



A care authorisation

What does this mean?
What can you do?

Yulius

A care authorisation is issued for you What does this mean? And what can you do?

Your consent is needed for psychiatric treatment. In some cases, health professionals can treat you without your consent, for example if you are causing a dangerous situation because of a psychological condition. Treatment without consent is known as compulsory medical care.

This type of care is stipulated in the Compulsory Mental Healthcare Act (the Wvvgz in Dutch).

Compulsory medical care cannot be imposed randomly. It is only allowed in extreme cases in which there are no longer any other options.

There are two ways in which compulsory medical care can be imposed:

- the crisis measure
- the care authorisation

This brochure is specially compiled for people who are subject to a care authorisation. A care authorisation means that a judge has decided that you may be treated despite the fact that you do not consent to this. The brochure explains what the law says about care authorisations and what the consequences can be for you.

There is also a lot that you can do yourself.

In many cases, you will still have an influence to prevent compulsory medical care while the care authorisation is being prepared. You may then be able to get voluntary care instead of compulsory care.

The people you can be in contact with if a care authorisation is being prepared for you:

- a public prosecutor (see page 5)
- a medical director (see page 5)
- a lawyer (see page 16)
- a patient advocate (see page 16)
- your representative, if applicable (see page 17)
- the care coordinator (see page 5)
- an independent psychiatrist (see page 5)
- the family doctor (GP)

Instead of 'he/she' we have used 'they' in this brochure.

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What is a care authorisation?

A care authorisation is an authorisation that is issued by a judge. In the authorisation, the judge states what care may be given to you without your consent. This authorisation will restrict your freedom, as you may be obliged to undergo physical or psychological treatment.

You may be admitted to a mental healthcare institution to be given the compulsory medical care. This is not necessarily the case, however. Compulsory medical care can also be given as outpatient care. This means that you are not hospitalized but must (for instance) go to an outpatient clinic for the care or receive the care at your home.

Why may a care authorisation be prepared?

Someone is extremely worried about you. This could be the healthcare provider, for example the psychiatrist who already treats you, or a community police officer who has reported the problem. They may ask the public prosecutor's office to draw up a care authorisation for you.

It can also be the case that a family member, or someone else, has reported to the municipality that they are worried about you.

Notification to the municipality and exploratory examination

What happens when the municipality is notified? The municipality first carries out a brief exploratory investigation. They will check aspects such as confirming that it is not a false report.

- If you want to receive care voluntarily, compulsory medical care may not be needed.
- If you do not consent to the care voluntarily, the municipality will then look to see if your situation meets the conditions for compulsory medical care. This is done as follows:
 - During the investigation, somebody from the municipality may come round to ask you a few questions.
 - It is also possible that the municipality may ask the person who notified them for more information.
 - The community police officer and/or the district social work team may also be asked for information.¹

If the municipality believes after their investigation that compulsory medical care should be considered, the municipality will ask the public prosecutor's office to prepare a care authorisation.

Conditions for compulsory medical care

When the public prosecutor's office receives a request for a care authorisation to be prepared, they will examine whether your situation meets the criteria for imposing compulsory medical care on you. Compulsory medical care may only be imposed if your situation meets all the requirements listed below:

- If you are causing danger for yourself or others (which the Compulsory Mental Healthcare Act refers to as 'serious harm').
- If your behaviour is being caused by a psychiatric disorder.
- If you do not give consent to the care.

¹ Note: the district social work team may have a variety of names in different municipalities. If you have any questions about this, ask the person who comes to visit you on behalf of the municipality.

The harm criterion

Compulsory medical care may only be imposed as a last resort. That means that there must no longer be any other options for avoiding the negative effects caused by your behaviour. This is known as the 'harm criterion'.

The harm criterion is explained further in the appendix to this brochure (see page 23).

Preparing the care authorisation

The following step is preparing the care authorisation. This involves the public prosecutor's office, the medical director, the independent psychiatrist and you yourself.

The public prosecutor

The public prosecutor:

- designates a medical director²
- checks whether the police or Justice Department have information about you that could be important for assessing the serious harm. If so, that information will be passed on to the medical director,
- checks whether you have a lawyer. If not, they will ask the judge to arrange one for you.
- They also assess whether they think that your situation meets the criteria for providing compulsory medical care.

The medical director:

The medical director is a psychiatrist. Their key task is to keep track of legislation and regulations and to translate them into usable recommendations and guidelines for the people providing care.

The medical director:

- informs you in writing that a care authorisation is being prepared for you;
- informs your representative, your lawyer and the municipality or health professional about the decision to prepare a care authorisation for you;
- designates someone as your care coordinator. This is the care provider who is responsible for your compulsory medical care and who coordinates it. You will have a lot of contact with your care coordinator, including during the preparation of the care authorisation;
- asks whether you want to be assisted by a patient advocate. The patient advocate can advise you and represent your interests while your care authorisation is being prepared and afterwards when you are receiving care. If you want, the medical director can pass your contact details onto the PVP foundation. A patient advocate will then contact you;
- asks whether you want assistance from your family or others close to you.

The independent psychiatrist

The independent psychiatrist must not have treated you for at least the last year. The independent psychiatrist:

- examines you and draws up a medical statement.

Medical statement

The medical statement describes your state of health, whether your conduct is risking serious harm, and what that serious harm entails. The statement also says whether your behaviour is the result of a psychological disorder and whether you consent to the care or not. The psychiatrist can examine any data from the police that may help estimate the risk of serious harm properly.

Discussing the issues

What serious harm (danger) is causing your behaviour, according to the psychiatrist? It is useful to discuss this. If you agree with them, you may perhaps be able to take steps yourself to eliminate this danger. You should then explain it as calmly and clearly as possible, even if you do not agree that you are causing any dangers.

² In most cases, this will be the medical director of the institution at which you are already receiving care voluntarily or of the institution at which you will be given the care.

What you can do yourself: your action plan

The medical director will inform you in a letter that the care authorisation is being prepared. That letter states that you may draw up an action plan if you wish. In the plan, you can describe how you want to avoid compulsory medical care.

Drawing up an action plan works like this:

- Tell the medical director that you intend to draw up an action plan. Do this in writing within three days of receiving the letter from the medical director.
- The medical director will decide within two days whether you will be given time to do so. If so, you will have two weeks' time to draw up your action plan. In this case, the medical director postpones the preparation of the care authorisation temporarily.
- There is a document about the action plan that may help you. This document lists the steps you can take for making your plan. Download this document from the website or ask the medical director for a copy.³
- You can draw up the action plan together with the health professionals, or friends or family. You can also ask the patient advocate or your lawyer for advice.
- In the action plan, you can describe what you want to do and what care you would like to receive in order to avoid compulsory medical care. This can cover all kinds of care, e.g. clinical care, family-based care or social sector care.
- Also ask any others who are to assist in improving your situation and your health. This could for instance be assistance from the municipality, domestic help, pastoral care or day care.

The medical director assesses your action plan and asks for a medical statement from an independent psychiatrist. The public prosecutors can stop the preparation of a care authorisation if the medical statement reveals that compulsory medical care can be prevented using your action plan. If the action plan is not sufficient to avoid compulsory medical care, the medical director will continue preparing the care authorisation.

The medical director can also decide earlier that they will continue preparing the care authorisation, i.e. before the two weeks for drawing up the plan have elapsed. They can do so if drawing up the action plan is not proceeding quickly enough or if postponing the preparation of the care authorisation is no longer possible because of the serious harm (danger). Before doing so, they will discuss it with you and your representative. You will be notified about their decision on this in writing as well.

³ The PDF about the action plan can be found online:

<https://www.dwangindezorg.nl/documenten/publicaties/implementatie/ketenproducten/productenwvggz/handreiking-eigen-plan>

The care card and the care plan

The following step is that your care coordinator will discuss two important documents with you that need to be drawn up:

- the care card
- the care plan

These are different documents from the action plan that you may already have drawn up.

The care card: your wishes and preferences

This card describes your wishes and preferences regarding care. Example:

- What medication do you want and not want to receive?
- How do you want to receive the medication (tablets, injection, etc.)?
- What things help make you feel better?
- And what things make you feel worse?

The care card should also state:

- what treatment you would like to receive at home, if necessary;
- what treatment you definitely would not like to receive at home;
- what treatments you are prepared to cooperate with;
- what treatments you are definitely not prepared to cooperate with;
- whether you have a preference for a particular healthcare provider or institution.

If you have previously had this recorded, for instance in a self-binding declaration (see page 19) or a crisis card (see page 19), these documents will be appended to the care card.

The care card is your own document. If you want a care card to be drawn up, the care coordinator is obliged to do so. **Note:** this does not automatically mean that all your wishes and preferences will be honoured. Your care coordinator is obliged to keep a record of how they have taken your preferences into account or why they deviated from them. This is done in the care plan. If you do not have any preferences, your care coordinator also records that fact.

Medical symptoms and medication use

If you experience medical symptoms or are taking medication, tell the health professionals that are present and tell your care coordinator. That will make sure you get the care that you need. If you do not know exactly what medication you are taking, give the packaging to the health professionals or get them to contact your GP.

The care plan: assessment by your care coordinator

The care plan is the basis for the compulsory medical care that you may receive. The care plan lists all the forms of care that your care coordinator believes are necessary for eliminating serious harm (e.g. medication, supervision or admission).

The care plan gives a detailed description of your diagnosis, your behaviour, the serious harm and the compulsory medical care for which the care authorisation is being prepared. This plan is drawn up by your care coordinator – in consultation with you as far as possible, of course. In this document, your care coordinator describes how *they* assess the situation. It also states what compulsory medical care *they* believe is necessary. To that end, they will consult your GP, any healthcare

providers you already have, and also your family and others close to you (if you so wish and if they are helping care for you).⁴

If the care coordinator believes that social help is also required, they can also discuss help that your municipality could provide with the municipality. This assistance will therefore be included in the care plan, so the care plan can contain more than just the compulsory medical care. The judge then has a complete picture of your situation.

This could for instance be:

- household help;
- help with your debts;
- work or daytime activities;
- arranging accommodation (if you do not have any).

⁴ If you do not want a specific person to be involved by the health professionals, they will in principle not do so.

The application for a care authorisation

The medical director collects and assesses the documents relating to your case. These are:

- The medical statement (from the independent psychiatrist).
- The care card and the care plan (from the care coordinator).

These documents go to the public prosecutors. They assess whether they think that you need compulsory medical care and whether your situation meets the criteria for providing compulsory medical care. The public prosecutors then decide whether or not they are going to ask the judge for a care authorisation:

- *A care authorisation is going to be requested*
- The public prosecutor draws up an application to the judge. The application to the judge includes the reason why the medical director and the public prosecutor believe a care authorisation is needed and what compulsory medical care is required in order to eliminate the serious harm. The medical director's documents are appended to the application (e.g. the care plan, the care card and the self-binding declaration).
- *A care authorisation is not going to be requested*
- If the public prosecutor decides *not* to submit an application, the procedure ends. No care authorisation will be requested for you.

The public prosecutors will take their decision **no more than four weeks** after starting with the preparations. This period can be extended by a maximum of six weeks. This can be done if the medical director postpones the procedure for two weeks so that you can draw up your own action plan.

The judge and the hearing

Once the judge has received the application, they will arrange a hearing in the short term. During this hearing, you and your representative, if any, and your lawyer will be able to give the judge their expert opinions.

If you are unable to come to the court, for example because you have already been admitted to an institution, the judge can come and hold the hearing where you are. This may be in the institution, or it can also be in your home.

The following people may be present during the hearing:

- You
- The judge
- The registrar (who assists the judge)
- Your lawyer
- The medical director
- Your care coordinator
- The public prosecutor (possibly)

The judge may also ask other people to attend, e.g. your representative, the independent psychiatrist (who drew up the medical statement), witnesses, experts or a police officer who knows you. You can also submit a request to the judge yourself asking for witnesses and experts to be called. The judge is however not obliged to get these people to come.

The judge makes a ruling **no later than three weeks** after the public prosecutor has submitted the application. The judge's ruling includes a statement of the compulsory medical care they will be including in the authorisation. This may match the care that was described in the care plan, but the judge can also decide to deviate from the application, for instance if they think that the compulsory medical care in the application is more rigorous than is needed for eliminating the serious harm. The judge's decision in this is final. It is not possible to lodge a higher appeal against the judge's decision.

The care authorisation has been issued

What does this mean for you?

At the moment that the judge issues the care authorisation, your care coordinator can start providing compulsory medical care. This happens **within two weeks** of the judge's ruling. The care provided will not simply be all the compulsory medical care stated in the care authorisation. The care coordinator must always weigh up whether compulsory medical care is needed at that moment.

What compulsory medical care can be imposed?

The law describes what forms of compulsory medical care can be included by the judge in the care authorisation. These are listed below.

Undergoing medical treatment

You may be required to undergo medical treatment. This may comprise:

- Dispensing fluids, nutrition and medication.
- Medical checks or other medical actions for treating your psychological disorder.
- Therapeutic treatment.
- Treatment for a physical condition that is associated with your psychological disorder.
- *Example: you refuse medication for diabetes and that refusal is because your psychosis has led you to believe you do not need the medication.*

Restricting your freedom

Your freedom of movement may be restricted. This may be done in a number of ways:

- Restricting your freedom of movement to go and stay where you wish, detaining you within a building or by using physical restraint.
- *Example: health professionals on location may allow you to go into the living room but not into the kitchen, or they may temporarily restrain you and hold you down.*
- You may be placed in a specially furnished, closed room or locked in your own room.
- You may be subject to monitoring.
- *For example: by a camera.*
- Examination of clothing or physical examination.
- *Your clothes or your body may be examined. The examination may not be inside your bodily cavities, such as your mouth.*
- Your home or place of residence may be searched for any substances present that could affect your behaviour or for dangerous items.
- Checks may be made for any substances present that could affect your behaviour or for other dangerous items. These may be taken away.
- *Examples: alcohol or a knife.*
- Restrictions on the freedom to arrange your life as you wish. You may be required to attend some event or appointment, or not to go somewhere.
- *Examples: not being allowed to use a phone, the Internet or certain social media.*
- Limitations on your visits.
- Admission to specific accommodation.
You may be compulsorily admitted to an institution for mental healthcare. You will then be taken to an institution. It is possible that you may then not leave the institution or treatment unit again independently.

The judge therefore states in the care authorisation which of the above forms of compulsory medical care *may* be imposed on you. This does not therefore always have to involve all possible measures and they do not always have to be put into effect.

When is compulsory medical care given to you?

The care coordinator is the individual who ultimately determines *what* compulsory medical care will be given and when. The care coordinator must always choose the least burdensome alternative. They will therefore always look to see if you are prepared to receive the necessary care voluntarily.

If you cooperate, compulsory medical care from the care authorisation does not have to be used. If you do not cooperate, they must then look to see if there are any alternatives to compulsory medical care. They decide that based on your state of health at that moment. If none of this works, your care coordinator can decide that they are going to implement the compulsory medical care from the care authorisation. They must then write down why and when compulsory medical care is being given. You will always be informed of this beforehand.

When compulsory medical care is given, it is possible that you may be physically forced to undergo treatment. This can for instance mean that you are held down while medication is administered. It may also be the case that you are not allowed to do something or may not leave a specific room. Physical coercion will always be applied in a way that is safe for you and as briefly as possible.

If you disagree with a decision taken by your care coordinator who is responsible for your compulsory medical care, you can file a complaint. You can find more information about filing complaints on page 18.

What is outpatient compulsory medical care?

You can also be given compulsory medical care that does not need you to be admitted to a mental healthcare institution, for instance in an outpatient clinic or at your home. This is referred to as outpatient care.

Care in your own home

Compulsory medical care at home has a major effect on your daily life. You need to be able to feel safe and comfortable in your own home. Compulsory medical care can mean that you end up feeling less safe in your own home, but compulsory admission can also be a very distressing experience. For that reason, your own wishes and preferences are very much taken into account.

The care provider always checks whether it is safe and responsible to give compulsory outpatient medical care (at home or in an outpatient clinic). If the outpatient care at home or in an outpatient clinic does not proceed well, your care coordinator can always consider modifying your care plan. If you have any questions, you or your representative and/or your family can always contact a care provider.

Compulsory outpatient medical care after admission

Compulsory outpatient medical care can also follow a compulsory admission. This care is then part of your recovery process. Your care coordinator can in this case attach conditions to the compulsory outpatient medical care, for example that you will be compulsorily readmitted if you do not observe the conditions.

Temporary compulsory medical care in emergency situations

Compulsory medical care that may be given to you is listed in the care authorisation. It is also possible, however, that an emergency situation could arise and care may have to be given to you that is not in the care authorisation. For example, the care authorisation may state that you may be given medication forcibly, but not that you may be locked in a room. If that does turn out to be necessary in an emergency situation, then your care coordinator may temporarily give you compulsory medical care that is not in the authorisation. This may therefore only be done temporarily in an emergency

situation, if they believe that this can prevent serious harm and criminal acts. Safety within an institution or other location, or protection of the rights or freedoms of others can also be reasons for temporary compulsory medical care in emergency situations.

This temporary compulsory medical care may be given for a maximum of three days. If your care coordinator believes that temporary compulsory medical care is needed for longer, they must submit an application to have the care authorisation amended by the judge. They do this through the medical director and the public prosecutor.

If you end up in this situation, always ask for advice and support from your lawyer and the patient advocate.

House rules

If you are admitted, you will have to stick to the house rules of the institution you are admitted to. These house rules may only be about order and safety within the accommodation. The house rules apply to everyone who is admitted to the institution. The care provider will give you more information about these house rules. If you have any questions or complaints about the house rules, you can speak to the care provider's staff and your patient advocate.

Safety examination

If you have been admitted, a safety examination may be carried out. Your care coordinator will request this if they suspect that you might have dangerous items in your possession. These are items that you are not allowed to have inside the institution or that could present a danger.

Your care coordinator may have your clothing or your person examined during this search. Note: an internal examination *in* your body is not allowed. In other words, examining bodily cavities such as inside your mouth is not permitted. Your living accommodation (your room) in the institution may be searched. Items of post that you receive after they are sent to the institution may be inspected (in your presence).

If this safety examination results in any items being taken away, they will be kept for you. You will get the items back when you are discharged after the admission. The only items that will not be returned to you are ones that the law forbids you to possess (e.g. banned weapons or drugs).

What does compulsory medical care have to comply with?

The compulsory medical care imposed on you must comply with a number of points:

- *Quality*
The Compulsory Mental Healthcare Act states that the care must be provided in accordance with a specific guideline. This guideline is called the *Multidisciplinary Guideline on Coercion and Compulsion*. If you would like to know more about this, ask your healthcare provider about it. Compulsory medical care must of course also comply with the usual quality requirements and guidelines that apply to care that you receive voluntarily.
- *Proportionality*
The seriousness and burden of the compulsory medical care must be in proportion to the objective of that care.
- *Efficiency*
The compulsory medical care must be suitable for achieving its objectives. Example: if your psychosis makes you aggressive towards others and you refuse medication, you may be forcibly medicated to avoid the risk of you attacking others.
- *Subsidiarity*
There must be no other, less drastic measures available that could achieve the same goal. The compulsory medical care must therefore comprise the least severe and least burdensome measures that can achieve the objective of the compulsory medical care.
- *Safety*
Compulsory medical care must be safe for you and for others.
- *The 'last resort' requirement*
This means that compulsory medical care can only be imposed on you when other options have been exhausted. There are no longer any other possibilities for ensuring that the serious harm is eliminated. So if you are prepared to be given certain care voluntarily, compulsory medical care may perhaps still be preventable. It can also lead to the compulsory medical care being stopped (or stopped earlier).

If you think that your compulsory medical care does not meet the requirements stated above, you can file a complaint.

How long does the care authorisation last?

The care authorisation itself states how long it applies for. The guideline is:

- **If it is your first care authorisation**
...it will last for a maximum of six months.
- **If it follows on directly from a previous care authorisation**
...the new care authorisation can be given for a maximum of one year.
- **If you have already been given compulsory medical care for a continuous period of five years**
...the new authorisation can apply for a maximum of two years.

If no new care authorisation has been requested by the end of the period of the current care authorisation, the whole care authorisation expires and compulsory medical care may not be imposed on you.

The medical director can also decide to interrupt or terminate the compulsory medical care before the end of the validity period.

Temporary interruption and termination

During the period covered by the care authorisation, you can ask for the compulsory medical care to be terminated or temporarily interrupted. The medical director can also make that decision.

- **A temporary interruption.**

This is possible for instance if you want to attend an important family event, perhaps such as a funeral or a wedding.

- **Terminating compulsory medical care.**

For instance if you believe that the risk of the serious harm no longer exists. This is also possible if you want to receive the care voluntarily from now on.

Who can request the temporary interruption or termination?

You can submit a request for a temporary interruption or termination to the medical director. You have to submit a request to them to that effect in writing. The letter must state clearly why you are making the request.

The request can also be submitted by:

- A lawyer (on your behalf);
- A representative (on your behalf);
- Your care coordinator;
- *This could for instance be because they think that compulsory treatment is no longer needed or because they want to get you to see if you can cope without compulsory medical care.*

The medical director can impose conditions on the temporary interruption or termination. If you do not comply with these conditions, the medical director can revoke their decision and the compulsory medical care then starts again immediately. If you disagree with the medical director's decision, you can file a complaint with the Complaints Committee. Get the patient advocate to advise you.

Transfer

You can submit a request to be transferred to another care provider. This request should be submitted to the medical director. Such a change can for instance be possible in the following situations:

- The other care provider specialises in a certain type of care that you need.
- You feel that the other care provider would help you better.

It is also possible to change your care coordinator or the medical director.

The request for a transfer or change of your care coordinator or medical director must be submitted in writing. You can send it to the medical director. Give a clear description of why you are making the request. The request can also be submitted by your representative or by your care coordinator.

It is always a good idea to obtain advice from your lawyer and/or the patient advocate. They can also assist you in submitting a request for transfer, temporary interruption or termination. They can also explain the conditions to you and tell you what they mean for you.

The lawyer and the patient advocate

The lawyer

If you do not have a lawyer yet, the public prosecutors will ask the judge to arrange one for you. The judge makes sure that you have a lawyer. This will be done as soon as the public prosecutors start preparing the application for a care authorisation.

The lawyer:

- gives you legal assistance, free of charge;
- works as per your instructions;
- represents your interests in the procedures relating to the compulsory medical care; *Example: the legal case about your care authorisation.*
- knows the legislation and the procedures that will affect you;
- makes sure that your side of the story is clearly presented in all the procedures;
- is there to answer all your questions about your rights and obligations associated with the care authorisation and the procedures;
- comes to see you if you are compulsorily admitted or if you are not able to visit them;
- is there for you.

The patient advocate

The patient advocate:

- gives you advice and assistance free of charge;
- is someone you can go to with questions and complaints about the care provided;
Examples: the way in which people are treating you, the compulsory treatment or restrictions on freedom.
- supports and advises you in your discussions with your care coordinator;
- provides support when drawing up important documents such as the care card and the care plan (see below);
- is not employed by the care provider but instead works for an independent foundation called PVP;
- represents your interests, as you see them;
- has a duty of confidentiality.

At the start of the preparations for the care authorisation, the medical director will ask you for your permission to have your contact details passed on to the patient advocate. If you give that permission, the patient advocate will contact you. For more information, go to the website www.pvp.nl.

The person representing you

In some cases, someone will represent you. This representative acts on your behalf in contacts with your care coordinator, the care provider and others looking after you. You will be present or you will be involved as much as possible. The patient advocate can give you more details about the role of the representative.

You will be given a representative in the following situations:

- You decide for yourself that someone should represent you.
- You are deemed mentally incompetent to decide for yourself. That means that your care coordinator believes that you are “incapable of reasonably assessing your own interests.
- You are a minor.

You decide for yourself that someone should represent you

- You decide for yourself who your representative will be. The representative must be at least 18 years of age. And they must be willing to represent you.
- The representative can refuse care on your behalf but they cannot give consent to care on your behalf. So if the representative agrees to compulsory medical care but you do not, your opinion prevails.

You are deemed mentally incompetent to decide for yourself

Being incompetent in this sense means you are not capable of representing your own interests. This can change over time or depending on the subject matter. During a psychotic episode, for instance, you might be incapable of making decisions about the care you need but perfectly able to make choices about your day-to-day activities. That is why a doctor must always determine – for each decision you make – whether you are capable of making your own decisions at that time.

If the doctor determines that you are not mentally competent, the following options are possible (in this sequence):

- The judge may already have appointed a mentor or guardian as your representative.
- Or: you have previously stated who your representative is. The representative must be at least 18 years of age, and they must be willing to represent you.
- Or: your partner or a family member can act as your representative. The representative cannot give consent to care on your behalf, but they can *refuse* consent to care on your behalf.
- If there is no representative, the care provider can ask the judge to designate a mentor or guardian.

You are a minor

In the case of someone who is underage, the law determines who the representative is.

- If you are aged under 12:
 - You parents or guardians are your representatives.
 - The representative can give consent to care on your behalf or refuse it on your behalf.
- If you are aged between 12 and 16:
 - You parents or guardians are your representatives.
 - The representative can refuse care on your behalf but they cannot give consent to care on your behalf.
- If you are aged 16 or 17:
 - You may have yourself represented, but that is not required. You decide for yourself who your representative will be. The representative must be at least 18 years of age. and they must be willing to represent you.

- If you are aged 16 or 17 and deemed mentally incompetent: your parents or guardians are your representatives.

Privacy

A lot of information about you is being exchanged during this period. The public prosecutor will for instance share relevant data from the police and the Justice Department with the medical director. They will in turn share that data with the independent psychiatrist. These exchanges of information are mandatory throughout the procedure. This is also defined in law. It means that the people who have to make decisions about you are as fully informed as possible about your situation.

When someone wants to share data about you and the law says they cannot

This is then only possible if you have given your express permission for them to do so. The medical director may for instance ask for your permission to share your details with the patient advocate. When your personal data is stored or exchanged, the people doing so must make sure that it is done securely. Data about you must not end up in the wrong hands, of course.

Viewing your data

You are entitled to inspect your medical records at any time. These also contain notes about data that may be exchanged without your permission (by the medical director, the mayor, the public prosecutor or your care coordinator) in the event of an impending serious harm. This inspection must be requested in writing. You can ask the official or institution in question for this. Do allow a little waiting time for the response. If you have doubts about whether your data is being processed carefully or if you have a complaint about it, ask your lawyer and/or the patient advocate for advice.

Complaints

Your care provider is affiliated with an independent complaints committee. This complaints committee will handle your complaints. These could include aspects such as all kinds of decisions made by the medical director and your care coordinator concerning the compulsory medical care. The ruling by the complaints committee is final for the care provider. The ruling can result in a decision being reversed or in you receiving compensation for damages. Appeals can be lodged with the judge against the complaints committee's ruling. This can be done by you, your representative or the care provider.

The law defines the areas that the complaints committee can make rulings on. This can for instance cover:

- restrictions on your freedom
- implementation of the crisis measure or authorisation to extend the crisis measure or care authorisation
- a request for temporary interruption or termination of compulsory medical care
- decisions relating to determining your competence to make decisions

If you have a complaint, it is always a good idea to obtain advice first from the patient advocate. They can do the following for you:

- Advise you about how to handle your complaint.
- Help you file your complaint.
- Advise you whether it would be useful to have your lawyer help you with the complaint.
- Help you if you would rather resolve the complaint yourself together with the care provider.

What else can you do?

Get family and/or friends involved

Your family or others close to you (e.g. friends) can also help you. This can be good for the contacts with your care coordinator or others providing you with care. Your family and those close to you generally know you well. They can therefore help create a clear description of what you do or do not want. They can also be a major source of support if you are compulsorily admitted, for instance if you have pets that will need to be taken care of by someone or if you have other business outside the institution that you want to have handled.

Always tell your care coordinator which of your friends and relatives may help you. That way, the care providers will know who they are dealing with. They will also know who can and cannot speak on your behalf. The people treating you may only give your friends or relatives information about your treatment if you give permission.

Your family and those close to you have rights under the Compulsory Mental Healthcare Act. There is also a family confidant for those who are close to you. Ask your healthcare provider about this. For more information about the family confidant, please go to the website www.familievertrouwenspersonen.nl.

Crisis card

The crisis card says what your wishes are in the event of a crisis. Think of items such as:

- What should bystanders and people providing assistance do and not do?
- Who can they call for you?
- What agreements have been made, for example with the people treating you or the crisis service?

Do you have a crisis card?

Have you drawn up a crisis card in the past? Or have you recorded your wishes in some other way? Make sure that the health professionals and your care coordinator receive this crisis card or declaration of intention. This is how the care providers can know whether you already have agreements in place. It also helps the people assisting you to deal with you better on the spot. It can even lead to compulsory medical care being deemed unnecessary or to it being stopped more quickly.

If you do not have a crisis card

If you do not have a crisis card but would like one for the future, ask your care coordinator for advice and information.

More information about this can also be found on the website of the Crisiskaart Nederland foundation, www.crisiskaart.nl.

Self-binding declaration

You can also draw up a self-binding declaration, a document stating the conditions under which you do want to receive compulsory medical care and what kind of care that should be. You can do this if you have often suffered psychoses, for instance. You may know that you will not want to receive care while you are psychotic, although you understand that medicines can help stop the psychosis. You can then write down that a doctor is allowed to administer medication to you during a psychosis, even if you state during the psychotic episode that you do not want it.

The rules for a self-binding declaration are:

- You must append a care plan to it;
- The care coordinator and the medical director must sign it.

The self-binding declaration is appended to the care card. The care provider ensures that your preferences as stated on the care card and in its appendices are known to the medical director and your care coordinator. They will take them into account when drawing up the care plan. When weighing up the application for a care authorisation, the judge will check that they have done this correctly. You can also ask the patient advocate for advice about a self-binding declaration.

Medical symptoms and medicines

If you experience medical symptoms, always inform the health professionals that are present and your care coordinator. This lets them give you the correct medical care. It is very important that they know this, especially if you are taking medication regularly. Combining medicines is not always safe, so the health professionals need to know what you are already taking when dispensing medicines to you compulsorily. This ensures that no dangerous situations arise.

If you do not know exactly what medication you are taking, give the packaging to the health professionals or get them to contact your GP.

More information

If you would like to read more about certain topics, there is a list of useful websites below. These websites mainly provide information in Dutch.

- *Compulsion in the care sector*

More information about compulsion in the care sector.

www.dwangindezorg.nl

- *Crisis card*

More information about crisis cards.

www.crisiskaart.nl

- *The patient advocate*

More information about the patient advocate.

www.pvp.nl

- *MIND*

MIND aims to prevent psychological problems and to support people faced with them. They do this by providing information, carrying out research, implementing projects and campaigning.

www.wijzijnmind.nl

- *MIND Korrelatie*

'MIND Korrelatie' is a nationwide organisation. They offer anonymous, professional psychological and psychosocial help. MIND Korrelatie gives individual advice and help to anyone who requests it. This can be done by phone and online.

www.mindkorrelatie.nl

- *113 Suicide Prevention*

The '113 Zelfmoordpreventie' foundation (Suicide Prevention) is the national organisation for preventing suicides. www.113.nl

- *Eigen Kracht Centrale foundation*

The 'Eigen Kracht Centrale' foundation (Standing Strong Centre) supports organisations and authorities throughout the Netherlands in handling questions from the general public. www.eigen-kracht.nl

- *Choices in Mental Healthcare*

'Kiezen in de ggz' (Choices in Mental Healthcare) is a website for adults aged 18 and over who are looking for a care provider for their psychological complaints. www.kiezenindeggz.nl

- *Ypsilon*

Unites family members and others close to people who are susceptible to psychoses. www.ypsilon.org

- **LSFVP (Landelijke Stichting Familievertrouwenspersonen - National Foundation for Family**

Confidants) Family confidants provide information, advice and support to family members and others who are close to patients in the mental healthcare sector. www.familievertrouwenspersonen.nl

- **Guideline for coercion and compulsion in mental healthcare**

This is where you can find all the guidelines about coercion and compulsion in the mental healthcare sector.

https://richtlijndatabase.nl/richtlijn/dwang_en_drang_in_de_ggz/dwang_en_drang_in_de_ggz_-_startpagina.html

Appendix

Explanation of the harm criterion

Compulsory medical care may only be imposed as a last resort. That means that there must no longer be any other options for avoiding the dangers caused by your behaviour. This is known as the 'harm criterion'.

The harm criterion consists of:

- Serious harm (causing danger)
- The psychological disorder leading to serious harm
- Resistance

These various aspects are explained briefly below.

Serious harm

The care authorisation is requested for you if someone believes that you are causing danger (this is referred to in the brochure as *serious harm*). The person reporting this can for example be the doctor treating you, the municipality or a family member.

According to the Compulsory Mental Healthcare Act (Dutch: Wvzgz), serious harm is involved if there is a high level of risk of you: • seriously harming yourself or others. That harm covers:

- endangering life; ○ severe physical injury; ○ severe psychological harm;
- serious material, intangible or financial damage; ○ gross neglect or social deterioration;
- severely disrupted development (for example of an unborn child);
- endangering your own safety because you have become influenced by others;
- triggering aggression in others through your disruptive behaviour; • endangering general safety in your surroundings by your behaviour.
-

Compulsory medical care will only be imposed as a last resort, when there are no longer any other options for avoiding the serious harm.

The psychological disorder leading to serious harm

The care authorisation is only issued if your behaviour is the result of a psychological disorder. Three conditions have to be met in that case, which all have to be determined by a psychiatrist.

- You have a psychological disorder;
- Your behaviour creates an effect of serious harm (or a risk thereof);
- The serious harm effect is a consequence of that disorder.
-

Resistance

Compulsory medical care can only be imposed if you do not agree to the recommended care. Saying that you disagree with the care that is going to be given to you can therefore be enough.

If you do agree to the care, say so to the health professionals who are on location. Also state then *what* care you do and do not want to receive. You may perhaps have drawn up a crisis card or selfbinding declaration previously.

The health professionals will assess whether they think that the care you are prepared to receive voluntarily is sufficient. If they do not think this is sufficient to avoid the danger, they can continue preparing a care authorisation nonetheless or implementing the compulsory medical care stated in the care authorisation.

Mental competence and representation

In law, you are deemed mentally competent until a doctor determines otherwise. Being deemed mentally incompetent is important in terms of who may represent you, in other words the person who may act on your behalf to represent your interests.

Mental incompetence

You are deemed to be mentally *incompetent* if the doctor believes that you are “incapable of reasonably assessing your own interests” in a specific decision. Under the Compulsory Mental Healthcare Act (Wvggz), the care coordinator is always the one who determines whether or not you are mentally competent. This can vary from one case or one moment to another. The independent psychiatrist who comes to draw up your medical statement can also make this determination.

If you resist, it does *not* matter whether you are deemed mentally competent or not: any resistance against compulsory medical care is taken seriously, even if you are not mentally competent and your representative has agreed to the treatment. Compulsory medical care may then only be given on the basis of the crisis measure.

Mentally competent resistance

If you *are* mentally competent and the serious harm effect only affects *you*, and your life is *not* in danger, your wishes and preferences must be respected, in principle.

Always discuss your resistance and any assessment as being mentally incompetent with your lawyer and your representative.

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