Community Assistance, Recovery, and Empowerment Act

10 Things to Know About the CARE Act

1. What is the CARE Act?

The Community Assistance, Recovery, and Empowerment (CARE) Act authorizes specified adult persons, called "petitioners," to petition a civil court to create a voluntary CARE agreement or a court-ordered CARE plan that may include treatment, housing support, and other services for persons, called "respondents," with schizophrenia and other psychotic disorders, or bipolar I disorder with psychotic features, except psychosis related to current intoxication.

2. Who is eligible for the CARE Act?

All eligibility determinations are case specific, and respondents must meet **all** the eligibility criteria for a petition to be considered. **Homelessness and a diagnosis alone are not sufficient to meet eligibility requirements.**

A respondent must meet the following criteria to be eligible for the CARE Act:

- ☐ Be 18 years old or older.
- ☐ Have a diagnosis of schizophrenia spectrum disorder or other psychotic disorder in the same class, or bipolar I disorder with psychotic features, except psychosis related to current intoxication.
- ☐ Be currently experiencing a mental illness that:
  - Is severe in degree and persistent in duration;
  - May cause behavior that interferes substantially with activities of daily living; **and**
  - May lead to an inability to maintain stable adjustment and independent functioning without treatment, support, and rehabilitation for a long or indefinite period.
- ☐ Not be clinically stabilized in ongoing voluntary treatment.

Additionally, at least one of the following must be true:

- ☐ The respondent is unlikely to survive safely in the community without supervision and the respondent's condition is substantially deteriorating.
- ☐ The respondent needs services and supports to prevent a relapse or deterioration that would likely result in grave disability or serious harm to the respondent or others.

The respondent's participation in a CARE plan or CARE agreement must:

- ☐ Be the least restrictive alternative necessary to ensure the respondent's recovery and stability; **and**
- ☐ Be likely to benefit the respondent.

3. Who can file a petition?

To file a petition, you must fit one of the following categories:

- ☐ Live with the respondent.
- ☐ Be a spouse or registered domestic partner, parent, sibling, child, or grandparent of the respondent.
- ☐ Be a person who stands in the place of a parent to the respondent.
- ☐ The director of a hospital in which the respondent is or was recently hospitalized.
- ☐ The director of a charitable agency who has within the last 30 days provided or is currently providing behavioral health services to the respondent or in whose institution the respondent resides.
- ☐ The licensed behavioral health professional who is or has supervised the treatment of the respondent for mental illness within the last 30 days.
- ☐ A first responder who has had repeated interactions with the respondent.
- ☐ The public guardian or public conservator of the county where the respondent resides or is found, or a private mental health conservator of the respondent.
- ☐ The director of a county behavioral health agency or the adult protective services agency of the county where the respondent resides or is found.
- ☐ A judge of a tribal court located in California before which the respondent has appeared within the last 30 days or director of a California Indian health services program or behavioral health department who has, within the last 30 days, provided or is currently providing services to the respondent.
- ☐ The respondent.

4. When did the CARE Act begin?

The CARE Act was implemented in a phased-in approach with counties separated into two cohorts. The first cohort included 7 counties—Glenn, Orange, Riverside, San Diego, San Francisco, Stanislaus, and Tuolumne—who implemented on October 1, 2023. Los Angeles County implemented on December 1, 2023—one year ahead of their scheduled implementation date. The remaining 50 counties all implemented by December 1, 2024.

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5. What rights does a respondent have?

Respondents have the right to be informed of the proceedings and receive notice of all hearings, take part in the proceedings (including to present evidence, call and cross-examine witnesses, and appeal decisions), be represented in all stages of the process regardless of their ability to pay, replace the court-appointed attorney with an attorney of their choosing, have a supporter of their choosing throughout the process, and to receive a copy of the petition and any court-ordered evaluations or reports. The respondent also has the right to an interpreter in all proceedings if necessary for the respondent to fully participate. If the respondent requires disability accommodations, requests can be made with the court.

6. What is a supporter?

The supporter is a volunteer who helps the respondent understand, consider, and communicate decisions to ensure the respondent can make self-directed choices to the greatest extent possible. A supporter is an adult chosen by the respondent to assist the respondent to understand, make, and express their decisions throughout navigating the CARE process. The supporter may be a friend, family member, faith leader, mentor, person with lived experience in mental health and/ or substance use disorder, or other support person chosen by the respondent.

7. Will CARE Act proceedings expose confidential information?

All reports, evaluations, diagnoses, documents, and filings submitted during CARE Act proceedings are confidential. CARE Act hearings are also closed to the public unless the court orders otherwise.

8. What are CARE Agreements and CARE plans?

A CARE agreement is a voluntary settlement agreement entered into by the respondent and the county behavioral health agency after a court has found that the respondent is eligible for the CARE process. The CARE agreement will include an individualized range of community-based services and supports that can consist of clinical services: behavioral health care; counseling; specialized psychotherapies, programs and treatments; stabilization medications; a housing plan; and other supports and services provided directly and indirectly through a local government entity.

A CARE plan is a court-ordered plan that includes the same elements as a CARE agreement. If a CARE agreement is not reached and a clinical evaluation indicates that the respondent meets the criteria, the court will order the creation of a CARE plan, which will include an individualized range of community-based services and supports. Stabilization medications may only be included in a CARE plan if the respondent is found to lack capacity and may not be forcibly administered.

9. What happens during the CARE Act process?

The court reviews petitions to determine if a respondent likely meets the criteria for the CARE Act. Depending on the determination, the court will either dismiss the petition, order a report from a county agency, or set an initial court appearance. If the case is not dismissed, the court will appoint an attorney for the respondent.

If the court finds a respondent meets the CARE Act requirements, the court will order the county behavioral health agency to work with the respondent, their attorney, and their supporter (if they have one), to determine if a CARE agreement will be possible. If it is determined that a CARE agreement is not likely to be reached, then there will be a clinical evaluation followed by a hearing to review that clinical evaluation. If the clinical evaluation finds that the respondent is eligible, a CARE plan will be developed and reviewed in a hearing. There will then be a status review hearing at least every 60 days. At month 11, there will be a one-year status review hearing to determine next steps, including graduation, electing to remain in the CARE process (for up to one additional year) or reappointment (which can only happen once).

10. What accountability measures are in the CARE Act?

If the respondent does not participate, the court may terminate the respondent from the process. Additionally, if the respondent was in a court-ordered CARE plan, was provided with all the services and supports in the plan in a timely manner, and the respondent failed to complete their plan, that fact will be considered if the respondent is in a Lanterman-Petris-Short (LPS) Act hearing with the presumption that the respondent needs additional intervention beyond what was in their plan. The CARE Act does not change the standard for LPS conservatorship.

If the county behavioral health agency or another local government agency does not comply with court orders, it may be fined up to $1,000 a day with a maximum $25,000 fine per individual violation. If the agency persistently violates court orders, the court may appoint a special master to secure court-ordered care for the respondent.

For more information visit the Adult Civil Mental Health webpage on the California Courts website, www.courts.ca.gov/.

Judicial Council of California

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