

Involuntary Commitment in North Carolina



A Resource for Vaya Health Network Providers

In North Carolina, courts can issue involuntary commitment (IVC) orders when a person is dangerous to themselves or others and a psychiatrist or psychologist determines the individual meets commitment criteria set forth at N.C.G.S. Chapter 122C, Article 6. Courts can also order that an individual who meets the criteria be placed under an outpatient commitment, which would require the person to obtain treatment on a regular basis while living in the community. This resource document describes the involuntary commitment processes for inpatient, substance use, and outpatient treatment and the provider role in that process.

Involuntary Commitment Process

If the Behavioral Health Clinical Home (BHCH) or first responder is unable to mitigate a crisis, and the individual is a danger to themselves or others, yet is not willing to seek stabilization voluntarily, you are responsible for initiating an IVC petition. The affidavit and petition form are available on the [NC Administrative Office of the Courts website](#).

Who can file a petition for IVC?

Any person who has knowledge that a person meets the criteria for IVC can file a petition. However, if the petitioner is a physician, psychiatrist, or eligible psychologist, it can be notarized.

What are the criteria for IVC?

To file a petition for IVC, the petitioner must have knowledge the person is mentally ill and dangerous to themselves or others or uses substances and is a danger to themselves or others. A diagnosis of an intellectual/developmental disability, in and of itself, is not considered sufficient criteria for commitment.

What should the petition include?

The petition must contain facts to support the petitioner's belief the individual (referred to as the "respondent") meets criteria for commitment, including evidence of a significant history of harm to themselves or others when unstable, if available. Best practice is to avoid conclusory statements and to specifically designate the facility where law enforcement is to transport the individual once located (e.g., emergency department [ED], Facility-based Crisis [FBC] center, or other IVC-designated facility).

Where, how, and when is the petition filed?

Every county has its own procedure, so it is important to check with the clerk of the court's office where you will file the petition before initiating the process. You must file the petition in the county where the individual resides. IVC petitions are generally taken out with the clerk of court or local magistrate. In some counties, only the magistrate can accept an IVC petition. You can file the petition at any time, including after regular business hours.

After-hours petitions are always taken out with the local magistrate. Contact information for clerks of court and magistrate offices is available on county websites and the [NC Administrative Office of the Courts website](#).

What happens if the IVC petition is accepted?

If the magistrate or clerk of court agrees the petition meets the criteria for IVC, they will issue a custody order for law enforcement to transport the individual to a designated facility or to any physician locally available. The custody order must be served within 24 hours of issuance. This means if the individual cannot be located within 24 hours, you must file a new petition.

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What happens after law enforcement picks up the individual?

The individual must receive an evaluation from a “first evaluator” within 24 hours of presentation to the facility. The first evaluator can be a physician, psychiatrist, eligible psychologist, certified first evaluator, or first commitment evaluator who has been certified through a rigorous process. The first evaluator can do one of the following:

1. Stop the process and release the respondent if they determine the individual does not meet IVC criteria;
2. Recommend inpatient mental health commitment;
3. Recommend outpatient mental health commitment; or
4. Recommend substance use commitment (called substance abuse, or SA, commitment in North Carolina).

If recommending SA commitment, the first evaluator can release the respondent pending a hearing and refer them to an outpatient provider, or they can hold the respondent at a 24-hour facility pending a court hearing (a 24-hour treatment facility must be named on the form and accept the respondent). The decision to release or recommend outpatient mental health or SA commitment must be documented and reported to the clerk of court using [Form 572: Examination and Recommendation to Determine Necessity for Involuntary Commitment](#).

What happens if the first evaluator recommends inpatient commitment?

If the evaluator recommends inpatient commitment, law enforcement must transport the respondent to a 24-hour facility for care and treatment. If a 24-hour facility is not immediately available or appropriate to the respondent’s medical condition, the respondent can be temporarily detained under appropriate supervision at the site of the first evaluation for up to seven days from issuance of the custody order or be released upon further examination by a physician, psychiatrist, or eligible psychologist:

- If seven days pass, the commitment process is terminated at that time or can be restarted with a new petition. If a doctor or an eligible psychologist is the new petitioner, the doctor or psychologist must conduct a new examination and may not rely upon the prior examination.
- The interim evaluation cannot be performed by other mental health professionals who perform initial examinations. The decision to release or recommend outpatient mental health or SA commitment must be documented and reported to the clerk of court using Form 572 and a [Notice of Commitment Change Form](#).

What happens when a 24-hour facility is identified?

The 24-hour facility must accept the respondent for admission. Once that occurs, and the respondent is transported, an evaluator must complete a second evaluation within 24 hours of presentation to the facility. Following the second evaluation, the second evaluator can:

1. Stop the process and release the respondent if they determine the individual does not meet IVC criteria;
2. Recommend inpatient mental health or SA commitment; or
3. Recommend outpatient mental health or SA commitment and release the respondent pending the outpatient commitment (OPC) hearing.

The individual may also be given the option to admit themselves voluntarily. The decision to release or recommend outpatient mental health or SA commitment must be documented and reported using the Change Form.

If the respondent is released, they are returned home via law enforcement or may arrange their own transportation. **Network providers may not decline inpatient behavioral health admission based on an individual’s transportation options post-discharge.**

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What happens after the respondent is admitted to an inpatient unit on IVC?

The 24-hour facility sends the petition and paperwork to the clerk of court in the county where the facility is located. A District Court hearing must be held within 10 days of an individual being taken into custody by law enforcement.

If the court finds by clear, cogent, and convincing evidence that the individual meets inpatient mental health commitment criteria, it may order inpatient commitment for up to 90 days at the initial hearing, a maximum of 180 days at the first rehearing, and a maximum 365 days at a second or subsequent rehearing. Commitment can be inpatient, outpatient, or a combination of the two.

For SA commitment, a District Court hearing must be held within 10 days of the date the respondent was taken into custody. Commitment is to the treatment of a physician rather than to a 24-hour facility. Treatment may be on either an inpatient or outpatient basis, as determined by the physician. SA commitment has a maximum term of 180 days, with a maximum of one-year SA commitment at a second and subsequent rehearing. SA commitment can include up to 45 consecutive days of inpatient treatment without a supplemental hearing.

Can an OPC be initiated without first requiring the respondent to be committed for an inpatient stay?

Yes. An OPC can be initiated during the IVC process by a medical doctor or licensed psychologist on the first evaluation after the initial petition and not as part of any facility discharge. In such cases:

- The first evaluator must complete Form 572, check all appropriate OPC boxes in all sections, and identify the name and address of the proposed outpatient treatment provider using Form 572.
- The first evaluator must also give the respondent an appointment time and date for the follow-up examination with the outpatient treatment provider.
- The initial petition and the first evaluation must be returned to the clerk of court prior to the follow-up appointment with the proposed provider.
- The clerk of court will schedule a hearing and notify the respondent and the proposed outpatient treatment center of the hearing date.
- If the respondent fails to show for the follow-up OPC appointment, the proposed provider must attempt follow up. If that fails, the provider may file a [Request for Transportation Order and Order \(Outpatient Fails to Appear for Pre-hearing Examination AOC-SP-224\)](#).
- The proposed provider's medical doctor or licensed psychologist must complete another examination to determine if the respondent continues to meet the criteria for OPC.
- If the respondent is still in need of an OPC, the proposed provider's medical doctor, licensed psychologist, or designated clinician will attend the OPC hearing, where the judge will decide whether to continue the OPC. In some instances, the judge may order the examining medical doctor or licensed psychologist to provide face-to-face testimony at the OPC hearing. This OPC hearing is held within 10 days of the initial medical doctor's evaluation.
- If the respondent appears for the follow-up examination appointment and no longer meets the criteria for OPC, the medical doctor or licensed psychologist should complete the Notice of Commitment Change Form and send it to the clerk of court, with a copy provided to the assigned care manager. This form is available on the [NCDHHS website](#).

Outpatient Commitment Responsibilities

OPC can be ordered for individuals who are deemed mentally ill; capable of surviving safely in the community with available supervision from family, friends, or others; in need of treatment to prevent further deterioration; and whose current mental illness limits or negates the ability of the individual to make an informed decision to seek voluntary

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treatment or comply with recommended treatment. Failure to comply with an OPC order may result in an order to law enforcement to take the individual into custody and present them to an inpatient facility for an evaluation. Vaya Health (Vaya) ensures the availability of qualified providers of services for members/recipients who are respondents to OPC proceedings and meet OPC criteria. Vaya accepts a copy of the OPC order for individuals who are served by network outpatient treatment physicians and centers and ensures providers serving members on OPC have a copy of the order.

Individuals placed on OPC are likely to display high-risk behaviors and pose concerns regarding treatment compliance. The goal is to make strong efforts to provide appropriate follow-up for these individuals. Vaya requires network providers to meet the requirements detailed below for individuals on OPC. However, please be aware that in some counties, certain magistrates and clerks of court have developed specific procedures and workflows for working with OPCs. Network providers are responsible for adhering to established procedures and workflows applicable to the county where the OPC was issued.

Vaya requires network providers of services delivered pursuant to an OPC order to notify Vaya of the order immediately upon receipt. Once notified, Vaya refers the individual to care management services.

Network providers serving members under an OPC order must perform a face-to-face assessment within five working days of notification of the order, followed by ongoing outpatient face-to-face assessment and follow-up treatment at the level clinically appropriate to the individual's needs and condition. Some individuals may need daily contact, while others may need weekly contact. No individual shall be seen less than once every two weeks unless they are in a supervised, 24-hour setting (e.g., family care home, group home) and are stable. If the provider determines the individual can be seen less than biweekly (two times per month), a medical doctor, licensed psychologist, family NP (FNP), or physician assistant (PA) must assess the need to continue the OPC and document the contact.

What is the process if a network provider is considering discharging a member on OPC?

If you determine the individual no longer meets the criteria to continue the OPC, the physician, licensed psychologist/ FNP, or PA must complete a Notice of Commitment Change Form. Once completed, you must send one copy to the clerk of court in the county the court order dictates (which is the county of supervision) and one to the assigned care manager, who will log the termination of commitment. If the individual was initially committed due to conduct resulting in the individual being **charged with a violent crime**, including a crime involving an assault with a deadly weapon, and was found incapable to proceed (ITP), a hearing must be scheduled to make any changes in the commitment. If you are unsure about the reason for the initial commitment, you must contact the clerk of court's office for clarification.

What if the individual clearly refuses and fails to adhere to treatment recommendations?

If the individual clearly refuses and fails to adhere to all or part of the prescribed treatment, while continuing to meet commitment criteria, you should make all reasonable efforts to engage their compliance and document those efforts in a letter prepared by the treating clinician. Send the clinician's letter to the clerk of court where the commitment is being supervised, along with a [Request for Supplemental Hearing \(Outpatient Clearly Refuses to Comply with Treatment\) AOC-SP-221](#). You must also provide a copy to the assigned care manager.

What if the individual fails to comply but does not clearly refuse to comply with treatment?

If the individual fails to comply but does not clearly refuse to comply (e.g., the individual has a pattern of scheduling appointments but does not show up), you may request the court to order the individual to be taken into custody for a face-to-face evaluation. This option is available only if you know where the individual can be located. To do this, you

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must complete a [Request for Transportation Order and AOC-SP-220](#), send the form to the clerk of court where the commitment is being supervised, and provide a copy to the assigned care manager.

What if the individual does not comply with treatment and cannot be located?

If the individual is non-compliant and cannot be located for a pick-up order, you must attempt the following reasonable professional efforts:

- First, you must be able to demonstrate supporting documentation and/or billing for at least one of the following within **72 hours (excluding weekends/official Vaya holidays)** of the initial missed appointment:
 - A face-to-face visit in the individual's home
 - A rescheduled office appointment with the clinician
 - A phone conversation with the individual about the services being offered
 - At least one face-to-face attempt to contact the individual at their last known address
 - A follow-up letter sent to the individual at their last known address
- Second, assuming the above-listed attempts to locate the individual are unsuccessful, you must attempt face-to-face contact once per week for the first two weeks, then one more attempt two weeks later (the fourth week).
- If the individual's last known address is a homeless shelter, or someone else who resides at the last known address states the individual does not reside at the last known address, you should make the above three face-to-face attempts at local homeless shelters. You must also follow up on any information provided to you by a family member or another person regarding the individual's location.

What if these reasonable professional efforts are unsuccessful?

You must document the efforts made (including three attempts at face-to-face contact over a four-week period) in a letter to the clerk of court's office in the supervising county, complete a Notice of Commitment Change Form, and send the form to the clerk of court, with a copy provided to the assigned care manager. Remember, if the initial commitment was due to conduct resulting in the individual being **charged with a violent crime**, including a crime involving an assault with a deadly weapon, and the individual was found ITP, a hearing must be scheduled to make any changes to the commitment.

If you are unsure about the reason for the initial commitment, you must contact the clerk of court's office for clarification. If the individual's case is active, you must keep the case open for 60 days from the last contact. If you cannot locate the individual within 60 days from the last contact, you may discharge them from services and notify Vaya using the normal discharge documentation and procedures.

What is the review process for the continuation of the OPC?

Prior to the expiration of the OPC, the network provider clinician must review the case with a physician, licensed psychologist, FNP, or PA and determine if the individual still meets the criteria for OPC and whether it needs to be extended. If the individual has been compliant and no longer meets the criteria, the duration of the OPC will naturally expire. If you determine the individual continues to meet OPC criteria and a rehearing is needed, then the physician/licensed psychologist must complete an Examination and Recommendation to Determine Necessity for Involuntary Commitment, Form 5-72-09, available on the [NCDHHS website](#). You must submit this form, along with a completed Request for Hearing Form, to the clerk of court, and provide a copy to the assigned care manager.

What if the individual moves to another state while under OPC?

If the individual moves to another state, you must document this change in the medical record, complete a Notice of Commitment Change, send it to the clerk of court's office, with a copy provided to the assigned care manager. Remember, if the initial commitment was due to conduct resulting in the individual being **charged with a violent crime**,

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including a crime involving an assault with a deadly weapon, and the individual was found ITP, a hearing must be scheduled to make any changes to the commitment. If you are unsure about the reason for the initial commitment, you must contact the clerk of court for clarification.

What if the individual moves to another LME/MCO region?

If the individual plans to relocate to another North Carolina county that is outside Vaya's region, you must request that the clerk of court in the county where the OPC is supervised schedule a hearing prior to the move. The physician/ licensed psychologist must complete a new Examination and Recommendation to Determine Necessity for Involuntary Commitment and send it to the clerk of court's office with a completed Request for Hearing Form, with a copy provided to the assigned care manager.

What if the individual relocates to another county within Vaya's region?

If the individual plans to move to a new county and receive services from a new provider, the original provider must connect the individual to a new provider. The original provider's OPC responsibilities do not end until the new provider accepts the individual for services. If the individual is moving to a new county but staying with the same provider organization, the current provider must arrange for all necessary transitions of paperwork and contact information. As outlined above, the law requires any move from one county to another to be done through the court, and a hearing must be requested for an OPC transfer to the new county.

What if the individual wants to change providers?

If the individual wants to receive services from a different network provider, the original provider must connect them to a new provider. The original provider's OPC responsibilities do not end until they confirm the new provider has accepted the individual for services.

Substance Abuse (SA) Commitment

Involuntary SA commitments generally take a great deal of coordination among community-based outpatient providers (e.g., Substance Abuse Intensive Outpatient Program, Substance Abuse Comprehensive Outpatient Treatment) and potential inpatient treatment facilities (state Alcohol and Drug Abuse Treatment Centers, FBC centers, or detoxification facilities). An SA commitment order is a hybrid of inpatient and outpatient care. SA commitments are for 180 days, of which 45 consecutive days can be inpatient. If longer inpatient time is needed, a re-hearing must be held.

At this hearing, 90 days can be ordered inpatient. Individuals under SA commitment who do not comply with treatment can be picked up by law enforcement, evaluated in the community, and admitted to a 24-hour treatment facility if inpatient criteria are met (without a new petition). In such cases, the network provider must complete a [Request for Transportation Order and Order \(Committed Substance Abuser Fails to Comply with Treatment or is Discharged from 24-Hour Facility\) AOC-SP-223](#) and submit it to the clerk of court's office, with a copy provided to the assigned care manager.

Once the pick-up order is issued, law enforcement will locate the individual and bring them to you for evaluation. Please remember to file this request early in the day to allow for sufficient time for the individual to be presented for a face-to-face evaluation. If, upon evaluation, you determine the individual meets inpatient criteria, you can arrange for the individual to be admitted to an inpatient SA treatment facility. Similar to the OPC process, each county may have a different process for SA commitments and pick-up orders. As a Vaya network provider, it is your responsibility to understand and follow the applicable county process.