

CARE Act Overview

1. What is the CARE Act?

CARE stands for Community Assistance, Recovery, and Empowerment. The CARE Act will ensure mental health and other support services are provided to the most severely impaired Californians who too often languish without the treatment they desperately need. CARE goes upstream to **divert and prevent more restrictive conservatorships or incarceration** to connect a person in crisis with a court-ordered CARE plan or agreement for up to 12 months, with the possibility to extend for an additional 12 months. Individuals engaged in CARE plans and agreements may be prioritized for a range of services and programs, including supportive housing. The design of the CARE Act provides support and accountability for individuals with severe, untreated mental illnesses, as well as for local governments responsible for providing behavioral health services. The CARE process functions as a structure for counties to intensively engage individuals over a sustained period who may need additional support to consistently access services.

Specifically, the CARE Act is a way to allow certain people, called “petitioners,” to request court-ordered treatment, services, support, and a housing plan for certain people 18 years of age or older, called “respondents,” who have untreated severe mental illnesses, specifically schizophrenia or another psychotic disorder and who meet certain health and safety criteria. Petitioners are encouraged to consider alternatives to CARE Act proceedings in advance of filing a petition.

CARE Act proceedings involve assessments and hearings to determine whether the respondent meets eligibility requirements. A county behavioral health agency will be involved in the process. If the respondent meets the standards for CARE eligibility, a CARE agreement or plan may be created and, if approved, ordered by the court.

2. Who is eligible for CARE?

All eligibility determinations are case-specific and respondents must meet all of the eligibility criteria below for a petition to be considered. **Homelessness and a diagnosis alone are not sufficient to meet eligibility requirements.** While CARE respondents may and are often likely to be experiencing homelessness or housing insecurity, untreated severe mental illness and the resulting impairment is the primary driver of CARE eligibility. A respondent must meet the following criteria to be eligible for CARE:

- Have a diagnosis of a schizophrenia spectrum disorder or another psychotic disorder in the same class, as defined in the current *Diagnostic and Statistical Manual of Mental Disorders*.
- Be currently experiencing a mental illness that:
 - o Is severe in degree and persistent in duration
 - o May cause behavior that interferes substantially with activities of daily living, **and**
 - o May lead to an inability to maintain

stable adjustment and independent functioning without treatment, support, and rehabilitation for a long or indefinite period.

- Not be clinically stabilized in ongoing voluntary treatment.

Additionally, at least one of the following must be true:

- The respondent is unlikely to survive safely in the community without supervision **and** the respondent's condition is substantially deteriorating.
- The respondent needs 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.

Petitioners are required to provide facts and supporting information at the time of filing to demonstrate that a respondent is eligible for CARE Act proceedings, as laid out in form [CARE-050-INFO](#). Supporting documentation must include either a declaration by a licensed behavioral health professional (form [CARE-101](#)) or evidence that the respondent was detained for a minimum of two intensive treatments, the most recent one within the last 60 days.

3. What rights does a respondent have?

Respondents have the right to be informed of the proceedings, the right to take part in the proceedings, the right to be represented in all stages of the process, the right to replace the court-appointed attorney with an attorney of

their choosing, the right to have a supporter of their choosing throughout the process, and other rights. The role of the supporter is to help the respondent understand, consider, and communicate decisions to ensure the respondent can make self-directed choices to the greatest extent possible. A supporter is an adult chosen by the respondent to assist them to understand, make, and express their decisions throughout navigating the CARE process. The supporter may be a friend, family member, faith leader, mentor, person with lived experience in mental health and/or substance use disorder, or other support person chosen by the respondent.

If the respondent requires translation or disability accommodations, requests can be made with the court.

4. Who can file a petition?

To file a petition, petitioners must fit one of the following categories:

- A person who lives with the respondent
- A spouse or registered domestic partner, parent, sibling, child, or grandparent of the respondent.
- A person who stands in the place of a parent to the respondent.
- The director of a hospital, or their designee, in which the respondent is or was recently hospitalized.
- The director of a public or charitable agency, or their designee, who has within the last 30 days provided or who is currently providing behavioral health services to the respondent or in whose institution the respondent resides.
- A licensed behavioral health professional, or their designee, who is or has been supervising the treatment of or treating the respondent for mental illness within the last 30 days.

- The director of a county behavioral health agency, or their designee, of the county where the respondent resides or is found.
- A judge of a tribal court located in California, or their designee.

If the petitioner lives with the respondent, is their spouse, parent, sibling, child, or grandparent, or is someone who stands in the place of a parent, they have the right to participate during the hearing to determine the merits of the petition. The court may assign these petitioners ongoing rights of notice. If the respondent agrees, the court may allow the petitioner to participate in the proceedings.

- If the petitioner is someone not on the list above, they have the right to make a statement at the hearing on the merits of the petition but will not be assigned ongoing rights.
- If the matter is dismissed and later there is a change in circumstances, petitioners may file a new petition with the court.
- If the petitioner requires translation or disability accommodations, those requests can be made with the court.

Note: After the initial appearance, the petitioner will be replaced by the director of the county behavioral health agency, or designee.

5. What happens during the CARE process?

Once a petition is filed, the court reviews it to determine if a respondent meets, or may meet, the criteria for CARE. If not, the matter is dismissed.

If the petition is not dismissed, the court orders the county to investigate and submit a report that determines if the respondent meets, or is likely to meet,

CARE criteria, and includes conclusions and recommendations regarding the respondent's ability to voluntarily engage in treatment and services. If the respondent engages in services voluntarily, the matter is dismissed.

If the respondent is likely to meet the CARE criteria and does not engage in services voluntarily, the court will set an initial appearance and hearing on the merits (which may be combined if all parties agree). Before the initial appearance, the court will appoint counsel for the respondent and order the county to provide notice of the hearing to the petitioner, respondent, counsel, and county behavioral health.

If the court finds that a respondent meets the CARE Act requirements, the court will order the county behavioral health agency to work with the respondent, their attorney, and their supporter (if applicable), to participate in behavioral health treatment and determine if a CARE agreement will be possible. The court will also set a case management hearing.

If it is determined at the case management hearing that a CARE agreement is likely to be reached, a progress review hearing will be set. If it is determined that a CARE agreement is not likely to be reached, then there will be a clinical evaluation followed by a hearing to review that clinical evaluation.

If the clinical evaluation finds that the respondent is eligible, a CARE plan will be developed and reviewed in a hearing. There will then be a status review hearing at least every 60 days.

At month 11, there will be a 1-year status review hearing to determine next steps, including graduation or reappointment (which can only happen once).

6. What is a CARE agreement or a CARE plan?

A CARE agreement and a CARE plan are written documents that specify services designed to support the recovery and stability of the respondent, which can include clinical services: behavioral health care; counseling; specialized psychotherapies, programs and treatments; stabilization medications; a housing plan; and other supports and services provided directly and indirectly through a local government entity. Stabilization medications may not be forcibly administered.

A CARE agreement is a voluntary agreement entered into by the respondent and the county behavioral health agency after a court has found that the respondent is eligible for the CARE process. If a CARE agreement is not reached, the court will order the creation of a CARE plan, which will include an individualized range of community-based services and supports.

If a CARE plan is ordered by the court, there will be periodic status review hearings during which progress and challenges are discussed. Adjustments to the services and supports in the CARE plan can be made to support the respondent's success.

7. When will CARE be available?

All counties will participate in CARE through a phased-in approach. On October 1, 2023, Cohort 1 counties will implement CARE, including Glenn, Orange, Riverside, San Diego, Stanislaus, Tuolumne, and San Francisco, and Los Angeles on December 1. All remaining counties will begin implementation by October 1, 2024, unless the county is granted additional time by DHCS. Counties will not have an option to opt-out.

8. How does CARE ensure accountability?

Accountability in care goes both ways. If a respondent cannot successfully complete a CARE plan, the Court may use existing law to ensure their safety. The CARE Act also holds local governments accountable for using the variety of funding streams available to provide care to the people who need it. If local governments do not meet their responsibilities under CARE plans, Courts have the ability to order sanctions.

9. Where can I find more information about the CARE Act?

For more information, please visit: the [CalHHS CARE Act site](#), the [DHCS CARE Act site](#), the [Judicial Council's CARE Act site](#), and the [Training and Technical Assistance site](#), where you can also sign up for updates. You can also send a message to CAREAct@chhs.ca.gov to join the CalHHS CARE Act email list for information and notifications.

CARE Act

Community Assistance, Recovery, and Empowerment Act

The CARE Process Flow to Treatment, Housing, and Support

The CARE Act authorizes specified persons to petition a civil court to engage the eligible respondent in the CARE court process, which includes the creation of a voluntary CARE agreement or a court-ordered CARE plan. The agreement or plan may include behavioral health treatment, housing resources, and other services.



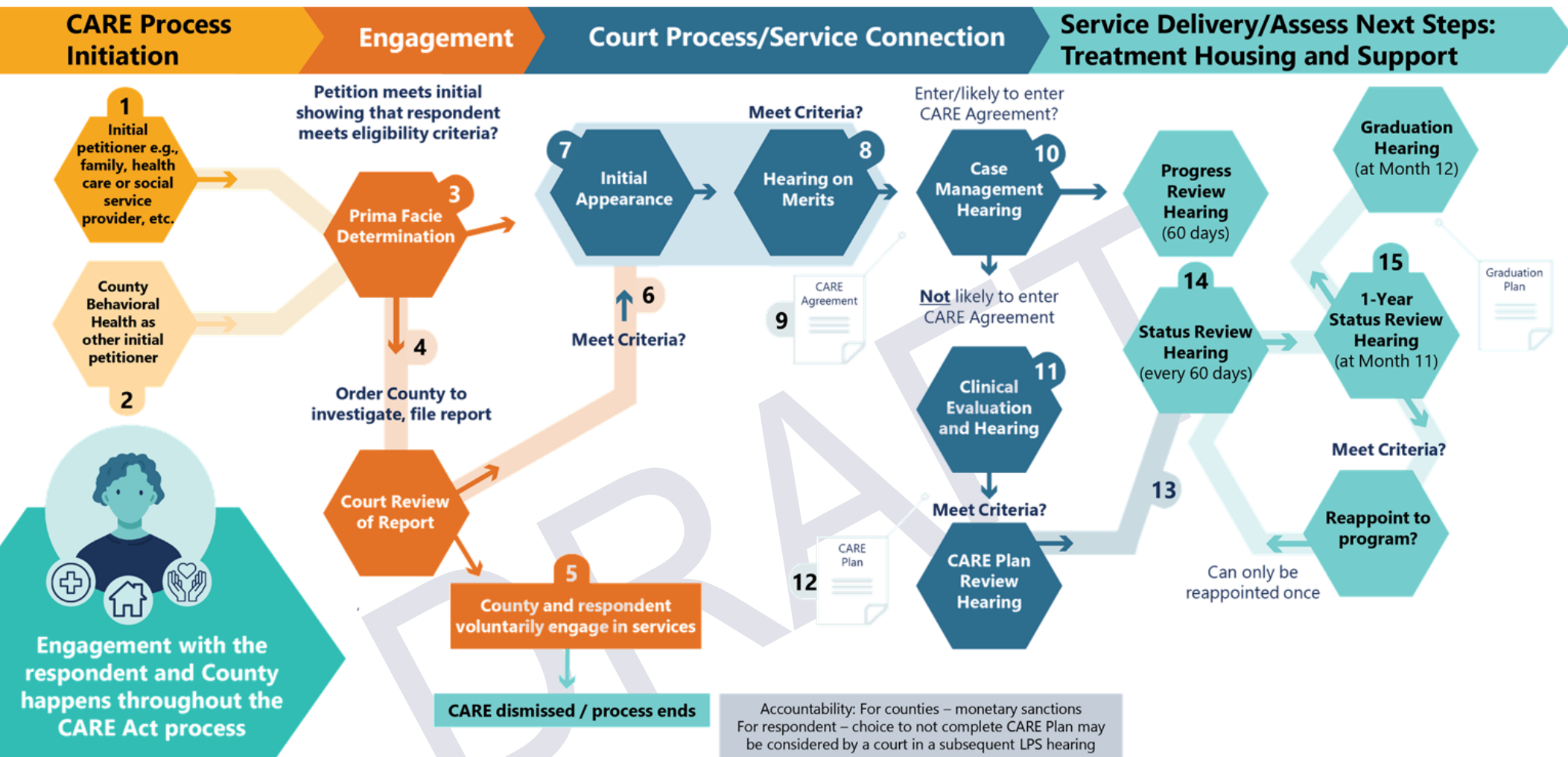
CARE Act Process Flow Overview

The CARE Act Process Flow follows the progression in Community Assistance, Recovery, and Empowerment (CARE) Court Program outlined in [Senate Bill \(SB\) 1338](#). This new civil court offers multiple pathways for eligible adults, promoting access to community-based behavioral health services and supports. [Eligible adults](#) are persons with untreated schizophrenia and other psychotic disorders who meet certain criteria related to health and safety.

This CARE Act Process Flow demonstrates how a case may progress through the civil court, which covers case initiation, engagement, court process/service connection, service delivery, and assessing for reappointment or graduation.

Throughout this process there are many participating roles: the respondent, counsel, the respondent's volunteer supporter, the behavioral health agency, and possibly other providers. The CARE Act process encourages collaboration and agreement between these participants and promotes a person-centered process.

CARE Act Process Flow



Process Flow Details

Crosswalk the numbers shown here with the following information to learn more details about the CARE Act Process Flow.

CARE Process Initiation

- 1 A case is initiated when a person petitions the court to determine a respondent's eligibility and begin CARE proceedings. The statute allows for a range of individuals to file petitions, such as family members, health care or social service providers, or first responders.
- 2 County behavioral health agencies may also file petitions

Engagement

- 3 Initially, the court will decide if the petition shows that the individual meets, or may meet, eligibility criteria for CARE proceedings (i.e., a prima facie showing).
- 4 If the petition was filed by other than the county behavioral health agency, the court will order the agency to investigate and submit a report to determine whether the respondent meets, or is likely to meet, the eligibility criteria.
- 5 During this time, the county behavioral health agency will attempt to engage the respondent in voluntary services and report to the court on the outcome of those efforts.

Court Process/Service Connection

- 6 If the court finds that the respondent qualifies for CARE proceedings, and efforts to engage the respondent in services was not effective, the case will proceed through the court flow with the goal of connecting the respondent with services. At this point, the court will appoint an attorney to represent the respondent throughout the proceedings, at no cost.
- 7 At the initial appearance, if the petition was filed by other than the county behavioral health agency, the original petitioner is substituted out, and the director of the county behavioral health agency is appointed. During this appearance, the respondent has the option to select a supporter or ask that one be appointed.
- 8 At the hearing on the merits (which can be combined with the initial appearance), the court determines if the respondent meets eligibility criteria under a clear and convincing standard.
- 9 An important component of this court process is that the respondent, their attorney, their supporter, and the behavioral health agency will work together to create a voluntary CARE agreement and engagement in services.

Court Process/Service Connection continued

- 10 At the case management hearing, if a CARE agreement is not likely to be reached, the court will order the county behavioral health agency to conduct a clinical evaluation.
- 11 The court will review the clinical evaluation and other evidence from the county behavioral health agency and the respondent. The court will also determine if the respondent meets the eligibility criteria and order a CARE plan.
- 12 At this point, the respondent, their attorney, their supporter, and the behavioral health agency will work together to create a CARE plan that includes services the respondent is entitled to receive under the CARE Act. These services should be collaboratively determined, according to the specific needs of the respondent.

Service Delivery/Assess Next Steps: Treatment Housing and Support

- 13 During service delivery, a respondent will receive services indicated in his/her CARE plan: behavioral health services (including treatment for substance abuse disorder as applicable), medically-necessary stabilization medications (as applicable), housing resources & supports, and funded social services, including those services available to indigent California residents.
- 14 Progress will be checked at status review hearings, at intervals set by the court.
- 15 At month 11, it will be determined if the respondent is either ready to graduate or the respondent maybe reappointed to the program, and continue to receive services under CARE, for up to one year.



Additional Resources

- Consider viewing the training materials on [CARE-Act.org](https://www.care-act.org) under training materials, including CARE Act 201: The Client's Journey Through the CARE Act and CARE Act 202: The CARE Agreement & CARE Plan.
- Consider viewing the additional CARE Act briefs:
 - [Eligibility Criteria](#)
 - Supporter Role in the CARE Act



Statute Language & Citation

The CARE Act Process Flow follows the progression in Community Assistance, Recovery, and Empowerment (CARE) Court Program outlined in [Senate Bill \(SB\) 1338](#).

Community Assistance, Recovery, and Empowerment Act

Supporter Role in the CARE Act

In the CARE process, each individual respondent can choose a supporter. The supporter is an adult that makes sure that the CARE process reflects the respondent's rights and choices. The supporter partners with other CARE participants, including the respondent, counsel, Behavioral Health Agency, and judges.

Overview of the Supporter Role

What does the supporter role entail?

The supporter should empower each individual respondent to express their preferences throughout the CARE process. This includes navigating a CARE agreement or CARE plan, developing a graduation plan, and establishing a Psychiatric Advance Directive (also known as a PAD (5971(q), 5981(3))).

If the respondent feels overwhelmed or confused, they can ask their supporter to explain CARE's components and purpose. The supporter and respondent may talk through the process. They can also diagram or write down how it works. The supporter can identify additional information or resources the respondent needs to best make their own choices during CARE proceedings.

The supporter has an important and challenging job. They support the respondent as a neutral party and ensure the respondent's voice is respected.

The supporter:

1. Helps the respondent understand, make, and communicate decisions and express preferences throughout CARE proceedings.
2. Offers the respondent a flexible, culturally responsive way to maintain decisionmaking authority over their own life by developing and maintaining voluntary support systems.
3. Uses the Supported Decisionmaking (SDM) framework to increase a respondent's ability to make their own decisions. This can prevent more restrictive protective alternatives, such as conservatorship.

Who is the supporter?

A supporter is an adult chosen (or approved) by the respondent and should be someone they trust. The supporter must make time to attend CARE hearings and appointments (as the respondent prefers). The supporter may be a:

- Friend
- Family member
- Faith leader
- Mentor
- Person with lived experience in mental health and/or substance use disorder
- Behavioral Health Agency employee
- Social Service Provider
- Other support person

Note: Currently, there is no allocated funding for the supporter role.

What are the key operating principles of the supporter's role?

1. Supported Decisionmaking

Supported Decisionmaking (SDM) is an important principle of the CARE Act. SDM helps people with disabilities keep their right to make their own decisions, with the right services and supports. In the SDM framework, a trusted person (or group of people) helps the individual make their own decisions. The trusted person never makes decisions for the respondent. The respondent must make the final decision.

Using the SDM framework, supporters willingly commit to joining the respondent's CARE Act team. Each supporter assists the respondent with understanding and representing their preferences and decisions. This happens throughout the CARE proceedings.

2. Avoiding personal bias

The supporter should intentionally represent the will and preferences of the respondent, regardless if that matches what the supporter prefers.

3. Trauma-informed care

Many respondents have experienced trauma. Trauma impacts their mental and physical health. Trauma-informed care means operating in a respectful, consistent, and reliable manner. It reduces trauma triggers and associated behaviors for the respondent. Operating in a trauma-informed manner helps the respondent. It maintains trust with the supporter. It may increase engagement in supportive services.

4. Confidentiality

Supporters must respect the respondent's privacy. They should not discuss the respondent's CARE process with anyone. The respondent can sign a formal Release of Information for the supporter to discuss this. The CARE Act protects the confidential relationship between the individual and supporters. Supporters cannot be asked to appear in court. Supporters cannot be called to testify against the respondent in any proceeding related to the CARE Act. A supporter appearing at a meeting, proceeding, or communication does not remove their duty to keep confidentiality. 5981 (e).

What trainings are available to supporters?

The supporter will have access to trainings to carry out this role. These trainings are for all CARE stakeholders, including supporters. These trainings will deepen their understanding of the CARE process. They explore relevant ideas to make the CARE process stronger for all participants. Topics include:

- The CARE process
- CARE agreement and CARE plan services and supports
- The supporter role within the CARE process
- Supported Decisionmaking
- Psychiatric Advance Directives
- Trauma-informed care
- Elimination of bias
- Family psychoeducation
- Peer support
- Person-centered planning
- Community services and supports

Additional Resources

- Consider viewing the training materials on CARE-Act.org under training materials, including CARE Act 201: The Client's Journey Through the CARE Act and CARE Act 202: The CARE Agreement & CARE Plan.
- Consider viewing the additional CARE Act briefs:
 - The CARE Process Flow to Treatment, Housing, and Support
- [Saks Institute for Mental Health Law, Policy, and Ethics](#)
- [Painted Brain](#)

Statute Language & Citation

“Supporter” means an adult, designated pursuant to Chapter 4 (commencing with Section 5980). A supporter assists the person who is the subject of the petition. This may include supporting the person to understand, make, communicate, implement, or act on their own life decisions during the CARE process, including a CARE agreement, a CARE plan, and developing a graduation plan. A **supporter** shall not act independently. (5971(q))

Please see statute language referencing the supporter role in Community Assistance, Recovery, and Empowerment (CARE) Court Program in [Welfare and Institutions Code § 5972](#). This includes the role of the supporter in the development of a CARE agreement (5977(c, 2)) and CARE plan (5977 (3, A)); responsibilities of the supporter (5989 (b) & 5981 (b)); what the supporter may not do (5981 (c)); references to the removal of a supporter (5981 (c)); stipulations that supporters are bound by existing obligations and prohibitions that protect people with disabilities and the elderly from fraud, abuse, neglect, coercion, or mistreatment (5981(d)); and the stipulation that a supporter shall not be subpoenaed or called to testify against the respondent (5981 (e)).

How is the supporter selected?

The respondent's counsel will tell the respondent about the option to choose a supporter. This happens at the initial appearance on the petition for CARE. A respondent may not have someone to choose as a supporter. They may have their counsel ask the court for a voluntary supporter. The respondent must approve the supporter for them to participate in the CARE process.

The respondent may choose not to have a supporter.

Can a supporter change throughout the CARE proceedings?

The respondent may choose a new supporter any time.

The court may remove a supporter if there is a conflict of interest. This is when the conflict cannot be managed to avoid harming the respondent.

What can a supporter participate in?

Respondents can ask supporters to participate in meetings, judicial proceedings, status hearings, or communications. These may be related to any of the following:

- A psychiatric/mental health evaluation
- Development of a CARE agreement or CARE plan
- Establishing a Psychiatric Advance Directive (PAD)
- Development of a graduation plan

What are considerations that should guide the supporter role?

- The supporter will support the will and preferences of each individual respondent to the best of their ability, as reasonably possible.
- The supporter will not act independently on behalf of the respondent.
- The supporter will respect the respondent's values, beliefs, and preferences.
- The supporter will act honestly, diligently, and in good faith.
- The supporter should avoid, minimize, and manage conflicts of interest to the greatest extent possible. Any conflicts should be shared with the court, the respondent, and the respondent's counsel.
- The supporter will abide by all laws and regulations that protect people from fraud, abuse, neglect, coercion, or mistreatment.

Unless authorized by the respondent with capacity to make that authorization, a supporter will not:

- Make decisions for, or on behalf of, the respondent, except when necessary to prevent imminent bodily harm or injury.
- Sign documents on behalf of the respondent.