing for the person’s essential needs without significant supervision and assistance from other people.

A person is “gravely disabled” only if you also find that the person, as a result of the person’s inability to make informed decisions or provide for the person’s essential needs, is at risk of one or more of the following:

1. Substantial bodily harm;
2. Dangerous worsening of any current serious physical illness;
3. Significant psychiatric deterioration; or
4. Mismanagement of his or her essential needs that could result in substantial bodily harm.

A person of any age may be “gravely disabled,” but such term does not include a person whose decision-making capabilities are limited solely by his or her developmental disability.

Notes on Use

1. This instruction must be given whenever Instruction 35:1 or Instruction 35:2 is given and the phrase “gravely disabled” is used in such instruction.

2. Under section 27-65-102(9), C.R.S., “the determination at a certification hearing as to whether a person is ‘gravely disabled’ must focus on the individual’s existing condition, and not on the possibility of future relapse,” that is, that the person might become “gravely disabled” in the future if the person refused to continue to take medication. **People in Interest of Bucholz**, 778 P.2d 300, 302 (Colo. App. 1989) (decision based on statute prior to 1989 amendments).

Source and Authority

1. This instruction is supported by the statutory definition of “gravely disabled.” § 27-65-102(9). *See also* **People v. Taylor**, 618 P.2d 1127 (Colo. 1980) (the definition of “gravely disabled” as mental illness resulting in the lack of ability to take care of one’s basic personal needs is not unconstitutionally vague, nor, in order to be constitutionally sufficient to restrain a person’s liberty, must it be shown that such inability creates an imminent and substantial danger to the person).

2. Probate court is not required to accept testimony that a person was able to support oneself in the past when not in a mental health facility when the record contains evidence that the person could not make informed decisions about essential needs without significant supervision and assistance. **People in Interest of R.K.L.**, 2016 COA 84, ¶ 28, 412 P.3d 827.

35:5 DANGER TO SELF OR OTHERS — DEFINED

“Danger to self or others” means:

(a) That the person poses a substantial risk of physical harm to *(insert applicable pronoun)* as shown by evidence of recent threats of or attempts at suicide or serious bodily harm to *(insert applicable pronoun)*; or

(b) That the person poses a substantial risk of physical harm to another person or persons, as shown by evidence:

1. That the person has engaged in recent homicidal or other violent behavior; or
2. That the person has placed another in reasonable fear of violent behavior and serious physical harm, as shown by a recent overt act, attempt, or threat to do serious physical harm.

Notes on Use

1. This instruction must be given whenever Instruction 35:1 or Instruction 35:2 is given and the phrase “danger to self or others” is used in such instruction.

2. Use whichever parenthesized and bracketed words are appropriate to the evidence in the case.

3. Prior to enactment of section 27-65-102(4.5), C.R.S., Colorado case law had provided that the Court was justified in ordering continued involuntary treatment based on the testimony of the psychologist as to respondent’s “potentiality for danger.” **People in Interest of King**, 795 P.2d 273, 275 (1990).

Source and Authority

1. This instruction is supported by the statutory definition of a “danger to self or others.” § 27-65-102(4.5).

2. Past history of aggressive behaviors combined with evidence that a person declined voluntary treatment, and a history of prior hospitalizations, was sufficient to show danger to others even though there had been no such behavior during current hospitalizations. **People in Interest of R.K.L.**, 2016 COA 84, ¶ 25, 412 P.3d 827.

35:6 EXPERT WITNESS — COURT-APPOINTED PROFESSIONAL PERSON

Use Instruction 3:15.

Note

Instruction 3:15 (expert witnesses) should be used when the court has appointed a professional person under section 27-65-111(2), C.R.S., and that person has testified. Section 27-65-111(2), C.R.S., provides:

The court, after consultation with respondent's counsel to obtain counsel's recommendations, may appoint a professional person [defined in § 27-65-102(11), C.R.S.] to examine the respondent for whom short-term treatment or long-term care and treatment is sought and to testify at the hearing before the court as to the results of his or her examination. The court-appointed professional person shall act solely in an advisory capacity, and no presumption shall attach to his or her findings.

35:7 SPECIAL VERDICT FORM — SHORT-TERM TREATMENT

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|---|---|
| <input type="checkbox"/> District Court <input type="checkbox"/> County Court <input type="checkbox"/> Other _____ _____ County, Colorado Court Address: <hr/> [Insert Information from the original caption here - ex. In Re the Matter of, etc.] | <div style="text-align: center; border-top: 1px solid black; border-bottom: 1px solid black;"> ▲ COURT USE ONLY ▲ </div> Case Number: Division: Courtroom: |
| <p>SPECIAL VERDICT</p> | |

We, the jury, present our answers to the questions submitted by the Court, to which we have all agreed:

(QUESTION NO. 1.

Is the respondent a person with a mental illness or mental health disorder and, as a result of such mental illness or mental health disorder, is the respondent a danger [to (*insert applicable pronoun*)] [or] [to other persons]? (yes or no)

ANSWER NO. 1 _____)

(QUESTION NO. 2.

Is the respondent a person with a mental illness or mental health disorder and, as a result of such mental illness or mental health disorder, is the respondent gravely disabled? (yes or no)

ANSWER NO. 2 _____)

If you answer (either) (Question number 1) (or) (Question number 2) “yes,” then answer the following additional questions:

(QUESTION NO. 3.

Did the professional staff of the *[insert name of the agency or facility providing the previous seventy-two hour treatment and evaluation]* **analyze the respondent's condition, and did they find that the respondent is a person with a mental illness or mental health disorder and, as a result of such illness or mental health disorder, [is a danger (to *[insert applicable pronoun]* *) (or) (to others)] [or] [is gravely disabled]?*** (yes or no)

ANSWER NO. 3 _____)

(QUESTION NO. 4.

Has *[insert name of facility which is to provide short-term care and treatment]* **been designated or approved by the executive director of the State Department of Human Services as a facility authorized to provide short-term mental health care and treatment?** (yes or no)

ANSWER NO. 4 _____)

(QUESTION NO. 5.

Has the respondent been advised of the availability of voluntary treatment? (yes or no)

ANSWER NO. 5 _____)

(If you answer the preceding question number 5 "yes," then also answer the following question:

QUESTION NO. 6.

Has the respondent not accepted such voluntary treatment? (yes or no)

ANSWER NO. 6 _____)

QUESTION NO. 7

If the respondent has accepted voluntary treatment, would a reasonable person believe that the respondent will not remain in a voluntary treatment program? (yes or no)

ANSWER NO. 7 _____)

(Insert any other questions which may be necessary to resolve properly any other claims of the parties.)

Foreperson

Notes on Use

See notes 4 and 5 of the Notes on Use to Instruction 4:4 and the Notes on Use to Instruction 35:1.

Source and Authority

See the Source and Authority to Instruction 35:1.

35:8 SPECIAL VERDICT FORM — LONG-TERM CARE AND TREATMENT

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|---|---|
| <input type="checkbox"/> District Court <input type="checkbox"/> County Court <input type="checkbox"/> Other _____ _____ County, Colorado Court Address: <hr/> [Insert Information from the original caption here - ex. In Re the Matter of, etc.] | <div style="text-align: center; border-top: 1px solid black; border-bottom: 1px solid black;"> ▲ COURT USE ONLY ▲ </div> Case Number: Division: Courtroom: |
| SPECIAL VERDICT | |

We, the jury, present our answers to the questions submitted by the Court, to which we have all agreed:

(QUESTION NO. 1.

Is the respondent a person with a mental illness or mental health disorder and, as a result of such mental illness or mental health disorder, is the respondent a danger [to (*insert applicable pronoun*)] [or] [to other persons]? (yes or no)

ANSWER NO. 1 _____)

(QUESTION NO. 2.

Is the respondent a person with a mental illness or mental health disorder and, as a result of such mental illness or mental health disorder, is the respondent gravely disabled? (yes or no)

ANSWER NO. 2 _____)

If you answer (either) (Question number 1) (or) (Question number 2) “yes,” then answer the following additional questions:

(QUESTION NO. 3.

Is the respondent because of such mental illness or mental health disorder not competent to:

a. *[insert an appropriate description of any one or more (using identifying letters “b.,” “c.,” etc., if there is more than one) specific legal disabilities sought to be imposed or any one or more specific legal rights sought to be taken away under § 27-65-127(4)(c), C.R.S.]? (yes or no)*

ANSWER NO. 3.a. _____

3.b. _____

[etc., if necessary])

(QUESTION NO. 4.

Did the professional staff of the *[insert name of the agency or facility providing the previous short-term treatment]* **analyze the respondent’s condition, and did they find that the respondent is a person with a mental illness or mental health disorder and, as a result of such mental illness or mental health disorder, [is a danger (to** *[insert applicable pronoun]* **(or) (to others)] [or] [is gravely disabled]? (yes or no)**

ANSWER NO. 4 _____)

(QUESTION NO. 5.

Has *[insert name of facility which is to provide long-term care and treatment]* **been designated or approved by the executive director of the State Department of Human Services as a facility authorized to provide long-term mental health care and treatment? (yes or no)**

ANSWER NO. 5 _____)

(QUESTION NO. 6.

Has the respondent been advised of the availability of voluntary treatment? (yes or no)

ANSWER NO. 6 _____)

(If you answer the preceding question number 6 “yes,” then also answer the following question:

QUESTION NO. 7.

Has the respondent not accepted such voluntary treatment or, if the respondent has accepted voluntary treatment, would a reasonable person believe that the respondent will not remain in a voluntary treatment program? (yes or no)

ANSWER NO. 7 _____)

(Insert any other questions which may be necessary to resolve properly any other claims of the parties.)

| | |
|-------|-------------------|
| _____ | _____ |
| _____ | Foreperson |
| _____ | _____ |

Notes on Use

See note 4 of the Notes on Use to Instruction 4:4 and the Notes on Use to Instruction 35:2.

Source and Authority

See the Source and Authority to Instruction 35:2.