

Court Ordered Evaluation and Court Ordered Treatment

Frequently Asked Questions



What is Court Ordered Evaluation?

Court Ordered Evaluation (COE) is the process by which an individual can be legally forced to submit to a psychiatric evaluation, either in an inpatient or outpatient, setting if they meet any of the following criteria:

- The individual is a Danger to Self (DTS).
- The individual is a Danger to Others (DTO).
- The individual is identified as being Persistently or Acutely Disabled (PAD).
- The individual is identified as being Gravely Disabled (GD).

This means that you can be legally “held against your will” for a psychiatric evaluation. The purpose of the evaluation is to determine whether you may need behavioral health services like medication, therapy, and other services.

There are two parts to a COE: the first part is the application (AEA) and the second is the Order and Petition for COE (PCOE).

- » The AEA allows the hospital to legally hold you for 24 hours without a signed order by a judge. The AEA does not get filed with the court unless the evaluating agency or hospital decides to go forward with a PCOE.
- » The PCOE is submitted to the court for a judge’s signature and review. If the judge does not sign off on the Order for COE, then the hospital must release you. If the judge does sign the Order for COE, this allows the hospital to hold you for an additional 72 hours (3 business days).



What is Court Ordered Treatment?

Court Ordered Treatment (COT) means that you are legally forced to engage in mental health treatment. COT is a legal process involving documentation, psychiatric evaluation and hospitalization, PCOE, a court hearing including judge, attorneys, witnesses, and a court Order.

COT placements means that a judge made the determination (after reviewing documentation and hearing testimony) that you or your loved one is:

- Suffering from a mental illness.
- Needs treatment.
- Is unwilling or unable to accept treatment voluntarily.

The Order will state:

- The start and expiration date.
- The standard(s) the individual was placed on COT: DTS, DTO, PAD, or GD.
- Number of inpatient treatment days that are ordered and whether outpatient treatment is also ordered.
- An outpatient treatment plan will be made by an outpatient provider. If the plan is approved and signed by the judge, it will become part the Order.
- The outpatient treatment plan. This outlines what the individual must do to be compliant with COT.

COE Process Frequently Asked Questions



Can anyone fill out an AEA on anyone else and have them held against their will? What if someone files an AEA to get back at me?

Any party can fill out an AEA. The evaluating psychiatrist will determine if the patient requires further evaluation and treatment. Once admitted to the hospital, only the attending psychiatrist can dismiss the AEA/PCOE.

Anyone who fills out an AEA with false statements to “get back” at someone and knowingly violates a person’s rights, can be held legally accountable. See ARS 36-516. Talk to an attorney.

Is it legal for Law Enforcement to come to my house and take me to the hospital against my will?

Yes. It is legal if you are actively in danger of imminent harm and need of hospitalization. It is also legal if there is a pick-up Order, either on an Involuntary PCOE or a recission or amendment of COT.

What if I am no longer in imminent danger of harm, not a DTS/DTO, and have since calmed down. Will I still be taken against my will?

If the First Responder team feels that you are not a DTS or DTO, then you no longer meet the criteria for an application for emergent evaluation. You may be asked to be voluntarily evaluated as soon as possible.

Also, the responding team or any concerned party may fill out an Application for Involuntary Evaluation and Pre-petition Screening. This is a different process with different timelines, but the result is that you could get picked up and taken to the hospital against your will.

What happens if I refuse to take medications and engage in treatment while I am on COE?

While on COE and before starting COT, you have the right to refuse medication and treatment. Your refusals for medication and treatment will be documented and will be part of your medical record. The evaluating providers will take this into consideration. This includes your level of willingness to participate in treatment. If you do go court for COT, the providers will testify to your participation and willingness while you were hospitalized.

At any time during this process, up to and including the time of hearing, you have the right to voluntarily engage in treatment. This means that you start to engage by taking the prescribed medications, participating in groups and other therapeutic remedies. If you start to voluntarily engage, the providers and evaluating agency no longer have a basis to continue the COE process.

What happens if the COE gets dropped because I start to engage, but then I stop?

Another application, for involuntary or emergent admission, can be completed by any concerned party. This includes staff at the evaluating agency. This will start the COE process again.



I was placed on COT. Am I going to stay in the hospital the entire time?

No. It is standard practice for a judge to enter a treatment Order for combined inpatient and outpatient treatment. This usually lasts for a period of 1 year. That does not mean you are in the hospital for an entire year. The judge will include a statement indicating up to how many hospital days are part of the order, which can be either **90, 180** or **365** days. These hospital days are to be used in combination with outpatient treatment, if needed.

For example, the judge might order you to “receive court-ordered treatment for one year with the ability to be re-hospitalized, should the need arise, in an inpatient psychiatric facility for a time period not to exceed **180** days”.

That means that during the year of your COT, there are **180** hospital days that can be used along with outpatient treatment. That does not mean you stay in the hospital for a consecutive 180 days. You might not use any hospital days if you are compliant and have no complications.

Do I have to take medications? What if I do not like the meds or they have side effects I do not like?

Your outpatient provider must go over all treatment options. This includes alternatives to treatment. They will also discuss the advantages and disadvantages of all treatment options. Your provider will determine the best course of treatment. Depending on your psychiatric needs, you may be prescribed a long-acting injectable (LAI), along with other therapeutic remedies. If you strongly object to the prescribed medications and treatment, contact your support team. Your support team includes your attorney, member advocate at the health plan, etc., before becoming non-compliant with treatment.

What happens if I do not follow the treatment plan?

Your treatment team can file a petition with the court asking for an Order to place you back in the hospital involuntarily. It is the same process in each county, although each county has a different name for this process.

If I am hospitalized for COE and placed into COT, does that mean I am determined to have a Serious Mental Illness (SMI) Determination?

No. SMI determination is a clinical process that does not fall under the court’s authority. Not everyone who is on COT also has a SMI determination.

If you are on COE or COT, the hospital or your outpatient provider can submit an SMI packet to Solari without your consent. Solari is the only agency in Arizona that can determine whether you meet criteria for SMI.

You can go to Solari’s website for more information regarding what SMI is and how evaluation/determination works.

community.solari-inc.org/eligibility-and-care-services/what-is-smi-determination

Frequently asked questions can be found on their website:

community.solari-inc.org/eligibility-and-care-services/faqs-community

I have a SMI determination; will I be placed on COT?

No. If you have a SMI determination this does not also mean you need or will be placed on COT. SMI is not a legal process. It is a clinical determination that a person meets criteria for expanded services and other supports.



I am on COT, will I be going to jail?

No. A Title 36 Court Order is a Civil Law matter. This means there are no criminal penalties including no jail time and no conviction. You cannot go to jail for only being on COT.

How are my Rights impacted by COE/COT?

The court order does not take away your voting rights or most other rights. If you are hospitalized due to COE or COT during the voting period of an election, you can still vote. You can let hospital staff know that you want to exercise your right to vote. The hospital must make arrangements with your county of residence to give a ballot to you and send it on time to count.

The court order does take away your right to own a firearm. While under court order, you cannot possess any weapons. You also cannot purchase any guns. Once you are no longer under court order, you may petition the court to restore your right to own a firearm.

You can find all your protected rights online (see Title 36, Chapter 5, Article 2) at:
www.azleg.gov/arsDetail/?title=36

I have been compliant with COT. I want to stay in treatment, but I do not feel I need to be under the Court's supervision. Can I end my COT prior to the COT expiring.

You have the right to Judicial Review (JR) every 60 days. This means that you have the right to ask the court to review your case. Your provider must offer and remind you that you have a right to JR. If you request JR, your provider must notify the court. As part of that process, your provider will send a progress note and supporting facts along with their recommendation. Providers can recommend supporting your request to get off COT early. They can also recommend against early COT termination. The judge can either:

- deny your request.
- grant your request.
- set it for a hearing.

If you have any questions regarding judicial review, contact your assigned attorney.

Where can I learn more about the Title 36 Court Order process?

You are highly encouraged to speak to your defense attorney or an attorney who practices in health law, specifically with mental health matters. The Title 36 Statute can be found online at:
www.azleg.gov/arsDetail/?title=36

AHCCCS has an explanation of COE/COT including several information materials and a training video at:
www.azahcccs.gov/Members/BehavioralHealthServices/COE.html

Arizona State Bar Foundation has a website regarding mandatory treatment laws:
azcourtcare.org/process-info/mandatory-treatment-laws

Additional Supports:

NAMISA, the Center for Disability Law and the AHCCCS Office of Human Rights

For questions, please call Banner – University Family Care and ask to speak to a member advocate or OIFA representative.

Banner – University Family Care/ALTCS (833) 318-4146, TTY 711
www.BannerHealth.com/ALTCS-COE

Banner – University Family Care/ACC (800) 582-8686, TTY 711
www.BannerHealth.com/ACC-COE

We cannot give legal advice. Please talk to your attorney. If you don't remember who that is, we can assist with getting that contact information to you.