



Involuntary Commitment

by John D. Whitaker

I think the word "liberty" is one of the most beautiful words in our language. Patrick Henry said, "Give me liberty or give me death." That statement pretty much sums up the feeling we all have about our liberty. We are free to vote, worship and make medical decisions without interference from the state. This concept of liberty was enshrined in the 14th Amendment to the United States Constitution, which specifically prohibits the state from depriving a citizen of his liberty without due process of law. What this means in a practical sense is that the state cannot take away a citizen's liberty by confining him in a mental hospital against his will without providing due process. Due process just means that the state can't take our rights away without a fair hearing.

However if the state does provide due process then, under very limited circumstances and court oversight, a person can be hospitalized without his consent. The process developed under Wyoming law does allow for the state to take over our psychological medical care, but this is a very narrow exception to the general rule that we are free to make our own medical decisions. The state may only do so after demonstrating a necessity for the hospitalization at a fair hearing.

The process that must be followed by the State of Wyoming to commit a person is called an involuntary commitment. The process is only available when a person becomes a danger to himself or others as the result of a mental illness. The process must be very strictly supervised by the court to insure that the person is treated fairly, and that any commitment last only as long as necessary to remove the danger.

The process begins when a law enforcement officer or mental health care provider has reason to believe that the person suffers from a mental illness that causes an immediate threat to himself or others. A mental illness is defined in W.S. §25-10-1019(a)(ix) as "a physical, emotional, mental or behavioral disorder which causes a person to be dangerous to himself or others and which requires treatment." There are basically three ways a person can be considered to be a danger to himself or others, including recent threats or



attempts of suicide or serious bodily harm; threats or overt homicidal acts against others; or that the person is unable to satisfy his basic needs for food, medical care, shelter, or safety and that they will probably die or be seriously injured unless treatment is provided.

Initially, the person may be detained for 24 hours to allow for an evaluation by a mental health examiner. If the examination reveals that the person is a danger to himself or others, he can be held for an additional 72 hours, but he is entitled to a hearing to evaluate all of the evidence. These hearings often occur at the hospital where the person has been detained. The person committed is entitled to have a lawyer at this hearing and, if they can't afford a lawyer, one must be provided. If the Court determines that the person

is not a danger to himself or others, it will order that the person be immediately released. If after this hearing the person is determined to be a danger to himself or others he can be held for up to 10 days pending a second hearing. During this 10-day period, treatment may include evaluation and in very extreme circumstances the administration of medication.

At the next hearing the Court must determine whether to continue the hospitalization or release the person. If the Court decides to continue the detention, the person is placed in a hospital which will provide the least restrictive and most therapeutic treatment necessary. The detention is reviewed after 90 days and if continued, must be reviewed thereafter on a 6-month basis.

If after the second hearing the Court determines that the person no longer poses a threat to themselves or others, it will order that the person be released. The Court can place restrictions on the person being released, including ordering that the person continue a medical treatment plan; placing restrictions on travel or the use of alcohol or drugs; or any other reasonable condition the Court deems necessary to avoid a recurrence of the danger.

This process is generally the last resort for a person suffering from a mental illness and the increased abuse of alcohol and illegal drugs in our community make this a very necessary process. Patrick Henry was right in principle, but I bet he never met someone addicted to meth.

The Wyoming State Bar does not certify any lawyer as a specialist or expert. Anyone considering a lawyer should independently investigate the lawyer's credentials and ability, and not rely upon advertisements or self-proclaimed expertise. This informative column is brought to you by John Whitaker who practices personal injury and criminal law throughout Wyoming. He can be reached at JDWTL@aol.com or by calling his office in Casper at 265-6204.