



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 23-094*

For business meeting on: May 12, 2023

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**Title**

Mental Health Law: Community Assistance, Recovery, and Empowerment Act

**Rules, Forms, Standards, or Statutes Affected**

Adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; amend rule 1.4; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-113, and CARE-115; approve forms CARE-050-INFO, CARE-107, CARE-111, CARE-116, and CARE-120

**Recommended by**

Probate and Mental Health Advisory Committee  
Hon. Jayne Chong-Soon Lee, Chair

**Agenda Item Type**

Action Required

**Effective Date**

September 1, 2023

**Date of Report**

April 5, 2023

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### Executive Summary

The Probate and Mental Health Advisory Committee recommends eleven new rules of court, one amended rule, and thirteen new forms to implement requirements in the Community Assistance, Recovery, and Empowerment (CARE) Act (Stats. 2022, ch. 319). The CARE Act establishes a new, noncriminal proceeding that authorizes a court—in response to a petition and after determining by clear and convincing evidence that the person for whom the petition is filed meets the necessary statutory criteria—to order the county behavioral health agency to work with the person to engage in services and determine whether a CARE agreement can be reached or, if those efforts are unsuccessful, to develop a CARE plan. Once the court has ordered a CARE

plan, the court must hold regular status hearings to review the progress of the person and the county behavioral agency with the services ordered. The act requires the Judicial Council to develop a mandatory petition form, any other forms necessary for the court process, and rules of court to implement provisions of the act governing judicial proceedings.

## **Recommendation**

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective September 1, 2023:

1. Rename title 7 of the California Rules of Court the “Probate and Mental Health Rules” and reorganize it as follows:
  - Separate title 7 into two divisions, division 1 and division 2;
  - Place the Probate Rules in division 1 and name division 1 “Probate Rules”;
  - Name division 2 “Mental Health Rules” and separate division 2 into two chapters;
  - Reserve chapter 1 of division 2 for future rules;
  - Name chapter 2 of division 2 “CARE Act Rules”; and
  - Place the rules recommended below in chapter 2 of division 2 of title 7;
2. Adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303 to implement provisions of the new CARE Act, as follows:
  - Rule 7.2201 states the purpose of the CARE Act rules;
  - Rule 7.2205 defines terms as used in those rules;
  - Rule 7.2210 circumscribes access to court records of CARE Act proceedings;
  - Rule 7.2221 specifies the contents of the petition packet and the clerk’s duties on receipt of a petition;
  - Rule 7.2223 clarifies the application of the statutory venue provisions and provides a procedure for transferring proceedings to the proper court if required;
  - Rule 7.2225 clarifies the persons authorized to file a petition;
  - Rule 7.2230 provides a framework for appointing and substituting counsel for the respondent;
  - Rule 7.2235 establishes procedures for serving notice and other documents;

- Rule 7.2240 establishes a process for responding to a motion to join a local government entity to CARE Act proceedings;
  - Rule 7.2301 establishes a process for the presiding judge or designee to issue an order to show cause and set a hearing for its return; and
  - Rule 7.2303 clarifies the respondent’s right to participate in all accountability hearings;
3. Amend rule 1.4 to reflect the inclusion of the new mental health rules in title 7 of the Rules of Court;
  4. Adopt *Information for Respondents—About the CARE Act* (form CARE-060-INFO), *Petition to Commence CARE Act Proceedings* (form CARE-100), *Mental Health Declaration—CARE Act Proceedings* (form CARE-101), *Order for CARE Act Report* (form CARE-105), *Notice of Order for CARE Act Report* (form CARE-106), *Notice of Initial Appearance—CARE Act Proceedings* (form CARE-110), *Notice of Respondent’s Rights—CARE Act Proceedings* (form CARE-113), and *Notice of Hearing—CARE Act Proceedings* (form CARE-115), as mandatory forms to implement requirements of the CARE Act, as follows:
    - Form CARE-060-INFO is for use to inform the respondent about the CARE Act, explain the nature of CARE Act proceedings, summarize petitioner’s and respondent’s rights, and describe the role of a supporter;
    - Form CARE-100 is for use to file a petition to begin CARE Act proceedings;
    - Form CARE-101 is for use to provide a declaration under Welfare and Institutions Code section 5975(d)(1);
    - Form CARE-105 is for use to order a report under Welfare and Institutions Code section 5977(a)(3)(B);
    - Form CARE-106 is for use to provide notice that a report has been ordered;
    - Form CARE-110 is for use to provide notice of the initial appearance;
    - Form CARE-113 is for use to inform respondents of their rights in the CARE Act process; and
    - Form CARE-115 is for use to provide notice of any hearing that occurs after the initial appearance in a CARE Act proceeding;
  5. Approve *Information for Petitioners—About the CARE Act* (form CARE-050-INFO), *Proof of Personal Service of Notice of Order for CARE Act Report* (form CARE-107), *Proof of Personal Service of Notice of Initial Appearance—CARE Act Proceedings* (form CARE-111), *Proof of Personal Service of Notice of Hearing—CARE Act Proceedings* (form CARE-

116), and *Request for New Order and Hearing—CARE Act Proceedings* (form CARE-120) to implement provisions of the CARE Act, as follows:

- Form CARE-050-INFO is for use to inform petitioners about the CARE Act process and instruct them how to properly fill out the petition, form CARE-100;
- Form CARE-107 is for use to provide proof of personal service of forms CARE-105 and CARE-106 on the respondent;
- Form CARE-111 is for use for proof of personal service of form CARE-110 on the respondent;
- Form CARE-116 is for use for proof of personal service of form CARE-115 on the respondent; and
- Form CARE-120 is for use to request a new or modified court order and a hearing on that request.

The recommended rules and forms are attached at pages 23–62.

### **Relevant Previous Council Action**

At the January 20, 2023, Judicial Council meeting, the council approved an allocation methodology to distribute funds to the first cohort of seven courts that will implement the CARE Act in fiscal year 2022–23. The council also approved distribution of funds to the State Bar of California for allocation by the Legal Services Trust Fund Commission to qualified legal services projects and support centers to be used for planning related to the CARE Act.

### **Analysis/Rationale**

The CARE Act took effect on January 1, 2023.<sup>1</sup> The act requires implementation by counties in two cohorts. The first cohort of 7 counties and their superior courts must begin implementation by October 1, 2023.<sup>2</sup> The second cohort, comprising the remaining 51 counties in California, must begin implementation by December 1, 2024.<sup>3</sup>

The CARE Act is intended to provide “a path to care and wellness” for Californians living with untreated schizophrenia spectrum and other psychotic disorders, which lead to risks to their health and safety and increased homelessness, incarceration, hospitalization, conservatorship,

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<sup>1</sup> The CARE Act was enacted as section 7 of Senate Bill 1338 (Stats. 2022, ch. 319) and is codified at Welfare and Institutions Code sections 5970–5987. All further unspecified statutory references are to the Welfare and Institutions Code.

<sup>2</sup> § 5970.5(a). The counties in the first cohort are Glenn, Orange, Riverside, San Diego, San Francisco, Stanislaus, and Tuolumne.

<sup>3</sup> § 5970.5(b). Los Angeles County has announced that it will implement one year early, in December 2023.

and premature death.<sup>4</sup> To achieve this end, the act authorizes specified adults to petition a superior court for a determination that the person for whom the petition is filed (the respondent) is eligible to participate in the CARE Act process and, if so, for an order beginning the CARE Act process for the respondent. (§§ 5972, 5975, 5977.)

If, following a hearing on the merits of the petition, the court finds, by clear and convincing evidence, that the respondent meets the statutory criteria for eligibility to participate in the CARE Act process, the court must order the county behavioral health agency to work with the respondent, the respondent's counsel, and the respondent's supporter, if any, to engage the respondent in behavioral health treatment and determine whether a CARE agreement for community-based services and support can be reached. (§ 5977(c)(2).) If the county and the respondent reach a CARE agreement, the court must either approve the agreement or modify the agreement and approve it as modified and then set a progress hearing. (§ 5977.1(a)(2).) If the parties cannot reach an agreement and are not likely to, the court must order a clinical evaluation of the respondent. (§ 5977.1(b).) At the clinical evaluation review hearing, the court must again determine whether, by clear and convincing evidence, the respondent meets the criteria for participation in the CARE process. (§ 5977.1(c)(2).) If the court finds that the respondent does meet those criteria, it must order the county behavioral health agency and the respondent, the respondent's counsel, and the respondent's supporter to jointly develop a CARE plan. (§ 5977.1(c)(3).)

The statute limits the services that may be included in a CARE agreement or plan to behavioral health services, medically necessary stabilization medications, housing resources, social services funded through Supplemental Security Income/State Supplementary Payment (SSI/SSP), state-funded programs such as CalFresh, and services provided through county general assistance programs, including health care (§ 5982(a)). The respondent or the county behavioral health agency, or both, may present a proposed CARE plan, and the court must adopt the elements of either or both plans that support the respondent's recovery and stability. (§ 5977.1(d)(1) & (2).) The court may also issue any orders necessary to support the respondent to access appropriate services and supports. (§ 5977.1(d)(2).) If the proposed CARE plan includes services and supports, such as housing, provided indirectly or directly through another local government entity, the court may consider a motion to add the local entity as a party to the CARE proceeding. (§ 5977.1(d)(4).) An approved CARE plan is valid for no more than one year. (§ 5977.1(e).)

Once the court has ordered a CARE plan, the court is required to hold regular status review hearings to review the progress of the respondent and the county behavioral health agency with the plan. (§ 5977.2.) At the one-year status hearing, the court will order the respondent and the county behavioral health agency to develop a graduation plan if the respondent wishes to graduate from the program; grant the respondent's request to continue to participate voluntarily for up to a year if the court finds that the respondent did not complete the CARE plan and would

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<sup>4</sup> Sen. Bill 1338, § 1(a).

benefit from continuation; deny the respondent’s request to continue; or order the respondent “involuntarily reappointed” to the program. (§ 5977.3.)

The CARE Act requires the Judicial Council to adopt rules and forms to implement its provisions. Specifically, section 5975 requires the council to adopt a petition form that includes specific information, as well as any other forms “necessary for the CARE process.” In addition, the council must “adopt rules to implement the policies and provisions” of sections 5977–5977.4 “to promote statewide consistency.” (§ 5977.4(c).) The rules must include, but need not be limited to, “what is included in the petition form packet, the clerk’s review of the petition, and the process by which counsel will be appointed.” (*Ibid.*)

### **New rules of court**

The committee recommends the addition of the new rules, referred to as the CARE Act rules, to a new division in title 7 of the Rules of Court, the current Probate Rules. Title 7 would be retitled the Probate and Mental Health Rules in amended rule 1.4.

### ***Preliminary rules 7.2201, 7.2205, and 7.2210***

Rules 7.2201, 7.2205, and 7.2210 state the purpose of the CARE Act rules, define terms, and consolidate the requirements of the multiple statutory provisions requiring confidentiality of court records of CARE Act proceedings.

### ***Commencement of proceeding rules 7.2221, 7.2223, 7.2225, and 7.2230***

Rules 7.2221, 7.2223, 7.2225, and 7.2230 guide the beginning of judicial proceedings under the CARE Act.

Rule 7.2221 fulfills two statutory mandates by prescribing use of the petition form and the documents to be filed with the form (the “petition packet”) and the clerk’s duties on receipt of a petition and other documents for filing.<sup>5</sup>

Rule 7.2223 specifies that the statutory venue provisions apply at the time of filing the petition. (§ 5973(a).) This rule also provides a procedure for a transferring court and the court of the respondent’s county of residence to use to ensure effective and expeditious transfer of the proceedings in the event of a transfer order.<sup>6</sup>

Rule 7.2225 clarifies the persons authorized to file a petition to commence CARE Act proceedings. Section 5974 authorizes persons with specific relationships to the respondent to file such a petition. In addition, section 5978 authorizes a court to refer a person to CARE Act proceedings from proceedings to determine a misdemeanor defendant’s competence to stand

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<sup>5</sup> Although the statute mandates a rule addressing “the clerk’s review of the petition,” the statute does not provide any authority for the clerk to review the petition or any basis on which to decline to file it. Because of the policy of both the legislative and judicial branches to promote access to the courts, proposed rule 7.2221(b) outlines only the clerk’s ministerial duties on receipt of a petition for filing.

<sup>6</sup> If the respondent resides in a county other than the one in which the petition is filed, the court must, if the respondent consents, transfer the case to the county of respondent’s residence as soon as possible. (§ 5973(b).)

trial, assisted outpatient treatment proceedings, and mental health conservatorship proceedings under the Lanterman-Petris-Short (LPS) Act.<sup>7</sup> The act, however, provides no exception to the petition requirement. Section 5978 specifies the person authorized to act as the petitioner on referral from assisted outpatient treatment or conservatorship proceedings but does not specify who will be the petitioner on a referral to CARE Act proceedings from misdemeanor proceedings under Penal Code section 1370.01.<sup>8</sup> The rule recognizes a county's authority to designate an agency to be the petitioner in those circumstances.<sup>9</sup>

Rule 7.2230 requires that respondent's counsel be appointed under procedures established by local rule, and not simply through an ad hoc process. Although the statute requires the rules of court to include "the process by which counsel will be appointed," it provides no guidance. The committee determined that imposing a single statewide process would inevitably elide relevant differences among the counties in the availability of qualified legal services projects, public defender systems, bench-bar relationships, and many other respects. Each court and county has experience appointing counsel in other types of proceedings and can leverage its experience and existing processes and systems to appoint counsel much more efficiently than it would be able to under a uniform statewide appointment process. In addition, the lack of clarity regarding the status of public funding for CARE Act appointments and the contingency of a qualified legal services project's eligibility for appointment on the availability of both that funding and the project's agreement to accept CARE Act appointments from the court led the committee to conclude that a rule specifying a statewide appointment process would be premature. To facilitate adequate representation, the rule does require that counsel be given a copy of the petition on appointment. Finally, the rule provides for substitution of counsel under specified circumstances and clarifies that, if the respondent exercises the right to be represented by counsel of the respondent's choice, the respondent must arrange for compensation of the chosen counsel.

#### ***Notice and joinder rules 7.2235 and 7.2240***

Rules 7.2235 and 7.2240 address notice and joinder. The CARE Act requires notice of several events to be given but rarely specifies the manner in which it must be given.

Rule 7.2235 provides notice procedures for three separate events. First, rule 7.2235(a) provides for notice of an order for a report to supplement the information in a petition that has made a prima facie showing that the respondent is eligible for the CARE Act process. (§ 5977(a)(3).) The statute requires the court to order the same agency ordered to file the report to serve notice

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<sup>7</sup> Although the statute authorizes these referrals, it does not specify to whom a referral should be made or supply a procedural mechanism for making the referral. In the absence of any legislative direction, the committee does not propose a rule in this proposal to address these issues.

<sup>8</sup> The amendments to Penal Code section 1370.01 authorizing referral of a misdemeanor defendant in proceedings to determine incompetence to stand trial to CARE Act proceedings were initially in SB 1338, but because section 1370.01 was also amended by Senate Bill 1223, and that bill was enacted after SB 1338, the amendments providing for CARE Act referral were ultimately enacted as part of SB 1223. (Sen. Bill 1223; Stats. 2022, ch. 735, § 3.5.)

<sup>9</sup> Although the act authorizes referral of a person to CARE Act proceedings and in some circumstances designates a person to serve as petitioner, it does not appear to require that every referral will lead to the filing of a petition.

of that order on the petitioner and the respondent. Because this notice may be the first time the respondent learns that someone has filed a CARE Act petition for them, the subdivision requires that respondent be served personally or, in the event that personal service is not practicable, by any method reasonably calculated to give the respondent actual notice. Proof of service on the respondent by an alternative method must include an explanation of why personal service is impracticable and why the method used is reasonably calculated to give the respondent actual notice. This subdivision also provides for notice that the court has granted an extension for filing the report, though this notice need not be personally served on the respondent. (§ 5977(a)(4).) The rule also requires a copy of the petition to be served with the order for report and notice of order.

Second, rule 7.2235(b) provides notice procedures for the initial appearance on the petition. This subdivision too requires that the respondent be served personally or, if personal service is not practicable, by any method reasonably calculated to give the respondent actual notice. Again, proof of service on the respondent by an alternative method must include an explanation of why personal service is impracticable and why the method used is reasonably calculated to give the respondent actual notice. Furthermore, rule 7.2235(b)(1) requires that notice of the initial appearance include a copy of the filed petition, *Notice of Respondent's Rights—CARE Act Proceedings* (form CARE-112), and *Information for Respondents—About the CARE Act* (form CARE-060-INFO).

Third, rule 7.2235(c) provides for service of notice of all other hearings in the CARE Act proceedings. Because of the possibility that the respondent may have misplaced *Notice of Respondent's Rights—CARE Act Proceedings* (form CARE-113), notice to respondent of each hearing must include a copy of that form. The subdivision requires that respondent be served personally or, if personal service is not practicable, by any method reasonably calculated to give the respondent actual notice. Proof of service on the respondent by an alternative method must include an explanation of why personal service is impracticable and why the method used is reasonably calculated to give the respondent actual notice. The subdivision also requires, subject to the respondent's consent, notice of hearings to be provided to the respondent's supporter.

Rule 7.2235(d) provides for the method of service of notice. Unless personal service is required, the rule authorizes any notice or document to be served personally or by mail, express mail, fax, if or overnight delivery on any person, and electronically as provided in Code of Civil Procedure section 1010.6 and rule 2.251.

Finally, rule 7.2240 provides procedures for joining a local government entity as a party. If a CARE plan includes services and supports provided directly or indirectly through a local government entity other than the county behavioral health agency, and the local entity does not agree to provide the service or support, section 5977.1(d)(4) authorizes the court to consider a motion by either of the parties to add the local entity as a party to the CARE Act proceedings. Rule 7.2240 supplies procedural conditions precedent to granting a motion for an order to join the local entity as a party. These conditions include issuance of an order to show cause, a hearing on the order, and service of the order in the same manner as a civil summons.



### ***Accountability rules 7.2301 and 7.2303***

Rules 7.2301 and 7.2303 address the accountability provisions of the act. Section 5979(b) provides a procedural mechanism for the court and its presiding judge or that judge's designee to exercise their authority to hold a county or other local government entity accountable for failing to provide the services and supports ordered in the CARE plan or failing to comply with other court orders. Rule 7.2301 provides a process for service of the order to show cause authorized by the statute. Rule 7.2303 provides that the respondent and respondent's counsel are entitled to be present and participate in any hearings held under section 5979.

### **New CARE Act forms**

#### **Information for Petitioners—About the CARE Act (*form CARE-050-INFO*)**

Form CARE-050-INFO is an information sheet that describes the CARE Act process and instructs petitioners how to properly fill out the petition form. It is targeted especially toward self-represented petitioners. After providing basic information, the form walks the petitioner item by item through the process of completing *Petition to Commence CARE Act Proceedings* (form CARE-100). The form describes the facts needed to support the petitioner's assertion that the respondent meets the eligibility criteria for participation in the CARE Act process (§ 5972) and explains other requirements, such as a signature under penalty of perjury (§ 5975). The form also details the petitioner's rights and the possible outcomes after a petition is filed.

#### **Information for Respondents—About the CARE Act (*form CARE-060-INFO*)**

Form CARE-060-INFO gives the respondent important information about the CARE Act and CARE Act proceedings. The recommended rules require the form to be served on the respondent twice before the initial appearance, both with the notice of an order for a CARE report, if one is ordered, and with the notice of an initial appearance. Form CARE-060-INFO explains what the CARE Act is, the possible identities and rights of each party, the role of a supporter, the CARE Act eligibility criteria, and what happens in the initial stages of the court proceedings. This information is intended to help the respondent understand what the court is asked to do and how the respondent may respond. Because the rules require that the form be served, the committee is recommending it as a mandatory form.

#### **Petition to Commence CARE Act Proceedings (*form CARE-100*)**

Form CARE-100 fulfills the mandate in section 5975 for a mandatory petition form. As required by statute, proposed form CARE-100 enables the petitioner to provide or allege all the content required by sections 5972 (eligibility criteria), 5973 (venue), 5974 (permitted relationships between the petitioner and the respondent), and 5975 (mandatory petition elements) to begin CARE Act proceedings. The form also includes optional fields that encourage early provision of information to the court, including whether the respondent has a tribal affiliation, is under conservatorship or juvenile jurisdiction, is served by a Regional Center, needs interpretation services or an accommodation for a disability, or is a veteran or current member of the armed forces, and whether the petition is brought on referral from a separate judicial proceeding.

### **Mental Health Declaration—CARE Act Proceedings (*form CARE-101*)**

Form CARE-101 provides a mechanism to fulfill the mental health affidavit requirement in section 5975(d)(1). In addition to the criteria in section 5972 needed to establish a respondent's eligibility for the CARE Act process, the act, at section 5975, requires the petition to include either the affidavit of a licensed behavioral health professional explaining why that person has determined, or has reason to believe, that the respondent meets the CARE Act's diagnostic criteria (§ 5975(d)(1)) or, as an alternative, evidence that the respondent was detained for more than two periods of intensive mental health treatment, the most recent no more than 60 days before the filing of the petition (§ 5975(d)(2)). The proposed rules require form CARE-101 to be attached to all petitions that are supported by the affidavit of a licensed behavioral health professional under section 5975(d)(1). The form itself provides a uniform framework and guidance for licensed behavioral health professionals to report the results of their assessments in the form of a declaration. Because the committee believes this format will facilitate a court's review of the petition, the form is recommended as a mandatory form.

### **Order for CARE Act Report (*form CARE-105*)**

Form CARE-105 is a form for the court to use to order a county agency to investigate and file a written report under section 5977(a)(3) as well as to give notice of that order. If the court determines that the petition makes a prima facie showing that the respondent meets or may meet the criteria to participate in the CARE Act process and the petitioner is *not* the director of a county behavioral health agency or their designee, under section 5977(a)(3)(B) the court must order a county agency or their designee to engage the respondent and file a written report that addresses the respondent's eligibility for the CARE Act process, documents the agency's efforts during the report period to engage the respondent in voluntary services, and predicts the respondent's ability to engage in voluntary services.<sup>10</sup> Form CARE-105 provides the court with a mandatory form that includes all the statutory requirements.

### **Notice of Order for CARE Act Report (*form CARE-106*)**

Form CARE-106 provides a uniform statewide mechanism for county agencies to use to provide notice of *Order for CARE Act Report* (form CARE-105). Section 5977(a)(3)(B) requires the court to order a county agency or its designee to give notice to the respondent and the petitioner that a report has been ordered.<sup>11</sup> Because receipt of this notice will probably be the first time the respondent learns of the CARE Act proceeding, the recommended rules require personal service on the respondent unless personal service is impracticable. Additional documents, including a

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<sup>10</sup> If the petitioner *is* the director of a county behavioral health agency or their designee, the court *may*, at the time it sets the initial appearance, order the county to submit a report addressing the respondent's eligibility for the CARE Act process and the respondent's ability to engage in voluntary services, as well as documenting the agency's past efforts to engage the respondent in voluntary services. (§ 5977(a)(3)(A)(iii).)

<sup>11</sup> If the county behavioral health agency is the petitioner, section 5977(a)(3)(A) authorizes the court, when it sets the initial appearance, to order that agency to submit a report. It does not, however, require notice of the order for a report separate from notice of the initial appearance.

copy of the filed petition and information about the CARE Act process, must accompany the notice. Form CARE-106 also specifies that these documents be attached.

**Proof of Personal Service of Notice of Order for CARE Act Report (*form CARE-107*)**

Form CARE-107 is an optional proof of service for a county agency to use to prove personal service on the respondent of *Notice of Order for CARE Act Report* (form CARE-106). Rule 7.2235(a) requires the county agency to serve this notice personally on the respondent unless personal service is impracticable. Form CARE-107 provides a uniform mechanism to prove personal service of the notice form and other required documents. Although other proofs of service are permissible, use of this form will enable courts to determine quickly and easily whether the respondent was properly served and received all the documents.

**Notice of Initial Appearance—CARE Act Proceedings (*form CARE-110*)**

Form CARE-110 is for a county agency to use to provide notice of the initial appearance. Under section 5977(a), when the court sets an initial appearance, the court must order notice of the initial appearance served on specified persons. If the county behavioral health agency is the petitioner, the court must order the agency director or their designee to serve the notice on the respondent, the respondent’s appointed counsel, and the behavioral health agency in the county where the respondent resides, if different from the county where the proceedings have commenced. (§ 5977(a)(3)(A)(iv).) If the county behavioral health agency is *not* the petitioner, the court must order “the county” to serve notice on those same persons, as well as the petitioner and the behavioral health agency in the county where the proceedings have commenced if the proceedings have commenced in a county different from the county where the respondent resides. (§ 5977(a)(5)(C)(iii).) Form CARE-110 also lists the documents that must, under the recommended rules of court, accompany notice to the respondent. Use of this mandatory form will ensure that proper notice, including all necessary documents, is provided.

**Proof of Personal Service of Notice of Initial Appearance—CARE Act Proceedings (*form CARE-111*)**

Form CARE-111 is an optional proof of service form for county agencies to use to prove personal service on the respondent of *Notice of Initial Appearance—CARE Act Proceedings* (form CARE-110). Section 5977(a)(5)(C)(iii) requires the court to order the county to give notice to the respondent that an initial appearance date has been set. Recommended rule 7.2235(b) requires the county to personally serve notice on the respondent unless personal service is impracticable. Although other proofs of service are permissible, use of this form will enable courts to determine quickly and easily whether the respondent was properly served and received all required documents.

**Notice of Respondent’s Rights—CARE Act Proceedings (*form CARE-113*)**

Form CARE-113 is a mandatory form to inform respondents of their procedural rights under the CARE Act. The CARE Act confers many rights, enumerated in several different statutory provisions. Section 5976 enumerates the respondent’s rights in the CARE Act process. Section 5976.5 establishes a presumption of closed hearings in CARE Act proceedings and respondent’s rights regarding that presumption. Section 5977(b)(1), (3), and (5) specify rights that may be

exercised at the initial appearance. Because the recommended rules require service of this notice of rights form on the respondent, the committee is recommending it for mandatory use.

**Notice of Hearing—CARE Act Proceedings (*form CARE-115*)**

Form CARE-115 is a mandatory form for use to provide notice of any CARE Act hearings after the initial appearance. Sections 5977(c) through 5977.3 establish the remaining court proceedings that can occur after the initial appearance. These include a hearing on the merits of the petition, a case management hearing, a progress hearing, a clinical evaluation review hearing, a CARE plan review hearing, multiple status review hearings, a one-year status hearing, and a graduation hearing. Notice of each of these hearings must be given to the parties. Proposed form CARE-115 would establish a single statewide form that parties would be required to use to provide notice of these hearings.

**Proof of Personal Service of Notice of Hearing—CARE Act Proceedings (*form CARE-116*)**

Form CARE-116 is an optional proof of service form for use to prove personal service on respondent of form CARE-115. As noted above, sections 5977(c) through 5977.3 establish the remaining court hearings that can occur after the initial appearance. Proposed rule 7.2235(c) requires notice of these hearings to be personally served on the respondent, unless personal service is impracticable. Although other proofs of service are permissible, use of this form will enable courts to determine quickly and easily whether the respondent was properly served and received all required documents.

**Request for New Order and Hearing—CARE Act Proceedings (*form CARE-120*)**

Form CARE-120 provides a mechanism for a party to request relief from the court. The request may arise due to a change in circumstances or a party's noncompliance with court orders, including the orders that constitute the CARE plan. For example, section 5977.2(b) authorizes the county behavioral health agency or the respondent to request a hearing due to a change in circumstances at any time during the CARE process. Section 5979 authorizes the court to make findings that the county or other local government entity is not complying with court orders. The committee recommends that this form be approved for optional use so as not to unduly restrict a party's options for seeking relief.

**Policy implications**

The CARE Act established a new framework for civil mental health outpatient court-ordered services and treatment. The new law has significant policy implications, but all can be attributed to the legislation itself. These recommended rules and forms will implement and facilitate those legislative policies.

**Comments**

The proposal was circulated for comment in the winter invitation-to-comment cycle, in December 2022 and January 2023; 47 comments were received from 54 commenters (including those who joined responses). Commenters include 21 advocacy organizations, 13 individuals, 7 county agencies including 2 county counsel, 4 superior courts, 2 public defenders, 2 private attorneys, a city attorney's office, a bar association, a justice, the Joint Rules Subcommittee

(JRS) of the Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee, and a state agency. Eight agreed with the proposal, 31 agreed if modified, 4 did not agree, and 11 did not indicate whether they agreed or disagreed with the proposal.

The commenters that did not agree with the proposal—ACLU California Action, Disability Rights California, the Western Center on Law and Poverty, and Human Rights Watch—based their disagreement on issues with the CARE Act itself, including the putative unconstitutionality of the act, and the failure of the recommended rules and forms to remedy those issues. Because the issues raised lie outside the scope of the proposal and, in some cases, beyond the Judicial Council’s purview, the committee does not recommend modifying its recommendation in response. These issues are more appropriately addressed to the Legislature for resolution.

The committee received extensive comments in response to the invitation to comment. Some of the areas with the most comments included the following:

- Service of notice
- Proof of service
- Confidentiality and access to records
- Clerks’ duties
- Transfer
- Appointment of counsel
- Information forms
- Forms for commencement of proceedings
- Notice of respondent’s rights

The committee thanks all commenters and appreciates the time taken to respond to this proposal.

This report includes a comprehensive summary of issues that were raised frequently in the comments. All comments received, and the committee’s responses, are provided in the attached chart of comments at pages 63–345.

The chart of comments is organized in the following order (in alphabetical order by commenter per category):

- General comments, at pages 63–133
- Responses to requests for specific comment, at pages 134–173
- Rules, addressed by article, at pages 174–232
- Forms, addressed individually, at pages 233–345

### ***Service of notice***

*Personal service on respondent.* The committee received numerous comments requesting notice of hearings to be served on the respondent personally to ensure actual delivery and receipt of each notice. Commenters noted the potential difficulties for service on respondents and that special consideration should be given to ensure confirmed physical delivery of notices to

individuals without a fixed address or experiencing homelessness who may be subject to CARE Act proceedings. Given the nature of the proceedings, actual notice will be crucial. With this in mind, the committee agrees that service on the respondent by mail is insufficient and has revised rule 7.2235(a), (b), and (c) to require personal service of notice on the respondent or, if personal service is impracticable, service by any method reasonably calculated to give the respondent actual notice.

*Service of a copy of the petition with notice of initial appearance.* In the invitation to comment, commenters were asked whether it is appropriate to require that a copy of the petition be served with notice of the initial appearance. Eighteen commenters (including those who joined responses) responded. Commenters include five advocacy groups, three county agencies, three superior courts, two county counsel, two individuals, a city attorney, a bar association, and a public defender. All of the commenters indicated support for providing a copy of the petition with the notice of initial appearance. Commenters noted that the respondent should receive the petition as soon as possible in the process and should be fully informed of the basis of the proceedings. Meanwhile, the County Behavioral Health Directors Association of California expressed concern that providing a copy of the petition would pose challenges for respondents who were unhoused or without a place to keep the information private or safe and recommended allowing the respondent to choose whether or not they want to be provided with a copy of the petition. Although the committee understands this concern, because it has determined that provision of a copy of the petition is required by due process and the majority of commenters supported providing a copy to respondents, the committee recommends retaining the requirement in the original proposal requiring the petition to be served with the notice of initial appearance. (Recommended rule 7.2235(b)(3)(B)(i).) In light of the comments, the committee also recommends modifying recommended rule 7.2235(a)(4) to require a filed copy of the petition also be included with *Notice of Order for CARE Act Report* (form CARE-106) and *Order for CARE Act Report* (form CARE-105) so the respondent receives a copy of the petition earlier in the proceedings.

*Alternative methods of service.* The committee received comments requesting alternatives to first-class mail when the rules require service of a document. Some commenters recommended express mail as an additional method of service. Other suggestions included service via facsimile, text, email, and other electronic means. The committee agrees and has added subdivision (d) to rule 7.2235 to authorize alternative methods of service. Rule 7.2235(d)(1) provides that any notice or document, unless required to be served personally, may be served personally, by first-class mail, express mail, or overnight delivery on any person. Rule 7.2235(d)(2) authorizes service by fax transmission as provided in rule 2.306. And rule 7.2235(d)(3) provides that, unless required to be served personally, any notice or other document may be served electronically under Code of Civil Procedure section 1010.6 and rule 2.251.

### ***Proof of Service***

In the invitation to comment, commenters were asked whether a single proof of service form for notice of the initial appearance—including check boxes to indicate whether service was provided

to each party personally or by mail and clear instructions that respondent must receive notice by personal service—would be as effective in ensuring that all parties receive proper notice as the division that was included in the invitation to comment with the proof of personal service on the reverse of the notice, form CARE-110, and proof of service by mail on form CARE-111. Ten commenters responded yes, three responded no, and one commenter was neutral.

Commenters who responded yes thought that having one form with checkboxes instead of two or more forms would be simpler. These commenters noted that having more than one form might cause confusion resulting in the petitioner not realizing both proofs of service are required and that having one form with possibly a separate section for personal service on respondent would be simpler. Unless the county behavioral health director is the petitioner, however, the CARE Act does not require a petitioner to serve any notices or other documents in the proceedings.

Commenters who responded no thought that two forms for proof of service would be necessary to reduce room for error by requiring a proof of personal service for the respondent and a separate proof of service for all other parties required to be noticed. These commenters also believed that two separate forms for proof of service would reduce confusion and highlight and reinforce the different service standards for the respondent and the other parties. Commenters further noted that requiring a separate proof of personal service for the respondent and an additional proof of service by first-class mail for all other parties required to be noticed would provide an efficient process by which the parties and the court could determine that appropriate service had been made.

Although most commenters suggested a single proof of service form, as described above, the committee agrees with the minority that a single form for proving service of multiple events by multiple methods was more likely to cause error and confusion and would not indicate as clearly to the court as separate proof of service forms that the respondent had received proper notice. The committee therefore recommends creating separate forms for proof of personal service on the respondent specific to each type of notice to ensure that proper service is easily confirmed by the court.

The committee also considered consolidating proof of service of the notices of all hearings and other events (i.e., order for report, initial appearance, other hearings) in the CARE Act process into a single proof of service form. The committee determined, however, that separate forms for proof of personal service on the respondent of the order for report, notice of initial appearance, and the remaining hearings would better allow the court to quickly and easily verify that the required service had been accomplished.

### ***Confidentiality and access to records***

The committee received numerous comments expressing concern about ensuring documents and proceedings remain confidential with the suggestion to create rules to ensure that. The committee notes that recommended rule 7.2210 provides that all documents filed or submitted to the court in these proceedings are confidential and strictly limits access to them. In response to these

comments, the committee also revised all forms that have a caption identifying the respondent to indicate on the top of every page that they are “CONFIDENTIAL.”

Some commenters requested additional rules or changes to the proposed forms to explicitly allow or require sharing of a respondent’s health information between the local county behavioral health agency, the county agency ordered to provide a report under section 5977(a), and the court. The committee determined that additional rules or revisions to forms to allow unrestricted information sharing were inappropriate because of the confidentiality protections in the CARE Act and other state and federal statutes. In addition, the committee concluded that rules were unnecessary to facilitate information sharing because agencies could request specific court orders authorizing disclosure of information.

In addition, some commenters requested immunity from liability under privacy laws for health care providers who share confidential information in CARE Act proceedings. The CARE Act does not, however, address immunity from liability for health care providers who provide private health information without the consent of the patient. The Legislature may not have considered this issue. Furthermore, the CARE Act includes three separate confidentiality provisions and no information-sharing provision. Considering the statutory protection of private health-related information and the express confidentiality provisions in the CARE Act, the committee has concluded that it should not recommend that the council, by rule of court, authorize the sharing of, or expand access to, information made confidential by statute beyond the parties to the CARE Act proceedings and their counsel.

The committee also received comments requesting that the rules authorize the respondent’s supporter, if any, to access case records because of the supporter’s role in assisting the respondent to understand and make decisions throughout the CARE process. The committee has modified its recommended rule 7.2210(b) to provide for a supporter to have access to the case records only to the extent authorized by the respondent.

Finally, the committee received comments asking that the rules allow county counsel or agency counsel to have access to filings and documents submitted to the court in CARE proceedings. The committee has modified recommended rule 7.2210(b) to allow access to case records to counsel for the county behavioral health director or the director’s designee.

***Service of the order for a report on the county agency***

Commenters were asked whether a mandatory statewide method for the court to serve *Order for CARE Act Report* on the county agency would be necessary or sufficient to ensure that the county agency receives the order, serves notice of the order on the required parties, and prepares the report. Seven commenters responded yes and six responded no. Commenters who responded yes thought that a mandatory statewide method would ensure uniform procedures, promote timely implementation of the statute, and ensure receipt of the orders and compliance with them. Those who opposed a mandatory statewide method indicated a local rule or process would be sufficient to achieve the purposes mentioned. One commenter stated that their court and county behavioral health agency currently have a process of referral and communication that is effective



and would not be improved by a statewide method for the court to serve *Order for CARE Act Report*. Another commenter noted given the variety of county sizes, populations, and resources across the state, it is often not practicable to employ a “one-size-fits-all” requirement, particularly when dealing with agencies outside of the court system.

The committee does not recommend a rule mandating a statewide method for the court to serve *Order for CARE Act Report* on the county agency. The court in each county has developed practices and procedures for serving its orders on county agencies, including nonparty agencies. For example, pursuant to section 331, a court may order a county agency to commence dependency proceedings using *Application to Review Decision by Social Worker Not to Commence Proceedings* (form JV-212), and there is no mandatory statewide method for serving that order. Furthermore, uniform procedures for serving court orders across county lines are beneficial only if the court issues such orders. The order for a CARE Act report is addressed to an agency in the same county as the court. The committee has determined that allowing each court and county to adapt existing local procedures to CARE Act proceedings will ultimately lead to less confusion than imposing a new, statewide method of service.

### ***Clerk’s duties***

The committee received numerous comments requesting specification of the court clerk’s duties upon receipt of noncompliant petitions. One commenter suggested providing a rule whereby the clerk must notify the petitioner if the petition is incomplete, while other commenters suggested including provisions on whether clerks would be authorized to reject noncompliant filings. The committee does not recommend a change to rule 7.2221(b)—which requires clerks to file a petition upon receipt—in response to this comment. The committee determined that implementing a provision that would place clerks in a position to decide whether to accept a petition or decide whether to request additional information could assist one party in a proceeding to the potential disadvantage of another party, thereby jeopardizing the perception of the court’s impartiality. Furthermore, case law makes clear that the clerk’s duties are ministerial.

### ***Transfer***

The committee received a comment proposing the addition of agency’s counsel to the list of those who should receive notice of transfer orders. The committee agreed and has added the agency’s counsel in both the transferring and receiving counties to rule 7.2223(b)(1)’s list of those who should be notified of a transfer order.

The committee received a comment requesting the definition or removal of the term “reasonable” in response to the requirement that a transferring court make a “reasonable inquiry” into the status of the transferred proceeding. The committee does not recommend the removal or definition of the term “reasonable” in response to this comment. Rule 7.2223 was modeled on the transfer provisions in Probate Code sections 2216 and 2217, which apply to transfer of probate guardianship or conservatorship proceedings. The committee determined the statutory process has worked well in those proceedings without a definition of “reasonable.”

### ***Appointment of counsel***

Several commenters requested a more detailed process for appointment of counsel to avoid inconsistent practices in different jurisdictions. The committee does not recommend establishing a uniform statewide process for appointment of counsel at this time. As discussed above, the committee determined that uniformity in the appointment process would lead to a lack of parity among counties in practice, and that, in any event, establishment of a statewide appointment process would be premature given the dependence of each legal service project's eligibility for appointment on the uncertain availability of funding and the project's agreement to accept these appointments.

### ***Information forms***

The committee received numerous comments about the information forms, CARE-050-INFO and CARE-060-INFO. Both forms outline the basics of the CARE Act, its proceedings, and give the intended audiences (petitioners on one and respondents on the other) background and material with which to understand and execute their roles in the process. Many commenters commended the ability of the forms to distill the complicated CARE process into plain language while also noting that the forms were still very complicated for lay audiences. Because the forms are the initial and primary medium for communicating information of CARE proceedings to lay petitioners and respondents, commenters noted the importance of making them as clear as possible.

The committee agreed that the information sheets should be as easy to understand as possible. In response to accessibility and usability comments, the committee revised both forms. Form CARE-050-INFO, for petitioners, has been revised to include more detailed information regarding alternatives to CARE Act proceedings, information to include if the respondent's location is unknown, and additional eligibility examples. The form has also been updated to include references and links to the online directory of superior court self-help centers and information regarding how to request an interpreter and how to request a disability accommodation.

Form CARE-060-INFO, for respondents, has been revised to include information on CARE Act eligibility criteria, which forms provide the appointed counsel's contact information, and the next steps if a CARE agreement is not reached. Form CARE-060-INFO has also been updated to include information regarding how to request an interpreter and how to request a disability accommodation.

In addition, the committee received numerous comments requesting a simplified version of form CARE-060-INFO using plainer language. The committee is considering a simpler version of the form in the future, but before recommending substantial changes, the new version will need to be circulated for public comment. In the meantime, the committee is recommending the modified version attached to this report.

The committee also received numerous comments recommending that the two information forms as well as well as *Notice of Respondent's Rights—CARE Act Proceedings* (form CARE-113) be

made available in multiple languages for individuals who are either limited English proficient or non-English speaking. The committee agrees that language access is critical. The committee recommends that these forms be prioritized for translation as resources become available.<sup>12</sup>

### ***Forms for commencement of proceedings***

The committee received numerous comments regarding the forms for use to commence CARE Act proceedings, particularly pertaining to the petition (form CARE-100) and mental health declaration (form CARE-101).

*Petition.* The committee received comments requesting revisions to item 3 of the petition (form CARE-100) to include additional contact and location information of the respondent. Based on the comments received, the committee modified the form to encourage the petitioner to provide additional information about the respondent, if known. In particular, commenters noted the potential difficulty posed by service on and engagement with respondents with no fixed address. The revised form CARE-100 now includes direction to the petitioner to include additional contact information, if known, of the respondent, such as phone number and whether the respondent can receive text messages and email.

The committee also expanded the items in the optional information section in form CARE-100. For example, the recommended form now provides petitioners the opportunity to give information on interpreter and disability accommodation needs to facilitate their access to the CARE Act process. Additionally, in response to comments, this section allows the petitioner to indicate if the respondent is under juvenile court jurisdiction, under a conservatorship, a Regional Center client, or a veteran or current member of the military.

The committee also received comments requesting a change to form CARE-100 to allow individuals to file a petition for a respondent who does not yet have a diagnosis, but the committee does not recommend such a change. Section 5972(b) requires that, for an individual to be eligible for the CARE process, the person must meet the following criterion: “the person ... *has* a diagnosis identified in the disorder class: schizophrenia spectrum and other psychotic disorders” (emphasis added). Section 5975(c) requires the petition to include facts that support the petitioner’s assertion that the respondent meets that criterion, along with all other criteria. There is no discretion in the statute for the proposed change.

*Mental health declaration.* The committee received comments requesting revisions to item 7 of form CARE-101 to include yes/no check boxes for each sub-item. The committee does not recommend including yes/no check boxes, as they may lead the declarant to limit their responses to just checking the box and not providing more information or explaining further.

The committee also received comments requesting the addition of detailed examples to item 7 of form CARE-101. The committee does not recommend including the proposed language. The

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<sup>12</sup> The committee notes that additional edits to these forms may be necessary in the future to ensure that these information forms are more accessible to lay audiences.

committee has determined that because the form is to be completed by a mental health professional, responses may be limited if the form provides such specific examples of the type of information sought.

*Form to provide evidence under Section 5975(d)(2).* The committee sought specific comment on whether a form for the petitioner to provide evidence under section 5975(d)(2) of a respondent's multiple intensive treatments would serve a function that is not more effectively served by direct documentary evidence of those treatments.

Eight commenters responded yes and five responded no. Commenters who responded yes thought it would be helpful to have such a form and that it could simplify the process. Commenters who opposed the form thought that only direct documentary evidence should be permitted. One commenter noted that requiring direct evidence would prevent frivolous or inappropriate filings by petitioners who may incorrectly file a petition with the court based on documentation of treatment that is not pursuant to Welfare and Institutions Code section 5250. Other commenters noted an additional form for the petitioner to complete would result in a more cumbersome petition packet that is already lengthy and could lead to confusion or delay in the filing of the petition or dismissal by the court due to failure to use the required form.

After considering the comments received, the committee does not recommend a separate form for providing the evidence under section 5975(d)(2) and has determined that a specific form would be unnecessary for this process. Relevant statements by the petitioner may be included on the petition, while additional documentary evidence may be attached to the petition itself.

### ***Notice of respondent's rights***

The committee received comments requesting the inclusion of additional rights in form CARE-113, such as respondent's right to have a court-appointed interpreter. The committee agrees that language access is critical but does not recommend any change to the proposal in response to this comment. The form recites the rights contained or described in the CARE Act.<sup>13</sup> Nevertheless, the committee recommends adding information about how to request an interpreter and how to request a disability accommodation to form CARE-113, as well as forms CARE-050-INFO and form CARE-060-INFO because that information is regularly included in Judicial Council forms.

Another commenter requested information be provided regarding the right to be free from harassment and frivolous proceedings and the right to oppose the petition and put forward defenses. The committee does not recommend the suggested change for the reasons set forth above. In addition, respondents will have access to appointed counsel at all stages of the proceedings and that appointed counsel will be able to assist respondent in navigating through the court process, including presenting defenses as appropriate.

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<sup>13</sup> The rights included on the form are enumerated in sections 5976, 5976.5, and 5977(b)(1), (3), and (5).

### **Alternatives considered**

The committee did not consider taking no action. The CARE Act requires the Judicial Council to adopt rules and forms to implement its policies and provisions. Specifically, section 5977.4(c) requires the Judicial Council to “adopt rules to implement the policies and provisions” of sections 5977–5977.4 “to promote statewide consistency.” The rules must include but are not limited to “what is included in the petition form packet, the clerk’s review of the petition, and the process by which counsel will be appointed.” (§ 5977.4(c).) Furthermore, section 5975 requires the council to “develop a mandatory form for use to file a CARE process petition with the court and any other forms necessary for the CARE process.” The proposed rules and forms fall within this express mandate and are necessary to implement SB 1338.

The committee met numerous times to develop the recommended rules and forms, to wrestle with issues in the statute, and to consider alternatives, including several that are not included in the recommendation. A few of these alternatives are discussed here.

#### ***Additional rule for continuances***

The committee considered comments requesting additional rules for continuances of court dates, including hearings on the merits and initial appearances, on good cause shown, especially where the respondent has no physical address, but good faith attempts have been made to contact the respondent to no avail. The committee does not recommend addressing continuances in the rules. Sections 5977(a)(4) and 5977.1(a)(2)(B), (c)(1), (d)(5), and (d)(6) specify in detail the required timelines for setting hearings. The committee expects that, to the extent necessary, a court’s inherent authority to manage its calendar will allow the court to address requests for continuances on a case-by-case basis.

#### ***Additional forms***

The committee considered comments requesting additional forms for mandatory use. One commenter requested the following additional forms: a status review form, to be completed by the agency or other professionals before the 60-day status review hearings; a 12-month/1-year status report form to be completed by the agency or other professionals before the 12-month/1-year mark to assess the participation and progress of the CARE participant; and a termination/graduation form to be completed by the court when a CARE participant has been terminated from CARE court, either successfully or unsuccessfully. In addition to these forms being outside the scope of the current proposal, the committee does not recommend developing the suggested forms. Because of the variability among CARE plans, statewide uniformity in forms would be of minimal use to parties and courts.

Another commenter proposed separating the petition into two forms, form CARE-100 and a form titled *Petitioner’s Declaration of Eligibility* (form CARE-102). The second form would have provided structured, specific space for discussing all the eligibility requirements in item 5 of form CARE-100. The committee does not plan to develop the proposed form but expanded the fillable fields in item 5 of form CARE-100 to give the petitioner more space to explain their reasons for asserting that the respondent is eligible for CARE Act proceedings, criterion by

criterion. The committee determined that a single narrative supporting all criteria was likely to be overly general, duplicative of the petition, or both.

### ***Additional proof of service forms***

The committee developed three additional proof of service forms to be used to serve parties and other individuals eligible for notice, other than the respondent. The committee considered proposing these optional forms for proof of service for the notice of order for CARE Act report, proof of service for the notice of initial appearance, and proof of service for the notice of hearing. However, the committee does not recommend the approval of these forms at this time because existing forms serve the same purpose. *Proof of Service of Summons* (form POS-010), *Proof of Service—Civil* (form POS-040), or other generally applicable forms may be used to prove that those parties and persons were served as required. The committee will monitor proof of service issues in CARE Act proceedings and may consider future action if warranted.

### **Fiscal and Operational Impacts**

The CARE Act itself poses significant fiscal and operational challenges for the trial courts, which need to create a new proceeding from the ground up. Limited funding to prepare for the operation of the act in the first cohort of seven courts on October 1, 2023, is included in this year's trial court budget. The Governor's January draft budget for fiscal year 2023–24 includes \$23.8 million for judicial branch funding for this purpose. That amount would increase to \$50.6 million in 2024–25, and \$68.5 million in 2025–26 and ongoing.

On the other hand, the proposed rules and forms themselves should not have a significant fiscal or operational impact on the courts. They are intended, in part, to mitigate the operational impact of implementing the CARE Act by providing procedural guidance and standard mechanisms for commencing a proceeding under the act, giving notice of hearings and other proceedings under the act, and providing information to the parties. The proposal also leaves trial courts with flexibility to fine-tune their CARE Act processes by developing and adopting local rules.

### **Attachments and Links**

1. Cal. Rules of Court, rules 1.4, 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303, at pages 23–31
2. Forms CARE-050-INFO, CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-107, CARE-110, CARE-111, CARE-113, CARE-115, CARE-116, and CARE-120, at pages 32–62
3. Chart of comments, at pages 63–345
4. Link A: Sen. Bill 1338,  
[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220SB1338](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB1338)

Rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303 of the California Rules of Court are adopted, and rule 1.4 is amended, effective September 1, 2023, to read:

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**Title 1. Rules Applicable to All Courts**

**Chapter 1. Preliminary Rules**

**Rule 1.4. Contents of the rules**

**(a) The titles**

The California Rules of Court includes the following titles:

(1)–(6) \* \* \*

(7) Title 7. Probate and Mental Health Rules

(8)–(10) \* \* \*

**(b)–(d) \* \* \***

**Title 7. Probate and Mental Health Rules**

**Division 1. Probate Rules**

**Rules 7.1.–7.1105. \* \* \***

**Division 2. Mental Health Rules**

**Chapter 1. [Reserved]**

**Chapter 2. CARE Act Rules**

**Article 1. Preliminary Provisions**

**Rule 7.2201. Title and purpose**

The rules in this chapter may be referred to as the CARE Act rules. These rules are intended to implement the policies and provisions governing judicial proceedings under the CARE Act.

1  
2  
3 **Rule 7.2205. Definitions**  
4

5 As used in this chapter, the terms defined in Welfare and Institutions Code section 5971  
6 have the meaning stated in that section. In addition, as used in this chapter:

- 7  
8 (1) “CARE Act” refers to the Community Assistance, Recovery, and Empowerment  
9 Act, as codified at Welfare and Institutions Code sections 5970–5987.  
10  
11 (2) “Intensive treatment” is involuntary mental health treatment authorized under  
12 section 5250.  
13  
14 (3) A “section” is a section of the Welfare and Institutions Code unless otherwise  
15 specified.  
16  
17

18 **Rule 7.2210. General provisions**  
19

20 **(a) Local rules**  
21

22 A superior court may, subject to the limits in the CARE Act and these rules, adopt  
23 local rules to govern CARE Act proceedings.  
24

25 **(b) Access to records (§ 5977.4(a))**  
26

27 All documents filed and all evaluations, reports, and other documents submitted to  
28 the court in CARE Act proceedings are confidential, notwithstanding disclosure of  
29 their contents during a CARE Act hearing. No person other than the respondent, the  
30 respondent’s counsel, the county behavioral health director or the director’s  
31 designee, counsel for the director or the director’s designee, and, with the  
32 respondent’s express consent given in writing or orally in court, the respondent’s  
33 supporter may inspect the case records without a court order.  
34  
35

36 **Article 2. Commencement of Proceedings**  
37  
38

39 **Rule 7.2221. Papers to be filed**  
40

41 **(a) Petition packet (§ 5975)**  
42



1 A petition to commence CARE Act proceedings must be made on *Petition to*  
2 *Commence CARE Act Proceedings* (form CARE-100). The petition must include  
3 either:

4  
5 (1) A completed *Mental Health Declaration—CARE Act Proceedings* (form  
6 CARE-101); or

7  
8 (2) The evidence described in section 5975(d)(2).

9  
10 **(b) Acceptance of papers for filing**

11  
12 On receipt of a petition, the clerk must file the petition packet, assign a case  
13 number, and place the packet in a confidential file.

14  
15  
16 **Rule 7.2223. Venue and transfer (§ 5973)**

17  
18 **(a) Filing**

19  
20 A petition to commence CARE Act proceedings may be filed in the superior court  
21 of:

22  
23 (1) The county where the respondent resides at the time of filing;

24  
25 (2) The county where the respondent is found at the time of filing; or

26  
27 (3) A county where the respondent is a defendant or respondent in a pending  
28 criminal or civil action or proceeding.

29  
30 **(b) Transfer**

31  
32 If the court orders the proceeding transferred to the superior court of the  
33 respondent's county of residence, the courts must proceed as follows:

34  
35 (1) The clerk of the transferring court must mail notice and a copy of the order  
36 to:

37  
38 (A) The petitioner and petitioner's counsel, if any;

39  
40 (B) A former petitioner to whom the court has assigned notice rights under  
41 section 5977(b)(7)(B)(ii), if any;

- 1 (C) The respondent, the respondent’s counsel, if any, and, with the  
2 respondent’s express consent given in writing or orally in court, the  
3 respondent’s supporter, if any;  
4  
5 (D) The county behavioral health agency of the county in which the petition  
6 was filed and the agency’s counsel, if the agency is not the petitioner;  
7  
8 (E) The county agency preparing a report ordered under section  
9 5977(a)(3)(B) and the agency’s counsel; and  
10  
11 (F) The county behavioral health agency in the respondent’s county of  
12 residence and the agency’s counsel.  
13  
14 (2) The clerk of the transferring court must transmit to the clerk of the receiving  
15 court a certified copy of the order and all papers on file in the proceeding.  
16  
17 (3) When a court receives the case file of a transferred proceeding, the receiving  
18 court must send written notification of receipt to the transferring court.  
19  
20 (4) If the transferring court has not received a notification of receipt within 60  
21 days of the transfer order, it must make a reasonable inquiry into the status of  
22 the transferred proceeding.  
23  
24

25 **Rule 7.2225. Petitioner (§§ 5974, 5978)**

26  
27 **(a) Persons who may file petition**

28  
29 A petition to commence proceedings under the CARE Act may be filed by any of  
30 the persons identified in section 5974 or, in the circumstances specified therein,  
31 section 5978.  
32

33 **(b) Petitioner on referral under Penal Code section 1370.01**

34  
35 On referral by a court under Penal Code section 1370.01, an agency designated by  
36 the county will be the petitioner.  
37  
38

39 **Rule 7.2230. Counsel for respondent (§§ 5976(c), 5977(a)(3)(A), (a)(5)(C) & (b)(1))**

40  
41 **(a) Appointment**  
42

1 If the court finds that the petitioner has made a prima facie showing that the  
2 respondent is or may be a person described by section 5972, the court must, in  
3 accordance with procedures established by local rule:

- 4
- 5 (1) Appoint a qualified legal services project as counsel to represent the  
6 respondent; or
- 7
- 8 (2) If no qualified legal services project has agreed to accept CARE Act  
9 appointments from the court, appoint a public defender or an attorney acting  
10 in that capacity to represent the respondent.

11

12 **(b) Copy of petition**

13

14 On appointment, the court must provide a copy of the petition packet to appointed  
15 counsel.

16

17 **(c) Substitution (§ 5977(b)(1))**

- 18
- 19 (1) The court may relieve appointed counsel:
- 20
- 21 (A) At the request of counsel or the respondent, on substitution of the  
22 respondent's own chosen counsel or appointment of substitute counsel;  
23 or
- 24
- 25 (B) For cause, on appointment of substitute counsel.
- 26
- 27 (2) The respondent must make arrangements for the compensation, if any, of  
28 chosen counsel.
- 29
- 30

31 **Article 3. Notice and Joinder**

32

33

34 **Rule 7.2235. Notice of proceedings (§§ 5977–5977.3, 5979)**

35

36 **(a) Notice of order for report to augment petition (§ 5977(a)(3) & (4))**

- 37
- 38 (1) Before engaging the respondent and preparing a report ordered under section  
39 5977(a)(3)(B), the county agency ordered to file the report and serve notice  
40 of that order must give written notice to the respondent by serving the  
41 respondent personally or, if personal service is not practicable, by any  
42 method reasonably calculated to give the respondent actual notice. Proof of  
43 service on the respondent by any method other than personal service must

1 include an explanation why personal service is impracticable and why the  
2 alternative method of service used is reasonably calculated to give the  
3 respondent actual notice.  
4

5 (2) The county agency must give notice to the respondent’s counsel and the  
6 petitioner as provided in (d).  
7

8 (3) Notice must be given on *Notice of Order for CARE Act Report* (form CARE-  
9 106) and must include a copy of *Order for CARE Act Report* (form CARE-  
10 105) issued by the court.  
11

12 (4) Notice to the respondent and the respondent’s counsel must also include a  
13 copy of the petition packet filed to begin the proceedings and *Information for*  
14 *Respondents—About the CARE Act* (form CARE-060-INFO).  
15

16 (5) If the court grants the county agency additional time to engage the respondent  
17 in voluntary treatment and services before filing the report, the county agency  
18 must, within five calendar days of the order, serve written notice of the  
19 extended report deadline on the respondent, the respondent’s counsel, and the  
20 petitioner on form CARE-106 as provided in (d).  
21

22 **(b) Notice of initial appearance (§ 5977(a)(3)(A), (a)(5)(C))**  
23

24 (1) The county must give at least five court days’ notice of the date, time, and  
25 location of the initial appearance under section 5977(b) to the respondent and  
26 the respondent’s counsel, the petitioner and the petitioner’s counsel unless the  
27 county behavioral health agency is the petitioner, and, if the respondent does  
28 not reside in the county where the petition is filed, the county behavioral  
29 health agency in the respondent’s county of residence and the agency’s  
30 counsel.  
31

32 (2) Notice must be given on *Notice of Initial Appearance—CARE Act*  
33 *Proceedings* (form CARE-110).  
34

35 (3) *Notice to respondent*  
36

37 (A) Notice must be served personally on the respondent or, if personal  
38 service is not practicable, by any method reasonably calculated to give  
39 the respondent actual notice. Proof of service on the respondent by any  
40 method other than personal service must include an explanation why  
41 personal service is impracticable and why the alternative method of  
42 service used is reasonably calculated to give the respondent actual  
43 notice.

1  
2 (B) Notice to the respondent must include copies of the following:

3  
4 (i) The petition packet filed to begin the proceedings;

5  
6 (ii) Any report ordered and filed under section 5977(a)(3);

7  
8 (iii) Notice of Respondent's Rights—CARE Act Proceedings (form  
9 CARE-113); and

10  
11 (iv) Information for Respondents—About the CARE Act (form CARE-  
12 060-INFO).

13  
14 (4) Notice to respondent's counsel

15  
16 (A) Notice must be served on the respondent's counsel by any method  
17 provided in (d).

18  
19 (B) Notice to the respondent's counsel must include copies of the  
20 following:

21  
22 (i) The petition packet filed to begin the proceedings; and

23  
24 (ii) Any report ordered under section 5977(a)(3).

25  
26 (5) Notice to other persons

27  
28 Notice must be served on all other persons entitled to receive notice by any  
29 method provided in (d).

30  
31 (c) **Notice of other hearings (§§ 5977–5977.3, 5979)**

32  
33 (1) The county must give at least five court days' notice of any hearing after the  
34 initial appearance to the respondent, the respondent's counsel, any local  
35 government entity the court has joined as a party to the proceedings, and,  
36 with the respondent's express consent given in writing or orally in court, the  
37 respondent's supporter.

38  
39 (2) Notice must be given on *Notice of Hearing—CARE Act Proceedings* (form  
40 CARE-115) and, except as provided in (3), served as provided in (d).

41  
42 (3) Notice to the respondent must be served personally or, if personal service is  
43 not practicable, by any method reasonably calculated to give the respondent

1            actual notice and include a copy of *Notice of Respondent’s Rights—CARE*  
2            *Act Proceedings* (form CARE-113). Proof of service on the respondent by  
3            any method other than personal service must include an explanation why  
4            personal service is impracticable and why the alternative method of service  
5            used is reasonably calculated to give the respondent actual notice.

6  
7            (4) Notice to the respondent and the respondent’s counsel of a clinical evaluation  
8            hearing under section 5977.1(c) must include a copy of the evaluation  
9            ordered under section 5977.1(b).

10  
11           (5) Notice to the respondent and the respondent’s counsel of a status review  
12           hearing under section 5977.2(a)(1) must include a copy of the report required  
13           by that section.

14  
15           (6) Notice to the respondent and the respondent’s counsel of a one-year status  
16           hearing under section 5977.3(a)(1) must include a copy of the report required  
17           by that section.

18  
19           **(d) Method of service**

20  
21           Unless personal service is required, any notice or other document required by this  
22           rule to be served may be served as follows:

23  
24           (1) Personally or by first-class mail, express mail, or overnight delivery on any  
25           person;

26  
27           (2) By fax transmission as provided in rule 2.306; or

28  
29           (3) Electronically as provided in Code of Civil Procedure section 1010.6 and rule  
30           2.251.

31  
32  
33           **Rule 7.2240. Joinder of local government entity (§ 5977.1(d)(4))**

34  
35           **(a) Order to show cause**

36  
37           Before granting a motion or request to join as a party to the proceedings another  
38           local government entity that would be required to provide a service or support  
39           under a proposed CARE plan, the court must:

40  
41           (1) Order the local government entity and all parties to show cause why the  
42           entity should not be joined as a party to the CARE Act proceedings and  
43           ordered to provide the service or support; and

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(2) Set the hearing on the order to show cause no fewer than 15 calendar days after the date of the order’s issuance.

**(b) Manner of service**

The moving party must serve the order to show cause on the local government entity in the manner of a summons as provided in Code of Civil Procedure sections 415.10 and 416.50.

**Article 4. Accountability**

**Rule 7.2301. Order to show cause (§ 5979(b))**

When a presiding judge or the presiding judge’s designee issues an order to show cause why the county or other local government entity should not be fined for not complying with court orders, as provided in section 5979(b)(2)(A), the clerk must serve the order to show cause on the county or other government entity and the parties and their counsel no fewer than 15 calendar days before the date set for hearing.

**Rule 7.2303. Participation in accountability hearings (§ 5979)**

The respondent and the respondent’s counsel are entitled to be present at and participate in all proceedings under section 5979(a) and (b).

**CARE-050-INFO** Information for Petitioners—About the CARE Act

This information sheet describes the CARE Act and how to fill out *Petition to Commence CARE Act Proceedings* (form CARE-100). You may also be able to receive assistance at the court self-help center. Go to <https://selfhelp.courts.ca.gov/self-help/find-self-help> to find one for your court.

**1 What is the CARE Act?**

CARE stands for Community Assistance, Recovery, and Empowerment. The CARE Act is a way to allow specific people, called “petitioners,” to request court-ordered treatment, services, support, and a housing plan for certain people, called “respondents,” who have certain untreated severe mental illnesses, specifically schizophrenia or another psychotic disorder. A respondent must be 18 years of age or older.

CARE Act proceedings involve assessments and hearings to determine whether the respondent meets eligibility requirements. A county behavioral health agency will be involved in the process. If the respondent meets the standards for CARE eligibility, a CARE agreement or plan may be created and, if approved, ordered by the court.

**2 What is a CARE agreement or CARE plan?**

A CARE agreement and a CARE plan are written documents that specify services designed to support the recovery and stability of the respondent. They must be approved by court order. They may include clinical behavioral health care; counseling; specialized psychotherapies, programs, and treatments; stabilization medications; a housing plan; and other supports and services directly and indirectly through a local government entity. Stabilization medications must not be forcibly administered.

A CARE agreement is a voluntary agreement entered into by a respondent and the county behavioral health agency after a court has found that the respondent is eligible for the CARE program. The agreement is subject to court modification before approval.

A CARE plan is an individualized range of community-based services and supports for the respondent that is ordered by the court.

**3 Have you considered alternatives to CARE Act proceedings?**

There may be other ways to help a person with a severe mental illness. If the person has commercial health insurance, contact the health plan/insurer. If you do not know if the person has commercial health insurance or if they do not have commercial insurance, contact your county’s behavioral health agency or check its website for services. County behavioral health agencies offer an array of services, from counseling, psychiatrists, psychologists, or therapists, to full-service partnerships, rehabilitative mental health services, peer support services, intensive case management, crisis services, residential care, substance disorder treatment, assertive community treatment, and supportive housing. Counties are required to provide services to Medi-Cal beneficiaries who qualify for specialty mental health and substance use disorder services, but may also provide access to their services to a broader population, depending on local funding and eligibility criteria, without a court order.

A *full-service partnership* is designed for a person with a severe mental illness who would benefit from an intensive service program. A full-service partnership can assist a person who is homeless, involved with the justice system, or uses crisis psychiatric care frequently. *Assertive community treatment* is a form of mental health care provided in a community setting to help a person become independent and integrate into the community as they recover.

Find out if the person has made an advance health care directive or psychiatric advance directive, designating someone else to make health care decisions on their behalf when they cannot. Consider looking into local social services and community-based organizations, too.





**CARE-050-INFO** Information for Petitioners—About the CARE Act**4** How do I complete *Petition to Commence CARE Act Proceedings (form CARE-100)*?**Item 1: Who Can Be the Petitioner?**

The petitioner is the person who is requesting to start CARE Act proceedings for a person with a severe mental illness who needs help.

To be a petitioner, you must be 18 years of age or older and you **must** fall within one of the following categories to be able to request CARE Act proceedings for a respondent:

- A person who lives with the respondent.
- A spouse or registered domestic partner, parent, sibling, child, or grandparent of the respondent.
- A person who stands in the place of a parent to the respondent.
- The director of a hospital, or their designee, in which the respondent is or was recently hospitalized.
- The director of a public or charitable agency, or their designee, who has within the last 30 days provided or who is currently providing behavioral health services to the respondent or in whose institution the respondent resides.
- A licensed behavioral health professional, or their designee, who is or has been supervising the treatment of or treating the respondent for mental illness within the last 30 days.
- The director of a county behavioral health agency, or their designee, of the county where the respondent resides or is found.
- A judge of a tribal court located in California, or their designee.
- The director of adult protective services, or their designee, of the county where the respondent resides or is found.
- The director of a California Indian health services program or a California tribal behavioral health department, or their designee.
- A first responder—including a peace officer, firefighter, paramedic, emergency medical technician, mobile crisis response worker, or homeless outreach worker—who has had repeated interactions with the respondent in the form of multiple arrests, detentions, and transportation under Welfare and Institutions Code section 5150, multiple attempts to engage the respondent in voluntary treatment, or other repeated efforts to aid the respondent in obtaining professional assistance.
- The public guardian or public conservator, or their designee, of the county where the respondent is present or reasonably believed to be present, or a private court-appointed conservator under the Lanterman-Petris-Short (LPS) Act, if referred from the LPS court.
- The respondent.

In item 1, enter your name and check the box next to the eligible petitioner type or types that apply to you.

**Item 2: Relationship to the Respondent**

Enter the respondent's name in item 2a and describe the nature of your relationship with the respondent in item 2b. If you are a petitioner from a hospital, a public or charitable agency, a first responder, or a licensed behavioral health professional who has been treating or supervising the respondent, you must include the number of interactions, the date of the most recent interaction, and the nature and outcome of each interaction in 2c.

**Item 3: Respondent's Address or Last Known Location**

If you know where the respondent lives, include the address in item 3. If you do not know the respondent's address, or if they do not have one, specify that the address is unknown and provide the last known location and any additional contact information that may be useful to locate the respondent, such as a phone number or email address.

**Item 4: County of Filing**

In item 4, explain why it is appropriate to file the petition in the county where you are filing. The respondent must either live in the county, currently be in the county, or be facing a legal case in the county. Check all that apply. If the person does not live in the county, it is also helpful to include where they live, if you know.



**CARE-050-INFO** Information for Petitioners—About the CARE Act

**Item 5: Respondent Eligibility**

You must provide facts and supporting information to show that the respondent is eligible for CARE Act proceedings. All of the following requirements, listed in item 5 of form CARE-100, must be met for the respondent to be eligible. Please note that the examples below are only examples of circumstances that **may** qualify. All determinations of eligibility are case-specific.

Requirements	Explanations	Examples
<b>The respondent must be 18 years old or older (item 5a) and must:</b>		
<p>Have a diagnosis of a schizophrenia spectrum disorder or another psychotic disorder in the same class, as defined in the current <i>Diagnostic and Statistical Manual of Mental Disorders</i> (item 5b).</p>	<p>Only a person with a schizophrenia spectrum or other psychotic disorder is eligible for the CARE Act process. A person only with another serious mental illness, such as bipolar disorder or major depression, is not eligible.</p> <p><b>Note:</b> The psychotic disorder must not be based on a medical condition, including a physical health condition such as a traumatic brain injury, autism, dementia, or a neurological condition. A person with a current diagnosis of substance use disorder must also have a psychotic disorder and meet all the other criteria in item 5 to be eligible.</p>	<p>Schizophrenia, schizophreniform disorder, schizoaffective disorder, delusional disorder, schizotypal personality disorder, and other psychotic disorders.</p>
<p>Be currently experiencing a mental illness that (item 5c):</p> <ul style="list-style-type: none"> <li>• Is severe in degree and persistent in duration (item 5c(1))</li> <li>• May cause behavior that interferes substantially with activities of daily living (item 5c(2)), and</li> <li>• May lead to an inability to maintain stable adjustment and independent functioning without treatment, support, and rehabilitation for a long or indefinite period (item 5c(3)).</li> </ul>	<p>Indicate any behaviors, such as delusions, hallucinations, or unusual and ongoing mood changes, that substantially interfere with the respondent’s ability to perform essential and routine tasks needed for work or self-care.</p> <p>Describe why you believe the respondent is unable to live independently, function in the community, and take care of their condition and social relationships, without additional help.</p>	<p>If caused by a chronic, prolonged, or recurrent mental illness:</p> <ul style="list-style-type: none"> <li>• Difficulty with self-care (e.g., bathing, grooming, obtaining and eating food, dressing appropriate to weather, securing health care, or following medical advice).</li> <li>• Difficulty maintaining a residence, using transportation, or managing money day to day.</li> <li>• Difficulty concentrating or completing tasks as scheduled.</li> <li>• Difficulty functioning socially, creating and maintaining relationships.</li> <li>• Recent history of inability to care for themselves (bathe, groom, get food and eat, use the restroom) daily without additional help.</li> </ul>



**CARE-050-INFO** Information for Petitioners—About the CARE Act

Requirements	Explanations	Examples
<p>Not be clinically stabilized in ongoing voluntary treatment (<b>item 5d</b>).</p>	<p>Describe why you believe the respondent is not being adequately supported in a voluntary treatment program such that their condition and symptoms are stable.</p>	<ul style="list-style-type: none"> <li>• Repeated and ongoing refusal to accept voluntary treatment without reason.</li> <li>• Temporary acceptance of voluntary treatment that is interrupted by failure or refusal to continue the treatment without reason.</li> <li>• Voluntary treatment is accepted, but that treatment is not effective to stabilize the respondent.</li> </ul>
<p><b>At least one of the following must be true (item 5e):</b></p>		
<p>The respondent is unlikely to survive safely in the community without supervision <b>and</b> the respondent’s condition is substantially deteriorating (<b>item 5e(1)</b>).</p> <p><b>OR</b></p>	<p>Indicate recent instances where the respondent has needed supervision to survive in the community due to lack of reality orientation, confusion, or impaired insight.</p> <p>Describe how the respondent’s ability to think clearly, communicate, or participate in regular activities has worsened quickly.</p>	<ul style="list-style-type: none"> <li>• Recent or frequent hospitalizations due to symptoms such as delusions, hallucinations, disorganization, impaired insight, impaired judgment.</li> <li>• Recent or frequent arrests due to mental illness.</li> </ul>
<p>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 (<b>item 5e(2)</b>).</p>	<p>Describe how the respondent would be unable to survive safely, would be gravely disabled, or would cause serious harm to others or themselves unless they received services and supports.</p> <ul style="list-style-type: none"> <li>• <i>Grave disability</i> means a person’s inability, due to mental illness, to provide for their basic personal needs for food, clothing, or shelter.</li> <li>• <i>Serious harm</i> includes injury causing extreme pain, high risk of death, or loss of physical or mental functions.</li> </ul>	<ul style="list-style-type: none"> <li>• A person who has access to immediate, safe housing but chooses to live in conditions that could lead to a danger to their health, as a result of mental illness.</li> <li>• A person who has recently attempted suicide because of their mental illness and continues to express a desire to self-harm.</li> <li>• Self-injurious behavior, such as walking into traffic or harming oneself unknowingly through behavior that puts them at risk for serious injury or loss of life.</li> </ul>



**CARE-050-INFO** Information for Petitioners—About the CARE Act

Requirements	Explanations	Examples
<b>The respondent’s participation in a CARE plan or CARE agreement must:</b>		
Be the least restrictive alternative necessary to ensure the respondent’s recovery and stability ( <b>item 5f</b> ), and	Explain how participation in a CARE plan or CARE agreement would: <ul style="list-style-type: none"> <li>• Be necessary because other less restrictive alternatives would not sufficiently ensure the respondent’s recovery and stability, potentially because other less restrictive alternatives have not been successful.</li> <li>• Effectively meet the respondent’s treatment needs while placing as few limits as possible on the respondent’s rights and personal freedoms.</li> </ul>	Less-restrictive alternatives might include: <ul style="list-style-type: none"> <li>• <b>Voluntary full-service partnerships</b>, which are collaborative relationships between the county and the individual, and when appropriate the individual’s family, through which the county plans for and provides the full spectrum of community services.</li> <li>• <b>Supported decisionmaking</b>, which is an individualized process of supporting and accommodating an adult with a disability to enable them to make life decisions without impeding their self-determination.</li> <li>• <b>Assertive community treatment</b>, which is a person-centered, recovery-based treatment option that employs low client-to-staff ratios.</li> </ul>
Be likely to benefit the respondent ( <b>item 5g</b> ).	Explain how participating in a CARE plan could help the respondent stabilize and improve their current state and situation.	<ul style="list-style-type: none"> <li>• The respondent’s prior improvement when participating in similar treatment programs.</li> <li>• Medical opinion that the patient would benefit from treatment.</li> </ul>

**Note:** Include in the petition as much information as possible for each item listed above. You may also attach any documents you have that you think support one or more of the items.

**Item 6: Required Documentation**

You must attach supporting documentation to the petition. That documentation must include one of two things:

- a. A declaration by a licensed behavioral health professional on *Mental Health Declaration—CARE Act Proceedings* (form CARE-101); **OR**
- b. Evidence that the respondent was detained for a minimum of two intensive treatments, the most recent one within the last 60 days. Evidence can include copies of certification for intensive treatment, a declaration from a witness to the intensive treatment, or other documents showing that the respondent was detained twice for up to 14 days of intensive treatment. Evidence should include the dates of the last treatment period. **Note:** For purposes of the CARE Act, “intensive treatment” only includes involuntary treatment authorized by Welfare and Institutions Code section 5250. It does *not* refer to treatment authorized by any other statute, including but not limited to 72-hour holds under Welfare and Institutions Code section 5150 or treatments under Welfare and Institutions Code sections 5260 and 5270.15.



## CARE-050-INFO Information for Petitioners—About the CARE Act

### Item 7: Tribal Enrollment or Services From an American Indian Health Care Provider (Optional)

If you know or believe that the respondent is a member of a federally recognized Indian tribe, or is receiving services from an Indian health care provider, tribal court, or tribal organization, include that information in item 7.

**Note:** The petition will be processed even if you do not complete item 7.

### Item 8: Referral From Another Court (Optional)

If you are filing a petition based on a referral from a court proceeding, check this box. Indicate which court made the referral and include the case number and department, if known. If you know which of the types of proceedings listed on the petition it was referred from, check the appropriate box in item 8c. Otherwise, leave item 8 blank and do not check the box. If you have a copy of the court order making the referral, label it as “Item 8” and attach it to the petition.

**Note:** The petition will be processed even if you do not complete item 8.

### Item 9: Helpful Information

In item 9, check any of the boxes that apply to the respondent, if you know.

**Note:** The petition will be processed even if you do not complete item 9.

### Item 10: Attachments

In item 10, list the total number of pages attached to the petition.

**Signature:** You must write the date, print your name, and *sign the petition under penalty of perjury*, which means that if anything you have said you know to be untrue, you may be criminally liable. If you have an attorney helping you, they will sign as well.

### 5 Is service of process required?

No. To begin CARE Act proceedings, you do not need to provide anyone except the court with a copy of the petition.

### 6 What will happen after I file the petition?

After a CARE Act petition is filed, the court will promptly review the petition and supporting documents to determine if they show that the respondent meets or might meet the requirements described above. Then it will do one of the following:

- a. **Dismiss the petition.** The court will do this if it finds (1) that the petition does not show that the respondent meets or may meet the CARE Act eligibility requirements or (2) that the respondent is voluntarily working with the county agency, their engagement is effective, and the respondent has enrolled or is likely to enroll in voluntary treatment through the county or another provider.
- b. **Order a report.** If the court finds that the petition does show that the respondent meets or may meet the criteria for the CARE Act process, the court will order a county agency to engage the respondent and file a written report with the court within 14 business days. You and the respondent will be notified that the report has been ordered.
- c. **Set an initial appearance.** The court will set an initial appearance if it finds that the county agency’s report supports the petition’s showing that the respondent meets or may meet the CARE Act eligibility requirements and the county’s engagement with the respondent was not effective. The court will also order the county to give notice of the hearing to you, the respondent, the respondent’s appointed counsel, and the county behavioral health agency.  
**Note:** The procedures are somewhat different if the county behavioral health agency is the petitioner.

### 7 What happens at the initial appearance?

You, the petitioner, must be present at the initial hearing, or the court may dismiss the petition. You will receive a notice in the mail of the date, time, and place of the hearing.

**Note:** At the initial appearance, the director of the county behavioral health agency, or their designee, will replace you as the petitioner.



**CARE-050-INFO** Information for Petitioners—About the CARE Act

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**8 What rights do petitioners have?**

If you live with the respondent, are a spouse or registered domestic partner, parent, sibling, child, or grandparent of the respondent, or someone who stands in the place of a parent to the respondent, you have the right to participate during the hearing to determine the merits of the petition. The court may, in its discretion, assign you ongoing rights of notice. If the respondent agrees, the court may allow you to participate in the rest of the CARE Act proceedings.

If the matter is dismissed and later there is a change in circumstances, you may file a new petition with the court.

If you are a petitioner other than those listed above, you have the right to make a statement at the hearing on the merits of the petition, but you will not be assigned ongoing rights.

**9 What is a vexatious litigant?**

The court may determine a person is a vexatious litigant if that person files more than one petition under the CARE Act that has no basis in truth or reality or is intended to harass or annoy the respondent. A person who is deemed a vexatious litigant may be placed on a vexatious litigants list prepared and maintained by the Judicial Council. The court may enter an order that prevents a vexatious litigant from filing any new litigation, including potentially other types of cases (not just CARE Act petitions), without first obtaining permission from the presiding judge. If such an order is issued, a vexatious litigant who does not follow the order may be punished for contempt of court, which could result in fines or imprisonment.

**10 What if I don't speak English?**

When you file your papers, ask the clerk if a court interpreter is available. You can also use *Request for Interpreter (Civil)* (form [INT-300](#)), or a local court form or website to request an interpreter. For more information about court interpreters, go to <https://selfhelp.courts.ca.gov/request-interpreter>.

**11 What if I have a disability?**

If you have a disability and need an accommodation while you are at court, you can use *Disability Accommodation Request* (form [MC-410](#)) to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see *How to Request a Disability Accommodation for Court* (form [MC-410-INFO](#)) or go to <https://selfhelp.courts.ca.gov/jcc-form/MC-410>.

**CARE-060-INFO** Information for Respondents—About the CARE Act

This information sheet provides information about the CARE Act and CARE Act proceedings.

**1 Why am I being given these documents?**

A family member, friend, or someone who has interacted with you due to your mental illness has filed a petition to begin CARE Act proceedings for you (the respondent). The petition asks the court to determine whether or not you qualify for services and treatment under the CARE Act. Based on a petition that was filed a court has found that you may qualify and is requesting additional information.

**Note:**

- You have been appointed an attorney, free of charge.
- Your court-appointed attorney will try to contact you about these proceedings using your last known location given to the court.
- You should make sure to keep your attorney updated with your contact information.
- You may also contact your attorney at any time. Your attorney's contact information is listed in item 5 on *Order for Care Act Report* (form CARE-105) and in item 4 of the *Notice of Initial Appearance—CARE Act Proceedings* (form CARE-110).
- You may also choose an attorney to represent you instead of the appointed attorney. If you choose your own attorney, you are responsible for paying their fees.

**2 What is the CARE Act?**

CARE stands for Community Assistance, Recovery, and Empowerment. The CARE Act is a way to get court-ordered treatment, services, support, and a public housing plan for people with certain untreated severe mental illnesses, specifically schizophrenia spectrum or other psychotic disorders.

CARE Act proceedings involve outreach, meetings, and court hearings to determine whether you, the respondent, meet the eligibility requirements and to identify the services and supports you might need. One or more county agencies will be involved in the proceedings.

If the court determines that you have met the standards for CARE eligibility, you may work with the county behavioral health agency to develop a CARE agreement for services and supports. If you do not reach a CARE agreement with the county agency, the court will order a clinical evaluation of your mental health. After reviewing the evaluation, if the court determines you meet CARE eligibility, the court will order you and the county agency to develop a CARE plan.

**3 What is CARE eligibility?**

To be eligible for the CARE process, you need to be at least 18 years old, have a schizophrenia spectrum disorder or another psychotic disorder, and be currently experiencing a severe mental illness that has lasted for a long time, can make you do things that interfere with your life, and can make it impossible for you to live on your own for very long without treatment, support, and rehabilitation.

You also cannot be stabilized in a voluntary treatment program. Either it has to be unlikely that you will survive safely in the community without somebody watching over you and your condition is getting a lot worse, or you have to need services and supports to keep your symptoms from coming back or getting bad enough that you would probably become severely disabled or you or somebody else would get seriously hurt. Finally, it has to be likely that going through the CARE Act process would help you, and that nothing less restrictive than the CARE Act will make sure that you recover and stabilize.

**4 What is a CARE agreement or CARE plan?**

A CARE agreement and CARE plan are written documents that specify services designed to support you. They must be approved by court order. They may include clinical behavioral health care; counseling; specialized psychotherapies, programs, and treatments; stabilization medications; a housing plan; and other supports and services, directly and indirectly through a local government entity. Stabilization medications must not be forcibly administered.



## CARE-060-INFO Information for Respondents—About the CARE Act

4

A CARE agreement is a voluntary agreement between you and the county behavioral health agency after a court has found that you are eligible for the CARE program. The agreement is subject to court modification before approval.

If you are not able to enter into a CARE agreement, you will be asked to work with the CARE team to create a CARE plan. A CARE plan is an individualized range of community-based supports and services that is ordered by the court. A CARE plan can include the same elements as a CARE agreement to support your access to community-based services and supports.

### 5 Who is the petitioner?

The petitioner is the person who is asking the court to start CARE Act proceedings for you.

### 6 Who is the respondent?

You are the respondent, the person for whom the CARE Act proceedings are being requested.

### 7 What happens after the petition has been filed?

The court reviews the petition, decides whether you might be eligible for CARE Act proceedings, and may order a county agency to try to contact you, talk with you, and file a written report with the court within 14 business days, unless an extension is granted by the court. You and the petitioner will be sent notice if the court orders a report.

### What happens if the county agency contacts me?

The county agency will ask you about your mental and physical health, the effects of your mental health on your life, whether services and treatment would be helpful, and whether you are willing to work with the county to get connected to services and treatment.

### What will the report include?

A report will be submitted even if the county agency is not able to contact you. The report will include the following information:

- A determination of whether you meet, or are likely to meet, the eligibility requirements for the CARE Act process, including your mental health diagnosis and current condition, whether you need additional mental health services, and whether there are treatment options that would help you and be less restrictive than a CARE agreement or plan.
- The county's attempts and the results of the county's efforts to seek your voluntary participation in services and the county's conclusions about your ability to participate voluntarily in services.

### What happens after the court receives the report?

After the court receives the report, it will either:

- **Dismiss the proceedings:** If the court finds, based on the petition and the county's report, that you are not eligible for CARE Act proceedings or that you are working willingly and effectively with the county agency and you have willingly enrolled or are likely to enroll in behavioral health treatment, the court will dismiss the case; or
- **Set an initial appearance (court hearing):** If the court finds that the county's report shows that you probably meet the requirements for CARE Act proceedings and the county's contacts with you were not able to connect you with voluntary behavioral health treatment, the court will set an initial appearance.

**Note:** The court has appointed an attorney for you who will contact you at the beginning of the CARE Act proceedings. If the court sets an initial appearance, you will get notice of the date, time, and place of the hearing and additional information.





**CARE-060-INFO** Information for Respondents—About the CARE Act**8 What happens at the initial appearance and the hearing on the merits?****At the initial appearance:**

- You may replace your court-appointed attorney with an attorney that you choose.

**Note:** If you choose your own attorney, you are responsible for paying their fees, if any.

- You have the right to appear in person. You can choose to give up your right to attend personally, and your attorney can appear on your behalf.
- If you do not indicate through your attorney that you are choosing not to attend and you do not appear, and the court makes a finding on the record that reasonable attempts to encourage you to appear have failed, there may be a hearing without you, if the court finds that would be in your best interests.
- The petitioner must be present at the initial appearance, or the petition may be dismissed.
- A representative from the county behavioral health agency will be present.
- If the original petitioner is not the director of a county behavioral health agency, the petitioner will be replaced by the director of the county behavioral health agency, or their designee, who will take over as the petitioner.
- The court may appoint a supporter of your choosing. A supporter is someone to help you understand the process and communicate what you want and need. You can choose your supporter but you are not required to have one. For more information, see item **11**, below.
- If you are enrolled in a federally recognized Indian tribe or otherwise receiving services from an Indian health care provider, a tribal court, or a tribal organization, a representative from the program, the tribe, or the tribal court is allowed to be present if you consent. The tribal representative is entitled to notice by the county of the initial appearance.
- The court will set a hearing on the merits of the petition.

- The hearing on the merits of the petition may happen at the same time of the initial appearance on the petition but only if you (the respondent), the petitioner, and the court agree.

**At the hearing on the merits:**

The court will determine if you meet the CARE Act criteria. In making this determination, the court will consider all evidence properly before it, including the report from the county agency and any additional evidence presented by the parties, including the petition and any information you provide.

- If the court finds that you *do not* meet the CARE Act requirements:** The court will dismiss the petition without prejudice unless the court makes a finding, on the record, that the original petitioner's filing was not in good faith.
- If the court finds that the petitioner has shown that you *do* meet the CARE Act requirements:** The court will order the county behavioral health agency to work with you, your attorney, and your supporter, if you have one, to participate in behavioral health treatment and determine if you and the behavioral health agency will be able to enter into a CARE agreement. The court will also set a case management hearing.

**Note:** If you are enrolled in a federally recognized Indian tribe and you want a tribal representative to attend the case management hearing, you should notify the tribe of the date, time, and place of the hearing.

**9 What rights do petitioners have?**

If the petitioner lives with you; is your spouse, parent, sibling, child, or grandparent; or is someone who stands in the place of a parent, that person has the right to participate during the hearing to determine the merits of the petition. The court may assign these petitioners ongoing rights of notice. If you agree, the court may allow the petitioner to participate in your CARE Act proceedings.

If the petitioner is someone not on the list above, they have the right to make a statement at the hearing on the merits of the petition but will not be assigned ongoing rights.



**CARE-060-INFO** Information for Respondents—About the CARE Act**10 What rights do respondents have?**

Once the CARE Act proceedings have started, you have the right to be informed of the proceedings, the right to take part in the proceedings, the right to be represented in all stages of the process, and other rights.

**11 What is a "supporter"?**

You have the right to choose a person to support you throughout the CARE Act process. The CARE Act calls that person a *supporter*. The court may appoint the person you have chosen as your supporter. The supporter's role is to assist you with understanding, communicating, making decisions, and expressing preferences throughout the CARE Act process.

With your consent, the supporter may be present at any CARE Act related proceedings.

**Your supporter must:**

- Respect your values and beliefs and support your preferences to the best of their ability.
- Communicate with you to help you understand and make informed decisions.

**Your supporter must not:**

- Act independently from you.
- Make decisions on your behalf unless necessary to prevent harm.
- Sign documents on your behalf.

**You have a right to have a supporter throughout the CARE Act process.**

**12 What if I don't speak English?**

When you file your papers, ask the clerk if a court interpreter is available. You can also use *Request for Interpreter (Civil)* (form [INT-300](#)) or a local court form or website to request an interpreter. For more information about court interpreters, go to <https://selfhelp.courts.ca.gov/request-interpreter>.

**13 What if I have a disability?**

If you have a disability and need an accommodation while you are at court, you can use *Disability Accommodation Request* (form [MC-410](#)) to make your request.

You can also ask the ADA Coordinator in your court for help. For more information, see *How to Request a Disability Accommodation for Court* (form [MC-410-INFO](#)) or go to <https://selfhelp.courts.ca.gov/jcc-form/MC-410>.

ATTORNEY OR PETITIONER WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR ( <i>name</i> ):	STATE BAR NUMBER:  STATE: ZIP CODE: FAX NO.:	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CARE ACT PROCEEDINGS FOR ( <i>name</i> ):  RESPONDENT		
<b>PETITION TO COMMENCE CARE ACT PROCEEDINGS</b>		CASE NUMBER:
For information on completing this form, see <i>Information for Petitioners—About the CARE Act</i> (form CARE-050-INFO).		

1. Petitioner (*name*):

is 18 years of age or older and (*check all that apply*):

- a.  A person who lives with respondent.
- b.  A spouse or registered domestic partner, parent, sibling, child, or grandparent of respondent.
- c.  A person who stands in the place of a parent to respondent.
- d.  The director\* of a hospital in which respondent is hospitalized.
- e.  The director\* of a public or charitable organization, agency, or home
  - (1)  who is or has been, within the past 30 days, providing behavioral health services to respondent; or
  - (2)  in whose institution respondent resides.
- f.  A licensed behavioral health professional\* who is or has been, within the past 30 days, treating or supervising the treatment of respondent.
- g.  A first responder, including a peace officer, firefighter, paramedic, emergency medical technician, mobile crisis response worker, or homeless outreach worker who has had repeated interactions with respondent.
- h.  The public guardian\* or public conservator\* of the county named above or a private conservator referred by the court under Welfare and Institutions Code section 5978.
- i.  The director\* of the county behavioral health agency of the county named above.
- j.  The director\* of adult protective services of the county named above.
- k.  The director\* of a California Indian health services program or a California tribal behavioral health department.
- l.  A California tribal court judge.\*
- m.  Respondent.

\* This person may designate someone else to file the petition on their behalf. If the petitioner is a designee, check this category and put designee's name in item 1, above.

2. a. Petitioner asks the court to find that respondent (*name*):

is eligible to participate in the CARE Act process and to commence CARE Act proceedings for respondent.

b. Petitioner's relationship to respondent (*specify and describe relationship*):

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CARE-100

CARE ACT PROCEEDINGS FOR <i>(name)</i> :	CASE NUMBER:
RESPONDENT	

2. c.  Petitioner's interactions with respondent *(if petitioner is specified in 1d, 1e, 1f, or 1g, specify the number of interactions with respondent and the date of the most recent interaction, and describe the nature and outcome of each interaction):*

If you need additional space, please include on a separate piece of paper and label as Attachment 2c.

3. Respondent lives or was last found at *(give respondent's residential address, if known and one exists; otherwise, state that the address is unknown and provide the last known location and any additional contact information, such as a phone number, including whether the number can receive texts, or an email address):*

If you need additional space, please include on a separate piece of paper and label as Attachment 3.

4. Respondent *(check all that apply)*:

- a.  Is a resident of the county named above.
- b.  Is currently located in the county named above.
- c.  Is a defendant or respondent in a criminal or civil proceeding pending in the superior court of the county named above.
- d.  Is a resident of *(specify county if known and different from the county named above)*:

5. Respondent meets each of the following requirements and is eligible to participate in the CARE Act process and receive services and support under a CARE agreement or CARE plan *(provide information below to support each requirement)*:

- a. Respondent is 18 years of age or older.      Date of birth *(if known)*:  
   Age in years *(if exact age not known, give approximate age)*:
- b. Respondent has a diagnosis of a schizophrenia spectrum disorder or another psychotic disorder in the same class, as defined in the current *Diagnostic and Statistical Manual of Mental Disorders*. Diagnosis and additional information are provided  
 on *Mental Health Declaration—CARE Act Proceedings* (form CARE-101), attached as Attachment 6a.  
 on separate documents, attached and labeled as Attachment 5b.  
 below.

CARE ACT PROCEEDINGS FOR (name):	CASE NUMBER:
RESPONDENT	

5. c. Respondent is currently experiencing a severe mental illness, as defined in Welfare and Institutions Code section 5600.3(b)(2), in that the illness:
- (1) Is severe in degree and persistent in duration;
  - (2) May cause behavior that interferes substantially with respondent's primary activities of daily living; **and**
  - (3) May result in respondent's inability to maintain stable adjustment and independent functioning without treatment, support, and rehabilitation for a long or indefinite period.

Supporting information regarding the severity, duration, and risks of respondent's disorder is provided

on *Mental Health Declaration—CARE Act Proceedings* (form CARE-101), attached as Attachment 6a.

on separate documents, attached and labeled as Attachment 5c.

below.

- d. Respondent is not currently stabilized in ongoing voluntary treatment. Respondent's current stability and treatment are described
- on *Mental Health Declaration—CARE Act Proceedings* (form CARE-101), attached as Attachment 6a.
- on separate documents, attached and labeled as Attachment 5d.
- below.

CARE ACT PROCEEDINGS FOR <i>(name)</i> :  <p style="text-align: right;">RESPONDENT</p>	CASE NUMBER:
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5. e. At least one of these is true *(complete (1) or (2) or both)*:

- (1)  Respondent is unlikely to survive safely in the community without supervision **and** respondent's condition is substantially deteriorating. Reasons that respondent is unlikely to survive safely in the community, the type of supervision respondent would need to survive safely, and the extent to which respondent's physical or mental condition has recently grown worse are described
  - on *Mental Health Declaration—CARE Act Proceedings* (form CARE-101), attached as Attachment 6a.
  - on separate documents, attached and labeled Attachment 5e(1).
  - below.

- (2)  Respondent needs services and supports to prevent a relapse or deterioration that would be likely to lead to grave disability or serious harm to respondent or others. The services and supports needed by respondent and the reasons respondent would become gravely disabled or present a risk of harm to self or others are described
  - on *Mental Health Declaration—CARE Act Proceedings* (form CARE-101), attached as Attachment 6a.
  - on separate documents, attached and labeled Attachment 5e(2).
  - below.

CARE ACT PROCEEDINGS FOR (name):	CASE NUMBER:
RESPONDENT	

5. f. Participation in a CARE plan or CARE agreement would be the least restrictive alternative necessary to ensure respondent's recovery and stability. A description of available alternative treatment plans and an explanation why no alternative treatment plan that would be less restrictive of respondent's liberty could ensure respondent's recovery and stability are provided

- on *Mental Health Declaration—CARE Act Proceedings* (form CARE-101), attached as Attachment 6a.
- on separate documents, attached and labeled Attachment 5f.
- below.

g. Respondent is likely to benefit from participation in a CARE plan or CARE agreement. Reasons in support of this assertion are provided

- on *Mental Health Declaration—CARE Act Proceedings* (form CARE-101), attached as Attachment 6a.
- on separate documents, attached and labeled Attachment 5g.
- below.

**6. Required Documentation**

The evidence described below is attached in support of this petition. (*Attach the documents listed in a or b, or both, and check the box next to the description of each document or set of documents attached.*)

- a.  A completed *Mental Health Declaration—CARE Act Proceeding* (form CARE-101), the declaration of a licensed behavioral health professional stating that, no more than 60 days before this petition was filed, the professional or a person designated by them
  - (1)  examined respondent and determined that respondent met the diagnostic criteria for eligibility to participate in the CARE Act proceedings; or
  - (2)  made multiple attempts to examine respondent but was not successful in obtaining respondent's cooperation and has reasons, explained with specificity, to believe that respondent meets the diagnostic criteria for eligibility to participate in CARE Act proceedings.

Attach *Mental Health Declaration—CARE Act Proceedings* (form CARE-101) and label it Attachment 6a.

CARE ACT PROCEEDINGS FOR (name):	CASE NUMBER:
RESPONDENT	

6. b.  Evidence that respondent was detained for at least two periods of intensive treatment, the most recent period within the past 60 days. Examples of evidence: a copy of the certification of intensive treatment, a declaration from a witness to the intensive treatment, or other documentation indicating involuntary detention and certification for up to 14 days of intensive treatment. (Attach all supporting documents and label each, in order, Attachment 6b1, 6b2, 6b3, etc.)

**Note:** For purposes of the CARE Act, "intensive treatment" refers to involuntary treatment authorized by Welfare and Institutions Code section 5250. It does **not** refer to treatment authorized by any other statutes, including but not limited to Welfare and Institutions Code sections 5150, 5260, and 5270.15.

**Optional information**

7. Tribal affiliation

a.  Respondent is an enrolled member of a federally recognized Indian tribe.  
Tribe's name and mailing address:

b.  Respondent is receiving services from a California Indian health services program, a California tribal behavioral health department, or a California tribal court.  
Name and mailing address of program, department, or court:

8.  This petition is based on a referral from another court proceeding.

a. Court, department, and judicial officer:

b. Case number:

c. Type of proceeding from which respondent was referred:

- (1)  Misdemeanor competence to stand trial (Pen. Code, § 1370.01)
- (2)  Assisted outpatient treatment (Welf. & Inst. Code, §§ 5346–5348)
- (3)  Lanterman-Petris-Short Act conservatorship (Welf. & Inst. Code, §§ 5350–5372)
- Court order attached and labeled as Attachment 8 (optional).

9. Check any of the following statements that is true:

- a.  Respondent needs interpreter services or an accommodation (specify):
- b.  Respondent is under juvenile court jurisdiction (specify which court):
- c.  Respondent is currently under conservatorship (specify which court):
- d.  Respondent is served by a Regional Center (specify which):
- e.  Respondent is a current or former member of the state or federal armed services or reserves (specify which branch):

10. Number of pages attached: \_\_\_\_\_

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME OF ATTORNEY)

 \_\_\_\_\_  
(SIGNATURE OF ATTORNEY)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME OF PETITIONER)

 \_\_\_\_\_  
(SIGNATURE OF PETITIONER)



ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER:  STATE:                      ZIP CODE: FAX NO.:	FOR COURT USE ONLY  <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CARE ACT PROCEEDINGS FOR (name):  <div style="text-align: right;">RESPONDENT</div>		
<b>MENTAL HEALTH DECLARATION—CARE ACT PROCEEDINGS</b>		CASE NUMBER:

**TO LICENSED BEHAVIORAL HEALTH PROFESSIONAL**

This form will be used to help the court determine whether respondent meets the diagnostic criteria for CARE Act proceedings.

**GENERAL INFORMATION**

1. Declarant's name:
  
2. Office address, telephone number, and email address:
  
3. **License status** (complete either a or b):
  - a.  I am a licensed behavioral health professional and conducting the examination described on this form is within the scope of my license. I have a valid California license as a (check one):
    - (1)  physician.
    - (2)  psychologist.
    - (3)  clinical social worker.
    - (4)  marriage and family therapist.
    - (5)  professional clinical counselor.
  
  - b.  I have been granted a waiver of licensure by the State Department of Health Care Services under Welfare and Institutions Code section 5751.2 because (check one):
    - (1)  I am employed as a  psychologist  clinical social worker continuing my employment in the same class as of January 1, 1979, in the same program or facility.
    - (2)  I am registered with the licensing board of the State Department of Health Care Services for the purpose of acquiring the experience required for licensure and employed or under contract to provide mental health services as a (check one):
      - (a)  clinical social worker.
      - (b)  marriage and family therapist.
      - (c)  professional clinical counselor.
    - (3)  I am employed or under contract to provide mental health services as a psychologist who is gaining experience required for licensure.

CARE ACT PROCEEDINGS FOR (name):	CASE NUMBER:
RESPONDENT	

3. b. (4)  I have been recruited for employment from outside this state, and my experience is sufficient to gain admission to a California licensing examination. I am employed or under contract to provide mental health services as a (check one):
- (a)  psychologist.
  - (b)  clinical social worker.
  - (c)  marriage and family therapist.
  - (d)  professional clinical counselor.

4. Respondent (name):  
 is  is not a patient under my continuing care and treatment.

**EXAMINATION OR ATTEMPTS MADE AT EXAMINATION OF RESPONDENT**

5. Complete one of the following: (both a and b must be within 60 days of the filling of the CARE Act petition)
- a.  I examined the respondent on (date): (proceed to item 7).
  - b.  On the following dates: I attempted to examine respondent but was unsuccessful due to respondent's lack of cooperation in submitting to an examination.
6. (Answer only if 5b is checked.) Explain in detail when, how many attempts, and the types of attempts that were made to examine respondent. Also explain respondent's response to those attempts and the outcome of each attempt.

7. Based on the following information, I have reason to believe respondent meets the diagnostic criteria for CARE Act proceedings (each of the following requirements **must** be met for respondent to qualify for CARE Act proceedings):
- a. Respondent has a diagnosis of a schizophrenia spectrum disorder or another psychotic disorder in the same class (indicate the specific disorder):

**Note:** Under Welfare and Institutions Code section 5972, a qualifying psychotic disorder must be primarily psychiatric in nature and not due to a medical condition such as a traumatic brain injury, autism, dementia, or a neurological condition. A person who has a current diagnosis of substance use disorder without also meeting the other statutory criteria, including a diagnosis of schizophrenia spectrum or other psychotic disorder, does not qualify.

- b. Respondent is experiencing a severe mental illness that (all of the following must be completed):
  - (1) Is severe in degree and persistent in duration (explain in detail):

CARE ACT PROCEEDINGS FOR (name):	CASE NUMBER:
RESPONDENT	

7. b. (2) May cause behavior that interferes substantially with the primary activities of daily living (*explain in detail*):

(3) May result in an inability to maintain stable adjustment and independent functioning without treatment, support, and rehabilitation for a long or indefinite period (*explain in detail*):

c. Respondent is not clinically stabilized in ongoing voluntary treatment (*explain in detail*):

d. At least one of these is true (*complete one or both of the following*):

(1)  Respondent is unlikely to survive safely in the community without supervision **and** respondent's condition is substantially deteriorating (*explain in detail*):

(2)  Respondent needs services and supports to prevent a relapse or deterioration that would likely result in grave disability or serious harm to respondent or others (*explain in detail*):

CARE ACT PROCEEDINGS FOR <i>(name)</i> :	CASE NUMBER:
RESPONDENT	

7. e. Participation in a CARE plan or CARE agreement would be the least restrictive alternative necessary to ensure respondent's recovery and stability (*explain in detail*):


f. Respondent is likely to benefit from participation in a CARE plan or CARE agreement (*explain in detail*):

8.  Additional information regarding my examination of respondent is  as follows  on Attachment 8.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_  
(TYPE OR PRINT DECLARANT'S NAME)

  
\_\_\_\_\_  
(SIGNATURE OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;"><b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b></p>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CARE ACT PROCEEDINGS FOR (name): <p style="text-align: right;">RESPONDENT</p>	
<p style="text-align: center;"><b>ORDER FOR CARE ACT REPORT</b></p>	CASE NUMBER:

- The court has read and reviewed *Petition to Commence CARE Act Proceedings* (form CARE-100) filed by petitioner (name): (address): on (date): asking the court to begin CARE Act proceedings for respondent (name): (address, if known):
- The court has found that *Petition to Commence CARE Act Proceedings* has made a prima facie showing that the respondent is or may be eligible to participate in the CARE Act process. A copy of the petition and all attachments are included with this order.

**The court orders as follows:**

- The following county agency (name): or its designee must contact and engage the respondent and, no later than (date): file with the court a written report that includes the following information:
  - Respondent's county of residence;
  - A determination whether respondent meets or is likely to meet the CARE Act eligibility requirements;
  - The outcome of the county's efforts to engage respondent during the period before the report deadline above;
  - Conclusions and recommendations about respondent's ability to voluntarily engage in services; and
  - Other:
- Before engaging the respondent and preparing the report, the county agency named in item 3 or its designee must use *Notice of Order for CARE Act Report* (form CARE-106) to serve notice of this order on petitioner, respondent, and respondent's counsel as provided in California Rules of Court, rule 7.2235(a).
- The court has, by separate order, appointed the following attorney to represent the respondent at all stages of these CARE Act proceedings.
  - Name:
  - Firm name:
  - Street address:
  - Mailing address (if different):
  - Email address:
  - Telephone number:
  - Fax number:

Date:

\_\_\_\_\_  
JUDICIAL OFFICER

# CONFIDENTIAL

CARE-106

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR ( <i>name</i> ):	STATE BAR NUMBER:  STATE: ZIP CODE: FAX NO.:	<i>FOR COURT USE ONLY</i>  <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CARE ACT PROCEEDINGS FOR ( <i>name</i> ):  RESPONDENT		
<b>NOTICE OF ORDER FOR CARE ACT REPORT</b>		CASE NUMBER:

- Petitioner (*name*):
- Respondent (*name*):
- The court has ordered (*name of county agency*):  
or its designee to engage the respondent and, no later than (*date*): \_\_\_\_\_, file with the court a written report that includes all of the following information:
  - The respondent's county of residence;
  - A determination whether the respondent meets, or is likely to meet, the criteria necessary to participate in the CARE Act process;
  - The outcome of efforts made to voluntarily engage the respondent; and
  - Conclusions and recommendations about the respondent's ability to voluntarily engage in services.
- Attached to this notice, as required by California Rules of Court, rule 7.2235(a), are
  - a copy of *Order for CARE Act Report* (form CARE-105) issued by the court in this proceeding on (*date*): \_\_\_\_\_,
  - a copy of the petition filed on form CARE-100 on (*date*): \_\_\_\_\_ to begin these proceedings, and
  - Information for Respondents—About the CARE Act* (form CARE-060-INFO).

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME OF COUNTY AGENCY REPRESENTATIVE)

▲  
\_\_\_\_\_  
(SIGNATURE OF COUNTY AGENCY REPRESENTATIVE)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER:	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CARE ACT PROCEEDINGS FOR (name):  <div style="text-align: right;">RESPONDENT</div>		
<b>PROOF OF PERSONAL SERVICE OF</b> <b>NOTICE OF ORDER FOR CARE ACT REPORT</b>		CASE NUMBER:

1. I am at least 18 years old and not a party to this action.
2. I served *Notice of Order for CARE Act Report* (form CARE-106) by personally delivering a copy as follows:
  - a. Respondent (name):
  - b. Address (specify location):
  - c. On (date): \_\_\_\_\_ at (time): \_\_\_\_\_
3.  I personally delivered with *Notice of Order for CARE Act Report* a copy of *Order for CARE Act Report* (form CARE-105), the petition (form CARE-100) filed to begin these proceedings, and *Information for Respondents—About the CARE Act* (form CARE-060-INFO).
4. My name, address, telephone number, and, if applicable, county of registration and number, are (specify):
5. I am (check all that apply):
  - a.  not a registered California process server.
  - b.  a registered California process server.
  - c.  a California sheriff or marshal.
  - d.  an employee or independent contractor of a registered California process server.
  - e.  exempt from registration. (Bus. & Prof. Code, § 22350(b).)
6.  I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
7.  I am a California sheriff or marshal, and I certify the foregoing is true and correct.

Date:


\_\_\_\_\_  
 (TYPE OR PRINT NAME OF DECLARANT)

▶

\_\_\_\_\_  
 (SIGNATURE OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER:	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CARE ACT PROCEEDINGS FOR (name):  <div style="text-align: right;">RESPONDENT</div>		
<b>NOTICE OF INITIAL APPEARANCE—CARE ACT PROCEEDINGS</b>		CASE NUMBER:

1. Petitioner (name):
2. Respondent (name):
3. The court will hold an initial appearance (a hearing) in the CARE Act proceedings for respondent named above.


	→ Date: _____ Dept.: _____	Time: _____ Room: _____	Name and address of court, if different from above:
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4. The court has appointed an attorney to represent the respondent in the CARE Act proceedings. The name and contact information of the appointed attorney is:  
 Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Email: \_\_\_\_\_
5. A copy of each of the following documents is included with this form.
  - a. The petition filed on form CARE-100 to begin these proceedings;
  - b. *Information for Respondents—About the CARE Act* (form CARE-060-INFO);
  - c. *Notice of Respondent's Rights—CARE Act Proceedings* (form CARE-113); and
  - d. Any report ordered under Welfare and Institutions Code section 5977(a)(3)(B).
6.  The court ordered the county behavioral health agency, under Welfare and Institutions Code section 5977(a)(3)(A), to submit a report within 14 court days of the order setting the initial appearance. A copy of that report  is included with this notice form  will be provided to all parties no later than the date of the initial appearance.
7. Number of pages attached \_\_\_\_\_

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME OF COUNTY BEHAVIORAL HEALTH DIRECTOR OR DESIGNEE)

\_\_\_\_\_  
(SIGNATURE OF COUNTY BEHAVIORAL HEALTH DIRECTOR OR DESIGNEE)

	<b>Requests for Accommodations</b> Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to <a href="http://www.courts.ca.gov/forms">www.courts.ca.gov/forms</a> for <i>Disability Accommodation Request</i> (form MC-410). (Civ. Code, § 54.8.)
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ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER:	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CARE ACT PROCEEDINGS FOR (name):  <div style="text-align: right;">RESPONDENT</div>		
<b>PROOF OF PERSONAL SERVICE OF</b> <b>NOTICE OF INITIAL APPEARANCE—CARE ACT PROCEEDINGS</b>		CASE NUMBER:

1. I am at least 18 years old and not a party to this action.
2. I served *Notice of Initial Appearance—CARE ACT Proceedings* (form CARE-110) by personally delivering a copy as follows:
  - a. Respondent (name):
  - b. Address (specify location):
  - c. On (date): \_\_\_\_\_ at (time): \_\_\_\_\_
3.  I personally delivered with *Notice of Initial Appearance—CARE Act Proceedings* a copy of *Petition to Commence CARE Act Proceedings* (form CARE-100) filed to begin these proceedings, *Notice of Respondent's Rights—CARE Act Proceedings* (form CARE-113), and *Information for Respondents—About the CARE Act* (form CARE-060-INFO),  and the report ordered under Welfare and Institutions Code section 5977(a)(3).
4. My name, address, telephone number, and, if applicable, county of registration and number, are (specify):
5. I am (check all that apply):
  - a.  not a registered California process server.
  - b.  a registered California process server.
  - c.  a California sheriff or marshal.
  - d.  an employee or independent contractor of a registered California process server.
  - e.  exempt from registration. (Bus. & Prof. Code, § 22350(b).)
6.  I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
7.  I am a California sheriff or marshal, and I certify the foregoing is true and correct.

Date:

\_\_\_\_\_  
 (TYPE OR PRINT NAME OF DECLARANT)



\_\_\_\_\_  
 (SIGNATURE OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER:	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CARE ACT PROCEEDINGS FOR (name):  <div style="text-align: right;">RESPONDENT</div>		
<b>NOTICE OF RESPONDENT'S RIGHTS—CARE ACT PROCEEDINGS</b>		CASE NUMBER:

A petition to begin CARE Act proceedings for you has been filed. You have been appointed an attorney, free of charge. Your court-appointed attorney will be contacting you about these proceedings. You may also retain an attorney of your choosing to represent you instead of the appointed attorney. If you choose your own attorney, you are responsible for their fees. A person who, like you, is the subject of a CARE Act petition is called the respondent.

**THE CARE ACT RESPONDENT'S RIGHTS**

Each respondent has all of the following rights.

**During the CARE Act proceedings, the respondent has a right to:**

- Be informed of the proceedings;
- Receive notice of each hearing;
- Be present and personally participate at each hearing;
- Be represented by counsel at all stages of the proceedings, regardless of ability to pay;
- Receive a copy of the petition;
- Receive a copy of the court-ordered evaluation and court-ordered report;
- Have a supporter be present with them and assist them, as explained below;
- Present evidence;
- Call witnesses;
- Cross-examine witnesses;
- Appeal decisions; and
- Keep confidential all evaluations, reports, documents, and filings submitted to the court for CARE Act proceedings.

**CARE Act hearings are closed to the public unless the court orders otherwise (see below). However, the respondent has a right to:**

- Demand that the hearing be public and be held in a place suitable for attendance by the public;
- Request the presence of any family member or friend, including a supporter, without waiving the right to keep the hearing closed to the rest of the public; and
- Be informed by the judge of these rights before each hearing begins.

**Note:** The court may grant a request by any other party to the proceeding to make a hearing public if the judge conducting the hearing finds that the public interest in an open hearing clearly outweighs the respondent's interest in privacy.

**The respondent has a right to a supporter throughout the CARE Act process.**

The supporter's role is to assist the respondent with understanding, communicating, and making decisions and expressing preferences at hearings and meetings throughout the CARE Act process. For more information, see *Information for Respondents—About the CARE Act* (form CARE-060-INFO).

**What if I don't speak English?**


When you file your papers, ask the clerk if a court interpreter is available. You can also use *Request for Interpreter—Civil* (form INT-300) or a local court form or website to request an interpreter. For more information about court interpreters, go to <https://selfhelp.courts.ca.gov/request-interpreter>.

**What if I have a disability?**

If you have a disability and need an accommodation while you are at court, you can use *Disability Accommodation Request* (form MC-410) to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see *How to Request a Disability Accommodation for Court* (form MC-410-INFO).

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER:	<b>FOR COURT USE ONLY</b>  <p style="text-align: center;"><b>DRAFT</b>  <b>Not approved by</b>  <b>the Judicial Council</b></p>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CARE ACT PROCEEDINGS FOR (name):  <p style="text-align: right;">RESPONDENT</p>		
<b>NOTICE OF HEARING—CARE ACT PROCEEDINGS</b>		CASE NUMBER:

1. The court will hold a hearing in this matter as follows:

	→ Date: _____ Time: _____ Dept.: _____ Room: _____	Name and address of court, if different from above:
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2. The hearing is (check all that apply):

- a.  A hearing on the merits of the petition.
- b.  A case management hearing.
- c.  A clinical evaluation review hearing.
- d.  A CARE plan review hearing.
- e.  A progress or status review hearing.
- f.  A one-year status review hearing.
- g.  A graduation hearing.
- h.  Other hearing (indicate type):

3.  In advance of this hearing,  the county behavioral health agency  the respondent  
 another party or person (name):  
 has filed a (give exact title of filing):

A copy of the filing is attached to this notice.


I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date:

\_\_\_\_\_

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(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM) (SIGNATURE OF PERSON COMPLETING THIS FORM)

	<b>Requests for Accommodations</b> Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to <a href="http://www.courts.ca.gov/forms.htm">www.courts.ca.gov/forms.htm</a> for Disability Accommodation Request (form MC-410). (Civ. Code, § 54.8.)
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ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER:	<i>FOR COURT USE ONLY</i>  <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CARE ACT PROCEEDINGS FOR (name):  <div style="text-align: right;">RESPONDENT</div>		
<b>PROOF OF PERSONAL SERVICE OF          NOTICE OF HEARING—CARE ACT PROCEEDINGS</b>		CASE NUMBER:

1. I am at least 18 years old and not a party to this action.
2. I served *Notice of Hearing—CARE Act Proceedings* (form CARE-115) by personally delivering a copy as follows:
  - a. Respondent (name):
  - b. Address (specify location):
  - c. On (date): \_\_\_\_\_ at (time): \_\_\_\_\_
3.  I personally delivered with *Notice of Hearing—CARE Act Proceedings* a copy of any document listed in item 3 of that form and a copy of *Notice of Respondent's Rights—CARE Act Proceedings* (form CARE-113).
4. My name, address, telephone number, and, if applicable, county of registration and number, are (specify):
5. I am (check all that apply):
  - a.  not a registered California process server.
  - b.  a registered California process server.
  - c.  a California sheriff or marshal.
  - d.  an employee or independent contractor of a registered California process server.
  - e.  exempt from registration. (Bus. & Prof. Code, § 22350(b).)
6.  I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
7.  I am a California sheriff or marshal and I certify the foregoing is true and correct.

Date:

\_\_\_\_\_  
 (TYPE OR PRINT NAME OF DECLARANT)

▶

\_\_\_\_\_  
 (SIGNATURE OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;"><b>DRAFT</b>  <b>Not approved by</b>  <b>the Judicial Council</b></p>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CARE ACT PROCEEDINGS FOR (name): <p style="text-align: right;">RESPONDENT</p>	
<p style="text-align: center;"><b>REQUEST FOR NEW ORDER <input type="checkbox"/> AND HEARING—          CARE ACT PROCEEDINGS</b></p>	CASE NUMBER:

1. I am  the respondent  the director of a county behavioral health agency or the director's designee  other (specify):

2. I am asking the court to make the following order (a description of the requested order is given  below  on an attached sheet of paper labeled Attachment 2):

3. I am requesting this order because:

a.  Circumstances have changed, and the changes require a change to a previous court order (a description of what has changed is provided  below  on an attached sheet of paper labeled Attachment 3a):

b.  A party has not complied with a previous order (a description of what the party has or has not done is given  below  on an attached sheet of paper labeled Attachment 3b):

CARE ACT PROCEEDINGS FOR (name):   RESPONDENT	CASE NUMBER:
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c.  Other (the reason for the request is given  below  on an attached sheet of paper labeled Attachment 3c):

4. The court should make the order requested in item 2 because (reasons for the requested order are given  below  on an attached sheet of paper labeled Attachment 4):

5.  I would like the court to hold a hearing to consider my request (reasons for the court to hold a hearing are given  below  on an attached sheet of paper labeled Attachment 5):

6. Number of pages attached: \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


Date:

\_\_\_\_\_

\_\_\_\_\_

(NAME OF PARTY OR ATTORNEY FOR PARTY)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

	<p><b>Requests for Accommodations</b> Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to <a href="http://www.courts.ca.gov/forms">www.courts.ca.gov/forms</a> for Disability Accommodation Request (form MC-410). (Civ. Code, § 54.8.)</p>
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**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

All comments are verbatim unless indicated by an asterisk (\*).

<b>List of All Commenters, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Lezlie Abbott, Investigator Director, Family Court Services Fresno	A	This will require county agencies to provide the services they offer to individuals that qualify and need services, and be accountable to the bench officer, rather than denying services to keep numbers and case load low to please their board. There is scholarly research that supports providing people with cognitive disabilities with services improves their quality of life and reduces the likelihood they will end up in jail or homeless. This is for the betterment of the community at large and for the proposed conservatee or ward.	The committee appreciates this comment. No further response required, other than to note that the CARE Act does not authorize establishment of conservatorship or guardianship.
2.	ACLU California Action by Carlos Marquez, Executive Director Sacramento	N	Having reviewed the eleven rules of court and eleven forms proposed to implement the newly enacted Community Assistance, Recovery, and Empowerment (CARE) Act, we at ACLU California Action must write to oppose both the substance and the process created by them. The proposed rules and forms do not remedy the coercion at the core of the system created by the CARE Act, which will force community members into a loop of court control and will exacerbate existing racial disparities in housing, healthcare, policing, and the legal system. Indeed, these rules and forms raise new concerns and questions around the risk of abuse and misuse of the CARE court procedures.  We write to express the following principal bases for our opposition:	The committee appreciates this comment. This comment raises policy issues that are more appropriately addressed to the Legislature for resolution.

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

All comments are verbatim unless indicated by an asterisk (\*).

<b>List of All Commenters, Overall Positions on the Proposal, and General Comments</b>				
<b>Committer</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>	
		<p>1) The proposed rules and forms do not remedy the coercion embedded in the CARE court petition process. These proposed rules and forms make clear that an expansive list of petitioners, many of whom have no qualifications in identifying mental health conditions, are empowered to push a person into the CARE Court process without their consent or knowledge. The rules to provide notice of the already-initiated process are inadequate to address the trauma connected to unanticipated contact with the legal system and do not consider the challenges of providing adequate notice to unhoused community members. The rules on vexatious litigants are aimed at repeat abusers of this process which is not enough to remedy the harm and disruption that a single petition may cause.</p> <p>2) The proposed rules and forms make clear the system of hearings created by the CARE Act are coercive. A person petitioned into the CARE Court system may be notified by a form that a petition has been filed against them, they have been appointed a lawyer, and they are expected to attend hearings. The result of these hearings may be a court-ordered CARE Plan, which implicates vital areas of a person’s life including medication, treatment, and housing. The court may use failure to comply with the CARE plan to form a presumption that additional</p>		



**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

All comments are verbatim unless indicated by an asterisk (\*).

<b>List of All Commenters, Overall Positions on the Proposal, and General Comments</b>			
<b>Committer</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
		<p>intervention is needed, including through the even harsher system of court control, conservatorship.</p> <p>3) Coerced treatment is ineffective and violates fundamental rights. Individuals coerced into treatment experience these services as trauma, not as care. Research demonstrates that coerced treatment is less effective than voluntary, intensive, culturally-competent services.</p> <p>4) The proposed rules and forms do not remedy the racially disparate impact the CARE court system will have. Due to a long and ongoing history of racial discrimination in housing, banking, employment, policing, land use and healthcare, BIPOC Californians experience homelessness at vastly disproportionate levels compared to the overall population of the state. A program to place unhoused community members under state control through court-ordered “treatment,” will impact BIPOC community members disproportionately. Further, studies reveal that mental health professionals systematically misdiagnose and over-diagnose Black and Latino people with psychotic disorders, which will result in many people wrongly placed under court control.</p> <p>Rather than pouring enormous resources into the CARE Court system, California should</p>	

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

All comments are verbatim unless indicated by an asterisk (\*).

<b>List of All Commenters, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			invest in the creation of a system of truly voluntary, community-based, trauma-informed services, completely detached from the coercion of the court system.	
3.	Affordable Housing Advocates by Catherine Rodman Director & Supervising Attorney San Diego	NI	<p><b>Accessibility</b> [T]here is nothing in any of the proposed Information handouts or forms advising the respondent that they can obtain the information and forms in their primary language, if other than English. Nor do the respondent’s rights include the right to an interpreter, provided by the court. Many residents of San Diego County and elsewhere, throughout our multi-cultural State, are either Limited English Proficient (LEP) or non-English speaking. Even if able to communicate in English, during a stressful event such as being served with papers, meeting with appointed counsel or appearing in court, interpreters are essential to ensure the respondent understands the proceedings, and can meaningfully participate in them.</p> <p><b>Transparency &amp; Facilitating Communication With Respondent</b> [N]o information is required of the petitioner or county as to how best to locate and communicate with the respondent. Is the respondent non-English speaking or deaf, necessitating an interpreter? Nor do the forms require details (the who, when, what, where and how) of each effort to engage the respondent.</p>	<p>The committee appreciates these comments. The committee agrees that language access is critical. Forms will be prioritized for translation as resources become available. The committee agrees that an interpreter during court proceedings would be helpful and has added information about requesting such assistance to the information sheets and notice of rights form.</p> <p>The committee has revised the petition (form CARE-100) to include optional items seeking information on language and accessibility needs, but does not recommend any other change to the proposal in response to this comment. The petition form requires specified petitioners to provide the number of contacts with respondent, the date of the most recent contact and the <i>nature</i> and outcome of each contact in item 2c. The</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

All comments are verbatim unless indicated by an asterisk (\*).

<b>List of All Commenters, Overall Positions on the Proposal, and General Comments</b>			
<b>Committer</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
		<p>Instead, only the results or outcomes are required, which imply efforts were made, but do not disclose any information about them. Without details about the efforts made by the county, any statement about the results is unclear to the parties and the court. And if the outcomes were negative nothing is learned about how to improve efforts, including in the event that a petition is dismissed and re-filed after a change of circumstances.</p> <p>If a rule is not proposed, then at least a form should be adapted or provided to indicate if the case was referred, from/by whom, when, and why.</p> <p>If there is no requirement that [a] petition be filed when a case is referred by [a] court ... how can a respondent be subject to it? How is jurisdiction conferred w/o filing and service?</p> <p>If the court elects to [order the county behavioral health agency to prepare and file a</p>	<p>who, when, what, where, and how of each effort made to engage the respondent may be specified in this item. Item 3 on form CARE-100 requires the petitioner to provide the respondent’s address or, if the address is unknown or the respondent does not have an address, the respondent’s last known location.</p> <p>The committee does not recommend any change to the proposal in response to this comment. Item 8 on the petition, form CARE-100, asks whether the petition is based on a referral from another proceeding and requests the case number, court, judicial officer and case type.</p> <p>The committee does not recommend any change to the proposal in response to this comment. If no petition is filed, no CARE Act proceeding is begun and the court does not assert jurisdiction over the “respondent.” Regardless of whether the referral is from assisted outpatient treatment, conservatorship proceedings, or misdemeanor proceedings under Penal Code section 1370.01, there is no procedure for CARE Act proceedings without a petition.</p> <p>The committee has revised form CARE-110 to provide the option to indicate that a report has</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

All comments are verbatim unless indicated by an asterisk (\*).

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
			report under section 5977(a)(3)(A)], it should require the notice of the order for the report to also be served on respondent and appointed counsel.	been ordered under section 5977(a)(3)(A). This information will be served on respondent and appointed counsel. An order for a report under section 5977(a)(3)(A) is discretionary and, if made, would be made at the same time as the court sets the initial appearance. Notice of an order for a report under section 5977(a)(3)(A) is therefore included in the notice of initial appearance. In addition, separate notice of a report ordered under section 5977(a)(3)(A) because that report addresses only the county behavioral health agency’s past efforts to engage the respondent and requires no further engagement.
			The court should be required to order the petitioner to personally serve respondent and appointed counsel with all forms submitted or filed.	The committee has modified the recommended rule 7.2235, in light of this and other comments, to require that the respondent be served personally, unless personal service is impracticable. The statute does not require service by the petitioner. When it requires service of notice, the statute imposes that duty on the county behavioral health agency, “the county” more broadly, and, in one instance that is probably a typographical error, the respondent.
			Because [the respondent] may be homeless, papers should be secured to and provided in weatherproof cover.	The committee does not recommend any change to the proposal in response to this comment. Because it has modified its recommendation to require personal service unless impracticable, the committee anticipates that all papers will be in

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			<p>Undefined technical terms should be the subject of follow-up legislation, unless they must be defined by licensed therapists when submitting evidence of respondents’ eligibility.</p> <p>Does/should tribal court have authority to remove matter to its jurisdiction?</p>	<p>good condition when delivered to the respondent.</p> <p>The committee does not recommend any change to the proposal in response to this comment. No further response required.</p> <p>The subject of the comment is beyond the scope of this proposal.</p>
4.	<p>Alliance for Children’s Rights by Sabrina Forte Director of Policy and Impact Litigation Los Angeles</p> <p>joined by: Children Now California Alliance for Child and Family Services California Coalition for Youth</p>	AM	<p>The comments below directly address the needs of nonminor dependents who remain under the jurisdiction of the juvenile court from age 18 up to age 21 and the procedural safeguards that are needed to protect nonminor dependents who become consumers of the CARE court.</p> <p>Nonminor dependents (NMDs) are still achieving developmental milestones during a period of growth marked by identity exploration, instability, self-focus, feelings of being “in-between,” and optimism for the future. Research shows that their brain development is still occurring until the age of 25. The California Legislature has recognized that youth should be in the least restrictive setting as possible whenever possible, and other efforts are underway to encourage cross-system collaboration and critical behavioral health reforms through state initiatives, including CalAIM and the CYBHI. On the justice side, the Legislature passed SB 823 (2020) that</p>	<p>The committee appreciates this comment. See response to specific concerns, below.</p>

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		<p>shuttered the Division of Juvenile Justice and realigned those programs to the local levels while creating the Office of Youth and Community Restoration to help inform rehabilitative and restorative youth practices and to develop and expand local youth diversion opportunities, among others.</p> <p>With this strong support framework in place to provide developmentally appropriate and early intervention supports to transition age youth across the state, referrals of nonminor dependents to their county’s CARE Court should be rare. When referrals do occur, however, the ensuing procedures should be integrated with the juvenile court orders and services that are already in place for those young people.</p> <p>Accordingly, we recommend that the proposed rules and forms be amended to ensure, when the respondent is a nonminor dependent, that the juvenile court with jurisdiction, the county placing agency, and the nonminor dependent’s juvenile court-appointed counsel receive notice of any CARE court proceedings. The nonminor dependent’s attorney, in particular, should be able to participate in such proceedings on the nonminor dependent’s behalf (if retained by the nonminor dependent for such purpose) and access CARE court records. With proper notice</p>	<p>The committee recognizes that the intersection of nonminor dependent jurisdiction under the juvenile court law (Welf. &amp; Inst. Code, §§ 200–987) and the CARE Act process presents complex challenges. The committee has modified its recommendation by adding an item to the petition for the petitioner to indicate whether the respondent is under juvenile court jurisdiction, but does not recommend any other changes in response to this comment. The issues raised by the commenters are more appropriately addressed to the Legislature for resolution.</p>

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			<p>and access, the juvenile court and the nonminor dependent’s case worker and court-appointed dependency or delinquency counsel are in a strong position to engage a nonminor dependent in voluntary services, share (with the NMD’s and, if required by Welfare and Institutions Code 827, the court’s permission) information about mental health services that the nonminor dependent is already receiving, and generally ensure for coordination of care and consistency in court orders, if multiple courts have jurisdiction over a nonminor dependent.</p> <p>We recommend that the following rules and forms be amended to ensure notice to the parties described above:</p> <ul style="list-style-type: none"> <li>- Rule 7.2223(b)(1)</li> <li>- Rule 7.2235(a)(1)&amp;(4), (b)(1), (c)(1)</li> <li>- Form CARE-100, Optional Information (include a paragraph for petitioners to select whether the respondent is under juvenile court jurisdiction, if known)</li> <li>- Form CARE-105, para. 4</li> <li>- Form CARE-106, Proof of Service, para. 4</li> <li>- Form CARE-111, Proof of Service, para. 4</li> <li>- Form CARE-115, Proof of Service by Mail, para. 5</li> </ul> <p>See comment on form CARE-060-INFO, below.</p>	
5.	Brian Barron Hawthorne	AM	* The commenter expressed concern that the CARE Act process lacked safeguards to protect	See responses to specific comment, below. The committee appreciates this comment. The commenter’s concerns are beyond the scope of

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			against abuse by first responders and to ensure that any housing provided through the process would be safe.	the proposal and more appropriately addressed to the Legislature for its consideration.
6.	Mary Ann Bernard Sacramento	NI	See comments on specific rules or forms, below.	The committee appreciates the commenter's response. See responses to specific comments below.
7.	Nancy Butscher No address provided	A	* The commenter described a history of emotional abuse and a hope that the CARE Act would be able to highlight that type of abuse.	The committee appreciates this comment. No further response required.
8.	California Health & Human Services Agency by Corrin Buchanan, Deputy Secretary for Policy and Strategic Planning San Francisco	AM	See comments on specific rules or forms, below.	The committee appreciates the commenter's response. See responses to specific comments below.
9.	Edward Casey, Partner, Alston Bird LLP Manhattan Beach	AM	Service—whenever the Rules require service of a document by a party to the action, add that service shall be by first-class mail and by email if email address if recipient is known. Again time is critical.	The committee appreciates the commenter's response. Rule 2.251 already provides authority for email service anytime service is not required to be personal. The committee has revised the proposal to include Rule 7.2236, which restates this rule in the probate and mental health rules, providing the option for electronic service in conformity with the requirements of Code of Civil Procedure section 1010.6 and rule 2.251.
			See comments on specific rules or forms, below.	See responses to specific comments below.
10.	Carol Churchill, Attorney Churchill Law Office Los Alamitos	A	I strongly support this proposal. I am an attorney practicing in elder law and conservatorships and disabled individuals over 30 years. This plan will give families a way to protect those who need help but are mentally incapable of recognizing the severity of their	The committee appreciates this comment. No further response required.



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			<p>disability. They wind up homeless, hungry, injured, uninsured, financially destitute and the victim of criminals. The Care Court can assure that we treat people better than we treat stray dogs; to date we have not done that. People need food, shelter, and safety; not jail. They are not criminals.</p> <p>They hear and see things that do not exist as a result of their mental illness. This is hard to understand but it makes them opposed to help and creates the situations that places them in police custody instead of a hospital.</p>	
11.	County Behavioral Health Directors Association by Jacob D. Mendelson, JD Senior Policy Adovocate Sacramento	AM	<p>* The commenter submitted comments on language in the Invitation to Comment.</p> <p>See comments on specific rules or forms, below.</p>	<p>The committee appreciates the commenter’s response. The committee has no response to the comments on language in the Invitation to Comment memo. That memo does not reflect the committee’s view of the final rules and forms to be presented to the Judicial Council. The committee will take these comments into account when drafting the report that recommends council action on the final rules and forms, as appropriate.</p> <p>See responses to specific comments, below.</p>
12.	County of Santa Cruz by Jason Hoppin Public Information Officer	AM	<p><b>General Comments</b></p> <p>1. COMMENT: The rules should specify all CARE Act hearings and proceedings must be translated into Respondent’s native language by a court-certified interpreter.</p>	<p>The committee appreciates these comments. The committee agrees that language access is critical, and has added information about how to request interpreters to the information forms. However, the Judicial Council cannot allocate human or fiscal resources that are not available.</p>

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		<p>2. COMMENT: The proposed documents state, “After a CARE Act petition is filed, the court will promptly review the petition and supporting documents to determine if they show that respondent meets or might meet the requirements described above.”</p> <p>a. Recommend that “might meet” would be better as “If the petition meets the basic legal requirements.”</p>	<p>The committee does not recommend the suggested change. The current language mirrors the process in Welfare and Institutions Code section 5977(a), which involves a judicial determination of whether the respondent “is, or may be” a person who meets the requirements.</p>
		<p>3. COMMENT: The rules should specify whether there is a financial threshold for public defense services or a requirement to reimburse the County for services upon proof of Respondent’s ability to pay.</p> <p>a. Recommend the standard should mirror that used in criminal cases, incorporating both the rules and relevant case law.</p>	<p>The committee does not recommend the suggested change. This comment raises policy issues beyond the scope of this proposal that are more appropriately addressed to the Legislature for resolution. Currently, Welfare and Institutions Code section 5976(c) entitles the respondent to be represented by counsel in CARE Act proceedings regardless of the respondent’s ability to pay.<sup>1</sup> Furthermore, no provision of the CARE Act obliges a respondent to reimburse the cost of appointed counsel.</p>
		<p>4. COMMENT: The proposed documents state, “The petitioner must be present at the initial appearance, or the petition may be dismissed.”</p> <p>a. Recommend the rules specify the petition will be dismissed if the</p>	<p>The committee does not recommend the suggested change. Current section 5977(b)(2) requires the petitioner to be present at the initial appearance and gives the court discretion to dismiss the petition if the petitioner is absent. Although it could have, the Legislature did not</p>

<sup>1</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise specified.

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		<p>Petitioner does not establish good cause for not being present at the initial hearing. This will help deter frivolous, unfounded filings and ensure the Petitioner is available for examination.</p> <p>5. COMMENT: The proposed documents state, “If the petitioner lives with you; is your spouse, parent, sibling, child, grandparent; or is someone who stands in the place of a parent, that person has the right to participate during the hearing to determine the merits of the petition.”</p> <p>a. Recommend that “lives with you” is a broad and arbitrary category that includes people with attenuated relationships to Respondent, such as roommates or fellow tenants in a boarding house.</p> <p>b. Recommend Judicial Council narrow or exclude this category of participants.</p> <p>6. COMMENT: The rules should specify Respondent has the right to terminate the participation of a “Supporter” or change their “Supporter” in CARE Act proceedings.</p> <p>Recommend compensation for “appointed</p>	<p>condition the court’s discretion on the petitioner’s failure to establish good cause for being absent. This comment therefore raises policy issues beyond the scope of this proposal that are more appropriately addressed to the Legislature for resolution.</p> <p>The committee does not recommend the suggested change. The Legislature has already addressed this issue in section 5974(a), which authorizes “a person with whom the respondent resides,” without qualification, to file a petition to initiate the CARE process. The council lacks the authority to narrow this statutory category.</p> <p>The committee agrees that a supporter serves subject to the consent of the respondent and has incorporated information into form CARE-060-INFO regarding the respondent’s right to choose a supporter in CARE Act proceedings or proceed without one.</p> <p>The committee does not recommend the</p>

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			<p>counsel” should include compensation for Public Defender Offices, County Counsels, and Government Agencies or contractors tasked with representing Respondents, including reimbursements for salaries and benefits, interpreters, experts, and related expenses.</p> <p><b>Proposed forms</b> See comments on specific forms below.</p>	<p>suggested change. The Legislature addressed funding for compensation of appointed counsel in section 5981.5(a), which provides that the Legal Services Trust Fund Commission at the State Bar shall provide funding to qualified legal services projects to be used to provide appointed legal counsel. If no qualified legal services project has agreed to accept appointments, the statute requires the court to appoint “a public defender.” The statute does not authorize separate compensation of the public defender for CARE Act representation and does not authorize appointment of any other attorney to represent respondents. This comment therefore raises policy issues beyond the scope of this proposal that are more appropriately addressed to the Legislature for resolution.</p> <p>See responses to specific comments, below.</p>
13.	Disability Rights California by Melinda Bird Senior Litigation Counsel Los Angeles	N	<p><b>1. Vague Eligibility Criteria</b> The Committee stated that “the CARE Act uses many technical terms without defining them,” leading courts to “struggle to determine what is required by the act.” <i>Invitation to Comment</i>, p. 9. The CARE Act eligibility criteria in §5972 are unconstitutionally vague and violate due process because they suffer from imprecise and insufficiently defined standards. For individuals who are <i>not</i> presently a danger or gravely disabled, the criteria require the courts to speculate who <i>might</i> become so in the future,</p>	<p>The committee appreciates the commenter’s response. The committee does not recommend changes to the proposal in response to this comment because the issues raised by the commenter lie outside the Judicial Council’s purview. This comment raises policy issues that are more appropriately addressed to the Legislature or, as noted, in a judicial action, for resolution.</p>

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		<p>without offering any guidance about how to make such a subjective determination. §5972(d). Technical terms such as “clinical stability” and “recovery and stability” are undefined and ambiguous. §5972(d), (e).</p> <p>The committee added that “[i]n the absence of clear indications of legislative intent, however, resolution of these ambiguities is the province of the courts or, should it so choose, the Legislature itself.” <i>Id.</i> We agree that the Council lacks the authority to resolve these ambiguities. In view of the fiscal and operational impact of the CARE Act on courts and hardships that will be imposed on thousands of Californians with mental illness, it is urgent that the constitutionality of the CARE Act be resolved before implementation begins. Consequently, the California Supreme Court is the appropriate body to determine whether the vague criteria are facially unconstitutional. DRC has filed an original writ of mandate with the Supreme Court to address this issue. We welcome the Judicial Council’s support for a rapid resolution of the ambiguities in the CARE Act.</p> <p><b>2. Plain language for the proposed Informational Notices</b></p> <p>The information notices to petitioner and respondent are not written in plain language and require a college reading level. The notice of</p>	<p>The committee agrees that the information sheets should be as easy to understand as possible and has revised its recommendation to simplify the</p>	

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		<p>respondent’s rights, CARE-115, requires a 9th grade reading level, which is still too high for most respondents. We request that the Council use a readability consultant or software program to make the forms accessible to their intended audience.</p> <p><b>3. Protections against default orders and procedural accommodation for unhoused respondents.</b></p> <p>Many unhoused respondents will not have a fixed address. Even if some have a mailing address, this is often a post office box or the address of a friend. The initial response to a petition should permit a respondent to state that they have no mailing address and request personal service of all subsequent notices as an accommodation. Respondents must also be informed that they can request this accommodation in the information notice.</p> <p>We are also concerned that the Act permits proceedings to go forward even if the respondent never appears. If appointed counsel can locate them, the respondent may waive appearance and appear through counsel. §5977(b)(3). But if not, the court may proceed even without a waiver. <i>Id.</i> The Act is silent about subsequent hearings. The proposed rules should clarify that this exception applies only to the initial hearing and that the court cannot</p>	<p>language on those forms. The committee has also added to form CARE-050-INFO references and links to the online directory of superior court self-help centers.</p> <p>The committee recognizes the challenges of notifying and engaging unhoused persons in judicial proceedings and mental health treatment. In response, the committee has revised the recommended rules to require that notice be given to a respondent by personal service or, if personal service is impracticable, any other method reasonably calculated to provide the respondent with actual notice.</p> <p>The committee does not recommend modifying the proposal in response to this comment. The issues raised by the commenter is more appropriately addressed to the Legislature for resolution.</p>

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			<p>proceed further without an appearance or waiver.</p> <p>See comments on specific rules or forms, below.</p>	<p>See responses to specific comments, below.</p>
14.	<p>Disability Rights Education and Defense Fund by Erin Nguyen Neff, Staff Attorney Berkeley</p>	AM	<p><b>An Answer or Response Form is Needed</b> As proposed, there is no opportunity in the forms for a respondent or their counsel to list objections, defense, or provide an alternative narrative. The first opportunity for the respondent to state their case would be at a merits hearing. At this point, the judge will have already read information provided by petitioner and behavior specialists, without ever reading material from the respondent. This would likely give undue weight to the opinions of the petitioner and behavior specialist. The judicial council should include a form where the respondent can respond to statements in the petition, declaration, and report.</p> <p><b>The Rules Should Include Continuances</b> The rules should include continuances of court dates, including merit hearings and initial</p>	<p>The committee appreciates this comment. The committee does not recommend development of a response form, as it is unnecessary. The statute does not provide for the filing of a response before the hearing on the merits of the petition; neither does it provide for dismissal of a petition that makes a prima facie showing of the respondent’s eligibility before that hearing. As a response cannot affect whether the petitioner makes a prima facie showing, it is not clear what role a response form would play. In addition, a response form would impose a burden on the party it is intended to assist. Because the burden of proof is on the petitioner to show, by clear and convincing evidence, that the respondent meets each of the criteria for CARE Act eligibility in section 5972, the respondent must establish that the petitioner has not met that burden as to only one criterion. Respondent’s counsel could accomplish that more easily and persuasively at the hearing by presenting focused testimony and other evidence or cross-examining petitioner’s witnesses than by completing and filing a form.</p> <p>The committee does not recommend addressing continuances in the rules. Sections 5977(a)(4), 5977.1(a)(2)(B), 5977.1(c)(1), 5977.1(d)(5) and</p>

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			appearances, on good cause shown, including where respondent has no physical address, but good faith attempts have been made to contact respondent to no avail.  See comments on specific rules or forms, below.	5977.1(d)(6) specify the required timelines for hearings in detail. The court's inherent authority to manage its calendar includes the authority to continue hearings.  See responses to specific comments, below.
15.	Douglas Dunn, Vice Chair, Contra Costa Mental Health Commission Antioch	AM	See comments on specific rules or forms, below.	The committee appreciates the commenter's response. See responses to specific comments, below.
16.	Teresa Friend Director and Managing Attorney Homeless Advocacy Project San Francisco	NI	Because in my experience it will often be much easier for the Respondent to reach out to the court-appointed attorney than it will be for the court-appointed attorney to find the Respondent (especially if they do not live or stay at a fixed address,) the form should make clear that an attorney has been appointed for them, and that they can reach out to their court-appointed attorney, and the contact information is contained on the Notice of Initial Hearing and in other CARE Court documents.	The committee appreciates this comment and agrees and has revised CARE-060-INFO to include information on how the respondent may contact their appointed counsel. Item 4 of the <i>Notice of Initial Appearance</i> and item 5 of the <i>Order for Care Act Report</i> indicate the name and contact information of appointed counsel. The respondent will receive both forms shortly after an attorney is appointed for them and will be able to contact their appointed attorney if they wish. Respondents are also encouraged to keep their appointed counsel updated regarding contact information.
17.	Jerrell DeMar Griffin Program Manager, Adult Protective Services Los Angeles	A	I agree with the said changes.	The committee appreciates this comment. No further response is required.
18.	Carol Hayhurst Port Hueneme	AM	* The commenter explained the history of her son's schizophrenia, his periods of treatment and decompensation, and the success of "forced medication" in treating his schizophrenia. She	The committee appreciates this comment. Whether to authorize forcible medication of persons with schizophrenia or other mental health disorders is a policy question more



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			advocated to include forced medication among the services authorized by the CARE Act.	appropriately addressed to the Legislature for resolution.
19.	Homeless Action Center by Patricia Wall, Executive Director Berkeley	NI	<p><b>Referrals to Services, ITC page 2:</b> Under the Background section, page 2, the ITC mentions that Section 5982(a) provides for referrals to services, including: “behavioral health services, medically necessary stabilization medications, housing resources, social services funded through Supplemental Security Income/State Supplementary Payment (SSI/SSP) and state-funded programs such as CalFresh, and services provided through county general assistance programs, including health care.”</p> <p>HAC is a legal nonprofit that receives funding via Alameda County Social Services. Accordingly, HAC requests clarity as to whether CARE plans in Alameda County might include referrals to HAC for assistance, considering we have eligibility requirements as well as limited capacity to assign clients based on advocate availability.</p> <p>If in fact HAC would be a service referral for CARE plans, it is unclear whether there would be any additional funding for our agency to take on such referrals. It is also unclear what would happen to the respondent and their assessed compliance with their CARE plan if they are referred to our agency and HAC is unable to</p>	<p>The committee appreciates this comment. No further response required.</p> <p>The committee does not recommend any change to the proposal in response to this comment. Concerns about the intracounty referral process lie beyond the scope of the proposal and are better addressed to local county administration or, if a statewide process is desired, to the Legislature.</p>

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		<p>take them on at all due to eligibility criteria, or if there is a delay in providing services due to agency capacity.</p> <p><b>Notice by mail, CARE-110 and CARE-111, ITC page 8:</b> According to the ITC, it appears that the respondent is entitled to personal service only with respect to the notice of initial appearance (form CARE-110) whereas all other notices and filings have no specific guidance regarding service of documents. HAC expresses concern based on our many decades of experience that a significant number of individuals who will fall under the respondent population will not have reliable, secure mailing addresses. The default for all notices to respondent should be made via personal service, with an option for respondents to agree to notice by mail for later notices if they so choose. We also observed that notice requirements appear different for different notices; service should be made consistently for all notices to avoid confusion or respondent failing to receive notice of important information.</p> <p><b>Petitioner being present for initial appearance and concerns about confidentiality, ITC page 13, 25:</b> HAC expresses concern with the petitioner being present for the initial appearance,</p>	<p>The committee agrees with the suggestion and has revised the proposal to require service of notice by personal delivery unless impracticable, and then by any method reasonably calculated to provide the respondent with actual notice.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The</p>	

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		<p>considering confidential and highly personal information about a respondent’s medical history will be presented. According to Rule 7.2210. General provisions, (b) Access to records (§ 5977.4(a)), all documents are confidential and may only be inspected by respondent, respondent’s counsel, and county behavioral health director or director’s designee. ITC page 13. However, the petitioner must attend the initial hearing (CARE-050-INFO, ITC page 25), and this appears to mean that a petitioner could get confidential information about a respondent that the respondent does not want the petitioner to have. HAC strongly urges that there be a provision so that respondent can protect their confidential information from petitioners, which could include family members or other non-professionals.</p> <p><b>Additional comments:</b>                      HAC is concerned that the respondent population will be served with many legal notices and forms with consequential information before their first appearance, and thus they will likely have to navigate what the information means and what they must do without any assistance. Will there be anything in the packet that directs them to assistance with understanding the information and ensuring they</p>	<p>statute, at section 5977(b)(2), directs the petitioner’s presence at the initial appearance and authorizes the court to dismiss the petition if the petitioner is absent. The council cannot adopt rules that are inconsistent with statute. In addition, the presence of the petitioner is not likely to prejudice the respondent. No evidence may be taken at the initial appearance without the stipulation of the parties, including the respondent. The principal court action at the initial appearance is to dismiss the petitioner from the proceeding unless the petitioner is the county behavioral health agency. After being dismissed, the petitioner’s access to the proceedings is largely subject to the court’s discretion. Furthermore, the respondent will be represented at the initial appearance. If appropriate, the respondent’s counsel can ask the court to take measures to protect the confidentiality of the respondent’s information at the initial appearance.</p> <p>The committee does not recommend any change to the proposal in response to this comment. Rule 7.2230 requires respondent’s counsel to be appointed concurrently with the first judicial act in a CARE Act proceeding other than dismissal: an order for a report or an order setting an initial appearance. The statute and rules do not require notice or service of documents until the court has made one of those orders. The notice of initial</p>

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		<p>can make it to the initial appearance, such as a facilitator they can call or visit?</p> <p>Further, will there be any transportation funding available to help respondents attend?</p> <p>On a related point, many respondents will be put on a CARE plan because they have great difficulty or inability doing things for themselves independently, such as accessing services. Will there be someone throughout the process to assist them in complying with the parts of the plan (i.e., making and keeping appointments, transportation to appointments, navigating important notices)? If so, who will this person be,</p> <p>what funding is in place to provide such guidance,</p>	<p>appearance and the order for the report both include the name and contact information for respondent’s appointed counsel. The respondent will therefore be in a position to seek assistance in understanding the information in the notices and forms.</p> <p>The committee does not recommend any change to the proposal in response to this comment. This comment raises policy issues beyond the scope of this proposal that are the province of the Legislature to address. The CARE Act does not currently address how the respondent is to arrange to attend the proceedings.</p> <p>The committee does not recommend any change to the proposal in response to this comment. Section 5976 gives the respondent the right to have a “supporter” throughout the process. Section 5971 defines a supporter as an adult who assists the respondent, which may include supporting the person to understand, make, communicate, implement, or act on their own life decisions during the CARE Act process. Sections 5980 and 5981 describe the supporter’s duties and their limits.</p> <p>This comment raises issues that are the province of the Legislature to address. The Judicial Council lacks the authority to appropriate funds or to allocate funds other than those appropriated</p>

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		<p>and how available to the respondent will they be?</p> <p>Regarding clarity of information, scheduling information and timelines should be clearly included in all notices. Further, respondents are able to request extensions for various things, but this fact is not made clear on the forms. The forms should clearly state when and how respondents can request extensions.</p> <p>Lastly, HAC has serious concerns about the lack of clarity in the terms in some of the forms, which track the language in the law. The Judicial Council noted this, stating “For example, the CARE Act uses many technical terms without defining them.” ITC page 9. These terms include, but are not limited to, “serious mental illness,” “frequent hospitalizations,” and “untreated mental illness.” This lack of clarity will certainly result in inconsistent application throughout jurisdictions. Such inconsistent application would likely result in disparate <b>impact on protected groups of people with low income and disabilities</b>. When loss of autonomy and individual rights are at stake, clarity, elaboration, and definition of these terms is imperative.</p>	<p>to the judicial branch by the Legislature.</p> <p>The availability of a volunteer supporter is beyond the scope of this proposal.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The statute requires that respondents will be represented by counsel at all stages of the proceedings who will be able to request extensions of hearings.</p> <p>The committee does not recommend any change to the proposal in response to this comment. Defining statutory terms is within the purview of the Legislature, and interpreting vague statutory terms is within the purview of the courts.</p>

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			See comments on specific rules or forms, below.	See responses to specific comments, below.
20.	Housing California by Mari Castaldi, Senior Legislative Advocate on Homelessness Sacramento	AM	<p><b>Noticing Requirements and Special Consideration for Respondents Experiencing Homelessness:</b> In general, as the Advisory Committee develops rules, forms, and processes for notification of CARE Act respondents, special consideration should be given to ensure confirmed physical delivery of notices to people experiencing homelessness that may be subject to a CARE Act proceeding. For someone experiencing homelessness, receiving notice through the mail will present major challenges, even if the individual has an address listed at a shelter, a PO Box, or some other alternative to a traditional physical address.</p> <p><b>Health, Mental Health, and Other Clinical Expertise of Petitioners:</b> Housing California remains concerned about the range of possible petitioners that are able to submit petitions and enter a respondent into a CARE Act process, irrespective of whether the petitioner has clinical training or other training relevant to working with people with serious mental illness. While the Advisory Committee may have limited authority over statutory changes to adjust who is an eligible petitioner, we encourage the Advisory Committee to use these forms to request non-clinician petitioners to detail their training on working with people with</p>	<p>The committee agrees and has revised the proposal to require service of notice on the respondent by personal delivery or, if personal delivery is impracticable, by any other method reasonably calculated to provide actual notice. Service must always be confirmed by filing a proof of service with the court.</p> <p>The committee does not recommend the suggested change. Section 5974 authorizes a wide variety of persons, including non-clinicians, to file a petition to initiate the CARE Act process. The statute does not, however, make the petitioner’s experience or training relevant to any judicial determination, including whether the respondent is eligible for the CARE Act process. The court therefore has no basis for inquiring into that experience or training.</p>

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		<p>serious mental illness. This experience is likely to vary considerably among non-clinicians, and the court should be making decisions with a fulsome understanding of the petitioners’ experience and qualifications. While we appreciate attention to the unqualified petitioner could cause significant harm and disruption.</p> <p><i>Input from People with Lived Experience:</i> We strongly encourage the Probate and Mental Health Advisory Committee (Advisory Committee) to consult with people with lived experience of mental illness, homelessness, and other relevant lived expertise in the development of rules, forms, and other processes governing the CARE Act. Engaging and empowering people with lived experience to inform the design of CARE Act processes and information for the CARE Act is essential; engagement with people with lived experience early in the implementation process is shown to improve outcomes for people with lived experience of homelessness, mental illness, and disability.</p> <p>In a similar vein, the Advisory Committee should partner with organizations that are culturally competent in these areas and rooted in California’s communities of people experiencing homelessness and serious mental illness, especially in communities of color</p>	<p>Inspection of this chart shows that the committee received many comments through the Judicial Council’s regular public posting and circulation process, which was open to all. Although no commenter specifically identified themselves living with mental illness, that does not signify that no commenter does, and at least one commenter identified as homeless. In addition, several wrote of their experiences with relatives’ mental health disorders.</p> <p>Although the committee is sensitive to issues of cultural difference and encourages competent engagement with communities of all cultures, the suggestions presented are beyond the scope of this proposal.</p>

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			<p>where engagement with the legal system have had disproportionately harmful and traumatizing impacts. This engagement should be done proactively transparently to ensure that relevant stakeholders are aware of opportunities to weigh in not only on the implementation processes and associated forms, but also to ensure stakeholders can also share who needs to be consulted that may not yet be present at the table. Currently, the rulemaking process lacks adequate explanation as to how these communities are being consulted in the development of critical forms, such as the forms highlighting a person’s rights under the CARE Act processes. * [citation omitted]</p> <p>See comments on specific rules or forms, below.</p>	See responses to specific comments, below.
21.	<p>Human Rights Watch by Olivia Ensign Senior Advocate, US Program John Raphling Senior Researcher, US Program New York, New York</p>	N	<p>Human Rights Watch has carefully reviewed the eleven rules of court and eleven forms proposed to implement the newly enacted Community Assistance, Recovery, and Empowerment (CARE) Act and writes to respectfully oppose their content and the process and procedures created by them. The CARE Act mandates that the Judicial Council adopt the rules and forms necessary to the CARE court process and the promotion of state-wide consistency. However, the proposed rules and forms fail to remedy the coercion embedded in the system the CARE Act created, that will, in practice, remove unhoused community members with perceived mental</p>	<p>The committee appreciates this comment. The committee does not recommend any changes to the proposal in response, as the comment raises policy issues beyond the scope of this proposal that are more appropriately addressed to the Legislature for resolution.</p>



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		<p>health conditions from the public eye without effectively addressing their mental health conditions or lack of housing. Indeed, the rules and forms proposed by the Committee raise new concerns around overbroad application, abuse, and accessibility.</p> <p>Rather than adopting these proposals and continuing along the path to coercion, we urge you to more deeply consult with disability, racial justice, housing, and peer-led groups to reach a more holistic, rights-respecting approach to address the lack of resources for autonomy-affirming treatment options and affordable housing.</p> <p><b>CARE Court is Coerced Treatment.</b> The proposed rules and forms make clear “to begin CARE Act proceedings, you do not need to provide anyone except the court with a copy of the petition.” Indeed, Rule 7.2235(b) anticipates that a person may learn that they are the subject of a petition, only after a judge has already reviewed their private behavioral health information and set an initial appearance date.</p> <p>The proposed forms name the expansive categories of petitioners allowed by the CARE Act including: roommates, family members, first responders, police officers, homeless outreach workers, public guardians,</p>	

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		<p>conservators, service providers and the director of the county behavioral health agency. These groups have the power to thrust a person into the jurisdiction of the CARE courts without the person’s consent or knowledge, despite the fact that many petitioners may lack any expertise on identifying signs and symptoms of mental health conditions.</p> <p>The proposed petitioner guidance form (CARE-050-Info) does not remedy this lack of expertise. Rather, it describes respondent eligibility in technical, medical language and lists vague and stereotypical characteristics to cite when claiming someone is experiencing a qualifying mental health condition, such as issues with personal hygiene, difficulty concentrating, and difficulty functioning socially. Even more troubling, the form includes the example of “difficulty maintaining a residence,” which is rooted in structural and societal barriers to housing that may be wholly separate and irrelevant to the manifestation of a mental health condition. Similarly, to support the eligibility requirement that a person be in need of services, the proposed form gives petitioners the example of a person that has access to housing but chooses to live in conditions that could lead to hypothermia. This example wholly ignores the fact that some shelters or other congregate settings may be</p>	<p>In section 5974, the Legislature laid out the list of potential petitioners, which included individuals without mental health expertise. The purpose of the form CARE-050-INFO is not to provide lay petitioners with expertise identifying signs and symptoms of mental health conditions, but rather to assist them in filling out a form based on a statute that requires specific eligibility. Diagnostic support may come in the form of a mental health declaration (form CARE-101) or as part of a report by the county agency under section 5977(a)(3)(B).</p> <p>The committee has revised the item 5 eligibility chart in CARE-050 in several ways. In response to comment, the committee has clarified that examples are only examples of circumstance that <i>may</i> qualify. Additionally, the examples have been revised to specify that the behavior described must be due to a mental illness. Further, descriptions of refusal of voluntary treatment in the examples are refusals “without</p>

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		<p>unsuitable or unacceptable depending on individuals’ circumstances and needs. Also of concern, the form lists an example of a person who has voluntarily accepted treatment that has not been effective in stabilization. If someone has already accepted voluntary treatment, referring them into convoluted, coercive court proceedings that order treatment will do little more than discourage the person from seeking voluntary treatment again in the future.</p> <p>The broad categories of petitioners not only lack relevant knowledge but raise the specter of abuse. For instance, interpersonal conflicts between family members could result in abusive parents, children, spouses, and siblings vindictively using the referral process to expose their relatives to court hearings and potential coerced treatment, housing, and medication. The proposed form states that the court may determine a person is a vexatious litigant if that person files more than one petition under the CARE Act that has no basis in truth or reality or is aimed at harassment. However, this proviso does not remedy the risk that a vindictive petitioner could abuse the process by initiating a petition just once. A single petition may be enough to derail a person’s life or health.</p> <p>Nor does this proposal address the possible impact of a threatened petition. Law</p>	reason.”

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		<p>enforcement and outreach workers may threaten unhoused people with referral to the CARE court process created by the CARE Act to pressure them to move from a given area. Even if these state actors do not then unilaterally funnel those who disobey their commands into the CARE court process, the mere threat of a petition could traumatize and disrupt communities. Given the long history of law enforcement using its authority to drive unhoused people from public spaces, it is dangerous to provide them with additional powers to do so.</p> <p>In addition to a petition structure unmoored from consent, the proposed rules and forms do not remedy the coercive nature of the contradictory and unworkable CARE court proceedings. CARE-060-INFO, which explains the process to those forced into the jurisdiction of the CARE court, belies any allusions to voluntariness. Through this form a person learns that they are the subject of a petition, the court has appointed them an attorney, and that there will be upcoming meetings and court hearings they are expected to attend. They also learn if they do not attend said hearings, the hearings may continue without them. The related rules on when notice of this information must be provided fail to take into account both the trauma associated with unexpected contact with</p>		

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		<p>the legal system and the logistical challenges of providing notice to a person who may be unhoused or housing insecure.</p> <p>If after a merits hearing on the petition, the court finds the person meets the CARE Act criteria, the person is then required to enter into negotiations with the county behavioral health agency to come up with a purportedly voluntary agreement. However, failure to agree to that supposedly voluntary plan results in a court-ordered clinical evaluation by that same behavioral health agency, which can be used to impose a CARE plan following a hearing on the evaluation and other evidence.</p> <p>As the proposed forms expound, that CARE plan may include an order to engage in clinical behavioral health care; counseling; specialized psychotherapies, programs, and treatments; stabilization medications; and priority access for certain housing resources. This approach not only robs individuals of dignity and autonomy but is also coercive and likely ineffective. Studies of coercive mental health treatment have generally not shown positive outcomes. Evidence does not support the conclusion that involuntary outpatient treatment is more effective than intensive voluntary outpatient treatment and, indeed, shows that involuntary, coercive treatment is harmful.</p>	

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			<p>Further the housing ordered by the CARE plan may be inadequate. Housing must be provided through a designated list of existing programs that include interim housing or shelter options that may be unacceptable to an individual and unsuited to their unique needs. The CARE Act also does not allow for enforcement of long-term prioritization of housing for its graduates and the graduation plan cannot “place additional requirements on local government entities.”</p> <p>If a person does not complete the CARE process, the court may “involuntarily reappoint[ ]” them to the program for an additional year. The court may use failure to comply with the CARE plan as “a presumption at that hearing that the respondent needs additional intervention beyond the supports and services provided by the CARE plan.” In practical effect, the mandatory care plans are simply pathways to the even stricter system of control through conservatorship, which may strip a person of their legal capacity and personal autonomy, subjecting them to forcible medical treatment and medication, loss of personal liberty, and removal of power to make decisions over the conduct of their own lives.</p> <p>This process is entirely coercive, despite procedures that claim to be voluntary. Welfare</p>	

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			<p>and Institutions Code section 5801(b)(5), as amended by the CARE Act, makes this coercion clear. It reads: “The client should be fully informed and volunteer for all treatment provided, unless... the client is under a court order for CARE pursuant to Part 8 (commencing with Section 5970) and, prior to the court-ordered CARE plan, the client has been offered an opportunity to enter into a CARE agreement on a voluntary basis and has declined to do so.”</p> <p><b>Coerced Treatment Violates Human Rights</b> Under international human rights law, all people have the right to the highest attainable standard of physical and mental health. Free and informed consent, including the right to refuse treatment, is a core element of that right to health. Having a “substitute” decision-maker, including a judge, make orders for health care can deny a person with disabilities their right to legal capacity and infringe on their personal autonomy.</p> <p>The Convention on the Rights of Persons with Disabilities establishes the obligation to “holistically examine all areas of law to ensure that the right of persons with disabilities to legal capacity is not restricted on an unequal basis with others. Historically, persons with disabilities have been denied their right to legal</p>	

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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		<p>capacity in many areas in a discriminatory manner under substitute decision-making regimes such as guardianship, conservatorship and mental health laws that permit forced treatment.” The US has signed but not yet ratified this treaty, which means it is obligated to refrain from establishing policies and legislation that will undermine the object and purpose of the treaty. Mandating long-term substitute decision-making schemes like conservatorship or court-ordered treatment plans would defeat the object and purpose of the CRPD, which is to provide persons with disabilities full recognition as rights holders. People’s right to make their own decisions, regardless of the support requirements they might have, instead of being considered as objects of rehabilitation, is a core component of the CRPD.</p> <p>The World Health Organization has developed a new model that harmonizes mental health services and practices with international human rights law and has criticized practices promoting involuntary mental health treatments as leading to violence and abuse, rather than recovery, which should be the core basis of mental health services. Recovery means different things for different people, but one of its key elements is having control over one’s own mental health treatment, including the possibility of refusing</p>		



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			<p>treatment.</p> <p>To comport with human rights, treatment should be based on the will and preferences of the person concerned. Housing or disability status does not remove a person’s right to legal capacity or personal autonomy. Expansive measures for imposing mental health treatment like the process envisioned by the CARE Act infringe on this right and discriminate on the basis of disability. As discussed above they also run the risk of being abused by self-interested actors. This coerced process for the ostensible aim of treatment undermines any healing aim of the proposal.</p> <p><b>CARE Court will Disproportionately Affect BIPOC Communities.</b></p> <p>The CARE court program directly targets unhoused people to be placed under court-ordered treatment, thus denying their rights and self-determination. Governor Gavin Newsom, in pitching this plan, called it a response to seeing homeless encampments throughout the state of California. Due to a long history of racial discrimination in housing, employment, access to health care, policing, and the criminal legal system, Black, Indigenous, and People of Color (BIPOC) communities have much higher rates of houselessness than their overall share of the population. The CARE Act in no way addresses</p>	

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		<p>the conditions that have led to these high rates of houselessness. Instead, it proposes a system of state control over individuals that will only compound the harms of houselessness.</p> <p>Further, research shows that due to bias and a lack of cultural competency, mental health professionals over-diagnose and misdiagnose Black and Latino populations at much higher rates than they do white people. One meta-analysis of over 50 separate studies found that Black people are diagnosed with schizophrenia at a rate nearly 2.5 times greater than white people. A 2014 review of empirical literature on the subject found that Black people were diagnosed with psychotic disorders three to four times more frequently, and Latino people approximately three times more frequently, than white people.</p> <p>CARE Court runs the risk of exacerbating existing racial disparities and may place a disproportionate number of Black, Indigenous, and people of color (BIPOC) individuals under coercive court control. The proposed rules and forms do nothing to remedy this danger.</p> <p><b>Conclusion</b> The CARE Act creates a separate legal track for people perceived to have mental health conditions, without adequate process, negatively</p>	

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			<p>affecting the enjoyment of basic rights. The proposed rules and procedures outlined by the Advisory Committee do not ameliorate these objections; instead, they expand the ability of the state to coerce people into treatment and inadequate housing.</p> <p>Investing in coercive treatment and expanded judicial infrastructure ties up resources that could otherwise be invested in voluntary treatment and the services necessary to make that treatment effective. California should provide well-resourced holistic community-based voluntary options and remove barriers to evidence-based treatment to support people with mental health conditions who might be facing other forms of social exclusion. Such options should be coupled with investment in other social supports, and especially housing, not tied to court supervision.</p> <p>* [citations omitted]</p>	
22.	Legal Aid Association of California by Lorin Kline Director of Advocacy Oakland	NI	<p><b>General Concerns</b></p> <p>As detailed below, many of the legal aid community’s concerns with proposed rules and forms revolve around <b>deficient notice to the respondent</b> or notice procedures that are impractical or inappropriate for the specific population of respondents expected to be subject to CARE Court. The legal aid community is also concerned that <b>the rules as drafted in the proposal may lead to</b></p>	The committee appreciates this comment. See below for responses.

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		<p><b>insufficient involvement of the respondent in CARE Court proceedings.</b></p> <p><i>Notice Problems</i>                      The proposed rules consistently call for notice to respondent to be provided no later than five court days before various CARE Court hearings. This short timeframe is grossly inadequate and unrealistic for the population of individuals that will be respondents in CARE Court. Legal aid organizations have experience serving people with mental health disabilities, as well as people that are unhoused. Reaching these individuals is extremely difficult. Not only do they frequently move around, but they are also often unable to receive mail, or even phone calls as their phones (if they have them) are regularly stolen or not functioning due to lack of funds. Legal aid attorneys report that it is not unusual for it to take a couple of weeks to locate a client. If the rules are adopted as written, it is unlikely that the respondent will be fairly notified and therefore unlikely that they will be able to meaningfully participate in CARE Court proceedings, the result of which will have serious consequences.</p> <p>While we understand that portions of the CARE Court process are expedited—the statute calls, for example, for the court to set an initial appearance within 14 days of its finding that</p>	<p>The committee does not recommend any changes to the proposal in response to this comment. The short timeframes for setting hearings imposed by the statute limit the committee’s ability to extend the notice periods.</p>

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		<p>petitioner has made a prima facie showing— there is still flexibility within the statute to provide additional notice to the respondent. The statute would also allow the Judicial Council to improve the manner in which notice is given, as well as the content of the notice, in order to further increase the fairness to the respondent and the likelihood of their successful participation.</p> <p><u>Some improvements include:</u></p> <p>&gt; Mandating notice to the respondent earlier in the process would provide additional time to locate, notify, and prepare the respondent to appear for their initial hearing. The <i>respondent should be notified at the time a petition is filed and the court begins their evaluation of the petition’s merits</i>, rather than waiting until a court has already made a finding on that petition.</p> <p>&gt; Notably, the proposed rules only call for personal service to the respondent in a single instance, for the notice of initial appearance. For the same reasons that a five-day notice period is problematic, <i>anything other than personal service is impractical and unrealistic</i>. We anticipate that most respondents in CARE Court will be unlikely to reliably receive mail and will be difficult to locate. Requiring personal service of all notices to appear, rather than just for the</p>	<p>The committee does not recommend any changes to the proposal in response to this comment. Until the court orders a report or sets an initial appearance, there are no proceedings to give notice of and there is no formal action that the respondent could take in response. Furthermore, if the Legislature had intended to require service of the petition on the respondent when filed, the Legislature could have done so, but did not.</p> <p>The committee agrees that service of notice by personal delivery is better suited to giving actual notice to a respondent and has therefore revised the proposal to require personal delivery to the respondent of notice of every hearing under the CARE Act. If personal delivery is impracticable, the rules authorize service by any method reasonable calculated to give the respondent actual notice.</p>

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		<p>notice of initial appearance, would also lessen the impracticality of the rules as written.</p> <p>&gt; The contents of the notice itself could be improved to increase the likelihood of the respondent’s participation. The proposed rules do not call for the <i>notice to include information for the respondent about who has been appointed as their counsel</i> and how to reach them. Because respondents will be difficult to contact, as detailed above, their appointed counsel will face a serious challenge in meeting with and preparing their client for CARE Court appearances, particularly the initial appearances with its expedited timeframe. The experience of legal aid attorneys instructs that including the attorney’s information on the notice leads to better outcomes. If the respondent can reach out to their attorney, rather than simply having to wait for their attorney to try to locate them, this will increase the likelihood of success.</p> <p>&gt; A person that the statute anticipates being involved in CARE Court proceedings that is notably absent from the notice procedures proposed here is the “supporter.” Section 5976 provides that a respondent shall be allowed to have a supporter. The statute even states that if the court finds clear and convincing evidence that a respondent meets CARE Criteria, it shall order the county behavior health agency to work</p>	<p>The committee does not recommend any changes to the proposed rules in response to this comment. Rule 7.2235 requires that specific mandatory forms be included with notice to the respondent. For example, rule 7.2235(a) requires that service of <i>Notice of Order for CARE Act Report</i> (form CARE-106) include both form CARE-105, which includes the name and contact information of respondent’s appointed counsel, and form CARE-060-INFO, which provides a detailed description of the CARE Act process tailored to the respondent’s perspective, including the information that they have been appointed counsel. Rule 7.2235(b) imposes similar requirements for service of the mandatory <i>Notice of Initial Appearance</i> (form CARE-110).</p> <p>The committee agrees that the supporter can play an important role in CARE Act proceedings, but that role is contingent on the acceptance of the respondent. The committee has therefore revised the proposal to require notice of hearings after the initial appearance to be given to a supporter, if any, if the respondent consents in writing or in open court.</p>

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		<p>with the respondent, respondent’s counsel, <i>and the supporter</i>. Engaging with a respondent’s supporter in providing important notices to the respondent will also minimize some of the potentially negative consequences of the notice rules as written. While the respondent may not yet have a supporter at the time of the notice of initial hearing, <i>the supporter should be included in any notices to the respondent that come after their appointment</i>.</p> <p>Specific rules in which these problems arise and our recommendations could be implemented are detailed below.</p> <p><b><i>Assurance of respondent’s presence and participation</i></b>                      The legal aid community is very concerned that the proposed rules, particularly the many problems with notice detailed above, will result in preventing the respondent from meaningfully participating in their own CARE Court process. While the statute does indicate that the respondent should have a right to presence and participation in the proceedings, the rules do nothing to clarify those rights or provide mechanisms or procedures for their enforcement. <b><i>We fear that without additional guidance and controls added to these rules, it is not only possible but likely that CARE Court proceedings could operate without any</i></b></p>	<p>The committee does not recommend any change in response to this comment. The proposed rules place no obstacles in the way of the respondent’s participation that are not inherent in the statutory scheme. The proposed rules and forms promote the respondent’s participation by requiring notice and providing information about the process and the respondent’s rights. Furthermore, the rules require appointment of counsel immediately following the court’s decision not to dismiss the petition after conducting a prima facie review. Appointment thus precedes any opportunity for the respondent to participate in the process. Counsel is better positioned than any form could</p>

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		<p><i>involvement of the respondent at all.</i> That is not an allowable or just outcome.</p> <p><u>Some improvements include:</u></p> <p>&gt; Clarifying how a respondent may waive appearance at their initial hearing. In Section 5977(b)(3) it says that respondent may waive appearance, but the court has not provided any clarity as to what constitutes said waiver.</p> <p>&gt; Ensuring that proceedings to not move forward without a waiver from the respondent. Section 5977(b)(3) indicates that the hearing may go forward if the respondent isn't there and attempts to elicit attendance have failed, if it is in the respondent's best interest. The legal aid community maintains that it is NEVER in the best interest of the respondent for the hearing to go on without their participation. Furthermore, failed attempts to give notice of the hearing should prohibit the hearing from going forward. Likewise, if the respondent was indeed served but their appointed counsel hasn't been able to locate or make contact with the respondent, that should also prohibit the hearing from moving forward. Either of these incidents essentially constitute the hearing proceeding without the knowledge or involvement of the respondent at all which is extremely harmful, violates the respondent's rights, and has little to no</p>	<p>be to advise, inform, and assist the respondent regarding participation in the CARE Act proceeding.</p> <p>The committee does not recommend any change in response to this comment. In the absence of legislative guidance, a court, on a case-by-case basis, is in the best position to determine whether a respondent has given a valid waiver of personal appearance.</p> <p>The committee does not recommend any change to the proposal in response to this comment. As the commenter notes, the statute authorizes the initial appearance to go forward without the presence or participation of the respondent in specific circumstances. The council is not authorized to adopt rules inconsistent with statute. On the other hand, the court has inherent authority to manage its calendar and may continue a hearing if it deems a continuance necessary or appropriate.</p>



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		<p>likelihood of success.</p> <p><i>Accessibility and Usability of Forms</i></p> <p>The legal aid community has concerns about the accessibility and usability of all the forms in the proposal. While we believe that all court forms should be as simple, readable, and usable as possible to all people, it is particularly important here. Respondents will be an especially vulnerable population, and one that is involuntarily being thrust into a new court processes that may be confusing and will ultimately impact the services they are able to receive and their rights.</p> <p>We would strongly encourage the Judicial Council to consider revising the forms overall with the following considerations in mind:</p> <ul style="list-style-type: none"> <li>&gt; Ensuring all forms are at a 5<sup>th</sup> or 6<sup>th</sup> grade reading level</li> <li>&gt; Eliminating legal or other jargon</li> <li>&gt; Simplifying forms and adding additional information and instructions wherever possible</li> <li>&gt; Increasing font size and spacing</li> <li>&gt; Consulting disability access experts to ensure the forms are accessible to those with vision or other deficits</li> </ul> <p>&gt; Translating the forms into additional languages (especially the INFO forms) and</p>	<p>The committee recognizes that the forms in this proposal present complex information and has revised the forms to simplify them as much as possible while still communicating accurate legal information. The complexity of the forms should be offset by the appointment of counsel in the early stages of the proceedings. Counsel is better positioned to explain the CARE Act process than any form could be. To assist other parties who may be self-represented, the committee has revised the forms to encourage users to seek legal advice and to increase references and links to the online directory of superior court self-help centers.</p> <p>The committee agrees that promoting language access is critical. Forms will be prioritized for</p>

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		<p>indicating on the English versions that other languages are available and how to obtain them.</p> <p><i>Need for statewide training and consistency</i> A need for statewide consistency is another issue of great concern to the legal aid community.</p> <p>The proposed rules leave several items up to the discretion of local courts or to be clarified in local rules. By leaving important procedures, such as the process for appointment of counsel, up to local courts, it is inevitable that processes will be inconsistent, numerous examples of which we see across the state today. While some degree of local control is practical and necessary, some limits are required in order to promote statewide consistency. Inconsistency creates a great risk of inequitable treatment, particularly in cases such as this in which the respondent will necessarily come from a vulnerable population and be ill-equipped to advocate for themselves.</p> <p>Finally, the legal aid community would like to note the need for training for all people that will be interacting with respondents, court staff included, in working with people with mental health disabilities. Some legal aid lawyers have extensive experience with this population, and they wish to underscore the challenges and need</p>	<p>translation as resources become available.</p> <p>The committee does not recommend any change in response to this comment. The statutory provisions outline the procedures and deadlines in detail. Rules of court specifying additional processes or mechanisms for carrying out those processes would not usefully add to the statutory requirements and would interfere with the judicial discretion needed to implement the statutory policies justly and effectively.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The committee recognizes the need for training. Section 5983(c) requires the Judicial Council to provide training and technical assistance to judges. That training, however, is beyond the scope of this proposal. In addition, training of</p>

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			<p>for specialized training. Even members of the legal aid community, experienced with working with vulnerable populations, will need additional training to work with this specific clientele. This will be especially true for court staff most likely to directly interact with people in need, including staff of self-help centers.</p> <p><b><u>Proposed Forms</u></b>                      As detailed above, the legal aid community has overarching concerns about the ultimate clarity and usability of the forms in this proposal. We strongly encourage the Judicial Council to work with accessibility experts to improve the forms by lowering the reading level, using clearer language, adding additional explanations and instructions, increasing the size and spacing of the font, and whatever other changes an expert may recommend.</p> <p>* [citations omitted]</p> <p>See comments on specific rules or forms, below.</p>	<p>county staff and counsel is outside the purview of the Judicial Council.</p> <p>The committee recognizes the need to communicate legal information as simply as possible while maintaining accuracy. Committee staff has reviewed and revised the forms to promote clarity and simplicity within the bounds imposed by statute, rule of court, and the council’s form standards.</p> <p>See responses to specific comments, below</p>
23.	Legal Services NorCal by Kate Wardrip, Managing Attorney Chico (Butte County)	AM	See comments on specific rules or forms, below.	See responses to specific comments below.
24.	Los Angeles County Department of Mental Health	NI	See comments on specific rules or forms, below.	See responses to specific comments below.
25.	Christi McDonald Deputy County Counsel Office of County Counsel	AM	Please consider allowing parties, including Respondent, to consent to electronic service of documents and not require first class mail for	The committee has revised its recommendation to add rule 7.2235(d), which provides for electronic service in conformity with the

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	Salinas		<p>everything. Mailing will increase costs in providing services and it delays notice getting to the parties who are governmental agencies (like behavioral health, county counsel, and public defenders). Many offices are going paperless, so electronic service is faster and preferred in many offices. Also, many governmental agencies have large mail rooms which can cause delay in having mail notices processed. When you combine internal processing delays with the delays experienced at the post office, 5 days may not be enough time for the actual documents to get where they need to go, resulting in delays at the court hearings. Since many of the CARE Court team will be the same people (County Counsel, behavioral health staff, Public Defender) allowing for electronic service by consent will allow each county to arrange its own process that meets its needs, while saving staffing and supply costs and reducing environmental impact (paper, ink, fuel for mail delivery, etc....)</p> <p>Please consider a change of placement form so that parties can be noticed if the Respondent’s address changes during CARE Court proceedings.</p>	<p>requirements of Code of Civil Procedure section 1010.6 and rule 2.251.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The committee does not believe that a form is needed. The respondent’s counsel is in a suitable position both to impress upon the respondent the need to ensure that counsel and the court have a current address or location and to communicate the respondent’s address to the court.</p>

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			See comments on specific rules or forms, below.	See responses to specific comments, below.
26.	Hon. Eileen C. Moore Associate Justice, California Court of Appeal, 4th Appellate District Santa Ana	NI	See comments on specific rules or forms, below.	See responses to specific comments below.
27.	National Alliance to End Homelessness by Alex Visotzky, Senior California Policy Fellow Washington, DC	AM	<p><b>General Comments:</b> <i>Input from People with Lived Experience, Including a Racial Equity and Trauma-Informed Lens:</i> We strongly encourage the Probate and Mental Health Advisory Committee (Advisory Committee) to consult with people with lived experience of mental illness, homelessness, and other relevant lived expertise in the development of rules, forms, and other processes governing the CARE Act. Engaging and empowering people with lived experience to design inclusive processes and information for the CARE Act is an essential component of a successful program; engagement with people with lived experience early in the implementation process is shown to improve outcomes for people with lived experience of homelessness, mental illness, and disability.</p> <p>In a similar vein, the Advisory Committee should partner with organizations that are culturally responsive in these areas and rooted in California's communities of people experiencing homelessness and serious mental illness, especially in communities of color</p>	<p>The committee appreciates this comment. This chart reveals that the committee received many comments through the Judicial Council's regular public posting and circulation process, which was open to all. Although no commenter specifically identified themselves as living with mental illness, that does not signify that none has, and at least one commenter identified as homeless. In addition, several wrote of their experiences with relatives' mental health disorders.</p> <p>The committee does not recommend any change to the proposal in response to this comment. Although the committee is sensitive to issues of cultural difference and encourages competent engagement with every person and community no matter the culture, the suggested changes to</p>

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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		<p>where court processes have had disproportionately harmful and traumatizing impacts. This engagement should be done proactively and with transparency to ensure that relevant stakeholders are aware of opportunities to weigh in not only on the implementation processes and associated forms, but also to ensure stakeholders can also share who needs to be consulted that may not yet be present at the table. Currently, the rulemaking process lacks adequate explanation as to how these communities are being consulted in the development of critical forms, such as the forms highlighting a person’s rights under the CARE Act processes.</p> <p>Similarly, a broader racial equity lens, coupled with a thoughtful approach around trauma-informed care, is essential in the continuing development of the CARE Act processes. Communities of color have suffered disproportionately from past abuses in the court system, mental health systems, and other public systems; these systems (and the communities that interact with them) continue to be weighed down by these legacies in the present day. A deliberate and transparent approach to racial equity is necessary to ensure these processes do not reproduce trauma for these communities.</p> <p><i>Noticing Requirements and Special</i></p>	<p>the rulemaking process are beyond the scope of this proposal. In addition, the effect of the rules and forms in this proposal on different cultures depends largely on the statutes that they implement.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The effect of the rules and forms in this proposal on racial equity depends largely on the statutes that they implement.</p>

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		<p><b><i>Consideration for Respondents Experiencing Homelessness:</i></b> In general, as the Advisory Committee develops rules, forms, and processes for notification of CARE Act respondents, special consideration should be given to ensure confirmed physical delivery of notices to people experiencing homelessness that may be subject to a CARE Act proceeding. For someone experiencing homelessness, receiving notice through the mail will present major challenges, even if the individual has an address listed at a shelter, a PO Box, or some other alternative to a traditional physical address.</p> <p><b><i>Health, Mental Health, and Other Clinical Expertise of Petitioners:</i></b> As noted in NAEH’s September 2022 letter to Sec. Ghaly, NAEH is concerned about the range of possible petitioners that are able to submit petitions and enter a respondent into a CARE Act process, irrespective of whether the petitioner has clinical training or other training relevant to working with people with serious mental illness. While the Advisory Committee may have limited authority over statutory changes to adjust who is an eligible petitioner, we encourage the Advisory Committee to use these forms to request non-clinician petitioners to detail their training on working with people with serious mental illness. This experience is likely to vary considerably among non-clinicians, and</p>	<p>The committee agrees that service on the respondent by mail is insufficient and has revised rule 7.2235 to require personal service of notice on the respondent or, if personal service is impracticable, service by any method reasonably calculated to give the respondent actual notice.</p> <p>The committee does not recommend the suggested change. The additional suggested information is beyond the scope of this proposal. Section 5974 authorizes non-clinicians to file a petition to initiate the CARE process. The statute does not require the petitioner to have any specific experience or training, and the court therefore has no basis to inquire into that.</p>

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			<p>the court should be making decisions with a fulsome understanding of the petitioners’ experience and qualifications. While we appreciate attention to the possibility of restricting vexatious litigants, it must also be considered that a single petition from an unqualified petitioner could cause significant harm and disruption.</p> <p>See comments on specific rules or forms, below.</p>	
28.	Office of the County Counsel, Merced County by Forrest W. Hansen, County Counsel	NI	See comments on specific rules or forms, below.	See responses to specific comments below.
29.	Office of the San Diego City Attorney by Mara W. Elliott, City Attorney	A	See comments on specific rules or forms, below.	See responses to specific comments below.
30.	OneJustice by Leigh E. Ferrin, Program Director Los Angeles	AM	<p>First, we encourage the committee to use the term “respondent” or “person identified in the petition,” rather than subject. Although “subject” is used in other contexts relating to CARE Court, we believe the term is dehumanizing, and would much prefer the legal/technical term “respondent,” or “person identified in the petition.”</p> <p>Second, we agree that there is a lack of clarity in the statute. However, we believe that the statute does require that the CARE Act petition must be filed with the court. In the definitions section, Section 5971 of the Welfare and Institutions Code, “‘Petitioner’ means the entity who files the CARE Act petition with the court.” We</p>	<p>The committee agrees that referring consistently to the “respondent” will reduce confusion and may be more respectful and has modified its recommendation accordingly.</p> <p>The committee does not recommend a change to the proposal in response to this comment. See below for further response.</p>



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		<p>believe it is clearly implied that the petition must be filed with the court.</p> <p>In the case of referrals, we agree with the Committee that the petition form should indicate where the petition came from, including which court and what type of proceeding. We understand it would be preferable for the legislature to have clearly stated that, upon a referral, the CARE Act petition must be filed with the court; however, Section 5978 of the Welfare and Institutions Code does specifically identify who the petitioner would be in the case of the different referrals, and “petitioner” is a defined term that requires the filing of the petition with the court. Therefore, we do believe that the petition being filed with the court is a requirement set out in the statute, even in the case of a referral.</p> <p>We agree that the discussion of who will represent the respondents in CARE Court is very confusing. However, it is clear that an appointment must occur. We believe that it is possible for the Committee to articulate a process for appointment, no matter which agency or organization will be the recipient of that appointment.</p> <p>The timing of the appointment seems to be</p>	<p>The committee does not share the commenter’s interpretation of the statute. On that interpretation, as other commenters have pointed out, the statute would require the person designated as the petitioner to draft and file a petition, verified under penalty of perjury, even if the designated petitioner did not believe all the allegations in the petition to be true. In addition, a judicial referral requiring the head of an executive branch agency to commence a judicial proceeding raises serious separation of powers issues. Absent clear indicia that the Legislature intended those consequences, the committee has opted for the more straightforward interpretation that the designation of a petitioner authorizes only the designee to file a petition to commence CARE Act proceedings in response to a referral.</p> <p>The committee does not recommend any change to the proposal in response to this comment. Proposed rule 7.2230(a) outlines the appropriate statewide components of a process for appointment, including the timing of the appointment. Furthermore, notice to respondent’s counsel is required in 7.2235.</p>

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		<p>particularly important, and does appear to be somewhat contemplated by the Committee. For instance, the Committee is requiring that the appointed counsel be served with the Notice of First Hearing, which means that the appointment would have occurred prior to that hearing being set. In addition, no matter which agency or organization is providing representation, it is likely that they will have an identified legal team to provide the representation, and that notice to that team should be sufficient for the agency or organization to assign an individual attorney to that new filing.</p> <p>We believe that the Committee could propose a rule that requires the agency/organization handling appointments to be notified of a new filing within a certain number of days of the filing of the petition. We believe that the appointment of counsel should occur as soon as possible after the filing of the petition, either before or at the same time that the CARE Act Report is ordered, so that the counsel may consult with their client throughout the entire process, and identify potential issues in the petition. No respondent should be agreeing to participate in CARE Court without first consulting with their counsel. The rule should also require the agency/organization handling appointments to provide the identity of the</p>	<p>Section 5976(c) entitles a respondent “to be represented by counsel at all stages of” a CARE Act proceeding. Section 5977(a) establishes the basic requirements for appointment of counsel when the court sets an initial appearance. However, the court may take action other than dismissing the petition before it sets an initial appearance. Given the possible tension between section 5976(c) and 5977(a), the committee is recommending, in rule 7.2230, to require appointment upon the court’s determination to proceed after its prima facie review under section 5977(a). Furthermore, because the statute equivocates between whether the court must appoint an organization (a qualified legal services project) or an individual attorney (a</p>

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		<p>specific attorney handling the case to the court within a certain number of days of notification so that the court may provide notice to all parties.</p> <p>We appreciate the requirements that the Committee set forth in Rule 7.2235(b)(1) specifying that Form CARE-112 must be provided to the respondent more than once. We do suggest that the Committee somehow ensure that the respondents receive CARE-112 in their primary language, as we anticipate that the respondents may not all speak or read English as their first language, or may not speak or read English at all. We also urge the Judicial Council to consider engaging a consultant who can help with appropriate forms for accessibility, including language, but also font size, grade level target, and other tools that will give the respondents a better chance of comprehending the forms.</p> <p>We agree with the Committee that a mandatory form for providing evidence of a diagnosis of two or more intensive treatments is not necessary. However, we have found that it is sometimes easier to request that a healthcare professional complete a form, rather than asking them to “provide evidence,” so we suggest that</p>	<p>public defender), and local courts and counties have their own processes for appointment of counsel developed in criminal, juvenile, and mental health proceedings, the committee has elected to defer to local experience regarding the appointment process.</p> <p>The committee does not recommend any change to the proposal in response to this comment. Though language access is critical, the translation of forms is beyond the scope of the proposal.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The statute does not require a health care professional to provide the “evidence” under section 5975(d)(2); rather, the petitioner is required to provide the evidence. Furthermore, the statute does not make clear whether the evidence must</p>

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		<p>an Optional Form be developed. The Optional Form could also inform the healthcare professional about what would be considered insufficient evidence, either through the form itself or through the instructions.</p> <p>We are particularly confused as to why the Committee believes that the respondent will hear about the filing of the petition for the first time when the Notice of Initial Hearing is served. Our understanding was that the petitioner was required to serve the respondent with the petition in the same manner as a summons and complaint is served. It seems like that service of the petition would be when the respondent first learns of the filing of the CARE Act petition. We encourage the Committee to clarify the service requirements, particularly differentiating between the service of the petition upon filing and the service of the Notice of Initial Hearing when it is set.</p> <p>We suggest that the Notice of Initial Hearing served upon the respondent include the name and information of the appointed counsel,</p>	<p>be admissible, whether it must be sufficient only to pass the prima facie review, or what role it would play in the court’s determination whether the petition establishes by clear and convincing evidence that the respondent is described by section 5972, as receipt of two or more intensive treatments is not one of the criteria under section 5972. In addition, neither the council nor a health care professional could specify what evidence would be sufficient or insufficient. That is a determination reserved to the trial court.</p> <p>The committee does not recommend any change in response to this comment. The statute does not require the petitioner to serve the petition or notice on the respondent at any stage of the proceedings. Notice is first required after the court sets an initial appearance (§ 5977(a)(3)(A)) or orders a county agency to prepare a report (§ 5977(a)(3)(B)) instead of dismissing the petition after prima facie review. The rules require a copy of the petition to be given to counsel on appointment and personally served on the respondent with notice of the order to prepare a report and notice of initial appearance.</p> <p>The committee agrees with the suggestion and has included space for the name and contact information of appointed counsel in item 4 of</p>

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		<p>particularly in case the counsel has not yet been able to connect with the respondent. The official identification of the appointed counsel will reduce the chances that a respondent will ignore any communications from the appointed counsel prior to the Initial Hearing.</p> <p>[language moved and placed in Responses to Request for Specific Comment section]</p> <p>We agree with the Committee’s suggestion to make the form for a Request for New Order and Hearing optional. We believe that will provide guidance for self-represented petitioners, but also allow counsel to present their request in the format they feel is most effective.</p> <p>Again, we agree with the Committee that the statutes have some holes in them. We appreciate what the Committee was able to do, despite those gaps. We do worry about the Committee leaving the interpretation of some of the ambiguities to the courts, as that will likely result in different interpretations across the pilot counties, and ultimately across the state. We respectfully suggest that the Committee identify which technical terms they believe are not defined and communicate that to the legislature so they can act if they so choose. It would be possible for the legislature to enact urgency legislation to fix some of these issues prior to</p>	<p><i>Notice of Initial Appearance.</i></p> <p>No response required.</p> <p>The committee notes that there are ongoing conversations with the Legislature and the administration about a variety of matters affecting the courts. Further action is beyond the scope of this proposal.</p>

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		<p>the implementation date of October 1, 2023.</p> <p>We appreciate that the Committee made the majority of the forms mandatory across the seven pilot counties. Each county court system has different resources to dedicate to CARE court, and we believe that consistency across the state will be important if this program is going to be successful.</p> <p>We are submitting this comment after the Governor has released his January budget. We are gravely concerned as to the amount that was allocated for legal services organizations or public defenders to provide representation. The allocation of \$6.1 million is less than \$1 million per county. While we understand that some of the pilot counties are small, we believe that a number of the pilot counties (San Francisco, Orange, San Diego, Riverside, and Sacramento) are sufficiently large that \$6.1 million will not cover the cost of providing adequate representation to respondents. It is important to note that a program like this does not only contemplate attorneys, but also case workers or social workers, paralegals or legal assistants, and overhead. We do not know the amount of funding allocated to the courts to implement CARE court, but we hope that the counties are taking into account costs like interpreters, court reporters, and other essential personnel.</p>	<p>No response required.</p> <p>It raises issues beyond the scope of the proposal that are more appropriately addressed to the Legislature and the Governor.</p>

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			See comments on specific rules or forms, below.	See responses to specific comments, below.
31.	Orange County Bar Association Michael A. Gregg, President	AM	<p>There are two places that seem to conflate CARE agreements and CARE plans. CARE agreements do not require status review hearings. The proposed modifications take out a reference to CARE agreements on page three of the Invitation to Comment/Background and a reference to status reviews in form CARE-060-INFO.</p> <p><u>Page 3 of the proposal:</u> Once the court has <del>approved a CARE agreement</del> <del>or</del> ordered a CARE plan, the court is required to hold regular status review hearings to review the progress of the respondent and the county behavioral health agency with the plan. (§ 5977.2.)</p>	In response to other comments, the committee has revised CARE-060-INFO to concentrate on the initial hearings (initial appearance and hearing on the merits but otherwise recommends no changes to the proposal in response to this comment. The committee has no response to the comments on language in the Invitation to Comment. That memorandum does not reflect the committee's view of the final rules and forms to be presented to the Judicial Council.
			See comments on specific rules or forms, below.	See responses to specific comments, below.
32.	Orange County Public Defender's Office by Martin F. Schwarz Office of County Counsel, Orange County by Robert Ervais Orange County Health Care Agency by Dr. Veronica A. Kelley	AM	<p>See comments on specific rules or forms, below.</p> <p>*These comments and the responses to them have been combined below with those of the Superior Court of Orange County, which subsequently filed the same comments.</p>	See responses to specific comments, below.
33.	Scott Owens	AM	* The commenter, informed by his brother's	The committee appreciates this comment. This

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	Los Alamitos		experience, urged the committee to expand the proposal to address homeless persons who suffer from severe delusional disorder.	comment raises policy issues beyond the scope of this proposal that are the province of the Legislature to address.
34.	Public Law Center by Manohar Sukumar Supervising Attorney, Health Law Unit Santa Ana	AM	<p><b>Language Access</b> According to the Judicial Council’s website, “[m]ore than 200 languages and dialects are spoken in California” and “[n]early 7 million (19%) Californians report speaking English ‘less than very well.’” As the Judicial Council has acknowledged, “[w]ithout proper language assistance, limited English proficient (LEP) court users may be excluded from meaningful participation in the judicial process. Many LEP litigants appear without an attorney, and friends and family members who act as interpreters often do not understand legal terminology or court procedures. [¶] Further, LEP court users’ language needs are not limited to the courtroom; the need for language assistance extends to all points of contact for the public.”</p> <p>In light of these concerns, many forms provided by the Judicial Council are available in languages other than English. This is particularly important for CARE-060-INFO and CARE-050-INFO, to ensure that all individuals, regardless of their primary language, have equal access to the information and rights provided by the CARE Act. Providing these forms in multiple languages allows for individuals who may not speak or understand English to fully</p>	<p>The committee appreciates these comments. The committee agrees that language access is critical. Forms will be prioritized for translation as resources allow. The committee agrees that an interpreter during court proceedings would be helpful and has added information about requesting such assistance to the information sheets and notice of rights form.</p> <p>See response above.</p>



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			<p>understand the process and their rights under the CARE Act. This can help to ensure that they are able to meaningfully participate in the proceedings and make informed decisions. Additionally, providing these forms in different languages would also help to promote trust and confidence in the CARE Act process among communities that may have limited English proficiency.</p> <p>The Judicial Council’s data and PLC’s internal statistics suggest that at a minimum, CARE-060-INFO and CARE-050-INFO should be available in Spanish and Vietnamese.</p> <p>See comments on specific rules or forms, below.</p>	See responses to specific comments, below.
35.	<p>Rural Counties Representatives of California by Sarah Dukett, Policy Advocate Sacramento</p> <p>joined by: California State Association of Counties Urban Counties of California County Behavioral Health Directors Association</p>	AM	<p><b>Miscellaneous Issues</b></p> <p>The Invitation to Comment (pp. 1, 3) implicitly assumes that approved CARE agreements are subject to the same process for ongoing court oversight as CARE plans (i.e., ongoing 60-days review hearings, etc.). However, the CARE Act is not entirely clear on this point. (Compare Section 5977.1(a)(2)(B) [specifying only one “progress hearing” for CARE Agreements] with 5977.2(a)(1) [requiring regular ongoing “status review hearings” “after the court orders the CARE plan”].) We encourage the Judicial Council to consider this issue deliberately, and if appropriate, provide Superior Courts with additional flexibility to manage CARE</p>	See response to comment 31.

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			agreement proceedings commensurate with the voluntary nature of such arrangements.  See comments on specific rules or forms, below.	See responses to specific comments, below.
36.	Sacramento County Department of Child, Family & Adult Services by Melissa Jacobs, Deputy Director	A	<p>COMMENT:</p> <ul style="list-style-type: none"> <li>Putting the process in a decision tree format is a good idea but it could be more intuitive. It's a bit busy and complicated for the general public.</li> <li>Clarity regarding the role and responsibility of the "Found County" would be helpful. A respondent does not have to go back to county of residence to go through the CARE court process if they don't want to and the "Found County" would continue to provide the court process and services.</li> <li>It will be important for BHS and APS/PAPGPC to have close communication and coordination relative to the petition process.</li> <li>It would be good to better understand how the "volunteer supporter" might be operationalized in Sacramento.</li> </ul>	<p>The committee appreciates these comments. The rule or form to which this comment refers is not clear. The committee therefore does not recommend any change to the proposal in response.</p> <p>The committee does not recommend any change in response to this comment. As the commenter notes, section 5973(b) requires the proceedings to remain in the county where they were filed if the respondent does not consent to their transfer to their county of residence. The role and responsibility of the county where the respondent is found are described in the statute.</p> <p>The committee agrees with this comment, assuming the initialisms refer to "behavioral health services," "adult protective services," and "public administrator/public guardian/public conservator." No further response required.</p> <p>The committee does not recommend any change in response to this comment. The role of a supporter is circumscribed by statute, and any peculiarities of the supporter's role in a particular county are beyond the scope of this proposal.</p>

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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			<ul style="list-style-type: none"> <li>• 11 Forms is a lot of forms.</li> <li>• Would the court order a Department other than BHS to determine eligibility and engage the respondent?</li> <li>• Will there be a centralized point of contact for “the County” to be noticed or ordered by the court?</li> <li>• The phrase “unlikely to survive safely in the community without supervision” is interesting and will be subjective.</li> <li>• How will a respondent be noticed of the court action if they are currently unhoused?</li> <li>• Whose responsibility is it to ensure the respondent has the necessary support and assistance to court?</li> </ul>	<p>No response required.</p> <p>Section 5977(a)(3)(B) gives the court the discretion described in the comment. The court’s use of that discretion is beyond the scope of this proposal.</p> <p>The committee anticipates that the court will issue and communicate its orders to the parties in the same manner it issues and communicates orders in other proceedings.</p> <p>The committee does not recommend any change to the proposal in response to this comment. This phrase is used in section 5972(d)(1). To the extent it is ambiguous, the courts will need to interpret it.</p> <p>The committee has revised its recommendation to require service of notice on the respondent to be by personal service or, if personal service is impracticable, by any method reasonably calculated to give the respondent actual notice.</p> <p>To the extent it refers to making sure that the respondent shows up in court at the time a hearing is scheduled, it is beyond the scope of this proposal.</p>
37.	San Diego County Behavioral Health Services by Christopher Guevara,	AM	1. [See CARE-100 comment section below.]	See responses to comments on form CARE-100, below.

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Program Coordinator		<p>2. The criteria on the forms could unintentionally incentivize unsubstantiated diagnosis and potentially incentivize the use of 5250.</p> <p>3. [See Responses to Specific Comment section below]</p> <p>4. Below are some terms listed in the Forms that would ideally be clarified:</p> <p>a. “Not clinically stabilized in on-going treatment with the county behavioral health agency” (§ 5972(c));</p> <p>b. “Qualified behavioral health professional” (§ 5975(g)(1));</p> <p>c. Criteria for “graduation” from CARE Court (§ 5977(h)(1));</p> <p>d. Criteria for “reappointment” to CARE Court (§ 5977(h)(1));</p> <p>e. Criteria and process for finding that a person is “not participating in CARE proceedings” or “failing to comply with the CARE plan” (§ 5979(a));</p> <p>See comments on specific rules or forms, below.</p>	<p>The committee does not recommend any change to the proposal in response to this comment. The criteria on the forms are drawn directly from statute. The Judicial Council may not change the statutory requirements.</p> <p>See responses to specific comments, below.</p> <p>The committee does not recommend any change to the proposal in response to this comment. As the commenter notes, the terms mentioned in comments 4a to 4e are used in or defined by the CARE Act itself. These terms have the same meaning in the rules and forms as they have in the act. (See rule 7.2205.)</p> <p>See responses to specific comments, below.</p>

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38.	San Francisco Public Defender’s Office by Melanie Kim, State Policy Director	NI	<p><u>Immunity for Breach of HIPAA and Protective order for petitioners disclosing private health information and petitioners providing health records for litigation.</u></p> <p>Nowhere in the CARE Court legislation provides immunity for petitioners or providers to disclose the referred individuals’ private health information (PHI) to CARE Court. The petitioner should ask the court to grant immunity in disclosing private health information in the initial petition. The Petition to Commence CARE Act Proceedings should have a box for the petitioner to check and ask permission to share or provide PHI information ONLY for the CARE Court proceedings. A court order should grant the release of private information to be used in the CARE Court proceedings, and that city counsel and court-appointed counsel should have access to the health records upon request for litigation. This waiver or grant of access to PHI information would avoid delays in the court proceedings, and the referred individuals will get services and support expeditiously.</p> <p>See comments on specific rules or forms, below.</p>	<p>The committee does not recommend any change to the proposal in response to this comment. Immunity for health care providers from liability for providing private health information without the consent of the patient does not appear to have been considered by the Legislature, and so is beyond the scope of this proposal. The general rules under HIPAA and the Confidentiality of Medical Information Act (Civ. Code, §§ 56–56.37) apply to CARE Act proceedings to the same extent as they apply to disclosure of medical information in other judicial proceedings. If a petitioner is not able to complete the declaration required by section 5975(d)(1), or obtain a completed declaration, because of confidentiality laws, the petitioner may instead provide evidence under section 5975(d)(2) that the respondent has twice been certified for intensive treatment under section 5250 et seq.</p> <p>See responses to specific comments, below.</p>
39.	Superior Court of Orange County by Hon. Maria D. Hernandez, Presiding Judge	NI	<p>First, let me take this opportunity to thank this advisory committee for the willingness, effort, and commitment in taking on this important task which is certainly a heavy lift within a very</p>	<p>The committee appreciates this comment.</p>

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		<p>quick cycle for our Rules and Forms deadlines. As we all know, the Community Assistance, Recovery, and Empowerment Act (CARE) was signed into law only a few short months ago in September 2022, and the work that has been accomplished in this short duration is remarkable. It is with that introduction, that I share my short remarks for this public comment period. Orange County is very honored and proud to be a part of Cohort-1 and has been working collaboratively with our county agency partners since September. We have convened regularly and discussed the proposed rules and forms for CARE which are the subject of this public comment cycle.</p> <p>As the Presiding Judge of Orange County, I have personally committed to remain involved with this program and have also brought to the table our Supervising Judge of our Probate Mental Health Division, Judge Gerald Johnston and the Judge who will be assigned to this calendar, Judge Ebrahim Baytieh. My colleagues and I continue to meet and confer with our stakeholders and collectively have arrived at the comments contained in the attached letter and has been previously submitted and jointly signed by our Health Care Director, Public Defender, and County Counsel. I felt it was important that we, as the court, sent our concurrence under separate letter so that all</p>	

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			<p>were aware, this court agrees with the proposed comments submitted to you. Thank you again for what you are doing and for allowing us the opportunity to submit our comments.</p> <p>See comments on specific rules or forms, below.</p> <p>*Note that these comments and the responses to them have been combined below with those of the Orange County Public Defender’s Office, the Office of County Counsel, Orange County, and the Orange County Health Care Agency, to which the comments were attached.</p>	See responses to specific comments, below.
40.	Superior Court of Riverside County by Susan Ryan, Chief Deputy of Legal Services	AM	See comments on specific rules or forms, below.	See responses to specific comments, below.
41.	Superior Court of San Diego County by Mike Roddy, Executive Officer	AM	<p><b>Comments on Forms:</b></p> <p>1. Propose changing the references from “business days” to “court days” to be consistent with the statutes. (See e.g., §5977(a)(3)(A)(iii), (a)(3)(B).)</p> <p>2. Recommend creating a form order after prima facie review of the petition. If a prima facie basis is shown, the form order could include information regarding the initial appearance and appointment of counsel which could then be served on the director of the county behavioral health agency or other county agency. If a prima facie basis is not shown, the form order could include whether leave to amend the petition to</p>	<p>The committee agrees with the suggestion and has modified its recommendation accordingly.</p> <p>The committee does not recommend any change to the proposal in response to this comment. After the prima facie review, the court is authorized to take three actions: (1) dismiss the petition, which requires no form; (2) order a county agency to engage the respondent and prepare a report, for which <i>Order for CARE Act Report</i> (form CARE-105) is proposed; or (3) set an initial appearance, for which <i>Notice of Initial</i></p>

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			<p>cure deficiencies is being granted or whether the petition is being dismissed with or without prejudice.</p> <p><b>Comments on Rules:</b> Recommend for inclusion in the proposed rules is the option for the court to continue hearings, for example, upon respondent's failure to appear at a noticed hearing. This would allow for further attempts to engage respondent in the CARE process without being limited to dismissing the petition, particularly in the initial hearings.</p> <p>See comments on specific rules or forms, below.</p>	<p><i>Appearance—CARE Act</i> (form CARE-110) is proposed (no form is proposed for the order itself). Forms CARE-105 and CARE-110 both include appointed counsel's contact information. Form CARE-110 includes information about the initial appearance.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The court has discretion to grant continuances as part of its inherent authority to manage its calendar, and nothing in the statute limits that discretion.</p> <p>See responses to specific comments, below.</p>
42.	Superior Court of Tuolumne County by Hector Gonzalez, Jr., Court Executive Officer	NI	<ul style="list-style-type: none"> <li>W&amp;I 5985(e)(1) requires courts to provide demographics of CARE act participant's including age, sex, race, ethnicity, disability, and other personal information not normally collected by courts. None of the proposed CARE Act forms collect the required demographic information. Either a current proposed form, such as CARE 100-Petition to Commence CARE Act Proceedings, should be revised to request the demographic information courts are expected to report or a new form should be proposed requesting the information.</li> </ul>	<p>The committee does not recommend any change to the proposal in response to this comment. Section 5985(d) specifies the court's reporting duties. Section 5985(e) refers to the annual report to be developed by the Department of Health Care Services in consultation with numerous stakeholders—not including the courts—under section 5985(a). With the exception of the data specified in section 5985(d), county behavioral health agencies and state or local governmental entities are required by section 5985(b)–(c) to provide the department with the data required to complete the report.</p>



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			<ul style="list-style-type: none"> <li>W&amp;I 5977.1(c)(3) allows the court to order behavioral health, the respondent, the respondent’s attorney, and respondent’s supporter to work together to reach a CARE plan, however, proposed rule 7.2210(b) does not mention the respondent’s supporter as having access to CARE Act filings and other documents which would include the CARE plan.</li> </ul>	The committee has revised its recommendation to allow the supporter to have access to the records of a CARE Act proceeding to the extent that the respondent consents to that access.
			See comments on specific rules or forms, below.	See responses to specific comments, below.
43.	Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee Joint Rules Subcommittee by Corey Rada, Senior Analyst	AM	<p><b>JRS Position: Agree with proposed changes if modified.</b></p> <p>The JRS notes that the proposal is required to conform to a change of law. The JRS also notes the following impact to court operations:</p> <ol style="list-style-type: none"> <li>1. Significant fiscal impact.</li> <li>2. Impact on existing automated systems.</li> <li>3. Requires development of local rules and/or forms.</li> <li>4. Impact on local or statewide justice partners.</li> <li>5. Results in additional training, which requires the commitment of staff time and court resources.</li> <li>6. Increases court staff workload.</li> </ol> <p>There is no question that implementation of the CARE Act will require substantial re-tooling of courts’ case management systems. Such</p>	<p>The committee appreciates this comment. As the costs and operational impacts are attributable almost entirely to the statutory scheme that the proposal implements, no further response is required.</p> <p>The committee appreciates this comment. No further response required.</p>

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		<p>modifications are usually performed by a vendor along with court staff and there is a significant cost in doing so. Such modifications require extensive court involvement and are time consuming.</p> <p>All courts will be impacted by time spent training staff and meeting with justice partners to coordinate efforts.</p> <p>The JRS suggests the following changes:</p> <ol style="list-style-type: none"> <li>1. Rule 7.2230(a)(2) reads, “appoint the public defender” to represent the respondent. Some of the small courts do not have “a” public defender office, but use contract attorneys to fill that role. Clarifying language in this particular situation would be helpful to those courts, such as “appoint the public defender or other counsel appointed in that capacity”.</li> <li>2. The Notice provisions do not include notice to the support person if one is appointed. Because of the nature of the supporter role is to assist the respondent with the process, it may be important to make sure that the person is also directly provided specific notice, even if they are an employee of the county behavioral health agency.</li> </ol>	<p>The committee agrees with the suggestion and has revised rule 7.2230(a)(2) to accommodate local arrangements for public defender services.</p> <p>The committee has revised its recommendation to authorize notice to the supporter to the extent that the respondent consents to that notice.</p>

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			<p>3. A separate statement of evidence form would be helpful.</p> <p>4. A single proof of service form that includes check boxes would be helpful.</p> <p>5. Some of the proposed forms note in the header that they are confidential. The notation is not prominent however and could easily be missed. Perhaps the font could be larger and included in the footer, as well. In addition, the forms should include the confidential designation (CARE 105,106, 110, 111, 112, 115, and 120 have no such designation on the form.)</p>	<p>The committee does not recommend any change to the proposal in response to this comment. After consideration, the committee has determined that an additional form would serve no function that the petition itself cannot serve.</p> <p>After consideration, the committee determined that combining all the different types of service on a single proof of service form would confuse parties and process servers more than it would help them.</p> <p>The committee agrees with the suggestion and has revised the forms to place the term “confidential” on all the forms.</p>
44.	Suzanne Venezia Port Saint Lucie, Florida	A	* The commenter described the limits of a parent’s ability to care for an adult child who lives with schizophrenia and on the streets. The commenter is hopeful that the CARE Act will help adults with severe mental health disorders and their families.	The committee appreciates this comment. No further response required.
45.	Western Center on Law and Poverty by Helen Tran, Senior Attorney Los Angeles	N	... To the issue of <b>confidentiality</b> of CARE proceedings for respondents. Proposed rule 7.2210(b) prevents persons other than respondents, their counsel, and county agencies	The committee does not recommend any change to the proposal in response to this comment. As a party until relieved, the petitioner would have access to the documents filed in the case. The

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		<p>from accessing respondents’ case records without a court order. Proposed rule 7.2221(b) requires documents to be placed in a confidential file. Although these rules automatically file CARE records under seal, these rules do not ensure petitioners—especially those without other professional obligations for confidentiality, such as behavior health agency directors—will uphold confidentiality on their end. Petitioners are required to attend initial hearings (Welf. &amp; Inst. Code, § 5977(b)(2)) and may be allowed to continue participating in the CARE process (Welf. &amp; Inst. Code, § 5977(b)(7)(B)); during these times, petitioners will likely be exposed to or even have access to respondents’ confidential information (e.g., clinical reports, hearing dates, court orders).</p> <p>The Judicial Council should provide a rule that creates a mechanism for petitioners, county agencies, and any party brought into CARE proceedings to agree to keep all reports, evaluations, diagnoses, and other information related to the respondent’s health confidential. Welf. and Inst. Code, § 5976.5(e). In other civil matters, parties’ access to private or confidential information is typically preceded by a protective order. While such an order may not be appropriate for CARE proceedings, there needs to be better assurance that petitioners understand their obligations for confidentiality</p>	<p>petitioner’s participation and access to information after they have been relieved is subject to the discretion of the court under section 5977(b)(7). As the commenter notes, the court may issue an order to restrict the use and further disclosure of information made confidential by law. No reason exists to think that a court in a CARE Act proceeding lacks this same authority or the authority to enforce its orders.</p>

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			and that the court oversees this.  See comments on specific rules or forms, below.	See responses to specific comments, below.
46.	Minkoo Whang Los Angeles	A	* The commenter described repeated vandalism of their small business by individuals with severe mental health disorders and expressed hope that the CARE Act will help individuals suffering with severe mental health to get the care and treatment they need.	The committee appreciates this comment. No further response required.
47.	Connie White Supervising Attorney Self-Help Legal Access Center Superior Court of Ventura County	AM	See comments on specific rules or forms, below.	See responses to specific comments, below.

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<b>Responses to Requests for Specific Comment</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
Mary Ann Bernard Sacramento	<p><b>Comment Regarding the Council’s “REQUEST FOR SPECIFIC COMMENTS” about Personal Service (bullet 5)</b></p> <p>It is unclear to me who is supposed to serve the Respondent but if the Court has not yet ordered an investigation by the County, this duty logically falls on the Petitioner. Laypeople will absolutely not understand that if they are the Petitioner, they cannot personally serve their loved one. It’s counterintuitive and the proof of service form that I see (Form 110) is completely geared to service by mail. Most of the potential respondents don’t have mailing addresses, so they will need to be personally served. The form therefore needs to be modeled on the one for personal service, not the one for mail service. I suggest inserting something like, “COURT RULES DO NOT ALLOW PETITIONERS TO PERSONALLY SERVE THE RESPONDENTS. IF THE RESPONDENT HAS NO MAILING ADDRESS, BRING A FRIEND WHO IS NOT A FAMILY MEMBER WITH YOU TO HAND THE PAPERS TO THE RESPONDENT AND THEN SIGN THE PROOF OF SERVICE.”</p> <p><b>Final Comment Regarding the Council’s “REQUEST FOR SPECIFIC COMMENTS”</b></p> <p>The third bulleted comment in the Council’s “Request for Specific Comments” references evidence of “multiple intensive treatments” and “other documentary evidence of these treatments” which assumes the usual case—that Petitioners have access to relevant documentary evidence. As explained above, the laypersons who are qualified to petition don’t, though counties often do.</p>	<p>The committee agrees that personal service on the respondent is more appropriate than service by mail, and the rules recommended require such service. The committee notes, however, that the statute does not require service of process at the beginning of the action; there is no statutory basis for requiring the petitioner to serve the petition on the respondent. The first notice the respondent receives will be either a <i>Notice of Order for CARE Act Report</i> (form CARE-106) or, if county behavioral health is the petitioner and the court does not order a report, a <i>Notice of Initial Appearance—CARE Act</i> (form CARE-110). The statute requires either the county agency ordered to produce the report or the county behavioral health agency to serve notice. Rule 7.2235 now requires personal service on respondent and requires the county to attach a copy of the petition to form CARE-110 to the notice to the respondent. See further responses to comments regarding form CARE-110.</p> <p>The committee does not recommend any change to the proposal in response to this comment. Section 5975(d) requires that the petition “contain” either an affidavit of a licensed behavioral health professional or “evidence” that the respondent was detained for a minimum of two intensive treatments. There is no exemption if the petitioner is a layperson. The council is not free to</p>

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<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>More importantly, while documentary evidence will ultimately be necessary, it is not necessary at the petition stage, if the Petitioner is a layperson. All that is necessary is that the Respondent is determined, after a county investigation, to be <i>“likely to meet the criteria for Care Court.”</i> Welf. &amp; Inst. Code Section 5977(a)(3)(B).</p> <p>The court-ordered investigation will uncover or generate necessary documentation. The Council’s forms should be amended so that they do not require it prematurely.</p>	depart from these express statutory requirements.
Edward Casey, Partner, Alston Bird LLP Manhattan Beach	<p>1. Does the proposal appropriately address the stated purpose? Yes, the proposed rules achieve the statutory purpose.</p> <p>2. Is it appropriate to require that a copy of the petition be served with notice of the initial appearance?</p> <p>Yes, the more info the better.</p> <p>3. Would a form for a petitioner to provide evidence under section 5975(d)(2) of a respondent’s multiple intensive treatments serve a function that is not more effectively served by direct documentary evidence of those treatments? If so, what function? What evidence or information should the form solicit from the petitioner?</p> <p>I think a form that provides examples of “multiple intensive treatment” would be helpful. Need to think about how the lay person can navigate these legal and medical issues to file a complete petition.</p>	<p>No further response required.</p> <p>The committee agrees and has included the petition in as one of the documents that must be served with the notice of initial appearance. (Rule 7.2235(b)(3)(B)(i).)</p> <p>The committee does not recommend the suggested change. After considering this and other comments, the committee concluded a specific form is not needed for this purpose, and that relevant statements could be included in, and the evidence attached to, the petition</p>

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	<p>4. Would a mandatory statewide method for the court to serve <i>Order for CARE Act Report</i> on the county agency be necessary or sufficient to ensure that the county agency receives the order, serves notice of the order on the required parties, and prepares the report?</p> <p>Yes, uniform procedures, including service, would promote timely implementation of the statute.</p> <p>5. Would a single proof of service for the notice of the initial appearance—including check boxes to indicate whether service was provided to each party personally or by mail and clear instructions that respondent must receive notice by personal service—be as effective in ensuring that all parties receive proper notice as the current division of proof of personal service on the reverse of the notice, form CARE-110, and proof of service by mail on form CARE-111?</p> <p>Yes, for same reason as in Item 4, above.</p>	<p>form.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The court in each county has developed practices and procedures for serving its orders on the county government. Allowing each court and county to adapt their procedures to CARE Act proceedings will lead to less confusion than imposing a new, statewide method of service.</p> <p>The committee has concluded that a single proof of service form would not create uniform procedures for service of notice; it would create a single vehicle for proving service regardless of the method or procedure. The proposed rules establish uniform procedures for serving notice. The committee has determined that the</p>



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<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
		potential confusion resulting from placing multiple methods of service on the same proof form outweighs the benefits of a single form.
County Behavioral Health Directors Association by Jacob D. Mendelson, JD Senior Policy Advocate Sacramento	<p><b>Is it appropriate to require that a copy of the petition be served with notice of the initial appearance?</b> CBHDA is concerned that providing a copy of the petition here poses a problem for those who are unhoused or without a place to keep the information private. The copy of the petition will have sensitive PHI and it may get easily lost, misplaced, or end up elsewhere.</p> <p>What CBHDA recommends is instead allowing the respondent to choose whether or not they want to be provided with a copy of petition and the supporting documentation.</p> <p><b>Would a form for a petitioner to provide evidence under section 5975(d)(2) of a respondent’s multiple intensive treatments serve a function that is not more effectively served by direct documentary evidence of those treatments? If so, what function? What evidence or information should the form solicit from the petitioner?</b> CBHDA recommends the following in regards to this question:</p> <ol style="list-style-type: none"> <li>1. If the petitioner is NOT a county behavioral health agency or other professional with documentation requirements, then it should be provided to support the petition.</li> <li>2. If they are a professional who provides services that are governed by a licensing body (e.g., mental health, medical etc.), then the evidence should be the documentation of the treatment services provided. Evidence should include</li> </ol>	<p>The committee does not recommend any change to the proposal in response to this comment. The majority of commenters supported providing a copy of the petition to respondents and such provision is required by due process.</p> <p>The committee does not recommend any change in response to this comment. After considering the comments received, the committee has determined that a specific form would be unnecessary for this process, and that statements could be included in, and the evidence attached to, the petition form.</p>

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	<p>descriptions of the behaviors, attempts at treatment provision, refusals of treatment, supports for housing, or other needs that would provide a way to stabilize the individual to be open to treatment.</p> <p>Additional supporting evidence can include hospitalization dates and reasons, contacts with law enforcement related to diagnosis, incarcerations with documentation of treatment/assessments/and medications provided while incarcerated.</p> <p><b>Would a single proof of service for the notice of the initial appearance—including check boxes to indicate whether service was provided to each party personally or by mail and clear instructions that respondent must receive notice by personal service—be as effective in ensuring that all parties receive proper notice as the current division of proof of personal service on the reverse of the notice, form CARE-110, and proof of service by mail on form CARE-111?</b></p> <p>Keeping this all on one form, rather than bifurcating the documents, would be simpler.</p>	<p>The committee does not recommend any change to the proposal in response to this comment. The committee has concluded that the potential confusion resulting from placing multiple methods of service on the same proof form outweighs the benefits of a single form.</p>
<p>Disability Rights of California by Melinda Bird Senior Litigation Counsel Los Angeles</p>	<p><b>Does the proposal appropriately address the stated purpose?</b></p> <p>a. Notices must be comprehensible to the respondents.</p>	<p>The committee agrees with the commenter’s proposition and has tried to make the notice forms as comprehensible as possible while still providing accurate information.</p>

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	<p>b. Court orders should not be imposed on respondents who have not been located and served.</p> <p>c. Court orders may not be imposed on respondents who have not waived service.</p> <p>See discussion above. The proposal fails to address several important points.</p> <p><b>Is it appropriate to require that a copy of the petition be served with notice of the initial appearance?</b>                      Yes. Due process requires that a copy of the petition be served on the respondent. “[W]hen an individual is subjected to deprivatory governmental action, he always has a due process liberty interest both in fair and unprejudiced decision-making and being treated with respect and dignity.” <i>People v. Ramirez</i>, 25 Cal.3d. 260, 268 (1979). Minimum procedural due process entails, <i>inter alia</i>, that the person receive adequate written notice of the basis for the proposed governmental action. <i>In re Roger S.</i>, 19 Cal.3d 921, 937–938 (1977). Meaningful notice is reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. <i>Conservatorship of Moore</i>, 185 Cal.App.3d 718, 725 (1986), quoting <i>Mullane v. Central Hanover Bank &amp; Trust Co.</i>, 339 U.S. 306, 314–315 (1950).</p> <p>The petition contains critical information, including the identity</p>	<p>The committee does not recommend any change to the proposal in response to this comment as it appears to be addressing statutory issues and so is beyond the scope of the proposal.</p> <p>See response above.</p> <p>The committee agrees with this comment. Rule 7.2235 requires the petition to be served with the notice of order for CARE report and the notice of initial appearance.</p>

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	<p>of the petitioner; facts supporting the petitioner’s belief that the “CARE Respondent” meets criteria for CARE Court; and information about the “CARE Respondent’s” mental health diagnosis and treatment history. § 5975. Without a copy of the petition, a “CARE Respondent” does not have adequate written notice of each of these issues, which form the basis for the proposed deprivatory governmental action. Without this information, the “CARE Respondent” cannot effectively and completely present their objections and may miss the opportunity to win dismissal of the petition before the court makes a treatment order. <i>See</i> § 5977(c)(1) (the court can dismiss the petition at the “merits hearing” if it determines by clear and convincing evidence that the “CARE Respondent” does not meet criteria).</p> <p>Further, the probable value of requiring service of the petition is significant. The “CARE Respondent” needs an opportunity to review the petitioner’s allegations at an early stage, before the first hearing so they have time to prepare their objections. Receiving a copy of the petition prior to the first CARE Court hearing would allow the “CARE Respondent” to be fully informed of the reasons why the petitioner believes they are a candidate for CARE Court. Only then can they raise complete objections and hope to avoid being dragged further into an intrusive and potentially unnecessary court process.</p> <p>The value of individual service is also evidenced by the fact that it is required by all other forms of civil, court ordered mental health care except the CARE Act. <i>See, e.g.,</i> § 5346(d)(1) (in Assisted Outpatient Treatment proceedings, “[t]he petitioner shall promptly cause service of a copy of the</p>	

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	<p>petition, together with written notice of the hearing date, to be made personally on the person who is the subject of the petition.”); § 5253 (for 14-day holds under section 5250 of the Lanterman-Petris-Short Act, a copy of the certification notice, which contains specific information about the reasons for the hold, must be personally delivered to the person certified); § 5350 (stating that procedures for establishing conservatorships under the Lanterman-Petris-Short Act are the same as enumerated in Division 4 of the Probate Code, which requires personal service of a copy of the petition on the proposed conservatee).</p> <p><b>Would a form for a petitioner to provide evidence under section 5975(d)(2) of a respondent’s multiple intensive treatments serve a function that is not more effectively served by direct documentary evidence of those treatments? If so, what function? What evidence or information should the form solicit from the petitioner?</b></p> <p>No, a form would not be appropriate. Only direct documentary evidence should be permitted.</p> <p><b>Would a mandatory statewide method for the court to serve Order for CARE Act Report on the county agency be necessary or sufficient to ensure that the county agency receives the order, serves notice of the order on the required parties, and prepares the report?</b></p> <p>A single statewide method would be helpful.</p>	<p>The committee agrees with this comment and does not recommend any change to the proposal.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The court in each county has developed practices and procedures for serving its orders on the county government. Allowing each court and county to adapt these procedures will</p>

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	<p><b>Would a single proof of service for the notice of the initial appearance—including check boxes to indicate whether service was provided to each party personally or by mail and clear instructions that respondent must receive notice by personal service—be as effective in ensuring that all parties receive proper notice as the current division of proof of personal service on the reverse of the notice, form CARE-110, and proof of service by mail on form CARE-111?</b></p> <p>Using two forms is preferable, but these must be clarified so the difference is obvious. We support the Committee’s proposal that notice of the initial appearance must be served in person using Form CARE-110. Form CARE-111 permits service by mail on other parties. However, the two forms are not sufficiently differentiated in their titles, leading to the risk that service by mail may be used in error for a respondent. Please add a clear warning to both forms that Form CARE-111 that it may not be used for respondents, and that Form CARE-110 must be used instead.</p> <p>Regardless of the form used, the initial notice must allow respondents to specify an alternative means of receiving notice of subsequent hearings. The CARE Act was aimed at unsheltered people who often have no fixed address and no reliable access to mail.</p>	<p>lead to less confusion than imposing a new, statewide method of service.</p> <p>The committee agrees that separate forms are preferable and has revised the proof of service forms to clarify the distinction. The committee has concluded that the potential confusion resulting from placing multiple methods of service on the same proof form outweighs the benefits of a single form.</p> <p>The committee has revised its recommendation to require all notices to be served personally on the respondent unless personal service is impracticable, in which case any method of service reasonably calculated to provide actual notice is authorized.</p>
Homeless Action Center by Patricia Wall, Executive Director Berkeley	<p><b>Request for specific comment: Is it appropriate to require that a copy of the petition be served with notice of the initial appearance?</b></p> <p>Respondents should get to see the petition as soon as possible</p>	<p>The committee has revised its proposal so that the</p>

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	in the process, particularly considering the lack of autonomy and privacy that is involved with being referred to the CARE Courts. In fact, any time there is a question of giving the respondent more information, the process should default to affirmatively providing this information.	respondent will receive a copy of with the notice of order for CARE report and the notice of initial appearance.
Legal Services NorCal by Kate Wardrip, Managing Attorney Chico	<b>The Judicial Council Should Not Create a Form for a Petitioner to Provide Evidence Under Section 5975(d)(2) of a Respondent’s Multiple Intensive Treatments.</b> The Invitation to Comment explicitly requested feedback on whether the Judicial Council should create a form for a petitioner to provide evidence other than direct documentation under Welfare and Institutions Code Section 5975(d)(2). The Judicial Council should not create such a form and should continue to require direct documentation of the two intensive treatments with the petition. Requiring such direct evidence will prevent frivolous or inappropriate filings by petitioners who may incorrectly file a petition with the court based on documentation of treatment that is not pursuant to Welfare and Institutions Code Section 5250. For example, it may encourage petitioners to file a petition on the basis that the respondent received treatment pursuant to Section 5150.	The committee agrees that a separate form for providing the evidence needed under section 5975(d)(2) is not necessary or appropriate. Relevant statements by the petitioner may be included on the petition; other evidence would need to be attached anyway.
Los Angeles County Department of Mental Health	<b>Does the proposal appropriately address the stated purpose?</b> DMH Response: Yes  <b>Is it appropriate to require that a copy of the petition be served with notice of the initial appearance?</b> DMH Response: Yes	No response required.  The committee agrees and does not recommend any change to the proposal. Rule 7.2235 requires the petition to be served with the notice of initial appearance.

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	<p><b>Would a form for a petitioner to provide evidence under section 5975(d)(2) of a respondent’s multiple intensive treatments serve a function that is not more effectively served by direct documentary evidence of those treatments?</b> DMH Response: Yes</p> <p><b>If so, what function?</b> DMH Response: Petitioner may not be able to get 5250 certification documents.</p> <p><b>What evidence or information should the form solicit from the petitioner?</b> DMH Response: A form attesting to dates of 5250s.</p> <p><b>Would a mandatory statewide method for the court to serve <i>Order for CARE Act Report</i> on the county agency be</b></p>	<p>The committee does not recommend any change to the proposal in response to this comment. A separate form for providing the evidence needed under section 5975(d)(2) is not necessary or appropriate. Relevant statements by the petitioner may be included on the petition; other evidence would need to be attached anyway.</p> <p>Under section 5975, the petition must be signed under penalty of perjury. A petitioner who cannot obtain documentary evidence may declare on the petition that respondent was twice detained for intensive treatment under section 5250 et seq., once in the last 60 days. If the petitioner knows them, they can supply the dates, locations, and other known information on the petition. That would seem to satisfy the statute, which requires the petition to contain evidence but not necessarily admissible evidence, which could be developed later, before the hearing on the merits.</p> <p>See previous response.</p>



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	<p><b>necessary or sufficient to ensure that the county agency receives the order, serves notice of the order on the required parties, and prepares the report?</b> DMH Response: Yes</p> <p><b>Would a single proof of service for the notice of the initial appearance—including check boxes to indicate whether service was provided to each party personally or by mail and clear instructions that respondent must receive notice by personal service—be as effective in ensuring that all parties receive proper notice as the current division of proof of personal service on the reverse of the notice, form CARE-110, and proof of service by mail on form CARE-111?</b> DMH Response: Yes</p>	<p>The committee does not recommend any change to the proposal in response to this comment. The court in each county has developed practices and procedures for serving its orders on the county government. Allowing each court and county to adapt these procedures to CARE Act proceedings will lead to less confusion than imposing a new, statewide method of service.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The committee has concluded that the potential confusion resulting from placing multiple methods of service on the same proof form outweighs the benefits of a single form.</p>
Office of the County Counsel, Merced County by Forrest W. Hansen, County Counsel	<p><b><u>COMMENT #1</u></b> The proposed rules of court and forms do not appear to specifically include notice to non-party tribes or Indian Health services where individuals that may have tribal connections are concerned. These proposed parties may have a culturally specific part to play that could benefit certain respondents.</p>	<p>The committee does not recommend any change to the proposal in response to this comment. Although tribes and Indian health service providers are authorized under section 5974 to file a petition, the CARE Act does not authorize the court to add them as parties later in the</p>

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	<p><b><u>COMMENT #2</u></b> It is appropriate to require that a copy of the petition be served with notice of the initial appearance. This may be the first instance that the respondent has notice that a petition has been filed and should the respondent have the wherewithal to comprehend the allegations, they should have a meaningful opportunity to prepare a rebuttal prior to the initial appearance.</p> <p><b><u>COMMENT #3</u></b> A form to provide evidence under section 5975(d)(2) of a respondent’s multiple intensive treatments serves the function of standardizing the process of identifying what documentary evidence will be provided to support the contention that the respondent has been subject to multiple intensive treatments. However, that standardization is of little value to the Petitioner and the courts. It could be beneficial for future audits of the program when attempting to identify the types of documentary evidence used by various Counties to prove respondent’s multiple intensive treatments. We are of the opinion, it would not be overly-burdensome to complete a form of this type, but only if the Judicial Council anticipates that it would be useful for something like a program audit at some future date.</p> <p>Furthermore, a separate form may allow for non-service provider petitioners, for example family members, to provide a</p>	<p>proceedings. Under the existing statute, the role, rights, and duties of tribes and Indian health service providers is unclear. Because CARE proceedings are confidential, additional notice is improper without statutory direction.</p> <p>The committee agrees and does not recommend any change to the proposal. Rule 7.2235 requires the petition to be served with the notice of initial appearance.</p> <p>The committee agrees and does not recommend any change to the proposal in this respect. A separate form for providing the evidence needed under section 5975(d)(2) is not necessary or appropriate. As the commenter notes, such a form would be of little value to a petitioner or the court. Relevant statements by the petitioner may be included on the petition; other evidence would need to be attached anyway.</p> <p>A petitioner may provide a narrative or other information on the petition form or an attached sheet of</p>

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>history of treatment where they may not have access to all of the medical or behavioral health records.</p> <p><b><u>COMMENT #4</u></b>                      From the perspective of a small to medium County, a statewide method for the court to serve Order for CARE Act Report on the responsible county agency would not be necessary to ensure that the county agency receives the order, serves notice of the order on the required parties, and prepares the report. Today, the County of Merced Behavioral Health and Recovery Services department receives multiple referrals from the Superior Court ordering reports on defendant’s Capacity to Consent to Psychotropic Medication, ordering conservatorship investigation, and other behavioral health services. The Court and the Behavioral Health and Recovery Services department have a process of referral and communication that is effective and would not be improved by a statewide method for the court to serve an Order for CARE Act Report.</p> <p><b><u>COMMENT #5</u></b>                      A single proof of service for the notice of the initial appearance would not be as effective in ensuring that the respondent receives personal service. There would be reduced room for error by requiring a separate proof of personal service for the respondent and an additional proof of service by first class mail for any and all other parties required to be noticed. By having a separate proof of personal service for the respondent, it reinforces the different service standards and provides an efficient process by which the Petitioner and the Court can determine that appropriate service has been made.</p>	<p>paper. No form is required.</p> <p>The committee agrees and does not recommend any change to the proposal in this respect. Just as the court and county in Merced County have done, the court in each county has developed practices and procedures for serving its orders on the county government. Allowing each court and county to adapt these procedures to CARE Act proceedings will lead to less confusion than imposing a new, statewide method of service.</p> <p>The committee agrees and does not recommend any change to the proposal in this respect. The committee has concluded that the potential confusion resulting from placing multiple methods of service on the same proof form outweighs the benefits of a single form.</p>
Office of the San Diego City	<b>QUESTION 1:</b> Does the proposal appropriately address the	

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<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
<p>Attorney by Mara W. Elliott, City Attorney</p>	<p>stated purpose?</p> <p><b>RESPONSE:</b> Yes. The authors of the CARE Act recognize that many individuals who suffer from mental illness are (1) not receiving the care they need, (2) are unfairly stuck in the criminal justice system without care, or (3) are ping-ponging between emergency service providers and the streets, without a meaningful plan for future care. These are serious concerns that need to be addressed.</p> <p><b>QUESTION 2:</b> Is it appropriate to require that a copy of the petition be served with notice of the initial appearance?</p> <p><b>RESPONSE:</b> Yes. There is no reason to make a due process exception. If the petitioner is unable to understand the petition, CARE court is likely not going to be successful and an LPS may be more appropriate.</p> <p><b>QUESTION 3:</b> Would a form for a petitioner to provide evidence under section 5975(d)(2) of a respondent’s multiple intensive treatments serve a function that is not more effectively served by direct documentary evidence of those treatments? If so, what function? What evidence or information should the form solicit from the petitioner?</p> <p><b>RESPONSE:</b> Yes. A form for petitioner to supply evidence could simplify the petition process. However, the ability to add or reference attached documentation would have to be included to make the application simpler for non-lawyer petitioners.</p>	<p>No further response is required.</p> <p>The committee agrees with this comment. Rule 7.2235 requires the petition to be served with the notice of order for CARE report and the notice of initial appearance.</p> <p>The committee does not recommend any change to the proposal in response to this comment. A separate form for providing the evidence needed under section 5975(d)(2) is not necessary or appropriate. Relevant statements by the petitioner may be included on the petition; other evidence would need to be attached</p>

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	<p><b>QUESTION 4:</b> Would a mandatory statewide method for the court to serve Order for CARE Act Report on the county agency be necessary or sufficient to ensure that the county agency receives the order, serves notice of the order on the required parties, and prepares the report?</p> <p><b>RESPONSE:</b> Yes. To assure receipt and compliance with such an order, each agency would need a specified agent, such as the director, to receive the order. Given that the petition can be filed by non-lawyers, it is helpful to review Judicial Council petitions for temporary restraining orders and gun violence restraining orders, which also allow for non-lawyer petitions. Please see the recent appellate holding, <i>San Diego Police Department v. Geoffrey S.</i>, 86 Cal. App. 5th 550 (2022), which explains why hearsay is admissible at such hearings. This allows for the court to have access to all relevant information.</p> <p><b>QUESTION 5:</b> Would a single proof of service for the notice of the initial appearance—including check boxes to indicate whether service was provided to each party personally or by mail and clear instructions that respondent must receive notice by personal service—be as effective in ensuring that all parties receive proper notice as the current division of proof of personal service on the reverse of the notice, form CARE-110, and proof of service by mail on form CARE-111?</p> <p><b>RESPONSE:</b> The simpler method of check boxes is simpler and more effective, particularly for non-lawyer petitioners.</p>	<p>anyway.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The court in each county has developed practices and procedures for serving its orders on the county government. Allowing each court and county to adapt these procedures to CARE Act proceedings will lead to less confusion than imposing a new, statewide method of service.</p> <p>The committee does not recommend any change to the proposal in this respect. The committee has concluded that the potential confusion resulting from placing</p>

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		multiple methods of service on the same proof form outweighs the benefits of a single form.
OneJustice by Leigh E. Ferrin, Program Director Los Angeles	<p><b>Does the proposal appropriately address the stated purpose?</b> We do believe the proposal addresses the stated purpose, with the caveat that we believe the Committee could provide more guidance on the appointment process.</p> <p><b>Is it appropriate to require that a copy of the petition be served with notice of the initial appearance?</b> We believe that it would be appropriate to serve a copy of the petition with the Notice of Initial Hearing on the respondent and appointed counsel. Our only question regarding service on additional parties is whether or not any protected health information would be included in the petition. Eventually, the other parties to the CARE Act petition will have to be able to view the petition, but it is unclear to us at this point what the best mechanism for that would be.</p> <p><b>Would a form for a petitioner to provide evidence under section 5975(d)(2) of a respondent’s multiple intensive treatments serve a function that is not more effectively served by direct documentary evidence of those treatments?</b> We previously stated that we believe an optional form for a petitioner to provide evidence of two or more intensive treatments may be beneficial.</p>	<p>The committee has provided information on the appointment process in rule 7.2230(a) but declines to provide additional guidance because local courts and counties have their own processes for appointment of counsel developed in criminal, juvenile, and mental health proceedings, so the committee has elected to defer to local experience regarding the appointment process.</p> <p>The committee agrees and does not recommend any change to the proposal. Rule 7.2235 requires the petition to be served with the notice of initial appearance.</p> <p>The committee does not recommend any change to the proposal in response to this comment. A separate form for providing the evidence needed under section 5975(d)(2) is not necessary or appropriate. Relevant</p>

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	<p><b>Would a mandatory statewide method for the court to serve <i>Order for CARE Act Report</i> on the county agency be necessary or sufficient to ensure that the county agency receives the order, serves notice of the order on the required parties, and prepares the report?</b></p> <p>We do not believe that the Committee needs to mandate the method by which the county agency is served with the Order for CARE Act Report, unless the county agencies would prefer consistency across the state. We are not sufficiently familiar with the processes by which the courts notify county agencies of filings to be able to say if one county has a better process than another. If counties or advocates express a concern that there will be frequent reports of non-service of the county agency, resulting in postponement of the Initial Hearing or other hearings, then we believe it would be important to mandate a method of service.</p> <p><b>Would a single proof of service for the notice of the initial appearance—including check boxes to indicate whether service was provided to each party personally or by mail and clear instructions that respondent must receive notice by personal service—be as effective in ensuring that all parties receive proper notice as the current division of proof of personal service on the reverse of the notice, form CARE-110, and proof of service by mail on form CARE-111?</b></p> <p>We suggest a single proof of service, with clearly designated</p>	<p>statements by the petitioner may be included on the petition; other evidence would need to be attached anyway.</p> <p>The committee agrees and does not recommend any change to the proposal. The court in each county has developed practices and procedures for serving its orders on the county government. Allowing each court and county to adapt these procedures to CARE Act proceedings will lead to less confusion than imposing a new, statewide method of service.</p> <p>The committee does not recommend any change to the</p>

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	sections for serving the respondent and for serving the other parties to the petition. This will allow a clear record of service in one document, which will be helpful for the respondent as well as for appointed counsel in terms of reading dockets and requesting and reviewing court records.	proposal in this respect. The committee has concluded that the potential confusion resulting from placing multiple methods of service on the same proof form outweighs the benefits of a single form.
Orange County Bar Association Michael A. Gregg, President	<p>Does the proposal appropriately address the stated purpose? <b>Yes, except that County Counsel should be included in Rule 7.2210(b) as an entity that can review the confidential case records as attorneys representing the county. Please see attached proposed modification.</b></p> <p>Is it appropriate to require that a copy of the petition be served with notice of the initial appearance? <b>Yes.</b></p> <p>Would a form for a petitioner to provide evidence under section 5975(d)(2) of a respondent’s multiple intensive treatments serve a function that is not more effectively served by direct documentary evidence of those treatments? <b>No.</b> If so, what function? <b>N/A.</b> What evidence or information should the form solicit from the petitioner? <b>N/A</b></p> <p>Would a mandatory statewide method for the court to serve Order for CARE Act Report on the county agency be necessary or sufficient to ensure that the county agency receives the</p>	<p>The committee has revised rule 7.2210(b) to allow access to counsel for the county behavioral health director or the director’s designee.</p> <p>The committee agrees and does not recommend any change to the proposal. Rule 7.2235 requires the petition to be served with the notice of initial appearance.</p> <p>The committee agrees and does not recommend any change to the proposal in response to this comment. A separate form for providing the evidence needed under section 5975(d)(2) is not necessary or appropriate. Relevant statements by the petitioner may be included on the petition; other evidence would need to be attached anyway.</p>



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	<p>order, serves notice of the order on the required parties, and prepares the report?  <b>Yes, in that county agencies would recognize the form when served and trigger the necessary actions.</b></p> <p>Would a single proof of service for the notice of the initial appearance—including check boxes to indicate whether service was provided to each party personally or by mail and clear instructions that respondent must receive notice by personal service—be as effective in ensuring that all parties receive proper notice as the current division of proof of personal service on the reverse of the notice, form CARE-110, and proof of service by mail on form CARE-111?  <b>Yes.</b></p>	<p>The committee does not recommend any change to the proposal in response to this comment. The court in each county has developed practices and procedures for serving its orders on the county government. Allowing each court and county to adapt these procedures to CARE Act proceedings will lead to less confusion than imposing a new, statewide method of service.</p> <p>The committee does not recommend any change to the proposal in this respect. The committee has concluded that the potential confusion resulting from placing multiple methods of service on the same proof form outweighs the benefits of a single form.</p>
<p>Public Law Center                      by Manohar Sukumar                      Supervising Attorney, Health Law Unit                      Santa Ana</p>	<p><b>I. Is it appropriate to require that a copy of the petition be served with notice of the initial appearance?</b>                      Yes. It is appropriate to require that a copy of the petition be served with notice of the initial appearance in CARE Act proceedings. Serving a copy of the petition with notice of the initial appearance will ensure that the respondent is fully informed of the proceedings and the potential consequences and also helps to ensure the respondent has the opportunity to</p>	<p>The committee agrees and does not recommend any change to the proposal. Rule 7.2235 requires the petition to be served with the notice of initial appearance.</p>

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	<p>prepare and participate in the hearing.</p> <p>Indeed, due process requires that a copy of the petition be served with the notice of initial appearance. Serving a copy of the petition will help provide adequate notice and the potential consequences of the proceedings. The respondent should be informed of the nature of the proceedings, the specific allegations made against them, and the potential consequences of a determination of eligibility for the CARE process. This information is crucial for the respondent to make informed decisions, prepare a defense, and participate in the hearing.</p> <p>Additionally, serving a copy of the petition with notice of the initial appearance also ensures that the respondent has a meaningful opportunity to be heard. Specifically, such a requirement ensures that the respondent understands the allegations made against them and can effectively participate in the hearing to dispute those allegations. This can be especially important when the respondent is a person living with untreated schizophrenia spectrum and other psychotic disorders, which can make it more difficult for them to understand and participate in legal proceedings.</p> <p>The Judicial Council may be concerned that providing the respondent with the name and contact information of the petitioner could pose a potential safety or privacy risk for the petitioner. The petitioner may not want their personal information to be shared with the respondent. However, the CARE Act mandates that at the initial appearance, “Petitioner shall be present. If the petitioner is not present, the matter may be dismissed.” (Welf. &amp; Inst. Code, § 5977, subd.(b)(2).)1</p>	

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	<p>Thus, Respondent will learn the identity of the petitioner regardless of whether the petition is served with the notice of initial appearance.</p> <p><b>II. Would a form for a petitioner to provide evidence under section 5975(d)(2) of a respondent’s multiple intensive treatments serve a function that is not more effectively served by direct documentary evidence of those treatments? If so, what function? What evidence or information should the form solicit from the petitioner?</b></p> <p>PLC urges the Judicial Council to draft and adopt a form for a petitioner to provide evidence under section 5975, subdivision (d)(2) of a respondent’s multiple intensive treatments. Such a form should accompany—not substitute for—documentary evidence.</p> <p>According to the Invitation to Comment, the committee “determined that [an additional form] would serve no useful purpose and would unduly prescribe the method for the petitioner to provide the evidence.” In reaching this conclusion, the Committee observed that “[a] separate form describing the evidence would not be an adequate substitute” for documentary evidence.</p> <p>However, a separate form—soliciting information such as the dates and types of treatments and the name of the treating facility or provider—would serve a different function than direct evidence of those treatments. First, the form would serve as a way for the petitioner to provide a summary of the evidence and explain how it relates to the specific case. Second, the form would help guide a petitioner’s search for relevant</p>	<p>The committee does not recommend any change to the proposal in response to this comment. A separate form for providing the evidence needed under section 5975(d)(2) is not necessary or appropriate. Relevant statements by the petitioner may be included on the petition; other evidence would need to be attached anyway. To the extent that providing legal information is within the council’s purview, the committee has chosen to place the relevant information in forms CARE-050-INFO, for petitioners, and form CARE-060-INFO, for respondents. Neither the courts nor the council may “guide” a party in the preparation of court filings, beyond the general information already provided.</p>

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	<p>documentary evidence. Finally, a separate form could improve the accuracy of the evidence presented and would allow the respondent to better refute any false allegations. Allowing for estimates or a statement of “I don’t know” on the form should also be considered, as it would not necessarily make the petition deficient and could instead be taken into account by the court in determining if the case meets the CARE Court requirements.</p> <p>The suggested form is somewhat analogous to the notice of certification required in involuntary treatment evaluations. (See § 5252.)</p> <p>Notably, PLC recommends that Rule 7.2221 require petitioners to submit the suggested form in addition to, not in lieu of, supporting documentation.</p> <p><b>III. Would a mandatory statewide method for the court to serve Order for CARE Act Report on the county agency be necessary or sufficient to ensure that the county agency receives the order, serves notice of the order on the required parties, and prepares the report?</b></p> <p>It is necessary for the Judicial Council to develop a mandatory statewide method for the court to serve an <i>Order for CARE Act Report</i> on the county agency.</p> <p>Developing a uniform process for serving the Order would align with the CARE Act’s goal “to promote statewide consistency” (§ 5977.4(c)), ensuring there is a clear and consistent process for the court to communicate its decision to the county agency, and that the county agency is aware of its</p>	<p>The committee does not recommend any change to the proposal in response to this comment. The court in each county has developed practices and procedures for serving its orders on the county government. Allowing each court and county to adapt these procedures to CARE Act proceedings will lead to less confusion than imposing a new, statewide method of service.</p>

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	<p>responsibilities to serve notice of the order on the required parties and to prepare the report. This would reduce the likelihood of confusion or misunderstandings between the court and the county agency and would likely avoid unnecessary litigation regarding proper service.</p> <p>Additionally, a statewide method would help to ensure that the county agency receives the order and is able to serve notice of the order on the required parties in a timely manner. As discussed above, notice to the respondent is essential.</p> <p>Such a rule would mirror the existing Rules of Court that mandate juvenile courts to notify county agencies of hearings in dependency and delinquency proceedings, providing a specific, statewide process for the court to serve county agencies. (See Cal. Rules of Court, rule 5.524, subds. (e), (f).)</p> <p><b>IV. Would a single proof of service for the notice of the initial appearance—including check boxes to indicate whether service was provided to each party personally or by mail and clear instructions that respondent must receive notice by personal service—be as effective in ensuring that all parties receive proper notice as the current division of proof of personal service on the reverse of the notice, form CARE-110, and proof of service by mail on form CARE-111?</b></p> <p>PLC does not take a strong stance on whether a single proof of service would be as effective as the currently proposed separate proofs of service for the notice of initial appearance. Although a single proof of service would be simpler and could potentially</p>	<p>The committee does not recommend any change to the proposal in this respect. The committee has concluded that the potential confusion resulting from placing multiple methods of service on the same proof form</p>

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	reduce confusion, it might be less effective than two separate forms. Indeed, the use of separate forms could serve as a reminder that the notice must be served to the various parties through different methods—one form for personal service, and the other form for mail service. In either case, it is likely that the counties will adapt to the notice procedures quickly, making any discussion on the effectiveness of one approach over the other moot.	outweighs the benefits of a single form.
San Diego County Behavioral Health Services by Christopher Guevara, Program Coordinator	<b>Is it appropriate to require that a copy of the petition be served with notice of the initial appearance?</b> County Behavioral Health Services does feel that it would be appropriate to offer a copy of the petition to the respondent.	The committee agrees and does not recommend any change to the proposal. Rule 7.2235 requires the petition to be served with the notice of initial appearance
Superior Court of Orange County by Hon. Maria D. Hernandez, Presiding Judge  joined by: Orange County Public Defender’s Office Office of County Counsel, Orange County Orange County Health Care Agency	<b>Does the proposal appropriately address the stated purpose?</b> The proposal generally addresses the stated purpose in that the proposal provides necessary standardized forms including a petition to initiate CARE Act proceedings and rules to implement the CARE Act. The proposal, however, also raises concern where it is inconsistent with the CARE Act, where it makes access to the CARE Act by the public burdensome, where it does not preserve respondent self-determination to the greatest extent possible, and where it does not promote voluntary engagement with treatment.  <b>Form issues</b> The proposed forms were intended to make the provisions of the CARE Act easily accessible to the public (“It is targeted especially toward self-represented petitioners.”). The proposed forms are lengthy and perhaps necessarily so, however, where the forms can be pared down without depriving the reader of	See responses to specific issues raised below.  See responses to comments on form CARE-100.

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Responses to Requests for Specific Comment</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>sufficient information this would further enhance the forms accessibility to the public.</p> <p><i>Venue and transfer issues</i> [See comments on proposed rule 7.2223]</p> <p><i>Misadvisement issues</i> The most significant issue presented by the Invitation to Comment to the proposed Rules and Forms for CARE Court is a misinterpretation of the statutory scheme. Specifically, the narrative accompanying the proposed rules and forms, along with one of the forms, conflates the process for the CARE agreement with the process for the CARE plan.</p> <p>This is particularly important because the CARE agreement and CARE plan are treated differently in terms of process under the statutory scheme and conflating the two risks prioritizing court-ordered services over voluntary engagement and client self-determination, contrary to the intent of the legislation. The distinction between the two is perhaps best summarized in the preamble to SB 1338 which states, “This bill, ...would enact the Community Assistance, Recovery, and Empowerment (CARE) Act, which would authorize specified adult persons to petition a civil court to create a voluntary CARE agreement <i>or</i> a court-ordered CARE plan and implement services....” This distinction is also correctly noted by proposed CARE- 050-INFO (Information for Petitioners) which notes that a CARE agreement “is a voluntary agreement entered into by a respondent and the county behavioral health agency after a court has found the respondent is eligible” whereas a CARE plan “is an individualized range of community-based services</p>	<p>See responses to comments on proposed rule 7.2223.</p> <p>The Invitation to Comment is not part of the formal history of the rules and forms proposed therein and should not be treated as an analysis or explanation of the final rules and forms adopted by the Judicial Council. The committee has revised form CARE-060-INFO to concentrate on the initial hearings (i.e. the initial appearance and hearing on the merits), removing discussion of the status and progress hearings altogether. Additionally, the form has been revised to provide further information on the differences between CARE agreements and CARE plans.</p> <p>However, the committee does not read the statute to require the CARE Act court process to stop when the respondent and county behavioral health enter into a CARE agreement. Section 5977.1(a)(2) expressly requires the court to take specific further action on finding at the case management hearing that the parties have entered, or are likely to enter, into a CARE agreement. The court must both (A) approve the terms of the agreement or modify the terms of the agreement and “approve the agreement as modified by the court” <i>and</i> (B) “continue the matter and set a progress hearing for 60 days.” The statute does not provide for what is to</p>

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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	<p>and supports for the respondent that is ordered by the court.”</p> <p>The CARE agreement is defined by Welfare and Institutions Code section 5971, subdivision (a), as “a voluntary agreement entered into between the parties.” When a voluntary CARE agreement is reached, further court process stops. Conversely, a CARE plan is defined by subdivision (b) of the same section as court-ordered “individualized, appropriate range community-based services and supports ... which include clinically appropriate behavioral health care and stabilization medications, housing, and other supportive services....” Importantly, under section 5977.1, subdivision (e), only the <b>“CARE plan begins the CARE process timeline, which shall not exceed one year”</b> not the CARE agreement. In other words, only the CARE plan starts the court process of clinical evaluation (5977.1, subd. (c)(1)) the clinical evaluation review hearing (§ 5977.1, subd. (c)(2)), the CARE plan review hearing (§ 5977.1, subd. (d)), 60 day status review hearings (§ 5977.2) and the one-year status hearing (§ 5977.3). All of the aforementioned statutes create hearings that are expressly premised on a CARE plan, not a CARE agreement, because only a CARE plan begins the process timeline.</p> <p>However, on page 3 of the Probate and Mental Health Advisory Committee’s review of Care Court process, it states, “Once the court has approved a CARE agreement or ordered a CARE Plan, the court is required to hold regular status review hearings to review the progress of the respondent and the county behavioral health agency with the plan.” Additionally, on form CARE 060 Info (Information for Respondents), page 8 reads, “If you and the county behavioral health agency can reach a</p>	<p>occur at or after the progress hearing.</p>



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	<p>CARE Agreement, the court will approve the terms as submitted or modify the terms and approve the modified terms and set the first status review within 60 days.” These statements conflate the CARE agreement, which encourages voluntary, self-determined engagement in services with the intensive court process of a court-ordered CARE plan and subsequent court supervision of that plan.</p> <p><b>Is it appropriate to require that a copy of the petition be served with notice of the initial appearance?</b>            Yes. It is appropriate to require that a copy of the petition be served with notice of the initial appearance. Notice of the initial appearance alone is insufficient to inform the respondent of the reason for the court proceeding, what action is being requested of the court, and the respondent’s role in the process. In order for the CARE Act to promote self-determination, the respondent should be informed of the contents of the petition at the earliest stage of the proceedings rather than after counsel is appointed. Furthermore, in a similar court proceeding, Assisted Outpatient Treatment (Welf. &amp; Inst. § 5346(d)(1)), a copy of the petition and the notice of the initial hearing date must be served on the respondent. As in Assisted Outpatient Treatment, many participants will likely be unhoused and as such personal service of notice should be permitted.</p> <p><b>Would a form for a petitioner to provide evidence under section 5975(d)(2) of a respondent’s multiple intensive treatments serve a function that is not more effectively served by direct documentary evidence of those treatments? If so, what function? What evidence or information should the form solicit from the petitioner?</b></p>	<p>The committee agrees and does not recommend any change to the proposal. Rule 7.2235 requires the petition to be served with the notice of initial appearance.</p>

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>No. A form for petitioner to provide evidence under section 5975(d)(2) of respondent’s multiple intensive treatments is not beneficial. Insofar as this form is directed towards a petitioner who is other than a mental health professional, an additional form for this petitioner to complete lends to a more cumbersome form that is already lengthy. This may lead to confusion or delay in the filing of the petition or dismissal by the court due to non-compliance of the required forms rendering access to the CARE Act more difficult. If the petitioner has mental health records of the respondent, they should be able to attach these to the petition rather than adding another form.</p> <p><b>Would a mandatory statewide method for the court to serve Order for CARE Act Report on the county agency be necessary or sufficient to ensure that the county agency receives the order, serves notice of the order on the required parties, and prepares the report?</b></p> <p>No. A statewide method or local rule for the court to serve Order for CARE Act Report on the county agency is necessary to ensure the that county agency receives the order, serves notice of the order on the required parties, and prepares the report because of the short timeframes.</p> <p><b>Would a single proof of service for the notice of the initial appearance – including check boxes to indicate whether service was provided to each party personally or by mail and clear instructions that respondent must receive proper notice by personal service – be as effective in ensuring that all parties receive proper notice as the current division of proof of personal service on the reverse of the notice, Form</b></p>	<p>The committee agrees and does not recommend any change to the proposal in response to this comment. A separate form for providing the evidence needed under section 5975(d)(2) is not necessary or appropriate. Relevant statements by the petitioner may be included on the petition; other evidence would need to be attached anyway.</p> <p>The committee does not recommend any change to the proposal in response to this comment because it agrees that a local rule or process will be sufficient to achieve the purposes mentioned in the request for comment.</p>

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	<p><b>CARE-110, and proof of service by mail on Form CARE-111?</b>                      Yes. A single proof of service for the notice of the initial appearance as described in the proposal would be sufficient to provide proper notice to all parties.</p>	<p>The committee does not recommend any changes to the proposal in response to this comment. The committee has concluded that combining proof of multiple types of service on a single form would increase the chance of confusion and error.</p>
<p>Superior Court of Riverside County                      by Susan Ryan,                      Chief Deputy of Legal Services</p>	<p><b>Does the proposal appropriately address the stated purpose?</b>                      Yes, the forms are adequate in addressing the legislative requirements. However, the petition form does not seem account for the wide range of potential petitioners, from health professionals to self-represented litigants with limited English proficiency.</p> <p>A key component of the CARE Act Petition requires facts in support of CARE eligibility AND either:</p> <p>1) an affidavit of a licensed behavioral health professional or                      2) evidence of intensive treatments.</p> <p>The forms as proposed request the facts in support of CARE eligibility in <b>both</b> the petition and the professional form. The redundancy in the forms makes for cumbersome forms. If the petitioner is attaching a completed mental health declaration from a licensed professional that addresses all the eligibility elements, is it necessary for petitioner to also answer the same questions?</p> <p>Likely, the forms arrived at this awkward state because the proposed petition presents the requirements in adherence to the</p>	<p>The committee does not recommend any changes to the proposal in response to this comment. The committee has endeavored to make the petition as accessible as possible while maintaining legal accuracy. CARE-100 allows for the petitioner to designate that the information supporting their assertions is included in the professional form (CARE-101). However, because a professional form is not required, the petition form must provide space for the petitioner to provide the required information in the petition itself.</p>

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	<p>order of rules as presented in Welfare and Institutions Code section 5975. A more intuitive presentation of the requirements would be more understandable for form users.</p> <p>Additionally, the open-endedness of the prompts for non-behavioral health professionals solicits incomplete or irrelevant responses. The forms should establish a sufficient standard for the information requested to encourage petitions that are more likely to provide the court with sufficient information to make a decision re: prima facie showing, and discourage extraneous or unmeritorious filings.</p> <p><b>Is it appropriate to require that a copy of the petition be served with notice of the initial appearance?</b>                      Yes, when someone is served with court proceedings, they should be given an opportunity to understand what is being requested of the court. However, two proofs of service (CARE-110 and CARE-111) seems duplicative. Having both personal and mail service sections in one document is helpful.</p> <p>Further, multiple services on the Notice of Respondent’s Right’s form CARE-112 may be redundant. However, some of these individuals may be homeless and therefore they will not receive mail. How shall the Court proceed when there the respondent is not served or does not appear in at the initial court hearing?</p> <p><b>Would a form for a petitioner to provide evidence under</b></p>	<p>The committee agrees and Rule 7.2235 provides for service of the petition on the respondent when the court orders a report under section 5977(a)(3)(B) or with the Notice of Initial Appearance when the court sets an initial appearance under section 5977(a)(3)(A) or 5977(a)(5)(C). In addition, the committee has revised the proposal to require service on the respondent to be personal service, unless personal service is impracticable, in which case it may be by any method reasonably calculated to give the respondent actual notice. Regarding the use of multiple proofs of service, the committee has concluded that the potential confusion resulting from placing multiple methods of service on the same proof form outweighs the benefits of a single form.</p>

**W23-10**

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	<p><b>section 5975(d)(2) of a respondent’s multiple intensive treatments serve a function that is not more effectively served by direct documentary evidence of those treatments? If so, what function? What evidence or information should the form solicit from the petitioner?</b></p> <p>At minimum, the form should request dates and treatment provider information for the multiple intensive treatments to allow for the respondent to prepare for such facts and issues to be presented.</p> <p>Alternatively, as discussed in more detail above, we suggest CARE-102 Petitioner’s Declaration of Eligibility be created that seeks the information set forth in sections 5 and 6 of the petition in a more structured way by mirroring the declaration created for mental health professionals.</p> <p><b>Would a mandatory statewide method for the court to serve Order for CARE Act Report on the county agency be necessary or sufficient to ensure that the county agency receives the order, serves notice of the order on the required parties, and prepares the report?</b></p> <p>No; however, several proof of service issues raised in the proposal may be addressed by the creation of a generic proof of service which is not limited to a certain document, notice, or receiving party. A mandatory statewide method may be presumptuous in that courts may have a local practice that the state may not include. Given the variety of county sizes, populations, and resources throughout the state, it is often not practicable to employ a “one size fits all” requirement, particularly when dealing with agencies outside the court system.</p>	<p>The committee does not recommend any change to the proposal in response to this comment. A separate form for providing the evidence needed under section 5975(d)(2) is not necessary or appropriate. Relevant statements by the petitioner may be included on the petition; other evidence would need to be attached anyway.</p> <p>The committee agrees and does not recommend any change to the proposal in response to this comment. The court in each county has developed practices and procedures for serving its orders on the county government. Allowing each court and county to adapt these procedures to CARE Act proceedings will lead to less confusion than imposing a new, statewide method of service.</p>

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<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><b>Would a single proof of service for the notice of the initial appearance—including check boxes to indicate whether service was provided to each party personally or by mail and clear instructions that respondent must receive notice by personal service—be as effective in ensuring that all parties receive proper notice as the current division of proof of personal service on the reverse of the notice, form CARE-110, and proof of service by mail on form CARE-111?</b></p> <p>Yes, one form is preferred to streamline the forms. Two proofs of service seem potentially confusing. We suggest a single proof of service for this notice that includes check boxes re: type of service and clear instructions, possibly a separate section re: personal service on respondent.</p> <p>Having multiple forms for serving the same document on different persons/parties may result in confusion and/or lack of service on certain persons/parties if the petitioner does not realize both proofs of service are required.</p> <p><b>Would the proposal provide cost savings? If so, please quantify.</b></p> <p>Unknown.</p> <p><b>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</b></p>	<p>The committee does not recommend any change to the proposal in this respect. The committee has concluded that the potential confusion resulting from placing multiple methods of service on the same proof form outweighs the benefits of a single form.</p> <p>No further response required.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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	<p>From a public education standpoint, the public should be introduced to the new procedure after it is developed. Extensive training is required for all affected staff including public service clerks, courtroom assistants, and self-help legal service providers. Additionally, judicial officers presiding over these cases will also need significant training. The court will also need to update/modify the case management system, and create new docket, hearing and minute codes. Courts will need to develop new processes and procedures for the CARE Act, including an internal referral process, an external transfer process, and possibly establish local rules.</p> <p><b>Would four months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</b></p> <p>No. Six months would be the minimal time frame to allow for counties of all sizes to implement changes, coordinate interagency efforts, and begin educating the public.</p> <p><b>How well would this proposal work in courts of different sizes?</b></p> <p>The forms can be utilized by different size counties.</p>	<p>The committee appreciates this comment and agrees that training will be required. The statute outlines training responsibility for judges and justice partners.</p> <p>The CARE Act requires only the seven counties in Cohort 1 to implement by October 1, 2023. The other fifty-one counties have six months or more.</p> <p>No further response required.</p>
<p>Superior Court of San Diego County by Mike Roddy, Executive Officer</p>	<p>Q: Does the proposal appropriately address the stated purpose? <b>A: Yes.</b></p> <p>Q: Is it appropriate to require that a copy of the petition be served with notice of the initial appearance? <b>A: Yes, this is appropriate to give respondent notice of the basis for the petition.</b></p> <p>Q: Would a form for a petitioner to provide evidence under</p>	<p>No further response required.</p> <p>The committee agrees, and Rule 7.2235 provides for service of the petition with both the <i>Notice of Order for CARE Act Report</i> (form CARE-106) and the <i>Notice of Initial Appearance</i> (form CARE-110).</p>

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	<p>section 5975(d)(2) of a respondent’s multiple intensive treatments serve a function that is not more effectively served by direct documentary evidence of those treatments? If so, what function? What evidence or information should the form solicit from the petitioner?</p> <p><b>A: No.</b></p> <p>Q: Would a mandatory statewide method for the court to serve <i>Order for CARE Act Report</i> on the county agency be necessary or sufficient to ensure that the county agency receives the order, serves notice of the order on the required parties, and prepares the report?</p> <p><b>A: A mandatory statewide method for service on the county agency is not necessary at this time. Leaving the method of service for local courts and counties to determine provides the most flexibility and is preferable. The court is collaborating closely with the appropriate county agencies; the method of service can be agreed upon as part of the collaborative process.</b></p> <p>Q: Would a single proof of service for the notice of the initial appearance including check boxes to indicate whether service was provided to each party personally or by mail and clear instructions that respondent must receive notice by personal service—be as effective in ensuring that all parties receive proper notice as the current division of proof of personal service on the reverse of the notice, form CARE-110, and proof of service by mail on form CARE-111?</p> <p><b>A: Yes, a single proof of service would have the same effect on ensuring notice. It is recommended that any proof(s) of service of form CARE-110 be stand-alone forms. Separate</b></p>	<p>The committee agrees and does not recommend any change to the proposal in response to this comment.</p> <p>The committee agrees and does not recommend any change to the proposal in response to this comment. The court in each county has developed practices and procedures for serving its orders on the county government. Allowing each court and county to adapt these procedures to CARE Act proceedings will lead to less confusion than imposing a new, statewide method of service.</p> <p>The committee has concluded that the potential confusion resulting from placing multiple methods of service on the same proof form outweighs the benefits of</p>



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	<p><b>proof(s) of service would allow the county agency to file the proof of service of form CARE-110 once service of the notice has been effectuated. This would eliminate any delay for service in filing the form CARE-110 notice with the court.</b></p> <p>Q: Would the proposal provide cost savings? If so, please quantify.  <b>A: No.</b></p> <p>Q: What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?  <b>A: Training business office and courtroom staff, creating processes and procedures.</b></p> <p>Q: Would four months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?  <b>A: Yes.</b></p> <p>Q: How well would this proposal work in courts of different sizes?  <b>A: It appears the proposal would work for court of various sizes.</b></p>	<p>a single form. However, the committee has provided the proposal to create stand-alone forms for proof of service, partly in response to this comment.</p> <p>No further response required.</p> <p>The committee agrees that training will be required.</p> <p>No further response required.</p> <p>No further response required.</p>
<p>Western Center on Law and Poverty                      by Helen Tran, Senior Attorney                      Los Angeles</p>	<p><b>Is it appropriate to require that a copy of the petition be served with notice of the initial appearance?</b>                      This is absolutely appropriate and necessary. As a matter of due process, respondents should be fully aware of the allegations</p>	<p>The committee agrees, and rule 7.2235 provides for service of the petition with both the <i>Notice of Order for</i></p>

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<b>Responses to Requests for Specific Comment</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>against them to initiate CARE Act proceedings. Without the petition, respondents will not be able to make critical decisions about how to proceed, including determining whether the medical evidence presented is true and complete; understanding why a county agency is trying to engage with them and which behavioral health services they may want to agree to, as required by Welfare and Institutions Code § 5977(a)(3)(B); and how to choose counsel that will meet their needs. These proceedings are accelerated in nature, requiring the court to “promptly review the petition” for a prima facie determination, set the matter for an initial appearance within 14 court days of making a prima facie finding or 14 court days of receiving a county’s initial report, and set the hearing on the merits within 10 days of the initial appearance. Welf. &amp; Inst. Code, § 5977(a). Respondents have a constitutional right to know exactly what is at stake in the case as early as possible.</p> <p><b>Would a mandatory statewide method for the court to serve Order for CARE Act Report on the county agency be necessary or sufficient to ensure that the county agency receives the order, serves notice of the order on the required parties, and prepares the report?</b></p> <p>A mandatory statewide method for service would not be necessary. As mentioned by the Judicial Council, there are already a “variety of mechanisms with which local courts serve their orders.” (fn. 11.) Method of service should be determined locally with input from the behavioral health agencies, legal services programs or public defenders, and community groups representing the interests of potential respondents in each county.</p>	<p><i>CARE Act Report</i> (form CARE-106) and the <i>Notice of Initial Appearance—CARE Act Proceedings</i> (form CARE-110).</p> <p>The committee agrees and does not recommend any change to the proposal in response to this comment. The court in each county has developed practices and procedures for serving its orders on the county government. Allowing each court and county to adapt these procedures to CARE Act proceedings will lead to less confusion than imposing a new, statewide method of service.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Responses to Requests for Specific Comment</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><b>Would a single proof of service for the notice of the initial appearance—including check boxes to indicate whether service was provided to each party personally or by mail and clear instructions that respondent must receive notice by personal service—be as effective in ensuring that all parties receive proper notice as the current division of proof of personal service on the reverse of the notice, form CARE-110, and proof of service by mail on form CARE-111?</b></p> <p>We prefer the current division of proof of personal service and proof of service by mail on separate forms. Because personal service to respondents is required and important to the commencement of CARE Act proceedings, ensuring compliance with the service requirement is more efficient by having the petitioner complete a proof of service dedicated to personal service. A single proof of service that applies to different parties and forms of service would clutter and obfuscate these requirements.</p>	<p>The committee agrees and does not recommend any change to the proposal in this respect. The committee has concluded that the potential confusion resulting from placing multiple methods of service on the same proof form outweighs the benefits of a single form.</p>
<p>Connie White Supervising Attorney Self-Help Legal Access Center Superior Court of Ventura County</p>	<p><b>2. Is it appropriate to require that a copy of the petition be served with notice of the initial appearance?</b></p> <p>Yes. Seems that due process requires it.</p> <p><b>2. Would a form for a petition to provide evidence under section 5975(D)(2) of a respondent’s multiple intensive treatments serve a function that is not more effectively served by direct documentary evidence of those treatments? If so, what function? What evidence or</b></p>	<p>The committee agrees, and Rule 7.2235 provides for service of the petition with both the <i>Notice of Order for CARE Act Report</i> (form CARE-106) and the <i>Notice of Initial Appearance</i> (form CARE-110).</p>

**W23-10**

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<b>Responses to Requests for Specific Comment</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><b>information should the form solicit from the petitioner?</b>            YES!!!! From a Self-Help Center point of view, a form would be very helpful for guiding individuals in filing if unable to obtain the Mental Health Declaration. Without any HIPPA waiver forms to provide to the health professional, I anticipate many not wanting to complete and more evidence of detention in the last six months will be filed. Without a form, self-represented litigants will struggle with this requirement.</p> <p>Perhaps a box at the beginning of the form (under the caption) using plain language to explain how “intensive treatment” is defined. Many Judicial Council forms provide some type of explanation and direction of the form in this format. The Declaration would then walk through the possible ways to provide the statutory requirements that could be attached (Declarations, certification, discharge records, etc.) The form BMD-001A comes to mind as it walks the litigant through what they could attach as proof. As always, an “other” box for any additional information they can give to the court.</p> <p><b>3. Would a mandatory statewide method for the court to serve Order for CARE Act Report on the county agency be necessary or sufficient to ensure that the county agency receives the order, serves notice of the order on the required parties, and prepares the report?</b>            Yes, a designated agent for service of process with a specific address would be great so that there was not confusion. Each county would have to designate the “CARE Representative” or something and a website listing all counties. Similar to the agent for service of process at the Secretary of State or centralized locations for service of process on financial</p>	<p>The committee does not recommend any change to the proposal in response to this comment. A separate form for providing the evidence needed under section 5975(d)(2) is not necessary or appropriate. Relevant statements by the petitioner may be included on the petition; other evidence would need to be attached anyway. Additionally, CARE-100 explains how “intensive treatment” is defined.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The court in each county has developed practices and procedures for serving its orders on the county government. Allowing each court and county to adapt these procedures to CARE Act proceedings will lead to less confusion than</p>

**W23-10**

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<b>Responses to Requests for Specific Comment</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>institutions.</p> <p>This would be helpful as well as it would help inter-county transfers if filed in County A where Respondent is found and then gets transferred to County B due to statutory requirements.</p> <p><b>4. Single Proof of Service?</b> Only input for this issue would be that it is highly likely that different people are serving the Respondent personally versus mailing out notices to the other. If one proof of service form, would all have to sign the same form? Seems easier to look at one form to see if Respondent personally service – most importantly.</p>	<p>imposing a new, statewide method of service.</p> <p>The committee agrees and does not recommend any change to the proposal in this respect. The committee has concluded that the potential confusion resulting from placing multiple methods of service on the same proof form outweighs the benefits of a single form.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Rules 7.2201, 7.2205, and 7.2210—Preliminary Rules</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
Edward Casey, Partner Alston Bird LLP Manhattan Beach	<b>2. Rule 7.2210(a)</b> —Should add that local rules cannot conflict with the Judicial Council’s rules.	The committee does not recommend any change to the proposal in response to this comment. Government Code section 68070 limits the authority of courts to adopt rules to those “not inconsistent with law or with the rules adopted and prescribed by the Judicial Council.” In addition, rule 7.2210(a) already subjects local rules to the limits in the CARE Act and the CARE Act rules.
	<b>2. Rule 7.2210(b)</b> —The people allowed access to records should include a “supporter.” See proposed section 7 in proposed form CARE-060-INFO.	The committee has modified its recommendation to provide that a supporter may have access to the case records, with express authorization from the respondent.
County of Santa Cruz by Jason Hoppin Public Information Officer	<b>Preliminary rules, rules 7.2201, 7.2205, and 7.2210</b> <i>Recommend</i> the rules specify “Respondent’s counsel” includes all members of the defense team, including defense investigators, social workers, advocates, administrative professionals, and experts.  This rule needs to include and allow information sharing and access of records to:	The committee does not recommend any change to the rules in response to this comment. Assuming that this comment concerns access to records, there is no need to define “counsel” to include nonlawyers—whether employees, independent contractors, or volunteers—who work as part of a legal team. As the lawyer’s agents, these nonlawyers are bound by the lawyer’s professional duty to protect confidential client information. Based on this relationship, rule 5.3 of the California Rules of Professional Conduct requires lawyers who work with nonlawyers to make reasonable efforts, such as instruction and supervision, to ensure that the nonlawyers do not violate the lawyer’s professional duties.  With respect to access to confidential information and records, the committee notes some tension between the CARE Act’s two principal confidentiality provisions.

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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Rules 7.2201, 7.2205, and 7.2210—Preliminary Rules		
Commenter	Comment	Committee Response
		<p>Section 5977.4(a) requires all “evaluations and reports, documents, and filings submitted to the court pursuant to CARE Act proceedings” to be confidential. (Section 5977.1(c)(5), part of the statute governing the “clinical evaluation hearing,” includes similar language that requires the “evaluation and all reports, documents, and filings submitted to the court” to be confidential. The committee reads this as a specific instance of section 5977.4(a)’s general requirement.) This language seems to require keeping all documents in the court case file, <i>and only those documents</i>, confidential. Section 5976.5(e), on the other hand, requires all “reports, evaluations, diagnoses, or <i>other information related to the respondent’s health</i>” to be confidential. This language narrows the confidentiality requirement to health-related information, but it also expands the requirement to encompass information regardless of whether it is contained in a document filed with the court. Based on the provision’s placement in section 5976.5, it could be read to refer only to health-related information aired, orally or in writing, at a hearing under the CARE Act. However, the plain language of the provision, which includes no such limit, counsels against that reading. The provision must also be read in the context of the broader protection of private health-related information under HIPAA (cite) and the Confidential Medical Information Act (Civ. Code, §§ 56–56.37). Furthermore the CARE Act includes three separate confidentiality provisions and no information-sharing provision. In light of the statutory protection of private health-related information and the express</p>

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<b>Rules 7.2201, 7.2205, and 7.2210—Preliminary Rules</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>1. The County Agency who will be ordered or tasked with preparing reports and participating in CARE proceedings, if not county behavioral health.</p> <p>2. Agency Counsel – i.e. County Counsel, who will be representing the county behavioral health director and other designated or involved county department(s).</p> <p>3. The CARE Supporter – at least to some limited documents, such as the petition and CARE plan.</p> <p>4. Any Tribes that will be participating in the proceedings.</p>	<p>confidentiality provisions in the CARE Act, the committee has concluded that it may not by rule authorize sharing of, or expand access to, information made confidential by statute beyond the parties to CARE Act proceedings and their counsel in the proceeding.</p> <p>The committee does not recommend any change to the rules in response to this comment. The committee agrees that legislation authorizing a county agency ordered to conduct an investigation under section 5977(a)(3)(A) or (B) to obtain access to otherwise confidential records would help the agency with its work. In the absence of legislative direction, the agency will need to proceed within the limits set by the statutes protecting the information and records at issue.</p> <p>The committee agrees and has revised its recommendation accordingly.</p> <p>The committee agrees in part, and has revised its recommendation to provide that a designated supporter may have access to confidential records to the extent that the respondent expressly authorizes that access.</p> <p>The committee does not recommend any changes to the proposal in response to this comment. The committee has concluded that because tribes, other than those that are petitioners, are not parties to the proceedings, they</p>



## W23-10

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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### Rules 7.2201, 7.2205, and 7.2210—Preliminary Rules

Commenter	Comment	Committee Response
	<p>It is our assumption that this confidentiality rule is intended to mirror Welfare &amp; Institutions Code section 827 and Rule of Court 5.552, which governs juvenile law confidentiality, as well as the LPS confidentiality rules in Welf. &amp; Inst. Code section 5328. Therefore, the court procedure to allow access to confidential CARE Court records for non-participating parties should be more robustly outlined and set forth in this rule or in a separate rule.</p> <p><b>Rule 7.2205 - Definitions:</b> Overall, the definitions section should be more robust. In particular, the following should be included with an actual definition of, and/or cross-reference to, the relevant statutes:</p> <ul style="list-style-type: none"> <li>• A “CARE Plan” – the components or services that meet the legal requirements as defined in Welf. &amp; Inst. Code § 5982.</li> </ul> <p>“Housing Resources” – the types of services or programs that would satisfy the legal requirements.</p>	<p>are not entitled to have access to the confidential court records.</p> <p>The committee intends the confidentiality provisions in the proposed rules to reflect the requirements in the CARE Act and other applicable laws. Although some of the rules may resemble those implementing different statutory schemes, the CARE Act rules do not reflect an intent to mirror provisions in other statutes or rules of court that do not apply to CARE Act proceedings. If the Legislature were to expand the provisions of the CARE Act governing access to otherwise confidential records, the committee would recommend expanding the scope of access to records in the rules to conform.</p> <p>The committee does not recommend expanding the definitions in the rule. As the commenter notes, “CARE plan” is adequately defined in the CARE Act. The statute also provides an exhaustive list of “housing resources” at section 5982(a)(3).</p>
<p>Legal Aid Association of California by Lorin Kline Director of Advocacy Oakland</p>	<p><b><u>Proposed Rules</u></b> <b><i>Preliminary rules, rules 7.2201, 7.2205, and 7.2210</i></b> We would like to express our support for proposed <i>Rule 7.2210(b)</i>, regarding access to records. The statute calls for a presumption that CARE Court hearings be closed to the public, that all documents and reports remain confidential unless the respondent chooses otherwise, and that the judge shall specifically inform the respondent of these rights. The proposed</p>	

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<b>Rules 7.2201, 7.2205, and 7.2210—Preliminary Rules</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>rule maintains the spirit the statutory section, which is to protect the privacy of the respondent.</p> <p>An important item in the statute that is absent from these rules, however, is the presence of the respondent at the initial hearing. The proposal indicates that these preliminary rules are meant to implement Section 5976 of the statute. That section provides that the respondent shall be entitled to be represented (§ 5976(c)) and that they shall be present at the hearing unless they waive that right (§ 5976(e)). Not only are these rights not reflected in the rule, but there is no indication of what constitutes a waiver of the right to be present. As discussed in detail above, the legal aid community is concerned about the likelihood that CARE Court proceedings will move forward without the participation and involvement of the respondent, perhaps as a result improper notice procedures. The rules call for personal service of the notice of initial hearing, suggesting some acknowledgement of the importance of the respondent’s participation at this stage, but the rules must go further. By failing to include any instruction on what constitutes a waiver of rights and when the hearing should be allowed to proceed, we are concerned that this will result in a loss of respondent’s right to meaningfully participate.</p> <p>Finally, in Section 5977.4(c), another section which these rules purport to implement, it states that the Judicial Council shall adopt rules to implement the provisions in several sections “to promote statewide consistency, including but not limited to. . . the process by which counsel will be appointed.” The proposed rules offer no indication of this objective but rather grant superior courts authority to adopt local rules to govern CARE</p>	<p>The committee does not recommend any change to the proposal in response to this comment. The reference to a statute in the heading of a rule indicates the authority for the rule, not necessarily that the rule is intended to implement the entire statute. Furthermore, as the commenter notes, the respondent’s right to be present at CARE Act hearings is expressly provided by statute. A rule providing that right would be duplicative. The statute also allows the respondent to waive the right to be present but does not specify the standards or process required. In the absence of statutory specification, the waiver process must meet standards of due process, which require that a waiver be knowing, intelligent, and voluntary. No rule is required to establish that requirement. In addition, the committee has revised its recommendation to require personal service of all notices on the respondent unless impracticable.</p> <p>The committee does not recommend any change to the proposal in response to this comment. Rule 7.2230 addresses the appointment of counsel. The committee chose not to specify a uniform process for appointment of counsel in part based on its belief that uniformity regarding the appointment process would lead to inequity and inefficiency. Imposing a single process on</p>

**W23-10**

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<b>Rules 7.2201, 7.2205, and 7.2210—Preliminary Rules</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>Act proceedings. As discussed above, statewide inconsistencies often result in unequal access to justice and the courts. Though we can appreciate the need for some court-by-court adaptation, there is nothing in the proposed rule to limit those change in procedures or to implement the clear mandate of the statute to ensure statewide consistency.</p> <p>* [citation omitted]</p>	<p>courts in counties as disparate in size as Los Angeles, Riverside, Tuolumne, and Glenn would inevitably elide the differences among the counties in availability of qualified legal services projects, public defender systems, bench-bar relationships, and many other factors. Furthermore, each court and county have experience appointing counsel in other types of proceedings, including criminal, juvenile dependency, juvenile justice, and mental health conservatorship. They can leverage their experience and existing processes and systems to appoint counsel much more efficiently than they would be able to under a new, rule-based appointment process. In addition, the lack of clarity regarding the status of public funding for CARE Act appointments and the contingency of a qualified legal service project’s eligibility for appointment on the availability of that funding and the project’s agreement to accept CARE Act appointments from the court led the committee to conclude that a rule specifying a statewide appointment process would be premature.</p>
<p>Los Angeles County Department of Mental Health</p>	<p><b><u>Rule 7.2210. General provisions; (b) Access to records (§ 5977.4(a)):</u></b>  <i>All filings and all evaluations, reports, and other documents submitted to the court in CARE Act proceedings are confidential, notwithstanding disclosure of their contents during a CARE Act hearing. No person other than the respondent, the respondent’s counsel, and the county behavioral health director or the director’s designee may inspect the case records without a court order:</i></p> <p>DMH comment: Clarification is needed on whether the county</p>	<p>The committee does not recommend any change to the</p>

**W23-10**

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<b>Rules 7.2201, 7.2205, and 7.2210—Preliminary Rules</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	behavioral health director may have multiple “director designees” that can inspect the case records without a court order.	proposal in response to this comment. In the absence of a statutory limit with respect to qualification or number, the committee understands the term “director’s designee” to give the director discretion to specify the qualifications and number of designees needed to handle the agency’s caseload under the CARE Act. Further specification is beyond the scope of this proposal.
Orange County Bar Association Michael A. Gregg, President	<p><b>Rule 7.2210. General provisions</b></p> <p>(a) Local rules A superior court may, subject to the limits in the CARE Act and these rules, adopt local rules to govern CARE Act proceedings.</p> <p>(b) Access to records (§ 5977.4(a)) All filings and all evaluations, reports, and other documents submitted to the court in CARE Act proceedings are confidential, notwithstanding disclosure of their contents during a CARE Act hearing. No person other than the respondent, the respondent’s counsel, <u>county counsel or attorney representing the county behavioral health director</u>, and the county behavioral health director or the director’s designee may inspect the case records without a court order.</p>	The committee agrees with the suggestion and has revised its recommendation to clarify that the county behavioral health agency’s counsel is authorized to have access to the court records in a CARE Act proceeding.
Rural Counties Representatives of California by Sarah Dukett, Policy Advocate Sacramento	We are proposing to clarify that the county behavioral health director’s counsel (i.e., county counsel) is authorized to inspect case records as necessary to represent the director. (Rule 7.2210(b).)	The committee agrees with the suggestion and has revised its recommendation to clarify that the county behavioral health agency’s counsel is authorized to have access to the court records in a CARE Act proceeding.
joined by: California State Association of Counties Urban Counties of California	<p><b>(b) Access to records (§ 5977.4(a))</b></p> <p>All filings and all evaluations, reports, and other documents submitted to the court in CARE Act proceedings are</p>	

**W23-10**

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<b>Rules 7.2201, 7.2205, and 7.2210—Preliminary Rules</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
County Behavioral Health Directors Association	confidential, notwithstanding disclosure of their contents during a CARE Act hearing. No person other than the respondent, the respondent’s counsel, <del>and</del> the county behavioral health director or the director’s designee, <u>and the director’s counsel</u> may inspect the case records without a court order.	
Superior Court of Riverside County by Susan Ryan, Chief Deputy of Legal Services	<b>Rule 7.2210(b)</b> only addresses the documents submitted to the court as confidential. We suggest adding clarifying language if the CARE Court case file is likewise confidential and thus also precluded from public access.	The committee does not recommend any change to the proposal in response to this comment. The rule provides that “[a]ll documents filed <u>and</u> all evaluations, reports, and other documents submitted to the court are confidential.” (Emphasis added.) The committee intends this confidentiality requirement to apply to all documents in the case file, including those generated by the court.

**W23-10**

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<b>Rules 7.2221, 7.2223, 7.2225, and 7.2230—Commencement of proceedings</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
Edward Casey, Partner, Alston Bird LLP Manhattan Beach	<p><b>Rule 7.2221(b)</b>—provide a rule whereby the clerk has to notify the person filing the petition if the petition is incomplete in terms of any information required by the statute and/or Rules.</p> <p><b>Rule 7.2223(b)</b>—what criteria will be used by the court to determine if the action should be transferred to respondent’s place of residence if respondent is not physically living at the place of residence?</p> <p><b>Rule 7.2230(a)</b>—Clarify if the decision by the court as to prima facie showing requires a hearing. Also add a time limit by which the court must make this determination after a complete petition has been filed. Critical to have a time deadline given the nature of mental health crisis.</p> <p><b>Rule 7.2230(b)</b>—add time limit by which clerk must perform the identified function.</p>	<p>The committee does not recommend specifying by rule that a clerk must notify or otherwise inform a petitioner that a petition is incomplete. This would go beyond the ministerial functions of the clerk, and also places the clerk in a position to assist one party in a proceeding to the potential disadvantage of another party, thereby jeopardizing the perception of the court’s impartiality.</p> <p>Section 5973 supplies the criteria for transferring a CARE Act proceeding to the respondent’s county of residence. Adding to those criteria is beyond the scope of the proposal.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The statute expressly requires and describes eight hearings in the CARE Act process. The act’s silence regarding a hearing on the determination whether the petitioner has made a prima facie showing of the respondent’s eligibility appears to be a clear sign of the Legislature’s intent not to require one.</p> <p>The committee does not recommend any change to the proposal in response to this comment. In the absence of statutory direction, the manner of the clerk’s performance of their duties are a matter for local control.</p>
County of Santa Cruz by Jason Hoppin Public Information Officer	<p><b>Commencement of proceedings, rules 7.2221, 7.2223, 7.2225, and 7.2230</b></p> <p>The rules should specify what happens to the initial case if a person is referred “to CARE Act proceedings from proceedings to determine a misdemeanor defendant’s competence to stand</p>	<p>The committee does not recommend any change to the proposal in response to this comment. The Legislature amended Penal Code section 1370.01 to specify what</p>

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Rules 7.2221, 7.2223, 7.2225, and 7.2230—Commencement of proceedings</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>trial, assisted outpatient treatment proceedings, and mental health conservatorship proceedings under the Lanterman-Petris-Short (LPS) Act,” under section 5978. For example, in all of these instances, the Public Defender is typically appointed to represent the client and will have already established a relationship with the client. Is there a presumption that the Public Defender will continue to represent Respondent?</p> <p>What happens if Respondent’s attorney determines that Respondent is incompetent to make the decision to voluntarily engage in CARE Act proceedings? Is the initiating case stayed or dismissed under certain circumstances?</p> <p><i>Recommend</i> guidance be provided if the individual is assessed</p>	<p>happens to the respondent’s case on referral from misdemeanor proceedings. The omission of similar provisions in the statutes governing AOT proceedings or LPS conservatorship proceedings is not an invitation for the council to fill the gaps with rules. Courts will need to interpret the statute as enacted until the Legislature does so.</p> <p>Regarding the commenter’s example, CARE Act proceedings are independent, noncriminal proceedings commenced by filing a petition. The statute requires the court presiding over the CARE Act proceedings to appoint counsel for the respondent. This requirement is independent of any requirement to appoint counsel in criminal or LPS Act proceedings. The CARE Act also establishes the priority for appointment: a qualified legal services project that has agreed to accept appointments in CARE Act proceedings from the court; if none is available, a public defender. If the court appoints a public defender, the public defender’s office or contract public defender may assign the same attorney to represent the respondent in both criminal proceedings and CARE Act proceedings, but there is no requirement or presumption of such an assignment.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The issue is beyond the scope of this proposal and, in any case, a matter for legislative resolution.</p> <p>The committee does not recommend any change to the</p>

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<b>Rules 7.2221, 7.2223, 7.2225, and 7.2230—Commencement of proceedings</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>as not being treatment adherent, or not ready or appropriate to engage in treatment.</p> <p><b>Rule 7.2223—Venue and Transfer</b></p> <ul style="list-style-type: none"> <li>This rule should be separated into two distinct rules: 1) venue; and 2) transfer. A transfer cannot take place until certain facts have been established (county of residence), which presumably would not happen until after the first court hearing or at a later hearing. Therefore, locating the transfer rule here seems to be prematurely placed and should be moved further down in the rules.</li> <li>Transfer: (b)(1) – County Counsel (Agency Counsel) should be included here to receive copies of any transfer orders or notices.</li> </ul>	<p>proposal in response to this comment. To the extent that these circumstances are relevant to the statutory criteria for CARE Act eligibility, they can be raised in the petition and the attached section 5975(d)(1) declaration, the court-ordered report under section 5977(a)(3), or the clinical evaluation filed under section 5977.1(c)(1).</p> <p>The committee does not recommend any change to the proposal in response to this comment. To the questionable extent that the order of rule provisions signals the prescription of the order of proceedings, placing the venue provisions in subdivision (a) and the transfer provisions in subdivision (b) suffices to indicate that a venue determination must come before a transfer order.</p> <p>The committee agrees and has added the agency’s counsel in both the transferring and receiving counties to rule 7.2223(b)(1)’s list of those who should be notified of a transfer order.</p>
Homeless Action Center by Patricia Wall, Executive Director Berkeley	<p><b>Rule 7.2230. Counsel for respondent (§§ 5976(c), 5977(a)(3)(A), (a)(5)(C) &amp; (b)(1)); ITC page 15:</b></p> <p>The rules make it clear that respondents will be appointed a qualified legal services project, or if none has agreed, then a public defender. The rules do not address the likely scenario where a respondent wishes to represent themselves. HAC recommends that this likelihood be addressed in the rules, specifically whether this will be allowed, and if so, how the respondent can choose self-representation. HAC further recommends that the rules address what would happen to a</p>	<p>The committee does not recommend any change to the proposal in response to this comment. The CARE Act requires appointment of counsel, subject only to the requirement that the court allow the respondent to substitute their own, chosen counsel at the initial appearance. The statute does not, however, provide for self-representation. The only accommodation to the commenter’s concern that the rule can provide, therefore, is relief of appointed counsel on substitution of new appointed counsel. Of course, if the right to self-</p>



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<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	respondent if they are not allowed to represent themselves but do not wish to work with appointed counsel.	representation in CARE Act proceedings is required by constitutional due process, whether it is conferred by statute or rule is immaterial.
Housing California by Mari Castaldi, Senior Legislative Advocate on Homelessness Sacramento	<p><b>Rule 7.2225 &amp; Form CARE-101:</b> As noted above, we are concerned about the wide range of potential petitioners for a CARE Act proceeding that may not have sufficient clinical training or background to determine if a CARE Act proceeding is the right type of intervention for a potential respondent.</p> <p>As these petitioners submit forms to the Court, we encourage the Advisory Committee to modify Form CARE-101 to require petitioners, especially those that are listed under category (g), to list their previous training and qualifications of working with populations with serious mental illness. Many petitioners in category (g) will have extensive experience and training working with these populations despite not being clinicians, while other petitioners under category (g) will lack this experience. The court should have a full understanding of the petitioner’s experience when reviewing a petition.</p>	The committee does not recommend any change to the proposal in response to this comment. The petitioner is not required to determine whether a CARE Act proceeding is the appropriate intervention for the respondent. That is the court’s responsibility, based not only on the petition, but on any evidence introduced at the hearing on the merits, when the county behavioral health agency will have been substituted in as petitioner unless it filed the petition. Furthermore, the court must make its finding that the respondent meets all the criteria in section 5972 by clear and convincing evidence. In addition, because section 5971(k) defines “licensed behavioral health professional” narrowly, a petitioner who does not meet that definition will need to arrange for someone who does meet the definition to complete the required declaration or, alternatively, provide evidence of two 14-day intensive treatments under section 5250 et seq.
Los Angeles County Department of Mental Health	<p><b>Rule 7.2223. Venue and transfer (§ 5973):</b> <i>(4) If the transferring court has not received a notification of receipt within 60 days of the transfer order, it must make a reasonable inquiry into the status of the transferred proceeding.</i></p> <p>DMH comment: Clarification is needed on the follow up process if the transferring court has not received notification of receipt by the new court within 60 days.</p>	The committee does not recommend any change to the proposal in response to this comment. Rule 7.2223 was modeled on the transfer provisions in Probate Code

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	DMH recommendation: Notification of receipt within 15 days.	sections 2216 and 2217, which apply to transfer of probate guardianship or conservatorship proceedings. The statutory process has worked well in those proceedings without a rule of court specifying additional follow-up procedures.  The committee does not recommend any change to the proposal in response to this comment.
National Alliance to End Homelessness by Alex Visotzky, Senior California Policy Fellow Washington, DC	Same comment as Housing California, above.	See committee response to Housing California comment, above. No further response required.
Legal Aid Association of California by Lorin Kline Director of Advocacy Oakland	<b>Commencement of proceedings, rules 7.2221, 7.2223, 7.2225, and 7.2230</b> <i>Rule 7.2230</i> regarding counsel for respondent is of particular interest to the legal aid community as legal aid organizations have the statutorily granted option of playing that role for their county. As stated above but worth reiterating here, we are concerned that the Rule 7.2230(a) as written, which grants individual courts the power to dictate the appointment process via local rule, doesn't adequately implement the statute's mandate to promote statewide consistency. At least some directives for the process of appointment of counsel must be addressed in these rules of court, rather than leaving the entire process up to local court discretion.	The committee does not recommend any change to the proposal in response to this comment. Rule 7.2230 addresses the appointment of counsel. The committee chose not to impose a uniform statewide process for appointment of counsel based on its determination that uniformity regarding the appointment process would lead to a lack of parity in practice. Imposing a single process on courts in counties as disparate in size as Los Angeles, Riverside, Tuolumne, and Glenn would inevitably elide the differences among the counties in availability of qualified legal services projects, public defender systems, bench-bar relationships, and many other factors. Furthermore, each court and county have experience appointing counsel in other types of proceedings, including criminal, juvenile dependency, juvenile justice, and mental health conservatorship. They

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<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
		can leverage their experience and existing processes and systems to appoint counsel much more efficiently than they would be able to under a new, rule-based appointment process. Finally, the lack of clarity regarding the status of public funding for CARE Act appointments and the contingency of a qualified legal service project’s eligibility for appointment on the availability of that funding and the project’s agreement to accept CARE Act appointments from the court led the committee to conclude that a rule specifying a statewide appointment process would be premature.
Public Law Center by Manohar Sukumar Supervising Attorney, Health Law Unit Santa Ana	<p><b>A. Revisions to Proposed Rule 7.2221</b> PLC urges the Judicial Council to permit the supporter to access records of the CARE Act proceedings without a court order, because the supporter plays a significant role in assisting the respondent to understand, make, communicate, or implement their own life decisions during the CARE process. Such a revision is consistent with Section 5977.4, which provides that “the proceedings shall be conducted in an informal nonadversarial atmosphere with a view to obtaining the maximum cooperation of the respondent [and] all persons interested in the respondent’s welfare.”</p> <p><b>B. Revisions to Proposed Rule 7.2223</b> Subdivision (a) should clarify that the current CARE Act petition does not constitute a “pending criminal or civil action or proceeding.” Item 4 on CARE-050-INFO should also be corrected to reflect this revision. Currently, it incorrectly states that venue is proper if the respondent has “a legal case in the county.”</p>	<p>The committee has revised its recommendation to permit the supporter to have access to records of the CARE Act proceedings, if expressly authorized by the respondent. That access is consistent with the statutory limits on the supporter’s role, which require the supporter to assist, but not make decisions for, the respondent.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The language of the rule is consistent with that in section 5973. If the commenter was able to determine with such clarity that a pending criminal or civil action or proceeding does not include a CARE Act proceeding, then no rule is needed to clarify that point. The committee has revised the</p>

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<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>Subdivision (b) directs the clerk of the transferring court to mail notice of the transfer order to various parties. Notably, subdivision (b) does not require notice to the supporter. As discussed above, the supporter is an important part of the CARE process. Thus it is crucial that they are aware of the transfer of the proceedings to the respondent’s county of residence. Omitting the supporter in the notice of transfer could potentially limit their ability to effectively assist the respondent and could also potentially hinder the respondent’s ability to understand and make informed decisions about their own care and treatment. Including the supporter in the notice of transfer would ensure that all relevant parties are aware of the transfer, and that the respondent and supporter can continue to work together in the new county of residence, promoting continuity of care, and minimizing confusion.</p> <p><b>C. Revisions to Proposed Rule 7.2225</b>            Subdivision (a) could be more clearly written to reflect that in addition to the individuals identified in section 5974, section 5978 permits additional persons and entities to file a petition under the CARE Act. PLC suggests the following language for clarification:</p> <p>A petition to initiate proceedings under the CARE Act may be filed by any of the persons specified in section 5974, as well as those persons and entities identified in section 5978, in accordance with the CARE Act.</p>	<p>language to “facing” a legal case to correspond to section 5973(a)(3).</p> <p>The committee does not recommend any change to the proposal in response to this comment. As noted above, the supporter’s role is to assist the respondent. The supporter does not play an independent role and therefore is not entitled to independent notice of an order of transfer. The respondent and, if authorized, respondent’s counsel can inform the supporter of a transfer.</p> <p>The committee agrees and has revised rule 7.2225(a) in response to this comment.</p>

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<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>This suggested wording emphasizes that the CARE Act provides for a wider range of people who can file a petition and removes the confusion caused by the “except as provided” language.</p> <p><b>D. Revisions to Proposed Rule 7.2230</b>                      PLC urges the Judicial Council to clarify the role of counsel in CARE Act proceedings. As written, subdivision (a) simply states that counsel will “represent the respondent.” However, many significant details are missing from the rule, including counsel’s rights and responsibilities. Specifically, the rule should specify that as in juvenile delinquency proceedings, counsel has a duty to act in the respondent’s expressed interest. (See § 634.3.)</p> <p>In addition, consistent with section 5976, subdivision (c), Rule 7.2230 should provide that respondent and respondent’s counsel are entitled to be present at all CARE Act proceedings.</p>	<p>The committee does not recommend any change to the proposal in response to this comment. Absent statutory authorization to depart from them, the ethical standards prescribed in Business and Professions Code section 6068 and the California Rules of Professional Conduct govern counsel’s duties and standard of representation in CARE Act proceedings as they do in any other judicial proceeding. These include advocating for the client’s expressed interests and maintaining the confidentiality of client communications.</p> <p>The committee does not recommend any change to the proposal in response to this comment. Section 5976(c) provides with sufficient clarity that respondent is entitled to be present at all proceedings. Counsel’s presence is included with respondent’s. Section 5977(b)(3), for example, makes this clear when it authorizes respondent to waive presence and appear through counsel.</p>
<p>Rural Counties Representatives of California                      by Sarah Dukett, Policy Advocate                      Sacramento                      joined by:</p>	<p><b>Issue: Noncompliant Petitions</b>                      The proposed rules do not clearly specify the duties of the court clerk upon receiving a petition that is not accompanied by the required mental health declaration, or otherwise fails to comply with the requirements of the CARE Act or adopted rules. Absent explicit direction in these rules, it is unclear whether the</p>	<p>The committee does not recommend any changes to the proposal in response to this comment. Rule 7.2221 provides that the clerk is to file a petition when received. In addition, case law makes clear that the clerk’s duties are ministerial, not judicial or discretionary.</p>

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California State Association of Counties Urban Counties of California County Behavioral Health Directors Association	<p>clerk will be authorized to reject such noncompliant filings, or whether action by a judicial officer to dismiss the petition will be required. (See, e.g., <i>United Farm Workers of America v. Agricultural Labor Relations Bd.</i> (1985) 37 Cal.3d 912; <i>Rojas v. Cutsforth</i> (1998) 67 Cal.App.4th 774; <i>Carlson v. Department of Fish &amp; Game</i> (1998) 68 Cal.App.4th 1268; <i>Mito v. Temple Recycling Center Corp.</i> (2010) 187 Cal.App.4th 276; <i>Maginn v. City of Glendale</i> (1999) 72 Cal.App.4th 1102.)</p> <p>The Judicial Council is empowered to adopt rules governing “limitations on the filing of papers” (Gov. Code, § 68070, subd. (b); <i>Carlson, supra</i>, 68 Cal.App.4th at p. 1272), and we have therefore recommended appropriate revisions to address this issue in Rule 7.2221(b), modeled upon the existing provisions of Rule 2.118(a). (This will further implement the CARE Act’s directive to adopt rules of court regarding “the clerk’s review of the petition” – effectively clarifying that this refers to <i>ministerial review</i> of papers presented for filing for conformance with the formal requirements of the CARE Act.)</p> <p><b>(bc) Acceptance of papers for filing</b> On receipt of a <a href="#">complete</a> petition <a href="#">complying with the requirements of Section 5975 and this rule</a>, the clerk must file the petition packet, assign a case number, and place the packet in a confidential file. <a href="#">The clerk must not accept for filing or file any petition that does not comply with the requirements of Section 5975 and this Rule.</a></p> <p><b>Issue: Court Referrals</b> The proposed rules should more clearly define the responsibilities of agencies filing CARE petitions in response</p>	

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<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>to court referrals under Welfare and Institutions Code section 5978 and Penal Code section 1370.01.</p> <p>There are plainly procedural differences between CARE proceedings initiated via court referral and conventional petitions (e.g., the mandatory hearing requirement under Pen. Code 1370.01, subd. (b)(1)(D)(iv)), but most importantly, in the case of court referrals, the petitioning agency may not be able to produce some of the elements ordinarily required for a CARE petition. In particular, the agency may, in some cases, be unable to provide a <i>Mental Health Declaration—CARE Proceedings</i>, if the licensed behavioral health professionals cannot conclude that the respondent meets the CARE Act’s specific diagnostic criteria. (The legal standards for Assisted Outpatient Treatment, LPS conservatorship, and incompetency to stand trial are each broader than those set forth in Welfare and Institutions Code section 5972, subdivision (b) - and thus an individual referred from those proceedings will not necessarily meet CARE diagnostic criteria. For example, a misdemeanor defendant with traumatic brain injury or dementia may be incompetent to stand trial, but an agency receiving such a referral could not truthfully assert that they were eligible for CARE.) More broadly, an agency reacting to court referral may not be able to assert under oath the other required “[f]acts...that the respondent meets the CARE criteria in Section 5972” - and the CARE Act cannot compel the agency to manufacture evidence or perjure itself.</p> <p>As the Court of Appeal observed in a closely related context, “[o]rdering the Conservator to file a petition and attempt to prove its allegations when the Conservator in good conscience does not believe that the allegations are merited would thus</p>	<p>The committee agrees with many of these comments, but does not recommend any changes to the proposal in response. The statute provides no exception to the requirement that CARE Act proceedings be commenced by filing a petition or to the required contents of the petition. (See §§ 5974, 5975.) These requirements apply to a referral, too. But the statute, including section 5978, also does not require the person or agency designated as the petitioner after a referral to file a petition if it determines that a petition is not warranted. In light of case law, including that mentioned by the commenter, any such requirement would need to be expressly included in statute and, even then, would raise separation of powers concerns.</p>

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Rules 7.2221, 7.2223, 7.2225, and 7.2230—Commencement of proceedings		
Commenter	Comment	Committee Response
	<p>create an irreconcilable ethical dilemma for more than one public official.” (<i>People v. Karriker</i> (2007) 149 Cal.App.4th 763, 786.) We have, therefore, proposed revisions to Rule 7.2221 clarifying that an agency filing a petition in response to a judicial referral is only required to include the information, evidence, and documents in its possession - and to explain to the court anything that it is not able to provide.</p> <p><u>(b) Petitions upon court referral</u>  <u>A petition to commence CARE Act proceedings as the result of a referral from a court under Section 5978 shall include a copy of the referral order. Notwithstanding subdivision (a), the petition shall contain the information, evidence, and documents set forth in Section 5975 and this Rule to the extent such information, evidence, and documents are in the possession of the petitioning agency. The petition shall further contain a brief explanation regarding any information, evidence, or documents that the petitioning agency is unable to produce and include with the petition.</u></p> <p><b>Miscellaneous Issues</b>            In the section addressing transfers (Rule 7.2223(b)), we added a cross-reference to Welfare and Institutions Code, 5973, subd. (b), which requires that the CARE Act be “operative in the respondent’s county of residence” as a condition of transfer. This will help avoid confusion during the transitional period when the CARE Act is operative only in Cohort 1 counties (and thus cases <i>cannot</i> be transferred to non-Cohort 1 counties).</p>	<p>The committee does not recommend the proposed rule because a requirement is not included in the statute. However, the committee has provided a section of form CARE-100 where petitioners are asked to state if the petition is the result of a referral, and if so, to indicate from which court and provide a copy of the referral order.</p> <p>The committee does not recommend any change to the proposal in response to this comment. Rule 7.2223 does not prescribe conditions of transfer, as section 5973(b) supplies those standards. The rule prescribes procedures for use if, and only if, the court does order the proceeding transferred under the statutory standards.</p>



**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Rules 7.2221, 7.2223, 7.2225, and 7.2230—Commencement of proceedings</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><b>(b) Transfer</b>            If the court orders the proceeding transferred to the superior court of the respondent’s county of residence <u>in accordance with Section 5973(b)</u>, the courts must proceed as follows:...</p>	
<p>Superior Court of Orange County            by Hon. Maria D. Hernandez,            Presiding Judge</p> <p>joined by:            Orange County Public Defender’s            Office            The Office of County Counsel,            Orange County            Orange County Health Care            Agency</p>	<p><b><i>Venue and transfer issues</i></b>            Proposed rule 7.2223 details venue and the process for transferring proceedings to the respondent’s county of residence. One of the noticeable deficiencies in this proposed rule is that transfer will occur only if the respondent consents to it. (Welf. &amp; Inst. § 5973(b).) Also lacking from the proposed rule is a definition of respondent’s county of residence or guidance on determining the respondent’s county of residence. Absent such parameters, this leaves room for the promotion of transfers to counties adverse to the best interest of the respondent insofar as the transfer is to a county where the respondent has fewer or no established support systems in place. It also leaves room for the financial and resource undertakings by certain counties where neighboring counties are coming on line for CARE Court at different times.</p> <p>In other statutes in the Welfare and Institutions Code, county of residence is defined. For example, in the Sexually Violent Predator (SVP) statute,</p> <p>“County of domicile” means the county where the person has manifested the intention of returning whenever the person is absent. For the purposes of determining the county of domicile, the court shall consider information found on a California driver’s license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person’s name and address, or</p>	<p>The committee does not recommend any change to the proposal in response to the comment. Proposed rule 7.2223 does not include a definition of the respondent’s county of residence or the standards for transfer because section 5973 supplies both, the first by cross-reference to Government Code section 244 and the second expressly in subdivision (b). The rule prescribes procedures for use if, and only if, the court does order the proceeding transferred under the statutory standards.</p> <p>See previous response. No further response required.</p>

## W23-10

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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Rules 7.2221, 7.2223, 7.2225, and 7.2230—Commencement of proceedings		
Commenter	Comment	Committee Response
	<p>information contained in an arrest record, probation officer’s report, trial transcript, or other court document. If no information can be identified or verified, the county of domicile of the individual shall be considered to be the county in which the person was arrested for the crime for which the person was last incarcerated in the state prison from which the person was last returned from parole.</p> <p>In a case where the person committed a crime while being held for treatment in a state hospital, or while being confined in a state prison or local jail facility, the county wherein that facility was located shall not be considered the county of domicile unless the person resided in that county prior to being housed in the hospital, prison or jail.” (Welf. &amp; Inst. § 6608.5(b)(1) &amp; (2).)</p>	
<p>Superior Court of Riverside County by Susan Ryan, Chief Deputy of Legal Services</p>	<p><b>Rule 7.2221(a)</b> does not mention the requirements of Welfare and Institutions Code section 5975(c) (facts supporting the assertion defendant meets CARE criteria), which are essential to the completion of the petition. As discussed below, we suggest creating a declaration for a non-professional that would include this information. If this comment/suggestion is taken, we suggest revision of this proposed rule to include a completed declaration by Petitioner.</p> <p><b>Rule 7.2221(b)</b> raises the question what the clerk should do if the petition is incomplete (does not include the information required per Rule 7.2221(a))? The Court would appreciate clarity/guidance on this point (specifically, if the declaration is missing, should the clerk reject the document without filing the</p>	<p>The committee does not recommend any change to the proposal in response to this comment. Rule 7.2221(a) requires the petition to be filed on <i>Petition to Commence CARE Act Proceedings</i> (form CARE-100). To complete that mandatory form, the petitioner must allege that the respondent meets each criterion in section 5972 needed to establish eligibility for the CARE Act process and facts in support of each allegation. Because the form is mandatory, no further rule requiring allegation of these facts is necessary.</p> <p>The committee does not recommend any changes to the proposal in response to this comment. The rule clearly provides, without qualification, that the clerk must accept all petitions for filing. Case law makes clear that the clerk’s duties are ministerial, not judicial or</p>

## W23-10

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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Rules 7.2221, 7.2223, 7.2225, and 7.2230—Commencement of proceedings		
Commenter	Comment	Committee Response
	<p>petition?).</p> <p><b>Rule 7.2223(b)</b> should acknowledge the statutory requirements of transfer set forth in section 5973, specifically the requirement that respondent agrees to the transfer. As currently phrased, this requirement could easily be overlooked, especially as courts learn how to process this new case type.</p> <p><b>Rule 7.2223(b)(4)</b> requires a transferring court to make a “reasonable inquiry” into the status of the transferred proceeding. What does “reasonable” mean in terms of this inquiry? We suggest the word “reasonable” either be removed or defined to make this phrase more easily understood in this context.</p> <p><b>Rule 7.2225(b)</b> specifies that “an agency designated by the county will be the petitioner” when a referral is made under Penal Code section 1370.01. As phrased, it remains unclear to whom the referral should be made by the Court. How will the Court know which agency has been designated by the county to serve as the petitioner in these circumstances?</p> <p>The legislation does not require a county to designate an agency to serve as a petitioner. In light of this, how should the Court proceed if the county does not designate a petitioner agency (because it is not legally required to do so)? Perhaps legislation is needed to designate that in the absence of another designation a default designation would apply, such as the</p>	<p>discretionary.</p> <p>The committee does not recommend any change to the proposal in response to this comment. Rule 7.2223 does not prescribe conditions of transfer, as section 5973(b) supplies those standards. The prescribes procedures for use if, and only if, the court does order the proceeding transferred under the statutory standards.</p> <p>The committee does not recommend any change to the proposal in response to this comment. Rule 7.2223 was modeled on the transfer provisions in Probate Code sections 2216 and 2217, which apply to transfer of probate guardianship or conservatorship proceedings. The statutory process has worked well in those proceedings without a rule of court specifying additional follow-up procedures.</p> <p>The committee does not recommend any change to the proposal in response to this comment. As neither section 5978 nor Penal Code section 1370.01 specifies the recipient of the referral, the Judicial Council is not in a position to do so by rule. Additional legislation on this point would be helpful.</p> <p>The committee does not recommend any change to the proposal in response to this comment. If no person files a petition on referral from another court proceeding, the CARE Act court has no role to play. There is no petition on which to rule and no proceeding in which to make orders. The committee agrees that further legislative</p>

**W23-10**

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<b>Rules 7.2221, 7.2223, 7.2225, and 7.2230—Commencement of proceedings</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>officer providing conservatorship investigation under Welfare and Institutions Code sections 5350 et seq.</p> <p>The legislation does not provide authority for the county agency to obtain records of the subject person to prepare the petition. Authority could be modeled on the authority of the conservatorship investigation officer (Welfare and Institutions Code section 5354), or the Department of State Hospitals (Penal Code section 1370(a)(3)).</p> <p><b>Rule 7.2230(a)</b> requires the Court to comply with procedures established by local rule to appoint counsel for respondent. Given the timeline, will courts have sufficient time and notice to prepare and enact a local rule to address this need?</p>	<p>guidance would be appropriate.</p> <p>The committee does not recommend any change to the rules in response to this comment. The committee agrees that legislation authorizing a county agency ordered to conduct an investigation under section 5977(a)(3)(A) or (B) to obtain access to otherwise confidential records would help the agency with its work. In the absence of legislative direction, the agency will need to proceed within the limits set by the statutes protecting the information and records at issue.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The committee recognizes that cohort 1 courts will not have sufficient time to adopt local rules within the regular time frames imposed by Government Code section 68071 and rule 10.613(c), (d), and (g). The committee notes, however, that rule 10.613(i)—implementing the authority in Government Code section 68071 to “establish, by rule, a procedure for exceptions to [the statutory] effective dates”—provides that a court may adopt a rule to take effect on a date other than January 1 or July 1 if the presiding judge submits to the Judicial Council the proposed rule and a statement of reasons constituting good cause for making the rule effective on the stated date; the Chair of the Judicial Council authorizes the rule to take effect on the date proposed; and the rule is made available for inspection on or before the effective date. The committee encourages courts facing short</p>

## W23-10

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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Rules 7.2221, 7.2223, 7.2225, and 7.2230—Commencement of proceedings		
Commenter	Comment	Committee Response
	<p>Is there a need for local rule protocol re: appointment of counsel? The legislation and rule of court provide a loose guide of how and when counsel should be appointed for respondent. Given that this is a new case type, there are likely to be changes and shifts while each county and court learns how best to process these petitions. Requiring courts to set forth a procedure in a local rule may be unnecessarily cumbersome given the time and steps required to enact and amend local rules. If anything, courts should be given the option to establish a more detailed procedure via local rule, but not be required to do so.</p>	<p>deadlines for implementing the CARE Act to avail themselves of this procedure.</p> <p>The requirement to establish a process for appointment of counsel by local rule is intended to give courts flexibility to adapt their existing procedures for appointing counsel to the particular exigencies of the CARE Act while at the same time promoting regularity and transparency in the appointment process. Although, for reasons stated elsewhere, the committee believes that a uniform statewide appointment process would be both inequitable and premature, the committee has concluded that the statutory requirement of a process requires something more regular than ad hoc appointment.</p>
<p>Superior Court of Tuolumne County by Hector Gonzalez, Jr., Court Executive Officer</p>	<p><b>Proposed rule 7.2230</b> requires the court to appoint a public defender to represent the respondent if there is no qualified legal services project who has agreed to accept CARE act appointments. Many small counties do not have public defender offices but rely on private attorneys who by contracts with counties are willing to be appointed to represent clients normally represented by public defenders. Suggest that language be added to proposed rule 7.2230 that specifies that private attorneys under contract to counties to accept public defender appointments can also be appointed to represent CARE act respondents.</p>	<p>The committee has revised its recommendation to the extent consistent with statute to accommodate counties that use contract public defenders instead of county public defender offices. The committee’s ability to modify the rule is constrained by section 5977(a)(3)(A)(ii) and section 5977(a)(5)(C)(ii), each of which requires the court to appoint “a qualified legal services project ... to represent the respondent. If no legal services project has agreed to accept these appointments, a public defender shall be appointed to represent the respondent.”</p>

## W23-10

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<b>Rules 7.2235 and 7.2240—Notice and Joinder</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
Affordable Housing Advocates by Catherine Rodman Director & Supervising Attorney San Diego	<p>* The commenter made two wordsmithing suggestions and recommended adding “fax, email and/or text” to the methods of service authorized in rule 7.2235(c).</p> <p>The commenter suggested adding paragraph (7) to rule 7.2235(c), to read: “(7) All documents served electronically must be searchable (OCR recognizable).”</p>	The committee has revised the proposal at rule 7.2235(d) to allow service of notices and other documents by first-class or overnight delivery on anyone, electronically as provided in Code of Civil Procedure section 1010.6 and rule 2.251, and by fax transmission as provided in rule 2.306.
Edward Casey, Partner, Alston Bird LLP Manhattan Beach, California	<b>Rule 7.2240</b> —clarify if a reply brief is permitted.	The committee does not recommend any change to the proposal in response to this comment. The permissibility of a reply brief is not addressed in the statute and so best left to judicial discretion on a case-by-case basis.
County Behavioral Health Directors Association by Jacob D. Mendelson, JD Senior Policy Advocate Sacramento	<p>CBHDA has concerns with a requirement to have the county behavioral health agency be the entity who provides notice to the respondent of the CARE proceedings (e.g., notice of initial appearance).</p> <p>By requiring this of county behavioral health, the therapeutic relationship between the county BH and the respondent may be disrupted. This can affect rapport building between the county BH and the respondent throughout the CARE process.</p> <p>We understand that if the county behavioral health agency is the entity who initially filed the petition, then there is a statutory requirement for BH (or their designee) to provide notice. (§ 5977(a)(3)(A)(iv). However, when the county BH agency is NOT the petitioner (i.e., a family member is), then the statute requires the court to order “a county agency, or their designee” to provide notice to respondent. (§ 5977(a)(3)(B).) Given the vague language of “a county agency” in this subsection, it appears that this language would not require the county agency to always be county BH.</p>	The committee has replaced the language in rule 7.2235(b) requiring the county behavioral health agency to give notice of the initial appearance with language requiring the <i>county</i> more broadly to give notice. This broader requirement is intended to be consistent with the requirement in section 5977(a)(3)(A)(iv) that the county behavioral health director give notice if they are the petitioner and the requirement in section 5977(a)(5)(C)(iii) that the county give notice if the county behavioral health agency is not the petitioner. This language is not intended to preclude the court from exercising its discretion to order any county agency, including the county behavioral health agency, to conduct the investigation and prepare the report under section 5977(a)(3)(B) and give notice of the initial appearance under section 5977(a)(5)(C)(iii). To the extent that the statutorily authorized roles of the county behavioral health agency are in tension, legislative resolution may be appropriate.

**W23-10**

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<b>Rules 7.2235 and 7.2240—Notice and Joinder</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	Regarding rule 7.2235(b)(3)(B), CBHDA recommends giving the respondent the option to accept or decline the petition and its accompanying documentation, given the sensitive PHI found within and inability to store it securely for many unhoused individuals.	The committee does not recommend any change to the proposal in response to this comment. The respondent needs the information in the petition and accompanying documents to understand the proceedings and to contact and work with their appointed counsel.
County of Santa Cruz by Jason Hoppin Public Information Officer	<p><b>Notice and joinder, rules 7.2235 and 7.2240</b> Prior to rule 7.2235(a) Notice of Order for Report to Augment Petition: There appears to be multiple “steps” or rules missing here before the county agency can actually prepare and serve the court-ordered report.</p> <p>Once the court has made a determination of a prima facie case based on the petition filing, there needs to be rules or “steps” describing:</p> <ul style="list-style-type: none"> <li>• HOW the Court will notify the County that a petition has been filed and a prima facie review has been made; and</li> <li>• WHAT moving papers and supporting documents will be provided to the County; and</li> <li>• A reference to the Proposed Judicial Council Forms CARE-105 and CARE-106.</li> </ul> <p>(b) Notice of Initial Appearance—If the court makes a prima facie determination and sets the hearing date for an initial appearance, it should be the court’s responsibility to serve this Notice of Initial Appearance on the respondent, respondent’s counsel, and the petitioner. Placing the burden on the behavioral health agency or other county department,</p>	<p>The committee does not recommend any change to the proposal in response to this comment. The rule, following the statute, requires the county agency to give notice of the <i>order</i> for the report, not the report itself. Rule 7.2235(b) requires a copy of the report to be included with the notice of initial appearance.</p> <p>The committee does not recommend any change to the proposal in response to these comments. Courts issue orders to county agencies in judicial proceedings on a routine basis. There is no reason to believe that the courts will need to depart from their existing procedures to serve the order for a CARE Act report or the order to serve notice of the initial appearance or other hearings on the county. Indeed, a statewide rule would be more likely to disrupt longstanding effective local practices than to ameliorate them.</p> <p>The committee does not recommend any change to the proposal in response to this comment. Sections 5977(a)(3)(A)(iv) and 5977(a)(5)(C)(iii) require the court to order the county or, under the former, the county behavioral health agency specifically, to give notice of the initial appearance to the respondent and all</p>

**W23-10**

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<b>Rules 7.2235 and 7.2240—Notice and Joinder</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>especially when they are not the petitioning party, places an unnecessary procedural step as described above, creates a significant amount of work, and increases staff costs to the County. Drafting and serving notices to parties is a significant amount of legal and administrative work, especially when we are attempting to track down individuals who are unhoused, mentally ill, or otherwise transient without a fixed residence.</p> <p>(b)(3) Notice to Respondent—it would be helpful to allow other substitute forms of service besides first-class mailing, such as phone, text, email, other electronic means, and/or in-person with a filed declaration, as many individuals may not have a fixed or permanent residences. Recommend standards for a full behavioral health assessment. This process takes on average 10 hours per individual, and sometimes longer.</p> <p><i>Recommend</i> guidance that the individual is also required to sign an ROI before the information is shared with the court.</p> <p><b>Rule 7.2240—Joinder of Local Governmental Entity</b> <i>Recommend</i> rule should be modified to be consistent with and to reflect the language contained in WIC 5977.1(d)(4): “another local government entity” to avoid confusion with another County department or division. (This is also seen in Rule 7.2301 which uses the language “the county or other local government entity.”)</p>	<p>other parties. The council may not depart in rule from a statutory requirement. Forms have been created to assist the county in providing the notices.</p> <p>The committee understands these concerns and has revised its recommendation to require personal service on the respondent unless impracticable, and then, by any method reasonably calculated to give the respondent actual notice.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The CARE Act does not address the protection of private or confidential information until it is filed with or submitted to the court. Disclosure of information protected by other statutes is subject to the limits those statutes and is beyond the scope of this proposal.</p> <p>The committee agrees and has revised the language to “another local government entity.”</p>



**W23-10**

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<b>Rules 7.2235 and 7.2240—Notice and Joinder</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>Who compensates the “local entity” that does not agree to provide the service or report? Who represents that entity in this proceeding, which sounds similar to an Order to Show Cause hearing? Who funds that representation?</p> <p><i>Recommend</i> consideration of what happens if individuals referred to CARE Court are already under the supervision of a government entity such as the Probation department. Would similar requirements as part of a criminal proceeding take precedence, or would CARE Act proceedings?</p> <p><i>Recommend</i> consideration of local capacity of treatment providers. Currently the County of Santa Cruz has 38 residential mental health beds with at least 5 qualified individuals competing for placement at any given time, including people dispositioned to treatment by the court as well as individuals stepping down from crisis inpatient or stabilization services, or returning from an IMD off conservatorship.</p> <p>Individuals coming through the courts currently wait months for a bed. The County would need to significantly increase the capacity for all levels of care to accommodate CARE court timelines for treatment.</p>	<p>The committee does not recommend any change to the proposal in response to this comment. Resolution of these issues is beyond the scope of this proposal and, in any event, the province of the Legislature.</p> <p>The committee does not recommend any change to the proposal in response to this comment. Resolution of these issues is beyond the scope of this proposal and, in any event, the province of the Legislature.</p> <p>The committee does not recommend any change to the proposal in response to this comment. Resolution of these issues is beyond the scope of this proposal and, in any event, the province of the Legislature.</p>
<p>Disability Rights Education and Defense Fund by Erin Nguyen Neff, Staff Attorney Berkeley</p>	<p><b>Respondents Need Personal Service (No Service By Mail) and a Longer Period of Time for the Notice of Initial Appearance, Proposed Rule 7.2235(b)(1)</b> Under proposed Rule 7.2235, subsection (b)(1), a respondent may only receive five days’ notice before the initial court appearance. This first notice will likely be the first time a</p>	<p>The committee does not recommend any change to the notice period in response to this comment. If the petitioner is anyone other than the county behavioral</p>

**W23-10**

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**Rules 7.2235 and 7.2240—Notice and Joinder**

Commenter	Comment	Committee Response
	<p>respondent becomes aware of CARE court proceedings against them. As such, this is not enough time for an individual to learn about the process, speak to their counsel, and make arrangements for life needs, such as childcare, or taking time off of work. In a regular civil court proceeding a person has 30 days after service of a summons and complaint to respond. A respondent should be provided with at least fifteen days’ notice of the initial hearing.</p> <p>Furthermore, subsection (b)(3)(A) permits service by personal service OR by mail with acknowledgement of service. However, personal service is the most effective means of ensuring the respondent receives actual notice of the initial court appearance. Personal service is especially important, as this may be the first time a respondent learns of the CARE court proceedings and a respondent may be struggling to do daily tasks, such as checking the mail. Finally, California Code of Civil Procedure, section 415.30, requires the respondent confirm receipt of the mail and makes the respondent liable for the cost of personal service if they do not confirm receipt. This rule imposes financial and administrative burdens on respondents, who are disproportionately indigent.</p> <p><b>Respondents Need Personal Service and a Longer Period of Notice for Subsequent Hearings, Proposed Rule 7.2235(c)</b> This proposed rule again only provides five days’ notice before a hearing date. This is an insufficient period of time for the</p>	<p>health agency, the respondent will first learn of the proceedings and receive a copy of the petition when served with the <i>Notice of Order for CARE Act Report</i> (form CARE-106). This is before the court has set the initial appearance. If the county behavioral health agency files the petition, the Legislature seems to have anticipated that the agency would have been in contact with the respondent and have tried to engage the respondent in voluntary services before filing a petition. In any event, the notice period is five <i>court</i> days, which equate to seven calendar days or more, depending on court holidays.</p> <p>The committee has revised its recommendation to require personal service on the respondent of the order for report and all hearings unless that service is impracticable, in which case service may be by any method reasonably calculated to give the respondent actual notice.</p> <p>The committee does not recommend any change to the notice period in response to this comment. The statute</p>

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Rules 7.2235 and 7.2240—Notice and Joinder</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>respondent to make arrangements to appear in court. This rule also permits service by mail of all subsequent hearings, which includes merits hearings. Given these proceedings are meant for individuals with severe mental illness, special care must be afforded to protect their due process rights. As such, notice of the merits hearing should also be served by personal service and with at least fifteen days' notice</p>	<p>limits the length of possible notice periods by requiring hearings to be set within 14 court days of an event or determination or, in some instances, sooner. In any event, the notice period is five <i>court</i> days, which equate to seven calendar days or more, depending on court holidays.</p> <p>The committee has revised its recommendation to require personal service on the respondent of the order for report, the initial appearance, and all other hearings unless personal service is impracticable, in which case service may be by any method reasonably calculated to give the respondent actual notice.</p>
<p>Housing California by Mari Castaldi, Senior Legislative Advocate on Homelessness Sacramento</p>	<p><b>Rule 7.2240:</b> We are concerned about Rule 7.2240, which addresses the possibility of the court joining additional local agencies as parties to the proceeding if the local entity does not agree to provide the service or support to the CARE Act participant that is detailed in their treatment plan. This rule, as currently drafted, creates a possibility of the court ordering the provision of certain housing and services for a CARE Act respondent that sit outside the jurisdiction of a county's department of behavioral health without sufficient understanding of these programs and their existing mechanisms for prioritization and service provision. This can potentially lead to willing participants that are already enrolled in these programs being displaced from the programs or prevented from participation due to the decisions of the court.</p> <p>Rule 7.2240 should be amended to specify that the local agency cannot be added as a party to the CARE Act proceeding if their</p>	<p>The committee does not recommend any change to the proposal in response to this comment. The suggestion is beyond the scope of the proposal. Rule 7.2240 outlines the procedure for joining or "adding" a local government entity as a party to the proceedings. But it is section 5977.1(d)(4), not the proposed rule, that authorizes the court to "add" as a party any local government entity if the proposed CARE plan includes services and supports, such as housing, provided directly or indirectly through that entity, the entity does not agree to provide the services or supports, and a party moves to join the entity as a party.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The suggested</p>

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	<p>lack of agreement to provide the service or support in question stems from insufficient funding or resources to serve existing participants in their program or services, which may be governed by other federal and state statutes and guidelines. Without such a provision, local agencies that administer other housing and services resources may be compelled to restrict resources or redirect resources from other program participants in order to adhere to a CARE Act treatment plan, despite the court potentially lacking detailed knowledge of the guidelines, statutes, and principles that govern these programs.</p>	<p>limitation is beyond the scope of the proposal and would require a statutory amendment. The order to show cause procedure in the rule, however, gives the local government entity the opportunity to appear before the court and demonstrate why it should not be joined as a party to the proceedings. The reasons expressed by the commenter, including limits imposed by other laws, could be raised at the hearing.</p>
<p>Legal Aid Association of California by Lorin Kline Director of Advocacy Oakland</p>	<p><b>Notice and joinder, rules 7.2235 and 7.2240</b> The great concerns of the legal aid community regarding the notice procedures mandated by these rules are detailed above. We believe the rules provide an insufficient amount of time for adequate notice, call for procedures that are impractical and unrealistic with this population, don't call for notification of all important parties, and don't contain adequate information for the respondent.</p> <p>The first notice of any kind that the respondent will receive under the proposed rules is the notice of order for report, as outlined in <i>Rule 7.2235(a)</i> or the notice of initial appearance, as outlined in <i>Rule 7.2235(b)</i>, depending on the identity of the petitioner. As we argue in detail above, it is essential that the respondent receive notice earlier than either of these points in time. Because these proceedings move at an expeditious pace, and because these respondents will be very difficult to locate and engage, providing notice at the time the petition is filed will lead to more just outcomes.</p> <p>There are also some important problems with <b>Rule 7.2235(a)</b>.</p>	<p>See responses to specific comments, below.</p> <p>The committee does not recommend modifying the recommendation to require notice to the respondent when the petition is filed. The statute does not require service of the petition or other notice until service of the notice of order for report. Neither does it provide for a responsive filing. The committee cannot develop rules addressing these actions without some evidence of the legislative intent underlying the absence of provision for them in the CARE Act. Additional legislation on this point would be helpful.</p> <p>The committee agrees that service of notice by mail on</p>

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<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>In addition to five days being a dramatically insufficient amount of time for notice, this rule calls for notice to be made by first-class mail. As detailed in our arguments above, few respondents will have reliable mailing addresses at which to receive notice. Importantly, this will be the first notice of any kind that the respondent will be receiving to make them aware of the CARE Court petition and future proceedings (which underscores the need to provide notice at the time the petition is filed). That makes it even more important that notice is adequate and successful.</p> <p>Additionally, the rule calls for notice to be made to respondent’s counsel. Because the order for report to augment petition comes before the court has made a finding on the merits of the petition, <i>no counsel will have been appointed for respondent at this time</i>, making this notice requirement impossible.</p> <p><b>Rule 7.2235(b)</b> raises several concerns that we have addressed in detail above, including the insufficient time for notice and the failure to mandate that the notice to the respondent include information about their appointed counsel and how to reach them. We strongly support the requirement of personal service as provided in Code of Civil Procedure section 415.10, and we would encourage this method of service to be mandated throughout the rules, not just on the notice of initial appearance.</p>	<p>the respondent is inadequate and has revised its recommendation to require personal service unless that method is impracticable, in which case service may be made by any method reasonably calculated to give the respondent actual notice. The statute limits the length of possible notice periods by requiring hearings to be set within 14 court days or, in some instances, sooner.</p> <p>The committee does not recommend any change to the proposal in response to this comment. Both the CARE Act and rule 7.2230(a) require appointment of counsel well before the hearing on the merits of the petition. The statute requires appointment no later than the setting of the initial appearance. To promote due process and equal protection, the rule requires appointment if the court does not dismiss the petition at the prima facie review. Therefore, notice to the respondent’s counsel is proper at this stage of the proceedings.</p> <p>The committee agrees that service of notice by mail on the respondent is inadequate and has revised its recommendation to require personal service unless that method is impracticable, in which case service may be made by any method reasonably calculated to give the respondent actual notice. In addition, the notice of initial appearance (form CARE-110) and the notice of order for report (form CARE-105) require provision of the name and contact information of appointed counsel.</p>

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	<p><i>Rule 7.2235(c)</i> bears the same concerning language as discussed in parts (a) and (b). Again, five days is an inadequate notice period. And again, service by mail will not be successful in reaching respondents, thus inhibiting their access to this process, to resources and services, and to justice overall.</p> <p>The joinder of local government entities as outlined in <i>Rule 7.2240</i> is notable in that it mandates that a government entity receive fourteen days’ notice before the date set for hearing. The proposed rules only entitle the respondent to five days’ notice. This inequity has no basis and is not proper. A respondent, whose rights and access to life-altering services and supports is at issue, should receive at least as much notice as a government entity receives in these proceedings. We support the mandate in this rule that the government entity bears the burden to demonstrate why they should not be added as a party to the proceeding. The legal aid community believes that the cooperation and involvement of local government entities will be crucial to the success of CARE respondents. Legal aid clients regularly face barriers to receiving services</p>	<p>The committee does not recommend any change to the notice period in response to this comment. The statute limits the length of possible notice periods by requiring hearings to be set within 14 court days of an event or determination or, in some instances, sooner. In any event, the notice period is five <i>court</i> days, which equate to seven calendar days or more, depending on court holidays.</p> <p>The committee has revised its recommendation to require personal service on the respondent of the order for report, the initial appearance, and all other hearings unless personal service is impracticable, in which case service may be by any method reasonably calculated to give the respondent actual notice.</p> <p>The committee does not recommend any change to the proposal in response to this comment. Regarding the deadlines for service of notice on the respondent, see the committee’s responses to the comments on rule 7.2235, above. The short timeframes for setting hearings imposed by the statute limit the committee’s ability to extend the notice periods. In addition, the statutory deadlines for the county behavioral health agency to serve the evaluation and other reports on the respondent or respondent’s counsel are uniformly five days before the date set for the hearing at which the evaluation or report will be considered. Notice of the hearing served with the report will serve as a formal reminder to the respondent of the upcoming hearing.</p>

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	<p>from these entities, including major delays in accessing services and benefits. The ability to involve local entities early and regularly in this process is of the utmost importance.</p> <p>Finally, it is worth noting, as these rules purport to implement Section 5977, that the statute notices in Section 5977(b)(3) that the respondent may waive their right to be present at a CARE Court hearing, but these rules do not address what constitutes that waiver. As we discuss in detail above, this creates an unnecessary and unjust risk that respondents will be unable to participate in their own CARE proceedings, particular of notice was unsuccessful.</p>	<p>The committee does not recommend any change to the proposal in response to this comment. See response to previous comments by this commenter on the issue of waiver, in the two charts of comments above.</p>
<p>Legal Services NorCal by Kate Wardrip Managing Attorney Chico</p>	<p><b>I. California Rules of Court, rule 7.2235 should be revised to include more notice rights to respondents.</b></p> <p>a. Respondents need to receive Notice of Order for CARE Act Report when the Petitioner is the county agency.</p> <p>As written, California Rules of Court rule 7.2235 only requires the Notice of Order for CARE Act Report to be served when the petitioner is a person or entity other than the county agency. California Rules of Court, rule 7.2235(a)(1) states that respondent and their attorney need to be served under Section 5977(a)(3)(B) but not under Section 5977(a)(3)(A). Section 5977(a)(3)(A) sets a slightly different reporting process if Behavioral Health is the petitioning party but notice to the respondent and their attorney is still required. Section 5977(a)(3)(A)(iv) states that the county needs to give notice to the respondent and their counsel of the proceedings in subsection (a)(3)(A), which includes the order for a CARE Act Report. The judicial rules need to reflect that the statute still</p>	<p>The committee does not recommend the suggested change. Rule 7.2235(a) provides for separate notice to the respondent of an order for a report made under 5977(a)(3)(B) <i>before</i> the court has set an initial appearance. Although the court may order the county behavioral health agency to submit a report under section 5977(a)(3)(A), that order is made at the same time the court sets the initial appearance. Second, the statute does not contemplate that the county behavioral health agency will need to contact the respondent before submitting its report. The statute asks for information about “efforts to engage the respondent <i>prior to filing the petition.</i>” Third, the county behavioral health agency can easily avoid a court-ordered report by including the information described in section 5977(a)(3)(A)(iii)(I)–(III) in the petition. Finally, because of the timing, no</p>

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	<p>requires that Behavioral Health serve respondents and their attorneys the Notice of Order for CARE Act Report and the Order for CARE Act Report, if they are ordered to make the report, regardless of if they are the initial petitioners. California Rules of Court, rule 7.2235(a)(1) should be modified to state “[b]efore engaging the respondent and preparing a report ordered under section 5977(a)(3)(A) or (B).”</p> <p>b. California Rules of Court, rule 7.2235(a)(1) should require personal service instead of mail service.</p> <p>Currently, California Rules of Court, rule 7.2235(a)(1) requires that the county agency serve respondents the Notice of Order for CARE Act Report (CARE-106), Order for CARE Act Report (CARE-105), and Information for Respondents -About the CARE Act (CARE-060-INFO) by first-class mail. California Rules of Court, rule 7.2235(a)(1) should be revised to state the county agency must personally serve respondents in the manner provided in Code of Civil Procedure section 415.10. There is no requirement in subsection (a) that the county agency serve the respondent personally.</p> <p>Notice and an opportunity to prepare for a hearing is central to procedural due process guaranteed by the California State Constitution. (<i>Gilbert v. City of Sunnyvale</i> (2005) 130 Cal.App.4th 1264, 1279.) Due process requires not just notice,</p>	<p>notice of the order for report separate from the notice of initial appearance is needed. Rule 7.2235(b) requires that the notice of initial appearance include any report ordered under section 5977(a)(3), regardless of which agency was ordered to submit it. To account for this different timeline for a report ordered under section 5977(a)(3)(A), the committee has modified proposed form CARE-110 to include an optional notice of order for report if (1) the court has ordered the county behavioral health agency to submit a report and (2) the report is not ready in time for inclusion with the notice of initial appearance.</p> <p>The committee agrees with the concerns regarding service and has modified its recommendation to require personal service of all notices on the respondent unless personal service is impracticable, and then by any method reasonably calculated to give the respondent actual notice.</p>



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	<p>but notice that is reasonably calculated to reach the object of the notice. (<i>Lasalle v. Vogel</i> (2019) 36 Cal.App.5th 127, 138.)</p> <p>CARE Act proceedings are likely to disproportionately involve unhoused members of the community. It is unlikely that a lot of these unhoused people are going to have a reliable mailing address. These forms are the first documents that the respondents are supposed to receive for the CARE Act Process. By making the method of service for the CARE-106, CARE-105, CARE-060-INFO documents mailing, the Judicial Rules are implementing a system that makes it unlikely that respondents will receive information about the CARE Act proceedings before they interact with the county agency for an assessment. The Petition to Commence CARE Act Proceedings (CARE-100) in its current form explicitly anticipates that the Petitioner may not be aware of a mailing address and instructs petitioners to list a last known location. (CARE-100, para. 3.) If the respondents lack a mailing address then Judicial Rules are ambiguous as to whether some other form of service will be required. If the respondent does have a mailing address but it is unreliable, or something that cannot be accessed on a daily basis, then the respondent will not receive the documents in a timely manner. This lack of notice could create a confrontational encounter between the respondents and county agents, as well as place the respondents in a situation where they are assessed by county agents without knowing anything about their rights or the process and without an opportunity to consult with their appointed attorney.</p> <p>It is reasonable to require personal service to the respondents because not only could it be the only way that the county could</p>	

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	<p>effectively give respondents notice, but it creates uniformity in the California Rules of Court. California Rules of Court, rule 7.2235(b) requires personal service for the Notice of Initial Appearance form. This indicates that the process is aware of the difficult nature of mailing respondents notice. Requiring the county to personally serve documents to respondents would mean that subsection (a) and (b) are held to the same standard, which could avoid confusion for the county when it needs to serve documents. In conclusion, requiring personal service of CARE-105, CARE-106, and CARE-060-INFO forms clarifies the process for both the county and the respondent.</p> <p>c. California Rule of Court, rule 7.2235(a)(2) should require a copy of Petition to Commence CARE Act Proceedings (CARE-100) to be served with Notice of Order for CARE Act Report (CARE-106).</p> <p>California Rules of Court, rule 7.2235(a)(2) should be revised to state the county agency must serve the respondent the Information for Respondents - About the CARE Act (CARE-060-INFO), Notice of Order for CARE Act Report (CARE-106), Order for CARE Act Report (CARE-105), Petition to Commence CARE Act Proceedings (CARE-100) and Mental Health Declaration-CARE Act Proceedings (CARE-101), if included in the initial petition. Currently, California Rules of Court, rule 7.2235(a) includes no language that would ensure that a respondent receives the CARE-100 and CARE-101 forms on which the CARE Act proceedings are based on.</p> <p>Without the CARE-100 and CARE-101 forms, a respondent will not know what the CARE Act proceedings are saying is</p>	<p>The committee agrees with the suggested change and has modified rule 7.2235(a)(4) accordingly.</p>

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	<p>the issue. Respondents will only receive documentation that states there is a proceeding and what happens in the process, but they will not know on what basis the petitioner began these proceedings. Not only does this deprive the respondent of full knowledge of the process, the uncertainty and lack of clarity in the process creates an air of distrust where respondents are less likely to cooperate with county agents trying to assess them. In the interest of creating an open and cooperative atmosphere between the county agency and the respondent, the California Rules of Court should require that the county serve the respondent the CARE-I 00 and CARE-IO 1 forms during the initial Notice of Order for Report process.</p> <p>d. California Rules of Court, rule 7.2235 should require service of written notice at least five calendar days prior to the county agency initiating attempts to engage the respondent for assessment.</p> <p>In addition to actual notice, due process requires that the notice provided “afford a reasonable time for those interested to make their appearance ...” (<i>Koshak v. Malek</i> (2011) 200 Cal.App.4th 1540, 1547; <i>Mullane v. Central Hanover Bank &amp; Trust Co.</i>, 339 U.S. 306, 313.)</p> <p>California Rules of Court, rule 7.2235 should be revised to include that following personal service of the CARE forms, the county must wait five calendar days before contacting the respondent to assess them, as ordered in CARE-105. For the above stated reasons, the initial service of CARE-060, CARE-106 and CARE-105 should be personal and include CARE-100 and CARE-101. A five day calendar period between</p>	<p>The committee does not recommend any change to the proposal in response to this comment. Neither the statute nor the rule require the respondent to take any action on receipt of the <i>Notice of Order for CARE Act Report</i> (form CARE-106). The order itself is directed to a county agency, not the respondent. The statute, furthermore, presumes that a petitioning county behavioral health agency will already have contacted the respondent and tried to engage the respondent in voluntary services. In addition, the rules require the court to appoint counsel to represent the respondent at the time it orders a report or sets an initial appearance, whichever comes first. By the time the county agency</p>

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	<p>personal service and the assessment is needed to give the respondent time to review the forms they receive and contact their attorney. As the rules are written now, the County can serve the respondent the required documents and then assess them before they know what is happening, and before their attorney can advise them of their rights.</p> <p>This immediate service and assessment process is problematic for two reasons: it bombards the respondent with information before they can utilize it, and it creates a hostile assessment environment. If the county serves the respondent with only the CARE-060-INFO, CARE-105, and CARE-106 forms, then the county will give the respondent 7 pages of dense legal terminology and potentially no time to read them before the county begins an assessment. Any value that the CARE-060-INFO form, and appointment of an attorney at this stage, is rendered moot because the respondent will not have any time to utilize them. In order for this information and the appointment of an attorney to have any worth in this initial process, the respondent must have 5 calendar days before the county assesses them.</p> <p>If the county is not required to wait in between the initial service and the assessment, then this will create an environment where the respondent could be overwhelmed and hostile. Without a waiting period, the respondent will, in a matter of minutes, go from not knowing anything about the CARE Act Process, to having strangers inform them that someone petitioned the court to have them receive court ordered medical treatment, and then this stranger will begin asking them personal questions about their life and mental</p>	<p>gives notice to the respondent, the respondent will be represented by counsel and that will be known by the agency, as the name and contact information of counsel will be on the applicable notice form. Even if the respondent does not have time to contact their appointed counsel, the agency should be wary of directly engaging a represented party to a pending proceeding without the knowledge or presence of the party’s counsel.</p>

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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**Rules 7.2235 and 7.2240—Notice and Joinder**

<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>health. Respondents may be distressed to learn about the petition and proceeding and will not have any time to process this information before the county agents begin to ask extremely personal questions. The county agent will be in a situation where they cannot form any trust or rapport with respondent. It is unlikely that a respondent will want to cooperate with the county agent after such an abrasive turn of events. In the spirit of creating a cooperative atmosphere and maximizing the chance that a respondent will take advantage of the CARE Act process, it is essential that the California Rules of Court create a five calendar day period between service and assessment.</p> <p>Opponents of the personal service revision to California Rules of Court, rule 7.2235(a) may argue that these issues are the result of personal service, but this situation would be worse without a personal service requirement. It is very likely that mailed forms will not result in actual notice to respondents, so without personal service, the respondent may not receive the forms before being contacted for an assessment. If the county mails, or attempts to mail, the required forms to the respondent, and the respondent does not have access to their mail on a daily basis, or any access to mail at all, then the county could attempt to assess the respondent before the respondent sees any of the documents. This would create a scenario where a respondent meets with a county agent, is told of the CARE Act proceedings for the first time, is not given any information about the proceedings, and is immediately assessed. In this scenario, the respondent would have no knowledge of their rights, and no reason to trust the county agents. For these reasons, it is advisable that the</p>	

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Rules 7.2235 and 7.2240—Notice and Joinder</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>county personally serve the required documents and the respondent have five calendar days to review them.</p> <p>e. California Rules of Court, rule 7.2235(b) erroneously references section 5977(c) and should be revised to reference section 5977(a)(5)(C).</p> <p>California Rules of Court, rule 7.2235(b)(1) states that the county must give notice for the “initial appearance under section 5977(c)” to respondent, respondent’s counsel, the petitioner, and the county behavioral agency in the respondent’s count of residence if different from the county in which the petition was filed. Section 5977(c) states the standards for a hearing on the merits, which is not relevant to the initial appearance with the court. The California Rules of Court, rule should refer to section 5977(a)(3)(A)(i), or section 5977(a)(5)(C), which discusses the scheduling of the initial appearance.</p> <p><b>B. California Rules of Court, rule 7.2235 Subsection (b) Should be Revised to Grant Respondent More Notice Prior to an Initial Appearance and Remove the Option of Service under California Code of Civil Procedure Section 415.30.</b></p> <p>a. Respondent and Respondent’s Attorney should receive at least seven court days’ notice of initial appearance in the CARE ACT Proceedings</p> <p>Respondents and their attorneys need at least seven court days’ notice of an initial appearance in a CARE Act</p>	<p>The committee has revised its recommendation to refer to section 5977(b), which describes the initial appearance.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The short timeframes for setting hearings imposed by the statute limit the committee’s ability to extend the notice periods. To mitigate this problem, the committee has required the court to give appointed counsel a copy of</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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**Rules 7.2235 and 7.2240—Notice and Joinder**

Commenter	Comment	Committee Response
	<p>Proceeding to meet and discuss their matter. California Rules of Court, rule 7.2235(b) currently states that a county behavioral health agency must give notice of an initial appearance no later than five days before the initial appearance. There is no requirement in the CARE Act that a respondent and their attorney only receive five days’ notice. Welfare and Institutions Code Section 5977 only states that an initial appearance on the petition must be set within fourteen days of a finding that the petition supports a prima facie showing. Welf. &amp; Inst. § 5977(a)(5)(C)(i). The requirement that service must be completed only five days before the initial appearance is not enough notice for a respondent to prepare for the appearance.</p> <p>Respondents in these matters are likely to be disproportionately unhoused. Being unhoused often results in lacking safe transportation and reliable method of contacting services. Unhoused individuals may not be able to afford transportation, may not feel safe leaving their belongings behind, or lack the ability to make calls because they lack the ability to keep a phone charged. These factors hinder a respondent’s ability to effectively contact with their attorney. Similarly, the attorney would not be able to communicate with the respondent easily. If the respondent does not have a working phone then the attorney may not be able to call them. An attorney can go to the respondent’s address, but if they are unhoused then this would mean going to their resting place. If the respondent is not there when the attorney visits then the attorney cannot meet with the respondent. If the respondent is there but the site is a large encampment with multiple people then the attorney</p>	<p>the petition, which includes the respondent’s address or last known location. In addition, the notice deadline is five <i>court</i> days before the appearance, which is effectively seven or eight calendar days beforehand. Further, many statutory deadlines for the county or other entity to file reports or other documents are set at five days before a hearing. Service of notice of hearing with the report to be considered at the hearing makes sense for both the county and the respondent.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Rules 7.2235 and 7.2240—Notice and Joinder</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>would not be able to identify who the respondent is, because the attorney could not ask others where the respondent is without violating the duty of confidentiality. (Business and Professions Code section 6068(e)(1).) The California Rules of Court should reflect the difficult nature of communications between the respondents and their attorneys. The California Rules of Court, rule should grant the respondent and their attorney seven court days’ notice before the initial appearance so that they can attempt to communicate and discuss the proceedings.</p> <p>b. Notice to respondent should not be in the manner provided in Code of Civil Procedure Section 415.30.</p> <p>California Rules of Court, rule 7.2235(b)(3)(A) should not allow the county to serve respondent under California Civil Procedure Section 415.30 because it sets an unnecessary procedural and potentially financial burden on the respondent. Civil Procedure Section 415.30 would allow the county to serve the respondent by first-class mail the Notice of Initial Appearance along with two copies of a notice and acknowledgement form. Under this service method the respondent would need to sign the acknowledgment and mail it back to the county. If the respondent does not mail the acknowledgement within twenty days then they may be responsible for “reasonable expenses thereafter incurred in serving or attempting to serve the party by another method.” Cal. Civ. Proc. § 415.30.</p> <p>The CARE Act process assumes that the respondent is a person experiencing a mental disability that is impacting their</p>	<p>The committee agrees and has removed the option for serving the respondent under Code of Civil Procedure section 415.30 from its recommendation.</p>



**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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**Rules 7.2235 and 7.2240—Notice and Joinder**

Commenter	Comment	Committee Response
	<p>entire life. If the respondent’s disability allegedly prevents them from taking care of themselves, then requiring that the respondent personally receive legal documentation, sign it, and return it, or else face financial expenses is entirely unreasonable. The inclusion of the summons and acknowledgement process risks placing a financial burden on an already vulnerable community. For these reasons, California Rules of Court, rule 7.2335(b) should not include service under Civil Procedure Section 415.30.</p> <p><b>C. California Rules of Court, rule 7.2235 Subsection (c) Should be Revised to Grant Respondent More Notice Prior to Other CARE Act Hearings and Should Require Personal Service to the Respondent.</b></p> <p>a. Respondent and Respondent’s Attorney should receive at least seven court days’ notice of other hearings in the CARE ACT Proceedings</p> <p>Respondents and their attorneys need at least seven court days’ notice prior to the any hearing after the initial appearance. The CARE Act does not include any language requiring “no later than five court days” notice for hearings after the initial appearance. As stated above, due to the nature of these proceedings, many respondents will be unhoused. A respondent’s unhoused status makes it difficult to communicate with their attorney in a short period of time. Respondent and their attorney’s need additional time to prepare and discuss any upcoming proceedings.</p> <p>b. Respondents need to receive personal service of the Notice of Hearing- CARE Act Proceedings (CARE-115)</p>	<p>The committee does not recommend any change to the proposal in response to this comment. The short timeframes for setting hearings imposed by the statute limit the committee’s ability to extend the notice periods. The notice deadline is five court days before the appearance, which is effectively seven or eight calendar days beforehand. In addition, many statutory deadlines for the county or other entity to file reports or other documents are set at five days before a hearing. Service of notice of hearing with the report to be considered at the hearing makes sense for both the county and the respondent.</p> <p>The committee agrees and has modified its recommendation to require personal service of all</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Rules 7.2235 and 7.2240—Notice and Joinder</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>and accompanying documents.</p> <p>California Rules of Court, rule 7.2235(c)(2) should be revised to state the county agency must personally serve respondents in the manner provided in Code of Civil Procedure section 415.10. Currently California Rules of Court, rule 7.2235(c)(2) requires that the county behavioral health agency serve respondent their Notice of Hearing - Care Act Proceedings (CARE-115) and accompanying documents by first-class mail. As stated above, the CARE Act process will deal with a disproportionate number of unhoused individuals. These individuals are not likely to have any reliable mailing address to receive court documents at. If notice of hearings are served by the county through first-class mail then it is unlikely that many respondents will see these notices prior to their hearings. Similarly, if the California Rules of Court, rule require personal service of the notice of hearings, then this will create uniformity with California Rules of Court, rule 7.2235(b), and avoid confusion for the county behavioral health programs.</p>	<p>notices on the respondent unless personal service is impracticable, and then by any method reasonably calculated to give the respondent actual notice.</p>
<p>National Alliance to End Homelessness by Alex Visotzky, Senior California Policy Fellow Washington, DC</p>	<p>Comments identical to those submitted by Housing California, above.</p>	<p>See response to the comments by Housing California, above.</p>
<p>Public Law Center by Manohar Sukumar Supervising Attorney, Health Law Unit Santa Ana</p>	<p><b>Revisions to Proposed Rule 7.2235</b> Regarding subdivision (a), PLC suggests that the Notice of Order for Report should be served through personal service under Code of Civil Procedure 415.10, in addition to first-class mail.</p>	<p>The committee agrees and has modified its recommendation to require personal service of all notices on the respondent unless personal service is impracticable, and then by any method reasonably calculated to give the respondent actual notice.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Rules 7.2235 and 7.2240—Notice and Joinder</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>Personal service would ensure that the respondent receives the notice in a timely and efficient manner, and also that the notice has been physically delivered to the respondent and not just sent to an address that the respondent no longer uses.</p> <p>Another justification for mandating personal service is the need for timely action by the agency. The agency is required to file a written report with the court within 14 days, which may necessitate starting the investigation immediately, even before the respondent is aware of the order for a report.</p> <p>Notably, the dual service procedure recommended here—both personal service and mail service—is similar to the posting and mail service requirements for serving a three-day notice to pay rent or quit in unlawful detainer cases. (See Code Civ. Proc., § 1162, subd. (a).)</p> <p>PLC also suggests that the notice should not be served under Code of Civil Procedure section 415.30, as the acknowledgment procedures outlined in this section could be burdensome for the respondent. These procedures include the need for the respondent to sign and return an acknowledgment of receipt of the notice, or face liability for costs incurred to effect personal service. This could be difficult for some respondents, particularly those who are unhoused or have mental health conditions.</p> <p>Subdivision (a)(1) does not include the supporter as a person who must be served with the Notice of Order for Report. However, the supporter should be included as a person that must be served, because they play a crucial role in assisting the</p>	<p>The committee agrees and has removed the reference to service under Code of Civil Procedure section 415.30 from this rule.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The respondent will not have had an opportunity to designate a supporter at this stage of the proceedings.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Rules 7.2235 and 7.2240—Notice and Joinder</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>respondent. According to section 5981, subdivision (a), the supporter may be present in any meeting, judicial proceeding, status hearing, or communication related to evaluations, development of a CARE agreement or CARE plan, establishing a psychiatric advance directive, and development of a graduation plan. To fulfill their role effectively, the supporter must be served with the Notice of Order for Report.</p> <p>Regarding subdivision (b), PLC recommends that instead of five court days, the parties should be required to serve the Notice of Initial Appearance at least 10 court days before the hearing. This would provide a more reasonable amount of time for the respondent, the respondent’s counsel, and the petitioner to receive notice, review the materials provided, and prepare for the initial appearance. This would also ensure that the respondent has adequate time to consult with his or her counsel and to arrange transportation to the hearing.</p> <p>Like the Notice of Order for Report, PLC urges the Judicial Council to mandate personal service (Code Civ. Proc., § 415.10) and first-class mail service of the Notice of Initial Appearance.</p> <p>In addition, PLC suggests that the way to count days should be clarified in the rule. The rule should specify that days should be counted according to the Code of Civil Procedure (see Code Civ. Proc., § 1010 et seq.), as this would provide clear guidance</p>	<p>The committee does not recommend any change to the proposal in response to this comment. The short timeframes for setting hearings imposed by the statute limit the committee’s ability to extend the notice periods. The notice deadline is five court days before the appearance, which is effectively seven or eight calendar days beforehand. In addition, many statutory deadlines for the county or other entity to file reports or other documents are set at five days before a hearing. Service of notice of hearing with the report to be considered at the hearing makes sense for both the county and the respondent.</p> <p>The committee agrees and has modified its recommendation to require personal service of all notices on the respondent unless personal service is impracticable, and then by any method reasonably calculated to give the respondent actual notice.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The timing requirements in Code of Civil Procedure section 1010 et seq. apply automatically to civil actions and special</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Rules 7.2235 and 7.2240—Notice and Joinder</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>on how to calculate the required notice period. This would prevent confusion and ensure that all parties are aware of the time frame in which the notice must be served.</p> <p>Subdivision (b)(5) appears to contain a typographical error. PLC recommends the following revision:</p> <p style="padding-left: 40px;">Notice must be served on the other persons <del>to</del> entitled to receive notice as provided in paragraphs (1) and (2) by first-class mail.</p> <p>PLC agrees with subdivision (c) that notice of other hearings should be served by first-class mail. Because the respondent will be represented by counsel at this stage of the proceedings, in person service is probably unnecessary. However, PLC again suggests that the notice period should be extended from 5 days to 10 days. Additionally, the rule should specify that the days should be calculated according to the Code of Civil Procedure, to provide clear guidance on how to calculate the required notice period.</p>	<p>proceedings of a civil nature unless otherwise specified by statute. No further specification is needed.</p> <p>The committee agrees and has revised the rule accordingly.</p> <p>The committee has modified its recommendation to require personal service of all notices on the respondent unless personal service is impracticable, and then by any method reasonably calculated to give the respondent actual notice. The committee does not recommend extending the notice period under this rule.</p>
<p>Rural Counties Representatives of California by Sarah Dukett, Policy Advocate Sacramento</p> <p>joined by: California State Association of Counties Urban Counties of California County Behavioral Health Directors Association</p>	<p><b>We recommend clarifying three aspects of Rule 7.2235:</b> First, where the rule provides for service by first class mail (i.e., all papers other than the respondent’s notice of initial appearance), we have proposed to authorize express mail or personal service as acceptable alternatives. The option for personal service may be necessary in cases where the respondent is unhoused, or otherwise lacks a known address for service. (These alternative options may also provide the most efficient and expeditious means of service in other circumstances.)</p>	<p>The committee agrees and has added subdivision (d) to rule 7.2235 to authorize service by mail, personal delivery, express mail, and overnight on any person unless personal service is required. In addition, service by fax transmission is authorized as provided in rule 2.306. The committee has also revised its recommendation to require personal service on the respondent unless impracticable. In that case, the rule authorizes service by any method reasonably calculated to give the respondent actual notice.</p>

## W23-10

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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### Rules 7.2235 and 7.2240—Notice and Joinder

Commenter	Comment	Committee Response
	<p>Second, we propose to allow electronic service, with express consent, on parties other than the respondent. This is similar to the framework used in criminal and juvenile cases. (Pen. Code, § 690.5; Welf. &amp; Inst. Code, § 212.5.) (We especially recommend allowing the Respondent to choose electronic service, rather than mailed service of hardcopy documents. CARE court documents will often contain sensitive personal health information, and unhoused respondents, in particular, may not have an appropriate means to secure this information to protect their privacy.)</p> <p>Third, we recommend clarifying that service by mail (first class or express), or electronic service (when permitted), does <i>not</i> extend any of the required timeframes or notice periods. This will avoid any question or confusion regarding whether the provisions of Code Civ. Proc. §§ 1010.6 and 1013 apply to these notices (which would be incompatible with the tight timelines set forth in the CARE Act). We have proposed the addition of a new subdivision (d) to this Rule incorporating the foregoing recommendations. (This proposal incorporates a specific exception to Code Civ. Proc. §§ 1010.6 and 1013, as authorized by those statutes.)</p> <p><b><u>(d) Alternative Means of Service</u></b> <u>(1) Whenever this rule provides for service by first class mail, service by express mail or personal service shall be deemed to be a sufficient compliance. Service by first class mail or express mail is complete at the time of the deposit in the mail facility, and any period of notice set forth in this rule, and</u></p>	<p>The committee agrees and has decided to add rule 7.2235(d), which provides an option for electronic service in conformity with the requirements of Code of Civil Procedure section 1010.6 and rule 2.251.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The extensions of time when service is by mail or electronic are required by Code of Civil Procedure sections 1010.6 and 1013, which apply automatically to civil actions and special proceedings of a civil nature.</p> <p>The committee agrees that the rules should authorize multiple methods of service and has added subdivision (d) to rule 7.2235 to do so, except when personal service is required.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Rules 7.2235 and 7.2240—Notice and Joinder</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><u>any right or duty to do any act or make any response within any period after service, shall not be extended by reason of service by mail. Code of Civil Procedure section 1013 does not apply to extend the time for giving any notice or performing any act under this chapter.</u></p> <p><u>(2) Whenever this rule provides for service by first class mail, electronic service shall be deemed sufficient, provided that the party or person to be served has expressly consented to electronic service in the manner provided in Rule 2.251(b). Electronic service is deemed complete at the time of the electronic transmission of the document or at the time that the electronic notification of service of the document is sent, and any period of notice set forth in this rule, and any right or duty to do any act or make any response within any period after service, shall not be extended by reason of electronic service. Code of Civil Procedure section 1010.6 does not apply to extend the time for giving any notice or performing any act under this chapter.</u></p> <p>Where Rule 7.2235 requires that notice be given by <i>the county behavioral health agency</i>, we have revised this to place that responsibility more generally on <i>the county</i>. Section 5977(a)(5)(C)(iii) does not specify which county agency must give notice (of initial appearance, etc.), and some counties may elect to assign this responsibility to an agency other than behavioral health. (The county behavioral health agency will typically be attempting to establish or maintain a therapeutic treatment relationship with the respondent, and some counties may thus find it preferable to have a different agency serve the</p>	<p>The committee agrees and has revised its recommendation accordingly.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Rules 7.2235 and 7.2240—Notice and Joinder</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>respondent with legal process.) This will also require a conforming revision to Form CARE-110.</p> <p>As indicated in Footnote 11 of the Invitation to Comment, it is appropriate to give local courts and counties flexibility regarding the manner of serving orders under Section 5977(a)(3)(B) (i.e., Form CARE-105) on the responsible county agency. Nonetheless, the proposed rules should provide a framework for making such determinations. We have consequently added provisions to Rule 7.2235 indicating that such details will be established by local rule (similar to the approach taken for appointments of counsel), and that local courts will consult with counties when adopting such rules.</p> <p>Notice of order for report to augment petition (§ 5977(a)(3) &amp; (4))  <u>(1) The court clerk shall promptly provide notice of an order to prepare a report under section 5977(a)(3)(B) to the county agency in accordance with procedures established by local rule. The superior court shall consult with the county agency responsible for preparing reports when adopting a local rule regarding such notice.</u></p> <p><b>Rule 7.2240</b>                      We are proposing to add provisions to Rule 7.2240 clarifying that the court may order local government entities joined under Section 5977.1(d)(4) to file reports with the court, and to cooperate with the county behavioral health agency in preparation of the reports mandated by the CARE Act.</p> <p><u>(b) The court may order a local government entity joined under</u></p>	<p>The committee does not recommend any change to the proposal in response to this comment. Courts are required to serve orders on county agencies that are not parties under other statutes. For example, the court must serve an order under section 331 requiring the county social services agency to commence juvenile dependency proceedings. Difficulties rarely seem to arise. In addition, county governments designate addresses and agents for receipt of service.</p> <p>The committee does not recommend any change to the proposal in response to this comment. Rule 7.2240 provides the process for joining a local government entity as a party to the proceedings. The court’s authority over the entity once it is joined is prescribed by statute.</p>



**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Rules 7.2235 and 7.2240—Notice and Joinder</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<u>this rule to submit reports at intervals directed by the court, and to cooperate with the county behavioral health agency in the preparation of reports required by Sections 5977.2 and 5977.3.</u>	
Superior Court of San Diego County by Mike Roddy, Executive Officer	<p><b>Rule 7.2235:</b> Subdivision (b)(1) – recommend rephrasing to provide a minimum amount of notice to respondent prior to the hearing as opposed to a minimum time for service. Service of the notice 5 court days prior to the hearing may not provide sufficient notice of the hearing, particularly if the notice is served by mail.</p> <p>Subdivision (b)(3) – recommend eliminating service by mail if the respondent has a mailing address, as this is inconsistent with form CARE-110, which requires personal service. Additionally, service by mail and acknowledgment of receipt may not provide sufficient notice of the proceedings to respondent.</p> <p>Subdivision (c) – recommend rephrasing to provide a minimum amount of notice prior to the hearing as opposed to a minimum time for service. Service of the notice by mail 5 court days prior to the hearing may not provide sufficient notice of the hearing. Additionally, recommend including an option for parties to consent to receive electronic service of notices.</p> <p><b>Rule 7.2240</b>—recommend the party seeking to request to join to the proceedings a local government entity be tasked with serving the order to show cause on the local government entity. Court clerks do not have the capability to effectuate service in the manner of a summons per CCP §§ 415.10 or 415.30.</p>	<p>The committee agrees and has rephrased the notice provisions in rule 7.2235(b)–(c) to require at least five court days’ notice of the initial appearance and other hearings.</p> <p>The committee agrees and has revised its recommendation to require personal service on the respondent unless impracticable, in which case service must be by any method reasonably calculated to provide actual notice.</p> <p>The committee agrees and has rephrased the notice provisions in rule 7.2235(b)–(c) to require at least five court days’ notice of the initial appearance and other hearings.</p> <p>The committee agrees and has modified its recommendation to require the moving party to serve the order to show cause in the manner of a summons.</p>

## W23-10

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

All comments are verbatim unless indicated by an asterisk (\*).

Rules 7.2301 and 7.2303—Accountability		
Commenter	Comment	Committee Response
Edward Casey, Partner, Alston Bird LLP Manhattan Beach	<b>Rule 7.2301</b> —clarify if a reply brief is permitted.	The committee does not recommend any change to the proposal in response to this comment. The permissibility of a reply brief is not addressed in the statute and so left to left to judicial discretion on a case-by-case basis.
County Behavioral Health Directors Association by Jacob D. Mendelson, JD Senior Policy Advocate Sacramento	CBHDA recommends adding language here that emphasizes that a county will not be given a penalty if a respondent fails to comply with a medication order.	The committee does not recommend any change to the proposal in response to this comment. The rule provides procedures for the court to exercise its statutory authority. The commenter’s concern is a substantive matter within the purview of the Legislature to clarify.
Legal Aid Association of California by Lorin Kline Director of Advocacy Oakland	<p><b>Accountability, rules 7.2301 and 7.2303</b></p> <p>In <i>Rule 7.2301</i>, as noted above in the rule regarding joinder of local government entities, the government is entitled to significantly more notice for the order to show cause than the respondent is for any notice. Again, this lack of equity is inappropriate and lacks any reasonable basis.</p> <p>Additionally, respondent, as well as respondent’s counsel and supporter, should be entitled to notice of the order to show cause.</p> <p>While <i>Rule 7.2303</i> does entitle respondent to be present and participate in accountability hearings, this cannot be properly accomplished without a mandate of notice of the order to show</p>	<p>The committee does not recommend any change to rule 7.2301 in response to this comment. The difference between the period between service of notice and a regular hearing (five court days) in the CARE Act process and service of an order to show cause and the hearing on the order (14 calendar days) is based on the statute itself, which does not require the strict timelines for joinder that exist in other parts of the act. Part of the premise of the CARE Act is that the respondent may be need of services quickly, which may be why the initial timelines are so tight.</p> <p>The committee agrees in part and has revised its recommendation to require service of the order to show cause to the respondent.</p> <p>Rule 7.2301 requires the order to show cause to be served on the local government entity and the parties. The committee has revised the rule to include notice the</p>

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Rules 7.2301 and 7.2303—Accountability</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>cause. We would argue that this notice should extend to a finding by the judge of persistent noncompliance and appointment of a special master. As stated above, it is crucial that respondent and respondent’s counsel receive notice of the order to show cause, as well as any related findings by the court. Notice is necessary to allow for respondent to have all the information necessary and needed to engage with local entities and successfully comply with the CARE plan. There is no other way for the respondent to meaningfully participate. If a legal aid lawyer is actively attempting to help their client obtain services and comply with their plan, they will be inhibited from doing so if they don’t have all the information about the status of the CARE proceedings. Appointment of a special master (or the potential for that outcome - including the existence of court findings on the topic, even before an accountability hearing is scheduled) will be useful and necessary advocacy tools for respondent’s counsel.</p> <p>Relatedly, I will note here that the legal aid has many questions about further procedures upon appointment of a special master that are not clarified in these rules. Who it is anticipated will play this role, for example, is an outstanding question. It is also unclear what resources will be provided, what communication structure and frequency will be required between the special master and the county, and how the respondent and respondent’s counsel will be involved. All of these issues will be critical to the ultimate success of the respondent, and we would encourage the Judicial Council to consider mandating additional procedures to that effect.</p>	<p>parties’ counsel as well.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The role of the special master in CARE Act proceedings is beyond the scope of this proposal and a matter for legislative specification.</p>
Public Law Center by Manohar Sukumar	<p><b>Accountability Rules</b> Section 5979, subdivision (b)(3) authorizes the appointment of</p>	The committee does not recommend any change to the

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Rules 7.2301 and 7.2303—Accountability</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
Supervising Attorney, Health Law Unit Santa Ana	<p>a special master to secure court-ordered care for the respondent in cases of persistent noncompliance by the local government entity. However, it does not provide any guidance on who the special master should be or how they should be selected. PLC recommends that the Judicial Council develop rules to establish clear criteria and qualifications for the selection of special masters, as well as a mechanism for effective communication and coordination with the County. This would ensure that the special master appointed has the necessary expertise and resources to effectively carry out their responsibilities and work collaboratively with the local government entity to provide appropriate care for the respondent. Below is a model rule that addresses the selection of special masters:</p> <p><b>Rule 7.2304: Selection and Qualifications of Special Masters</b></p> <p>(a) Purpose. The purpose of this rule is to establish clear criteria and qualifications for the selection of special masters appointed to secure court-ordered care for the respondent under Welfare and Institutions Code section 5979, subdivision (b)(3) in cases of persistent noncompliance by the local government entity.</p> <p>(b) Criteria for selection. In selecting a special master, the court shall consider the following criteria:</p> <ol style="list-style-type: none"> <li>(1) Expertise in the field of mental health and related disciplines;</li> <li>(2) Experience working with individuals with untreated schizophrenia spectrum and other psychotic disorders;</li> <li>(3) Knowledge of the CARE Act and its implementation;</li> <li>(4) Ability to effectively communicate and coordinate with the county behavioral health agency and other relevant</li> </ol>	<p>proposal in response to this comment. The selection, role, and qualifications of the special master in CARE Act proceedings is beyond the scope of this proposal and a matter for legislative specification.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Rules 7.2301 and 7.2303—Accountability</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>stakeholders.</p> <p>(c) Qualifications. The special master shall have the following qualifications:</p> <ul style="list-style-type: none"> <li>(1) A master’s degree or higher in a relevant field such as psychology, social work, public health, or law;</li> <li>(2) A minimum of five years of experience working in the field of mental health;</li> <li>(3) A current license or certification in their relevant field, if required by state law;</li> <li>(4) A record of ethical conduct and no conflicts of interest with the parties involved in the case.</li> </ul> <p>(d) Communication and coordination. The special master shall establish regular communication and coordination with the county behavioral health agency and other relevant stakeholders to ensure that the court-ordered care for the respondent is effectively implemented and monitored. The special master shall provide regular reports to the court on the progress of the court-ordered care and any issues or challenges encountered.</p> <p>(e) Removal. The court may remove a special master for cause, including but not limited to, a violation of this rule or any other relevant law or ethical standards.</p> <p>(f) Compensation.</p> <ul style="list-style-type: none"> <li>(1) The court must fix the master’s compensation on the basis and terms stated in the appointing order, but the court may set a new basis and terms after giving notice and an opportunity to be heard.</li> </ul>	

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<b>Rules 7.2301 and 7.2303—Accountability</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	(2) the county is responsible for the special master’s compensation.	
<p>Rural Counties Representatives of California by Sarah Dukett, Policy Advocate Sacramento</p> <p>joined by: California State Association of Counties Urban Counties of California County Behavioral Health Directors Association</p>	<p>We are proposing to revise Rule 7.2303 to grant the court discretion to manage respondents’ participation in local government accountability proceedings under Welfare and Institutions Code section 5979(b). Unlike Section 5979(a), proceedings under Section 5979(b) may involve local government actions affecting multiple respondents (or the CARE program as a whole), and the court should thus have discretion to manage participation to ensure efficient and fair process.</p> <p><b>Rule 7.2303. Participation in accountability hearings (§ 5979)</b> Respondent and respondent’s counsel are entitled to be present at and participate in all proceedings under section 5979(a) <del>and (b)</del>. <u>The court may, in its discretion, permit a respondent and respondent’s counsel to be present at and participate in proceedings under section 5979(b).</u></p> <p><b>Issue: Accountability Determinations</b> Section 5979 provides that if the presiding judge (or designee) finds that a local government entity has substantially failed to comply with the CARE Act or court orders, the court “may” impose sanctions consisting of fines (or, in some cases, appointment of a special master); however, the statute gives only limited guidance for Superior Courts in exercising this discretion, which may result in inconsistent application from county-to-county. (See Section 5979(b)(4).) Section 5977.4(c) directs the Judicial Council to adopt rules “to promote statewide</p>	<p>The committee does not recommend any change to the proposal in response to this comment. Courts have inherent authority to maintain order in the proceedings before them and to manage their calendars. No rule is needed for this purpose.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The absence of any statutory limits on the court’s authority indicates the Legislature’s intent to leave the imposition of sanctions to the court’s sound discretion.</p>

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Rules 7.2301 and 7.2303—Accountability</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>consistency” in CARE Act proceedings (see also Cal. Const., art VI, 6, subd. (d)), and we have thus proposed new Rule 7.2305 to provide uniform guidance in these matters. The proposed rule directs trial courts to consider the local government entity’s conduct wholistically, and in light of factors that may be beyond the entity’s control.</p> <p style="text-align: center;"><u>Rule 7.2305. Application of accountability remedies (§ 5979)</u>  <u>In determining the application of the remedies available under Section 5979, the court shall consider whether there are any mitigating circumstances impairing the ability of the county or other local government entity to fully comply with the requirements of this part, or with court orders issued under this part. The court may consider whether the county or other local government entity is making a good faith effort to come into substantial compliance or is facing substantial undue hardships. The court shall not order any remedies under Section 5979 where the failure to comply is due in whole or in part to circumstances beyond the control of the county or other local government entity, including without limitation lack of available funding or resources to provide the services required under one or more CARE Plans, denial of coverage by health insurers or health care service plans, legal restrictions upon the provision of services under Medi-Cal or other applicable programs, inability to locate the respondent, or lack of cooperation by the respondent or other participants in CARE proceedings.</u></p>	

**W23-10**

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<b>Rules 7.2301 and 7.2303—Accountability</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
Superior Court of San Diego County by Mike Roddy, Executive Officer	Rule 7.2301—recommend rephrasing to provide a minimum amount of notice prior to the hearing as opposed to a minimum time for service.	The committee agrees and has rephrased the notice provisions in rule 7.2235(b)–(c) to require at least five court days’ notice of the initial appearance and other hearings.



**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
<p>Affordable Housing Advocates by Catherine Rodman Director &amp; Supervising Attorney San Diego</p>	<p>There is nothing on this draft that advises LEP (limited English proficient) or non-English speakers that they may request the documents in their native language. The font may be too small for those with impaired vision. Will people be able access this information via an audio recording?</p> <p><b>p. 1 Item 1: What is the CARE Act?</b> CARE stands for Community Assistance, Recovery, and Empowerment. The CARE Act is a way to allow specific people, called “petitioners,” to request court-ordered treatment, services, support, and housing resource priority for persons, <u>called respondents</u>, with untreated severe mental illness, specifically schizophrenia and other psychotic disorders.</p> <p><b>p. 1 Item 1: What is the CARE Act?</b> Delete “will” and substitute “may” If the respondent meets the standards for CARE eligibility, a CARE agreement or plan <del>will</del> <u>may</u> be created and, if approved, ordered by the court.</p> <p>The Act provides for dismissal of the petition under numerous conditions. See 5977a2, 5977a5A-B, 5977b1, 5977c1.</p> <p><b>p. 2 Subsection Item 3: Respondent’s Location or Last Known Location</b> If respondent's address or last known location is unknown, then provide respondent's email and telephone number, indicating</p>	<p>The committee has revised the form to include information on requesting an interpreter and a disability-related accommodation. Additionally, form CARE-060-INFO will be made available on the Judicial Council’s website where the form can be enlarged for those viewing it and where it will be accessible by screen-readers.</p> <p>The committee agrees with the comment and has revised the form accordingly.</p> <p>The committee agrees with the comment and has revised the form accordingly.</p> <p>The committee agrees with the comment and has revised the form in a substantially similar manner.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>whether respondent can receive text messages, and the name and address of their last known place of engagement with social or community services, as well as the name/s of staff known to respondent.</p> <p><b>p. 3 Subsection Item 5: Respondent Eligibility</b> Because the requirements and related explanations and examples are not numbered and do not all follow a symbol, and the spacing is inconsistent, it is unclear what explanations and examples are intended to correlate with what requirements.</p> <p>Repeat heading on [chart on] subsequent pages</p> <p><b>p. 5 Examples of less restrictive alternatives (Chart)</b> The explanations ask why CARE is less restrictive than alternatives but the examples are of less restrictive alternatives, presumably to CARE</p> <p><b>p. 5 Subsection Item 8 Referral from Another Court (Optional)</b> If you have a copy of the court order making the referral, label it as Item 8 and attach it to the petition.</p>	<p>The committee appreciates this comment and has modified the language and format in this section of the form, combining the suggested edits of multiple commenters.</p> <p>The committee does not recommend any change in response to this comment. The headings on the respondent eligibility chart are repeated on subsequent pages.</p> <p>The CARE Act requires participation in a CARE plan or CARE agreement be the least restrictive alternative necessary to ensure the respondent’s recovery and stability. Petitioners are instructed on the requirement to demonstrate that there are no less restrictive alternatives, that would ensure the respondent’s recovery and stability. Examples provided on the chart include less restrictive alternatives that the respondent may have attempted or attempted to participate in the past but were not successful.</p> <p>The committee agrees with the comment and has revised the form accordingly.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
Edward Casey, Partner, Alston Bird LLP Manhattan Beach	Forms—the forms are well done. Just a few comments. Form CARE-050 should include a citation to the statute. Same form, the listing of less restrictive alternatives should provide either definitions of the 3 items listed under examples or provide examples of what those three terms mean. Hard for a lay person to know what those 3 items mean.	The committee appreciates this comment. Form CARE-050-INFO contains citations to the statute in the footer. The committee does not recommend adding citations throughout the form as it is intended for lay audiences. The committee has added descriptions to the three examples of less restrictive alternatives.
California Health & Human Services Agency by Corrin Buchanan, Deputy Secretary for Policy and Strategic Planning San Francisco	Page 20: Add clarity that CARE plan and CARE agreement both include same elements per statute and correct reference to medications per the statute.  Statute reads: “CARE agreement” means a voluntary settlement agreement entered into by the parties. A CARE agreement includes the same elements as a CARE plan to support the respondent in accessing community-based services and supports. “CARE plan” means an individualized, appropriate range of community-based services and supports, as set forth in this part, which include clinically appropriate behavioral health care and stabilization medications, housing, and other supportive services, as appropriate, pursuant to Section 5982.  Proposed edit to Rules and Forms: A CARE agreement and a CARE plan are written documents that specify services designed to support the recovery and stability of the respondent. They must be approved by court order. <u>The plan may include clinical behavioral health care; counseling; specialized psychotherapies, programs, and treatments; stabilization medications; priority access to housing resources; and other supports and services, directly and indirectly through a</u>	The committee agrees with the comment and has revised the form in a substantially similar manner.

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><u>local government entity.</u></p> <p>A CARE agreement is a voluntary agreement entered into by a respondent and the county behavioral health agency after a court has found that the respondent is eligible for the CARE program. A CARE agreement includes access to community based services and supports. The agreement is subject to court modification before approval.</p> <p>A CARE plan is an individualized range of community-based services and supports for the respondent that is ordered by the court. <u>Stabilization medications shall not be forcibly administered.</u></p> <p>Page 20: Have you considered alternatives to CARE Act proceedings? Section. Add if the respondent has commercial insurance, reach out to their health plan.</p> <p>Proposed edit:            There may be other ways to help a person with a severe mental illness. <u>If the person has commercial health insurance, contact the health plan/insurer. If you do not know if the person has commercial health insurance or if they do not have commercial insurance, contact your county’s behavioral health agency or check its website for services. County behavioral health agencies offer an array of services, from counseling, behavioral health programs, clinics, and private psychiatrists, psychologists, or therapists, to full-service partnerships, assertive community treatment, and supportive housing. They can provide all of these services to eligible persons without a court order,</u></p>	<p>The committee agrees with this recommendation and has revised the form in a substantially similar manner.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><u>pending eligibility and availability.</u></p> <p>Page 22: Change “have received a diagnosis” to “has diagnosis” to match statute. Under explanation, clarify that the respondent must have this diagnosis per the clinical evaluation in the CARE proceedings.</p> <p>Only a person with a schizophrenia spectrum or other psychotic disorder is eligible for the CARE Act process. A person with another serious mental illness, such as bipolar disorder or major depression, is not eligible. <u>If the individual does not have a diagnosis at the time of the petition, a clinical evaluation will be conducted by a licensed behavioral health profession as part of CARE proceedings” Sec 5977.1(b)</u></p> <p>Page 22: Replace “show” with “describe” throughout.</p> <p>Page 22: Additions to 5c explanations and examples.</p> <p>Add to Explanations: Indicate any lack of insight on the part of the respondent that they are experiencing symptoms of a mental illness. Indicate evidence of impaired judgment due to hallucinations, delusions, disorganized thinking, or lack of insight.</p> <p>Add to Examples: Difficulty conforming behavior to the law. <u>Lack of social relationships.</u> Recent history of homelessness. Recent history of arrest.</p> <p>Edit to Example. Difficulty with self-care (e.g., bathing, grooming, obtaining and eating food consistently, dressing appropriate to weather, managing wounds, securing health care, or following medical advice).</p>	<p>The committee agrees with the first recommendation change and has revised to “have a diagnosis.” The committee does not agree with the additional language in the explanation, however, because the statute requires the respondent to have a diagnosis at the time of the petition. See § 5972(b). The clinical evaluation process outlined in § 5977.1(b) does not occur until after the prima facie review in § 5977(a) and the hearing on the merits in § 5977(c) and would, therefore, be insufficient to demonstrate eligibility.</p> <p>The committee has revised the form accordingly.</p> <p>The committee has accepted some of the proposed changes to the examples. The committee has attempted to provide examples of behavior that a lay petitioner may understand while emphasizing that such behavior must be cause by a mental illness to qualify. Further, the examples are not meant to be an exhaustive description of all potential evidence of a serious mental illness.</p>

**W23-10**

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>Page 23: Additions to 5d.            Add to Examples: Inconsistent compliance with treatment due to lack of insight into symptoms of illness. Inconsistent or total refusal of treatment due to symptoms of illness, such as delusional paranoia, interfering with treatment relationships.</p> <p>Page 23: Additions to 5e1.            Add to Explanations: Indicate how the patients lack of reality orientation, confusion or impaired insight has led to poor judgment and decision making.</p> <p>Add to Examples: Recent arrests due to symptoms such as delusions, hallucinations, disorganization, impaired insight, impaired judgment. Recent periods of homelessness due to symptoms such as delusions, hallucinations, disorganization, impaired insight, impaired judgment.            Edit to Examples: Frequent hospitalizations <u>for physical illness or mental illness.</u></p> <p>Page 23: Additions to 5e2.            Add to Examples: Self-injurious behavior such as walking into traffic <u>or harming oneself unknowingly through</u> behavior that puts the respondent at risk for injury or loss of life such as refusal to seek medical treatment for a serious medical condition.</p> <p><u>Edit to Example: A person who has access to housing but chooses to live in conditions that could lead to serious physical illness like hypothermia, pneumonia.</u></p>	<p>The examples are not meant to be exclusive. Inconsistent compliance with or refusal of treatment is covered by the second bullet point.</p> <p>The committee has revised the explanation to include reference to “lack of reality orientation, confusion, or impaired insight.”</p> <p>The committee agrees in part with this recommendation and has revised the example.</p> <p>The committee agrees in part with this recommendation and has revised the first example and added another example.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>Page 24: Addition to 5f. Less-restrictive alternatives might include: <u>Voluntary residential mental health treatment</u>. Recommend removing “supportive decision making”, which is not a treatment modality.</p> <p>Page 24: Addition to 5g. Examples: Medical opinion that the patient would benefit from treatment.</p> <p>Page 25. What rights to petitioners have? Define right of notice.</p>	<p>The committee does not agree with these proposed changes. Residential treatment, even voluntary residential treatment, is not likely to be less restrictive than a CARE plan or agreement. Additionally, there is no requirement that a less restrictive alternative be a treatment modality, only that it be necessary to ensure the person’s recovery and stability.</p> <p>The committee agrees with this proposed change and has revised accordingly.</p> <p>The committee does not recommend the addition of a definition because the scope of this right, as articulated by the statute, is unclear.</p>
<p>County Behavioral Health Directors Association by Jacob D. Mendelson, JD Senior Policy Advocate Sacramento</p>	<p><b>Page 1: What is the CARE Act?</b> The concept of prioritization is outlined in 5977.1(d)(2), but is general, and not specific to housing. It remains to be seen whether courts will be able to order prioritized housing via this structure given restrictions in federal and state law, and the only category of housing which must be prioritized is Bridge Housing, which is one-time, restricted, and time limited through 2027. Therefore this characterization of the relationship between the CARE Act and housing may be misleading. Providing a suggested edit.</p> <p>CARE stands for Community Assistance, Recovery, and Empowerment. The CARE Act is a way to allow specific people, called “petitioners,” to request court-ordered treatment, services, support, and a <u>housing plan</u> for persons with untreated severe mental illness, specifically schizophrenia and other psychotic disorders <u>that are not</u></p>	<p>The committee agrees and has revised to use the phrase “housing plan” throughout.</p> <p>The committee does not recommend this change to the</p>

**W23-10**

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><u>otherwise medical or substance use related</u>, called “respondents.” A respondent must be 18 years of age or older.</p> <p>CARE Act proceedings involve assessments and hearings to determine whether the respondent meets eligibility requirements. A county behavioral health agency will be involved in the process. If the respondent meets the standards for CARE eligibility, a CARE agreement or plan will be created and, if approved, ordered by the court.</p> <p><b>Page 2: What is a CARE agreement or CARE plan?</b>            Please see comment above. For the language on housing here in what “the plan may include,” this has the potential to cause the petitioner to believe that housing is guaranteed as part of the CARE plan - which it is not. This depends on the availability of housing and the reality of whether or not these sources of housing will take the respondents.</p> <p>A CARE agreement and a CARE plan are written documents that specify services designed to support the recovery and stability of the respondent. They must be approved by court order.</p> <p>A CARE agreement is a voluntary agreement entered into by a respondent and the county behavioral health agency after a court has found that the respondent is eligible for the CARE program. A CARE agreement includes access to community- based services and supports. The agreement is subject to court modification before approval.</p> <p>A CARE plan is an individualized range of community- based services and supports for the respondent that is ordered by the court. The plan may include clinical behavioral health care; counseling; specialized</p>	<p>proposed language. Although the requirement that the schizophrenia spectrum or other psychotic disorder is not due to a medical condition is accurate, that is a clinical determination that many petitioners will not be able to ascertain. Further, there is no requirement in the statute that the psychosis not be related to substance use, only that a person with a current diagnosis of substance use disorder also meet all required criteria in order to qualify. See Section 5972(b).</p> <p>See response above. No further response needed.</p>



**W23-10**

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>psychotherapies, programs, and treatments; stabilization medications; <u>a housing plan</u>; and other supports and services, directly and indirectly through a local government entity. CARE plans do not include forced medication.</p> <p><b>Page 1: Have you considered alternatives to CARE Act proceedings?</b></p> <p>It is important to note that individuals with private insurance may be able to petition and their health plans hold the primary responsibility for providing mental health treatment.</p> <p>Re “behavioral health programs” - Too vague - suggest removing.</p> <p>Re “private psychiatrists” - We do not understand why it is suggested that clinicians would be “private” under the public system?</p> <p>County behavioral health has very limited access to supportive housing resources, and primarily relies on other agencies, or private landlords and other facility operators to support clients’ housing needs within what is already available and accessible locally. This gives the impression that we have and/or operate supportive housing, which is inaccurate.</p> <p>It’s important to note that obligations under the Bronzan-McCorquodale Act are to provide MH safety net services to the broader community “to the extent resources are available,” therefore there will be variation from</p>	<p>The committee agrees and revised the language in the form accordingly.</p> <p>The committee agrees and revised the language in the form accordingly.</p> <p>The committee agrees and revised the language in the form accordingly.</p> <p>The committee has revised the language to clarify that services to the non-Medi-Cal population are “depending on local funding and eligibility criteria.” The committee does not recommend removing reference to supportive housing because it is a resource that <i>may</i> be available. The language does not indicate the person will necessary receive all of the services listed.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>community to community on the sorts of non-Medi-Cal services that are made available.</p> <p>[Suggested edit:]            There may be other ways to help a person with a severe mental illness. Contact your county’s behavioral health agency or <u>health insurance plan and request check its website for services.</u>  <del>County b</del>Behavioral health agencies offer an array of <u>behavioral health safety net services, tailored to the needs of the individual ,from counseling, behavioral health programs, clinics and private psychiatrists, psyc</u> mental health treatment <del>thologists, or therapists,</del> to <u>crisis services, full-service partnerships, peer support specialist services, assertive community treatment, and supportive housing substance use disorder services and more.</u> <del>They</del> <u>Counties are required to provide services to Medi-Cal beneficiaries who qualify for specialty mental health and substance use disorder services, but may also ean-provide all-of access to theirse services to a broader population eligible persons</u> without a court order, <u>depending on local funding and eligibility criteria.</u></p> <p><u>Private insurance plans are required under both state and federal laws to provide full coverage for the treatment of mental health and substance use disorder conditions.</u></p> <p>See DMHC BH Information:  <a href="https://www.dmhc.ca.gov/HealthCareinCalifornia/GettheBestCare/BehavioralHealthCare.aspx">https://www.dmhc.ca.gov/HealthCareinCalifornia/GettheBestCare/BehavioralHealthCare.aspx</a>.</p> <p>Psychiatric advanced directives (PADs) are different. California is still in the process of developing this</p>	<p>The committee has significantly revised this section in response to this and other comments, incorporating some of this language with some language suggester by other comments. The committee notes that no information sheet can fully explain all the alternatives to CARE Act proceedings or thoroughly cover the intricacies of insurance and access to services.</p> <p>The committee agrees, in part, and has revised the language in the form to include psychiatric advance</p>

**W23-10**

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>infrastructure, but traditional health care directives are not appropriate for these purposes. Learn more here: <a href="https://www.padsca.org/">https://www.padsca.org/</a>.</p> <p>[Suggested edit:] Find out if the person has made an <u>psychiatric advance health care directive which provides instructions on the individual’s preferences regarding treatment and possibly designating someone else to make mental health care decisions on their behalf when they cannot. Consider looking into local social services and community-based organizations, too.</u></p> <p>SED is a term that applies to children, so not relevant in this context.</p> <p>[Suggested edit:] <i>A full-service partnership is a service delivered through county behavioral health agencies designed for a person with a <del>serious emotional disturbance</del> or severe mental illness who would benefit from an “whatever it takes” intensive service program. A full-service partnership can assist <del>a person who is</del> adults with a range of needs, including those who may be unhoused, homeless, involved with the justice system, are frequent users of emergency department services for mental health treatment services or <del>uses crisis psychiatric care frequently</del> at risk for institutionalization.</i></p> <p>All counties are required to dedicate a portion of MHSA funding to FSPs, so it makes sense to call that out here, however, ACT is a model that is not required, and therefore</p>	<p>directives.</p> <p>The committee agrees, in part, and has revised the language in the form to remove reference to serious emotional disturbance.</p> <p>The committee does not recommend a change to this language in response to this comment. The purpose of this section is to inform the petitioner that there are other</p>

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>may or may not be different from an FSP, or available as a standalone service. Suggest removing this reference as ACT services are not called out in state law, including as part of SB 1338.</p> <p>Suggested edit:  <del><i>Assertive community treatment</i> is a form of mental health care provided in a community setting to help a person become independent and integrate into the community as they recover.</del></p> <p><b>Page 2: Item 3: Respondent’s Address or Last Known Location</b>            Question - if the person is unhoused and we only have a name, how will we be able to locate the individual? Some additional descriptive information may be helpful.</p> <p style="padding-left: 40px;">This can be a <u>place of residence</u> or a general location, such as a park, hotel, or intersection where the person has been staying.</p> <p><b>Page 3: Item 5c, Examples</b>            Do you have a citation or source for the criteria outlined below? This is adapted from the federal SMI definition:  <a href="https://dpft.org/resources/NSDUHresults2008.pdf">https://dpft.org/resources/NSDUHresults2008.pdf</a></p> <p><u>Re “walk” in final bullet point:</u> This may be a concerning call out for individuals with physical disabilities.</p> <p>Severe and persistent mental illnesses are chronic, prolonged, or recurrent and may cause behavior that <u>results in functional</u></p>	<p>intensive treatment modalities that also could provide assistance to a potential respondent. The petitioner is encouraged to contact their local county behavioral health agency and local social services and community-based organizations to investigate options that may exist in their community.</p> <p>The committee agrees and revised the language in the form accordingly.</p> <p>The committee has modified the language in this section of the form.</p> <p>The committee agrees and revised the language in the form accordingly.</p> <p>The committee has modified the language in this section of the form, combining the suggested edits of multiple</p>

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><u>impairment which interferes or limits one or more major life activities, such as:</u> <del>impairs activities of daily living.</del></p> <ul style="list-style-type: none"> <li>• Difficulty with self-care. <del>(personal hygiene, diet, clothing, avoiding injuries, securing health care or following medical advice).</del></li> <li>• Difficulty maintaining a residence, using transportation, or managing money day to day.</li> <li><del>• Difficulty concentrating or completing tasks as scheduled.</del></li> <li>• Difficulty with <u>functioning socially, creating and maintaining friendships, with maintaining education or employment.</u></li> </ul> <p>This may be a concerning call out for individuals with physical disabilities.</p> <p>Recent history of inability to care for <u>basic needs</u> themselves <del>(bathe, groom, get food, clothing and shelter and eat, walk use the restroom)</del> daily without help.</p> <p><b>Page 4: Item 5e1</b> Assistance and supervision are different. Many individuals who are high functioning and doing well in their recovery do so with assistance and supports.</p> <p><u>Include examples of both:</u></p> <ul style="list-style-type: none"> <li>• <del>Indicate r</del>Recent instances where the respondent has needed <del>assistance</del> <u>supervision</u> to survive in the community.</li> <li>• Show how the respondent's <del>ability to think clearly, communicate, or participate in regular activities has</del></li> </ul>	<p>commenters.</p> <p>The committee agrees and revised the language in the form accordingly.</p> <p>The committee agrees and revised the language in a similar manner.</p>

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><del>worsened quickly.</del> <u>clinical condition and/or functioning has deteriorated significantly.</u></p> <p><b>Page 4: Item 5e2</b> This choice would need to be attributed to their mental illness, rather than personal choice to qualify.</p> <ul style="list-style-type: none"> <li>• A person who <u>is unable to arrange for their basic needs for food, clothing, or shelter due to their mental illness.</u> <del>has access to housing but chooses to live in conditions that could lead to hypothermia.</del></li> </ul> <p><b>Page 5: Item 5f</b> Please see comments above re: ACT</p> <p>Less-restrictive alternatives might include:</p> <ul style="list-style-type: none"> <li>• <u>Voluntary treatment, including, but not limited to treatment offered through full-service partnerships</u></li> <li>• <u>Treatment with a private insurance plan</u></li> <li>• Supported decisionmaking</li> <li>• <del>Assertive community treatment</del></li> </ul> <p><b>Page 6: #6a</b> 5977(a)(5)(A) does not specify that treatment needs to be with county BH: <i>(A) If the court determines that voluntary engagement with the respondent is effective, and that the individual has enrolled or is likely to enroll in voluntary behavioral health treatment, the court shall dismiss the matter.</i> Please amend to clarify</p>	<p>The committee agrees and revised the language in the form accordingly.</p> <p>Please see above response.</p> <p>The committee does not recommend a change to the proposal based on this comment. The committee notes that these are simply examples of potential less restrictive alternatives and are not intended to be exhaustive.</p> <p>The committee has revised the language to clarify that the criterion of enrollment or likely enrollment is with the county agency or another treatment provider. The committee does not agree that the criterion of voluntary engagement may be met through engagement with an entity other than the county agency ordered to engage with the respondent under section 5977(a)(3)(B).</p>

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>a. <b>Dismiss the petition.</b> The court will do this if it finds (1) that the petition does not show that the respondent meets or may meet the CARE Act eligibility requirements or (2) that the respondent is voluntarily working with the county agency <u>or another treatment provider</u>, their engagement is effective, and the respondent has enrolled or is likely to enroll in voluntary treatment.</p>	
<p>Disability Rights Education and Defense Fund by Erin Nguyen Neff, Staff Attorney Berkeley</p>	<p><b>CARE-050-INFO—Information for Petitioners Needs to be Improved</b> The CARE-050-INFO sheet asks whether the petitioner has considered alternatives to CARE Act proceedings. <i>See</i> page one, section three. This section should include phone numbers and website links to allow a potential petitioner to consider alternatives to CARE Act proceedings. The section should also include a more extensive list of alternative interventions available so that potential petitioners may consider alternatives to CARE Court. A list of alternatives should include,</p> <ol style="list-style-type: none"> <li>1) Rehabilitative mental health services</li> <li>2) Intensive case management</li> <li>3) Crisis services</li> <li>4) Substance use disorder treatment.</li> <li>5) Residential services</li> <li>6) Full Services Partnerships</li> <li>7) Assertive Community Treatment</li> </ol> <p>The sheet also instructs petitioners that they may provide an address OR a general location as the “last known location” of a respondent. <i>See</i> page two, item three. This approach may result in inadequate service of notices and due process violations. A</p>	<p>The committee appreciates the desire to include phone numbers and website links but, given the diverse array of services available in different counties, that would not be practicable in a statewide information sheet. The committee has revised the list of services to include those recommended. Nevertheless, no list that can be provided in this space would be exhaustive of alternatives to CARE Act proceedings.</p> <p>The committee has revised the language of this section to indicate that a physical address, if known and if one exists, is the primary response. The language has also been revised to encourage the petitioner to provide</p>

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<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>general location should only be permissible when a respondent does not have a physical address, or it remains unknown after a good faith attempt to ascertain the address. The wording of this section should be revised to make that clear.</p> <p>The form also includes a chart that purports to provide examples of facts that support CARE court eligibility. <i>See</i> page three, second row, third column. But a number of examples listed are daily tasks that are in fact difficult for many people, particularly unhoused people, regardless of disability. Many of the examples, such as “Difficulty concentrating or completing tasks. Difficulty functioning socially, creating and maintain relationships” may also be true of those with a mental health condition other than schizophrenia or other similar psychotic disorder; or a person without a mental health condition at all. These examples should be narrowed to meet the specific criteria of the CARE Court.</p> <p>People with schizophrenia, psychotic disorders, and other people with disabilities can complete daily tasks and live meaningful lives with assistance. However, informational sheet 050, the final bullet points of page three, second row; first, second, and third column, states an indication of mental illness is being unable to function without help. This is not the appropriate standard. The form should be edited to consider how the respondent is functioning with assistance in place, and/or whether a respondent is refusing assistance despite being unable to function independently. A similar issue arises on page four, row two, where again the use of assistance is an indication that a person is unable function or survive, without considering whether the assistance is successful in allowing a person to</p>	<p>additional contact information that may be useful to locate the respondent.</p> <p>The committee has revised the introduction to that box to clarify that the behavior in the examples must be caused by a mental illness. The committee notes that this criterion of eligibility, however, relates to the requirements in section 5600.3 and is not limited to schizophrenia spectrum and other psychotic disorders, which a separate criterion of eligibility.</p> <p>The committee agrees with this recommendation in part and has revised the second and third columns of the second row. The language in the first column, like that on page 4 is mandated by statute and outside of the purview of the Judicial Council to change.</p>



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<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>survive. This should be edited to state, “The respondent is unlikely to survive safely in the community despite receiving supervision...”</p> <p>Furthermore, the first row of page five should include attempts to use less restrictive means that were unsuccessful or provide an explanation as to why a less restrictive alternative would not be successful. This would better elucidate that CARE proceedings are indeed necessary.</p> <p>Finally, on page six, section nine, the information sheet provides an explanation of a vexatious litigant and describes it as a person who files “more than one petition.” While this is important, the sheet should also state that the filing of even one petition with no basis in truth or reality is unlawful and the person could be liable for committing fraud, filing a frivolous law suit, and lying under penalty of perjury. Because a petitioner can be a family member or a person who merely lives with a respondent, this leaves opportunities for people to abuse the process. So, the repercussions of doing so, even once, should be made clear.</p>	<p>The committee has revised the second column of that row to indicate that description of unsuccessful attempts to use less restrictive means would be a why to explain that CARE proceedings are the least restrictive alternative necessary.</p> <p>The committee has added information to the explanation of the signature under penalty of perjury, in response to this recommendation.</p>
<p>Disability Rights California by Melinda Bird Senior Litigation Counsel Los Angeles</p>	<p><b>Form CARE-50-INFO</b></p> <p>In the proposed forms, the Committee has improperly attempted to clarify the ambiguous eligibility criteria in Welf. &amp; Inst. Code §5972. Form CARE-50-INFO is to be provided to petitioners and has a chart of the eligibility criteria under “Item 5: Respondent Eligibility.” W23-10 at 22-24. This chart includes columns for requirements, explanations and examples. The explanations and examples are <i>ad hoc</i> and have no support in the Act itself. The chart identifies facts that the Council <i>thinks</i> will meet the eligibility criteria and suggests these to</p>	<p>The committee does not agree that the chart goes beyond the Council’s rulemaking authority. The chart does not purport to provide evidence but rather to explain complicated clinical and statutory terms for lay users. Furthermore, the committee believes that courts are able to appropriately apply the law to the facts of a given case. Regarding provision of the chart to respondents, the CARE-050 will be available to all potential petitioners and respondents and is not mandated to be provided to anyone. The committee believes adding the</p>

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>potential petitioners. This gives petitioners an unfair and unauthorized advantage and goes beyond the Council’s rulemaking authority. Also, DRC disputes that the examples listed in the form are appropriate or sufficient. Courts interpreting the Act are likely to rely on these examples and explanations as conclusive evidence that the substantive criteria have been met. This goes beyond the Council’s charge. If the Council is determined to include a chart such as this, it must be provided to respondents in Form CARE-60-INFO as well so they are better able to participate in hearings and know the facts that the Council believes they must refute.</p>	<p>chart to CARE-060 to be unnecessary because respondents, unlike petitioners, have access to appointed counsel at all stages of the proceedings. If counsel believes that the CARE-050 would be beneficial for their defense, they can use it. However, it seems more likely that a discussion of the facts directly related to the petition and to the respondent’s own circumstances would be more beneficial.</p>
<p>Douglas Dunn, Vice Chair, Contra Costa Mental Health Commission Antioch</p>	<p><b>Information for Petitioners about the CARE Act Page 21 CARE 050 Info, Page 2 of 6</b> The dot point instructions on this page do NOT explicitly state that a parent or another family member can be a petitioner. There appears to be an assumption that the respondent is always living with the family. When a loved one is either in a Full Service Partnership (FSP), Assertive Community Treatment (ACT), or Assisted Outpatient Treatment (AOT) program, this is not necessarily the case. They may be living in program provided housing.</p> <p>Therefore, would appreciate it if the dot point stating “A person who stands in place of the parent” could be changed to “Parent, family member, or a person who stands in place of the parent.” This would clarify that either a parent or other another family member can be a petitioner.</p> <p><b>Information for Petitioners about the CARE Act Page 22 CARE 050 Info, Page 3 of 6</b> The wording in the Explanations column at the top of Page 22</p>	<p>The committee does not recommend this change because the instructions specifically state the eligible petitioners designated in section 5974. The second bullet point states that a “spouse or registered domestic partner, <i>parent</i>, sibling, child, or grandparent of the respondent” (emphasis added) may petition. No other family members may petition under the statute.</p> <p>The committee does not recommend the proposed change because the current version of the Diagnostic and Statistical Manual of Mental Disorders does not include</p>

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>(CARE 5050 Info, Page 3 of 6) definitely needs to be changed. The wording “A person with another mental illness such as bipolar disorder of major depressive disorder” is really incorrect. For example, Bipolar Disorder 1 with Psychotic Features and Major Depressive Disorder with Psychotic Features are clinically considered Psychotic disorders in the same class as Schizophrenia spectrum disorders (primarily Schizophrenia and Schizoaffective Disorder). Licensed and experienced Psychiatrists or Forensic Psychologists will undoubtedly add to this list. In addition I’m aware the Behavioral Health Director of Contra Costa Behavioral Health Services (CCBHS) and her 59 other clinical colleagues of the County Behavioral Health Directors Assn. (CBHDA) have a broader understanding psychotic mental illness than what is proposed on Page 22. The current draft wording <b>MUST</b> be corrected to reflect this.</p> <p><b>Information for Petitioners about the CARE Act Page 24 CARE 050 Info, Page 5 of 6</b>            Item 6: Supporting Documentation b.: It appears that the Judicial Council proposes at least two 5250 (up to 14 days) stays, one within the most recent 60 days in order for a person to be eligible for CARE Court. This was not explicitly in the SB 1338 legislation signed by Governor Newsom. Why is this requirement being considered? It seems specific and vague at the same time.</p>	<p>those diagnoses within the schizophrenia spectrum and other psychotic disorders class. The committee has revised the language, however, to clarify that an individual with multiple diagnoses, including, for example, bipolar disorder, may be eligible if that person also has a diagnosis within the eligible class.</p> <p>The requirement of at least two “5250” hospitalizations is included in the statute. (See § 5975(d)(2).) The statute requires the petition to include <i>either</i> an affidavit of a licensed behavioral health professional that includes certain information <i>or</i> “[e]vidence that the respondent was detained for a minimum of two intensive treatments pursuant to Article 4 (commencing with Section 5250) of Chapter 2 of Part 1, the most recent one within the previous 60 days.” <i>Id.</i> Article 4 includes only section 5250 through section 5259.3.</p>
<p>Homeless Action Center            by Patricia Wall, Executive            Director            Berkeley</p>	<p><b>Consequences for failing to comply with certain aspects of a CARE Plan, ITC page 20:</b>            Information sheet CARE-050-INFO states that CARE plans will not include forced medication. ITC page 20. However, it is</p>	<p>The committee appreciates this comment and understands the need to provide useful and accurate information to respondents. CARE-050-INFO is intended primarily for petitioners, but it takes these</p>

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>not clear from the available information whether there will be consequences to a respondent if a CARE Plan includes medication and the respondent does not take medication as directed, and if so, what those consequences might entail. HAC has the same question for other components of the CARE Act, including what will happen if a respondent fails to appear for their initial hearing, or if they fail to comply with parts of their CARE Plan. HAC recommends that any consequences for failing to comply with different components of the process be made clear to respondents to the fullest extent possible.</p> <p><b>Comments on CARE-050-INFO, alternatives and harms to filing, ITC page 20:</b>                      HAC recommends that there be more information included for prospective petitioners regarding alternatives to filing a petition. Each county could provide a list of websites and phone numbers; for example, in Alameda County relevant referrals for services can be obtained by calling 211 or ACCESS (Acute Crisis Care and Evaluation for Systemwide Services). These resources can be difficult to navigate, and any information or resources that could avoid initiating the CARE process should be provided wherever possible. Additionally, HAC strongly urges that the informational sheet provides information on potential harms or adverse consequences that could result from filing a petition. It should be made very clear to potential petitioners that there could be harms to the respondent in being involuntarily put on a CARE plan, including the respondent being potentially referred for conservatorship. We recommend additional steps be</p>	<p>comments under consideration for CARE-060-INFO.</p> <p>Regarding the consequences to the respondent if a CARE plan includes medication and the respondent does not take the medication as directed, the statute is clear: “the respondent’s failure to comply with a medication order shall not result in a penalty, including, but not limited to, contempt or termination of the CARE plan pursuant to Section 5979.” (§ 5977.1(d)(3); see also § 5979(a)(5) (“The respondent’s failure to comply with a medication order shall not result in any penalty, including under this section.”))</p> <p>The committee appreciates the intent of the comment but does not recommend any change to the proposal in response. Providing local information for all 58 counties would be impracticable on a statewide form. CARE-050-INFO does include information on contacting the county behavioral health agency or local community organizations. Additionally, CARE-050 explains that a respondent can be court-ordered to participate in a CARE plan. Although CARE Act respondents may be potentially referred for conservatorship, that is true even if the petitioner does not file the petition. The act does not change the criteria for conservatorship, but rather only creates a presumption, within six months if all services and supports are timely provided, that the respondent needs additional services. Further, such a result is so removed from the decision to file a petition</p>

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	incorporated in legal proceedings that ask the petitioner to consider alternatives and potential consequences of pursuing their petition.	that the committee determined it would be unnecessary to discuss in the form.
Housing California by Mari Castaldi, Senior Legislative Advocate on Homelessness Sacramento	<p><b>Form CARE-050-INFO and Form CARE-050:</b> We appreciate that this form encourages a petitioner to consider alternatives to CARE Act proceedings, including full-service partnerships and assertive community treatment. Indeed, those interventions are better supported by evidence which overwhelmingly shows that voluntary treatment is more successful than coerced treatment. As such, it is critical that the form should include concrete information about how a petitioner might facilitate access to those or other voluntary services and care modalities, such as a resource with county-specific contact information about how to access full-service partnerships, assertive community treatment services, or other mental health service, and the extent to which those services are available in their county.</p> <p>Furthermore, petitioners should be required to demonstrate in section (f) of Form CARE-050 that they have researched and attempted to connect a respondent with voluntary resources. If no such resource exists, one should be created and linked to in the CARE-050-INFO form and on other web pages related to CARE Act implementation.</p>	<p>CARE-050-INFO has been revised to encourage petitioners to contact the proposed respondent’s health plan or the county behavioral health agency regarding alternatives to CARE Act proceedings. However, providing county-specific information on alternatives is impracticable on a statewide form.</p> <p>The committee does not recommend a change to the proposal to require the petitioner to have attempted to connect a respondent with voluntary resources. Such a requirement is not included in the statute. Petitioners are, however, instructed on the need to demonstrate that there are no less restrictive alternatives, including the voluntary treatment mentioned here, that would ensure the respondent’s recovery and stability.</p>
Legal Aid Association of California by Lorin Kline Director of Advocacy Oakland	<p><b>Information for Petitioners &amp; Respondents (forms CARE-050-INFO &amp; CARE-060-INFO)</b> These forms raise the greatest concerns of the legal aid community regarding their accessibility and usability. Because these are the initial and primary medium for communicating the</p>	The committee appreciates this comment and has tried to simplify the language in the information forms where possible.

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	detail of the CARE proceedings to lay petitioners and to respondents, it is of the utmost importance to make them as clear as possible.	
Legal Services NorCal by Kate Wardrip, Managing Attorney Chico	<p><b><u>Form CARE-050</u></b>  <b>Requested Revision</b>            Item 1 states that CARE Act proceedings are for “a person who suffers from a severe mental illness and needs help.” We recommend the Judicial Council remove the “suffer” language and instead use the language used throughout the rest of the rules and forms which is “a person with severe mental illness”</p> <p><b>Reasoning</b>            The use of the word “suffer” suggests a lack of quality of life and is demeaning for people with mental illness. Many people with mental illness do not consider themselves to be “suffering.”</p>	The committee appreciates this comment and has revised the form accordingly.
Los Angeles County Department of Mental Health	<p><b><u>CARE-050-INFO Information for Petitioners—About the CARE Act:</u></b>            Examples: <i>Schizophrenia, schizophreniform disorder, schizoaffective disorder, delusional disorder, and other psychotic disorders.</i></p> <p>DMH recommendation: Add more examples in types of disorders.</p> <p><b><u>CARE-050-INFO Information for Petitioners—About the CARE Act:</u></b>  <i>At least one of the following must be true (item 5e): The respondent is unlikely to survive safely in the community without supervision and the respondent’s condition is</i></p>	<p>The committee appreciates this comment and has added another example.</p> <p>The committee has broadened the examples in this section.</p>

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><i>substantially deteriorating (item 5e (1)).</i></p> <p>DMH recommendation: Add more examples regarding unlikely to survive and condition deteriorating.</p> <p><b><u>CARE-050-INFO Information for Petitioners—About the CARE Act- Explanations:</u></b>  <i>Explain how participation in a CARE plan or CARE agreement would: Less-restrictive alternatives might include: Interrupt, disturb, or interfere with the respondent’s desires, lifestyle, or preferences less than any other treatment option that would ensure the respondent’s recovery and stability.</i></p> <p>DMH comment: “interrupt, disturb or interfere” is not positive language regarding how a CARE agreement could assist a person and be less restrictive than other treatment options. A petitioner may not understand what the instruction is trying to say.</p>	<p>The committee agrees with this comment and has revised the language in that bullet point.</p>
<p>Christi McDonald Deputy County Counsel Salinas</p>	<p><b><u>CARE-050-INFO.</u></b>            Page 1, item 3, paragraph 2. Consider adding “or psychiatric advanced directive (PAD)” after “advanced healthcare directive.” People may not be aware that there is a specific type of advanced healthcare directive just for psychiatric care. I think the general public assumes advanced healthcare directives are just for old people about end of life care, and not for psychiatric issues.</p>	<p>The committee appreciates this comment and has revised the form accordingly.</p>
<p>National Alliance to End Homelessness by Alex Visotzky, Senior California Policy Fellow Washington, DC</p>	<p><b><u>Form CARE-050-INFO and Form CARE-050:</u></b>            We appreciate that this form encourages a petitioner to consider alternatives to CARE Act proceedings, including full-service partnerships and assertive community treatment. Indeed, those interventions are better supported by evidence which</p>	<p>See response above to the comment by Housing California.</p>

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>overwhelmingly shows that voluntary treatment is more successful than coerced treatment. As such, it is critical that the form should include concrete information about how a petitioner might facilitate access to those or other voluntary services and care modalities, such as a resource with county-specific contact information about how to access full-service partnerships, assertive community treatment services, or other mental health service, and the extent to which those services are available in their county. Furthermore, petitioners should be required to demonstrate in section (f) of Form CARE-050 that they have researched and attempted to connect a respondent with voluntary resources. If no such resource exists, one should be created and linked to in the CARE-050-INFO form and on other web pages related to CARE Act implementation.</p>	
<p>Public Law Center by Manohar Sukumar Supervising Attorney, Health Law Unit Santa Ana</p>	<p><b>Revisions to CARE-050-INFO</b> PLC suggests several revisions to CARE-050-INFO.</p> <p>First, as discussed above, item 4 should be amended to indicate that the respondent must be a defendant or a respondent in another legal case in the county, not just “have” a legal case in the county.</p> <p>Second, the examples provided on page five, such as voluntary full-service partnerships, supported decision making, and assertive community treatment, are not suitable for demonstrating that CARE proceedings are the least restrictive means to ensure the respondent’s recovery and stability. These examples are in fact less restrictive alternatives to CARE proceedings. Therefore, it is important for petitioners to understand that listing these examples in item 5f of the petition may undermine their effort to establish the respondent’s</p>	<p>The committee has revised item 4 to indicate that the respondent must “be facing” a legal case to mirror section 5973(a)(3).</p> <p>The committee does not recommend this revision. In order for a respondent to be eligible for CARE Act proceeding, a CARE plan or CARE agreement must be the least restrictive alternative necessary to ensure the respondent’s recovery and stability. This means that there must not be a <i>less restrictive alternative than CARE</i> that would be sufficient. In other words, if there are any less restrictive option that would work for the respondent, such as voluntary services, CARE would be</p>



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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>eligibility for CARE proceedings.</p> <p>Accordingly, the examples provided in this section should encompass more restrictive options, such as involuntary commitment to a hospital or other treatment facility, involuntary outpatient treatment, or the establishment of a conservatorship or guardianship. This would help the petitioner understand how participation in the CARE program is a less restrictive alternative compared to these options, and how it would minimize disruption to the respondent’s desires, lifestyle, or preferences while ensuring their recovery and stability.</p> <p>Relatedly, PLC questions whether the “Examples” column is necessary. The examples appear to provide the petitioner with specific language or “buzz words” that they must use to fulfill the requirements. This level of guidance may be excessive and could prompt some petitioners to list erroneous or exaggerated facts.</p> <p>Lastly, item 6b states: “For purposes of the CARE Act, ‘intensive treatment’ only includes involuntary treatment authorized by Welfare and Institutions Code, § 5250. It does not refer to treatment authorized by any other statute, including but not limited to 72-hour holds under Welfare and Institutions Code, § 5150 or treatments under Welfare and Institutions</p>	<p>inappropriate. The petitioner must demonstrate that there are no such options that are appropriate to demonstrate the respondent’s eligibility.</p> <p>The committee appreciates this comment but does not recommend removing the “Examples” column. The CARE Act requires the petition to include complicated clinical language, which may be difficult for lay users. The “Examples” column is intended to help users understand the type of information that is sought. The committee has amended the introduction to the chart to clarify that the examples are “only examples of circumstances that <u>may</u> qualify,” and that “[a]ll determinations of eligibility are case-specific.”</p> <p>The requirement of at least two “5250” hospitalizations is included in the statute. (See § 5975(d)(2).) The statute requires the petition to include <i>either</i> an affidavit of a licensed behavioral health professional that includes certain information <i>or</i> “[e]vidence that the respondent was detained for a minimum of two intensive treatments</p>

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	Code, §§ 5260 and 5270.15.” This appears inconsistent with section 5975, subdivision (d)(2), which requires “two intensive treatments pursuant to Article 4 (commencing with Section 5250) of Chapter 2 of Part 1.”	pursuant to Article 4 (commencing with Section 5250) of Chapter 2 of Part 1, the most recent one within the previous 60 days.” Article 4 includes only sections 5250 through section 5259.3.
Rural Counties Representatives of California by Sarah Dukett, Policy Advocate Sacramento  joined by: California State Association of Counties Urban Counties of California County Behavioral Health Directors Association	<p><b>Issue: “Housing Resource Priority”</b></p> <p>Forms CARE-050-INFO and CARE-060-INFO each contain several references to “housing resource priority for persons with untreated severe mental illness” and “priority access to housing resources,” etc. Absent clarification, these statements have the potential to seriously mislead petitioners and respondents.</p> <p>The CARE Act explicitly prioritizes CARE respondents for <i>only one</i> type of housing, i.e., “bridge housing funded by the Behavioral Health Bridge Housing program.” (Section 5982(b).) Funding under this program has not yet been distributed by the Department of Health Care Services, and thus no such housing units presently exist - or will exist for some time. Section 5799.1(d)(2) more generally provides that “[t]he court may issue any orders necessary to support the respondent in accessing appropriate services and supports, including prioritization for those services and supports”; however, this authority is expressly made “subject to applicable laws and available funding.” More broadly, the resources provided in a CARE plan, including housing resources, are limited to the specific programs identified in Section 5982, and to “all applicable federal and state statutes, regulations, contractual provisions, and policy guidance” governing those programs.</p> <p>The combination of limited housing programs, limited funding, and program rules that often contain their own priority schemes,</p>	The committee has revised the language accordingly.

**W23-10**

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<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>realistically means that “priority access to housing resources” will not be an available option for many CARE plans. Given the centrality of housing needs for many CARE respondents, it is critical that the Judicial Council’s forms accurately convey the services realistically available, and not create expectations that courts and local agencies cannot fulfil. We consequently recommend the following revisions to these two forms:</p> <ul style="list-style-type: none"> <li>- Replace “housing resource priority for persons...” with “<u>a housing plan</u> for persons...”</li> <li>- Replace “priority access to housing resources” with “housing plan”</li> <li>- Replace “prioritization of housing” with “<u>housing plan</u>”</li> </ul> <p>Consistent with the CARE Act’s recognition of Psychiatric Advance Directives, we recommend the following revision to Form CARE-050-INFO, page 1, Item No. 3:</p> <p style="text-align: center;"><i>Find out if the person has made an advance health care directive <u>or psychiatric advanced directive</u> designating someone else to make health care decisions on their behalf when they cannot. Consider looking into local social services and community-based organizations, too.”</i></p>	<p>The committee agrees with this comment and has revised the form accordingly.</p>
<p>Superior Court of Riverside County by Susan Ryan, Chief Deputy of Legal Services</p>	<p><b><u>CARE-050-INFO Information for Petitioners—About the CARE Act</u></b> <b><u>Page 3, Item 5, of CARE-050-INFO “Respondent Eligibility”</u></b> <i>Suggested Revisions:</i> Row 3 “Have received a diagnosis of a schizophrenia ...Diagnostic and Statistical Manual <b>of Mental Disorders</b> (item 5b).” “<del>A person with another</del> Serious mental illness, such as</p>	<p>The committee agrees with the first recommendation and has revised its recommendation accordingly. The second recommendation is confusing, however, because serious mental illness <i>is</i> the basis of eligibility. The committee has revised the language to clarify that a</p>

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>bipolar disorder or major depression, <b>cannot be the basis of is not eligibility.</b></p> <p><b><u>Page 6 of CARE-050 Information for Petitioners, Item 9 Vexatious litigant</u></b></p> <p>This section seems out of context with the rest of the information provided and uses terms of art (such as “prefiling order” and “new litigation”) without explanation or definition. We suggest this section be modified to provided clearer context and use plain language as is used throughout the rest of the document.</p> <p>We suggest it is especially important to explain that being deemed a vexatious litigant due to the filing of a meritless CARE Act petition affects a person’s ability to file other types of documents/cases, not just future CARE Act petitions.</p> <p><i>We suggest language like that in red to clarify/fully explain the significance of being deemed a vexatious litigant:</i></p> <p>If a person files more than one petition under the CARE Act that has no basis in truth or reality or is intended to harass or annoy the respondent, the court may determine the filer to be a vexatious litigant who may not file any new litigation without first obtaining permission from the presiding judge of the court where the filing is proposed. <b>Since the term “new litigation” is very broadly defined, being determined to be a vexatious litigant affects a person’s ability to file different types of cases and documents (not just CARE Act petitions) while representing themselves.</b> When a vexatious litigant does not follow the prefiling order, they may be punished for contempt of court, which could result in fines or imprisonment.</p>	<p>respondent could be eligible with a diagnosis of another type of mental illness if that diagnosis is co-occurring with one in the eligible class.</p> <p>The committee appreciates this comment and has revised the section using plainer language.</p> <p>The committee agrees and has revised the language in a substantially similar manner.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

All comments are verbatim unless indicated by an asterisk (\*).

<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
<p>Western Center on Law and Poverty by Helen Tran, Senior Attorney Los Angeles</p>	<p><b><i>Proposed Information for Petitioners—About the CARE Act (form CARE-050-INFO)</i></b></p> <p>Because this notice is targeted toward self-represented petitioners, the notice should include more readable language. Legal citations and phrases should be explained in as simple language as possible. We also recommend a correction of inaccurate descriptions.</p> <p><u>2. What is a CARE agreement or CARE plan?</u> Strike any description of the CARE program as “voluntary” because it is not. A CARE agreement must be approved by court order and the court has the authority to modify terms as it sees appropriate. <i>See, e.g.,</i> Welf. and Inst. Code § 5977.1(a)(2)(A) (“Approve the terms of the CARE agreement or modify the terms of the CARE agreement and approve the agreement as modified by the court.”); Welf. And Inst. Code § 5988.1(b) (court must order clinical evaluations, which it will then use to decide services the respondent “should receive”). Additionally, a respondent’s failure to successfully complete their CARE plan creates a presumption in favor of conservatorship. Welf. and Inst. Code § 5979(a)(3).</p> <p>This section should also inform petitioners that services and treatment prescribed by CARE agreements or plans are not guaranteed to be provided or available. As part of their informed decision making process on starting the CARE process, petitioners should be aware of the realities of today’s backlogged behavioral health and social services systems. For example, in regards to psychiatrists alone, California needs “an estimated 671 more psychiatrists . . . to achieve a population-to-psychiatrist ratio . . . to no longer be considered lacking.”</p>	<p>The committee appreciates this comment and has endeavored to simplify language where possible.</p> <p>The description of a CARE agreement as a voluntary settlement agreement is taken directly from the statute. (§ 5971(a).)</p> <p>Regarding the availability of services ordered in the CARE agreement or CARE plan, the purpose of the court oversight is to ensure that the ordered services are provided to the respondent. (See § 5979(b).)</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>(<a href="https://calmatters.org/health/2022/09/california-shortage-mental-health-workers/">https://calmatters.org/health/2022/09/california-shortage-mental-health-workers/</a>) In Compton, there are only five licensed psychologists, compared to Santa Monica next door which has 361. (<a href="https://www.latimes.com/california/story/2021-12-27/mental-health-care-in-south-la">https://www.latimes.com/california/story/2021-12-27/mental-health-care-in-south-la</a>)</p> <p>A CARE agreement is a <del>voluntary</del> agreement entered into by a respondent and the county behavioral health agency after a court has found that the respondent is eligible for the CARE program. A CARE agreement includes access to community-based services and supports. The agreement is subject to court modification before approval.</p> <p>A CARE plan is an individualized range of community-based services and supports for the respondent that is ordered by the court. The plan may include clinical behavioral health care; counseling; specialized psychotherapies, programs, and treatments; stabilization medications; priority access to housing resources; and other supports and services, directly and indirectly through a local government entity. <b><u>These resources and services, however, depend on availability and are not guaranteed to be actually provided or available when requested.</u></b> (add emphasis) CARE plans do not include forced medication.</p> <p>3. <u>Have you considered alternatives to CARE Act proceedings?</u> For the same reason as explained above, petitioners should be informed about the current shortages in today’s housing and behavior health treatment systems.</p>	<p>Please see above response.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>There may be other ways to help a person with a severe mental illness. Contact your county’s behavioral health agency or check its website for services. Behavioral health agencies offer an array of services, from counseling, behavioral health programs, clinics, and private psychiatrists, psychologists, or therapists, to full-service partnerships, assertive community treatment, and supportive housing. They can provide all of these services to eligible persons without a court order. <b><u>These resources and services, however, depend on availability and are not guaranteed to be actually provided or available when requested.</u></b> (add emphasis)</p> <p><u>4. How to complete <i>Petition to Commence CARE Act Proceedings</i> (form CARE-100)</u></p> <p><b>Item 1: Who Can be a Petitioner</b> Strike this because there is a more comprehensive listing of eligible petitioners immediately following this paragraph.</p> <p>To be a petitioner, you must be 18 years of age or older. <del>You can be related to the respondent or be the director of an agency who has had frequent contact with the respondent due to their mental health disorder.</del></p> <p><b>Item 5: Respondent Eligibility</b> Although illustrative, the examples used should accurately state situations that would more than likely qualify for the particular requirement.</p>	<p>The language in this section has been modified to clarify eligibility and resource limitations.</p> <p>The committee has revised the language in a similar fashion.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-050-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<ul style="list-style-type: none"> <li>• Repeated and ongoing refusal to accept voluntary treatment <u>without a good reason</u>.</li> <li>• Temporary acceptance of voluntary treatment that is interrupted by failure or refusal to continue the treatment <u>without a good reason</u>.</li> <li>• A person who has access to housing but chooses to live in conditions that could lead to hypothermia. <i>Change to: <u>A person who has access to immediate affordable and safe housing but chooses to live in conditions that are a danger to their health.</u></i></li> </ul>	<p>The committee agrees with this recommendation and has revised accordingly.</p> <p>The committee agrees and has revised this language.</p> <p>The committee agrees and has revised this language.</p>



**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
<p>Affordable Housing Advocates by Catherine Rodman Director &amp; Supervising Attorney San Diego</p>	<p>There is nothing on this draft that advises LEP (limited English proficient) or non-English speakers that they may request the documents in their native language. The font may be too small for those with impaired vision. Will people be able access this information via an audio recording?</p> <p>Item 1 suggested revision: [will] try to contact you about these proceedings, using the address or last known location provided to the court. If you do not hear from them promptly, call the court at (____) ____-____, weekdays, between the hours of __:__ a.m. and __:__.m. to learn the name and contact information of your attorney and call them.</p> <p>Item 3 Why is the description here different from that in the info for the petitioner? In Petitioner’s description it makes clear that stabilizing meds CANNOT be forced on the respondent</p> <p>Item 4 suggested revision: The original petitioner is. . . If not the original petitioner, the county behavioral health agency will be substituted in as the petitioner.</p> <p>Item 6 suggested addition: Call the court at ____-____-____, weekdays between the hours of __: 30 a.m. and __:__.m. to learn your address or last known location. If you no longer reside there or cannot receive</p>	<p>The committee has revised the form to include information on requesting an interpreter and a disability-related accommodation. Additionally, form CARE-060-INFO will be made available on the Judicial Council’s website where the form can be enlarged for those viewing it and where it will be accessible by screen-readers.</p> <p>The committee appreciates this comment and has revised the form in a substantively similar manner. Because the form will be used statewide, the form cannot specify court hours and phone numbers.</p> <p>The committee appreciates this comment and has revised the form accordingly.</p> <p>The committee appreciates this comment but does not recommend the suggested change. The information suggested is already noted in item 7 of the form.</p> <p>The committee appreciates this comment but does not recommend the suggested change. Because the form will be used statewide, the form cannot specify court hours and phone numbers. Respondent will have appointed</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>mail there, then provide the court with your current mailing address or location.</p> <p>What will the report include, bullet 2 suggested revision: An identification of the county’s efforts and the results . . .</p> <p>Item 8, suggestion to end of third sentence: evaluated by _____.</p>	<p>counsel and receive counsel’s contact information. Respondent can communicate with their appointed counsel to provide the court with their current contact information.</p> <p>The committee appreciates this comment and has revised the form in a substantively similar manner.</p> <p>The committee does not recommend the suggested change. Form CARE-060-INFO is a generic information sheet that applies to all CARE Act proceedings. Case-specific information is not appropriate on this form. Information about a respondent’s own case may be provided by, among others, the court, the respondent’s counsel, the supporter, or the county behavioral health agency.</p>
<p>Alliance for Children’s Rights by Sabrina Forte Director of Policy and Impact Litigation Los Angeles</p> <p>Joined by: Children Now California Alliance for Child and Family Services California Coalition for Youth</p>	<p>We recommend that the Form CARE-060 be modified to include guidance specific to nonminor dependents, including a recommendation that nonminor dependent respondents should speak with their court-appointed counsel to understand how the different court and attorney roles differ or overlap.</p>	<p>CARE-060-INFO has been revised to include information on how to reach out to court-appointed counsel. Specific guidance to nonminor dependents about the effect of CARE Act proceedings on their rights in juvenile dependency proceedings is beyond the scope of the proposal and more appropriately addressed to the Legislature.</p>
<p>County Behavioral Health Directors Association by Jacob D. Mendelson, JD Senior Policy Advocate</p>	<p><b>Page 2: What will the report include?</b> The report will include the following information:</p> <ul style="list-style-type: none"> <li>• A determination of whether you meet, or are likely to meet, the eligibility requirements for the CARE Act</li> </ul>	<p>The committee does not recommend the suggested change. The purpose of form CARE-060-INFO is to</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
Sacramento	<p>process, including your mental health diagnosis and current condition, whether you need additional mental health services, and whether there are treatment options that would help you and be less restrictive than a CARE plan or agreement, <u>to the extent any of these are known or understood at the time of the filing of the report.</u></p> <p><b>Page 2: What happens after the court receives the report?</b></p> <ul style="list-style-type: none"> <li>• <b>Set an initial appearance (court hearing):</b> If the court finds that the county’s report shows that you probably meet the requirements for CARE Act proceedings and the county’s contacts with you were not able to connect you with <del>community based</del> <u>voluntary behavioral health treatment services and supports</u>, the court will set an initial appearance.</li> </ul> <p><b>Page 2: What happens at the initial appearance and the hearing on the merits?</b></p> <ul style="list-style-type: none"> <li>• The court may appoint a supporter for you. A supporter is someone to help you understand the process and communicate what you want and need. <u>You are not required to choose a supporter, but may <del>can</del> choose your a supporter, if you would like.</u></li> </ul> <p><b>Page 3: At the hearing on the merits</b></p> <ul style="list-style-type: none"> <li>• <b>If the court finds that the petitioner has shown that you <i>do</i> meet the CARE Act requirements:</b> The court will order the county behavioral health agency to work with you, your attorney, and the supporter, <u>if one has been identified, to <del>participate</del> engage in</u></li> </ul>	<p>provide respondent with information of the CARE ACT process. Information included at the time of the filing of the report can be discussed with respondent’s counsel.</p> <p>The committee agrees and has revised the form accordingly.</p> <p>The committee agrees with this recommendation and has revised the form in a similar fashion.</p> <p>The committee agrees with this recommendation, in part, and has revised the form in a similar fashion.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>behavioral health treatment and determine if you and the behavioral health agency will be able to enter into a CARE agreement. The court will also set a case management hearing.</p> <p><b>Page 3: What happens at the case management hearing and afterward?</b></p> <ul style="list-style-type: none"> <li>The CARE Act provides for a process of multiple hearings and status reviews. If you and the county behavioral health agency can reach a CARE agreement, the court will approve the terms as submitted or modify the terms and approve the modified terms and set the first status review within 60 days. If a CARE agreement cannot be reached, the court will order you to be <u>clinically evaluated by the county behavioral health agency to determine a diagnosis, if one is not already documented, your capacity to provide informed consent to psychotropic medications, an analysis of those services, programs, housing, medication, or other interventions that may support your recovery and stability, and any other information the court or clinician may need to make an informed decision about the services and care you should receive.</u> If the court decides after the <u>clinical</u> evaluation that you still meet the CARE Act criteria, the court will order you and the county behavioral health agency to develop a CARE plan together. <p><b>Page 3: What is a supporter?</b></p> <ul style="list-style-type: none"> <li>You have the right to a supporter throughout the CARE Act process, <u>though you can choose to not have</u></li> </ul> </li></ul>	<p>The committee has removed this section from CARE-060 in order to shorten the document and make it more accessible for respondents. Because respondents will be represented by counsel at every court hearing, the committee determined that CARE-060 should concentrate on information necessary for the initial hearings.</p> <p>The committee appreciates this comment but does not recommend a change, as the committee has already</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><u>a supporter if you wish.</u></p> <p>The statute is not ambiguous. This needs to be more strongly worded as a shall not.</p> <p><b>Page 4: What is a supporter?</b></p> <ul style="list-style-type: none"> <li>• What a supporter <del>should</del> <u>shall</u> do:</li> </ul> <p>What a supporter <del>should</del> <u>shall</u> not do:</p>	<p>modified page 3 on the form to include language that the respondent can choose their own supporter but is not required to have one.</p> <p>The committee agrees with this recommendation and has modified language in this section of the form.</p>
<p>California Health &amp; Human Services Agency by Corrin Buchanan, Deputy Secretary for Policy and Strategic Planning San Francisco</p>	<p>Page 26: Edit to clarify this is regarding mental illness not mental health. “Why are you being given these documents? A family member, friend, or someone who has interacted with you due to your mental illness (not mental health).</p> <p>Page 26: Edit to make more clear that Care Plan comes after Care Agreement is not successful. As written it is hard to tell the difference.</p> <p><u>A CARE plan and CARE agreement are written documents that specify services designed to support you. The plan or agreement may include clinical behavioral health care; counseling; specialized psychotherapies, programs, and treatments; stabilization medications; prioritization of housing; and other supports and services.</u></p> <p><u>A CARE agreement is a voluntary agreement between you and the county behavioral health agency after a court has found that you are eligible for the CARE program.</u></p> <p><u>If you are not able to enter into a CARE agreement, you will be asked to work with the CARE team to create a CARE plan that is ordered by the court. A CARE plan can include the same elements as a CARE agreement to support your access to community-based services and supports.</u></p>	<p>The committee agrees with this recommendation and has revised the form accordingly.</p> <p>The committee agrees with the comment and has revised the form in a substantially similar manner.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>Page 27. The court may appoint a supporter <u>of your choosing</u>.</p> <p>Page 28. You <u>shall be allowed to</u> have a supporter throughout the CARE Act process.</p>	<p>The committee agrees with this recommendation and has revised the form accordingly.</p> <p>The committee does not recommend the suggested change. The current language sufficiently states what the respondent is entitled to.</p>
<p>County of Santa Cruz by Jason Hoppin Public Information Officer</p>	<p><b>Information for Respondents—About the CARE Act (form CARE-060-INFO)</b> CARE-060-Info: should be revised to reflect that a CARE Supporter may not be present during an actual mental health evaluation conducted by a professional with a proposed CARE client. (To be distinguished from a “meeting” with professionals discussing an evaluation that will occur in the future or has already occurred in the past, and the results of that evaluation.)</p>	<p>The committee does not recommend the suggested change. The current language states that the supporter may be present at a meeting related to an evaluation and does not indicate the supporter may be present at an actual mental health evaluation. Meanwhile, the respondent’s court appointed counsel is able to assist the respondent in understanding the supporter’s role.</p>
<p>Disability Rights Education and Defense Fund by Erin Nguyen Neff, Staff Attorney Berkeley</p>	<p><b>CARE-060-INFO Should be Served with Each Notice</b> Rule 7.2235, subsection (c)(3) states that the Notice of Respondent’s Rights – CARE Act proceedings (form CARE-112) must also be served with each notice. An additional form, Form CARE-060-INFO, should also be included with each notice. Proposed form 060 provides more information than form 112. Given the vulnerable nature of those likely to be subject to CARE petitions and potential difficulties managing the process, providing both forms with each notice will benefit respondents.</p>	<p>The committee does not recommend the suggested change. Form CARE-060-INFO will be served on the respondent along with the <i>Order for CARE Act Report</i> (form CARE-105) and <i>Notice of Order of Report</i> (form CARE-106) at the initial stage of CARE proceedings. Form CARE-060-INFO will also be served on the respondent along with the <i>Notice of Initial Appearance</i> (form CARE-110).</p> <p>Appointment of counsel occurs once the court finds that the petitioner has made a prima facie showing that the respondent is or may be a person described by section 5972. Appointed counsel will be able to assist respondent in navigating any potential difficulties in managing the process and keeping respondent informed</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><b>The Language of CARE-060-INFO Information for Respondents Needs to Be More Accessible</b></p> <p>The language in the entire sheet must be simplified and the Judicial Council should use a plain language vendor to edit this document. An assessment of the language shows that it reads at an 11th grade to college level. The average American reads at a 7th or 8th grade level and people with schizophrenia often read below an 8th grade level and may have other barriers to reading, such as dyslexia. The current language of the info sheet would be difficult for the average respondent to read and understand, as such the information sheet is of little use. Further, the info sheet contains language that would only be understood by those familiar with court processes. For instance, courts are generally the only entities to use “appearance” to essentially mean an appointment or date where attendance is required. Words like this should be changed to make it clear to the person for whom the info sheet is intended.</p> <p>In addition, page three, section ten should list all of the rights of a respondent. Although this is repetitive of CARE form 112, the information is essential and should be repeated.</p>	<p>of their rights.</p> <p>The committee recognizes that the forms in this proposal do not, and cannot, provide complete information tailored to each user’s situation or interpret that information for them. The committee has therefore revised the forms to encourage users to seek legal advice by contacting their court appointed attorney. The committee has also tried to streamline both the information in the forms and the way it is presented to make it as accessible as possible.</p> <p>The committee will continue to work on the form going forward with the assistance of plain language experts, and recommend new versions if appropriate as time and resources allow.</p> <p>Appointment of counsel occurs once the court finds that the petitioner has made a prima facie showing that the respondent is or may be a person described by section 5972. Appointed counsel will be able to assist respondent in navigating the court process.</p> <p>The committee appreciates this comment but does not recommend the suggested change. The information requested is already provided in <i>Notice of Respondent’s</i></p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>Furthermore, the section is written as “If you have petitioned to begin the CARE Act process...or someone else has petitioned on your behalf, you have the right...” Respondent’s Rights applies to all respondents and as such this paragraph should be written to make that clear. As currently written, it seems to indicate that some respondents do not have these rights.</p> <p><b>CARE-060-INFO Should Include Additional Information</b> Informational sheet 060 should also include instructions on how a respondent may collect and provide evidence to support their defenses, as well as how to contact their counsel. It should also provide guidance on appealing decisions and at the very least, reference the Appellate Rules in title 8 of the California Rules of Court.</p>	<p><i>Rights</i> (form CARE-113), circulated for comment as form CARE-112, which will be provided to respondents along with form CARE-060-INFO. Because of this, the information does not need to be repeated in form CARE-060-INFO. This form is already quite lengthy and includes a wide range of information.</p> <p>The committee appreciates this response and has revised the form accordingly.</p> <p>The committee does not recommend the suggested change. Form CARE-060-INFO will be served on the respondent along with the <i>Order for CARE Act Report</i> (form CARE-105) which indicates court appointed counsels contact information on Item 5. Appointment of counsel occurs once the court finds that the petitioner has made a prima facie showing that the respondent is or may be a person described by section 5972. Appointed counsel will be able to assist respondent in navigating through the court process.</p>
<p>Disability Rights of California by Melinda Bird Senior Litigation Counsel Los Angeles</p>	<p><b>Form CARE-060-INFO</b> Form CARE-060-INFO fails to provide the respondent with any information about the eligibility criteria. Without this basic information, respondents will have no idea about how to defend against the petition. Although respondents will be provided with a copy of the petition and counsel who will presumably know these criteria, the point of the informational forms is to</p>	<p>The committee appreciates this comment and understands the need to provide useful and accurate information to respondents. The committee has revised item 3 of form CARE-060-INFO to include information on CARE Act eligibility criteria. The committee does not recommend including the entire chart from CARE-050-INFO in CARE-060-INFO, however, because</p>



**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

All comments are verbatim unless indicated by an asterisk (\*).

<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>provide the respondent with the ability to fully participate in the hearing. Knowing what does and does not support the ambiguous eligibility criteria and how to refute the petition may also give respondents more incentive to participate.</p> <p>If the Council retains the chart of eligibility criteria in the informational form for petitioners, this same chart should be included in CARE-060-INFO and expanded to provide an explanation of how to <i>refute</i> allegations that the eligibility criteria are met and concrete examples that parallel those in CARE-050-INFO.</p>	<p>unlike petitioners, respondents will be represented by court-appointed counsel who can discuss with them how best refute any allegations made in the petition.</p>
<p>Homeless Action Center by Patricia Wall, Executive Director Berkeley</p>	<p><b>Comments on form CARE-060-INFO, ITC p. 26-29:</b> CARE-060-INFO refers in several places to the “eligibility requirements for the CARE Act Process”, “the standards for CARE eligibility”, “the requirements for Care Act proceedings”, “the CARE Act requirements”, and the “CARE Act criteria”, but nowhere does it specify what the standards, requirements, or criteria are. The purpose of the form is to give respondents important information about the CARE Act and proceedings. What the eligibility criteria and requirements are is essential information to understand what they are going to be judged on. This information is necessary for respondents to assess whether they may or may not meet the criteria, and to help them prepare to speak with their attorney and supporter about the case. The criteria, standards, and requirements should be laid out in their own numbered and bold heading on the first page, as number 3 after what is the CARE Act.</p> <p>In section 1) titled “Why are you being given these documents?” it is currently written as: “The petition asks the court to determine that you qualify for services and treatment</p>	<p>The committee agrees and has revised item 3 of CARE-060-INFO to include information on CARE act eligibility criteria.</p> <p>The committee appreciates this comment. The committee agrees with this recommendation and has revised the form accordingly.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>under the CARE Act.” This indicates the decision is predetermined. It should instead read: “The petition asks the court to determine whether or not you qualify for services and treatment under the CARE Act.” ITC page 26.</p> <p>Also under section 1), the form states that “A court has found that you may qualify.” It should be stated what processes have already taken place, so the respondent knows if there was a hearing without them, or a paper review, or some other proceeding. ITC page 26.</p> <p>Finally under section 1), the form states that the respondent has been appointed an attorney, but under section 6) on the form’s page 2, the form states that an attorney will contact the respondent if an initial appearance is set. This is confusing; it should be clarified when an attorney is appointed. Is an attorney only appointed if there is a court hearing? Is this fact sheet only given out at that stage? ITC page 26.</p> <p>Under section 2), the form should specify what will happen if the respondent refuses to work with the county behavioral health agency. ITC page 26.</p>	<p>The committee appreciates this comment. The committee agrees with this recommendation and has revised the form accordingly.</p> <p>The committee has revised the form to inform the respondent of that an attorney has been appointed in item 1 and item 7. Appointment of counsel occurs once the court finds that the petitioner has made a prima facie showing that the respondent is or may be a person described by section 5972.</p> <p>Form CARE-060-INFO will be served on the respondent along with the <i>Order for CARE Act Report</i> (form CARE-105) and <i>Notice of Order of Report</i> (form CARE-106) at the initial stage of CARE proceedings. Form CARE-060-INFO will also be served on the respondent along with the <i>Notice of Initial Appearance</i> (form CARE-110).</p> <p>Item 7 has been revised to clarify that a report will be submitted even if the county agency is unable to contact the respondent. Additionally, appointed counsel will be able to assist respondent in navigating through the court process, including informing respondent of possible</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>Regarding section 6), as this section is written it is unclear what stage the respondent is at now, i.e., where this information notice is issued in the series of events listed under 6. It would be logical for a respondent to assume that the notice is being issued at the beginning of the events—when the petition is filed—although that is not the case. The fact that the notice is actually issued two times, with the notice of an order for a CARE report and again with the notice of an initial appearance, makes it more confusing. It would help to have two separate information notices: one for when there is an order for a CARE report; and a separate notice for the initial appearance. Each notice should then specify where in the process the respondent is when that notice is issued. ITC pages 26-27.</p> <p>Regarding section 7), the language regarding the petitioner in this section is confusing as it indicates that the petitioner must be present, but also that the petitioner will be replaced by the director of the county behavioral health agency, if they were not already the petitioner. It should be clarified whether the original petitioner must be present at the beginning of processing, or if the presence of the director is enough for the petition not to be dismissed. These two bullet points should be next to each other, and the sequence of them clarified. ITC pages 27-28.</p> <p>Regarding section 8), here it should be specified what happens if respondent refuses to develop a CARE plan with the county after the court order. The respondent should know whether a CARE plan will be created if they do not participate in the</p>	<p>outcomes during the process.</p> <p>The committee has revised form CARE-060-INFO to concentrate on the initial hearings (i.e. initial appearance and hearing on the merits). CARE-060-INFO is required to be issued two times to ensure the respondent receives pertinent information about the entire CARE Act process during the initial stages of the process.</p> <p>The committee does not recommend the suggested change. The language in Section 7 (now section 8) corresponds to the language in section 5977(b)(2) which states, a “Petitioner shall be present. If the petitioner is not present, the matter may be dismissed.” The suggested information is beyond the scope of this proposal as the statute does not indicate whether the presence of the director is enough for the petition not to be dismissed.</p> <p>The committee has revised form CARE-060-INFO to concentrate on the initial hearings (i.e. initial appearance and hearing on the merits). The information formerly in item 8 (“What happens at the case management hearing</p>

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>planning. ITC page 27. As stated earlier, respondents should clearly know the potential consequences if they do not appear or participate.</p> <p>Regarding section 10), it should be specified here if a respondent can choose to not be represented. ITC page 27. As stated earlier, respondents should clearly know whether they are allowed to represent themselves, and how they can make this known, or what they should do if they do not wish to work with an appointed attorney representative.</p> <p>Under section 11), it should be specified how a supporter is different from an attorney and what a supporter might do, if anything, that an attorney representative would not do. It should also be specified that the respondent has the right to remove their supporter during the proceedings. ITC pgs. 27-28.</p>	<p>and afterward?) has been removed. The committee does not recommend the suggested change. Further, appointed counsel will be able to assist respondent in navigating through the court process, including informing respondent of possible outcomes during the process. Because appointment of counsel occurs when the court finds that the petitioner has made a prima facie showing that the respondent is or may be a person described by section 5972, the respondent will have assistance of counsel in navigating the court process.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The CARE Act requires appointment of counsel, subject only to the requirement that the court allow the respondent to substitute their own, chosen counsel at the initial appearance. The statute does not, however, provide for self-representation. The only accommodation to the commenter’s concern that the rule can provide, therefore, is relief of appointed counsel on substitution of new appointed counsel. Of course, if the right to self-representation in CARE Act proceedings is required by constitutional due process, whether it is conferred by statute or rule is immaterial.</p> <p>The committee does not recommend the suggested change. Counsel will be able to explain the difference between the supporter’s role and counsel’s role to the respondent. Because a supporter will not be specified until the first appearance, at the earliest, the committee has taken these comments in consideration for <i>Notice of</i></p>

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
		<i>Respondent's Rights</i> (form CARE-113). However, the committee does not recommend including information on removal of a supporter because such a process is not outlined in the statute.
Housing California by Mari Castaldi, Senior Legislative Advocate on Homelessness Sacramento	<p><b>Form CARE-060-INFO &amp; Form CARE-112:</b> The Advisory Committee has done a commendable job condensing a very complex process and distilling the rights and responsibilities of participants in that process into very plain language. However, these forms, which are to be given to CARE Act respondents that may be struggling with serious mental illness and homelessness, are still extremely complex, dense, and lengthy. The Advisory Committee should consult with community-based organizations and people with lived experience of mental illness, homelessness, and other relevant lived expertise to determine how to convey this information in as accessible a manner as possible.</p> <p>Additionally, these forms do not adequately convey the potential consequences of failing to voluntarily participate in the CARE Act processes, which creates more possibility of compelled action from the county, which may in turn reproduce trauma and harm. These forms must adequately convey in plain language what may occur if a respondent does not participate.</p> <p>Moreover, the form remains vague in places that can lead to confusion about the consequences. For example, Form CARE-060-INFO specifies that ‘the plan can last up to a year but can be extended for an additional year if certain criteria are met.’ CARE Act respondents must have the information on what</p>	<p>The committee recognizes that the forms in this proposal do not, and cannot, provide complete information tailored to each user’s situation or interpret that information for them. The committee has therefore revised the forms to encourage users to seek legal advice and to contact their court appointed counsel. The committee has also tried to streamline both the information in the forms and the way it is presented to make it as accessible as possible.</p> <p>The committee does not recommend the suggested change. Appointment of counsel occurs once the court finds that the petitioner has made a prima facie showing that the respondent is or may be a person described by section 5972. Appointed counsel will be able to assist respondent in navigating through the court process, including informing respondent of possible outcomes during the process.</p> <p>The committee does not recommend the suggested change for the same reasons as noted in the previous paragraph.</p>

## W23-10

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	those criteria are, and who determines those criteria, to the greatest extent possible to ensure full awareness of the consequences of non-participation.	
Legal Aid Association of California by Lorin Kline Director of Advocacy Oakland	<p><b><i>Information for Petitioners &amp; Respondents (forms CARE-050-INFO &amp; CARE-060-INFO)</i></b></p> <p>These forms raise the greatest concerns of the legal aid community regarding their accessibility and usability. Because these are the initial and primary medium for communicating the detail of the CARE proceedings to lay petitioners and to respondents, it is of the utmost importance to make them as clear as possible.</p> <p>It is worth noting that CARE-060-INFO indicates to the respondent that an attorney has been appointed for them and will contact them. As explained above, it may be extremely difficult for appointed counsel to locate the respondent. This is why contact information for appointed counsel must be included and provided to the respondent.</p>	<p>The committee has tried to streamline both the information in the forms and the way it is presented to make it as accessible as possible. The committee will continue to review the form with the assistance of plain language experts, and recommend new versions if appropriate as time and resources allow.</p> <p>Because appointment of counsel occurs when the court finds that the petitioner has made a prima facie showing that the respondent is or may be a person described by section 5972, the respondent will have assistance of counsel in navigating the court process.</p> <p>The committee appreciates this comment. Appointed counsel's contact information is provided on item 5 of the <i>Order for Care Act Report</i> (form CARE-106) and item 4 of the <i>Notice of Initial Appearance</i> (form CARE-110).</p>
Legal Services NorCal by Kate Wardrip, Managing Attorney Chico	<p><b>Form CARE-060</b></p> <p><b>Requested Revision</b></p> <p>Item 1 states that the respondent is appointed an attorney and that the attorney will contact the respondent. We recommend the Judicial Council instead state that respondents may contact their attorney. The form should not promise that the attorney will contact the respondent.</p>	<p>The committee appreciates this comment. The committee has revised the form to state that the respondent may contact their attorney, should keep the attorney updated regarding contact information, and that the attorney will <i>try</i> to contact them.</p>

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><b>Reasoning</b> The attorney may not be able to contact the respondent or receive reliable contact information from the petition. Court appointed attorneys’ may have a difficult time locating the respondents. It is best to encourage both the respondent and the attorney to attempt to contact one another.</p> <p><b>Requested Revision</b> Item 2 states the program is for “people with certain untreated severe mental illnesses, specifically schizophrenia and other psychotic disorders.” We recommend that the Judicial Council include that eligible mental illnesses do not include psychotic disorders due to a medical conditional or is not primarily psychiatric in nature, including physical health conditions such as traumatic brain injuries, autism, dementia, or neurologic conditions.</p> <p><b>Reasoning</b> Informing a respondent of what conditions make them ineligible for the program will further inform them of this process, while also letting them know what information is relevant to share with their attorney or behavioral health assessor.</p> <p><b>Requested Revision</b> Item 3 identifies “What is a CARE Plan or CARE Agreement.” We recommend the Judicial Council create two separate items, one identifying what a CARE Plan is and one identifying what a CARE Agreement is.</p> <p><b>Reasoning</b> The current wording makes them sound like interchangeable names for the same thing. It is important to</p>	<p>The committee appreciates this comment and understands the need to provide useful and accurate information to respondents. The committee does not recommend the suggested change as it also considers balancing providing information in a straightforward manner without inundating the respondent with complicated information.</p> <p>The committee agrees with the comment and has revised the form accordingly.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>distinguish between these two documents, so as not to confuse the respondent, and further clarify the process.</p> <p><b>Requested Revision</b> Item 6 identifies what happens if a county agency contacts the respondent. We recommend the Judicial Council include a statement that tells the respondent that the county will still submit a CARE Act Report regardless of whether they do an in person assessment.</p> <p><b>Reasoning</b> These interactions have the potential to be confrontational and intimidating for the respondents. Some respondents may think that it is best to avoid the county agency altogether. To avoid this, the form should warn that the county will still submit a CARE Act Report regardless of if they do an in person assessment.</p>	<p>The committee agrees with the comment and has revised the form accordingly.</p>
<p>Los Angeles County Department of Mental Health</p>	<p><b>CARE-060-INFO Information for Respondents—About the CARE Act:</b> <i>What is the CARE Act? 2. The CARE Act is a way to get court-ordered treatment, services, support, and housing resources priority for people with certain untreated severe mental illnesses, specifically schizophrenia and other psychotic disorders.</i> DMH recommendation. Add spectrum after schizophrenia.</p> <p><b>CARE-060-INFO Information for Respondents—About the CARE Act:</b> <i>What will the report include? The report will include the following information: A determination of whether you meet, or are likely to meet, the eligibility requirements for the CARE Act process, including your mental health diagnosis and current</i></p>	<p>The committee agrees with this recommendation and has revised the form accordingly.</p> <p>The committee agrees with this recommendation and has revised the form accordingly.</p>



**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><i>condition, whether you need additional mental health services, and whether there are treatment options that would help you and be less restrictive than a CARE plan or agreement.</i></p> <p>DMH recommendation: Change to say CARE agreement or plan (rather than putting plan before agreement because agreement is the first option and voluntary vs the involuntary plan).</p>	
<p>Hon. Eileen C. Moore Associate Justice, California Court of Appeal, 4th Appellate District Santa Ana</p>	<p><b>CARE-060-INFO</b></p> <p>According to <a href="https://census.ca.gov/resource/veterans/">https://census.ca.gov/resource/veterans/</a>, there are 1.8 million military veterans who live in California. Post-traumatic stress disorder, traumatic brain injury, military sexual trauma, mental illness and problems related to the overuse of drugs are common issues among veterans. Yet, there is no mention of veterans anywhere in the proposed rules or forms, and specifically on CARE-060-INFO.</p> <p>Yet, there are several questions and references to Native Americans on the form. According to <a href="https://www.courts.ca.gov/documents/TribalFAQs.pdf">https://www.courts.ca.gov/documents/TribalFAQs.pdf</a>, there are 720,000 Native Americans who live in California. On p. 2 of the form, it states in #7: “If you are enrolled in a federally recognized Indian tribe or otherwise receiving services from an Indian health care provider, a tribal court, or a tribal organization, a representative from the program, the tribe, or the tribal court is allowed to be present if you consent. The tribal representative is entitled to notice by the county of the initial appearance.” I suggest something similar regarding veterans. Perhaps, something like: “If you ever served in the military and you have received health care from the U.S. Department of Veterans Affairs [VA], the California</p>	<p>The committee appreciates this comment. The commenter’s concerns are beyond the scope of the proposal and more appropriately addressed to the Legislature. However, the petition form has been modified to include a question as to whether the respondent is a servicemember or veteran, so the court will be provided with that information if available.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>Department of Veterans Affairs [CalVet] or other veteran facility, a representative from the facility is allowed to be present if you consent. The representative is entitled to notice by the county of the initial appearance.”</p> <p>On p. 3 of the proposed form, it states: “Note: If you are enrolled in a federally recognized Indian tribe and you want a tribal representative to attend the case management hearing, you should notify the tribe of the date, time, and place of the hearing.”</p> <p>I suggest some similar language vis-à-vis veterans. Perhaps, something like: “Note: If you ever served in the military and want a U.S. Department of Veterans Affairs [VA], the California Department of Veterans Affairs [CalVet] or other similar representative to attend the case management hearing, you should notify that agency or representative of the date, time, and place of the hearing.”</p>	
National Alliance to End Homelessness by Alex Visotzky, Senior California Policy Fellow Washington, DC	same language as noted above from Housing California	See responses to identical comments submitted by Housing California, above.
Orange County Bar Association Michael A. Gregg, President	Form CARE-60-INFO Page 28, Item 8 “If you and the county behavioral health agency can reach a CARE Agreement, the court will approve the terms as submitted or modify the terms and approve the modified terms <del>and set the first status review within 60 days.</del> ”	The committee has revised form CARE-060-INFO to concentrate on the initial hearings (i.e. the initial appearance and hearing on the merits). The form no longer discusses what may occur at the case management hearing and afterward.
Public Law Center by Manohar Sukumar	<b>Revisions to CARE-060-INFO</b> PLC suggests that the Judicial Council change the wording in	The committee does not recommend the suggested

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
<p>Supervising Attorney, Health Law Unit Santa Ana</p>	<p>section 6 of the form from “you might be eligible for CARE Act proceedings” to “you might be eligible for CARE Act services” to make the program appear more inviting.</p> <p>Section 7 of the form states: “The hearing on the merits of the petition may happen at the same time of the initial appearance on the petition but only if you, the petitioner, and the court agree.” This language is misleading because it implies that the respondent is the petitioner. To avoid confusion, PLC recommends changing the phrase to:</p> <p style="padding-left: 40px;">The hearing on the merits of the petition may happen at the same time of the initial appearance on the petition but only if you (the respondent), the petitioner, and the court agree.</p> <p>The Judicial Council could also consider including a definition of the term “respondent” at the beginning of the form for clarity. The term “respondent” is used throughout the form, and it may not be immediately clear to the reader who the respondent is. Because the respondent is the person on whom the petition is filed and who is subject to the CARE process, it is crucial that they understand their role in the process and the notice that they receive from the court.</p>	<p>change. While the committee understands changing “proceedings” to “services” may make the program appear more inviting, the committee wants to ensure that the respondent understands they are involved in a legal process.</p> <p>The committee agrees and has revised the text in what is now item 8 accordingly.</p> <p>The committee appreciates this comment and has revised Item 1 of the form to indicate “(the respondent)” at the end of the first sentence.</p>
<p>Rural Counties Representatives of California by Sarah Dukett, Policy Advocate Sacramento</p>	<p><b>Issue: “Housing Resource Priority”</b> Forms CARE-050-INFO and CARE-060-INFO each contain several references to “housing resource priority for persons with untreated severe mental illness” and “priority access to housing resources,” etc. Absent clarification, these statements</p>	<p>The committee appreciates this comment and has revised the form accordingly.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

All comments are verbatim unless indicated by an asterisk (\*).

<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
<p>joined by: California State Association of Counties Urban Counties of California County Behavioral Health Directors Association</p>	<p>have the potential to seriously mislead petitioners and respondents.</p> <p>The CARE Act explicitly prioritizes CARE respondents for <i>only one</i> type of housing, i.e., “bridge housing funded by the Behavioral Health Bridge Housing program.” (Section 5982(b).) Funding under this program has not yet been distributed by the Department of Health Care Services, and thus no such housing units presently exist - or will exist for some time. Section 5799.1(d)(2) more generally provides that “[t]he court may issue any orders necessary to support the respondent in accessing appropriate services and supports, including prioritization for those services and supports”; however, this authority is expressly made “subject to applicable laws and available funding.” More broadly, the resources provided in a CARE plan, including housing resources, are limited to the specific programs identified in Section 5982, and to “all applicable federal and state statutes, regulations, contractual provisions, and policy guidance” governing those programs.</p> <p>The combination of limited housing programs, limited funding, and program rules that often contain their own priority schemes, realistically means that “priority access to housing resources” will not be an available option for many CARE plans. Given the centrality of housing needs for many CARE respondents, it is critical that the Judicial Council’s forms accurately convey the services realistically available, and not create expectations that courts and local agencies cannot fulfil. We consequently recommend the following revisions to these two forms:</p> <p>- Replace “housing resource priority for persons...” with “a</p>	<p>The committee appreciates this comment and has revised the form accordingly.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><u>housing plan</u> for persons...”</p> <ul style="list-style-type: none"> <li>- Replace “priority access to housing resources” with “housing plan”</li> <li>- Replace “prioritization of housing” with “<u>housing plan</u>”</li> </ul> <p>In Form CARE-060-INFO, we recommend replacing the statement “What a Supporter should not do:” with “What a Supporter <i>shall</i> not do:” (p. 4.) The CARE Act uses prescriptive terms to describe the limits upon the Supporter’s activities (Sections 5971(q), 5981(c)), and similar terminology is appropriate here to accurately inform all parties that the Supporter’s adherence to these limits is mandatory.</p>	<p>The committee agrees with the comment and has revised the form in a substantially similar manner.</p>
<p>Western Center on Law and Poverty by Helen Tran, Senior Attorney Los Angeles</p>	<p><b><i>Proposed Information for Respondents—About the CARE Act (form CARE-060-INFO)</i></b></p> <p><u>This information notice should include the eligibility criteria for CARE Act proceedings.</u></p> <p>This notice is meant to inform respondents about why they are being summoned to court to start CARE Act proceedings, but the draft does not inform respondents of why they might qualify. There should be a section dedicated to eligibility criteria, similar to that in <i>Information for Petitioners—About the CARE Act</i>, Item 5: Respondent Eligibility.</p> <p><u>Respondent should be informed about what happens when they do not adhere to a CARE plan.</u></p> <p>As important as knowing how they were brought into CARE Act proceedings, respondents should be informed about the consequences of not following through with the CARE process. This notice should include the information in Welf. And Inst. Code § 5979. Under § 5979(a)(1), “[i]f at any time during the proceedings, the court determines by clear and convincing</p>	<p>The committee appreciates this comment and has revised item 3 of form CARE-060-INFO to include language regarding the CARE Act eligibility criteria.</p> <p>The committee does not recommend the suggested change. Appointment of counsel occurs once the court finds that the petitioner has made a prima facie showing that the respondent is or may be a person described by section 5972. Appointed counsel will be able to assist respondent in navigating through the court process, including informing respondent of possible outcomes during the process.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>evidence that the respondent is not participating in the CARE process . . . or is not adhering to their CARE plan . . . the court may terminate the respondent’s participation in the CARE process.” The court may then order an evaluation of the respondent’s condition under § 5200. § 5979(a)(2). Additionally, a respondent’s failure to successfully complete their CARE plan “shall be a fact considered by the court in a subsequent hearing under the Lanterman-Petris-Short Act . . . and shall create a presumption at that hearing that the respondent needs additional intervention beyond the supports and services provided by the CARE plan.” Welf. And Inst. Code § 5979(a)(3). Importantly, too, the respondent’s “failure to comply with an order shall not result in a penalty outside of this section, including, but not limited to, contempt or a failure to appear.” Welf. And Inst. Code § 5979(a)(4). Similarly, the respondent’s “failure to comply with a medication order shall not result in any penalty, including under this section.” Welf. And Inst. Code § 5979(a)(5).</p> <p><u>2. What is the CARE Act?</u>            We recommend disclosing to respondents that the CARE Act does not guarantee behavioral health treatment, housing, and other services will be available and received, despite how they may appear in a CARE agreement or CARE plan. For example, receiving housing will depend on the availability of housing in a particular county. And receiving behavioral health treatment will depend on the availability of providers and appointments.</p> <p>CARE stands for Community Assistance, Recovery, and Empowerment. The CARE Act is a way to get court-ordered treatment, services, support, and housing</p>	<p>The committee does not recommend the suggested change. The committee understands the availability of resources and services will vary by county. Respondent’s appointed counsel will be able to better inform the respondent on available local services and supports.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>resources priority for people with certain untreated severe mental illnesses, specifically schizophrenia and other psychotic disorders. <u>However, there is no guarantee that by going through CARE Act proceedings you will actually receive these services.</u></p> <p>We recommend a more accurate description of what is required of respondents in working with county agencies. This section should clearly state that a court will order parties to “jointly develop a CARE plan” if the parties are unable to enter into a CARE agreement on their own. Welf. And Inst. Code § 5977.1(b) As written, respondents are wrongly led to believe they may decline working with a county agency to develop a CARE agreement without consequences.</p> <p>CARE ACT proceedings involve outreach, meetings, and court hearings to determine whether you, the respondent, meet the eligibility requirements and to identify the services and supports you might need. One or more county agencies will be involved in the proceedings. If the court determines that you have met the standards for CARE eligibility, you may work with the county behavioral health agency to develop a CARE agreement <del>or a CARE plan</del> for services and supports. <u>If you do not reach a CARE agreement with the county agency, the court will order a clinical evaluation of your mental health, use that evaluation to decide what services you should receive, and order you and the county agency to develop a CARE plan.</u></p> <p>8. <u>What happens at the case management hearing and</u></p>	<p>The committee agrees with the comment and has revised the form in a substantively similar manner.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>afterward?            Since this is an important part of CARE proceedings in which parties could be ordered into developing a CARE plan, these steps should be separated into bullet points for easier reading. We also recommend adding a few important details about respondents' rights during this time, including the right to make changes to their CARE plan,( Welf. and Inst. Code § 5977.2(a)), and the right to ask for a hearing at any time to address a change of circumstances(Welf. and Inst. Code § 5977.2(b)).</p> <ul style="list-style-type: none"> <li>• The CARE Act provides for a process of multiple hearings and status reviews. If you and the county behavioral health agency can reach a <b><u>CARE agreement</u></b>, the court will approve the terms as submitted or modify the terms and approve the modified terms and set the first status review within 60 days. (add emphasis)</li> <li>• If a CARE agreement cannot be reached, the court will order you to be evaluated. If the court decides after the evaluation that you still meet the CARE Act criteria, the court will order you and the county behavioral health agency to develop a <b><u>CARE plan</u></b> together. (add emphasis)</li> <li>• After the court approves a CARE plan, it will schedule status review hearings to check on the progress you, the county, and other service providers are making with the plan. <u>At these hearings, you can make recommendations for changes to the services and supports to make your CARE plan more successful.</u> The plan can last up to a year but can be extended for an additional year if certain criteria are</li> </ul>	<p>The committee has removed this section from CARE-060 in order to shorten the document and make it more accessible for respondents. Because respondents will be represented by counsel at every court hearing, the committee determined that CARE-060 should concentrate on information necessary for the initial hearings.</p>



**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-060-INFO</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>met.</p> <ul style="list-style-type: none"><li>• <u>At any time during the CARE process, you can request the court to hold a hearing to address a change of circumstances, such as if you need new types of services or believe you no longer need a CARE plan.</u></li><li>• Your court-appointed attorney will go over the full process with you and answer any questions you have.</li></ul>	

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-100</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
<p>Affordable Housing Advocates by Catherine Rodman Director &amp; Supervising Attorney San Diego</p>	<p><b>Page 1, #2c:</b> For additional page(s) use MC-025 and designate 2.c.</p> <p>Somewhere on this form, possibly here, petitioner should indicate respondent’s language, and any accessibility issues (vision, hearing, mobility)</p> <p><b>Page 2, #3:</b> If there is no current address or last known location how can appointed counsel represent respondent. Petitioner should be required to state the date of their last contact w/resp at the address or lkl [last known location] provided and idn [integrated delivery network], social, or community services respondent accesses, to enable communication between resp and appointed counsel</p> <p><b>Page 2, #4:</b> (e) Respondent is: sight impaired, hearing impaired, LEP, non-English speaking (identify language/s spoken), uses walker/wheelchair, etc.</p> <p><b>Page 4, #8:</b> d. Court order attached and labeled as Attachment 8.</p>	<p>The committee agrees with this suggestion and has revised the form to allow the petitioner to include additional information as an attachment.</p> <p>The committee agrees with this recommendation and has added an optional section for the petitioner to include this information, if known.</p> <p>The committee does not recommend any change to the proposal in response to this comment. The committee has revised item 3 to include a request for additional contact information to reach the respondent. The notices of an order for a report and of the initial appearance also include counsel’s contact information to enable the respondent to contact counsel, if desired.</p> <p>Question 4 relates to the whether the petition is filed in the proper county. (See § 5973.) It would be inappropriate to include the proposed information in this question, but a request for similar information has been added at item 9.</p> <p>The committee agrees with this recommendation and has revised the form accordingly.</p>
<p>Mary Ann Bernard Sacramento</p>	<p><b>Comments Regarding proposed FORM 100:</b> <b>1. The Caption</b> While I realize this is a standard caption, lay persons and</p>	<p>The committee agrees in part and has modified the first</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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Form CARE-100		
Commenter	Comment	Committee Response
	<p>particularly those with mental illness will be confused by it and discouraged from completing the form. They are not going to read the Council’s instructions, no matter how excellent they are. Form 100 needs to teach them what “Petitioner” and “Respondent” means.</p> <p>Using the usual <u>underline additions</u> and <del>strike deletions</del>, I suggest for the first line, ATTORNEY OR <del>PARTY</del> PETITIONER WITHOUT ATTORNEY. In the third line, <u>LAW FIRM NAME</u>. In the final line of the first box, <u>IF ATTORNEY, I REPRESENT</u> (instead of <del>Attorney for</del>)</p> <p>Most importantly, directly above the petition designation: CARE COURT PROCEEDINGS <u>FOR THE BENEFIT OF [NAME]</u>: RESPONDENT.</p> <p>This is going to be the case caption, so it’s important to work to ensure that lay petitioners understand how to get it right.</p> <p><b>2. A Substantive Error at Paragraph 5(b)</b></p> <p>My reading of the statute says that 5(b) should read, “Respondent has been <u>or should be</u> diagnosed with a schizophrenia spectrum disorder or another psychotic disorder.....” Rationale: because schizophrenia’s average onset age is 25-29, there are many individuals on our streets who have avoided a formal diagnosis because they are afraid of doctors and have evaded or not yet become dangerous enough for involuntary hospitalization. As they are adults, their loved ones (if any) cannot force them to get medical care, and federal and state privacy laws bar their access to relevant medical records, even if they know their loved ones have been hospitalized. <i>Their desperately ill</i></p>	<p>line of the box for the party’s or attorney’s name and contact information to indicate “ATTORNEY OR PETITIONER WITHOUT ATTORNEY.”</p> <p>The committee appreciates this comment but does not agree with the proposed revision. Section 5972(b) requires that, to be eligible for the CARE process, the person must meet the following criterion: that “the person <i>has</i> a diagnosis identified in the disorder class: schizophrenia spectrum and other psychotic disorders” (emphasis added). Section 5975(c) requires the petition to include facts that support the petitioner’s assertion that the respondent meets that criterion, along with all other criteria in section 5972.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-100</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><i>loved ones are the very people Care Court was intended to help.</i> That is why the statute requires the court “to determine if the petitioner has made a prima facie showing that the respondent is, <i>or may be</i>, a person described in Section 5972” at Section 5977(a)(1), and if the petitioner is not the county, provides for a court order to the county “to investigate, as necessary, and file a written report with the court within 14 court days ...[that] shall include all of the following: (i) A determination as to whether the respondent meets, <i>or is likely to meet</i>, the criteria for the CARE process.....” Welf. &amp; Inst. Code Section 5977(a)(3)(B). Unlike most of the other statutorily-qualified petitioners, counties can access relevant medical records and have qualified staff who, if provided with the evidence lay persons will attach to their Petitions, can go into the community, find the Respondent, and make the necessary diagnosis. Family members and loved ones usually can only provide examples of their loved ones’ psychotic delusions and consequent behavior. This information is helpful and often critical to a proper diagnosis, and admissible either through their direct testimony or through the county expert.</p> <p><b>Substantive error at Paragraph 6, p. 4</b> See legal analysis above for background. Form 100 should have a final box C at Paragraph 6, labelled something like, “Other evidence that Respondent has a psychotic disorder and otherwise likely meets the requirements set forth above at Paragraph 5. Please include specific instances of psychotic talk and/or behavior by Respondent to which the Petitioner or other identified individuals can personally</p>	<p>Item 6 is seeks a document or evidence required by section 5975(d). The suggested information, while potentially relevant to item 5, does not constitute the declaration of a licensed behavioral health professional or evidence of two periods of intensive treatment under section 5250 et seq.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-100</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>testify.”</p> <p><b>Comment on the FORM 100 signature requirement:</b> In addition to the usual “penalty of perjury” language, the courts may wish to call Petitioners’ attention to the language at Welf. &amp; Inst. Code Section 5975.1 regarding petitions “intended to harass or annoy.”</p>	<p>The committee does not recommend a revision to the proposal based on this comment. CARE-050 provides information on the petitions “intended to harass or annoy” and the effect of being declared a vexatious litigant.</p>
<p>California Health &amp; Human Services Agency by Corrin Buchanan, Deputy Secretary for Policy and Strategic Planning San Francisco</p>	<p><u>Page 30: Under #1 Petitioner e (2) replace “institution” with “residential facility or placement”</u></p> <p>Page 31: Clarify the respondent may not be diagnosed at the time of the petition. May need to pull directly from the statute.</p> <p>Respondent has been diagnosed with a schizophrenia spectrum disorder or another psychotic disorder in the same class, as defined in the current Diagnostic and Statistical Manual of Mental Disorders. Diagnosis and additional information are provided. <u>If the respondent has not been diagnosed with a qualifying condition, a petition may still be filed if the petition includes an affidavit by a licensed behavioral health professional (who?) has made multiple attempts to examine, but has not been successful in eliciting the cooperation of the respondent to submit to an examination, within 60 days of the petition, and that the licensed behavioral health professional had determined that the respondent meets, or has reason to believe, explained with specificity in the affidavit, that the respondent meets the diagnostic criteria for CARE proceedings.</u></p>	<p>The committee appreciates this comment but does not recommend the suggested revision because the current language tracks the statute.</p> <p>The committee appreciates this comment but does not agree with the proposed revision. § 5972(b) requires that, for an individual to be eligible for the CARE process, the person must meet the following criterion: that “the person <i>has</i> a diagnosis identified in the disorder class: schizophrenia spectrum and other psychotic disorders” (emphasis added). § 5975(c) requires the petition to include facts that support the petitioner’s assertion that the respondent meets that criterion, along with all other criteria. The fact that the petition may be accompanied by an affidavit of a licensed behavioral health professional who has determined only that they have reason to believe the respondent is eligible does not change the underlying requirement of a diagnosis for eligibility.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-100</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	Page 32. Add to supporting evidence. Make clear that only 6A OR B are required. Could say, “either one or both”.	The committee has added the word “either” in this section.
County Behavioral Health Directors Association by Jacob D. Mendelson, JD Senior Policy Advocate Sacramento	<p><b>Page 1, #2:</b> CBHDA wants to ensure that the petitions that are filed by non-county BH petitioners are credible and that the petitioner can actually prove a qualifying relationship with the respondent.</p> <p>We recommend adding the following language regarding supporting documentation.</p> <p>b. Petitioner’s relationship to respondent (<i>specify and describe relationship, including any supporting documentation</i>):</p> <p>c. <u>P</u>etitioner’s contacts with respondent (<i>if petitioner is specified in 1d, 1e, 1f, or 1g, specify the number of contacts with respondent and the date of the most recent contact, and describe the nature and outcome of each contact, including any supporting documentation</i>):</p> <p><b>Page 2, #5b:</b> Other than the mental health declaration, this form should specify what would be acceptable supporting documentation.</p> <p>For instance, it could include: clinical evaluations, prescriptions for medication, LPS information, collateral information gained from others (family and others with intimate knowledge of the respondent), clinical record, etc.</p> <p>In addition, <b>Item 6: Supporting Documentation</b> on the</p>	<p>The committee appreciates this comment but does not recommend the proposed change. The statute does not require the petitioner to prove their relationship. Additionally, the petitioner already must sign under penalty of perjury that all statements are true and correct.</p> <p>The committee does not recommend this proposed change because there are so many potential statements and documents that could be used that such description would further lengthen an already complicated form. Additionally, proposed form CARE-050-INFO includes information on how to fill out the CARE-100.</p> <p>The committee does not recommend this proposed</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-100</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><b>CARE-050-INFO</b> Form defines what intensive treatment is and how a petitioner can support the claim that a respondent was detained for at least two intensive treatments.</p> <p>The petition (on 5(b) through 5(g)) can also reference this language in aiding the petitioner’s understanding of what supporting documentation would include.</p>	change because there are so many potential statements and documents that could be used that such description would further lengthen an already complicated form.
County of Santa Cruz by Jason Hoppin Public Information Officer	<p><b>Petition to Commence CARE Act Proceedings (form CARE-100)</b></p> <ul style="list-style-type: none"> <li>○ <b>Item 2c:</b> we suggest changing the word “contacts” to “professional or personal interactions” <ul style="list-style-type: none"> <li>○ <b>Current:</b> Petitioner’s <del>contacts</del> with respondent (if petitioner is specified in 1d, 1e, 1f, or 1g, specify the number of <del>contacts</del> with respondent and the date of the most recent <del>contact</del>, and describe the nature and outcome of each <del>contact</del>):</li> <li>○ <b>Rationale:</b> the word “contacts” is often associated with law enforcement interactions, and/or it could be confused with the commonly used meaning “persons known to” another person. Clarifying this language is important because this form will be used by a many lay (non-professional) people.</li> </ul> </li> <li>○ <b>Item 8: (referral from Criminal Court)</b> This should either be a separate Judicial Council form or placed at the beginning of the petition.</li> </ul>	<p>The committee has revised the form to use the word “interaction(s)” in this section.</p> <p>The committee does not recommend this proposed change. All CARE Act cases must begin with a petition on a mandatory Judicial Council form that meets the requirements of section 5975. No separate set of eligibility criteria exists for a respondent who was subject to a referral, so there is no reason to create a separate Judicial Council form.</p>
Disability Rights Education and	<b>CARE-100 Petition to Commence CARE Act Proceedings</b>	The committee partially agrees with this

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-100</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
<p>Defense Fund by Erin Nguyen Neff, Staff Attorney Berkeley</p>	<p><b>Needs to Include Information on Interactions with the Respondent, Prior Treatment, and Additional Criteria.</b> Given that petitioners include first responders, such as paramedics and firefighters, who may have frequent but minimal contact with a respondent, CARE-100, section 2(C) of the petition should include the approximate duration of the contact and approximate dates of each contact. This would enable the court to ascertain how meaningful the interactions between petitioner and respondent have been.</p> <p>In addition, page three, section 5(f), should include a list of less restrictive alternatives so the petitioner and the Court can adequately assess whether alternatives are viable. The petitioner should check off which alternatives have been used previously and then provide an explanation as to why they were not attempted or were attempted but unsuccessful.</p> <p>Alternative interventions should include:</p> <ol style="list-style-type: none"> <li>1. Rehabilitative mental health services</li> <li>2. Intensive case management</li> <li>3. Crisis services</li> <li>4. Substance use disorder treatment.</li> <li>5. Residential services</li> <li>6. Full Services Partnerships</li> <li>7. Assertive Community Treatment</li> </ol> <p>In regard to supporting evidence, section 6, subsection a, only requires a declaration that the person met the diagnostic criteria or was unable to examine the respondent. This is insufficient supporting evidence as a mere diagnosis of schizophrenia or other psychotic disorder does not in it of itself support CARE</p>	<p>recommendation and has revised the form to include the duration of each contact.</p> <p>The committee appreciates this comment but does not recommend this proposed change. Information on less restrictive alternatives is available in the information sheet for petitioners (form CARE-050-INFO), and the committee believes that the requested information, including a “description of available alternative treatment plans and an explanation why no alternative treatment plan that would be less restrictive of respondent’s liberty could ensure respondent’s recovery and stability,” is sufficient information to meet the requirements of the petition.</p> <p>The committee appreciates this comment but does not recommend the proposed change. § 5975(d) states very specific requirements of what must be included as supporting evidence. The proposed changes go beyond the purview of the Judicial Council and would be better</p>



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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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Form CARE-100		
Commenter	Comment	Committee Response
	<p>court proceedings. Further, the petition states that supportive evidence may include two detentions for intensive treatment, one being within the last 60 days. <i>See</i> section 6, subsection b. This element should be edited to seek evidence or further explanation regarding the outcome of the treatment and whether it was effective in stabilizing the person. As written, merely having received intensive treatment within the last 60 days could be used against a respondent regardless of its effect. If a respondent received intensive treatment and their condition improved then that should be stated and weighs against initiating a CARE Court proceeding.</p>	<p>proposed to the Legislature.</p>
<p>Douglas Dunn, Vice Chair Contra Costa Mental Health Commission Antioch</p>	<p><b>Petition to Commence CARE Court Proceedings, Page 33</b> 8. c. Type of proceeding from which respondent was referred Why is the Lanterman-Petris-Short (LPS) conservatorship (Welfare and Institutions Code, §§ 5350–5372) included? Per signed SB 1338, I understand an LPS Conservatorship will be considered if the person (respondent) is currently failing in CARE Court, NOT before, I understand CARE Court was designed to help persons, if possible avoid an LPS Conservatorship in the first place not come from one.</p>	<p>Section 5978(a) explicitly authorizes a court to refer an individual from LPS conservatorship proceedings. Item 8c of form CARE-100 provides an opportunity to document that referral for the receiving court.</p>
<p>Hon. Eileen C. Moore Associate Justice, California Court of Appeal, 4th Appellate District Santa Ana</p>	<p><b>Petition to Commence CARE Act Proceedings (form CARE-100)</b> According to <a href="https://census.ca.gov/resource/veterans/">https://census.ca.gov/resource/veterans/</a>, there are 1.8 million military veterans who live in California. Post-traumatic stress disorder, traumatic brain injury, military sexual trauma, mental illness and problems related to the overuse of drugs are common issues among veterans. Yet, there is no mention of veterans anywhere in the proposed rules or forms, and specifically on CARE-100.</p> <p>Yet, there are several questions and references to Native</p>	

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<b>Form CARE-100</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>Americans on the form. According to <a href="https://www.courts.ca.gov/documents/TribalFAQs.pdf">https://www.courts.ca.gov/documents/TribalFAQs.pdf</a>, there are 720,000 Native Americans who live in California.</p> <p>Regarding <b>question #1</b>, Petitioner [name], a veteran’s caregiver <i>probably</i> lives with the veteran, so that might not be a problem. But the veteran might at times reside in some sort of facility operated by the U.S. Department of Veterans Affairs [VA], the California Department of Veterans Affairs [CalVet] or some other place. I suggest another box that gives the option for: A caregiver for a veteran.</p> <p>Under <b>question #7</b>, Optional Information, I suggest that some basic questions about branch and dates of service and whether a veteran has been undergoing care anywhere are appropriate.</p>	<p>The committee does not recommend this change because the CARE Act specifically states the eligible petitioners designated in § 5974. A caregiver for a veteran is not one of the statutorily enumerated potential petitioners, though such a person might qualify under a different category.</p> <p>The optional information requested in item 7 regarding tribal affiliations is specifically related to notice requirement in section 5977(b)(6), for which there is no corresponding duty related to veteran status. Nevertheless, a new item for optional information that may be helpful in these actions has been added at item 9 which includes a request for information about respondent’s status as a veteran.</p>
<p>Public Law Center by Manohar Sukumar Supervising Attorney, Health Law Unit Santa Ana</p>	<p><b>Revisions to CARE-100</b> PLC recommends that the Judicial Council provide clearer instructions in item 2c of form CARE-100 to specify who should fill out the section and to clarify whether government entities other than first responders must also provide information on their contacts with the respondent.</p> <p>Item 2c of the CARE-100 form requests information about the petitioner’s contacts with the respondent. However, the instructions provided in CARE-050-INFO—item 2c should only be filled out if the petitioner is not related to the</p>	<p>The committee appreciates this comment but considers form CARE-050-INFO the better forum for the revision. The committee has revised that form to clarify this point.</p>

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-100</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>respondent or living with the respondent — may not fully clarify when this item should be completed.</p> <p>Specifically, the form lacks clarity regarding whether entities such as public guardians or conservators, county behavioral health agencies, adult protective services, California Indian health services programs, California tribal behavioral health departments, and California tribal court judges are required to provide information about their contacts with the respondent. To avoid confusion, the Judicial Council should revise the form to clarify that these entities are not required to specify their contacts with the respondent in item 2c, as it is not mandated by section 5974. While the parenthetical in the form states that “if petitioner is specified in 1d, 1e, 1f, or 1g, specify the number of contacts with respondent and the date of the most recent contact, and describe the nature and outcome of each contact,” this is inconsistent with the instruction in CARE-050-INFO, which states that petitioners who are not related to the respondent or living with the respondent should fill out item 2c.</p> <p>In addition, like CARE-050-INFO, item 6 states: “For purposes of the CARE Act, ‘intensive treatment’ only includes involuntary treatment authorized by Welfare and Institutions Code, § 5250. It does not refer to treatment authorized by any other statute, including but not limited to 72-hour holds under Welfare and Institutions Code, § 5150 or treatments under Welfare and Institutions Code, §§ 5260 and 5270.15.” As discussed above, this appears inconsistent with section 5975, subdivision (d)(2), which requires “two intensive treatments pursuant to Article 4 (commencing with Section 5250) of Chapter 2 of Part 1.”</p>	<p>The requirement of at least two “5250” hospitalizations is included in the statute. (See § 5975(d)(2).) The statute requires either an affidavit of a licensed behavioral health professional that includes certain information or “[e]vidence that the respondent was detained for a minimum of two intensive treatments pursuant to Article 4 (commencing with Section 5250) of Chapter 2 of Part 1, the most recent one within the previous 60 days.” Article 4 includes only section 5250 through section 5259.3.</p>

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-100</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
<p>Rural Counties Representatives of California by Sarah Dukett, Policy Advocate Sacramento</p> <p>joined by: California State Association of Counties Urban Counties of California County Behavioral Health Directors Association</p>	<p>The draft petition’s Question No. 3 asks for the address of the respondent. We recommend that the question solicit more details regarding the housing situation of the respondent. This will help provide better information for a CARE plan, and aid in locating the respondent if they are unhoused. We therefore recommend revising this Question to read as follows:</p> <p><i>“3. Respondent lives or was last found at (give respondent’s <del>residence</del> residential address if known; otherwise, specify the residence is unknown and give a description of respondent’s housing situation, with their last known location):”</i></p> <p>The concern regarding the draft is that if the response is simply “101 Sesame St.”, it is unknown if that is the respondent’s residential address or simply where they were last found (i.e., respondent resides at 101 Sesame St. vs resident was last seen in front of 101 Sesame St.).</p>	<p>The committee agrees with this suggestion, in part, and has revised the question to request that the petitioner indicate if the residence is unknown and to provide additional contact information for the respondent.</p>
<p>San Diego County Behavioral Health Services by Christopher Guevara, Program Coordinator</p>	<p><b>CARE 100</b> 6a2 - Supporting Evidence Made multiple attempts to examine respondent but was not successful in obtaining respondent’s cooperation and has reasons, explained with specificity, to believe that respondent meets the diagnostic criteria for eligibility to participate in CARE Act proceedings.</p> <p>a. How is an attempt defined and how many attempts is considered multiple attempts?</p> <p>b. Suggest including why you expect to diagnose the individual, why the diagnosis could not be made, and why</p>	<p>Item 6a2 outlines the information required in the affidavit of a licensed behavioral health professional is specified in § 5975(d)(1). The <i>Mental Health Declaration</i> (form CARE-101) requests much of the information included in the comment.</p>

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<b>Form CARE-100</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
<p>San Francisco Public Defender’s Office by Melanie Kim, State Policy Director</p>	<p>CARE Court is appropriate.</p> <p><u>The language of Section 5c of the Petition to Commence CARE Act Proceedings</u> ”injects” substantial clinical language and criteria for the petitioners to allege the respondents’ needs for treatment which is not the standard of the code. The language from 5c is NOT consistent with Section 5972 ( c )(1), which lists an individual’s qualification for CARE Court. This section states the referred individual “<b>is unlikely to survive safely in the community without supervision and the person’s condition is substantially deteriorating.</b>”</p> <p style="text-align: center;">See PETITION TO COMMENCE CARE ACT PROCEEDINGS</p> <p>5 c. Respondent is currently experiencing a severe mental illness, in that the illness:</p> <ol style="list-style-type: none"> <li>1. Is severe in degree and persistent in duration;</li> <li>2. May cause behavior that interferes substantially with respondent’s primary activities of daily living; and</li> <li>3. May result in respondent’s inability to maintain stable adjustment and independent functioning without treatment, support, and rehabilitation for a long and indefinite period.</li> </ol> <p>This section appears to aid the petitioner in filling out the form with clinical judgment and guide, which is NOT from the CODE. In fact, it is the clinician’s interpretation of “substantially deteriorating.” The CARE Act did not provide a legal or clinical definition for “substantially deteriorating.” Our legislators must provide a clear definition, not allowing clinical judgment and language to dominate the legal forms.</p>	<p>Item 5c is not intended to implement section 5972(c)(1). It is intended to implement section 5972(b), which requires that the respondent be currently suffering from a “severe mental illness” as defined in section 5600.3. Putting aside that section 5600.3 defines a “serious mental disorder,” and not a “severe mental illness,” item 5c simply breaks out the elements of that section’s definition.</p> <p>The committee has simply proposed making explicit the statutory language that the CARE Act requires by reference. Making the requirements clearer does not favor the petitioner, who must make a prima facie showing that the respondent satisfies all of them. The committee agrees that the statute does not define “substantially deteriorating.” Item 5e(1), which</p>

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**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-100</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
		addresses this factor, analogizes deterioration to having grown worse but does not otherwise gloss the term.
<p>Superior Court of Orange County by Hon. Maria D. Hernandez, Presiding Judge</p> <p>joined by: Orange County Public Defender’s Office The Office of County Counsel, Orange County Orange County Health Care Agency</p>	<p>The Petition to Commence CARE Act Proceedings contains unneeded inquiries in Item 1 and Item 2.</p> <p>Item 1 asks the petitioner to indicate their relationship to the respondent by checking the corresponding box.</p> <p>Item 2b requests the same information (petitioner’s relationship to respondent (specify and describe relationship) in narrative form.</p> <p>Item 2c requests information akin to that requested in Items 1 and 2b and this information is not a factor indicated in the statute to determine the appropriateness of the Petitioner nor the Respondent’s qualification for CARE Act proceedings.</p> <p>Items 5 and 6 present obstacles for self-represented petitioners to complete and file the Petition as it requires these petitioners to have or obtain current mental health records of the adult respondent or to describe the respondent’s mental health diagnosis and condition in a manner that satisfies specific legal requirements. For example, Item 5.e.(2) asks for mental health documents or a description of why “Respondent needs services and supports to prevent a relapse or deterioration that would be likely to lead to grave disability or serious harm to respondent or others.” Placing such a burden on self-represented petitioners makes access to the CARE Act more burdensome on the public.</p>	<p>The committee does not recommend any changes to the proposal in response to this comment. As noted, item 1 allows the petitioner to indicate their relationship by checking the corresponding box, but some of the boxes contain multiple options that may require more explanation, which would be included in item 2b. For example, a petitioner might check 1f and then state in 2b that they are the respondent’s therapist. Additionally, a tribal court judge might check 1i and note in 2b that they have worked with the respondent in a wellness court. Item 2c includes required information for petitioners specified in 1d-1g. This information is important for the court to have to assess the petition.</p> <p>The committee appreciates this comment but does not recommend any changes because these items are required by statute. Section 5972(b) requires that the petition contains facts that support the petitioner’s assertion that respondent meet the CARE criteria in section 5972. Item 5 asks for facts or documentation that support the petitioner’s assertion that the respondent meets those criteria. Item 6 is required by section 5972(d).</p>
<p>Superior Court of Riverside County by Susan Ryan, Chief Deputy of</p>	<p><b><u>CARE-100 PETITION TO COMMENCE CARE ACT PROCEEDINGS</u></b></p>	

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<b>Form CARE-100</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
Legal Services	<p>The following suggestions are made in the interest of creating a clear, streamlined way for petitioners to demonstrate respondent’s eligibility/qualification for services under the CARE Act based on the pathways for eligibility set forth in the legislation.</p> <p><b><u>Item #5 of CARE-100 Petition to Commence CARE Act Proceeding</u></b>  <u>Explanation for suggested revision:</u>                      As currently presented, Item 5 of the CARE-100 petition and its subsections provide limited guidance/structure/space for petitioners attempting to make a prima facie showing that Respondent is eligible for CARE Act proceedings. Given the variety of persons who could act as Petitioner to initiate CARE Act proceedings, placing the information sought in items 5 and 6 (and their corresponding subsections) in a Declaration that is similar to CARE-101 in its structure, but drafted for a nonprofessional petitioner, would provide a more consistent standard for submitted petitions. This would allow the form to hone in on the information sought, provide clear examples, and set a minimum expectation as to the facts needed to make a prima facie finding.</p> <p>This approach would also eliminate the need of the options for “on separate documents…” Allowing customers to attach random documents without much guidance as to what type of information/documentation would be responsive solicits a wide range of potentially vague and unhelpful responses/attachments. Instead, a structured declaration will help guide self-represented petitioners to provide the type of information necessary to fully evaluate whether a prima facie</p>	<p>The committee appreciates the commenter’s desire to streamline the petition process but does not recommend the proposed change. Form CARE-100 provides space for the petitioner to include their reasons for believing the respondent is eligible for CARE Act proceeding, criterion by criterion. The committee considers a single narrative supporting all criteria likely to be overly general or otherwise duplicative of the petition, or both. Further, form CARE-050-INFO provides detailed instructions with examples to assist lay petitioners.</p>

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<b>Form CARE-100</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>showing is made, while also providing greater uniformity among submitted petitions regardless of a petitioner’s identity. A Declaration of this sort is potentially contemplated (on a more limited scale) by the request for specific comment inquiring whether a form for petitioner to provide evidence under Welfare and Institutions Code section 5975(d)(2) would serve a function not more effectively met by direct documentary evidence.</p> <p><i>Suggested structure of amended Item 5 of CARE-100 Petition to Commence CARE Act Proceedings:</i>  <u>Eligibility</u>                      5. As set forth in Petitioner’s Declaration of Eligibility – CARE Act Proceedings, Respondent meets each of the following requirements and is eligible to participate in the CARE Act process and receive services and support under a CARE agreement or CARE plan (provide information below to support each requirement).</p> <ul style="list-style-type: none"> <li>a. Respondent is 18 years of age or older.                          Date of birth (if known):                          Age in years (if exact age not known, give approximate age):</li> <li>b. Respondent has been diagnosed with a schizophrenia spectrum disorder or another psychotic disorder in the same class, as defined in the current Diagnostic and Statistical Manual of Mental Disorders.</li> <li>c. Respondent is currently experiencing a severe mental illness.</li> <li>d. Respondent is not currently stabilized in ongoing voluntary treatment.</li> <li>e. At least one of the following is true:</li> </ul>	



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<b>Form CARE-100</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>(1) Respondent is unlikely to survive safely in the community without supervision and respondent’s condition is substantially deteriorating; or</p> <p>(2) Respondent needs services and supports to prevent a relapse or deterioration that would be likely to lead to grave disability or serious harm to respondent or others.</p> <p>f. Participation in a CARE plan or CARE agreement would be the lead restrict alternative necessary to ensure respondent’s recovery and stability.</p> <p>g. Respondent is likely to benefit from participation in a CARE plan or CARE agreement</p> <p>_____ Facts supporting the requirements listed in 5(b) through 5(g) are provided in Petitioner’s Declaration of Eligibility – CARE Act Proceedings (form CARE-102), attached as Attachment 5.</p> <p><b><u>Item #5c of the CARE-100 Petition to Commence CARE Act Proceedings:</u></b>                      If section 5 of CARE-100 remains structured and phrased as currently proposed, we suggest item 5c should specifically refer to Welfare and Institutions Code section 5600.3(b)(2) where the definition of “serious mental illness” can be found.</p> <p><b><u>Item #6 of CARE-100 Petition to Commence CARE Act Proceedings:</u></b>  <u>Explanation for suggested change to Item 6 on CARE-100:</u>                      To match the proposed changes set forth above re: Item 5 in CARE-100, and to make use of the suggested new “Petitioner’s Declaration of Eligibility – CARE Act Proceedings” (form CARE-102), we suggest the following modifications to Item 6</p>	<p>The committee agrees with this recommendation and has revised the form accordingly.</p> <p>Please see the above response.</p>

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<b>Form CARE-100</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>of the CARE-100 Petition form.</p> <p><i>Proposed changes to Item 6 on CARE-100 Petition to Commence CARE Act Proceedings:</i></p> <p><b>6. Affirmative Statements</b>            Check and complete (1) and/or (2) of the following and attach the required information:            (1) <input type="checkbox"/> <b>Professional Affidavit</b> An affidavit of a licensed behavioral health professional is attached (form CARE-101) and the professional stating that no more than 60 days before this petition was filed, the professional or a person designated by them:                <input type="checkbox"/> Examined respondent and determined that respondent met the diagnostic criteria for eligibility to participate in the CARE Act proceedings;                or                <input type="checkbox"/> Made multiple attempts to examine respondent but was not successful in obtaining respondent’s cooperation and has reasons, explained with specificity, to believe that respondent meets the diagnostic criteria for eligibility to participate in CARE Act proceedings.            (2) <input type="checkbox"/> <b>Intensive Treatment</b> The respondent was detained for at least two periods of intensive treatment, the most recent period within the past 60 days.</p> <p>If this section is selected, evidence of Respondent’s periods of intensive treatment <b>must be attached</b> to Petitioner’s Declaration of Eligibility – CARE Act Proceedings (form CARE-102).</p>	

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-100</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><b><u>Item #6 of the CARE-100 Petition to Commence CARE Act Proceedings (Supporting Evidence)</u></b>                      If section 6 of CARE-100 remains structured and phrased as currently proposed, Item 6 may be better titled “Required Documentation.”</p> <p>Additionally, the Note referring to Welfare and Institutions Code sections is out of place/not in keeping with the structure of the remainder of the form, and is likely not helpful for a non-professional petitioner. We suggest the note be moved to the Info sheet to explain involuntary treatment pursuant to Welfare and Institutions Code section 5250, and related sections 5150, 5260, and 5270.15 without adding unnecessary length to the petition.</p> <p><b><u>Item #s 7 and 8 of the CARE-100 Petition to Commence CARE Act Proceedings (titled “Optional Information”)</u></b></p> <p>Suggest changing this heading/title to “Additional Information” with a parenthetical note that the information is optional</p> <p><b><u>Footer on pg. 1 of CARE-100 Petition to Commence CARE Act Proceedings</u></b>                      Suggested Edit: Replace comma with dash to include pertinent codes §§ 5972 and 5974, and add §5978.</p> <p><i>Suggested edits in red:</i>                      Welfare and Institutions Code, §§ 5972–5975, 5977–5977.4, 5978</p>	<p>The committee agrees with this recommendation and has revised the form accordingly.</p> <p>As much as the committee would like to reduce the length of form CARE-100, the comments to these proposed rules and forms demonstrate the need to be clear on this point. Otherwise, courts will receive numerous petitions with attached documentation that does not meet the requirements of section 5975(d)(2).</p> <p>The committee does not recommend this revision because it wants to be clear to petitioner first and foremost that this information is not required.</p> <p>The committee accepts this revision and has revised the form accordingly.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-100</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><b>PROPOSED ADDITIONAL FORM CARE-102 PETITIONER’S DECLARATION OF ELIGIBILITY – CARE ACT PROCEEDINGS</b></p> <p>A form for non-professional is suggested. This form would mirror (to the extent possible) the current CARE-101. This proposed form would explain the eligibility requirements while providing structured, specific space to provide facts regarding each element required for eligibility. The form can refer to the detailed tables in CARE-050 to assist with completing the CARE-102 Declaration.</p> <p>Examples of sections/questions in proposed CARE-102 Petitioner’s Declaration of Eligibility:</p> <ol style="list-style-type: none"> <li>1. Declarant’s Name:</li> <li>2. Address, telephone number, and email address of declarant:</li> <li>3. Respondent has been diagnosed with a schizophrenia spectrum disorder, or other psychotic disorder in the same class, as defined in the current Diagnostic and Statistical Manual of Mental Disorders. Respondent’s specific diagnosis is: _____. (Explain in detail below how you became aware of Respondent’s diagnosis.)</li> <li>4. Respondent is currently experiencing a severe mental illness that (all of the following must be completed):             <ol style="list-style-type: none"> <li>a. Is severe in degree and persistent in duration (explain in detail the severity and duration):</li> <li>b. May cause behavior that interferes substantially with respondent’s primary activities of daily living (explain in detail; provide examples if possible):</li> <li>c. May result in respondent’s inability to maintain stable adjustment and independent functioning without treatment,</li> </ol> </li> </ol>	<p>The committee appreciates the commenter’s desire to streamline the petition process but does not recommend the proposed change. Form CARE-100 provides space for the petitioner to include their reasons for believing the respondent is eligible for CARE Act proceeding, criterion by criterion. The committee considers a single narrative supporting all criteria likely to be overly general or otherwise duplicative of the petition, or both. Further, form CARE-050-INFO provides detailed instructions with examples to assist lay petitioners.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-100</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>support, and rehabilitation for a long or indefinite period (explain in detail):</p> <p>5. Respondent is not current stabilized in ongoing voluntary treatment. Please describe Respondent’s current stability and treatment and how respondent is not being adequately supported in a voluntary treatment program:</p> <p>6. At least one of these is true (complete one or both of the following):</p> <p style="padding-left: 20px;">a. Respondent is unlikely to survive safely in the community without supervision and respondent’s condition is substantially deteriorating (explain recent instances where respondent has needed assistance to survive in the community, and describe the extent to which respondent’s physical or mental condition has recently grown worse):</p> <p style="padding-left: 20px;">b. Respondent needs services and supports to prevent a relapse or deterioration that would likely result in grave disability or serious harm to respondent or others (describe how respondent would be unable to survive safely, would be gravely disabled, or would cause serious harm to others or themselves without services and supports):</p> <p>7. Participation in a CARE plan or CARE agreement would be the least restrict alternative necessary to ensure respondent’s recovery and stability (explain how participation would interfere with respondent’s life and preferences less than any other treatment option that would ensure respondent’s recovery and stability):</p> <p>8. Respondent is likely to benefit from participation in a</p>	

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-100</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>CARE plan or CARE agreement (explain how participating in a CARE plan could help respondent stabilize and improve their current state and situation):</p> <p>9. If your petition does not include a completed Mental Health Declaration (CARE-101 form) from a licensed behavioral health professional, you are required to attach evidence that respondent was detained for a minimum of two intensive treatments, the most recent one within the last 60 days. Evidence can include copies of certification for intensive treatment, a declaration from a witness to the intensive treatment, or other documents showing that the respondent was detained twice for up to 14 days of intensive treatment. Evidence should include the dates of the last treatment period. If evidence of two intensive treatments is provided instead of a completed mental health declaration (Form CARE-101), identify the evidence attached to this declaration:</p>	

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-101</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
Affordable Housing Advocates by Catherine Rodman Director & Supervising Attorney San Diego	Should the licensed behavioral health professional be identified by state license number or other means to verify that the s/he/they are an active practitioner?	The committee appreciates this comment but does not suggest the proposed change. Form CARE-101 requires the declarant to sign under penalty of perjury that the information that has been provided is true and correct, including the information regarding licensure.
California Health & Human Services Agency by Corrin Buchanan, Deputy Secretary for Policy and Strategic Planning San Francisco	<p>Page 35. Question 4 need additional clarity. What is meant by “continuing care” and what is purpose of this question? Is it to determine if the person is in ongoing care? Would an inpatient doctor treating someone on a hospital stay be considered continuing care? Suggested edit: “a patient under care and treatment”. Make clear that continued care is not required to submit affidavit.</p> <p>Page 35 Edit to be inclusive of those who have not been diagnosed. Suggest may want a check box here. 7a. Respondent has been diagnosed with a schizophrenia spectrum disorder or another psychotic disorder in the same class (<i>indicate the specific disorder respondent has been diagnosed with</i>) <u>OR</u> <u>there is reason to believe the respondent will be diagnosed with a schizophrenia spectrum disorder or another psychotic disorder in the same class.</u></p> <p>Page 35: Add to question 6: Describe here the sources of information (observed behavior, records, police reports, collateral interviews) that were used as the basis for the opinion if no examination was conducted.</p>	<p>The committee does not suggest the proposed change. Question 4 has checkboxes to provide both options to indicate whether respondent is or is not a patient under the declarant’s continuing care and treatment. Having both checkboxes as options indicates continuing care is not required to submit the affidavit.</p> <p>The committee does not suggest the proposed language, as the statute requires the respondent to have a diagnosis at the time of the petition. See § 5972(b).</p> <p>The committee does not suggest the proposed language. Question 6 relates to the declarant’s unsuccessful attempts to examine the respondent due to the respondent’s lack of cooperation. Question 6 asks the declarant to detail their personal attempts to examine the respondent and the results of those attempts. Sources of outside information, such as police reports and collateral interviews, would not be applicable.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-101</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>Page 35: 7.b.(1) Add “explain in detail how long the patient has been symptomatic. What symptoms, in detail, are they currently experiencing? Do they understand that they have a mental illness?”</p> <p>Page 36: 7.b.(2) Add “explain in detail how the patient’s symptoms (hallucinations, delusions, disorganization, impaired insight, impaired judgment) are interfering with primary activities of daily living (and list out what is considered to be the primary activities).”</p> <p>Page 36: 7.b.(3) Add “explain in detail how the patient’s symptoms (hallucinations, delusions, disorganization, impaired insight, impaired judgment) are preventing them from stable adjustment and independent functioning)”</p> <p>Page 36: 7.c. Add “what treatment has been offered to the patient, what the patient’s level of cooperation has been, what the response to that treatment has been”.</p> <p>Pages: Throughout. Clarify if “affidavit” or “declaration” and if it needs to be notarized.</p>	<p>The committee does not recommend the proposed language. Because form CARE-101 is to be completed by a mental health professional, the committee has determined that additional explanation of clinical conclusions is unnecessary.</p> <p>The committee does not suggest the proposed language for the same reasons as noted in the paragraph above.</p> <p>The committee does not suggest the proposed language for the same reasons as noted in the paragraph above. Additionally, the committee is concerned by providing such specificity and detail in the explanation, limited responses may result because declarant would be encouraged to use conclusory statements.</p> <p>The committee does not suggest the proposed language for the same reasons as noted in the previous paragraph.</p> <p>The committee does not suggest the proposed language. Form CARE-101 is titled Mental Health Declaration. In addition, Cal. Rule of Court 1.6 states that the word “declaration” includes “affidavit,” and Code of Civil Procedure section 2015.5 provides that either can be completed using the language on the form, without anything further needed.</p>



**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-101</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
<p>County Behavioral Health Directors Association by Jacob D. Mendelson, JD Senior Policy Adovocate Sacramento</p>	<p>CBHDA clinicians were concerned that the phrase “under my continuing care and treatment” is too vague and could be broadly interpreted. As such, CBHDA members requested some more specific information regarding the nature of the relationship, as well as any services rendered. We recommend adding a requirement under #4 to include additional facts/evidence proving the licensed behavioral health professional’s relationship with the respondent:</p> <p>This context will be beneficial to the courts and counties in understanding how the licensed behavioral health professional came to their determination that the respondent meets diagnostic criteria.</p> <p>4. Respondent (<i>name</i>):  <input type="checkbox"/> is    <input type="checkbox"/> is not    a patient under my continuing care and treatment.</p> <p><u>Please provide a description of all of the following: The nature of your relationship with the respondent, the respondent’s prognosis, and any services provided, medications prescribed, or referrals.</u></p> <p style="text-align: center;"><b>EXAMINATION OR ATTEMPTS MADE AT EXAMINATION OF RESPONDENT</b></p> <p>CBHDA recommends clarification on what qualifies as an "attempt" to examine the respondent. Additionally, we recommend adding the language found in track changes on number #6. This will help in understanding exactly what an "attempt" looked like.</p>	<p>The committee appreciates this comment but does not suggest the proposed language. See paragraph below.</p> <p>Item 4 gives the declarant the option to indicate if the respondent is or is not a patient under the declarant’s continuing care and treatment. Requiring the proposed language may lead declarants to believe a prior relationship and services provided to the respondent are required.</p> <p>The committee agrees with the comment and has revised the form in a substantively similar manner.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-101</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><del>5-a.</del> I last saw respondent on <i>(must be within 60 days of the filing of the CARE Act petition)</i> (date):</p> <p>a. <input type="checkbox"/> On the date noted above, I examined respondent <i>(proceed to item 7)</i>.</p> <p>b. <input type="checkbox"/> On the date noted above, and on several other occasions, I attempted to examine respondent but was unsuccessful due to respondent's lack of cooperation in submitting to an examination.</p> <p><del>6-b.</del> <i>(Answer only if 5b is checked)</i> Explain in detail when and how many attempts were made to examine respondent <u>on what dates, the types of attempts</u>, respondent's response to those attempts, and the outcome of each attempt.</p> <p>CBHDA recommends requiring additional documentation in this section in order to understand the basis for the diagnosis and how the licensed behavioral health professional came to the determinations in this part. (e.g., include date of diagnosis with accompanying documentation, copy of clinical assessment or evaluation). It will be important to see how thorough and detailed the supporting facts and evidence are.</p> <p><del>7-c.</del> Based on the following information, I have reason to believe respondent meets the diagnostic criteria for CARE Act proceedings <i>(each of the following requirements <b>must</b> be met for respondent to qualify for CARE Act proceedings)</i>:</p> <p>a.—Respondent <del>diagnosis has been diagnosed with a</del> <u>(respondents must meet diagnostic criteria for a</u> schizophrenia spectrum disorder or another psychotic</p>	<p>The committee does not recommend including the date of diagnosis. The statute does not require a date of diagnosis to be included, only that the respondent have a diagnosis identified in the disorder class.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-101</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>disorder in the same class <i>(indicate the specific disorder respondent has been diagnosed with) included in the most recent version of the DSM), including the date(s) of diagnosis.</i></p> <p><i>a. CARE Act diagnostic criteria must be primarily psychiatric in nature and excludes a schizophrenia or other psychotic disorder which is the result of a physical health condition, such as, but not limited to: traumatic brain injury, autism, dementia, or neurologic conditions, or a substance use disorder. Please indicate any evaluation, tests or medical screenings provided to ensure that the respondent's condition is not due to an excluded medical condition.</i></p> <p><i>b. Please attach any clinical evaluations or assessments as documentation</i></p> <p>The following section 7(b), including (1), (2), (3), needs to include language that reflects what the level of functioning is for the respondent. A person can have a severe mental illness, but actually have a high degree of functioning.</p> <p><i>b.c.</i> Respondent is experiencing a severe mental illness that <i>(all the following must be completed):</i>            (1) Is severe in degree and persistent in duration <u>and impacts functioning</u> <i>(explain in detail):</i></p>	<p>The committee does not recommend the suggested language. Because form CARE-101 is to be completed by a licensed behavioral health professional with expertise in the subject matter, it is not necessary to require the inclusion of information about excluded medical conditions.</p> <p>The committee does not recommend requiring that clinical evaluations or assessments to be attached. The information currently requested in item 7 of form CARE-101 covers all the statutory requirements. If appropriate, this information can be included in item 8.</p> <p>The committee appreciates this comment but does not recommend the proposed change. Currently, Item 7b reflects language in section 5600.3(b)((2) defining "serious mental disorder," as required by section 5972(b).</p> <p>The committee does not recommend the proposed change. See comment above.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-101</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>7. (b) (2) <del>May</del> <u>Please explain how their mental illness causes</u> behavior(s) that <u>impair functioning and/or</u> interferes substantially with the primary activities of daily living (<u>i.e., what is their level of functioning?</u>) (explain in detail):</p> <p>(3) <del>May</del> <u>Results</u> in an inability to maintain stable adjustment and independent functioning without treatment, support, and rehabilitation for a long or indefinite period (explain in detail):</p> <p>Examples and an explanation of this are provided on the CARE-50-INFO Form under Item 5. Pulling that language may help to reference what does NOT satisfy stabilization through voluntary treatment.</p> <p>CBHDA has provided an example of language that can help elicit important facts and evidence to fully understand why treatment has not worked up to this point. This can also include what referrals have been made, what services have been rendered, days in care, and what prescribed medications (if any) have been provided?</p> <p>This will help understand whether or not the respondent is also at their “baseline” (i.e., functional baseline) or not. Meaning, can we expect this person to make substantial gains past their current point of functioning or not?</p> <p><u>d. Respondent is not clinically stabilized in ongoing voluntary treatment (explain in detail, including: Information regarding the respondent’s clinical baseline, reasons why treatment is not working, what</u></p>	<p>The committee appreciates this comment but does not recommend the proposed change. Form CARE-050-INFO has more explanation and examples as its target audience is lay petitioners who may require more detailed information. Meanwhile, licensed mental health professionals with expertise in the subject matter will be completing form CARE-101 and would not require such detailed examples.</p> <p>The committee does not recommend the proposed change. See comment above.</p>

## W23-10

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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Form CARE-101		
Commenter	Comment	Committee Response
	<p><u><i>has been done to attempt to clinically stabilize respondent in voluntary treatment, and who is the current treatment provider</i></u>):</p> <p><del>d.e.</del> At least one of these is true (complete one or both of the following):</p>	
<p>County of Santa Cruz by Jason Hoppin Public Information Officer</p>	<p><b>Mental Health Declaration—CARE Act Proceedings (form CARE-101)</b></p> <p><i>Recommend</i> that if the licensed behavioral health professional has not examined Respondent, they are not in a position to evaluate the validity of the Petitioner’s claim, unless they have examined competent evidence that is carefully defined to prevent frivolous claims. The rules should carefully define what is required for a Petitioner who has not secured an examination of Respondent.</p> <p><i>Recommend</i> that the court limit the scope of the affidavit to reduce the hours/cost required to produce the document, or set standards on how many hours are required to produce a valid affidavit.</p>	<p>The committee does not recommend the suggested change. It is not the responsibility of the behavioral health professional to evaluate whether they have competent evidence to prevent frivolous claims. And it is the role of the Legislature to indicate what sort of evidence it had in mind in section 5975(d)(2).</p> <p>The committee does not recommend the suggested change. Rule 7.2221 requires the petition to include a completed <i>Mental Health Declaration</i> on form CARE-101 or evidence described in section 5975(d)(2). Any additional documentation outside of the two described items is beyond the scope of the proposal and more appropriately addressed to the Legislature.</p>
<p>Disability Rights Education and Defense Fund by Erin Nguyen Neff, Staff Attorney Berkeley</p>	<p><b>CARE-101 Mental Health Declaration Should Include Explanation of Alternative Treatments</b></p> <p>Section 7(e) of the declaration should include an explanation of what alternative treatments have been used in the past and why there were not successful. Further, if no alternatives have been used in the past, then the declarant should explain why not.</p>	<p>The committee appreciates this comment but does not recommend the suggested change. Section 5972(e) requires a showing that participation in a CARE plan or CARE agreement would be the least restrictive</p>

## W23-10

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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Form CARE-101		
Commenter	Comment	Committee Response
	Answering these additional questions gives a more meaningful picture of whether less restrictive alternatives would be viable.	alternative necessary to ensure the person’s recovery and stability. It does not require including, though it may include, information about prior treatments. This information could also be included in item 8.
Housing California by Mari Castaldi, Senior Legislative Advocate on Homelessness Sacramento	<p><b>Rule 7.2225 &amp; Form CARE-101:</b> As noted above, we are concerned about the wide range of potential petitioners for a CARE Act proceeding that may not have sufficient clinical training or background to determine if a CARE Act proceeding is the right type of intervention for a potential respondent.</p> <p>As these petitioners submit forms to the Court, we encourage the Advisory Committee to modify Form CARE-101 to require petitioners, especially those that are listed under category (g), to list their previous training and qualifications of working with populations with serious mental illness. Many petitioners in category (g) will have extensive experience and training working with these populations despite not being clinicians, while other petitioners under category (g) will lack this experience. The court should have a full understanding of the petitioner’s experience when reviewing a petition.</p>	The committee appreciates this comment but does not recommend the suggested change. This comment seems to pertain to category (g) in Item 1 of the petition (form CARE-100) and not <i>Mental Health Declaration</i> (form CARE-101). Section 5974 authorizes a wide variety of persons, including non-clinicians, to file a petition to begin the CARE Act process. The statute does not, however, make the petitioner’s experience, qualifications or training relevant to any judicial determination, including whether the respondent is eligible for the CARE Act process. The court therefore has no basis for inquiring into that experience or training. The request is beyond the scope of this proposal.
Legal Aid Association of California by Lorin Kline Director of Advocacy Oakland	<p><b><i>Forms needed during/after filing of petition (forms CARE-101, CARE-105, CARE-106)</i></b> The legal aid community has particular concerns about the clarity of these forms, especially CARE-101, the mental health declaration. Additional instructions are needed regarding how to properly obtain the declaration and taking confidentiality issues into consideration.</p>	The committee appreciates this comment but does not recommend the suggested change. Form CARE-050-INFO notes a declaration is required to file a petition. Furthermore, form CARE-050-INFO provides information to the court’s self-help center for petitioners seeking assistance. It is beyond the scope of this proposal to include instructions on how to properly obtain a declaration.
Los Angeles County Department of Mental Health	<u>Proposed Forms-Mental Health Declaration—CARE Act Proceedings (form CARE-101):</u>	

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

All comments are verbatim unless indicated by an asterisk (\*).

<b>Form CARE-101</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><i>In addition to the criteria in section 5972 needed to establish a respondent’s eligibility for the CARE Act process, section 5975 also requires the petition to include either the affidavit of a licensed behavioral health professional addressing the CARE Act’s diagnostic criteria (§ 5975(d)(1)) or, as an alternative, evidence that the respondent was detained for more than two periods of intensive mental health treatment, the most recent no more than 60 days before the filing of the petition (§ 5975(d)(2)). The proposed rules would require form CARE-101 to be attached to all petitions supported by the affidavit of a licensed behavioral health professional under section 5975(d)(1) and would provide a uniform framework and guidance for licensed behavioral health professionals to conduct and report assessments for CARE Act proceedings.</i></p> <p>DMH comment: A specific form may not be necessary to provide proof of the certification but how anyone will be able to meet this evidence? Unless a person signs a release of information, nearly none of the petitioners would have access to this information (the exception being the hospital that has the person on the hold, but could they produce those medical records with a petition without consent of the client?). The criteria may be impossible and not a true criterion that can be met by any petitioner. This could be a place that needs a legislative change.</p>	<p>The committee appreciates this comment. The commenter’s concerns are beyond the scope of the proposal and more appropriately addressed to the Legislature.</p>
<p>National Alliance to End Homelessness by Alex Visotzky, Senior California Policy Fellow Washington, DC</p>	<p><u>Rule 7.2225 &amp; Form CARE-101:</u> As noted above, we are concerned about the wide range of potential petitioners for a CARE Act proceeding that may not have sufficient clinical training or background to determine if a CARE Act proceeding is the right type of intervention for a</p>	<p>See response to comments above from Housing California.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-101</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>potential respondent. We encourage the Advisory Committee to continue to seek ways to provide training and technical assistance for key categories of petitioners, such as homeless service outreach workers and law enforcement officers, as a necessary prerequisite to submitting CARE Act petitions.</p> <p>Additionally, as these petitioners submit forms to the Court, we encourage the Advisory Committee to modify Form CARE-101 to require petitioners, especially those that are listed under category (g), to list their previous training and qualifications of working with populations with serious mental illness. Many petitioners in category (g) will have extensive experience and training working with these populations despite not being clinicians, while other petitioners under category (g) will lack this experience. The court should have a full understanding of the petitioner’s experience when reviewing a petition.</p>	
<p>Public Law Center by Manohar Sukumar Supervising Attorney, Health Law Unit Santa Ana</p>	<p><b>Revisions to CARE-101</b></p> <p>Item 5 requests information about the date when a behavioral health professional last saw the respondent. However, section 5975 does not require that a behavioral health professional must have actually seen the respondent. Instead, it provides that the professional must have made “multiple attempts to examine” the respondent but have been unsuccessful in eliciting their cooperation. (§ 5975, subd. (d)(1).) To better align with the requirements of the statute, and to avoid confusion, PLC recommends that item 5 be revised to include two options as suggested below:</p> <p>5. Complete one of the following: a. <input type="checkbox"/> I examined the respondent on (date) (must be within 60 days of the filing of the CARE Act petition): .</p>	<p>The committee agrees with the comment and has revised the form in a substantially similar manner.</p>



**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-101</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>(proceed to item 7). or b. <input type="checkbox"/> On the following dates _____, I attempted to examine respondent but was unsuccessful due to respondent’s lack of cooperation in submitting to an examination.</p>	
<p>Christi McDonald Deputy County Counsel Salinas</p>	<p>CARE-101 Mental Health Declaration: a. Could this form be revised to allow the evaluator to reach either conclusion, i.e. either for or against meeting diagnostic criteria for CARE Court? Sometimes non-legally trained persons will fill out a form because they are told to complete it and when the form invites a specific conclusion, it can make a more biased presentation of the evidence. Given the fundamental due process and personal autonomy rights impacted by CARE Court, I think it is essential that the Judicial Council forms do not lend themselves to inviting more biased evidence by leading the answers the evaluator is supposed to provide. Also, if the form has yes or no check boxes, it can allow the judge to make the ultimate decision on whether all of the legal criteria are present. Please consider: i. 7a: Respondent has been diagnosed with a schizophrenia spectrum disorder or another psychotic disorder in the same class. (Check one) o Yes, please specify diagnosis: _____ o No. ii. 7b(1) and 7(b)(2). Consider removing. Section 5972 does not require a showing that the person’s mental illness is severe in degree and persistent in duration, that it causes impact on the activities of daily living, or that the person is unable to maintain stable</p>	<p>The committee appreciates this comment but does not recommend the suggested change. The committee does not recommend including yes or no checkboxes, as it may lend the declarant to limit their responses by just checking the box and not providing further information or explaining further. Additionally, a declarant would only fill out form CARE-101 if they are willing to sign under penalty of perjury that they have reason to believe that the respondent meets the diagnostic criteria for CARE Act proceedings, which includes all of the requirements.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-101</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>adjustment and independent functioning, so why is this on this form? I realize this language comes from WIC 5600.3(b), but I'm not sure why it needs to be articulated for the court when the qualifying diagnosis should be enough under section 5972?</p> <p>iii. 7c. Consider "Respondent is clinically stabilized in ongoing voluntary treatment. (Check one).</p> <ul style="list-style-type: none"> <li>o Yes.</li> <li>o No, please explain: _____</li> </ul> <p>iv. 7d. Consider adding a check box d(3). "Neither 7d(1) or 7d(2) apply to Respondent."</p> <p>v. 7e. Consider "Participation in a CARE plan or CARE Agreement would be the least restrictive alternative necessary to ensure respondent's recovery and stability. (Check one)</p> <ul style="list-style-type: none"> <li>o No, explain less restrictive alternatives available to ensure respondent's recovery and stability:</li> <li>o Yes (explain in detail (1) what alternative treatments are available and (2) why no alternative treatment that would be less restrictive of respondent's liberty could ensure respondent's recovery and stability):</li> </ul> <p>vi. 7f. Consider "Respondent is likely to benefit from participation in a CARE plan or CARE agreement. (Check one)</p> <ul style="list-style-type: none"> <li>o Yes (explain in detail how participating in a court-ordered CARE agreement or plan would help respondent): _____</li> <li>o No.</li> </ul> <p>b. If the doctor isn't able to evaluate the patient, which is an option for box 5b, how is the evaluator supposed to</p>	<p>Even if a mental health professional is unable to evaluate the respondent they are still able to complete</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-101</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>complete items 7-8 under penalty of perjury if they haven't evaluated the patient recently? Or is the evaluator only supposed to complete item 6 and leave 7-8 blank when they aren't able to evaluate the person?</p> <p>Perhaps the form should clarify that section 7-8 only get completed if box 5a is checked?</p>	<p>item 7. The declarant is able to fill out item 7 if they have reason to believe the respondent meets criteria based on the information they provide in item 7.</p> <p>The committee does not recommend the suggested change as the declarant is able to complete item 7 as noted in the paragraph above and item 8 is optional and is not required to be completed.</p>
<p>Rural Counties Representatives of California by Sarah Dukett, Policy Advocate Sacramento</p> <p>joined by: California State Association of Counties Urban Counties of California County Behavioral Health Directors Association</p>	<p><b>Issue: Mental Health Declaration (Form CARE-101)</b> The California Behavioral Health Directors Association has recommended several revisions to Form CARE- 101, which we endorse and have attached to this letter. The CARE Act emphasizes the “specificity” required in the licensed behavioral health professional’s affidavit (Section 5975(d)(1)), and the information provided in the declaration will be critical in practice for county behavioral health agencies. Counties are given very short timeframes to investigate CARE petitions and provide recommendations to the court regarding highly impactful and often difficult decisions. For this to be feasible, the county must be provided will all relevant information upon which the licensed professional based their opinion, as the starting point for their investigation. Anything less may jeopardize the county’s ability to fully investigate, and thus reduce the reliability of the recommendations upon which the superior court depends.</p> <p>[See comments on CARE-101, submitted by California Behavioral Health Directors Association above.]</p> <p>*These comments and the responses to them have been</p>	<p>The committee appreciates this comment. No further response is required.</p> <p>See responses to comments on form CARE-101 submitted by California Behavioral Health Directors Association, above.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-101</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	included above with those of California Behavioral Health Directors Association, which submitted the same comments.	
Superior Court of Riverside County by Susan Ryan, Chief Deputy of Legal Services	<p><b><u>CARE-101 MENTAL HEALTH DECLARATION—CARE ACT PROCEEDINGS</u></b></p> <p>There are questions whether the form would raise concerns by the professional declarant regarding disclosure of confidential information. Relatedly, are there HIPAA implications to the information sought in this declaration that need to be considered?</p> <p><b><u>Item 3b(1) of CARE-101:</u></b> Item 3b(1) of the CARE-101 Mental Health Declaration regarding license status includes verbiage: “continuing my employment in the same class as of January 1, 1979, in the same program or facility.” Is this date/language a term of art in this field? Particularly regarding the date specified, it seems odd the same date would apply for all declarants if this is not a term of art.</p> <p><b><u>Items #5 -6 of the CARE-101</u></b> Items #5 -6 of the CARE-101 Mental Health Declaration could be consolidated and clarified as follows: <i>Suggested revision:</i> Section 6 becomes section 5b, and number 7 is renumbered number 6: <b>5. Complete either a or b.</b> <input type="checkbox"/> a. <del>I last saw respondent On (must be within 60 days of the filing of the CARE Act petition) (date):</del>  <u>        </u> <b>a. On the date noted above, I examined respondent (proceed to item 6).</b></p>	<p>The committee appreciates this comment. HIPAA concerns should be addressed and disclosed by the declarant when they are conducting the assessment of the respondent.</p> <p>The language in item 3(b)(1) of form CARE-101 pertaining to a waiver of license is taken from section 5751.2, which indicates, persons employed as psychologists and clinical social workers, while continuing in their employment in the same class as of January 1, 1979, in the same program or facility, including those persons on authorized leave, but not including intermittent personnel, shall be exempt from the licensure requirements.</p> <p>The committee agrees in part with this recommendation and has revised Items 5a and 5b.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-101</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><input type="checkbox"/> b. On <del>the</del> (date) <del>noted above</del>: _____, and on several other occasions, I attempted to examine respondent but was unsuccessful due to respondent's lack of cooperation in submitting to an examination.</p> <p>i) <del>6. (Answer only if 5b is checked)</del> Explain in detail when and how many attempts were made to examine respondent, respondent's response to those attempts, and the outcome of each attempt.</p>	

## W23-10

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-105</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
<p>Affordable Housing Advocates by Catherine Rodman Director &amp; Supervising Attorney San Diego</p>	<p><b>Item 3c. suggestion</b> As to each effort to engage respondent, the date, location and details of the effort and ...</p> <p><b>Item 3e. suggestion</b> If respondent is LEP or non-English speaking, or hearing impaired, details should include whether the county used an interpreter or translator.</p> <p><b>Item 4 suggestion</b> Proof of service on respondent must be personal or a declaration filed detailing the attempts to serve respondent.</p>	<p>The committee appreciates this comment but does not recommend the changes. Item 3c. currently reflects the language in section 5977(a)(3)(B) as to the details on what the court must order the county behavioral health agency to include in the report.</p> <p>The committee appreciates this comment but does not recommend the changes as the order will be issued after a prima facie finding showing that the respondent meets the criteria to participate in the CARE Act process but prior to the interactions with the respondent.</p> <p>In response, the committee has revised the recommended rules to require that notice be given to a respondent by personal service or, if personal service is impracticable, any other method reasonably calculated to provide the respondent with actual notice. The committee has also created <i>Proof of Personal Service</i> (form CARE-107) specifically to prove that respondent was personally served. If personal service is impracticable, the proof of service for any other method must include an explanation why personal service is impracticable and why the alternative method of service used is reasonably calculated to give the respondent actual notice. (See rule 7.2235(a)(1).)</p>
<p>Homeless Action Center by Patricia Wall, Executive Director Berkeley</p>	<p><b>Ordering of Reports in forms CARE-105 and CARE-106, ITC pages 38-40:</b> Forms CARE-105 and CARE-106 state a report will be ordered if someone is <b>or may be</b> eligible to participate in CARE Act</p>	<p>The committee appreciates this comment. The committee does not recommend any changes to the proposal in response, as the comment raises policy issues beyond the scope of this proposal that are more</p>

## W23-10

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-105</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	proceedings, and that the report must include whether respondent meets <b>or is likely to meet</b> the CARE Act eligibility requirements. As this process is so consequential and could potentially remove an individual's rights to govern their own health care and live as they choose, a report should only be ordered if the person is actually eligible, and the report should only decide if a person does or does not meet the eligibility requirements. No one should be forced into a CARE Act plan or an initial CARE Act Court proceeding if they are only likely to meet the criteria. ITC pages 38-40.	appropriately addressed to the Legislature for resolution. The language in the form mirrors section 5977(a)(3)(B)(i), which provides that if the court finds that the petitioner has made a prima facie showing that the respondent is, or <b>may be</b> , a person described in Section 5972, the court must order a county agency to investigate and file a written report that shall include whether the respondent meets, <b>or is likely to meet</b> , the criteria for the CARE process.
Christi McDonald Deputy County Counsel Salinas	<b>CARE-105.</b> How is the evaluating agency that is ordered to act supposed to learn of this order if the agency is not the petitioner? Please consider adding a section for the clerk to certify that they served notice of the order on the evaluating agency, perhaps similar to the clerk's function for an order to show cause?	The committee appreciates this response but does not suggest the proposed change. Local courts and counties have developed processes for serving court orders on county agencies, even those that are not parties. See, e.g., section 331 authorizing the juvenile court to order the county child welfare agency to file a petition to commence dependency proceedings. The committee has elected to defer to local experience for this process.
Rural Counties Representatives of California by Sarah Dukett, Policy Advocate Sacramento  joined by: California State Association of Counties Urban Counties of California County Behavioral Health Directors Association	<b>Issue: Information Sharing</b> The initial report required in cases where the petitioner is <i>not</i> the county behavioral health agency (Section 5977(a)(3)(B)) must include determinations regarding the respondent's mental health condition and prognosis (among other things); however, virtually any information in the county's possession bearing on these issues is generally confidential under state and federal law, and cannot be disclosed without the respondent's consent, <i>even in judicial proceedings</i> , without an explicit court order. (See 45 C.F.R. § 164.502(a) [HIPAA]; Civ. Code, § 56.10(a) [Confidentiality of Medical Information Act]; Welf. & Inst. Code § 5328(a).)	The committee appreciates this response but does not suggest the proposed change. The committee is concerned that by including language referring to the submission of <i>any</i> information about the respondent that <i>may</i> be relevant to the court in connection with the determination of whether the respondent meets CARE criteria, this may result in a data dump of records. If an agency is concerned about the authority for or consequences of disclosing confidential information to the court, it may request a narrowly tailored order in a particular CARE Act proceeding.

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-105</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>We therefore recommend inclusion of such an order in Form CARE-105, as follows:</p> <p>6. <i>The county behavioral health agency shall include with the report any information in its possession about the respondent that may be relevant to the court in connection with the matters set forth in in item 3, unless prohibited by federal law.</i></p> <p>Such orders are authorized under 45 CFR § 164.512(e)(1)(i), Civ. Code § 56.10(b)(1), (b)(9), and Welf. &amp; Inst. Code § 5328(a)(6), (a)(27) (with limited exceptions for substance use treatment records covered by 42 C.F.R., §§ 2.1 et seq.), and the CARE Act plainly contemplates that judges will make those orders necessary to obtain the required determinations. (Section 5977(a)(3)(B)(i). See also Section 5977.4 [“...the judge shall control the proceedings during the hearings with a view to the expeditious and <i>effective ascertainment of the jurisdictional facts</i> and the <i>ascertainment of all information relative to the present condition and future welfare of the respondent</i>”].) Inclusion of such an order in Form CARE-105 will remove potentially significant barriers to the county’s ability (and that of the court) to perform the functions contemplated by the CARE Act.</p> <p>We recommend clarifying that an order for investigation under Section 5977(a)(3)(B) must include a copy of the petition (including its attachments), by adding the following in Section 2 of Form CARE-105:</p> <p>2. <i>The court has found that Petition to Commence CARE Act</i></p>	<p>The committee agrees and has added language to the form requiring attachment of the petition.</p>



**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-105</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<i>Proceedings has made a prima facie showing that the respondent is or may be eligible to participate in the CARE Act process. <u>A copy of the petition and all attachments is included herewith.</u></i>	
San Francisco Public Defender’s Office by Melanie Kim, State Policy Director	<u>The Order for CARE Act Report and Request for New Order and Hearing should include a section to compel the agency to expeditiously provide services</u> such as case management, housing, and special needs per court order in a timely fashion. The order should request the agency or providers to provide supportive community housing, wraparound services, such as onsite physical and behavioral health services, and case management. Overall, the forms are heavy-handed on the respondents but light-handed on the petitioners, public health agencies, and service providers. It is ineffective to get the respondents in court when the agencies and providers cannot deliver the services needed to support the respondents’ lives and help gain stability in the community. The long wait for housing and services would create more frustration and distrust for the respondents.	The committee does not recommend the suggested change. Including the suggested orders in <i>Order for CARE Act Report</i> (form CARE-105) would be premature because the court has not determined at that stage of the proceedings whether the respondent needs services. A request for the suggested orders can be made in item 3b of <i>Request for New Order and Hearing</i> (form CARE-120).
Superior Court of Riverside County by Susan Ryan, Chief Deputy of Legal Services	<b><u>CARE 105: ORDER FOR CARE ACT REPORT</u></b> On the signature line, change “JUDGE” to “JUDICIAL OFFICER.”	The committee agrees with the suggested change and has revised the recommended form accordingly.

**W23-10**

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<b>Form CARE-106</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
<p>Affordable Housing Advocates by Catherine Rodman Director &amp; Supervising Attorney San Diego</p>	<p>Suggestion to Item 1c: Insert: As to each attempt, the date, location and details of efforts to engage respondent and . . .</p> <p>Item 4b: Since no address or only a last known location (which may not be a mailing address) may be provided by petitioner this form can be used for POS by US Mail to all other parties but should not be used for Respondent who should be required to be personally served.</p> <p>Suggestion: Because Resp may be homeless, papers should be secured to and provided in weatherproof cover.</p>	<p>The committee does not recommend the suggested changes. Item 3c currently reflects the language in section 5977(a)(3)(B) as to the details that the court must order the county agency to include in the report.</p> <p>The committee has also created <i>Proof of Personal Service</i> (form CARE-107) specifically to prove the respondent was personally served. If personal service is impracticable, the proof of service for any other method must include an explanation why personal service is impracticable and why the alternative method of service used is reasonably calculated to give the respondent actual notice. (See rule 7.2235(a)(1).)</p> <p>The committee does not recommend any change to the proposal in response to this comment. Because it has modified its recommendation to require personal service unless impracticable, the committee anticipates that all papers will be in good condition when delivered to the respondent.</p>
<p>County of Santa Cruz by Jason Hoppin Public Information Officer</p>	<p><b>Notice of Order for CARE Act Report (form CARE-106)</b> <i>Recommend</i> standardizing timelines and reporting on how far back an agency must look for past efforts to engage a respondent. Failure to do so will result in the need for additional staff and resources to interpret the requirement.</p>	<p>The committee does not recommend any changes to the proposal in response. The purpose of form CARE-106 is to notify the respondent, petitioner, and respondent’s counsel that the county behavioral health department has been ordered to investigate and complete a report in response to a CARE petition that has been filed. Including timelines and reporting information for the county behavioral health agency would not be appropriate for this form.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

All comments are verbatim unless indicated by an asterisk (\*).

<b>Form CARE-106</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
Housing California by Mari Castaldi, Senior Legislative Advocate on Homelessness Sacramento	<p><b>Form CARE-106:</b> Housing California strongly recommends that Form CARE-106, which notifies a respondent that the County behavioral health department is compiling a report in a response to a petition, be modified to ensure confirmed physical delivery of this form with the respondent. At present, this form can be delivered via mail with no further action required by the entity compiling the report to ensure that notification has been received. Given the likelihood that many respondents may be experiencing homelessness, this level of notification is insufficient and Form CARE-106 should be modified to reflect affirmative verification of receipt of the form by the respondent.</p>	<p>The committee agrees that service of notice by mail on the respondent is inadequate and has revised its recommendation to require personal service unless that method is impracticable, in which case service may be made by any method reasonably calculated to give the respondent actual notice. The committee has also created <i>Proof of Personal Service</i> (form CARE-107) specifically to prove that respondent was personally served. If personal service is impracticable, the proof of service for any other method must include an explanation why personal service is impracticable and why the alternative method of service used is reasonably calculated to give the respondent actual notice. (See rule 7.2235(a)(1).)</p>
Legal Services NorCal by Kate Wardrip, Managing Attorney Chico	<p><b>Form CARE-106</b> <b>Requested Revision</b> The Notice of Order for CARE Act Report does not contain any of the contact information for the respondent’s attorney. We recommend that the Judicial Council include, towards the top of the form, the contact information of the respondent’s attorney, and a statement that the respondent can contact them.</p> <p><b>Reasoning</b> This Notice of Order for CARE Act Report may be the first document that a respondent sees for the CARE Act proceedings. It is important to provide them their attorney’s information first thing. The Order for CARE Act Report includes the attorney’s contact information but this is preceded by four other orders by the court. Placing the attorney’s information towards the top of this notice, will</p>	<p>The committee appreciates this comment but does not recommend the proposed addition. Form CARE-106 will be personally delivered to the respondent along with form CARE-105 which indicates in Item 5 appointed counsel’s contact information. Form CARE-105 will be part of the first set of documents respondent receives regarding the CARE proceedings.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-106</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>increase the chances of the respondent contacting their attorney.</p> <p><b>Requested Revision</b> The Notice of Order for CARE Act Report is not tailored to the respondent by including the respondent’s name in Item 1. We recommend that the Judicial Council include a fillable blank for the respondent’s name after the words “engage the respondent.”</p> <p><b>Reasoning</b> This will inform the respondent that they are identified as “respondent” and all further references to “respondent” are in reference to them.</p> <p><b>Requested Revision</b> Item 2 is confusing in its wording. We recommend that the Judicial Council revise Item 2 to “In accordance with California Rules of Court, rule 7.2335(a)(2)-(3) the following forms are attached: 0 Order for CARE Act Report (form CARE- 105) 0 Information for Respondents- About the CARE Act (form CARE-060-INFO)” In which there would be check boxes next to the form names.</p> <p><b>Reasoning</b> This clarifies to the county and respondent which forms need to be attached.</p>	<p>The committee appreciates this comment and has revised form CARE-106 accordingly. Item 1 has been revised to include a fillable space to include the petitioner’s name while Item 2 has been revised to include a fillable space to indicate the respondent’s name.</p> <p>The committee appreciates this comment but does not recommend the proposed revision. Revising the form to include checkboxes as suggested may mislead the declarant to believe it is optional, not required, to provide the forms noted.</p>
Christi McDonald Deputy County Counsel Salinas	<p><b>CARE-106.</b> Item 1 and Item 3 have the potential to conflict with each other, as one date might be listed as the due date for the report in item 1 and then item 3 might have a different due date. This seems like it will lead to problems regarding what to</p>	<p>The committee appreciates this comment. The committee has revised the form accordingly by removing Item 3.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-106</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>do if the dates aren't the same.</p> <p>The order (CARE-105) only has one date listed, so where is the second date supposed to come from? Perhaps both the order and the notice should list only one due date on the form, but allow the order and notice to have a box checked to say that there was good cause to extend the date past the typical statutory timeline to allow the agency to work with Respondent to voluntarily engage in services?</p>	
<p>National Alliance to End Homelessness by Alex Visotzky, Senior California Policy Fellow Washington, DC</p>	<p><b><u>Form CARE-106:</u></b> NAEH strongly recommends that Form CARE-106, which notifies a respondent that the County behavioral health department is compiling a report in a response to a petition, be modified to ensure confirmed physical delivery of this form with the respondent. At present, this form can be delivered via mail with no further action required by the entity compiling the report to ensure that notification has been received. Given the likelihood that many respondents may be experiencing homelessness, this level of notification is insufficient and Form CARE-106 should be modified to reflect affirmative verification of receipt of the form by the respondent.</p>	<p>See response to Housing California above.</p>
<p>Public Law Center by Manohar Sukumar Supervising Attorney, Health Law Unit Santa Ana</p>	<p><b><u>Revisions to CARE-106</u></b> PLC suggests that the Judicial Council create a separate form specifically for notice of extended deadlines for the CARE Act report, to clarify the distinction between the initial order for report and any subsequent extensions granted by the court. This would prevent confusion regarding whether the original or extended date should be entered in item 1 of CARE-106.</p>	<p>The committee appreciates this comment and agrees in part. The committee has removed Item 3 of the form to prevent confusion as to the original date and extension date.</p> <p>The committee does not recommend the suggested change of creating a new form. Once notice of the order for a report is given, the only change will be the due date, and the only reason for an extension is if the</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-106</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>It is also recommended that the Judicial Council add a space between the words “of” and “declarant” under the signature of the declarant for formatting purposes.</p>	<p>county agency is engaging the respondent. At that time, respondent will also be represented by counsel. Both the agency and counsel will be able to advise the respondent of any court-ordered extension.</p> <p>The committee agrees with the suggestion and has modified its recommendation accordingly.</p>
<p>Superior Court of Riverside County by Susan Ryan, Chief Deputy of Legal Services</p>	<p><b><u>CARE 106: PROOF OF SERVICE – NOTICE OF ORDER FOR CARE ACT REPORT</u></b> The proof of service needs to allow for the address/location that was given in #3 of the CARE -100 form which states: <i>“Respondent lives or was last found at (give respondent’s residence address if known; otherwise, given last known location):”</i></p>	<p>The committee does not recommend the suggested change. The committee has revised the proposal to recommend separate <i>Proof of Personal Service of Notice for CARE Act Report</i> (form CARE-107) for proof of personal service on the respondent. Item 2 requires specification of the address or location where the respondent was served.</p>

## W23-10

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-110</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
Affordable Housing Advocates by Catherine Rodman Director & Supervising Attorney San Diego	<p><b><u>Item 3:</u></b> Why can't all POS be PS on respondent and by mail to others?</p> <p><b><u>Item 3 suggestion:</u></b> Each document was stapled and the documents were placed in a weatherproof cover.</p>	<p>The committee agrees and has revised the rules and forms to require personal service of all notices on respondent unless impracticable, and service a variety of methods on other persons.</p> <p>The committee does not recommend any change to the proposal in response to this comment. Because it has modified its recommendation to require personal service of all hearings on the respondent unless impracticable, the committee anticipates that papers will be in good condition when received by the respondent.</p>
County of Santa Cruz by Jason Hoppin Public Information Officer	<p><b><i>CARE 110 Form (Notice of Initial Appearance):</i></b> consistent with the comments above, this notice form should come directly from the Court, not the county behavioral health agency.</p>	<p>The committee does not recommend the suggested change, as it is beyond the scope of this proposal. Section 5977(a)(3)(A)(i) and section 5977(a)(5)(C)(iii) require the court to order the county to provide notice of the initial appearance.</p>
Legal Services NorCal by Kate Wardrip, Managing Attorney Chico	<p><b><u>Form CARE-110</u></b> <b><u>Requested Revision</u></b> Item 3 should assume that the report ordered under Welfare and Institutions Code Section 5977(a)(3) will be required. We recommend that the Judicial Council revise item 3 to state "A copy of the following are attached: (Mark all that apply). 0 A Copy of Petition to Commence CARE Act Proceedings (CARE-100), 0 Notice of Respondent's Rights-CARE Act Proceedings (form CARE-112), 0 Information for Respondents-About the CARE Act (form CARE-060-INFO) and</p>	<p>The committee has revised form CARE-110 to include in what is now item 5d "Any report ordered under Welfare and Institutions Code section 5977(a)(3)(B)." Additionally, item 6 provides checkboxes to indicate if a report was ordered under section 5977(a)(3)(A).</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-110</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>0 the report ordered under Welfare and Institutions Code section 5977(a)(3) are included with this form (required unless the Court did not order a report).”</p> <p>In which there would be check boxes next to the form names</p> <p><b>Reasoning</b> This provides clarity to both the county and the respondent which forms need to be attached.</p>	



## W23-10

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-111</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
Affordable Housing Advocates by Catherine Rodman Director & Supervising Attorney San Diego	Why can't all POS be like this, PS on respondent and by mail to others?	The committee has revised its recommendation to require personal service of notice of all CARE Act hearings on the respondent unless impracticable, with alternative forms of service authorized on other parties. Form CARE-111 has been converted to a <i>Proof of Personal Service</i> . Because service on others than respondent may be by a variety of methods, the parties can use the regular council Proof of Service forms, such as form POS-040 or POS-050 for that.
County of Santa Cruz by Jason Hoppin Public Information Officer	<p>Proof of Service by First-Class Mail of Notice of Initial Appearance—CARE Act Proceedings (form CARE-111)</p> <p><b>Recommend</b> providing additional guidance to counties on how to serve notice to persons experiencing homelessness, who are a target population for CARE Court.</p> <p><b>Recommend</b> a single proof of service is preferable.</p> <p><b>Recommend</b> providing additional guidance on how to personally deliver notices, particularly to persons experiencing homelessness.</p>	<p>The comment is beyond the scope of this proposal. The committee has revised the recommended rules to require personal service on respondent unless impracticable, and then any form of service that is reasonably calculated to provide actual notice. Form CARE-111 has been modified to be a proof of personal service specifically for use as a proof of service of Form CARE-110 on respondent personally.</p> <p>The committee does not recommend any change to the proposal in this respect. The committee has concluded that the potential confusion resulting from placing multiple methods of service on the same proof form outweighs the benefits of a single form.</p> <p>The committee does not recommend any change to the proposal in response to this comment as it is beyond the scope of this proposal and may be better addressed to the</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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Form CARE-111		
Commenter	Comment	Committee Response
		Legislature.
Superior Court of Riverside County by Susan Ryan, Chief Deputy of Legal Services	<p><b><u>CARE 111: PROOF OF SERVICE – PROOF OF SERVICE BY FIRST CLASS MAIL OF NOTICE OF INITIAL APPEARANCE- CARE ACT PROCEEDINGS</u></b></p> <p>The proof of service needs to allow for the address/location that was given in #3 of the CARE-100 form which states:  <i>“Respondent lives or was last found at (give respondent’s residence address if known; otherwise, given last known location):”</i></p> <p>#4 In an effort to reduce confusion, please remove “transmitted” or elaborate as to what “transmitted” means.</p>	<p>The committee does not recommend the suggested change. The committee has revised the proposal to recommend <i>Proof of Personal Service of Notice for CARE Act Report</i> (form CARE-107) for proof of personal service on the respondent. Item 2 requires specification of the address or location where the respondent was served.</p> <p>The committee agrees and has revised the form accordingly.</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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**Form CARE-112 (renumbered as form CARE-113)**

Commenter	Comment	Committee Response
<p>Affordable Housing Advocates by Catherine Rodman Director &amp; Supervising Attorney San Diego</p>	<p>I think this Bill of Rights for the Respondent should also be on a cover sheet over document or set of documents served.</p> <p>There is no mention to the right to have a court appointed interpreter.</p>	<p>The committee does not recommend any change to the proposal in response to this comment. Form CARE-112 will be served on the respondent with notice of each hearing in the CARE Act process. In addition, at every stage of the proceedings, respondent will be represented by counsel, who can inform respondent of their rights as the opportunities to exercise them arise.</p> <p>The committee appreciates this comment. The committee agrees that language access is critical, and has added information about how to request interpreters to form CARE-113. However, the Judicial Council cannot allocate human or fiscal resources that are not available.</p>
<p>County of Santa Cruz by Jason Hoppin Public Information Officer</p>	<p><b>Notice of Respondent’s Rights—CARE Act Proceedings (form CARE-112)</b> Recommend this proposal and asks that the form be provided in English and Spanish and translated into Respondent’s native language, as appropriate.</p>	<p>The committee agrees that language access is critical. Forms will be prioritized for translation as resources become available.</p>
<p>Disability Rights Education and Defense Fund by Erin Nguyen Neff, Staff Attorney Berkeley</p>	<p><b>CARE-112 Notice of Respondent’s Rights Should Include the Right to be Free of Harassment and the Right to Oppose the Petition</b> Respondent’s rights should include the right to be free from harassment and frivolous proceedings and the right to oppose the petition. Given there is a risk that a petitioner will use this proceeding to harass and abuse people, it should be explicit that a respondent has a right to be free from that behavior. Further, the materials do not state that a respondent has the right to oppose the petition and put forward defenses. This is a vital aspect of any court proceeding and should be made explicit.</p>	<p>The committee appreciates this comment but does not recommend the suggested change to the proposal. While the committee agrees that respondents have the right to be free from harassment and frivolous proceedings and to oppose the petition, these rights are not unique to CARE Act proceedings or respondents. Form CARE-113 focuses on the rights expressly enumerated in the CARE Act. Furthermore, respondents have access to</p>

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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**Form CARE-112 (renumbered as form CARE-113)**

Commenter	Comment	Committee Response
		<p>appointed counsel at all stages of the proceedings. Appointed counsel will be able to assist respondent in navigating through the court process including presenting a defense or requesting that a petitioner be declared vexatious litigant for filing harassing petitions.</p>
<p>Housing California by Mari Castaldi, Senior Legislative Advocate on Homelessness Sacramento</p>	<p><b>Form CARE-060-INFO &amp; Form CARE-112:</b> The Advisory Committee has done a commendable job condensing a very complex process and distilling the rights and responsibilities of participants in that process into very plain language. However, these forms, which are to be given to CARE Act respondents that may be struggling with serious mental illness and homelessness, are still extremely complex, dense, and lengthy. The Advisory Committee should consult with community-based organizations and people with lived experience of mental illness, homelessness, and other relevant lived expertise to determine how to convey this information in as accessible a manner as possible.</p> <p>Additionally, these forms do not adequately convey the potential consequences of failing to voluntarily participate in the CARE Act processes, which creates more possibility of compelled action from the county, which may in turn reproduce trauma and harm. These forms must adequately convey in plain language what may occur if a respondent does not participate. Moreover, the form remains vague in places that can lead to confusion about the consequences. For example, Form CARE-</p>	<p>The committee does not recommend the suggested change to the proposal based on this comment. This chart of comments shows that the committee received many comments through the Judicial Council’s regular public posting and circulation process, which comment process was open to all. Although no commenter identified themselves as living with a mental illness, that does not signify that none has, and at least one commenter identified as homeless. In addition, several wrote of their experiences with relatives’ mental health disorders.</p> <p>The committee has revised forms CARE-060-INFO and CARE-113 to include references and links to make both the information in the forms and the way it is presented as accessible as possible.</p> <p>The committee does not recommend the suggested change. Respondents have access to appointed counsel at all stages of the proceedings. Appointed counsel will be able to assist respondent in navigating through the court process, including informing respondent of possible outcomes during the process.</p>

## W23-10

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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### Form CARE-112 (renumbered as form CARE-113)

Commenter	Comment	Committee Response
	060-INFO specifies that ‘the plan can last up to a year but can be extended for an additional year if certain criteria are met.’ CARE Act respondents must have the information on what those criteria are, and who determines those criteria, to the greatest extent possible to ensure full awareness of the consequences of non-participation.	
Legal Services NorCal by Kate Wardrip, Managing Attorney Chico	<p><b><u>Form CARE-112</u></b>  <b>Requested Revision</b>            The Notice of Respondent’s Rights-CARE Act Proceedings does not include a recommendation that the respondent contact their attorney. We recommend that the Judicial Council revise CARE- 112 to state encourage respondents to contact their attorney.</p> <p><b>Reasoning</b>            Court appointed attorneys’ may have a difficult time locating the respondents. The attorneys may not receive a phone number or street address to find the respondent. It is best to encourage both the respondent and the attorney to attempt to contact one another.</p>	The committee does not recommend the suggested change. Form CARE-113 is intended to inform the respondent of their rights in CARE Act proceedings. This information is more appropriate for form CARE-060-INFO, where such language is already included.
National Alliance to End Homelessness by Alex Visotzky, Senior California Policy Fellow Washington, DC	Same comment as noted above by Housing California.	See responses to Housing California comments, above.
Western Center on Law and Poverty by Helen Tran, Senior Attorney Los Angeles	<p><b><i>Proposed Notice of Respondent’s Rights—CARE Act Proceedings (form CARE-112)</i></b></p> <ul style="list-style-type: none"> <li>• Add to the list of rights               <ul style="list-style-type: none"> <li>• <u>Inform the court of a change in circumstances at any time and ask the court to change or end a CARE plan or CARE agreement.</u> (see Welf. &amp; Inst. Code, § 5977.2)</li> </ul> </li> </ul>	The committee does not recommend the suggested changes. Form CARE-113 is not intended to inform the respondent of all rights they possess and concentrates on the enumerated rights in sections 5976, 5976.5, and 5977(b)(1)(, (3), and (5). In addition, respondents have

## W23-10

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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### Form CARE-112 (renumbered as form CARE-113)

Commenter	Comment	Committee Response
	<ul style="list-style-type: none"><li data-bbox="596 383 1268 448">• <u>Take an active role in deciding the types of treatment and services ordered by the court.</u></li></ul>	appointed counsel at all stages of the proceedings. Appointed counsel will be able to advise respondent of their strategic options during the CARE Act process.

## W23-10

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

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<b>Form CARE-115</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
Affordable Housing Advocates by Catherine Rodman Director & Supervising Attorney San Diego	Unless Respondent is housed or has a stable mailing address, s/he/they should be personally served	The committee appreciates this comment. The committee has modified the rule regarding service and this form accordingly, and has created <i>Proof of Personal Service of Notice of Hearing—CARE Act Proceedings</i> (form CARE-116) specifically for providing proof that the respondent was personally served with the <i>Notice of Hearing</i> .
Christi McDonald Deputy County Counsel Salinas	<b>CARE-115.</b> How is service on Respondent after the initial appearance supposed to be completed if the person is homeless and does not have a mailing address? While certainly the hope is that the person will get into housing quickly, the reality is that placement for seriously mentally ill people is very impacted and can (unfortunately) take weeks or even months. Perhaps include check boxes for each person so that the sender can select via mail, via personal service, or email. Believe it or not, sometimes homeless people have more ability to have a reliable email address more than a reliable mailing address.	The committee appreciates this comment. The committee has modified the rule regarding service and the form. The committee has created <i>Proof of Personal Service of Notice of Hearing—CARE Act Proceedings</i> (form CARE-116) specifically for providing proof that the party served respondent personally with the <i>Notice of Hearing</i> .
Superior Court of Riverside County by Susan Ryan, Chief Deputy of Legal Services	<b><u>CARE 115 NOTICE OF REPONDENT'S RIGHTS-CARE ACT PROCEEDINGS PROOF OF SERVICE</u></b> The proof of service needs to allow for the address/location that was given in #3 of the CARE -100 form which states: “Respondent lives or was last found at (give respondent’s residence address if known; otherwise, given last known location):”	The committee appreciates this comment. The committee has modified the form. The committee has created <i>Proof of Personal Service</i> (form CARE-116) specifically for use provide a proof of service showing that the party served respondent personally with the <i>Notice of Hearing</i> .

**W23-10**

**Mental Health: Community Assistance, Recovery, and Empowerment Act** (adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303; adopt forms CARE-060-INFO, CARE-100, CARE-101, CARE-105, CARE-106, CARE-110, CARE-112, and CARE-115; and approve forms CARE-050-INFO, CARE-111, and CARE-120)

All comments are verbatim unless indicated by an asterisk (\*).

<b>Form CARE-120</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
<p>County of Santa Cruz by Jason Hoppin Public Information Officer</p>	<p><b>Request for New Order and Hearing—CARE Act Proceedings (form CARE-120)</b>            CARE 120 Form (Request for a New Order and Hearing): This form should be re-titled to clarify that it should be used to seek a modification from an existing or previous court order. However, if this form is intended to request an entirely NEW, not previously made or related order, then perhaps a separately title form is needed.</p> <p>Suggestions for other Mandatory Forms: the following forms would be helpful in creating consistency and clarity in the participation of CARE Court:</p> <ul style="list-style-type: none"> <li>• Status Review Form: to be completed by the agency or other professional(s) prior to the 60-day status review hearings. Should also provide a space to include any new recommendations or changes to the case plans and/or services.</li> <li>• 12-Month/1-Year Status Report Form: to be completed by the agency or other professional(s) prior to the 12-month/1 year mark to assess the participation and progress of the CARE participant.</li> <li>• Termination/Graduation Form: to be completed by the Court when a CARE participant has been terminated from CARE court, either successfully or unsuccessfully. This form could then also be shared with the Criminal Court or LPS Court without disclosing other specific information of the CARE participant.</li> </ul>	<p>The committee appreciates this comment and agrees but does not recommend any changes to the proposal. Form CARE-120 is intended for both purposes and can be used to seek a modification of an existing court order, complain of violations of an order, or to request a new one.</p> <p>The committee does not recommend the creation of the suggested forms at this time. The forms noted do not require statewide uniformity, therefore the committee has elected to defer to local counties to develop the suggested forms. The committee can consider such forms in the future if they appear necessary.</p>
<p>Homeless Action Center by Patricia Wall,</p>	<p><b>Comments on accessibility of form CARE-120, ITC pages 47-48:</b></p>	<p>The committee appreciates this comment but does not recommend the suggested change. Respondents have</p>



**W23-10**

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<b>Form CARE-120</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
Executive Director Berkeley	Because this form could be very useful to a respondent throughout the entire process, it is important that this form be made available to respondents. This form should be made accessible when the respondent is served with the petition, or at the initial hearing, or both.	access to appointed counsel at all stages of the proceedings. Appointed counsel will be able to assist respondent in navigating the court process, including requesting new orders and hearings. Counsel is able to complete the form for respondent and is better positioned to advise, inform, and assist the respondent regarding the CARE Act process.
San Francisco Public Defender's Office by Melanie Kim, State Policy Director	<u>The Order for CARE Act Report and Request for New Order and Hearing should include a section to compel the agency to expeditiously provide services</u> such as case management, housing, and special needs per court order in a timely fashion. The order should request the agency or providers to provide supportive community housing, wraparound services, such as onsite physical and behavioral health services, and case management. Overall, the forms are heavy-handed on the respondents but light-handed on the petitioners, public health agencies, and service providers. It is ineffective to get the respondents in court when the agencies and providers cannot deliver the services needed to support the respondents' lives and help gain stability in the community. The long wait for housing and services would create more frustration and distrust for the respondents.	The committee does not recommend the suggested change. A request for the suggested orders can be made in item 3b of <i>Request for New Order and Hearing</i> (form CARE-120). Including the suggested orders in <i>Order for CARE Act Report</i> (form CARE-105) would be premature because the court has not determined at that stage of the proceedings whether the respondent needs services.