

**PROPOSED REVISIONS TO THE FORMS GOVERNING MENTAL
HEALTH PROCEEDINGS
PROPOSAL 2019-001**

March 4, 2019

The Ad hoc Committee on Rules for Mental Health Proceedings has recommended the adoption of new Form 4-934 NMRA for the Supreme Court's consideration.

If you would like to comment on the proposed amendments set forth below before the Court takes final action, you may do so by either submitting a comment electronically through the Supreme Court's web site at <http://supremecourt.nmcourts.gov/open-for-comment.aspx> or sending your written comments by mail, email, or fax to:

Joey D. Moya, Clerk
New Mexico Supreme Court
P.O. Box 848
Santa Fe, New Mexico 87504-0848
nmsupremecourtclerk@nmcourts.gov
505-827-4837 (fax)

Your comments must be received by the Clerk on or before April 3, 2019, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court's web site for public viewing.

[NEW MATERIAL]

4-934. Petition for enforcement order.

[For use with Section 43-1-15(G) NMSA 1978]

STATE OF NEW MEXICO
COUNTY OF _____
_____ DISTRICT COURT

In the Matter of _____,

SI No. _____

PETITION FOR ENFORCEMENT ORDER

Petitioner, _____, under Section 43-1-15 NMSA 1978, states the following.

1. Petitioner was appointed as treatment guardian for Respondent, _____

_____, on _____ (date) in Case No. _____.

2. Petitioner's appointment as treatment guardian shall terminate on _____ (date).

3. Respondent is currently residing at _____ (Respondent's last-known address).

4. Respondent has a mental disorder as defined by the New Mexico Mental Health Code, Section 43-1-3(O) NMSA 1978, and is currently diagnosed as follows:

5. Respondent has been prescribed the following medication(s), on the following date(s), by the following authorized prescriber(s):

Medication	Date	Prescriber (name and contact info)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. Petitioner's last contact with Respondent was on _____ (date) by _____ (type of contact, e.g., in person, by telephone, etc.).

7. Petitioner's last contact with the authorized prescriber who prescribed the medication that is the subject of this petition was on _____ (date).

8. Respondent's last known contact with the authorized prescriber, a mental health practitioner, or a community provider was on _____ (date).

9. Respondent did not comply with Petitioner's treatment decision about the following medications, on the following date(s):

Medication	Date
_____	_____
_____	_____
_____	_____

10. Petitioner made the following efforts to engage Respondent to comply with Petitioner's treatment decision(s): _____

11. Respondent responded to the efforts described in Paragraph 10 as follows:

12. Respondent reports taking medication(s) last on _____ (date).

13. The following individuals report that Respondent last took medication(s) on the following date(s):

Name of individual	Medication	Date
_____	_____	_____
_____	_____	_____
_____	_____	_____

14. Petitioner has weighed the following risks and benefits about filing this petition:

15. If this petition is not granted, the following outcome is likely for Respondent:

16. The following options are available for administering the medication(s) in question to Respondent: _____

17. Respondent has been ordered to comply with previous treatment decisions as follows:

18. This enforcement order should remain in effect until _____ (date) because _____

WHEREFORE, Petitioner requests an order to enforce the following treatment decision(s):

The order [] should [] should not authorize a peace officer to take Respondent into custody and to transport Respondent to an evaluation facility.

The order [] should [] should not authorize the evaluation facility to forcibly administer treatment.

Respectfully submitted,

USE NOTE

A person appointed as a treatment guardian may petition for an enforcement order “[i]f a client, who is not a resident of a medical facility and for whom a treatment guardian has been appointed, refuses to comply with the decision of the treatment guardian.” NMSA 1978, § 43-1-15(G). An enforcement order is not a prophylactic measure. Rather, an enforcement order should be granted only upon proof that the respondent has refused to comply with the treatment guardian’s decision. As such, a petition for an enforcement order should be viewed as a last resort, to be pursued after other efforts to get the respondent to comply with a treatment decision have been unsuccessful. For further information about the procedures for the appointment of a treatment guardian, see Rule 1-130 NMRA.

[Approved by Supreme Court Order No. _____, effective _____.]