

CARE Act


Judicial Process Overview Training for Counsel

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Judicial Council of California

September 26, 2023



Agenda

- Role of the Judicial Council
 - Overview of Process
 - General Provisions
 - Initiation of Case
 - Hearings
 - Accountability
 - Additional Consideration for Counsel
- 

Role of the Judicial Council

- Support the integrity and independence of the judicial branch and seek to ensure that judicial procedures enhance efficiency and access to the courts.
- Improve the administration of justice by adopting rules for court administration and procedure that are not inconsistent with statute.
- Rules cannot enact substantive policy changes, which require legislative action and approval by the Governor.

Role of the Judicial Council in CARE Act Implementation

CARE Act requires the Judicial Council to adopt:

- A mandatory petition form, as well as any other forms “necessary for the CARE process”
- Rules of court to “implement the policies and provisions” of sections 5977–5977.4 “to promote statewide consistency,” including:
 - Documents to be included in the petition form packet
 - Clerk’s review of the petition*
 - The process by which counsel will be appointed
 - Communications between the CARE Act and juvenile court*

CARE Act Implementation: Rules and Forms

In response to the CARE Act requirements, the Judicial Council has:

- Created 11 new rules of court
 - Preliminary provisions
 - Commencement of proceedings
 - Notice and joinder
 - Accountability
- Developed 13 new forms
 - 8 Mandatory forms
 - 5 Optional forms

Mandatory Forms

Initial Filing

- Petition (CARE-100)
- Mental health declaration (CARE-101)

Notice

- Order for CARE report (CARE-105)
- Notice of order for CARE report (CARE-106)
- Notice of initial appearance (CARE-110)
- Notice of hearing (CARE-115)

Information for Respondents

- Information for respondents (CARE-060-INFO)
- Notice of respondents rights (CARE-113)

General Provisions: Confidentiality

Confidentiality Provisions – WIC 5976.5

- CARE Act proceedings are presumptively closed to the public.
 - The respondent may demand that the hearing be public and be held in a place suitable for attendance by the public.
 - The respondent may request the presence of any family member or friend without waiving the right to keep the hearing closed to the rest of the public.
 - A request to make the hearing public by any other party may be granted if the presiding judicial officer finds that the public interest in an open hearing clearly outweighs the respondent's interest in privacy.
- All reports, evaluations, diagnoses, or other information filed with the court* related to the respondent's health shall be confidential.

General Provisions: Records Access

Access to Records - Rule 7.2210(b), WIC 5977.4(a)



- All documents filed and all evaluations, reports, and other documents submitted to the court in CARE Act proceedings are confidential.
- Only the following individuals may inspect the case records without a court order:
 1. The respondent;
 2. The respondent's counsel;
 3. The county behavioral health director or the director's designee;
 4. Counsel for the director or the director's designee; and,
 5. The respondent's supporter, with the respondent's express consent.

General Provisions: Service Requirements

Personal Service on Respondent – Rule 7.2235

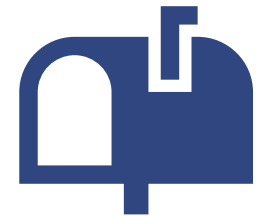
- Notice of all CARE Act proceedings must be served personally on the respondent or, if personal service is not practicable, by any method reasonably calculated to give the respondent actual notice.
- Proof of service on respondent by any method other than personal service must include:
 1. An explanation why personal service is impracticable; and
 2. Why the alternative method of service used is reasonably calculated to give the respondent actual notice.

General Provisions: Service Requirements (cont'd)

Alternative Methods of Service – Rule 7.2235(d)

Notice or other documents may be served on respondent's counsel and all others entitled to notice by the following methods:

1. Personally;
2. By first class mail, express mail or overnight delivery;
3. Fax transmission; or
4. Electronically.



Respondent's Rights

Rights of Respondent – Rule 7.2235, WIC § 5976 and 5976.5

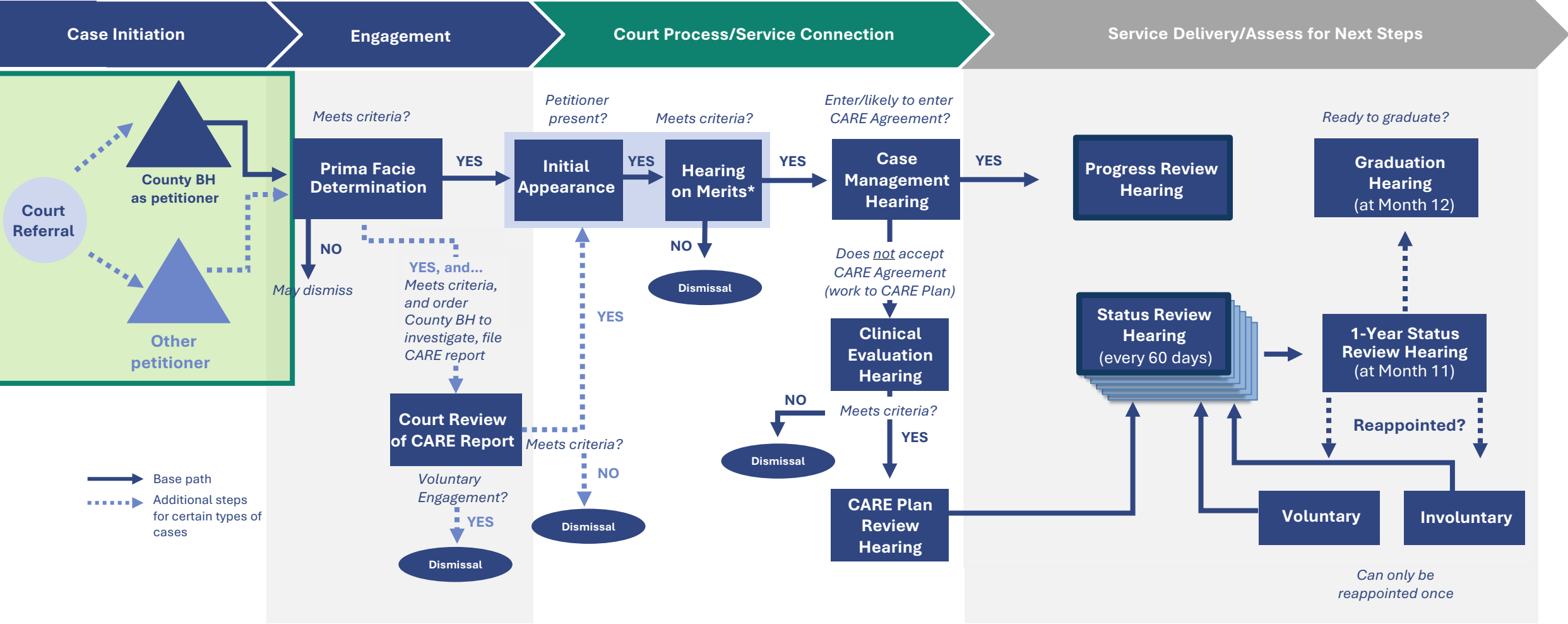
- The CARE Act confers many rights to the respondent throughout the CARE process.
- *Notice of Respondent's Rights* (form CARE-113) is a mandatory form to inform respondents of their procedural rights.
- Notice to respondent of each hearing must include *Notice of Respondent's Rights* (form CARE-113).

Respondents' Rights

Rights of Respondent – WIC § 5976 and 5976.5

- 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 report
- Have a supporter be present with them and assist them
- Present evidence
- Call witnesses
- Cross-examine witnesses
- Appeal decisions
- Have an interpreter, if necessary*
- Keep confidential all evaluations, reports, documents, and filings submitted to the court for CARE Act proceedings.

The CARE Act Process



*The Initial Appearance and Hearing on the Merits can occur simultaneously, if the petitioner, respondent, and court agree.

Petition Packet Requirements

Papers to be filed – Rule 7.2221(a), WIC Section 5975

The petition packet shall include:

- Form CARE-100 Petition; and
- Form CARE-101 Mental Health Declaration; **or**
- Evidence described in Section 5975(d)(2).

Note: *Information for Petitioners* (form CARE-050-INFO) instructs petitioners on how to fill out petition form.

The image displays two forms side-by-side. The left form is 'CARE-100 PETITION TO COMMENCE CARE ACT PROCEEDINGS'. It is a 'CONFIDENTIAL' form with a header 'CARE-100' and 'FOR COURT USE ONLY'. It contains fields for 'PETITIONER WITHOUT ATTORNEY' (NAME, FIRST NAME, STREET ADDRESS, CITY, TELEPHONE NO., BIRTH ADDRESS, ATTORNEY FOR (name)), 'STATE BAR NUMBER', 'STATE', 'ZIP CODE', 'FAX NO.', and 'SUPERIOR COURT OF CALIFORNIA, COUNTY OF' (STREET ADDRESS, MAILING ADDRESS, CITY AND ZIP CODE, BRANCH NAME). It also has a section for 'CARE ACT PROCEEDINGS FOR (name): RESPONDENT' and 'CASE NUMBER'. Below the form is a note: 'For information on completing this form, see Information for Petitioners—About the CARE Act (form CARE-050-INFO)'. The right form is 'CARE-101 MENTAL HEALTH DECLARATION—CARE ACT PROCEEDINGS'. It is also a 'CONFIDENTIAL' form with a header 'CARE-101' and 'FOR COURT USE ONLY'. It contains the same fields as CARE-100. Below the form is a section titled 'TO LICENSED BEHAVIORAL HEALTH PROFESSIONAL' with the text: 'This form will be used to help the court determine whether respondent meets the diagnostic criteria for CARE Act proceedings.' Underneath is a section 'GENERAL INFORMATION' with questions: 1. Dedarant'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, 1976, 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. At the bottom right, it says 'Page 1 of 4' and 'Form Adopted for Mandatory Use Judicial Council of California CARE-101 (New September 1, 2025)'. The footer also includes 'MENTAL HEALTH DECLARATION—CARE ACT PROCEEDINGS' and 'Welfare & Institutions Code, §§ 5751.1, 5751.2, 5751.3, 5751.7 www.courts.ca.gov'.

Petition: Venue

Filing – Rule 7.2223(a), WIC § 5973

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

- The county where the respondent resides at the time of filing;
- The county where the respondent is found at the time of filing; **or**
- A county where the respondent is a defendant or respondent in a pending criminal or civil action or proceeding.

Petition: Clerks Duties

Acceptance of Papers – Rule 7.2221(b), WIC Section 5977.4(c)

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



Petition: Transfer

Transfer – Rule 7.2223(b), WIC § 5973

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

1. The clerk of the transferring court must mail notice and a copy of the order to:
 - The petitioner and the petitioner's counsel, if any;
 - A former petitioner to whom the court has assigned notice rights;
 - The respondent, respondent's counsel, if any, and, with respondent's express consent, the respondent's supporter, if any;
 - The county behavioral health agency of the county in which the petition was filed and the agency's counsel, if the agency is not the petitioner;
 - The county agency preparing a report ordered and the agency's counsel; and
 - The county behavioral health agency in the respondent's county of residence and the agency's counsel.

Petition: Transfer (cont'd)

Transfer (cont'd) – Rule 7.2223(b), WIC § 5973

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

2. The clerk of the transferring court must transmit to the clerk of the receiving court a certified copy of the order and all papers on file in the proceeding.
3. When a court receives the case file of a transferred proceeding, the receiving court must send written notification of receipt to the transferring court.
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.

Petition: Petitioner Criteria

Persons who may file a petition – Rule 7.2225, WIC §§ 5974, 5978

A petition to commence CARE Act proceedings may be filed by any persons identified in WIC Sections 5974, or in circumstances specified in WIC section 5978.

- WIC Section 5974 delineates 13 categories a person must fall under to file a petition to initiate CARE Act proceedings.
- WIC Section 5978 indicates when a court may refer an individual to CARE Act proceedings.

Petition: Court Referral

Persons who may file a petition – Rule 7.2225, WIC §§ 5978

A court may refer an individual to CARE Act proceedings in 3 different circumstances. The type of referral will determine who the petitioner is in each circumstance.

| Type of Court Referral | Petitioner |
|--------------------------------------|---|
| From assisted outpatient treatment | County behavioral health director |
| From LPS conservatorship proceedings | Conservator or their designee of the county in which the respondent is present or reasonably believed to be present |
| From misdemeanor proceedings | County behavioral health director* |

Petition: Petitioner Eligibility

Persons who may file a petition – Rule 7.2225, WIC §§ 5974

The Petitioner must fall under one of the following 13 categories:

- 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.

Petition: Respondent Criteria

Persons who qualify for the CARE process – WIC § 5972

The respondent must (all of the following must be met):

- Be 18 years old or older.
- Have a diagnosis identified on the schizophrenia spectrum or other psychotic disorders
- Be currently experiencing a severe mental illness that
 - is severe in degree and persistent in duration
 - may cause behavioral functioning that interferes substantially with activities of daily living, and
 - may result in an inability to maintain stable adjustment and independent functioning without treatment, support, and rehabilitation for a long or indefinite period of time.
- Not be clinically stabilized in on-going voluntary treatment.

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*):
 - (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*):

Item 7, CARE-101

Petition: Respondent Criteria (cont'd)

Persons who qualify for the CARE process – WIC § 5972

The respondent must either:

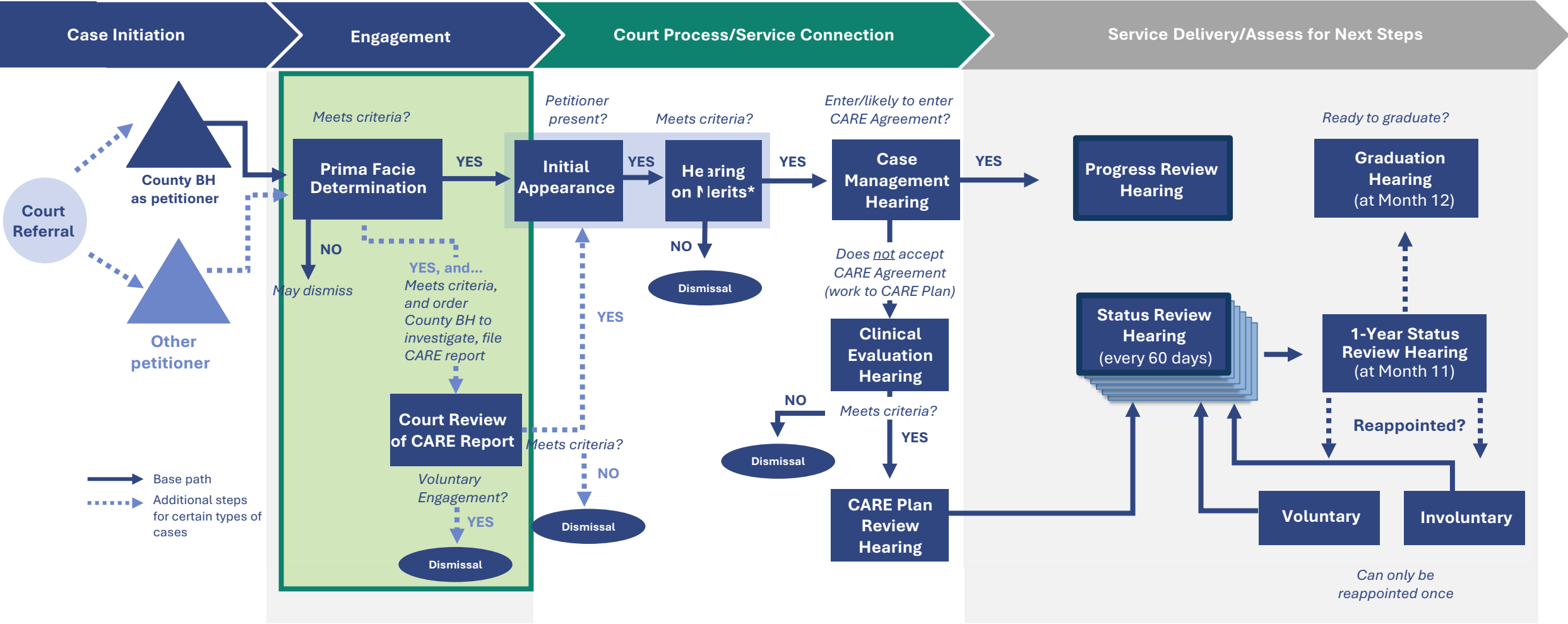
- be unlikely to survive safely in the community without supervision and be in a condition that is substantially deteriorating
or
- need services and supports to prevent a relapse or deterioration that would likely result in grave disability or serious harm to the respondent or others.

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

- be the least restrictive alternative necessary to ensure the respondent's recovery and stability,
and
- be likely to benefit the respondent.



The CARE Act Process



*The Initial Appearance and Hearing on the Merits can occur simultaneously, if the petitioner, respondent, and court agree.

Prima Facie Review

Prima Facie Determination – WIC § 5977(a)

- The court shall promptly review the petition to determine if the petitioner has made a prima facie showing that the respondent is or may meet CARE criteria.
- If the court finds a prima facie showing has not been made that the respondent is or may meet CARE criteria the court may dismiss the case without prejudice.
- If the court finds a prima facie showing, the court will take steps based on who the original petitioner is.



Prima Facie Review: Appointment of Counsel

Appointment of Counsel – Rule 7.2230(a), WIC § 5977

If 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 court must:

1. Appoint a qualified legal services project as counsel to represent the respondent; or
2. Appoint a public defender or attorney acting in that capacity to represent the respondent, if no qualified legal services project has agreed to accept appointments.

Copy of Petition – Rule 7.2230(b)

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

Right to Counsel – WIC 5976(c)

The respondent shall be entitled to be represented by counsel at all stages of CARE Act proceeding, regardless of the ability to pay.

Prima Facie Review: CBH as Petitioner

Order for Report – WIC § 5977(a)(3)(A)(iii) and 5977(a)(3)(B)

If the petitioner **is** the director of a CBH agency, or their designee, the court shall:

- Set the matter for an initial appearance within 14 court days, and
- Determine if the petition includes the information noted in Section 5977, or order* the county to submit a report within 14 court days that includes that information.
- Order CBH to provide notice.

*The order must be made on *Order for the CARE Act Report* (Form CARE-105).

| CONFIDENTIAL | | CARE-105 |
|--|--|--|
| ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR (name): | | STATE BAR NUMBER: FOR COURT USE ONLY DRAFT Not approved by the Judicial Council |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | | |
| CARE ACT PROCEEDINGS FOR (name): | | |
| RESPONDENT | | |
| ORDER FOR CARE ACT REPORT | | CASE NUMBER: |
| <p>1. The court has read and reviewed <i>Petition to Commence CARE Act Proceedings</i> (form CARE-100) filed by petitioner (name): (address): on (date): asking the court to begin CARE Act proceedings for respondent (name): (address, if known):</p> <p>2. The court has found that <i>Petition to Commence CARE Act Proceedings</i> 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.</p> <p>The court orders as follows:</p> <p>3. 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:</p> <ul style="list-style-type: none">a. Respondent's county of residence;b. A determination whether respondent meets or is likely to meet the CARE Act eligibility requirements;c. The outcome of the county's efforts to engage respondent during the period before the report deadline above;d. Conclusions and recommendations about respondent's ability to voluntarily engage in services; ande. Other: <p>4. Before engaging the respondent and preparing the report, the county agency named in item 3 or its designee must use <i>Notice of Order for CARE Act Report</i> (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).</p> <p>5. The court has, by separate order, appointed the following attorney to represent the respondent at all stages of these CARE Act proceedings.</p> <ul style="list-style-type: none">a. Name:b. Firm name:c. Street address:d. Mailing address (if different):e. Email address:f. Telephone number:g. Fax number: | | |
| Date: | | JUDICIAL OFFICER |
| Form Adopted for Mandatory Use Judicial Council of California CARE-105 (New September 1, 2023) | | Page 1 of 1 Welfare & Institutions Code, § 5977(a)(3) www.courts.ca.gov |

Prima Facie Review: Petitioner Other Than CBH

| CONFIDENTIAL | | CARE-105 |
|---|------------------------------|--|
| <p>ATTORNEY OR PARTY WITHOUT ATTORNEY</p> <p>NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR (name):</p> | | <p>FOR COURT USE ONLY</p> <p>DRAFT Not approved by the Judicial Council</p> |
| STATE BAR NUMBER: | STATE: ZIP CODE: FAX NO.: | |
| <p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</p> <p>STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:</p> | | |
| CARE ACT PROCEEDINGS FOR (name): | | |
| RESPONDENT | | CASE NUMBER |
| ORDER FOR CARE ACT REPORT | | |
| <p>1. The court has read and reviewed <i>Petition to Commence CARE Act Proceedings</i> (form CARE-100) filed by petitioner (name): (address): on (date): asking the court to begin CARE Act proceedings for respondent (name): (address, if known):</p> <p>2. The court has found that <i>Petition to Commence CARE Act Proceedings</i> 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.</p> <p>The court orders as follows:</p> <p>3. 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:</p> <ol style="list-style-type: none"> 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: <p>4. Before engaging the respondent and preparing the report, the county agency named in item 3 or its designee must use <i>Notice of Order for CARE Act Report</i> (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).</p> <p>5. The court has, by separate order, appointed the following attorney to represent the respondent at all stages of these CARE Act proceedings.</p> <ol style="list-style-type: none"> Name: Firm name: Street address: Mailing address (if different): Email address: Telephone number: Fax number: <p>Date: _____</p> <p style="text-align: center;">JUDICIAL OFFICER</p> | | |
| <p>Form Adopted for Mandatory Use Judicial Council of California CARE-105 (New September 1, 2023)</p> | | <p>Page 1 of 1 Welfare & Institutions Code, § 5977(a)(3) www.courts.ca.gov</p> |

Order for Report – WIC § 5977(a)(3)(A)(iii) and 5977(a)(3)(B)

- If the petitioner is a person **other than the director** of a county behavioral health agency, or their designee, the court shall order a county agency, or their designee, to investigate, and file a written report within 14 court days that includes the information noted in Section 5977.
- The order must be made on *Order for the CARE Act Report* (Form CARE-105).

Prima Facie Review: Notice of Order for Report

Notice of Order for Report – Rule 7.2235, WIC § 5977(a)(3)

- Before engaging the respondent and preparing a report, the county agency ordered to file the report and serve notice of that order, must give written notice to the respondent.
- The county agency must give notice to the respondent’s counsel and the petitioner.
- Notice must be given on *Notice of Order for CARE Act Report* (form CARE-106) and must include the following:
 - A copy of *Order for CARE Act Report* (form CARE-105) issued by the court,
 - A copy of the petition packet filed to begin the proceedings, and
 - *Information for Respondents – About the CARE Act* (form CARE-060-INFO).
- Optional Use: *Proof of Personal Service of Notice of CARE Act Report* (form CARE-107)

| CONFIDENTIAL | | CARE-106 |
|---|-------------------|--------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY | STATE BAR NUMBER: | FOR COURT USE ONLY |
| NAME: | | |
| FIRM NAME: | | |
| STREET ADDRESS: | | |
| CITY: | STATE: | ZIP CODE: |
| TELEPHONE NO.: | FAX NO.: | |
| EMAIL ADDRESS: | | |
| ATTORNEY FOR (name): | | |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF | | |
| STREET ADDRESS: | | |
| MAILING ADDRESS: | | |
| CITY AND ZIP CODE: | | |
| BRANCH NAME: | | |
| CARE ACT PROCEEDINGS FOR (name): | | |
| | RESPONDENT | CASE NUMBER: |
| NOTICE OF ORDER FOR CARE ACT REPORT | | |

1. Petitioner (name):

2. Respondent (name):

3. 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.

4. 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)

Page 1 of 1
Form Adopted for Mandatory Use
Judicial Council of California
CARE-106 (New September 1, 2023)

NOTICE OF ORDER FOR CARE ACT REPORT

Wetters & Institutions Code, §§ 5973, 5977;
Cal. Rules of Court, Rule 7.2235(a)
www.courts.ca.gov

Prima Facie Review: Additional Time for Report

Notice of Order for Report – Rule 7.2235(a)(5), WIC § 5977(a)(4)

- If the court grants the county agency additional time to engage the respondent before filing the report, the county agency must, within 5 calendar days of the order, serve written notice of the extended report deadline on the respondent, the respondent's counsel, and the petitioner.
- Notice must be given on *Notice of Order for CARE Act Report* (form CARE-106).

| CONFIDENTIAL | | CARE-106 |
|---|----------|--|
| ATTORNEY OR PARTY WITHOUT ATTORNEY | | STATE BAR NUMBER: |
| NAME: | | FOR COURT USE ONLY |
| FIRM NAME: | | |
| STREET ADDRESS: | | |
| CITY: | STATE: | ZIP CODE: |
| TELEPHONE NO.: | FAX NO.: | |
| EMAIL ADDRESS: | | |
| ATTORNEY FOR (name): | | |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF | | |
| STREET ADDRESS: | | |
| MAILING ADDRESS: | | |
| CITY AND ZIP CODE: | | |
| BRANCH NAME: | | |
| CARE ACT PROCEEDINGS FOR (name): | | |
| RESPONDENT | | CASE NUMBER: |
| NOTICE OF ORDER FOR CARE ACT REPORT | | |
| 1. Petitioner (name): | | |
| 2. Respondent (name): | | |
| 3. 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: | | |
| a. The respondent's county of residence; | | |
| b. A determination whether the respondent meets, or is likely to meet, the criteria necessary to participate in the CARE Act process; | | |
| c. The outcome of efforts made to voluntarily engage the respondent; and | | |
| d. Conclusions and recommendations about the respondent's ability to voluntarily engage in services. | | |
| 4. Attached to this notice, as required by California Rules of Court, rule 7.2235(a), are | | |
| a. a copy of <i>Order for CARE Act Report</i> (form CARE-105) issued by the court in this proceeding on (date); | | |
| b. a copy of the petition filed on form CARE-100 on (date) to begin these proceedings, and | | |
| c. <i>Information for Respondents—About the CARE Act</i> (form CARE-060-INFO). | | |
| Date: | | |
| (TYPE OR PRINT NAME OF COUNTY AGENCY REPRESENTATIVE) | | (SIGNATURE OF COUNTY AGENCY REPRESENTATIVE) |
| Form Adopted for Mandatory Use Judicial Council of California CARE-106 (New September 1, 2023) | | Page 1 of 1 Welfare & Institutions Code, §§ 5973, 5977; Cal. Rules of Court, rule 7.2235(a) www.courts.ca.gov |

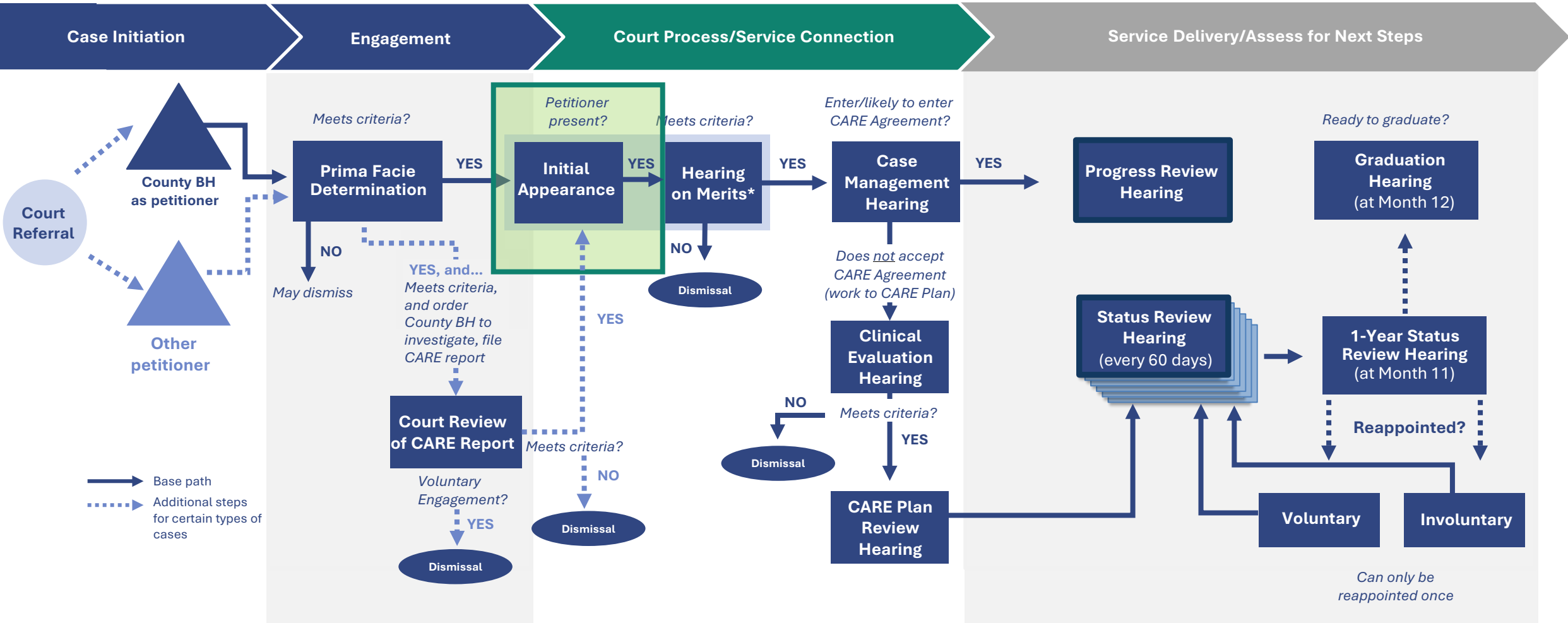
Prima Facie Review: Report Review

Report Review – WIC § 5977(a)(5)

Upon receipt of the report, court shall within 5 days, do one of the following:

| Determination | Action |
|--|--|
| The county's report does not support the petition's prima facie showing that the respondent meets CARE criteria. | Dismiss |
| Voluntary engagement with the respondent is effective, and that the individual has enrolled or is likely to enroll in voluntary behavioral health treatment. | Dismiss |
| The county's report does support the petition's prima facie showing that the respondent does, or may, meet CARE criteria and engagement was not effective. | Set an initial appearance within 14 days and Order the county to provide notice of the hearing to the petitioner, the respondent, the appointed counsel, the county behavioral health agency in the county where the respondent resides. |

The CARE Act Process



*The Initial Appearance and Hearing on the Merits can occur simultaneously, if the petitioner, respondent, and court agree.

Hearings: Initial Appearance (cont'd)

Notice to Respondent – Rule 7.2235(b), WIC § 5977(a)(3) and (5)

The image shows two forms from the Superior Court of California, County of Inyo. Form CARE-110 is a 'PETITION TO COMMENCE CARE ACT PROCEEDINGS' and Form CARE-111 is a 'NOTICE OF RESPONDENT'S RIGHTS—CARE ACT PROCEEDINGS'. Both forms are marked as 'CONFIDENTIAL' and include fields for petitioner and respondent information, court details, and a section for the respondent's rights. Form CARE-111 includes a 'CARE-060-INFO' section with information for respondents about the CARE Act, including why they are being given documents, what CARE Act proceedings are, and their rights during the process.

- Notice must be served personally on the respondent or, if personal service is not practicable, by any method reasonably calculated to give the respondent actual notice.
- Notice to the respondent must include the following:
 1. The petition packet filed to initiate proceedings;
 2. Any report ordered and filed under WIC § 5977(a)(3);
 3. Notice of Respondent's Rights (form CARE-113); and
 4. Information for Respondent's (form CARE-060-INFO).
- Optional Use: *Proof of Personal Service of Notice of Initial Appearance* (form CARE-111)

Hearings: Initial Appearance (cont'd)

Notice to Respondent's Counsel and Others – Rule 7.2235(b)(4-5) and(d), WIC § 5977(a)(3) and (5)

- Notice may be served on respondent's counsel and all others entitled to notice by the following methods:
 1. Personally;
 2. By first class mail, express mail or overnight delivery;
 3. Fax transmission; or
 4. Electronically.
- Notice to respondent's counsel must include copies of the following:
 1. The petition packet to begin proceedings; and
 2. any report ordered under WIC 5977(a)(3).

Hearings: Initial Appearance (cont'd)

Substitution of Counsel – Rule 7.2230(c), WIC § 5977(b)(1)

- At the initial appearance, the court shall permit respondent to substitute counsel.
- The court may relieve appointed counsel:
 1. At the request of counsel or the respondent; on substitution of respondent's own counsel or on appointment of substitute counsel, or
 2. For cause, on appointment of substitute counsel.
- The respondent must make arrangements for compensation of chosen counsel.

Hearings: Initial Appearance

At the initial appearance:

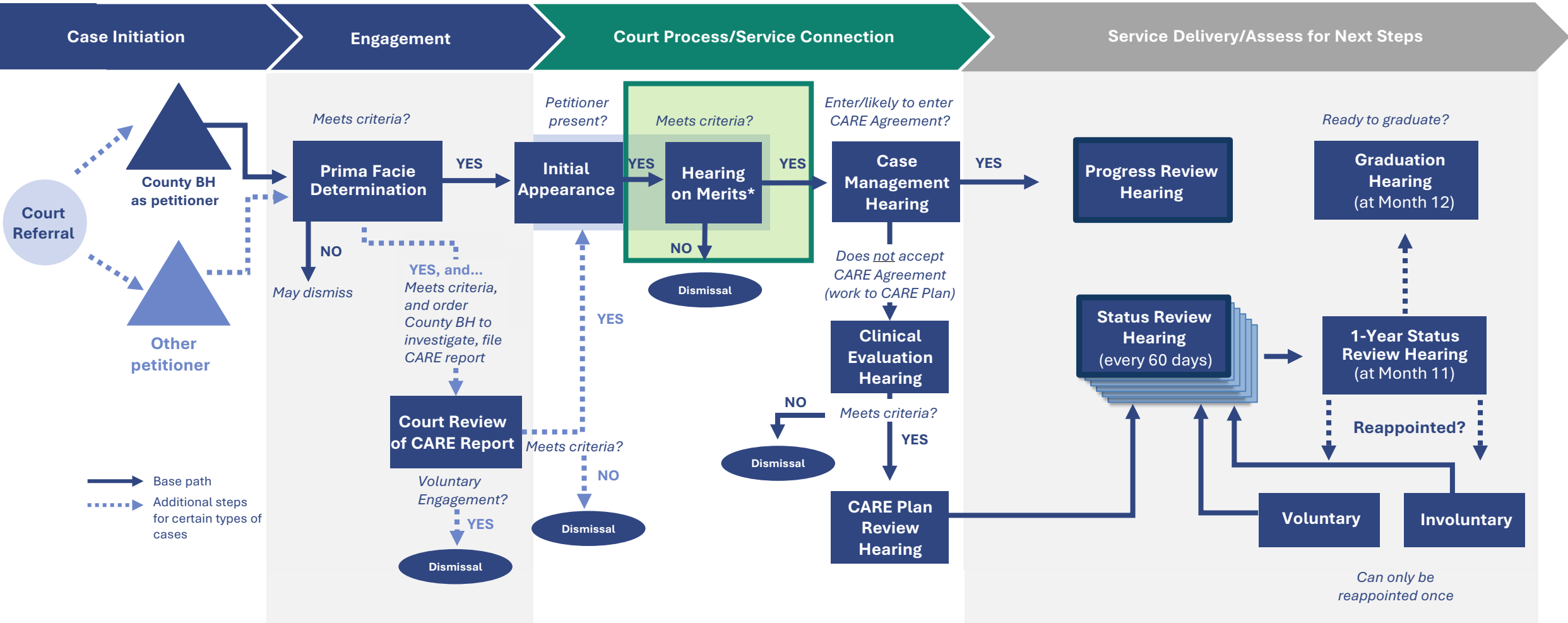
1. The petitioner shall be present. If the petitioner is not present, the matter may be dismissed.
2. If the petitioner is other than a director of a county behavioral health agency, the court shall issue an order relieving the petitioner and appointing the director of the county behavioral health agency as the substitute petitioner.

Petitioner's Rights

The relieved petitioner has rights depending on their relationship to the respondent

| Relieved Petitioner | Rights |
|--|--|
| Spouse, parent, sibling, child, grandparent, person who stands in the place of a parent of the respondent or person who lives with the respondent. | <ol style="list-style-type: none">1. The right to be present and make a statement at* in the initial hearing to determine the merits of the petition.2. The court may assign ongoing rights of notice.3. The court may allow for participation and engagement in the respondent's CARE proceedings, if the respondent consents.4. The petitioner may file a new petition if the matter is dismissed and there is a change in circumstances. |
| Other than those listed above. | The right to be present* and make a statement at the hearing on the merits of the petition, no ongoing rights. |

The CARE Act Process



*The Initial Appearance and Hearing on the Merits can occur simultaneously, if the petitioner, respondent, and court agree.

Revised 9/15/23

Hearings: Hearing on the Merits

Hearing on the Merits – WIC 5977(c)

At the hearing on the merits, the court will make a determination and do one of the following:

| Determination | Action |
|---|---|
| The court finds there is not clear and convincing evidence that the respondent meets CARE criteria. | Dismiss without prejudice, unless the court makes a finding, on the record, that the initial petitioner's filing was not in good faith. |
| The court finds that the petitioner has shown by clear and convincing evidence that the respondent meets CARE criteria. | <ol style="list-style-type: none">1. Order the county behavioral health agency to work with the respondent, the respondent's counsel, and the supporter to engage in behavioral health treatment and determine if the parties will be able to enter into a CARE agreement.2. Set a case management hearing within 14 days. |

Hearings: Notice Requirements

Notice Requirements – Rule 7.2235(c)

- The county must give at least 5 court days' notice of any hearing after the initial appearance to the following:
 1. Respondent;
 2. Respondent's counsel;
 3. Any local government entity the court has joined; and,
 4. The respondent's supporter, with the respondent's express consent.
- Notice **must** be given on *Notice of Hearing* (form CARE-115).

| CONFIDENTIAL | | CARE-115 |
|---|--|---|
| 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 DRAFT Not approved by the Judicial Council |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | | |
| CARE ACT PROCEEDINGS FOR (name): RESPONDENT | | CASE NUMBER: |
| NOTICE OF HEARING—CARE ACT PROCEEDINGS | | |

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

| | | | |
|-------------------------|--------|-------|---|
| Hearing Date | Date: | Time: | Name and address of court, if different from above: |
| | Dept.: | Room: | |

2. The hearing is (check all that apply):

| | |
|--|--|
| a. <input type="checkbox"/> A hearing on the merits of the petition. | e. <input type="checkbox"/> A progress or status review hearing. |
| b. <input type="checkbox"/> A case management hearing. | f. <input type="checkbox"/> A one-year status review hearing. |
| c. <input type="checkbox"/> A clinical evaluation review hearing. | g. <input type="checkbox"/> A graduation hearing. |
| d. <input type="checkbox"/> A CARE plan review hearing. | h. <input type="checkbox"/> 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: _____

(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

(SIGNATURE OF PERSON COMPLETING THIS FORM)

 **Requests for Accommodations**
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 www.courts.ca.gov/forms.htm for Disability Accommodation Request (form MC-410). (Civ. Code, § 54.8.)

NOTICE OF HEARING—CARE ACT PROCEEDINGS

Page 1 of 1
Welfare & Institutions Code, §§ 5976, 5977, 5977.3, 5979
www.courts.ca.gov

Form Adopted for Mandatory Use
Judicial Council of California
CARE-115 (New September 1, 2023)

Hearings: Notice Requirements (cont'd)

Notice to Respondent – Rule 7.2235(c)(3)

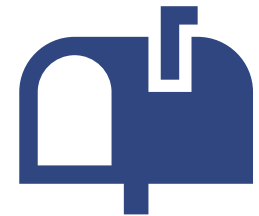
- Notice **must** be given on *Notice of Hearing* (form CARE-115) and must:
 1. Be served personally on the respondent or, if personal service is not practicable, by any method reasonably calculated to give the respondent actual notice.

Proof of service on respondent by any method other than personal service 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; and
 2. Include a copy of *Notice of Respondent's Rights* (form CARE-113).
- Optional Use: *Proof of Personal Service of Notice of Hearing* (form CARE-116).

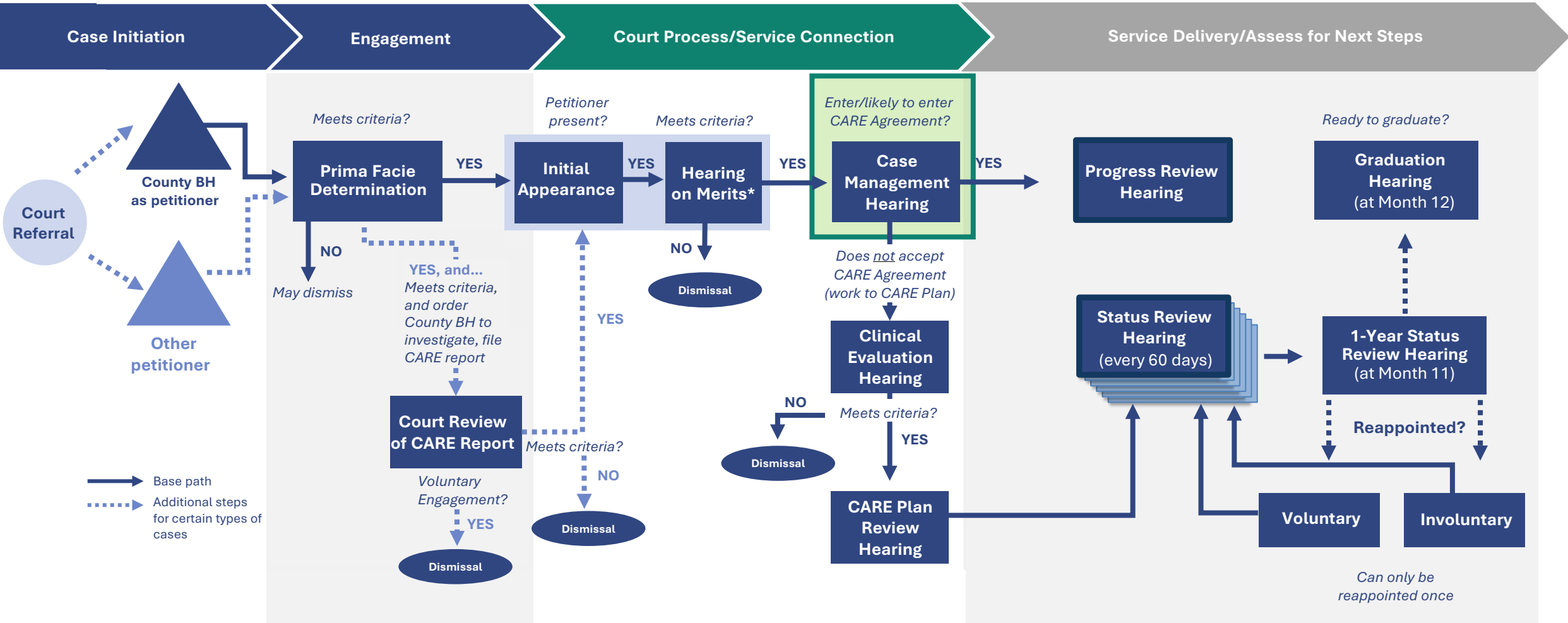
Hearings: Notice Requirements (cont'd)

Notice to Others – Rule 7.2235(c)(2) and (d)

- Notice **must** be given on *Notice of Hearing* (form CARE-115).
- Notice may be served by the following methods:
 1. Personally;
 2. By first class mail, express mail or overnight delivery;
 3. Fax transmission; or
 4. Electronically.



The CARE Act Process



*The Initial Appearance and Hearing on the Merits can occur simultaneously, if the petitioner, respondent, and court agree.

Revised 9/15/23

Hearings: Case Management Hearing

Case Management Hearing – Rule 7.2235(c)(4), WIC 5977.1

At the case management hearing the court shall hear evidence as to whether the parties have entered or are likely to enter into a CARE agreement. The court will make a determination and do one of the following:

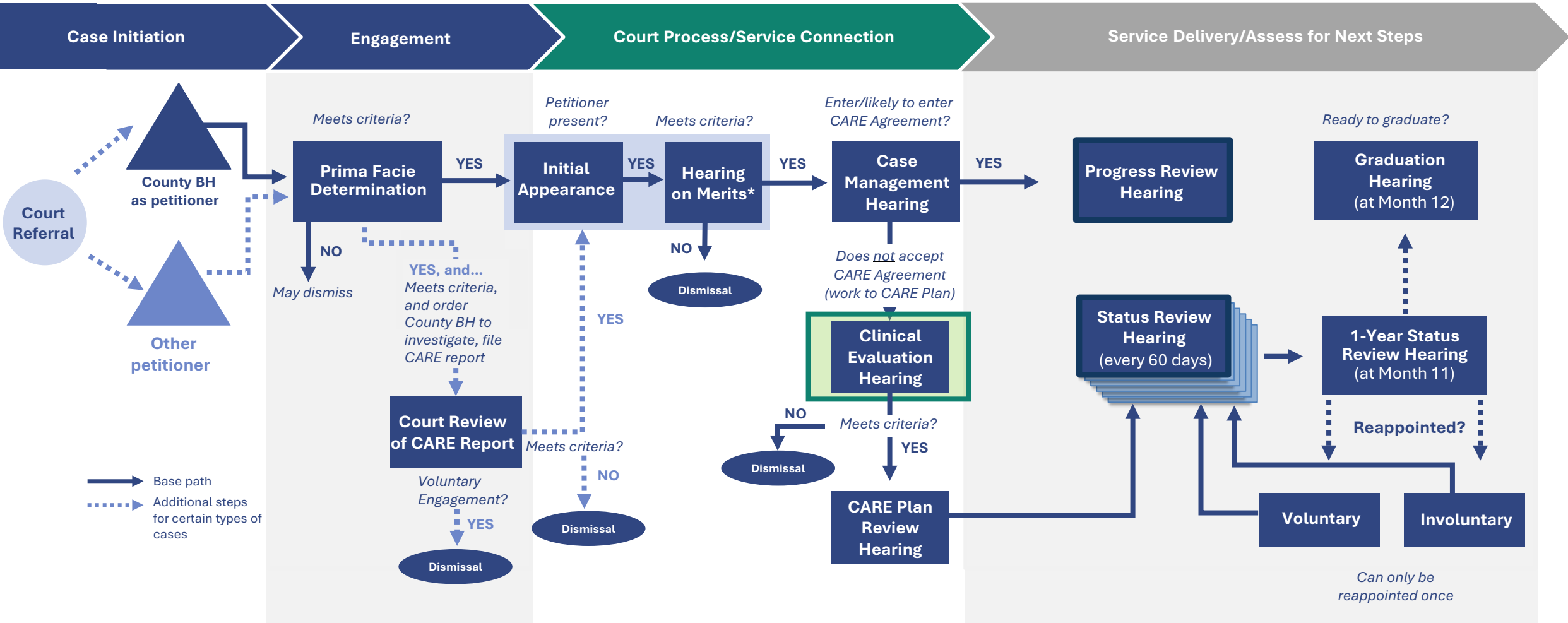
| Determination | Action |
|---|---|
| The court finds that the parties have entered, or are likely to enter, into a CARE agreement. | <ol style="list-style-type: none">1. Approve the terms of the CARE agreement or modify the terms and approve the agreement as modified by the court.2. Continue the matter and set a progress hearing for 60 days. |
| The court finds that the parties have not entered into a CARE agreement, and are not likely to enter into a CARE agreement. | <ol style="list-style-type: none">1. Order the county behavioral health agency to conduct a clinical evaluation.2. Set a clinical evaluation hearing within 21 days.3. Order the county to file the evaluation with the court and provide the evaluation to respondent's counsel no later than 5 days prior to the clinical evaluation hearing. |

Hearings: Progress Review

Progress Hearing – WIC 5977.1(a)(2)

- **Little guidance in statute allows for great discretion by courts**
- **Only one required, but can have more**
- **Undetermined what will follow (e.g. graduation)**

The CARE Act Process



*The Initial Appearance and Hearing on the Merits can occur simultaneously, if the petitioner, respondent, and court agree.

Revised 9/15/23

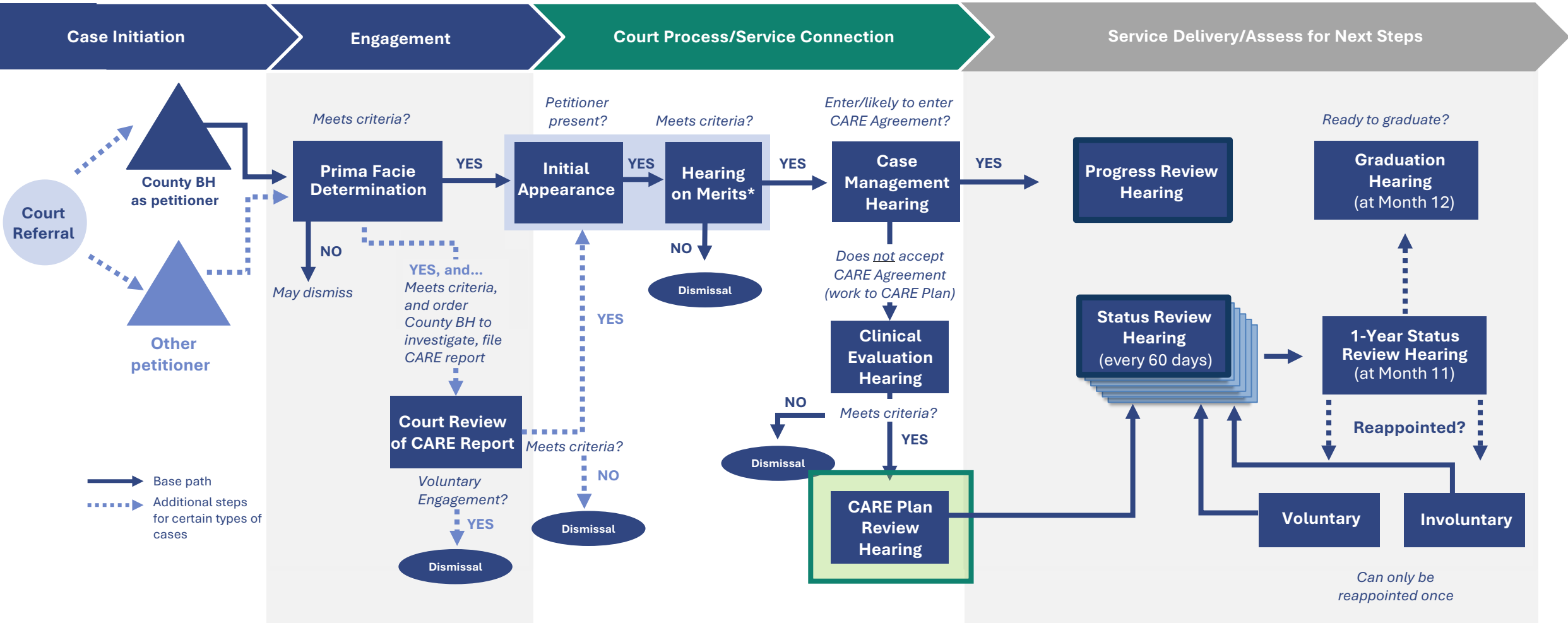
Hearings: Clinical Evaluation Hearing

Clinical Evaluation Hearing – WIC 5977.1(c)(1)

The court will review the evaluation and any other evidence. The court will make a determination and do one of the following:

| Determination | Action |
|---|--|
| The court finds there is not clear and convincing evidence that the respondent meets CARE criteria. | Dismiss the petition. |
| The court finds by clear and convincing evidence that the respondent meets CARE criteria. | <ol style="list-style-type: none"><li data-bbox="1233 1021 2193 1235">1. Order the county behavioral health agency, the respondent, and the respondent's counsel and supporter to jointly develop a CARE plan within 14 days.<li data-bbox="1233 1249 2219 1349">2. Set a status review hearing no more than 14 days of the order to develop a CARE plan. |

The CARE Act Process



*The Initial Appearance and Hearing on the Merits can occur simultaneously, if the petitioner, respondent, and court agree.

Revised 9/15/23

Hearings: CARE Plan Review Hearing

CARE Plan Review Hearing – WIC 5977.1(d)(1)

- The parties present their plan(s) to the court.
- The court shall adopt the elements of a CARE plan that support the recovery and stability of the respondent.
- The court may issue orders to support the respondent in accessing appropriate services and supports, including prioritization for those services and supports. These orders will constitute the CARE plan.
- The court may order medication only if it finds, by clear and convincing evidence, that respondent lacks the capacity to provide informed consent. If the court orders medically necessary stabilization medication, that medication cannot be forcibly administered and failure to comply with the order shall not result in a penalty to the respondent.

CARE Plan Review Hearing (cont'd)

CARE Plan Review Hearing – WIC 5977.1(d)(1)

- If the proposed CARE plan includes services and supports provided through another local governmental entity, that local entity may agree, or the court may consider a motion to add the local entity as a party to the CARE proceeding.
- The issuance of an order approving a CARE plan begins the CARE process timeline, which shall not exceed one year.

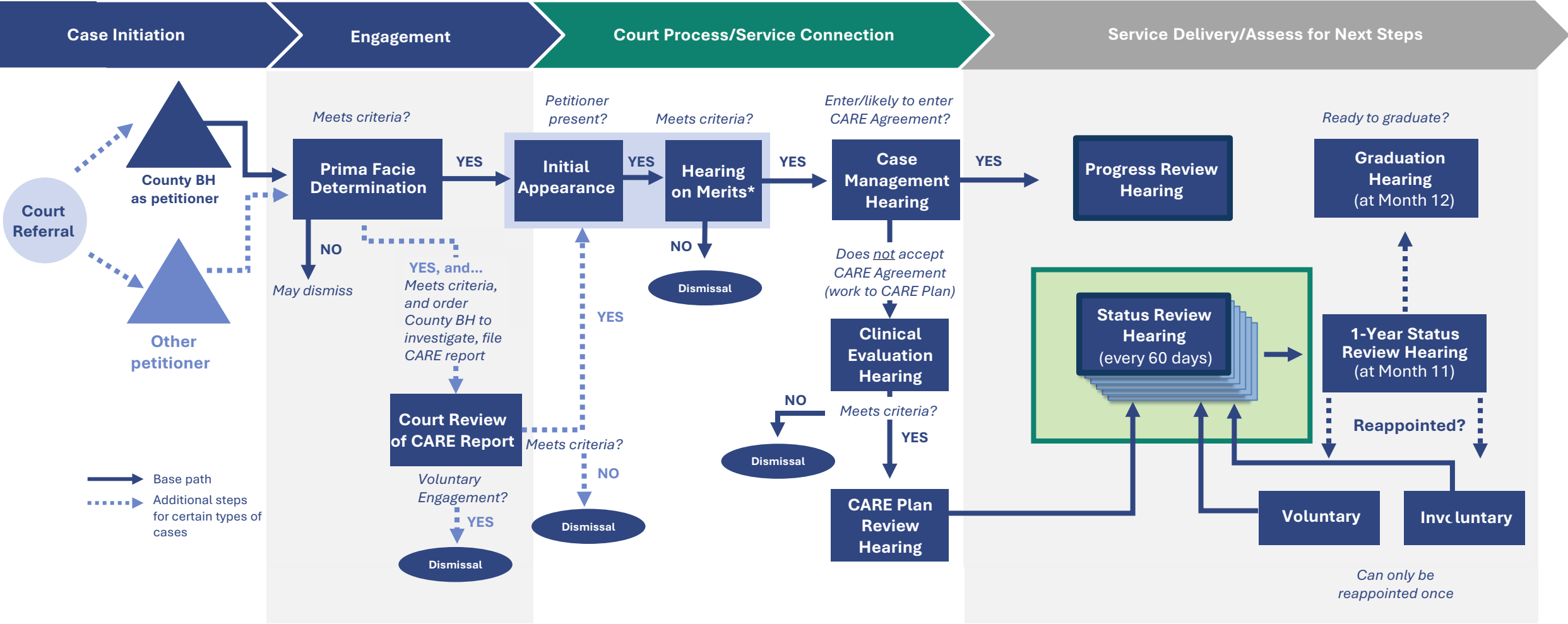
Hearings: Joinder

Joinder – Rule 7.2240, WIC 5977.1(d)(4)

Before granting a motion or request to join as a party another local government entity the court must:

1. Order the local government entity and all parties to show cause why the entity should not be joined as a party and ordered to provide the service or support; and
2. Set the hearing on the order to show cause no fewer than 15 calendar days after the date of the order's issuance.

The CARE Act Process



*The Initial Appearance and Hearing on the Merits can occur simultaneously, if the petitioner, respondent, and court agree.

Hearings: Status Review Hearings

Status Review Hearings – Rule 7.2235(c)(5), WIC 5977.2

- At intervals set by the court, but not less frequently than 60 days after the court orders the CARE plan, the court shall hold a status review hearing.
- Not fewer than 5 court days prior to the review hearing, the county behavioral health agency shall:
 1. File with the court a copy of the report; and
 2. Serve on the respondent, the respondent's counsel and supporter, notice of the hearing and a copy of the report.
- The respondent is permitted to respond to the report and introduce their own information and recommendations.

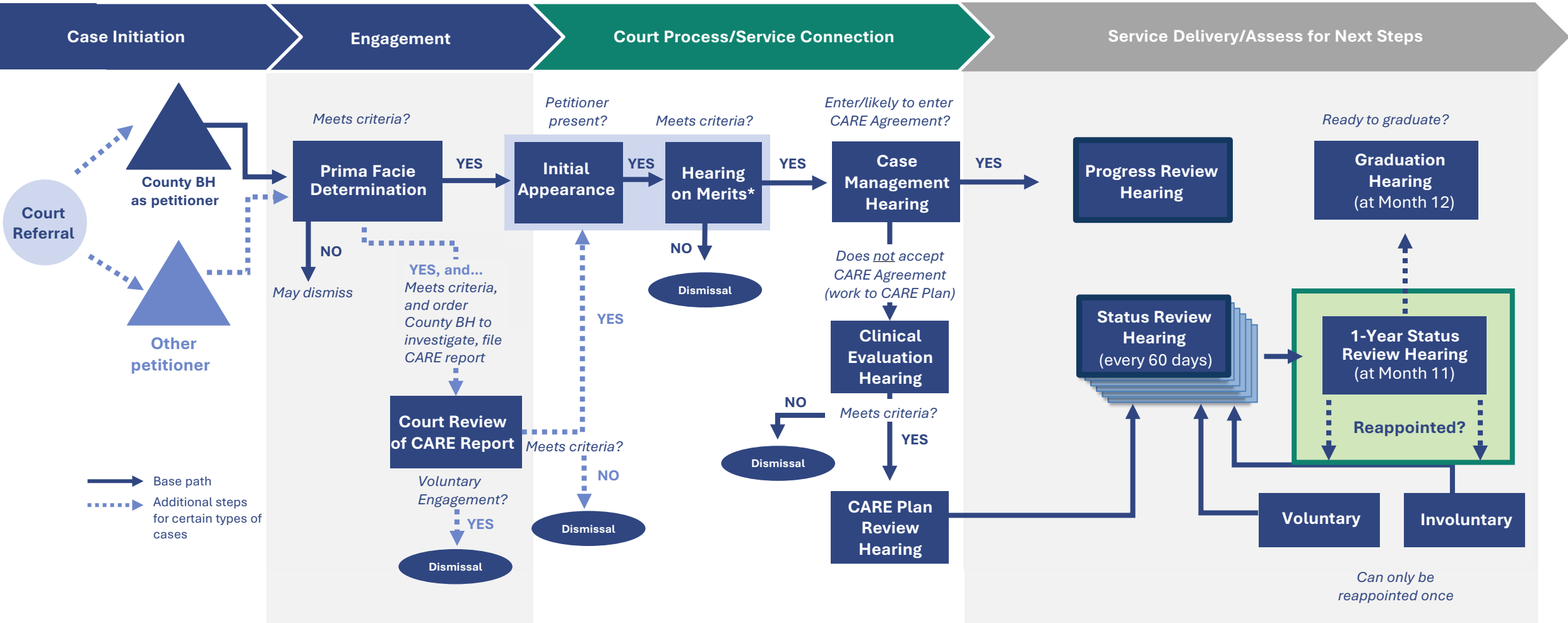
Hearings: Additional Hearings

Request for Hearing – Rule 7.2235(c)(5), WIC 5977.2(b)

- The county behavioral health and the respondent may request a hearing to address a change of circumstance at any time during the CARE process.
- Optional Use: *Request for New Order or Hearing* (form CARE-120).

| CONFIDENTIAL | | CARE-120 |
|--|-------------------|---|
| ATTORNEY OR PARTY WITHOUT ATTORNEY | | FOR COURT USE ONLY |
| NAME: | STATE BAR NUMBER: | |
| FIRM NAME: | | |
| STREET ADDRESS: | | |
| CITY: | STATE: | ZIP CODE: |
| TELEPHONE NO.: | FAX NO.: | |
| EMAIL ADDRESS: | | |
| ATTORNEY FOR (name): | | |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF | | |
| STREET ADDRESS: | | |
| MAILING ADDRESS: | | |
| CITY AND ZIP CODE: | | |
| BRANCH NAME: | | |
| CARE ACT PROCEEDINGS FOR (name): | | |
| RESPONDENT | | CASE NUMBER: |
| REQUEST FOR NEW ORDER <input type="checkbox"/> AND HEARING— CARE ACT PROCEEDINGS | | |
| 1. I am <input type="checkbox"/> the respondent <input type="checkbox"/> the director of a county behavioral health agency or the director's designee <input type="checkbox"/> other (specify): | | |
| 2. I am asking the court to make the following order (a description of the requested order is given <input type="checkbox"/> below <input type="checkbox"/> on an attached sheet of paper labeled Attachment 2): | | |
| 3. I am requesting this order because: | | |
| a. <input type="checkbox"/> Circumstances have changed, and the changes require a change to a previous court order (a description of what has changed is provided <input type="checkbox"/> below <input type="checkbox"/> on an attached sheet of paper labeled Attachment 3a): | | |
| b. <input type="checkbox"/> A party has not complied with a previous order (a description of what the party has or has not done is given <input type="checkbox"/> below <input type="checkbox"/> on an attached sheet of paper labeled Attachment 3b): | | |
| Form Approved for Optional Use Judicial Council of California CARE-120 (New September 1, 2023) | | Page 1 of 2 Welfare & Institutions Code, §§ 5977.2, 5979 www.courts.ca.gov |

The CARE Act Process



*The Initial Appearance and Hearing on the Merits can occur simultaneously, if the petitioner, respondent, and court agree.

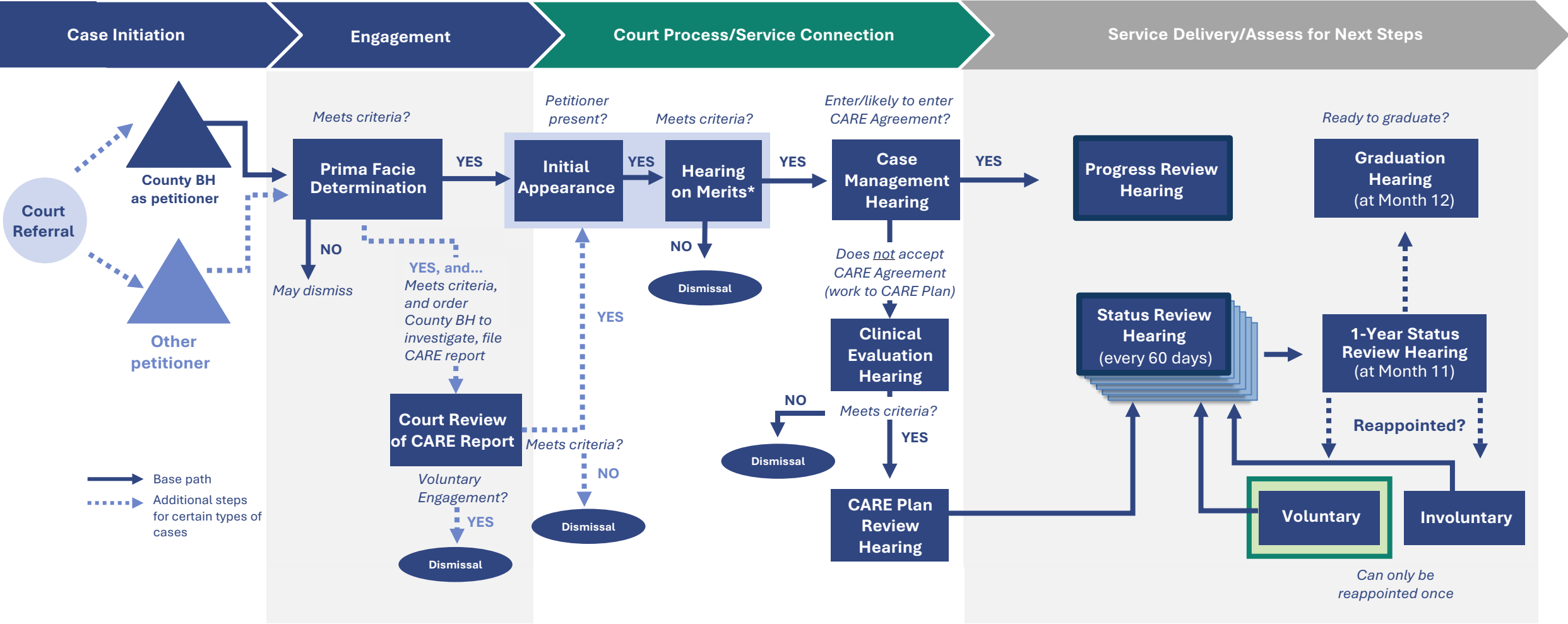
Revised 9/15/23

Hearings: One-Year Status Hearing

One-Year Status Hearing – Rule 7.2235(c)(6), WIC 5977.3

- In the 11th month of the program timeline, a one-year status hearing will be held.
- Not fewer than five court days prior to the one-year status hearing, the county behavioral health agency shall file a report with the court and shall serve the report on the respondent, respondent's counsel and supporter.
- At the hearing, the respondent may:
 1. Voluntarily remain in the program
 2. Involuntarily remain in the program; or
 3. Graduate from the program.

The CARE Act Process



*The Initial Appearance and Hearing on the Merits can occur simultaneously, if the petitioner, respondent, and court agree.

Revised 9/15/23

Hearings: One-Year Status Hearing (cont'd)

Respondent's Election – WIC 5977.3(a)(3)

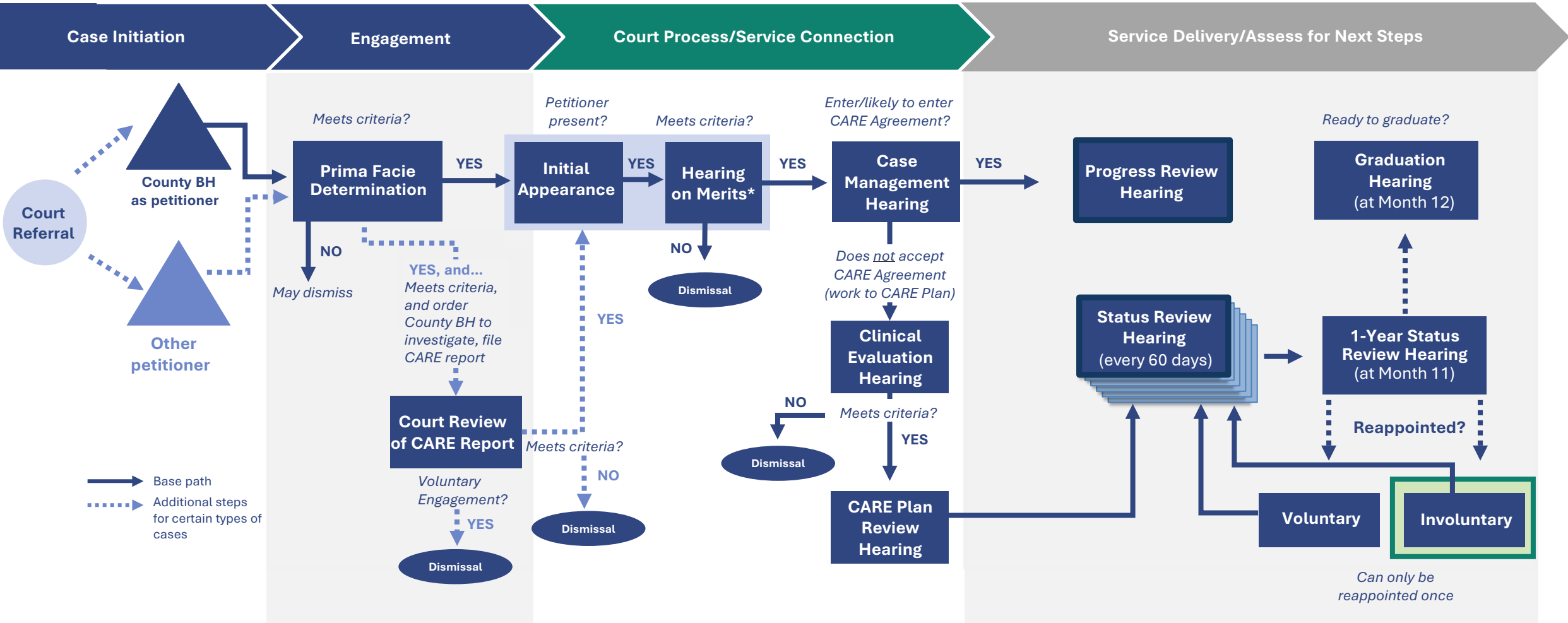
If the respondent elects to:

Voluntarily Remain in program

- The respondent may request up to 1 additional year.
- The court may permit ongoing participation if the court finds both of the following, the respondent:
 - Did not successfully complete the CARE plan; and
 - Would benefit from continuation of the CARE plan.

The court shall issue an order permitting the respondent to continue in the CARE plan or denying respondent's request to remain in the CARE plan and state its reasons on the record.

The CARE Act Process



*The Initial Appearance and Hearing on the Merits can occur simultaneously, if the petitioner, respondent, and court agree.

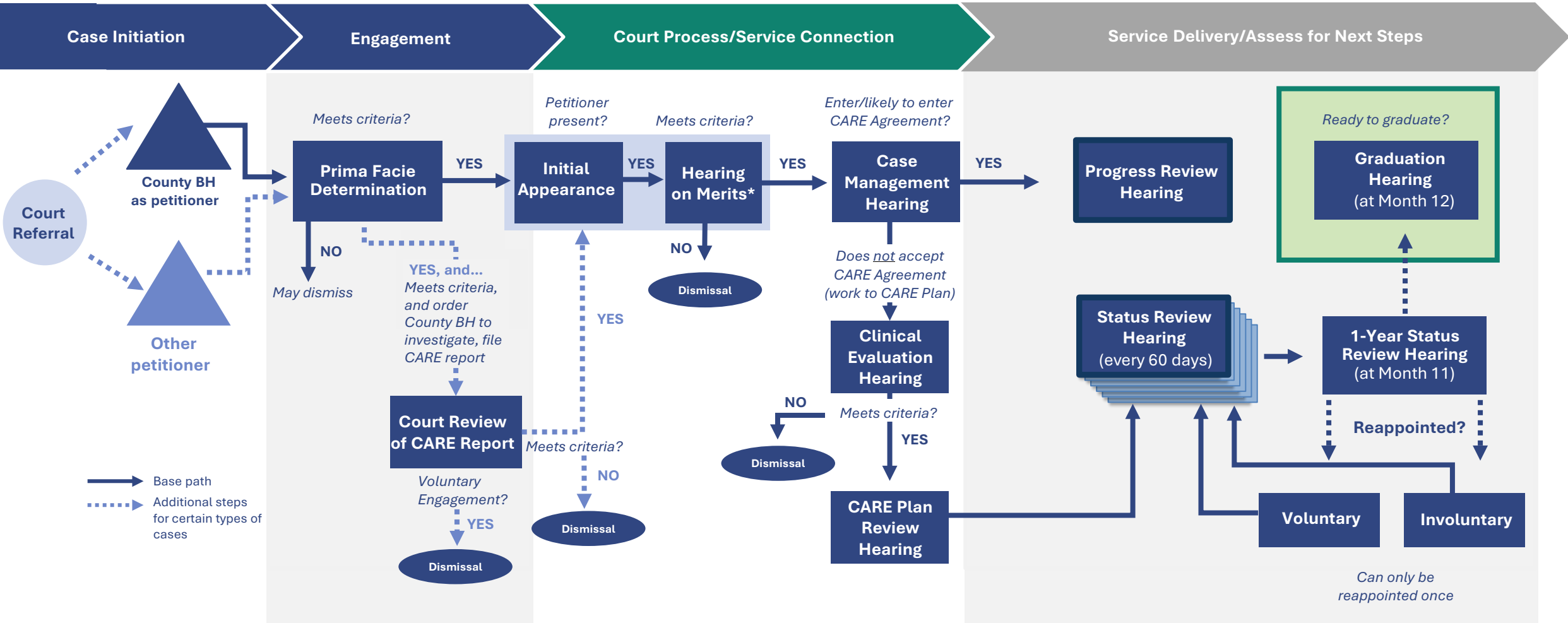
Revised 9/15/23

Hearings: One-Year Status Hearing (cont'd)

Involuntary Reappointment – WIC 5977.3(b)

- The respondent may be involuntarily reappointed to the program only if the court finds, by clear and convincing evidence, that all of the following conditions apply:
 1. The respondent did not successfully complete the CARE process;
 2. All services and supports required through the CARE process were provided to the respondent;
 3. The respondent would benefit from continuation in the CARE process;
 4. The respondent currently meets the requirements in Section 5972,
- A respondent may only be reappointed to the CARE process once, for up to one additional year.

The CARE Act Process



*The Initial Appearance and Hearing on the Merits can occur simultaneously, if the petitioner, respondent, and court agree.

Hearings: One-Year Status Hearing (cont'd)

Respondent's Election – WIC 5977.3(a)(3)

If the respondent elects to:

Graduate from the program

The court shall:

- Order the county behavioral health agency and the respondent to work jointly on a graduation plan; and
- Schedule a hearing in the 12th month after adoption of the CARE plan for presentation of the plan.

Hearings: Graduation Hearing

Graduation Hearing and Plan – WIC 5977.3(a)(3)

- Graduation Hearing
 - Held in the 12th month after adoption of the CARE plan.
 - Presentation of the graduation plan includes:
 1. Review of voluntary graduation plan; and
 2. Recital of the terms on the record.
- Graduation Plan
 - Shall not place additional requirements on local government entities and is not enforceable by the court.
 - May, at respondent's election, include a psychiatric advance directive, which shall have the force of law.



Upon completion of the hearing, the respondent shall be officially graduated from the program.

Accountability Rules

Implementation and Participation – Rules 7.2301, 7.2303, and WIC 5979(b)

The accountability rules:

- Implement the accountability provisions in the Act;
- Provide a procedural mechanism for the court to exercise authority to hold a county or other local government entity accountable for failing to provide services and supports ordered in a CARE plan or failing to comply with court orders; and
- Provide a process for service of the order to show cause and provide that respondent and respondent's counsel are entitled to be present and participate in hearings under Section 5979.

Additional Considerations for Counsel

Additional factors Counsel should consider

- Clients with multiple court cases/multiple appointed counsel
 - Juvenile court
 - Criminal court
 - AOT/LPS court
- Ethical considerations
 - “Representation of a respondent in these matters does not alter counsel’s obligations under the State Bar Act and the Rules of Professional Conduct, including subdivision (e) of Section 6068 of the Business and Professions Code and rule 1.6 of the Rules of Professional Conduct.” (WIC 5971(d))*
 - Presumption of capacity

Additional Considerations for Counsel (cont'd)

Professional Responsibilities re Filing Petitions – WIC 5975.1(b)*

“If a person other than the respondent files a petition for CARE Act proceedings in order to gain an advantage over the respondent in another legal proceeding, then, notwithstanding any other provision of this part, it is cause for suspension, disbarment, or other discipline if a member of the State Bar is found to have filed the petition or assisted in the filing of the petition with knowledge that the filing was being made in order to gain that advantage.”

Exempted legal proceedings:

- Proceedings under WIC 5000 et seq.
- Proceedings under WIC 300

Additional Considerations for Counsel (cont'd)

Professional Responsibilities and Conduct

“A lawyer for a client with diminished capacity should attempt, insofar as reasonably possible, to preserve a normal attorney-client relationship with the client, that is, a relationship in which the client makes those decisions normally reserved to the client. The lawyer’s ethical obligations to such a client do not change, but the client’s diminished capacity may require the lawyer to change how the lawyer goes about fulfilling them. In particular, the duties of competence, communication, loyalty, and nondiscrimination may require additional measures to ensure that the client’s decision-making authority is preserved and respected.”

Ethical obligations of a lawyer for a client with diminished capacity (Formal Opinion No. 2021-207)

Questions and Resources

Legal Support Contact Info for the Courts and Resource Links

Legal Support Contact

Care Act E-mail:

care.act@jud.ca.gov

Resource Links

Adult Civil Mental Health:

<https://www.courts.ca.gov/48654.htm>

