



OFFICE OF THE CORPORATION COUNSEL

## INVOLUNTARY COMMITMENT FOR ALCOHOLISM

Involuntary Commitment to the custody and care of the Dane County Department of Human Services is available to individuals in need of treatment for Alcoholism. However, not all individuals will qualify for an involuntary commitment, and even some who do, it may not be appropriate if they are unlikely to benefit from treatment.

### **Intake and Assessment**

The Emergency Service Unit (ESU) with Journey Mental Health Center, is responsible for coordinating intake and assessment of individuals who may be in need treatment for alcoholism. ESU staff, in consultation with the Dane County Department of Human Services, assess individuals to determine whether the individual is appropriate for an involuntary commitment for alcoholism.

If it is determined that an individual is appropriate for involuntary commitment, ESU staff complete a referral form with biographical and contact information for the subject, referrer and potential petitioners. The referral is sent to the Office of the Dane County Corporation Counsel for consideration.

### **Involuntary Commitment**

Petitioning for involuntary commitment is a legal process. Because it impinges on an individual's liberty, there are a number of sometimes cumbersome procedures that must be followed to successfully petition for an involuntary commitment.

The Office of the Dane County Corporation Counsel represents the *Public Interest* in all involuntary commitments. By statute, Corporation Counsel is required to draft all petitions for involuntary commitments. A third-party may not petition the court for involuntary commitment on his or her own without the approval of Corporation Counsel.

### The Petition

The involuntary commitment court proceedings are begun by the filing of a written petition. The petition is drafted and approved by a representative of the Dane County Corporation Counsel's office. It also must be signed by three separate petitioners.

- ALL THREE PETITIONERS MUST BE WILLING AND ABLE TO TESTIFY IN COURT REGARDING THE SUBJECT'S NEED FOR A COMMITMENT, and
- at least ONE PERSON MUST BE A PHYSICIAN.

### Affidavits

Each person who will be signing the petition must complete an affidavit. Once the three petitioners and affidavit signers are identified, Corporation Counsel will email or mail each an affidavit template to fill out and return. In their affidavit, each petitioner should describe the pattern of conduct of the subject and how it impacts the subject's, health, welfare, and safety. Descriptions should be as specific as possible with dates and descriptions of behavior and events. Each affidavit must be notarized.

In order to meet the standard for an involuntary commitment for alcohol, Corporation Counsel is required to prove *ALL* of the following:<sup>1</sup>

1. The condition of the person is such that he or she habitually lacks self-control as to the use of alcohol beverages, *and* uses such beverages to the extent that health is substantially impaired or endangered *and* social or economic functioning is substantially disrupted;
2. That such condition of the person is evidenced by a pattern of conduct which is dangerous to the person or to others;
3. There is a relationship between the alcoholic condition and the pattern of conduct during the 12-month period immediately preceding the time of petition which is dangerous to the person or others and that this relationship has been established to a reasonable medical certainty;
4. There is an extreme likelihood that the pattern of conduct will continue or repeat itself without the intervention of involuntary treatment or institutionalization; and
5. There is no suitable alternative available for the person and that the county department is able to provide appropriate and effective treatment for the individual.

Once all three affidavits are received, Dane County Corporation Counsel will review the affidavits and investigate the matter to determine if a petition is appropriate. **There is no guarantee a petition will be filed and there may be a wait from when affidavits are submitted to when a petition is filed.** Once a petition is filed with the court, the court may issue a body

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<sup>1</sup> See Wis. Stat. § 54.45(13)(a) & (g).

attachment instructing a law enforcement agency to bring the subject to the Tellurian, Detoxification Center. If a stay in Detox is not necessary, the court will simply inform the subject of when and where the first hearing shall be.

### Court Hearings

The court hearing process is a two-step process. Within 72 hours of the subject's detention at Detox, or within a reasonable period of time if they are not detained, the court will schedule a *Probable Cause Hearing*. This hearing is meant as a preliminary review of the case by the court to ensure that the County has sufficient grounds to proceed with an involuntary commitment. It is likely, that all three petitioners will be asked to testify at this hearing. This hearing is before a Dane County Court Commissioner and has all the same due process rights of a full trial. The subject is always represented by counsel who is appointed by the Office of the State Public Defender.

If the court finds that there is probable cause to believe that the allegations in the petition are true, then the matter is set for *Final Hearing* within 14 days. In between the Probable Cause Hearing and the Final Hearing, examination of the subject is ordered, and an independent examiner is appointed to evaluate the subject and render an opinion as to whether the subject should or should not be involuntarily committed for alcohol treatment.

At the Final Hearing, all three petitioners and the independent examiner may be asked to testify. The County must prove the five elements above by what is called *Clear and Convincing Evidence*, a burden of proof that is not as high as *Beyond a Reasonable Doubt* but greater than *more likely than not*.

### Outcomes

The preferred outcome for all involuntary proceedings is that the subject has sufficient insight into their condition that the involuntary commitment process convinces them to voluntarily avail themselves of treatment and the involuntary commitment can be abandoned. However, this outcome is not always possible. If involuntary commitment is necessary, the subject is initially committed into treatment for a period of 90 days. Treatment usually starts in a residential setting, and is then moved into the community as an outpatient for the remainder of the 90-day term. In rare circumstances, the County may extend an involuntary commitment for up to 6 months if a person has demonstrated some engagement with treatment, but has been unable to complete the necessary treatment within the initial 90-day period. Typically, when a commitment is ordered, a case manager is assigned to help the subject navigate needed treatment and other program options in order to meet their basic needs.