

7624. Petition for involuntary medication

(a) The commissioner may commence an action for the involuntary medication of a person who is refusing to accept psychiatric medication and meets any one of the following three conditions:

(1) has been placed in the commissioner's care and custody pursuant to section 7619 of this title or subsection 7621(b) of this title;

(2) has previously received treatment under an order of hospitalization and is currently under an order of nonhospitalization, including a person on an order of nonhospitalization who resides in a secure residential recovery facility; or

(3) has been committed to the custody of the commissioner of corrections as a convicted felon and is being held in a correctional facility which is a designated facility pursuant to section 7628 of this title and for whom the department of corrections and the department of mental health have jointly determined that involuntary medication would be appropriate pursuant to 28 V.S.A. § 907(4)(H).

(b) A petition for involuntary medication shall be filed in the family division of the superior court in the county in which the person is receiving treatment.

(c) The petition shall include a certification from the treating physician, executed under penalty of perjury, that includes the following information:

(1) the nature of the person's mental illness;

(2) the necessity for involuntary medication, including the person's competency to decide to accept or refuse medication;

(3) any proposed medication, including the method, dosage range, and length of administration for each specific medication;

(4) a statement of the risks and benefits of the proposed medications, including the likelihood and severity of adverse side effects and its effect on:

(A) the person's prognosis with and without the proposed medications; and

(B) the person's health and safety, including any pregnancy;

(5) the current relevant facts and circumstances, including any history of psychiatric treatment and medication, upon which the physician's opinion is based;

(6) what alternate treatments have been proposed by the doctor, the patient or others, and the reasons for ruling out those alternatives; and

(7) whether the person has executed a durable power of attorney for health care in accordance with the provisions of 18 V.S.A. chapter 111, subchapter 2, and the identity of the health care agent designated by the durable power of attorney.

(d) A copy of the durable power of attorney, if available, shall be attached to the petition. (Added 1997, No. 114 (Adj. Sess.), § 4; amended 2005, No. 174 (Adj. Sess.), § 40; 2007, No. 15, § 22; 2009, No. 154 (Adj. Sess.), § 238; 2011, No. 160 (Adj. Sess.), § 5, eff. May 17, 2012.)

7625. Hearing on petition for involuntary medication; burden of proof

(a) A hearing on a petition for involuntary medication shall be held within seven days of filing and shall be conducted in accordance with sections 7613, 7614, 7615(b)-(e), and 7616 of this title.

(b) In a hearing conducted pursuant to this section, section 7626 or 7627 of this title, the commissioner has the burden of proof by clear and convincing evidence.

(c) In determining whether or not the person is competent to make a decision regarding the proposed treatment, the court shall consider whether the person is able to make a decision and appreciate the consequences of that decision. (Added 1997, No. 114 (Adj. Sess.), § 4.)