

Mental Health Petitions with Boulder County

Commonly used terms

Petitioner- A person who is seeking a mental health evaluation for someone who may have a mental health disorder

Respondent- A person who is subject to a petition for a mental health evaluation

Mental Health Disorder- A health condition that affects and/or impairs thinking, emotions or behaviors

Substance Use Disorder- A dependence on alcohol or a controlled substance that develops after using the substance on a periodic or continuing basis

Danger to self- Threats or attempts at suicide or serious bodily harm to the individual

Danger to others- Posing a substantial risk of physical harm to others, or placing others in fear of harm or violent behavior based on recent acts, attempts or threats

Gravely Disabled- The inability to make informed decisions about or to provide for essential daily living needs without significant assistance from others

Certification- Involuntary mental health treatment by a licensed facility designated by the state

Civil Commitment- Involuntary treatment for a substance use disorder in a treatment program designated by the state

Affidavit- A notarized document that is part of the Petition affirming that the statements by the Petitioner supporting the request for a mental health evaluation are true to the best of the Petitioner's knowledge

Process

1. Determine you would like to petition the courts for an order to have the respondent receive a 72-hour mental health evaluation and hold.
2. Fill out the form outlining the information we need for the petition.
3. After someone from our office receives the form, we will review it to ensure its complete and set an appointment with an attorney to discuss next steps on either a Tuesday or Thursday afternoon.
4. After the appointment if our office will be moving forward with a petition, we will provide you your statement and an affidavit to get it notarized.
5. You will need to get the statement notarized. Once the affidavit is notarized, you will need to email it or fax it to our office.
6. Our office will file the petition with the courts.
7. Once the court issues an order for a 72-hour mental health hold and evaluation we will notify law enforcement to pick-up the respondent.
8. The respondent will be taken to a local hospital and an evaluation by a treating professional will be completed.
9. If the respondent is determined to need further care and assessment, they could be put on an Involuntary Short-Term Certification. If this occurs, they will receive an attorney assigned to them by the court.

Frequently Asked Questions

Petition-

- Can we do a petition for both mental health and substance abuse?
 - Our office can assist in petitions for both mental health and substance abuse evaluations. However, for substance abuse matters, a petitioner first needs to work with the Office of Behavioral Health they can be reached at 303-866-7502. If the representative from the OBH determines that a civil commitment is warranted, that person will coordinate preparing the petition with our office.
- How much will this cost?
 - There is no charge or cost associated with our services, and there is no filing fee. A notary may require a fee to have the petition notarized.
- Do I have to be the Petitioner?
 - The Petitioner must be someone with actual knowledge of the circumstances surrounding the request for an evaluation. Whether that is you or another person, we can explore options during the meeting. More than one person can be a Petitioner.

- Would it be helpful if both my spouse and I are co-petitioners?
 - See the answer above. We will discuss this with you when we meet.

- Can this information/I remain anonymous?
 - Once the Petition is filed, if the Court orders an evaluation, the respondent subject to the Petition is legally entitled to a copy of the paperwork. The respondent will be able to see who the Petitioner is, and read the statements supporting the Petition. In some cases, we may be able to keep the Petitioner's phone number and/or address confidential.

- What information do you need from us to start a petition?
 - We require you to fill out the Mental Health Petition Request form. This form covers the details we need to meet with you and move forward with a petition. . . Our office will review that form with you. Information should focus on the potential nature of the respondent's mental health condition , and what behaviors indicate that the person is at risk of harming themselves, others, or is gravely disabled which includes the inability to meet their basic needs such as food, showering, housing, working, money management, or taking their prescribed medication without significant assistance.

- If we meet with you, do we have to file the petition?
 - There is no obligation on your part to file a petition after you meet with us. Our office is a resource to you and offers our assistance as a public service. After we review the case together, it is completely up to you whether you want to proceed with the filing of a petition. On the other hand, if our office determines that the filing of a petition is not warranted, you are free to pursue an evaluation with the courts on your own.

- Are you my attorney? Are you the Respondent's attorney?
 - We do not represent you as Petitioner or the person for whom an evaluation is sought. In these cases, our client is the state of Colorado (The "People").

- I have some questions; can I call you (pre-scheduled meeting)?
 - We are always happy to speak with you, however, our office prefers a Mental Health Petition Form be completed prior to setting a call. The staff that support this process are often in court and may not be immediately available. The completed form allows us to respond more efficiently. Email is also the quickest and easiest way to reach our office. Currently, our office is remotely working, you are welcome to call and leave a voicemail and we will do our best to respond to that call within 24 hours.

- Can we meet in person?
 - Due to COVID-19 precautions, we are only meeting remotely. If we determine that your concerns may warrant the filing of a petition, we will schedule a virtual meeting with you to review the situation, and to explain the process. If you would prefer to do this in person you may file the petition on your own at the Boulder Justice Center.

- Can we petition the court for a longer time period right away?
 - No. When you petition the Court for a mental health evaluation, the Court is only authorized to grant a 72-hour hold. Whether a respondent is certified is a decision made by the treating professional. If the respondent is certified, the certification will last only as long as the treating professional deems necessary for the respondent's treatment.

- What are our options if the County Attorney's Office does not believe an evaluation is warranted?
 - You can always file a motion for evaluation independently of our office. The filing information is included below.

- What is your office's involvement once you have filed the petition for us?
 - If the person is ultimately certified and contests the certification and/or medication, then we will represent the State at a hearing to uphold the certification and order medication. We do not represent you and would take no additional action outside of this.

- How long will it take to get the evaluation?
 - We meet with Petitioners on Tuesday and Thursday afternoons. Once the petition is complete and it has been notarized, we file it immediately with the court. The Court will typically grant or deny the motion for evaluation within 72 hours of filing, although we cannot guarantee a time frame. If and when the Court orders the evaluation, an order will also be issued for law enforcement to transport the person to a facility for the evaluation. Law enforcement will typically attempt to make contact as quickly as possible after receiving the order. The order is valid for up to 30 days after being issued.

After an order is issued:

- The respondent has a house/car/pet, am I allowed to take care of those things if they're hospitalized?
 - Since the person subject to the petition has a property or ownership interest in those items, that person has a right to determine who will care for them. Your relationship with the person may dictate your rights to care for the property.

- Can you speak with the respondent's treating professional?
 - Prior to the filing of a petition, we would not speak to the person's treating professional. There are confidentiality rules that preclude medical professionals disclosing information about a patient without a signed release. However, if you have information from the treating professional that you believe is relevant, we can discuss whether that information could be included in your statement.
 - Once a person is certified for treatment, we can speak with the treating professional if the person has requested a hearing to challenge involuntary treatment and/or hospitalization.

- What happens if law enforcement can't find the respondent?
 - If law enforcement is unable to locate the respondent, then the order for evaluation will expire after 30 days. An additional motion for evaluation would need to be filed, if the previous order has expired.

- What happens if the facility does not certify the respondent?
 - If the evaluation shows that the respondent does not meet criteria for certification, then the respondent will be released from the facility without any additional action.

- Can we know if the respondent is certified, and what facility they are at?
 - It depends. You do not have an automatic right to the information; however, the respondent can authorize the facility to release the information to you. In certain circumstances, the facility may provide you that information without the respondent's authorization, but that is within the facility's discretion.

- Can I talk to the treating professional about the respondent?
 - You do not have an automatic right to speak with the treating professional about the respondent's treatment. The person may authorize the treating professional to speak with you, or the treating professional may determine that they can release certain information to you, but that is within the treating professional's discretion.

- If the facility doesn't certify the respondent, can we ask the court to order the facility to certify?
 - No. Certification, or refusal to certify, is within the treating professional's discretion. The Court cannot overrule a treating professional's refusal to certify.

- Can we choose which facility the respondent goes to?
 - No. Law enforcement will transport the respondent to an appropriate facility with availability to conduct the evaluation.

- Can we choose a different treating professional?
 - No. The treating professional who conducts the evaluation, and who will treat the person if they're certified, is determined by the facility. If the facility is authorized to speak with you, you may discuss the request with them, but we cannot request a specific treating professional through this process.

- If the respondent is certified, can we attend any hearings?
 - Mental health hearings are not closed to the public, which means anyone can attend the proceedings. Currently, mental health hearings are virtual due to COVID-19 restrictions.

- Do we have to testify?
 - Typically, no, however family members do occasionally testify. It is possible that the respondent's attorney may subpoena (require) you to appear and testify.

- What can we do if the facility releases the respondent too soon?
 - If the facility releases the respondent, it will be because the treating professional has determined that the respondent has stabilized and no longer needs a certification.

- Can we force the respondent to take certain medications/treatment?
 - If the person refuses medications and the treating professional believes medications are necessary, the treating professional can request a court order to administer medications involuntarily.

- Is there something we can do to guarantee the respondent will be certified?
 - No. The treating professional conducting the evaluation has the sole discretion to certify or release the respondent.

- Does the law enforcement have to bring them to the facility ?
 - Yes. The Court will issue an order for law enforcement to transport the respondent to the facility. It is for the safety of the respondent.

- Does this authorize me to make (physical) medical decisions for the respondent?
 - No. Mental health evaluations and certifications do not give you the authority to make any medical decisions for the person.

- Would it be helpful for me to get a guardianship so that I can make decisions for the respondent?
 - The County Attorney's Office is unable to provide legal advice. If you'd like to learn more about guardianships, you may contact private counsel or the Boulder County Court Self-Help Center.

- Is the order for evaluation or potential certification on their record?
 - There is no criminal record associated with mental health proceedings. Certifications may show up on a background check if the respondent who was/is certified seeks to purchase a firearm.