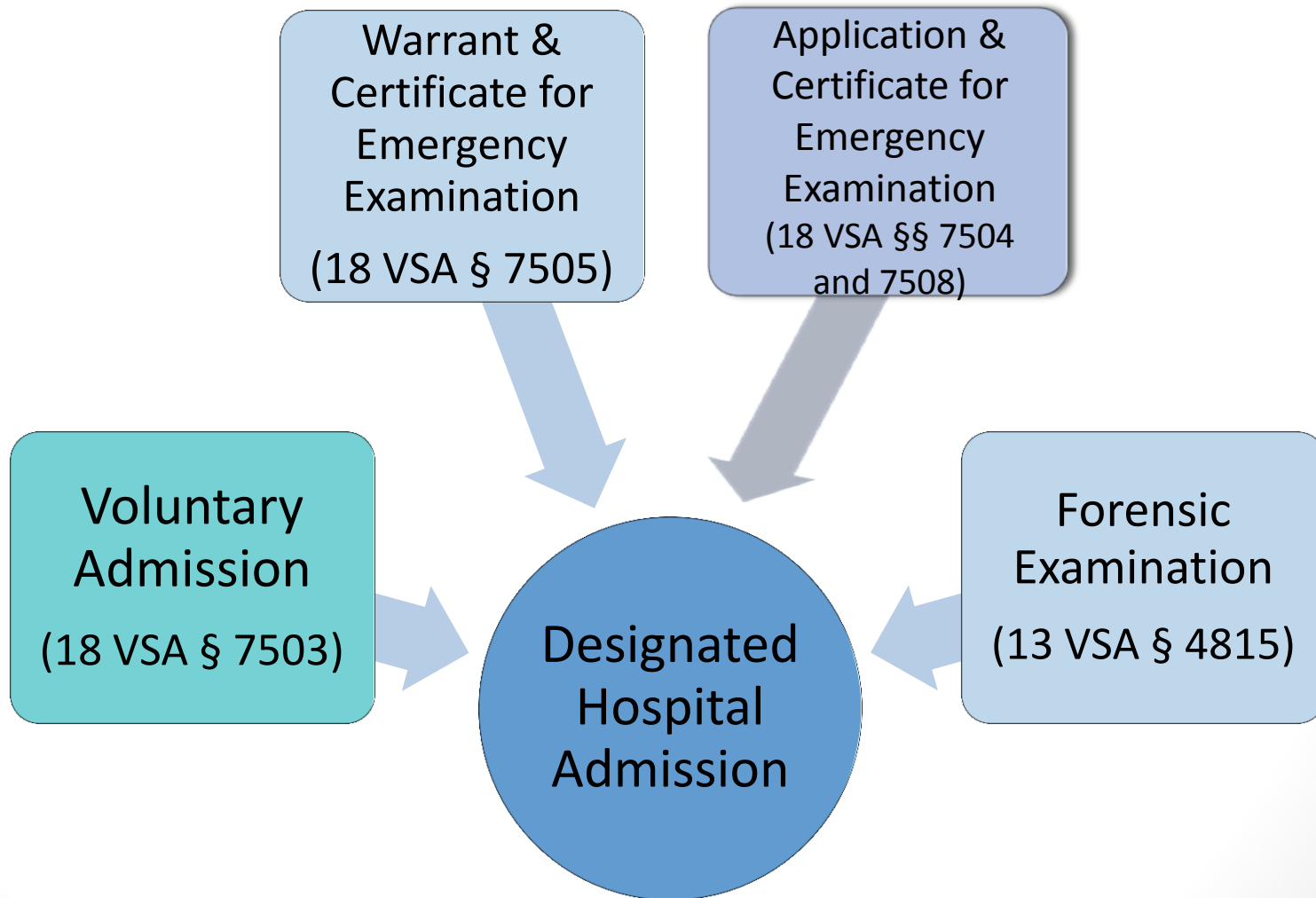


Mental Health: Admissions, Involuntary Treatment, and Medication

House Committee on Health Care
January 20, 2017

Hospital Admissions



Application & Certificate for Emergency Exam

- Person is held for admission at a hospital for emergency exam to determine if s/he is “person in need of treatment”
- Authority to transport & admit person to a hospital for an emergency exam:
 - 1) Application by interested party; AND
 - 2) Certificate by a physician who ≠ applicant
- Application and certificate must state the facts and circumstances constituting need for emergency exam

Warrant & Certificate for Emergency Examination

- Application for a warrant requires:
 - Emergency circumstances;
 - Physician's certificate unavailable without serious and unreasonable delay;
 - Personal observation by law enforcement or mental health professional that person's conduct constitutes reasonable grounds to believe that person is in need of treatment;
AND
 - Person presents immediate risk of serious injury to self or others if not restrained.

Warrant & Certificate for Emergency Examination Continued

- Judge may order person to submit to an evaluation by a physician if s/he is satisfied:
 - Physician's certificate is not available without serious and unreasonable delay; AND
 - Probable cause exists to believe person is in need of an emergency examination.
- Upon arrival at hospital, evaluation is conducted as soon as possible by a physician. There are 2 possible outcomes of exam:

Physician certifies that person = "person in need of treatment"

- Person is held at hospital for an emergency examination

Physician *does not* certify that person = "person in need of treatment"

- Person is immediately discharged

Emergency Examination

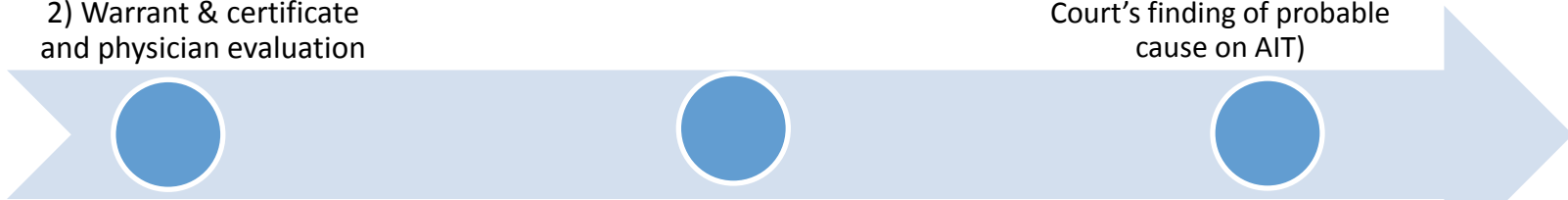
(i.e. "Second Certification")

Authority to hold person for admission to a hospital for an emergency exam:

- 1) Application & certificate; OR
- 2) Warrant & certificate and physician evaluation

72 hours after emergency exam certification, hospitalization is terminated unless:

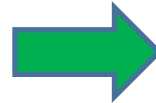
- 1) Person has accepted for voluntary admission; OR
- 2) Application for involuntary treatment is filed (person continues to be held pending Court's finding of probable cause on AIT)



Emergency exam conducted by a psychiatrist as soon as practicable, but no later than 24 hours after initial certification



Psychiatrist *does not* certify that person is in need of treatment= person is discharged



Psychiatrist *does* certify that person is in need of treatment= person held for 72 hours

Preliminary Hearing

- Within 5 days after admission for an emergency exam, a patient MAY request a preliminary hearing
- Hearing must be held within 3 working days of request
- Hearing determines if there is probable cause to believe the patient was a person in need of treatment at the time of his or her admission

Probable cause is established

- Person held for further proceedings

Probable cause is *not* established

- Person is discharged

Application for Involuntary Treatment

Application

- Application must contain:
 - Written application filed by interested party; AND
 - One of the following:
 - Physician's certification that s/he examined person within 5 days of date AIT is filed and believes person is in need of treatment; OR
 - Applicant's written statement that person refused physician's exam

Counsel; Notice; Exam

- Once AIT is filed, the Court is responsible for:
 - Appointing counsel to the person;
 - Transmitting copies of the application, physician's certification (if any), and notice of hearing to the person, counsel, guardian, State's attorney, etc.
- As soon as practicable after notice, Court may authorize exam of patient by a psychiatrist other than certifying physician (§7614)

Hearing Date

- Hearing must be held:
 - 10 days from date of AIT's receipt by Court; OR
 - 20 days from date of AIT's receipt by Court if psychiatric exam is ordered under §7614
- Court can grant either party a 7 day continuance for good cause
 - It can grant one or more additional 7 day continuance if certain conditions are met

Expedited AIT Hearing

- Act 192 created a new process: an expedited AIT hearing
- Motion to expedite a hearing can be filed by an applicant or the person who is certified as in need of treatment
- Court may grant order for expedited hearing on AIT if the person has received involuntary medication during the past 2 years and based on person's response to previous & ongoing treatment there is good cause to believe that additional time will not result in person establishing a therapeutic relationship with providers or regaining competence; OR
- Court shall grant order for expedited AIT hearing if the person demonstrates significant risk of causing the person or others serious bodily injury even while hospitalized AND clinical interventions have failed to address the risk of harm to the person or others.
- Expedited timeline:
 - Within 10 days of order being granted.
- Court cannot grant either party an extension under an expedited AIT

AIT versus Expedited AIT

AIT	Expedited AIT
All AITs are considered by Court	<ul style="list-style-type: none">• Court <u>may</u> grant order for expedited hearing on AIT if the person has received involuntary medication during the past 2 years and based on person's response to previous & ongoing treatment there is good cause to believe that additional time will not result in person establishing a therapeutic relationship with providers or regaining competence; OR• Court <u>shall</u> grant order for expedited AIT hearing if the person demonstrates significant risk of causing the person or others serious bodily injury even while hospitalized AND clinical interventions have failed to address the risk of harm to the person or others.
Hearing within 10 days from the date of AIT's receipt by the Court; OR within 20 days from date of AIT's receipt by the Court if psychiatric exam is ordered under §7614	Hearing within 10 days of the Court granting motion
Court may grant each party a onetime continuance for good cause; and one or more additional continuances if certain circumstances are met	No continuances

Probable Cause Review

- For each AIT filed, Family Division must conduct a review to determine whether there is probable cause to believe person was in need of treatment at time of his/her admission
- Review based on:
 - EE application & accompanying physician certificate (if any); and
 - Application for involuntary treatment.
- Review must occur within 3 days of filing AIT

Probable cause is found

- Person held for further proceedings

Probable cause is *not* found

- Person is discharged

AIT Hearing & Outcomes

- At AIT hearing, the State has the burden of proving case by clear & convincing evidence
- Initial court orders of hospitalization & nonhospitalization last 90 days

Court finds person = person in need of treatment at time of admission or application

AND

Court finds person = patient in need of further treatment at time of hearing

- Court may order:
 - Hospitalization at a DH;
 - Hospitalization at any other public or private hospital if the person and hospital agree; OR
 - Program of treatment other than hospitalization (i.e. ONH).

Court finds the person \neq person in need of treatment at time of admission and application

OR

Court finds person \neq patient in need of further treatment at time of hearing

- AIT is dismissed

Application for Continued Treatment

- If prior to expiration of initial OH or ONH, the Commissioner of Mental Health (CMH) believes the person requires continued treatment, CMH applies to Court for determination that person is need of further treatment and for order of continued treatment.
- Application for continued treatment must contain:
 - Reasons for CMH's belief;
 - Statement describing person's current treatment program; AND
 - Results of current course of treatment.
- If CMH seeks to have person receive continued treatment in a secure residential recovery facility, application must expressly state this placement is being sought.

Application for Continued Treatment: Possible Outcomes



If the Court finds that the person \neq patient in need of further treatment, the person is discharged.

If the Court finds that the person = patient in need of further treatment AND requires hospitalization, hospitalization is ordered for up to 1 year.

If the Court finds that the person = patient in need of further treatment AND does *not* require hospitalization, nonhospitalization is ordered up to 1 year.

ONH: Noncompliance or Inadequacy

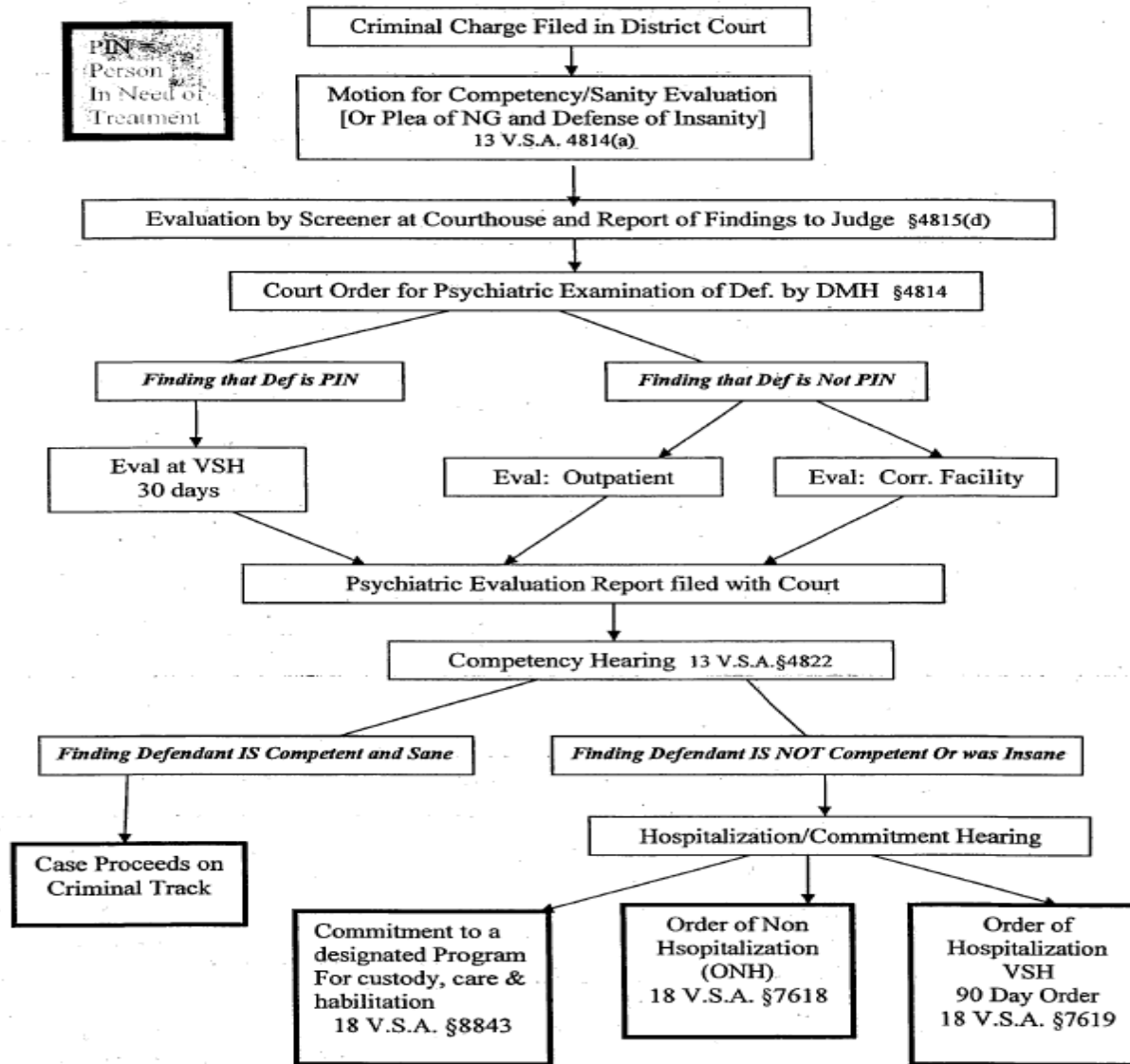
- If a person is not complying with an existing ONH or an existing ONH is inadequate to meet the person's treatment needs, the Court may (after a hearing) do the following:
 - Order hospitalization, up to expiration date of original ONH; OR
 - Modify original ONH by directing the person to undergo an alternative treatment for an indeterminate period, up to expiration date of original ONH.

Forensic Admission & Commitment

- If a party or the Court makes a motion for examination:
 - A mental health screening is completed while the defendant is still at the Court
 - Court may order inpatient examination in light of screener's recommendation and other facts/circumstances
- A Court before which defendant is tried (or to be tried) for a criminal offense must hold a hearing to determine if defendant should be committed to CMH, if the defendant is:
 - Found by the examining psychiatrist to be insane at the time of the alleged offense;
 - Found incompetent to stand trial due to mental disease or defect;
 - Not indicted by grand jury by reason of insanity at the time of alleged offense; OR
 - Acquitted at trial by reason of insanity at the time of the alleged offense.

Forensic Admission & Commitment

INVOLUNTARY COMMITMENT CRIMINAL DIVISION



Application for Involuntary Medication

CMH may file an application for involuntary medication of a person refusing to accept psychiatric medication, IF one of the following conditions is met:

Person is in the care and custody of CMH pursuant to an OH or order for continued treatment in a hospital

Person previously received treatment under an OH and is currently receiving treatment under an ONH

Person is in the custody of the Commissioner of Corrections as a convicted felon;
Person is held in a designated correctional facility;
AND
Departments of Corrections and Mental Health have jointly determined that involuntary medication is appropriate

Person has an AIT pending for which court has granted a motion to expedite

Person has AIT pending;
Person waives right to hearing on AIT until a later date; and
Person agrees to proceed with IM hearing without a ruling on whether s/he is a person in need of treatment

Person has AIT pending for 26+ days w/o hearing; Treating psychiatrist certifies there is good cause to believe additional time will not result in person establishing therapeutic relationship with providers or regaining competence; AND Serious deterioration of person's mental condition is occurring

- Unless consolidated with AIT, hearings on IM must be held within 7 days of filing the application
- If the requirements of #6 are established, court consolidates AIT & AIM and hears both within 10 days of date of AIM being filed

Application for IM continued

- Application on Involuntary Medication must contain certification from the treating physician with the following information:
 - Nature of person's mental illness;
 - Person is refusing proposed medicine;
 - Person lacks competence to decide to accept or refuse medicine;
 - Necessity of IM;
 - Proposed medication;
 - Risks and benefits of proposed medications;
 - Person's prognosis with and without proposed medications;
 - Person's health and safety;
 - Current relevant facts & circumstances, including history of treatment and medication;
 - Proposed alternative treatments, and reasons for ruling them out; AND
 - Whether person has executed an advance directive.

Hearing on Involuntary Medication

- CMH has the burden of proof by clear & convincing evidence
- Competency:

In determining whether the person is competent make a decision on the proposed medication, the Court shall consider:

Whether the person is able to make a decision; AND

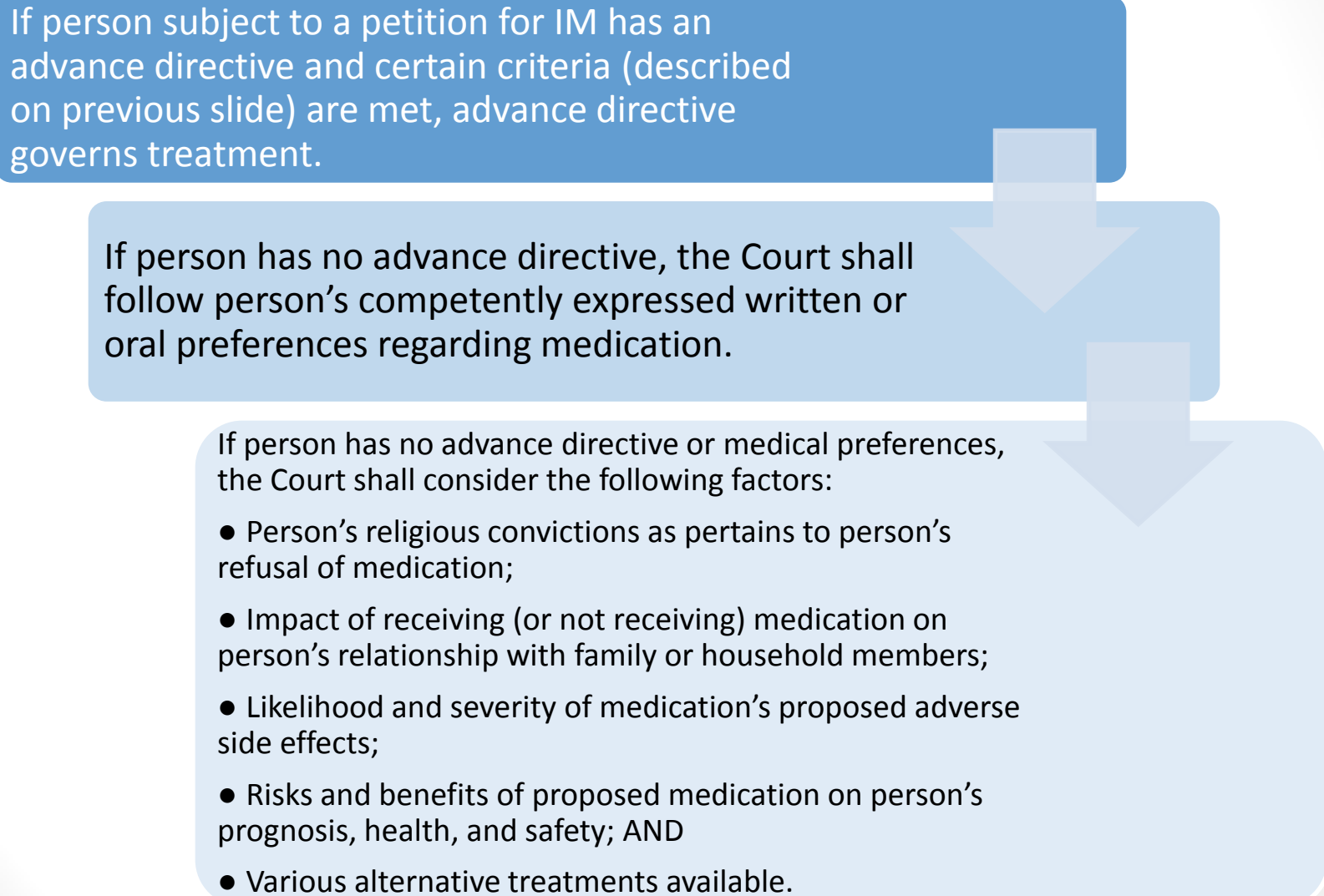
Whether the person is able to appreciate the consequences of that decision

Involuntary Medication & Advance Directives

- Court must suspend hearing on IM and enter order authorizing CMH to provide treatment to person as allowed under advance directive, if it determines that:
 - Person is refusing to accept psychiatric medication;
 - Person is not competent to make a decision regarding the proposed treatment; AND
 - Decision regarding proposed treatment is within the scope of a valid advance directive for health care.
- If hospitalization is necessary to effectuate proposed treatment, Court may order hospitalization

Hierarchy of IM Decisions

If person subject to a petition for IM has an advance directive and certain criteria (described on previous slide) are met, advance directive governs treatment.



If person has no advance directive, the Court shall follow person's competently expressed written or oral preferences regarding medication.

If person has no advance directive or medical preferences, the Court shall consider the following factors:

- Person's religious convictions as pertains to person's refusal of medication;
- Impact of receiving (or not receiving) medication on person's relationship with family or household members;
- Likelihood and severity of medication's proposed adverse side effects;
- Risks and benefits of proposed medication on person's prognosis, health, and safety; AND
- Various alternative treatments available.

IM Findings and Outcomes

- A hearing on a application for involuntary medication has 2 possible outcomes:

Court finds person is incompetent to make decision on proposed treatment

AND

that involuntary medication is supported by factors

- Application granted in whole or part with reference to supporting factors
 - Order specifies medication type, permitted dosage, length and method of administration
 - Order requires provider to review use of IM weekly

Court finds person is competent to make decision on proposed treatment

OR

that involuntary medication is *not* supported by factors

- Application for IM is denied

- If the person subject to the order for IM becomes competent, the order is no longer in effect

Length of IM Order & Hospitalization

- If person receiving IM is **hospitalized**, the order shall authorize the administration of IM for 90 days, unless the Court finds a longer time period is necessary.
 - If a longer order is necessary it cannot exceed underlying OH
- If person receiving IM is under **ONH** and the Court finds that without order for IM there is a substantial probability that person would continue to refuse medication and consequently pose danger of harm to self or others, Court may order up to 72 hour hospitalization to administer IM

Future Court Authorization of Hospitalization for Administration of IM

- If Court has authorized 72 hour hospitalization to administer IM to person on ONH, it may authorize future 72 hour hospitalizations for the same purpose
 - Future authorization is valid for 90 days following initial OH for the administration of IM, unless the Court finds more time is necessary
 - If a longer order is necessary it cannot exceed underlying ONH

Authorization of future 72 hour hospitalization requires:

Certification of treating physician filed with CMH stating:

- Person refused medication;
 - Person \neq competent;
- Proposed medications; AND
- Substantial probability person will pose danger to self or others if not hospitalized and receiving IM.

Provision of 2-14 days notice by CMH to Court, person, and person's attorney; notice with statement that person may contest order must be given within 24 hours of receipt of physician's certificate by CMH

Involuntary Treatment Timeline

