

NAVIGATING THE AMENDED MENTAL HEALTH CODE

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4 Highlights of the Revised MHC

- Focuses on Capacity and not Conduct
 - Traditional standard expanded
 - Changed criteria to impaired judgment for need of treatment (401(c))
 - Adds mental harm to self
- No longer requires existing noncompliance (401(d))
- Clarifies that AOT may be ordered under 401(a), (b), (c), or (d) May be used as a discharge tool
 - Hospitalization not required
- One petition process

First Responder Catch Phrase

Old Standard:



“immediate risk of harm to self or others”

New Standard:

“substantial risk of harm due to impaired judgment”

Changes to MCL 330.1401

Changes to section 401 are highlighted below (PCM 201):

- 3. I believe the individual has mental illness and
 - a. as a result of **that mental illness**, the individual can **reasonably be** expected within the near future to intentionally or unintentionally seriously physically injure self or others, and has engaged in an act or acts or made significant threats that are substantially supportive of this expectation.
 - b. **as a result of that mental illness**, the individual is unable to attend to those basic physical needs that must be attended to in order to avoid serious harm in the near future, and has demonstrated that inability by failing to attend to those basic physical needs.
 - c. the individual's judgment is so impaired **by that mental illness** that s/he is unable to understand **his/her** need for treatment, and **whose impaired judgment, on the basis of competent clinical opinion, presents a substantial risk of significant physical or mental harm to the individual or presents a substantial risk of physical harm to others in the near future.**
 - d. the individual's understanding of the need for treatment is impaired to the point that s/he is unlikely to voluntarily participate in or to adhere to treatment that has been determined necessary to prevent a relapse or harmful deterioration of his/her condition. The individual's noncompliance with treatment has been a factor in the individual's placement in a psychiatric hospital jail prison at least two times within the last 48 months. (Specify the name(s) and location(s) of the hospital, jail, or prison and the date(s) of hospitalization or incarceration.)
- AND/OR**
- e. committing one or more acts, attempts, or threats of serious violent behavior within the last 48 months. (Specify the acts, attempts, or threats of serious violent behavior.)

Funding

Requires a community mental health services program to determine an individual's eligibility for a private health insurer, Medicaid, or Medicare, and then bill them first before expending money from the state General Fund when providing treatment and services to an insured or program-eligible individual.

Forms

- ⦿ DHHS prescribes the forms used by hospitals.
- ⦿ SCAO prescribes the forms used for court proceedings.

SCAO-Approved Court Forms

Numerical Index of Approved Probate Court Mental Commitment Forms

Filing a Petition Seeking AOT Treatment

- Any person over the age of 18 may file a petition
- Content Requirements:
 - Facts as basis for assertion
 - Names and addresses (if known)
 - Witnesses to the facts
 - Name and addresses of nearest relative/guardian (if known) OR if none, a friend of the individual (if known)
- Petitioner may assert the subject of the petition should receive AOT.
- Clinical certificates not required if only AOT is requested

Caseload Reporting

For caseload reporting purposes, courts must distinguish "AOT only" petitions from other petitions.

3. I believe the individual has mental illness and

the individual's understanding of the need for treatment is impaired to the point that s/he is unlikely to voluntarily participate in or to adhere to treatment that has been determined necessary to prevent a relapse or harmful deterioration of his/her condition. The individual's noncompliance with treatment has been a factor in the individual's placement in a psychiatric hospital jail prison at least two times within the last 48 months. (Specify the name(s) and location(s) of the hospital, jail, or prison and the date(s) of hospitalization or incarceration.)

AND/OR

committing one or more acts, attempts, or threats of serious violent behavior within the last 48 months. (Specify the acts, attempts, or threats of serious violent behavior.)

4. I request the court to determine the individual to be a person requiring treatment and

(Check if item 3a is checked) order that the individual participate in assisted outpatient treatment without hospitalization

Order for Evaluation and Transportation to Hospital

Noncompliance with an order of examination → order peace officer to transport to PSU/hospital.

Immediate involuntary mental health treatment needed → order individual hospitalized.

- Transport must be done by a peace officer
- Examination must be completed within 24 hours following hospitalization or release individual
- No immediate need for hospitalization = remain home pending examination

Court Hearing Notice

- ⦿ Must be given at earliest practicable time
- ⦿ Within 4 days of court's receipt of initial petition and clinical certificate, court must provide the following to individual (this does not apply to AOT only petitions):
 - Copy of petition and clinical certificate(s)
 - Notice of rights to a full court hearing
 - To be present in the hearing
 - To be represented by legal counsel
 - Demand jury trial
 - Right to an independent clinical evaluation

Notice must be provided to:

- ⦿ Subject of the petition
- ⦿ Subject of the petition's attorney
- ⦿ Petitioner
- ⦿ Prosecuting attorney or other attorney retained by the petitioner
- ⦿ Hospital director of any hospital where the subject has been hospitalized
- ⦿ Spouse of the subject (if whereabouts known)
- ⦿ Guardian of subject (if any)
- ⦿ Other relatives or persons as the court determines

Right to Participate

- ⦿ Subject of the petition has the right to be present at all hearings unless waived.
- ⦿ Subject of the petition may stipulate to the entry of any order for treatment (including AOT) following consultation with legal counsel.

Right to Legal Counsel

- Every individual subject to the petition is entitled to representation by legal counsel.
- Must appoint legal counsel within 48 hours of receipt of petition.
 - If hospitalized, court must appoint within 24 hours.
- May waive legal counsel in writing following consultation with attorney.
- Preferred attorney must be appointed.
- Attorney must consult with individual at least 24 hours prior to hearing. If hospitalized, at least 72 hours.

Participation of Prosecutor

- The prosecuting attorney from the county or from another county with permission must participate in all hearings convened by the court.
- The prosecuting attorney is not required to participate if the petitioner has retained private counsel to present evidence for whether the individual requires treatment.

Right to Jury, Evidence, Adjournments, and Copies of Orders

- May demand jury trial (6 jurors)
- Must have adequate time to prepare and present necessary evidence
- Present documents/witnesses and to cross-examine
- Granting of requests for continuances for a reasonable time for good cause.
- Copies of court orders must be provided

Court Hearings

Court hearings are governed by sections 452 through 465. AOT only petitions are not governed by sections 453(2), 453a, and 455(3)-(11).

Hearing Time Frames

- ⦿ A hearing must be convened within 7 days from receipt of:
 - Petition for hospitalization
 - Petition for determination that an individual is a person requiring treatment
 - Petition for determination that an individual continues to be a person requiring treatment
 - Petition for discharge under section 484
 - Petition for discharge under section 485
 - Demand/notification that hearing temporarily deferred
 - AOT cannot be deferred
- ⦿ A hearing must be convened within 28 days for AOT only requested petitions.

If Found to Require Treatment:

- ⦿ Order individual hospitalized
- ⦿ Order individual hospitalized in private/VA hospital at request
- ⦿ Order individual to undergo alternative treatment to hospitalization
- ⦿ Order individual to undergo combined hospitalization and ATO/AOT
- ⦿ Order individual to under AOT only
 - Must consider preferences and experiences
 - If conflicts with directive, independent psychiatrist must review

Specific AOT Orders

- Case management services
- Medication
- Blood/urinalysis tests to determine compliance with or effectiveness of prescribed medications
- Individual/group therapy
- Educational/vocational training
- Supervised living
- Assertive communication treatment team services
- Alcohol/substance use disorder treatment, or both
- Alcohol/substance use disorder testing, or both
 - Subject to review every 6 months
- Any other services prescribed

Before Ordering...

- Court must review report on alternatives to hospitalization not more than 15 days before the court issues the order. (PCM 216)
 - Exception: AOT only petitions.

Duration of Orders

- Initial order of AOT must not exceed 180 days
- Initial order of combined hospitalization and AOT must not exceed 180 days (hospitalization not to exceed 60 days)
- Second order of AOT must not exceed 1 year
- Second order of combined hospitalization and AOT must not exceed 1 year (hospitalization not to exceed 90 days)
- Continuing order of AOT must not exceed 1 year
- Continuing order of combined hospitalization and AOT must not exceed 1 year (hospitalization not to exceed 90 days)
- The court must continue to issue consecutive 1 year continuing orders until a continuing order expires without a petition having been filed.

Entry of Order into CMS

Courts will continue to report the number of orders granted for "AOT only" and denied for "AOT only" as follows:

7. By clear and convincing evidence, the individual is a person requiring treatment because the individual has a mental illness.

14. The individual receive assisted outpatient treatment for no longer than 180 days, supervised by _____
Community mental health services or other designated entity
a. The following assisted outpatient treatment services are ordered: (See MCL 330.1468(2)(a) for specific services.)

Law Enforcement Information Network (LEIN)

- Upon entry of an order, the court must immediately order the department of state police to enter the court order into LEIN.
 - Exception: Entry into LEIN is not permitted for AOT only orders.
- The order must be immediately removed only upon receipt of a subsequent court order for that removal.

LEIN Entry

APPOINTED CLERK	INITIALS/LOGGED NUMBER	FILE NO.
STATE OF MICHIGAN PROBATE COURT COUNTY OF _____	HEARING ON PETITION FOR MENTAL HEALTH CARE SERVICES	

12. The individual be hospitalized for up to _____ days.

13. The individual receive alternative treatment for no longer than 90 days, supervised by _____
Community mental health services or other designated entity
as follows: _____

The individual shall be hospitalized for up to _____ days of the 90-day alternative treatment period.
 An initial hospitalization period shall be up to _____ days.

14. The individual receive assisted outpatient treatment for no longer than 180 days, supervised by _____
Community mental health services or other designated entity
a. The following assisted outpatient treatment services are ordered: (See MCL 330.1468(2)(a) for specific services.)

~~13b. The individual shall be hospitalized for up to _____ days of the 180-day assisted outpatient treatment period.
 An initial hospitalization period shall be up to _____ days.~~

17. If item 12, 13, or 14b is checked, the Michigan State Police shall immediately enter the individual's identifying information in this court order on LEIN.

Noncompliance



- Individual not compliant with court order
 - Supervising agency/mental health professional MUST notify court immediately
- Agency not compliant with specific court orders
 - Individual may petition court for modification of court order or request for show cause

LET'S GO THROUGH
THE PROCESS

The Process

Petition filed with court

Court shall fix a hearing date within 7 days (exception: hearing date within 28 days with AOT only requested and person not hospitalized)

Court Requirements:

- Provide notice at earliest practicable time in advance of hearing to permit preparation for hearing to:
 - Subject of petition
 - His/her attorney
 - Petitioner
 - Prosecuting attorney/other attorney
 - Hospital director if hospitalized
 - Spouse, if whereabouts known
 - Guardian, if any
 - Other relatives/persons as court determines
- Ensure following provided to subject of petition within 4 days of receipt of docs:
 - Copy of petition
 - Copy of each clinical certificate
 - Notice of right to full court hearing
 - Notice of right to be present at hearing
 - Notice of right to legal representation
 - Notice of right to demand jury trial
 - Notice of right to independent clinical evaluation

Court shall do the following:

- Appoint counsel (w/in 48 hours)
 - If hospitalized, appoint within 24 hours after hospitalization
- Individual may waive (in writing to court) right to counsel after consultation with counsel
- Preferred counsel must be appointed for initially appointed counsel
- Must consult with individual at least 24 hours before hearing (if hospitalized, within 72 hours)
 - Must file certification with court
- Court compensate appointed counsel if individual indigent

Upon receipt of documents, court shall order report assessing current availability and appropriateness for individual of alternatives to hospitalization. (PCM 216: Order for Report on Alternative Treatment and Report)

Rights of Subject:

- Present at all hearings
- Stipulate to entry of any order for treatment
- Meet with legal counsel, treatment team member, responsible CMH program designee, and subject of petition designee (if possible)
- Request to temporarily defer hearing for no more than 60 days (hospitalized) or 90 days (ATO only or ATO & hospitalization)
 - Stipulation must be filed with court that individual agrees to remain hospitalized and to accept treatment for deferral period
- Deferral not available for AOT only

Deferral Stipulation Received:

- Court must temporarily defer hearing
 - Petition and clinical certs remain valid
- Court retains continuing jurisdiction
- Individual treated as formal voluntary patient in hospital setting
 - If refuses treatment/requests hearing, treatment must cease and notify court to convene hearing
- If agreement to participate in an alternative to hospitalization, individual must be released to alternative treatment provider
 - If refuses treatment/requests hearing, treatment must cease and notify court to convene hearing

Court must receive all relevant, competent, and material evidence offered. [Note: rules of evidence in civil actions applicable except for exceptions within statute or court rule]

Counsel must be provided adequate time for investigation and be permitted to present evidence for proper disposition, including evidence as to alternatives to hospitalization.

Hearings must be convened as the court directs:

- Within/without the county in which the court has its principal office;
- In a hospital; or
- Other convenient place

When practicable, court must convene hearings in a hospital. [Note: Prosecuting attorney must participate in all hearings except if petitioner retains private counsel to present case for requiring treatment.]

Trial may be by bench or jury (6 persons)

Certificates/Testimony Required (based upon petition request):

If petition requests 401(a), (b), and/or (c), and (d) (general involuntary treatment):

- Clinical certificate required by physician or psychologist
- Clinical certificate required by psychiatrist
- Testimony by one physician/psychologist

If petition requests only 401(d) (AOT only):

- Testimony or written deposition by physician/psychologist
- Clinical certificate required by psychiatrist

OR

- Testimony or written deposition by physician/psychologist
- Testimony or written deposition by psychiatrist

A judge or jury must find that an individual requires treatment by clear and convincing evidence

Following evidence and arguments made, the Court must find one of the following:

- The individual does not require treatment
- The individual does require treatment and meets the criteria under one of the following:
 - 401(a)
 - 401(b)
 - 401(c)
 - 401(d) – AOT only

Orders of the court:

- No treatment required: dismiss petition + immediately release from hospital (if applicable). [Note: petition and clinical certs shall be maintained as confidential]
- Individual requires treatment, the court shall do 1 of the following:
 - Hospitalization
 - Hospitalization in a private/VA hospital at request of individual/family
 - Undergo alternative treatment program
 - Undergo combination of 1 of the following:
 - Hospitalization and ATO
 - Hospitalization and AOT
 - Undergo AOT program
 - May include case management services and 1 or more of the following:
 - Medication (must consider preference reported by individual)
 - Blood or urinalysis tests to determine compliance with or effectiveness of prescribed medication
 - Individual or group therapy, or both
 - Day or partial day programs
 - Educational or vocational training
 - Supervised living
 - Assisted community treatment team services
 - Substance use disorder treatment
 - Substance use disorder testing with history of alcohol/substance use
 - Any other services prescribed

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Persons entitled to copies of court orders:

- Subject of the order
- Individual's guardian (if applicable)
- Individual's attorney
- Executive director of the CMH program
- Hospital director of any hospital in which the individual is or will be a patient

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Upon entry of an order, the court must immediately order the department of state police to enter the court order into LEIN.

The order may only be removed from LEIN upon the individual motioning the court and a subsequent court order ordering removal.

Entry into LEIN is not permitted under current law for AOT only orders.

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Duration of the Orders:

- Initial order of hospitalization: 60 days
- Initial order of ATO: 90 days
- Initial order of combined hospitalization and ATO: 90 days (hospital: 60 days)
- Initial order of AOT: 180 days
- Initial order of combined hospitalization and AOT: 180 days (hospital: 60 days)

- Second order of hospitalization: 90 days
- Second order of ATO or AOT: 1 year

- Continuing order of hospitalization: 1 year
- Continuing order of ATO or AOT: 1 year
- Continuing order of combined hospitalization and ATO or combined hospitalization and AOT: 1 year (hospital: 90 days)

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Noncompliance:

- Show cause individual (transport order available)
- Show cause agency

Questions



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Legislation

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

330.1100 Definitions.

Sec. 100. The definitions in sections 100a to 100d apply to this act unless the context requires otherwise. Other definitions applicable to specific chapters are found in those chapters.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1990, Act 124, Imd. Eff. June 26, 1990;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: For transfer of powers and duties of licensing, monitoring, and accreditation, with the exception of the clinical services team, from the department of community health to the director of the department of commerce, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

***** 330.1100a THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See
330.1100a.amended *****

330.1100a Definitions; A to E.

Sec. 100a. (1) "Abilities" means the qualities, skills, and competencies of an individual that reflect the individual's talents and acquired proficiencies.

(2) "Abuse" means nonaccidental physical or emotional harm to a recipient, or sexual contact with or sexual penetration of a recipient as those terms are defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a, that is committed by an employee or volunteer of the department, a community mental health services program, or a licensed hospital or by an employee or volunteer of a service provider under contract with the department, community mental health services program, or licensed hospital.

(3) "Adaptive skills" means skills in 1 or more of the following areas:

- (a) Communication.
- (b) Self-care.
- (c) Home living.
- (d) Social skills.
- (e) Community use.
- (f) Self-direction.
- (g) Health and safety.
- (h) Functional academics.
- (i) Leisure.
- (j) Work.

(4) "Adult foster care facility" means an adult foster care facility licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(5) "Alcohol and drug abuse counseling" means the act of counseling, modification of substance use disorder related behavior, and prevention techniques for individuals with substance use disorder, their significant others, and individuals who could potentially develop a substance use disorder.

(6) "Applicant" means an individual or his or her legal representative who makes a request for mental health services.

(7) "Approved service program" means a substance use disorder services program licensed under part 62 of the public health code, 1978 PA 368, MCL 333.6230 to 333.6251, to provide substance use disorder treatment and rehabilitation services by the department-designated community mental health entity and approved by the federal government to deliver a service or combination of services for the treatment of incapacitated individuals.

(8) "Assisted outpatient treatment" or "AOT" means the categories of outpatient services ordered by the court under section 433 or 469a. Assisted outpatient treatment includes case management services to provide care coordination. Assisted outpatient treatment may also include 1 or more of the following categories of services: medication; periodic blood tests or urinalysis to determine compliance with prescribed medications; individual or group therapy; day or partial day programming activities; vocational, educational, or self-help training or activities; assertive community treatment team services; alcohol or substance use disorder treatment and counseling and periodic tests for the presence of alcohol or illegal drugs for an individual with a history of alcohol abuse or substance use disorder; supervision of living arrangements; and any other services within a local or unified services plan developed under this act that are prescribed to treat the individual's mental illness and to assist the individual in living and functioning in the community or to attempt to prevent a relapse or deterioration that may reasonably be predicted to result in suicide, the need for hospitalization, or serious violent behavior. The medical review and direction included in an assisted outpatient treatment plan shall be provided under the supervision of a psychiatrist.

(9) "Board" means the governing body of a community mental health services program.

(10) "Board of commissioners" means a county board of commissioners.

(11) "Center" means a facility operated by the department to admit individuals with developmental disabilities and provide habilitation and treatment services.

(12) "Certification" means formal approval of a program by the department in accordance with standards developed or approved by the department.

(13) "Child abuse" and "child neglect" mean those terms as defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

(14) "Child and adolescent psychiatrist" means 1 or more of the following:

(a) A physician who has completed a residency program in child and adolescent psychiatry approved by the accreditation council for graduate medical education or the American osteopathic association, or who has completed 12 months of child and adolescent psychiatric rotation and is enrolled in an approved residency program as described in this subsection.

(b) A psychiatrist employed by or under contract as a child and adolescent psychiatrist with the department or a community mental health services program on March 28, 1996, who has education and clinical experience in the evaluation and treatment of children or adolescents with serious emotional disturbance.

(c) A psychiatrist who has education and clinical experience in the evaluation and treatment of children or adolescents with serious emotional disturbance who is approved by the director.

(15) "Children's diagnostic and treatment service" means a program operated by or under contract with a community mental health services program, that provides examination, evaluation, and referrals for minors, including emergency referrals, that provides or facilitates treatment for minors, and that has been certified by the department.

(16) "Community mental health authority" means a separate legal public governmental entity created under section 205 to operate as a community mental health services program.

(17) "Community mental health organization" means a community mental health services program that is organized under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(18) "Community mental health services program" means a program operated under chapter 2 as a county community mental health agency, a community mental health authority, or a community mental health organization.

(19) "Consent" means a written agreement executed by a recipient, a minor recipient's parent, or a recipient's legal representative with authority to execute a consent, or a verbal agreement of a recipient that is witnessed and documented by an individual other than the individual providing treatment.

(20) "County community mental health agency" means an official county or multicounty agency created under section 210 that operates as a community mental health services program and that has not elected to become a community mental health authority or a community mental health organization.

(21) "Department" means the department of community health.

(22) "Department-designated community mental health entity" means the community mental health authority, community mental health organization, community mental health services program, county community mental health agency, or community mental health regional entity designated by the department to represent a region of community mental health authorities, community mental health organizations, community mental health services programs, or county community mental health agencies.

(23) "Dependent living setting" means all of the following:

(a) An adult foster care facility.

(b) A nursing home licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(c) A home for the aged licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(24) "Designated representative" means any of the following:

(a) A registered nurse or licensed practical nurse licensed or otherwise authorized under part 172 of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242.

(b) A paramedic licensed or otherwise authorized under part 209 of the public health code, 1978 PA 368, MCL 333.20901 to 333.20979.

(c) A physician's assistant licensed or otherwise authorized under part 170 or 175 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084 and 333.17501 to 333.17556.

(d) An individual qualified by education, training, and experience who performs acts, tasks, or functions under the supervision of a physician.

(25) "Developmental disability" means either of the following:

(a) If applied to an individual older than 5 years of age, a severe, chronic condition that meets all of the following requirements:

(i) Is attributable to a mental or physical impairment or a combination of mental and physical impairments.

(ii) Is manifested before the individual is 22 years old.

(iii) Is likely to continue indefinitely.

(iv) Results in substantial functional limitations in 3 or more of the following areas of major life activity:

(A) Self-care.

(B) Receptive and expressive language.

(C) Learning.

- (D) Mobility.
- (E) Self-direction.
- (F) Capacity for independent living.
- (G) Economic self-sufficiency.

(v) Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

(b) If applied to a minor from birth to 5 years of age, a substantial developmental delay or a specific congenital or acquired condition with a high probability of resulting in developmental disability as defined in subdivision (a) if services are not provided.

(26) "Director" means the director of the department or his or her designee.

(27) "Discharge" means an absolute, unconditional release of an individual from a facility by action of the facility or a court.

(28) "Eligible minor" means an individual less than 18 years of age who is recommended in the written report of a multidisciplinary team under rules promulgated by the department of education to be classified as 1 of the following:

- (a) Severely mentally impaired.
- (b) Severely multiply impaired.

(c) Autistic impaired and receiving special education services in a program designed for the autistic impaired under subsection (1) of R 340.1758 of the Michigan administrative code or in a program designed for the severely mentally impaired or severely multiply impaired.

(29) "Emergency situation" means a situation in which an individual is experiencing a serious mental illness or a developmental disability, or a minor is experiencing a serious emotional disturbance, and 1 of the following applies:

(a) The individual can reasonably be expected within the near future to physically injure himself, herself, or another individual, either intentionally or unintentionally.

(b) The individual is unable to provide himself or herself food, clothing, or shelter or to attend to basic physical activities such as eating, toileting, bathing, grooming, dressing, or ambulating, and this inability may lead in the near future to harm to the individual or to another individual.

(c) The individual's judgment is so impaired that he or she is unable to understand the need for treatment and, in the opinion of the mental health professional, his or her continued behavior as a result of the mental illness, developmental disability, or emotional disturbance can reasonably be expected in the near future to result in physical harm to the individual or to another individual.

(30) "Executive director" means an individual appointed under section 226 to direct a community mental health services program or his or her designee.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1998, Act 497, Eff. Mar. 1, 1999;—Am. 2004, Act 499, Eff. Mar. 30, 2005;—Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

***** 330.1100a.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1100a.amended Definitions; A to E.

Sec. 100a. (1) "Abilities" means the qualities, skills, and competencies of an individual that reflect the individual's talents and acquired proficiencies.

(2) "Abuse" means nonaccidental physical or emotional harm to a recipient, or sexual contact with or sexual penetration of a recipient as those terms are defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a, that is committed by an employee or volunteer of the department, a community mental health services program, or a licensed hospital or by an employee or volunteer of a service provider under contract with the department, community mental health services program, or licensed hospital.

(3) "Adaptive skills" means skills in 1 or more of the following areas:

- (a) Communication.
- (b) Self-care.
- (c) Home living.
- (d) Social skills.
- (e) Community use.
- (f) Self-direction.
- (g) Health and safety.
- (h) Functional academics.
- (i) Leisure.
- (j) Work.

(4) "Adult foster care facility" means an adult foster care facility licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(5) "Alcohol and drug abuse counseling" means the act of counseling, modification of substance use disorder related behavior, and prevention techniques for individuals with substance use disorder, their significant others, and individuals who could potentially develop a substance use disorder.

(6) "Applicant" means an individual or his or her legal representative who makes a request for mental health services.

(7) "Approved service program" means a substance use disorder services program licensed under part 62 of the public health code, 1978 PA 368, MCL 333.6230 to 333.6251, to provide substance use disorder treatment and rehabilitation services by the department-designated community mental health entity and approved by the federal government to deliver a service or combination of services for the treatment of incapacitated individuals.

(8) "Assisted outpatient treatment" or "AOT" means the categories of outpatient services ordered by the court under section 468 or 469a. Assisted outpatient treatment may include case management services to provide care coordination. Assisted outpatient treatment may also include 1 or more of the following categories of services: medication; periodic blood tests or urinalysis to determine compliance with prescribed medications; individual or group therapy; day or partial day programming activities; vocational, educational, or self-help training or activities; assertive community treatment team services; alcohol or substance use disorder treatment and counseling and periodic tests for the presence of alcohol or illegal drugs for an individual with a history of alcohol abuse or substance use disorder; supervision of living arrangements; and any other services within a local or unified services plan developed under this act that are prescribed to treat the individual's mental illness and to assist the individual in living and functioning in the community or to attempt to prevent a relapse or deterioration that may reasonably be predicted to result in suicide, the need for hospitalization, or serious violent behavior. The medical review and direction included in an assisted outpatient treatment plan shall be provided under the supervision of a psychiatrist.

(9) "Board" means the governing body of a community mental health services program.

(10) "Board of commissioners" means a county board of commissioners.

(11) "Center" means a facility operated by the department to admit individuals with developmental disabilities and provide habilitation and treatment services.

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(14) "Child and adolescent psychiatrist" means 1 or more of the following:

(a) A physician who has completed a residency program in child and adolescent psychiatry approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, or who has completed 12 months of child and adolescent psychiatric rotation and is enrolled in an approved residency program as described in this subsection.

(b) A psychiatrist employed by or under contract as a child and adolescent psychiatrist with the department or a community mental health services program on March 28, 1996, who has education and clinical experience in the evaluation and treatment of children or adolescents with serious emotional disturbance.

(c) A psychiatrist who has education and clinical experience in the evaluation and treatment of children or adolescents with serious emotional disturbance who is approved by the director.

(15) "Children's diagnostic and treatment service" means a program operated by or under contract with a community mental health services program, that provides examination, evaluation, and referrals for minors, including emergency referrals, that provides or facilitates treatment for minors, and that has been certified by the department.

(16) "Community mental health authority" means a separate legal public governmental entity created under section 205 to operate as a community mental health services program.

(17) "Community mental health organization" means a community mental health services program that is organized under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(18) "Community mental health services program" means a program operated under chapter 2 as a county community mental health agency, a community mental health authority, or a community mental health organization.

(19) "Consent" means a written agreement executed by a recipient, a minor recipient's parent, or a recipient's legal representative with authority to execute a consent, or a verbal agreement of a recipient that is witnessed and documented by an individual other than the individual providing treatment.

(20) "County community mental health agency" means an official county or multicounty agency created under section 210 that operates as a community mental health services program and that has not elected to become a community mental health authority or a community mental health organization.

(21) "Department" means the department of health and human services.

(22) "Department-designated community mental health entity" means the community mental health authority, community mental health organization, community mental health services program, county community mental health agency, or community mental health regional entity designated by the department to represent a region of community mental health authorities, community mental health organizations, community mental health services programs, or county community mental health agencies.

(23) "Dependent living setting" means all of the following:

(a) An adult foster care facility.

(b) A nursing home licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(c) A home for the aged licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(24) "Designated representative" means any of the following:

(a) A registered nurse or licensed practical nurse licensed or otherwise authorized under part 172 of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242.

(b) A paramedic licensed or otherwise authorized under part 209 of the public health code, 1978 PA 368, MCL 333.20901 to 333.20979.

(c) A physician's assistant licensed or otherwise authorized under part 170 or 175 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084 and 333.17501 to 333.17556.

(d) An individual qualified by education, training, and experience who performs acts, tasks, or functions under the supervision of a physician.

(25) "Developmental disability" means either of the following:

(a) If applied to an individual older than 5 years of age, a severe, chronic condition that meets all of the following requirements:

(i) Is attributable to a mental or physical impairment or a combination of mental and physical impairments.

(ii) Is manifested before the individual is 22 years old.

(iii) Is likely to continue indefinitely.

(iv) Results in substantial functional limitations in 3 or more of the following areas of major life activity:

(A) Self-care.

(B) Receptive and expressive language.

(C) Learning.

(D) Mobility.

- (E) Self-direction.
- (F) Capacity for independent living.
- (G) Economic self-sufficiency.

(v) Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

(b) If applied to a minor from birth to 5 years of age, a substantial developmental delay or a specific congenital or acquired condition with a high probability of resulting in developmental disability as defined in subdivision (a) if services are not provided.

(26) "Director" means the director of the department or his or her designee.

(27) "Discharge" means an absolute, unconditional release of an individual from a facility by action of the facility or a court.

(28) "Eligible minor" means an individual less than 18 years of age who is recommended in the written report of a multidisciplinary team under rules promulgated by the department of education to be classified as 1 of the following:

- (a) Severely mentally impaired.
- (b) Severely multiply impaired.

(c) Autistic impaired and receiving special education services in a program designed for the autistic impaired under subsection (1) of R 340.1758 of the Michigan administrative code or in a program designed for the severely mentally impaired or severely multiply impaired.

(29) "Emergency situation" means a situation in which an individual is experiencing a serious mental illness or a developmental disability, or a minor is experiencing a serious emotional disturbance, and 1 of the following applies:

(a) The individual can reasonably be expected within the near future to physically injure himself, herself, or another individual, either intentionally or unintentionally.

(b) The individual is unable to provide himself or herself food, clothing, or shelter or to attend to basic physical activities such as eating, toileting, bathing, grooming, dressing, or ambulating, and this inability may lead in the near future to harm to the individual or to another individual.

(c) The individual has mental illness that has impaired his or her judgment so that the individual is unable to understand his or her need for treatment, and that impaired judgment, on the basis of competent clinical opinion, presents a substantial risk of significant physical or mental harm to the individual in the near future or presents a substantial risk of significant physical harm to others in the near future.

(30) "Executive director" means an individual appointed under section 226 to direct a community mental health services program or his or her designee.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1998, Act 497, Eff. Mar. 1, 1999;—Am. 2004, Act 499, Eff. Mar. 30, 2005;—Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

330.1100b Definitions; F to N.

Sec. 100b. (1) "Facility" means a residential facility for the care or treatment of individuals with serious mental illness, serious emotional disturbance, or developmental disability that is either a state facility or a licensed facility.

(2) "Family" as used in sections 156 to 161 means an eligible minor and his or her parent or legal guardian.

(3) "Family member" means a parent, stepparent, spouse, sibling, child, or grandparent of a primary consumer, or an individual upon whom a primary consumer is dependent for at least 50% of his or her financial support.

(4) "Federal funds" means funds received from the federal government under a categorical grant or similar program and does not include federal funds received under a revenue sharing arrangement.

(5) "Functional impairment" means both of the following:

(a) With regard to serious emotional disturbance, substantial interference with or limitation of a minor's achievement or maintenance of 1 or more developmentally appropriate social, behavioral, cognitive, communicative, or adaptive skills.

(b) With regard to serious mental illness, substantial interference or limitation of role functioning in 1 or more major life activities including basic living skills such as eating, bathing, and dressing; instrumental living skills such as maintaining a household, managing money, getting around the community, and taking prescribed medication; and functioning in social, vocational, and educational contexts.

(6) "Guardian" means a person appointed by the court to exercise specific powers over an individual who is a minor, legally incapacitated, or developmentally disabled.

(7) "Hospital" or "psychiatric hospital" means an inpatient program operated by the department for the treatment of individuals with serious mental illness or serious emotional disturbance or a psychiatric hospital or psychiatric unit licensed under section 137.

(8) "Hospital director" means the chief administrative officer of a hospital or his or her designee.

(9) "Hospitalization" or "hospitalize" means to provide treatment for an individual as an inpatient in a hospital.

(10) "Incapacitated" means that an individual, as a result of the use of alcohol or other drugs, is unconscious or has his or her mental or physical functioning so impaired that he or she either poses an immediate and substantial danger to his or her own health and safety or is endangering the health and safety of the public.

(11) "Individual plan of services" or "plan of services" means a written individual plan of services developed with a recipient as required by section 712.

(12) "Intellectual disability" means a condition manifesting before the age of 18 years that is characterized by significantly subaverage intellectual functioning and related limitations in 2 or more adaptive skills and that is diagnosed based on the following assumptions:

(a) Valid assessment considers cultural and linguistic diversity, as well as differences in communication and behavioral factors.

(b) The existence of limitation in adaptive skills occurs within the context of community environments typical of the individual's age peers and is indexed to the individual's particular needs for support.

(c) Specific adaptive skill limitations often coexist with strengths in other adaptive skills or other personal capabilities.

(d) With appropriate supports over a sustained period, the life functioning of the individual with an intellectual disability will generally improve.

(13) "Licensed facility" means a facility licensed by the department under section 137 or an adult foster care facility.

(14) "Licensed psychologist" means a doctoral level psychologist licensed under section 18223(1) of the public health code, 1978 PA 368, MCL 333.18223.

(15) "Medical director" means a psychiatrist appointed under section 231 to advise the executive director of a community mental health services program.

(16) "Mental health professional" means an individual who is trained and experienced in the area of mental illness or developmental disabilities and who is 1 of the following:

(a) A physician.

(b) A psychologist.

(c) A registered professional nurse licensed or otherwise authorized to engage in the practice of nursing under part 172 of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242.

(d) A licensed master's social worker licensed or otherwise authorized to engage in the practice of social work at the master's level under part 185 of the public health code, 1978 PA 368, MCL 333.18501 to 333.18518.

(e) A licensed professional counselor licensed or otherwise authorized to engage in the practice of counseling under part 181 of the public health code, 1978 PA 368, MCL 333.18101 to 333.18117.

(f) A marriage and family therapist licensed or otherwise authorized to engage in the practice of marriage and family therapy under part 169 of the public health code, 1978 PA 368, MCL 333.16901 to 333.16915.

(17) "Minor" means an individual under the age of 18 years.

(18) "Multicultural services" means specialized mental health services for multicultural populations such as African-Americans, Hispanics, Native Americans, Asian and Pacific Islanders, and Arab/Chaldean-Americans.

(19) "Neglect" means an act or failure to act committed by an employee or volunteer of the department, a community mental health services program, or a licensed hospital; a service provider under contract with the department, a community mental health services program, or a licensed hospital; or an employee or volunteer of a service provider under contract with the department, a community mental health services program, or a licensed hospital, that denies a recipient the standard of care or treatment to which he or she is entitled under this act.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2004, Act 499, Eff. Mar. 30, 2005;—Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012;—Am. 2014, Act 72, Imd. Eff. Mar. 28, 2014;—Am. 2014, Act 200, Imd. Eff. June 24, 2014.

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

***** 330.1100c THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See
330.1100c.amended *****

330.1100c Definitions; P to R.

Sec. 100c. (1) "Peace officer" means an officer of the department of state police or of a law enforcement agency of a county, township, city, or village who is responsible for the prevention and detection of crime and enforcement of the criminal laws of this state. For the purposes of sections 408 and 427, peace officer also includes an officer of the United States Secret Service with the officer's consent and a police officer of the Veterans' Administration Medical Center Reservation.

(2) "Peer review" means a process, including the review process required under section 143a, in which mental health professionals of a state facility, licensed hospital, or community mental health services program evaluate the clinical competence of staff and the quality and appropriateness of care provided to recipients. Peer review evaluations are confidential in accordance with section 748(9) and are based on criteria established by the facility or community mental health services program itself, the accepted standards of the mental health professions, and the department.

(3) "Person requiring treatment" means an individual who meets the criteria described in section 401.

(4) "Physician" means an individual licensed or otherwise authorized to engage in the practice of medicine under part 170 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084, or to engage in the practice of osteopathic medicine and surgery under part 175 of the public health code, 1978 PA 368, MCL 333.17501 to 333.17556.

(5) "Primary consumer" means an individual who has received or is receiving services from the department or a community mental health services program or services from the private sector equivalent to those offered by the department or a community mental health services program.

(6) "Priority" means preference for and dedication of a major proportion of resources to specified populations or services. Priority does not mean serving or funding the specified populations or services to the exclusion of other populations or services.

(7) "Protective custody" means the temporary custody of an individual by a peace officer with or without the individual's consent for the purpose of protecting that individual's health and safety, or the health and safety of the public, and for the purpose of transporting the individual under section 276, 408, or 427 if the individual appears, in the judgment of the peace officer, to be a person requiring treatment or is a person requiring treatment. Protective custody is civil in nature and is not an arrest.

(8) "Psychiatric unit" means a unit of a general hospital that provides inpatient services for individuals with serious mental illness or serious emotional disturbance. As used in this subsection, "general hospital" means a hospital as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(9) "Psychiatrist" means 1 or more of the following:

(a) A physician who has completed a residency program in psychiatry approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, or who has completed 12 months of psychiatric rotation and is enrolled in an approved residency program as described in this subdivision.

(b) A psychiatrist employed by or under contract with the department or a community mental health services program on March 28, 1996.

(c) A physician who devotes a substantial portion of his or her time to the practice of psychiatry and is approved by the director.

(10) "Psychologist" means an individual who is licensed or otherwise authorized to engage in the practice of psychology under part 182 of the public health code, 1978 PA 368, MCL 333.18201 to 333.18237, and who devotes a substantial portion of his or her time to the diagnosis and treatment of individuals with serious mental illness, serious emotional disturbance, substance use disorder, or developmental disability.

(11) "Recipient" means an individual who receives mental health services from the department, a community mental health services program, or a facility or from a provider that is under contract with the department or a community mental health services program. For the purposes of this act, recipient does not include an individual receiving substance use disorder services under chapter 2A unless that individual is also receiving mental health services under this act in conjunction with substance use disorder services.

(12) "Recipient rights advisory committee" means a committee of a community mental health services program board appointed under section 757 or a recipient rights advisory committee appointed by a licensed hospital under section 758.

(13) "Recovery" means a highly individualized process of healing and transformation by which the individual gains control over his or her life. Related services include recovery management, recovery support services, recovery houses or transitional living programs, and relapse prevention. Recovery involves the development of a new meaning, purpose, and growing beyond the impact of addiction or a diagnosis. Recovery may include the pursuit of spiritual, emotional, mental, or physical well-being.

(14) "Regional entity" means an entity established under section 204b to provide specialty services and supports.

(15) "Rehabilitation" means the act of restoring an individual to a state of mental and physical health or useful activity through vocational or educational training, therapy, and counseling.

(16) "Resident" means an individual who receives services in a facility.

(17) "Responsible mental health agency" means the hospital, center, or community mental health services program that has primary responsibility for the recipient's care or for the delivery of services or supports to that recipient.

(18) "Rule" means a rule promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2002, Act 589, Imd. Eff. Oct. 17, 2002;—Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012;—Am. 2014, Act 200, Imd. Eff. June 24, 2014;—Am. 2015, Act 59, Eff. Oct. 1, 2015.

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

***** 330.1100c.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1100c.amended Definitions; P to R.

Sec. 100c. (1) "Peace officer" means an officer of the department of state police or of a law enforcement agency of a county, township, city, or village who is responsible for the prevention and detection of crime and enforcement of the criminal laws of this state. For the purposes of sections 408, 426, 427a, and 427b, peace officer also includes an officer of the United States Secret Service with the officer's consent and a police officer of the Veterans' Administration Medical Center Reservation.

(2) "Peer review" means a process, including the review process required under section 143a, in which mental health professionals of a state facility, licensed hospital, or community mental health services program evaluate the clinical competence of staff and the quality and appropriateness of care provided to recipients. Peer review evaluations are confidential in accordance with section 748(9) and are based on criteria established by the facility or community mental health services program itself, the accepted standards of the mental health professions, and the department.

(3) "Person requiring treatment" means an individual who meets the criteria described in section 401.

(4) "Physician" means an individual licensed or otherwise authorized to engage in the practice of medicine under part 170 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084, or to engage in the practice of osteopathic medicine and surgery under part 175 of the public health code, 1978 PA 368, MCL 333.17501 to 333.17556.

(5) "Primary consumer" means an individual who has received or is receiving services from the department or a community mental health services program or services from the private sector equivalent to those offered by the department or a community mental health services program.

(6) "Priority" means preference for and dedication of a major proportion of resources to specified populations or services. Priority does not mean serving or funding the specified populations or services to the exclusion of other populations or services.

(7) "Protective custody" means the temporary custody of an individual by a peace officer with or without the individual's consent for the purpose of protecting that individual's health and safety, or the health and safety of the public, and for the purpose of transporting the individual under section 276, 408, or 427 if the individual appears, in the judgment of the peace officer, to be a person requiring treatment or is a person requiring treatment. Protective custody is civil in nature and is not an arrest.

(8) "Psychiatric unit" means a unit of a general hospital that provides inpatient services for individuals with serious mental illness or serious emotional disturbance. As used in this subsection, "general hospital" means a hospital as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(9) "Psychiatrist" means 1 or more of the following:

(a) A physician who has completed a residency program in psychiatry approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, or who has completed 12 months of psychiatric rotation and is enrolled in an approved residency program as described in this subdivision.

(b) A psychiatrist employed by or under contract with the department or a community mental health services program on March 28, 1996.

(c) A physician who devotes a substantial portion of his or her time to the practice of psychiatry and is approved by the director.

(10) "Psychologist" means an individual who is licensed or otherwise authorized to engage in the practice of psychology under part 182 of the public health code, 1978 PA 368, MCL 333.18201 to 333.18237, and who devotes a substantial portion of his or her time to the diagnosis and treatment of individuals with serious mental illness, serious emotional disturbance, substance use disorder, or developmental disability.

(11) "Recipient" means an individual who receives mental health services from the department, a community mental health services program, or a facility or from a provider that is under contract with the department or a community mental health services program. For the purposes of this act, recipient does not include an individual receiving substance use disorder services under chapter 2A unless that individual is also receiving mental health services under this act in conjunction with substance use disorder services.

(12) "Recipient rights advisory committee" means a committee of a community mental health services program board appointed under section 757 or a recipient rights advisory committee appointed by a licensed hospital under section 758.

(13) "Recovery" means a highly individualized process of healing and transformation by which the

individual gains control over his or her life. Related services include recovery management, recovery support services, recovery houses or transitional living programs, and relapse prevention. Recovery involves the development of a new meaning, purpose, and growing beyond the impact of addiction or a diagnosis. Recovery may include the pursuit of spiritual, emotional, mental, or physical well-being.

(14) "Regional entity" means an entity established under section 204b to provide specialty services and supports.

(15) "Rehabilitation" means the act of restoring an individual to a state of mental and physical health or useful activity through vocational or educational training, therapy, and counseling.

(16) "Resident" means an individual who receives services in a facility.

(17) "Responsible mental health agency" means the hospital, center, or community mental health services program that has primary responsibility for the recipient's care or for the delivery of services or supports to that recipient.

(18) "Rule" means a rule promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2002, Act 589, Imd. Eff. Oct. 17, 2002;—Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012;—Am. 2014, Act 200, Imd. Eff. June 24, 2014;—Am. 2015, Act 59, Eff. Oct. 1, 2015;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

330.1100d Definitions; S to W.

Sec. 100d. (1) "Service" means a mental health service or a substance use disorder service.

(2) "Serious emotional disturbance" means a diagnosable mental, behavioral, or emotional disorder affecting a minor that exists or has existed during the past year for a period of time sufficient to meet diagnostic criteria specified in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association and approved by the department and that has resulted in functional impairment that substantially interferes with or limits the minor's role or functioning in family, school, or community activities. The following disorders are included only if they occur in conjunction with another diagnosable serious emotional disturbance:

- (a) A substance use disorder.
- (b) A developmental disorder.
- (c) "V" codes in the Diagnostic and Statistical Manual of Mental Disorders.

(3) "Serious mental illness" means a diagnosable mental, behavioral, or emotional disorder affecting an adult that exists or has existed within the past year for a period of time sufficient to meet diagnostic criteria specified in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association and approved by the department and that has resulted in functional impairment that substantially interferes with or limits 1 or more major life activities. Serious mental illness includes dementia with delusions, dementia with depressed mood, and dementia with behavioral disturbance but does not include any other dementia unless the dementia occurs in conjunction with another diagnosable serious mental illness. The following disorders also are included only if they occur in conjunction with another diagnosable serious mental illness:

- (a) A substance use disorder.
- (b) A developmental disorder.
- (c) A "V" code in the Diagnostic and Statistical Manual of Mental Disorders.

(4) "Special compensation" means payment to an adult foster care facility to ensure the provision of a specialized program in addition to the basic payment for adult foster care. Special compensation does not include payment received directly from the Medicaid program for personal care services for a resident, or payment received under the supplemental security income program.

(5) "Specialized program" means a program of services, supports, or treatment that are provided in an adult foster care facility to meet the unique programmatic needs of individuals with serious mental illness or developmental disability as set forth in the resident's individual plan of services and for which the adult foster care facility receives special compensation.

(6) "Specialized residential service" means a combination of residential care and mental health services that are expressly designed to provide rehabilitation and therapy to a recipient, that are provided in the residence of the recipient, and that are part of a comprehensive individual plan of services.

(7) "State administered funds" means revenues appropriated by the legislature exclusively for the purposes provided for in regard to substance use disorder services and prevention.

(8) "State facility" means a center or a hospital operated by the department.

(9) "State recipient rights advisory committee" means a committee appointed by the director under section 756 to advise the director and the director of the department's office of recipient rights.

(10) "Substance abuse" means the taking of alcohol or other drugs at dosages that place an individual's social, economic, psychological, and physical welfare in potential hazard or to the extent that an individual loses the power of self-control as a result of the use of alcohol or drugs, or while habitually under the influence of alcohol or drugs, endangers public health, morals, safety, or welfare, or a combination thereof.

(11) "Substance use disorder" means chronic disorder in which repeated use of alcohol, drugs, or both, results in significant and adverse consequences. Substance use disorder includes substance abuse.

(12) "Substance use disorder prevention services" means services that are intended to reduce the consequences of substance use disorders in communities by preventing or delaying the onset of substance abuse and that are intended to reduce the progression of substance use disorders in individuals. Substance use disorder prevention is an ordered set of steps that promotes individual, family, and community health, prevents mental and behavioral disorders, supports resilience and recovery, and reinforces treatment principles to prevent relapse.

(13) "Substance use disorder treatment and rehabilitation services" means providing identifiable recovery-oriented services including:

- (a) Early intervention and crisis intervention counseling services for individuals who are current or former

individuals with substance use disorder.

(b) Referral services for individuals with substance use disorder, their families, and the general public.

(c) Planned treatment services, including chemotherapy, counseling, or rehabilitation for individuals physiologically or psychologically dependent upon or abusing alcohol or drugs.

(14) "Supplemental security income" means the program authorized under title XVI of the social security act, 42 USC 1381 to 1383f.

(15) "Transfer facility" means a facility selected by the department-designated community mental health entity, which facility is physically located in a jail or lockup and is staffed by at least 1 designated representative when in use according to chapter 2A.

(16) "Transition services" means a coordinated set of activities for a special education student designed within an outcome-oriented process that promotes movement from school to postschool activities, including postsecondary education, vocational training, integrated employment including supported employment, continuing and adult education, adult services, independent living, or community participation.

(17) "Treatment" means care, diagnostic, and therapeutic services, including the administration of drugs, and any other service for the treatment of an individual's serious mental illness, serious emotional disturbance, or substance use disorder.

(18) "Urgent situation" means a situation in which an individual is determined to be at risk of experiencing an emergency situation in the near future if he or she does not receive care, treatment, or support services.

(19) "Wraparound services" means an individually designed set of services provided to minors with serious emotional disturbance or serious mental illness and their families that includes treatment services and personal support services or any other supports necessary to foster education preparedness, employability, and preservation of the child in the family home. Wraparound services are to be developed through an interagency collaborative approach and a minor's parent or guardian and a minor age 14 or older are to participate in planning the services.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012;—Am. 2014, Act 200, Imd. Eff. June 24, 2014;—Am. 2015, Act 59, Eff. Oct. 1, 2015.

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

CHAPTER 4
CIVIL ADMISSION AND DISCHARGE PROCEDURES: MENTAL ILLNESS
GENERAL PROVISIONS

330.1400 Definitions.

Sec. 400. As used in this chapter, unless the context requires otherwise:

(a) "Clinical certificate" means the written conclusion and statements of a physician or a licensed psychologist that an individual is a person requiring treatment, together with the information and opinions, in reasonable detail, that underlie the conclusion, on the form prescribed by the department or on a substantially similar form.

(b) "Competent clinical opinion" means the clinical judgment of a physician, psychiatrist, or licensed psychologist.

(c) "Court" means the probate court or the court with responsibility with regard to mental health services for the county of residence of the subject of a petition, or for the county in which the subject of a petition was found.

(d) "Formal voluntary hospitalization" means hospitalization of an individual based on both of the following:

(i) The execution of an application for voluntary hospitalization by the individual or by a patient advocate designated under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, to make mental health treatment decisions for the individual.

(ii) The hospital director's determination that the individual is clinically suitable for voluntary hospitalization.

(e) "Informal voluntary hospitalization" means hospitalization of an individual based on all of the following:

(i) The individual's request for hospitalization.

(ii) The hospital director's determination that the individual is clinically suitable for voluntary hospitalization.

(iii) The individual's agreement to accept treatment.

(f) "Involuntary mental health treatment" means court-ordered hospitalization, alternative treatment, or combined hospitalization and alternative treatment as described in section 468.

(g) "Mental illness" means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(h) "Preadmission screening unit" means a service component of a community mental health services program established under section 409.

(i) "Private-pay patient" means a patient whose services and care are paid for from funding sources other than the community mental health services program, the department, or other state or county funding.

(j) "Release" means the transfer of an individual who is subject to an order of combined hospitalization and alternative treatment from 1 treatment program to another in accordance with his or her individual plan of services.

(k) "Subject of a petition" means an individual regarding whom a petition has been filed with the court asserting that the individual is or is not a person requiring treatment or for whom an objection to involuntary mental health treatment has been made under section 484.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1978, Act 598, Imd. Eff. Jan. 4, 1979;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1986, Act 45, Imd. Eff. Mar. 17, 1986;—Am. 1986, Act 117, Eff. Mar. 31, 1987;—Am. 1986, Act 297, Imd. Eff. Dec. 22, 1986;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2004, Act 553, Imd. Eff. Jan. 3, 2005.

Administrative rules: R 330.1001 et seq. of the Michigan Administrative Code.

330.1400a Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to "mental illness" defined.

***** 330.1400b.added THIS ADDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1400b.added Time frame; Sundays and legal holidays excluded.

Sec. 400b. A reference to a time frame under this chapter of 12 hours to 168 hours or an equivalent amount of days excludes Sundays and legal holidays.

History: Add. 2016, Act 320, Eff. Feb. 14, 2017.

***** 330.1401 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1401.amended

330.1401 "Person requiring treatment" defined; exception.

Sec. 401. (1) As used in this chapter, "person requiring treatment" means (a), (b), (c), or (d):

(a) An individual who has mental illness, and who as a result of that mental illness can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure himself, herself, or another individual, and who has engaged in an act or acts or made significant threats that are substantially supportive of the expectation.

(b) An individual who has mental illness, and who as a result of that mental illness is unable to attend to those of his or her basic physical needs such as food, clothing, or shelter that must be attended to in order for the individual to avoid serious harm in the near future, and who has demonstrated that inability by failing to attend to those basic physical needs.

(c) An individual who has mental illness, whose judgment is so impaired that he or she is unable to understand his or her need for treatment and whose continued behavior as the result of this mental illness can reasonably be expected, on the basis of competent clinical opinion, to result in significant physical harm to himself, herself, or others. This individual shall receive involuntary mental health treatment initially only under the provisions of sections 434 through 438.

(d) An individual who has mental illness, whose understanding of the need for treatment is impaired to the point that he or she is unlikely to participate in treatment voluntarily, who is currently noncompliant with treatment that has been recommended by a mental health professional and that has been determined to be necessary to prevent a relapse or harmful deterioration of his or her condition and whose noncompliance with treatment has been a factor in the individual's placement in a psychiatric hospital, prison, or jail at least 2 times within the last 48 months or whose noncompliance with treatment has been a factor in the individual's committing 1 or more acts, attempts, or threats of serious violent behavior within the last 48 months. An individual under this subdivision is only eligible to receive assisted outpatient treatment under section 433 or 469a.

(2) An individual whose mental processes have been weakened or impaired by a dementia, an individual with a primary diagnosis of epilepsy, or an individual with alcoholism or other drug dependence is not a person requiring treatment under this chapter unless the individual also meets the criteria specified in subsection (1). An individual described in this subsection may be hospitalized under the informal or formal voluntary hospitalization provisions of this chapter if he or she is considered clinically suitable for hospitalization by the hospital director.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1975, Act 179, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2004, Act 496, Eff. Mar. 30, 2005.

***** 330.1401.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1401.amended "Person requiring treatment" defined; exception.

Sec. 401. (1) As used in this chapter, "person requiring treatment" means (a), (b), (c), or (d):

(a) An individual who has mental illness, and who as a result of that mental illness can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure himself, herself, or another individual, and who has engaged in an act or acts or made significant threats that are substantially supportive of the expectation.

(b) An individual who has mental illness, and who as a result of that mental illness is unable to attend to those of his or her basic physical needs such as food, clothing, or shelter that must be attended to in order for the individual to avoid serious harm in the near future, and who has demonstrated that inability by failing to attend to those basic physical needs.

(c) An individual who has mental illness, whose judgment is so impaired by that mental illness that he or she is unable to understand his or her need for treatment, and whose impaired judgment, on the basis of competent clinical opinion, presents a substantial risk of significant physical or mental harm to the individual in the near future or presents a substantial risk of physical harm to others in the near future.

(d) An individual who has mental illness, whose understanding of the need for treatment is impaired to the point that he or she is unlikely to voluntarily participate in or adhere to treatment that has been determined necessary to prevent a relapse or harmful deterioration of his or her condition, and whose noncompliance with treatment has been a factor in the individual's placement in a psychiatric hospital, prison, or jail at least 2 times within the last 48 months or whose noncompliance with treatment has been a factor in the individual's

committing 1 or more acts, attempts, or threats of serious violent behavior within the last 48 months. An individual under this subdivision is only eligible to receive assisted outpatient treatment.

(2) An individual whose mental processes have been weakened or impaired by a dementia, an individual with a primary diagnosis of epilepsy, or an individual with alcoholism or other drug dependence is not a person requiring treatment under this chapter unless the individual also meets the criteria specified in subsection (1). An individual described in this subsection may be hospitalized under the informal or formal voluntary hospitalization provisions of this chapter if he or she is considered clinically suitable for hospitalization by the hospital director.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1975, Act 179, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2004, Act 496, Eff. Mar. 30, 2005;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1402 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to “person requiring treatment” defined.

330.1402a Treatment of private-pay patients by licensed hospital.

Sec. 402a. A licensed hospital may admit and treat voluntary or involuntary private-pay patients without complying with the preadmission screening requirements of section 410 or consulting with the community mental health services program before release or discharge of the patient, if no state, county, or community mental health services program funds are obligated for the services provided by the licensed hospital, including aftercare services. All other provisions of this code regarding involuntary admission and recipient rights apply to the provision of services by licensed hospitals.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1403 Involuntary mental health treatment; applicable provisions of law.

Sec. 403. Individuals shall receive involuntary mental health treatment only pursuant to the provisions of this act.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1404 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1404.amended *****

330.1404 Forms.

Sec. 404. The department shall prescribe the forms to be used under this chapter, and all hospitals shall use department forms. Forms that may be used in court proceedings under this chapter shall be subject to the approval of the supreme court.

History: 1974, Act 258, Eff. Nov. 6, 1974.

***** 330.1404.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1404.amended Forms.

Sec. 404. Except as provided in this section, the department shall prescribe the forms to be used under this chapter, and all hospitals shall use department forms. At the direction of the supreme court, the state court administrative office shall prescribe the forms used for court proceedings under this chapter.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1405 Veterans administration facilities; agreement to accept patient; rights of patient.

Sec. 405. (1) Any medical or psychiatric facility operated by the United States veterans administration may if it agrees accept patients under any applicable provision of this chapter and may at its discretion avail itself of any other provision of this chapter.

(2) Any patient hospitalized pursuant to subsection (1) shall be entitled to invoke the provisions of this chapter.

History: 1974, Act 258, Eff. Nov. 6, 1974.

330.1406 Voluntary hospitalization; notice to court; dismissal.

Sec. 406. If an individual asserted to be a person requiring treatment is considered by a hospital to be suitable for informal or formal voluntary hospitalization, the hospital shall offer the individual the opportunity to request or make application for hospitalization as an informal or formal voluntary patient. If the individual is voluntarily hospitalized, the hospital director shall inform the court, and the court shall dismiss any pending proceeding for admission unless it finds that dismissal would not be in the best interest of the individual or the

public.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1407 Transfer of patient; notice; appeal.

Sec. 407. A patient in a department hospital may be transferred to any other hospital, or to any facility of the department that is not a hospital, if the transfer would not be detrimental to the patient and if both the community mental health services program and the department approve the transfer. The patient, a patient advocate designated to make mental health treatment decisions for the patient under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, if any, and the patient's guardian or nearest relative shall be notified at least 7 days prior to any transfer, except that a transfer may be effected earlier if it is necessitated by an emergency. In addition, the patient may designate up to 2 other persons to receive the notice. If a transfer is effected due to an emergency, the required notices shall be given as soon as possible, but not later than 24 hours after the transfer. If the patient, the patient advocate, or the patient's guardian or nearest relative objects to the transfer, the department shall provide an opportunity to appeal the transfer.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2004, Act 554, Imd. Eff. Jan. 3, 2005.

330.1408 Return of patient to hospital; conditions; notification of peace officers; protective custody; notice of opportunity to appeal.

Sec. 408. (1) An individual is subject to being returned to a hospital if both of the following circumstances exist:

(a) The individual was admitted to the hospital by judicial order.

(b) The individual has left the hospital without authorization, or has refused a lawful request to return to the hospital while on an authorized leave or other authorized absence from the hospital.

(2) The hospital director may notify peace officers that an individual is subject to being returned to the hospital. Upon notification by the hospital director, a peace officer shall take the individual into protective custody and return the individual to the hospital unless contrary directions have been given by the hospital director.

(3) An opportunity for appeal, and notice of that opportunity, shall be provided to an individual who objects to being returned from any authorized leave in excess of 10 days.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1986, Act 301, Imd. Eff. Dec. 22, 1986;—Am. 1988, Act 155, Imd. Eff. June 14, 1988;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1409 Preadmission screening unit.

Sec. 409. (1) Each community mental health services program shall establish 1 or more preadmission screening units with 24-hour availability to provide assessment and screening services for individuals being considered for admission into hospitals or alternative treatment programs. The community mental health services program shall employ mental health professionals or licensed bachelor's social workers licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, to provide the preadmission screening services or contract with another agency that meets the requirements of this section. Preadmission screening unit staff shall be supervised by a registered professional nurse or other mental health professional possessing at least a master's degree.

(2) Each community mental health services program shall provide the address and telephone number of its preadmission screening unit or units to law enforcement agencies, the department, the court, and hospital emergency rooms.

(3) A preadmission screening unit shall assess an individual being considered for admission into a hospital operated by the department or under contract with the community mental health services program. If the individual is clinically suitable for hospitalization, the preadmission screening unit shall authorize voluntary admission to the hospital.

(4) If the preadmission screening unit of the community mental health services program denies hospitalization, the individual or the person making the application may request a second opinion from the executive director. The executive director shall arrange for an additional evaluation by a psychiatrist, other physician, or licensed psychologist to be performed within 3 days, excluding Sundays and legal holidays, after the executive director receives the request. If the conclusion of the second opinion is different from the conclusion of the preadmission screening unit, the executive director, in conjunction with the medical director, shall make a decision based on all clinical information available. The executive director's decision shall be confirmed in writing to the individual who requested the second opinion, and the confirming document shall include the signatures of the executive director and medical director or verification that the decision was made in conjunction with the medical director. If an individual is assessed and found not to be

clinically suitable for hospitalization, the preadmission screening unit shall provide appropriate referral services.

(5) If an individual is assessed and found not to be clinically suitable for hospitalization, the preadmission screening unit shall provide information regarding alternative services and the availability of those services, and make appropriate referrals.

(6) A preadmission screening unit shall assess and examine, or refer to a hospital for examination, an individual who is brought to the unit by a peace officer or ordered by a court to be examined. If the individual meets the requirements for hospitalization, the preadmission screening unit shall designate the hospital to which the individual shall be admitted. The preadmission screening unit shall consult with the individual and, if the individual agrees, it shall consult with the individual's family member of choice, if available, as to the preferred hospital for admission of the individual.

(7) If the individual chooses a hospital not under contract with a community mental health services program, and the hospital agrees to the admission, the preadmission screening unit shall refer the individual to the hospital that is requested by the individual. Any financial obligation for the services provided by the hospital shall be satisfied from funding sources other than the community mental health services program, the department, or other state or county funding.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2004, Act 555, Imd. Eff. Jan. 3, 2005;—Am. 2006, Act 306, Imd. Eff. July 20, 2006.

330.1410 Informal or formal voluntary admission; authorization by preadmission screening unit.

Sec. 410. Except as otherwise provided in section 402a, an individual who requests, applies for, or assents to either informal or formal voluntary admission to a hospital operated by the department or a hospital under contract with a community mental health services program may be considered for admission by the hospital only after authorization by a community mental health services preadmission screening unit.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2004, Act 556, Imd. Eff. Jan. 3, 2005.

INFORMAL VOLUNTARY ADMISSION

330.1411 Informal voluntary hospitalization; request.

Sec. 411. Subject to section 410, an individual 18 years of age or over may be hospitalized as an informal voluntary patient if he or she requests hospitalization as an informal voluntary patient and if the hospital director considers the individual to be clinically suitable for that form of hospitalization. Unless the hospital requires that the request be made in writing, the individual may make the request orally.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1412 Informal voluntary hospitalization; termination; notice.

Sec. 412. An informal voluntary patient shall be allowed to terminate his hospitalization and leave the hospital at any time during the normal day shift hours of the hospital, and the hospital shall so inform the patient at the time he is hospitalized. The patient shall inform the person in charge of his ward or other appropriate person of his decision to terminate his hospitalization and leave the hospital.

History: 1974, Act 258, Eff. Nov. 6, 1974.

FORMAL VOLUNTARY ADMISSION (INCLUDES ADMISSION OF MINORS THROUGH APPLICATION OF PARENT OR GUARDIAN)

330.1415 Formal voluntary hospitalization; execution of application.

Sec. 415. Subject to section 410, an individual 18 years of age or over may be hospitalized as a formal voluntary patient if the individual executes an application for hospitalization as a formal voluntary patient or the individual assents and the full guardian of the individual, the limited guardian with authority to admit, or a patient advocate authorized by the individual to make mental health treatment decisions under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, executes an application for hospitalization and if the hospital director considers the individual to be clinically suitable for that form of hospitalization.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1984, Act 186, Imd. Eff. July 3, 1984;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2004, Act 557, Imd. Eff. Jan. 3, 2005.

330.1416 Formal voluntary hospitalization; contents of application; communication of rights; copies of application.

Sec. 416. The formal application shall contain in large type and simple language the substance of sections 419 and 420. Upon hospitalization, the rights set forth in the application shall be orally communicated to the patient and to the individual who executed the application. In addition, a copy of the application shall be given to the patient and the individual who executed the application and to 1 other individual designated by the patient.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1417, 330.1418 Repealed. 1984, Act 186, Imd. Eff. July 3, 1984.

Compiler's note: The repealed sections pertained to objections to formal voluntary hospitalization of minor.

330.1419 Termination of formal voluntary hospitalization; notice; time limitation; written form.

Sec. 419. (1) Except as is provided in section 420, a formal voluntary patient 18 years of age or over shall not be hospitalized more than 3 days, excluding Sundays and holidays, after the patient gives written notice of an intention to terminate his or her hospitalization and leave the hospital.

(2) When the hospital is told of an intention to terminate hospitalization under subsection (1), it shall promptly supply the written form which is required.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1984, Act 186, Imd. Eff. July 3, 1984.

***** 330.1420 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1420.amended *****

330.1420 Continuing hospitalization where notice of termination not withdrawn; application to court; clinical certificates; hearings.

Sec. 420. If a written notice of termination of hospitalization is given to a hospital under section 419, if the notice is not withdrawn, and if the hospital director determines that the patient is a person requiring treatment as defined in section 401 and should remain in the hospital, the hospital director or other suitable person shall within 3 days, excluding Sundays and holidays, after the hospital's receipt of the notice, file an application with the court that complies with section 423. The application shall be accompanied by 1 clinical certificate executed by a psychiatrist and 1 clinical certificate executed by either a physician or a licensed psychologist. If an application is filed, the hospital may continue hospitalization of the patient pending hearings convened pursuant to sections 451 to 465.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1420.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1420.amended Continuing hospitalization where notice of termination not withdrawn; filing petition with court; clinical certificates; hearings.

Sec. 420. If a written notice of termination of hospitalization is given to a hospital under section 419, if the notice is not withdrawn, and if the hospital director determines that the patient is a person requiring treatment and should remain in the hospital, the hospital director or other suitable person shall within 3 days after the hospital's receipt of the notice, file a petition with the court that complies with section 434. The petition shall be accompanied by 1 clinical certificate executed by a psychiatrist and 1 clinical certificate executed by either a physician or a licensed psychologist. If a petition is filed, the hospital may continue hospitalization of the patient pending hearings convened under sections 451 to 465.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

***** 330.1422 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1422.amended *****

330.1422 Receipt and detention of individuals under MCL 330.1427 or 330.1428; designation of hospitals.

Sec. 422. (1) Each community mental health services program shall designate the hospitals with which it has a contract to receive and detain individuals under section 427 or 428.

(2) Each community mental health services program shall give notice of the hospitals designated under subsection (1) to the department and to the probate court of each county in the program's service area.

(3) The department shall designate those hospitals that are required to receive and detain individuals presented for examination under section 427 or 428.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2004, Act 317, Imd. Eff. Aug. 27, 2004.

***** 330.1422.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1422.amended Receipt and detention of individuals under MCL 330.1426, 330.1427 or 330.1435, 330.1436, or 330.1438; designation of hospitals.

Sec. 422. (1) Each community mental health services program shall designate the hospitals with which it has a contract to receive and detain individuals under section 426, 427, 435, 436, or 438.

(2) Each community mental health services program shall give notice of the hospitals designated under subsection (1) to the department and to the probate court of each county in the program's service area.

(3) The department shall designate any additional hospitals that are required to receive and detain individuals presented for examination under section 426, 427, 435, 436, or 438.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2004, Act 317, Imd. Eff. Aug. 27, 2004;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

ADMISSION BY MEDICAL CERTIFICATION

***** 330.1423 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1423.amended *****

330.1423 Hospitalization pending certification by psychiatrist; application and physician's or psychologist's clinical certificate.

Sec. 423. A hospital designated by the department or by a community mental health services program shall hospitalize an individual presented to the hospital, pending receipt of a clinical certificate by a psychiatrist stating that the individual is a person requiring treatment, if an application, a physician's or a licensed psychologist's clinical certificate, and an authorization by a preadmission screening unit have been executed.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1423.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1423.amended Hospitalization pending certification by psychiatrist; petition, execution of physician's or psychologist's clinical certificate, and authorization by preadmission screening unit.

Sec. 423. A hospital designated by the department or by a community mental health services program shall hospitalize an individual presented to the hospital, pending receipt of a clinical certificate by a psychiatrist stating that the individual is a person requiring treatment, if a petition, a physician's or a licensed psychologist's clinical certificate, and an authorization by a preadmission screening unit have been executed. For an individual hospitalized under this section, a petition shall have been executed not more than 10 days before the presentation of the individual to the hospital, and the petition must meet the conditions set forth in section 434(1) and (2).

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

***** 330.1424 THIS SECTION IS REPEALED BY ACT 320 OF 2016 EFFECTIVE FEBRUARY 14, 2017 *****

330.1424 Application for hospitalization; contents; execution; penalty.

Sec. 424. (1) An application for hospitalization of an individual under section 423 shall contain an assertion that the individual is a person requiring treatment as defined in section 401, the alleged facts that are the basis for the assertion, the names and addresses, if known, of any witnesses to alleged and relevant facts, and if known the name and address of the nearest relative or guardian, or if none, a friend if known, of the individual.

(2) The application may be made by any person 18 years of age or over, shall have been executed not more than 10 days prior to the filing of the application with the hospital, and shall be made under penalty of perjury.

History: 1974, Act 258, Eff. Nov. 6, 1974.

***** 330.1425 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1425.amended *****

330.1425 Execution of physician's or psychologist's clinical certificate.

Sec. 425. A physician's or a licensed psychologist's clinical certificate required for hospitalization of an individual under section 423 shall have been executed after personal examination of the individual named in the clinical certificate, and within 72 hours before the time the clinical certificate is filed with the hospital. The clinical certificate may be executed by any physician or licensed psychologist, including a staff member or employee of the hospital with which the application and clinical certificate are filed.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1425.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1425.amended Execution of physician's or psychologist's clinical certificate.

Sec. 425. A physician's or a licensed psychologist's clinical certificate required for hospitalization of an individual under section 423 shall have been executed after personal examination of the individual named in the clinical certificate, and within 72 hours before the time the clinical certificate is received by the hospital. The clinical certificate may be executed by any physician or licensed psychologist, including a physician or licensed psychologist who is a staff member or employee of the hospital that received the clinical certificate.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

***** 330.1426 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1426.amended *****

330.1426 Protective custody; receipt of application and physician's or psychologist's clinical certificate by peace officer; transportation.

Sec. 426. Upon delivery to a peace officer of an application and physician's or licensed psychologist's clinical certificate, the peace officer shall take the individual named in the application into protective custody and transport the individual immediately to the preadmission screening unit or hospital designated by the community mental health services program for hospitalization under section 423. If the individual taken to a preadmission screening unit meets the requirements for hospitalization, then unless the community mental health services program makes other transportation arrangements, the peace officer shall take the individual to a hospital designated by the community mental health services program. Transportation to another hospital due to a transfer is the responsibility of the community mental health services program.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1426.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1426.amended Protective custody; receipt of petition and physician's or psychologist's clinical certificate by peace officer; transportation.

Sec. 426. Upon delivery to a peace officer of a petition and a physician's or licensed psychologist's clinical certificate, the peace officer shall take the individual named in the petition into protective custody and transport the individual immediately to the preadmission screening unit or hospital designated by the community mental health services program for hospitalization under section 423. If the individual taken to a preadmission screening unit meets the requirements for hospitalization, then unless the community mental health services program makes other transportation arrangements, the peace officer shall take the individual to a hospital designated by the community mental health services program. Transportation to another hospital due to a transfer is the responsibility of the community mental health services program.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

***** 330.1427 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1427.amended *****

330.1427 Protective custody; observation and belief of peace officer; transportation to preadmission screening unit; services; notice to family; advice and consultation; release; follow-up counseling; diagnostic and referral services; financial responsibility; notice of examination results.

Sec. 427. (1) If a peace officer observes an individual conducting himself or herself in a manner that causes the peace officer to reasonably believe that the individual is a person requiring treatment as defined in section

401, the peace officer may take the individual into protective custody and transport the individual to a preadmission screening unit designated by a community mental health services program for examination under section 429 or for mental health intervention services. The preadmission screening unit shall provide those mental health intervention services that it considers appropriate or shall provide an examination under section 429. The preadmission screening services may be provided at the site of the preadmission screening unit or at a site designated by the preadmission screening unit. Upon arrival at the preadmission screening unit or site designated by the preadmission screening unit, the peace officer shall execute an application for hospitalization of the individual. As soon as practical, the preadmission screening unit shall offer to contact an immediate family member of the recipient to let the family know that the recipient has been taken into protective custody and where he or she is located. The preadmission screening unit shall honor the recipient's decision as to whether an immediate family member is to be contacted and shall document that decision in the recipient's record. In the course of providing services, the preadmission screening unit may provide advice and consultation to the peace officer, which may include a recommendation to transport the individual to a hospital for examination under section 429, or to release the individual from protective custody. However, the preadmission screening unit shall ensure that an examination is conducted by a physician or licensed psychologist prior to a recommendation to release the individual. The preadmission screening unit shall ensure provision of follow-up counseling and diagnostic and referral services if needed if it is determined under section 429 that the person does not meet the requirements for hospitalization.

(2) A peace officer is not financially responsible for the cost of care of an individual for whom a peace officer has executed an application under subsection (1).

(3) A hospital receiving an individual under subsection (1) who has been referred by a community mental health services program's preadmission screening unit shall notify that unit of the results of an examination of that individual conducted by the hospital.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1978, Act 598, Imd. Eff. Jan. 4, 1979;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1427.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1427.amended Protective custody; observation and belief of peace officer; transportation to preadmission screening unit; services; petition; notice to family; advice and consultation; release; follow-up counseling; diagnostic and referral services; financial responsibility; notice of examination results.

Sec. 427. (1) If a peace officer observes an individual conducting himself or herself in a manner that causes the peace officer to reasonably believe that the individual is a person requiring treatment, the peace officer may take the individual into protective custody and transport the individual to a preadmission screening unit designated by a community mental health services program for examination under section 429 or for mental health intervention services. The preadmission screening unit shall provide those mental health intervention services that it considers appropriate or shall provide an examination under section 429. The preadmission screening services may be provided at the site of the preadmission screening unit or at a site designated by the preadmission screening unit. Upon arrival at the preadmission screening unit or site designated by the preadmission screening unit, the peace officer shall execute a petition for hospitalization of the individual. As soon as practical, the preadmission screening unit shall offer to contact an immediate family member of the recipient to let the family know that the recipient has been taken into protective custody and where he or she is located. The preadmission screening unit shall honor the recipient's decision as to whether an immediate family member is to be contacted and shall document that decision in the recipient's record. In the course of providing services, the preadmission screening unit may provide advice and consultation to the peace officer, which may include a recommendation to release the individual from protective custody. In all cases where a peace officer has executed a petition, the preadmission screening unit shall ensure that an examination is conducted by a physician or licensed psychologist. The preadmission screening unit shall ensure provision of follow-up counseling and diagnostic and referral services if needed if it is determined under section 429 that the person does not meet the requirements for hospitalization.

(2) A peace officer is not financially responsible for the cost of care of an individual for whom a peace officer has executed a petition under subsection (1).

(3) A hospital receiving an individual under subsection (1) who has been referred by a community mental health services program's preadmission screening unit shall notify that unit of the results of an examination of that individual conducted by the hospital.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1978, Act 598, Imd. Eff. Jan. 4, 1979;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1427a Protective custody; use of force; protective steps; individual not under arrest; entry.

Sec. 427a. (1) If a peace officer is taking an individual into protective custody, the peace officer may use that kind and degree of force that would be lawful if the peace officer were effecting an arrest for a misdemeanor without a warrant. In taking the individual into custody, a peace officer may take reasonable steps for self-protection. The protective steps may include a pat down search of the individual in the individual's immediate surroundings, but only to the extent necessary to discover and seize a dangerous weapon that may be used against the officer or other persons present. These protective steps shall be taken by the peace officer before the individual is transported to a preadmission screening unit or a hospital designated by the community mental health services program.

(2) The taking of an individual to a community mental health services program's preadmission screening unit or a hospital under section 427 is not an arrest, but is a taking into protective custody. The peace officer shall inform the individual that he or she is being held in protective custody and is not under arrest. An entry shall be made indicating the date, time, and place of the taking, but the entry shall not be treated for any purpose as an arrest or criminal record.

History: Add. 1978, Act 598, Imd. Eff. Jan. 4, 1979;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1427b Liability of peace officer.

Sec. 427b. (1) A peace officer who acts in compliance with this act is acting in the course of official duty and is not civilly liable for the action taken.

(2) Subsection (1) does not apply to a peace officer who, while acting in compliance with this act, engages in behavior involving gross negligence or wilful and wanton misconduct.

History: Add. 1978, Act 598, Imd. Eff. Jan. 4, 1979.

***** 330.1428 THIS SECTION IS REPEALED BY ACT 320 OF 2016 EFFECTIVE FEBRUARY 14, 2017 *****

330.1428 Examination; court order.

Sec. 428. If a person who executed an application for hospitalization of an individual is unable after reasonable effort to secure an examination of the individual by a physician or a licensed psychologist, the application may be presented to the court. If the court is satisfied that the application is reasonable and in full compliance with section 424, and that a reasonable effort was made to secure an examination, the court may order the individual to be examined at a preadmission screening unit designated by the community mental health services program. If it considers it necessary, the court may also order a peace officer to take the individual into protective custody and transport the individual immediately to a preadmission screening unit designated by the community mental health services program for the examination and possible referral on to the hospital.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1429 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1429.amended *****

330.1429 Examination; detention period.

Sec. 429. (1) A hospital designated under section 422 shall receive and detain an individual presented for examination under section 427 or 428 for not more than 24 hours. During that time the individual shall be examined by a physician or a licensed psychologist. If the examining physician or psychologist does not certify that the individual is a person requiring treatment, the individual shall be released immediately. If the examining physician or psychologist executes a clinical certificate, the individual may be hospitalized under section 423.

(2) If a preadmission screening unit provides an examination under section 410, 427, or 428, the examination shall be conducted as soon as possible after the individual arrives at the preadmission screening site, and the examination shall be completed within 2 hours, unless there are documented medical reasons why the examination cannot be completed within that time frame or other arrangements are agreed upon by the peace officer and the preadmission screening unit.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1429.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1429.amended Examination; detention period.

Sec. 429. (1) A hospital designated under section 422 shall receive and detain an individual presented for examination under section 426, 427, 435, 436, or 438, for not more than 24 hours. During that time the individual shall be examined by a physician or a licensed psychologist unless a clinical certificate has already been presented to the hospital. If the examining physician or psychologist does not certify that the individual is a person requiring treatment, the individual shall be released immediately. If the examining physician or psychologist executes a clinical certificate, the individual may be hospitalized under section 423.

(2) If a preadmission screening unit provides an examination under section 409, 410, or 427, the examination shall be conducted as soon as possible after the individual arrives at the preadmission screening site, and the examination shall be completed within 2 hours, unless there are documented medical reasons why the examination cannot be completed within that time frame or other arrangements are agreed upon by the peace officer and the preadmission screening unit.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1430 Examination; time; certification.

Sec. 430. If a patient is hospitalized under section 423, the patient shall be examined by a psychiatrist as soon after hospitalization as is practicable, but not later than 24 hours, excluding legal holidays, after hospitalization. The examining psychiatrist shall not be the same physician upon whose clinical certificate the patient was hospitalized. If the psychiatrist does not certify that the patient is a person requiring treatment, the patient shall be released immediately. If the psychiatrist does certify that the patient is a person requiring treatment, the patient's hospitalization may continue pending hearings convened pursuant to sections 451 to 465.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1431 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1431.amended *****

330.1431 Notices; documents.

Sec. 431. (1) Within 24 hours after receipt of a clinical certificate by a psychiatrist pursuant to section 430, the hospital director shall transmit a notice to the court that the patient has been hospitalized. The notice shall be accompanied by a copy of the application and copies of the 2 clinical certificates that were executed.

(2) A copy of the application, a copy of the 2 clinical certificates, and a statement of the right of the patient to court hearings under sections 451 to 465 shall also be given or mailed to the patient's nearest relative or guardian and to his or her attorney.

(3) The patient shall be asked if he or she desires that the documents listed in subsection (2) be sent to any other persons, and at least 2 of any persons the patient designates shall be sent the documents.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1431.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1431.amended Notices; documents.

Sec. 431. (1) Within 24 hours after receipt of a clinical certificate by a psychiatrist according to section 430, the hospital director shall transmit a notice to the court that the patient has been hospitalized. The notice shall be accompanied by the petition and the 2 clinical certificates that were executed.

(2) A copy of the petition, a copy of the 2 clinical certificates, and a statement of the right of the patient to court hearings under sections 451 to 465 shall also be given or mailed to the patient's nearest relative, his or her guardian, if any, and his or her attorney.

(3) The patient shall be asked if he or she desires that the documents listed in subsection (2) be sent to any other persons, and at least 2 of any persons the patient designates shall be sent the documents.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

ADMISSION BY PETITION

***** 330.1433 THIS SECTION IS REPEALED BY ACT 320 OF 2016 EFFECTIVE FEBRUARY 14, 2017 *****

330.1433 Assisted outpatient treatment; petition; filing; hearing; court order to receive

treatment; appeal.

Sec. 433. (1) Any individual 18 years of age or over may file a petition with the court that asserts that an individual meets the criteria for assisted outpatient treatment specified in section 401(d). The petition shall contain the facts that are the basis for the assertion, the names and addresses, if known, of any witnesses to the facts, the name and address of the mental health professional currently providing care to the individual who is the subject of the petition, if known, and the name and address of the nearest relative or guardian, if known, or, if none, a friend, if known, of the individual who is the subject of the petition.

(2) Upon receipt of a petition, the court shall inform the subject of the petition and the community mental health services program serving the community in which the subject of the petition resides that the court shall hold a hearing to determine whether the subject of the petition meets the criteria for assisted outpatient treatment. Notice shall be provided as set forth in section 453. The hearing shall be governed by sections 454 and 458 to 465.

(3) If in the hearing, the court verifies that the subject of the petition meets the criteria for assisted outpatient treatment and he or she is not scheduled to begin a course of outpatient mental health treatment that includes case management services or assertive community treatment team services, the court shall order the subject of the petition to receive assisted outpatient treatment through his or her local community mental health services program. The order shall include case management services. The order may include 1 or more of the following:

- (a) Medication.
- (b) Blood or urinalysis tests to determine compliance with or effectiveness of prescribed medications.
- (c) Individual or group therapy.
- (d) Day or partial day programs.
- (e) Educational and vocational training.
- (f) Supervised living.
- (g) Assertive community treatment team services.
- (h) Alcohol or substance abuse treatment, or both.

(i) Alcohol or substance abuse testing, or both, for individuals with a history of alcohol or substance abuse and for whom that testing is necessary to prevent a deterioration of their condition. A court order for alcohol or substance abuse testing shall be subject to review every 6 months.

(j) Any other services prescribed to treat the individual's mental illness and to either assist the individual in living and functioning in the community or to help prevent a relapse or deterioration that may reasonably be predicted to result in suicide or the need for hospitalization.

(4) To fulfill the requirements of an assisted outpatient treatment plan, the court's order may specify the service role that a publicly-funded entity other than the community mental health services program shall take.

(5) In developing an order under this section, the court shall consider any preferences and medication experiences reported by the subject of the petition or his or her designated representative, whether or not the subject of the petition has an existing individual plan of services under section 712, and any directions included in a durable power of attorney or advance directive that exists. If the subject of the petition has not previously designated a patient advocate or executed an advance directive, the responsible community mental health services program shall, before the expiration of the assisted outpatient treatment order, ascertain whether the subject of the petition desires to establish an advance directive. If so, the community mental health services program shall direct the subject of the petition to the appropriate community resources for assistance in developing an advance directive.

(6) If an assisted outpatient treatment order conflicts with the provisions of an existing advance directive, durable power of attorney, or individual plan of services developed under section 712, the assisted outpatient treatment order shall be reviewed for possible adjustment by a psychiatrist not previously involved with developing the assisted outpatient treatment order. If an assisted outpatient treatment order conflicts with the provisions of an existing advance directive, durable power of attorney, or individual plan of services developed under section 712, the court shall state the court's findings on the record or in writing if the court takes the matter under advisement, including the reason for the conflict.

(7) Nothing in this section negates or interferes with an individual's rights to appeal under any other state law or Michigan court rule.

History: Add. 2004, Act 497, Eff. Mar. 30, 2005.

***** 330.1434 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1434.amended *****

330.1434 Petition; filing; contents; clinical certificate; affidavit; confidentiality.

Sec. 434. (1) Any individual 18 years of age or over may file with the court a petition that asserts that an individual is a person requiring treatment as defined in section 401.

(2) The petition shall contain the facts that are the basis for the assertion, the names and addresses, if known, of any witnesses to the facts, and, if known, the name and address of the nearest relative or guardian, or, if none, a friend, if known, of the individual.

(3) The petition shall be accompanied by the clinical certificate of a physician or a licensed psychologist, unless after reasonable effort the petitioner could not secure an examination. If a clinical certificate does not accompany the petition, an affidavit setting forth the reasons an examination could not be secured shall also be filed. The petition may also be accompanied by a second clinical certificate. If 2 clinical certificates accompany the petition, at least 1 clinical certificate shall have been executed by a psychiatrist.

(4) Except as otherwise provided in section 455, a clinical certificate that accompanies a petition shall have been executed within 72 hours before the filing of the petition, and after personal examination of the individual.

(5) If the individual is found not to be a person requiring treatment under this section, the petition and any clinical certificate shall be maintained by the court as a confidential record to prevent disclosure to any person who is not specifically authorized under this chapter to receive notice of the petition or clinical certificate.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1986, Act 118, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 113, Eff. Aug. 8, 2016.

***** 330.1434.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1434.amended Petition; filing; contents; clinical certificate; confidentiality; assisted outpatient treatment; petition not seeking hospitalization.

Sec. 434. (1) Any individual 18 years of age or over may file with the court a petition that asserts that an individual is a person requiring treatment.

(2) The petition shall contain the facts that are the basis for the assertion, the names and addresses, if known, of any witnesses to the facts, and, if known, the name and address of the nearest relative or guardian, or, if none, a friend, if known, of the individual.

(3) Except as provided in subsection (7), the petition shall be accompanied by the clinical certificate of a physician or a licensed psychologist, unless after reasonable effort the petitioner could not secure an examination. If a clinical certificate does not accompany the petition, an affidavit setting forth the reasons an examination could not be secured shall also be filed. The petition may also be accompanied by a second clinical certificate. If 2 clinical certificates accompany the petition, at least 1 clinical certificate shall have been executed by a psychiatrist.

(4) Except as otherwise provided in subsection (7) and section 455, a clinical certificate that accompanies a petition shall have been executed within 72 hours before the filing of the petition, and after personal examination of the individual.

(5) If the individual is found not to be a person requiring treatment under this section, the petition and any clinical certificate shall be maintained by the court as a confidential record to prevent disclosure to any person who is not specifically authorized under this chapter to receive notice of the petition or clinical certificate.

(6) The petition described in this section may assert that the subject of the petition should receive assisted outpatient treatment in accordance with section 468(2)(e).

(7) A petition that does not seek hospitalization but only requests that the subject of the petition receive assisted outpatient treatment is not subject to subsection (3) or (4).

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1986, Act 118, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 113, Eff. Aug. 8, 2016;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

***** 330.1435 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1435.amended *****

330.1435 Examination; order; detention period; transmitting clinical certificate or report to court; third examination report; dismissal of petition.

Sec. 435. (1) If the petition is accompanied by 1 clinical certificate, the court shall order the individual to be examined by a psychiatrist.

(2) If the petition is not accompanied by a clinical certificate, and if the court is satisfied a reasonable effort was made to secure an examination, the court shall order the individual to be examined by a psychiatrist and either a physician or a licensed psychologist.

(3) The individual may be received and detained at the place of examination as long as necessary to

complete the examination or examinations, but not more than 24 hours.

(4) After any examination ordered under this section, the examining physician or licensed psychologist shall either transmit a clinical certificate to the court or report to the court that execution of a clinical certificate is not warranted.

(5) If 1 examination was ordered and the examining physician or licensed psychologist reports that execution of a clinical certificate is not warranted, or if 2 examinations were ordered and 1 of the examining physicians or the licensed psychologist reports that execution of a clinical certificate is not warranted, the court shall dismiss the petition or order the individual to be examined by a psychiatrist, or if a psychiatrist is not available, by a physician or licensed psychologist. If a third examination report states that execution of a clinical certificate is not warranted, the court shall dismiss the petition.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1435.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1435.amended Examination; order; detention period; transmitting clinical certificate or report to court; third examination report; dismissal of petition; section inapplicable to petition under MCL 330.1434(6).

Sec. 435. (1) If the petition is accompanied by 1 clinical certificate, the court shall order the individual to be examined by a psychiatrist.

(2) If the petition is not accompanied by a clinical certificate, and if the court is satisfied a reasonable effort was made to secure an examination, the court shall order the individual to be examined by a psychiatrist and either a physician or a licensed psychologist.

(3) The individual may be received and detained at the place of examination as long as necessary to complete the examination or examinations, but not more than 24 hours.

(4) After an examination ordered under subsection (1), the examining psychiatrist shall either transmit a clinical certificate to the court or report to the court that execution of a clinical certificate is not warranted. After each examination ordered under subsection (2), the examining psychiatrist, or the examining physician or licensed psychologist, as applicable, shall either transmit a clinical certificate to the court or report to the court that execution of a clinical certificate is not warranted.

(5) If 1 examination was ordered and the examining psychiatrist reports that execution of a clinical certificate is not warranted, or if 2 examinations were ordered and 1 of the examining physicians or the licensed psychologist reports that execution of a clinical certificate is not warranted, the court shall dismiss the petition or order the individual to be examined by a psychiatrist, or if a psychiatrist is not available, by a physician or licensed psychologist. If a third examination report states that execution of a clinical certificate is not warranted, the court shall dismiss the petition.

(6) This section does not apply to a petition filed under section 434(6).

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1436 Noncompliance with order of examination; protective custody.

Sec. 436. If it appears to the court that the individual will not comply with an order of examination under section 435, the court may order a peace officer to take the individual into protective custody and transport him or her to a preadmission screening unit or hospital designated by the community mental health services program or to another suitable place for the ordered examination or examinations.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1437 Right to remain in home pending examination; right to return to home; accompaniment by relatives or friends.

Sec. 437. Unless the individual has been ordered hospitalized pursuant to section 438, he shall be allowed to remain in his home or other place of residence pending an ordered examination or examinations and to return to his home or other place of residence upon completion of the examination or examinations. The individual may be accompanied by one or more of his relatives or friends to the place of examination.

History: 1974, Act 258, Eff. Nov. 6, 1974.

***** 330.1438 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1438.amended *****

330.1438 Order of hospitalization; protective custody; transportation; conditions to release

after 24 hours.

Sec. 438. If it appears to the court that the individual requires immediate involuntary mental health treatment in order to prevent physical harm to himself or herself, or others, the court may order the individual hospitalized and may order a peace officer to take the individual into protective custody and transport the individual to a preadmission screening unit designated by the community mental health services program. If the preadmission screening unit authorizes hospitalization, the peace officer shall transport the individual to a hospital designated by the community mental health services program, unless other arrangements are provided by the preadmission screening unit. If the examinations and clinical certificates of the psychiatrist, and the physician or the licensed psychologist, are not completed within 24 hours after hospitalization, the individual shall be released.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1438.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1438.amended Order of hospitalization; protective custody; transportation; conditions to release after 24 hours.

Sec. 438. If it appears to the court that the individual requires immediate assessment because the individual presents a substantial risk of significant physical or mental harm to himself or herself in the near future or presents a substantial risk of significant physical harm to others in the near future, the court may order the individual hospitalized and may order a peace officer to take the individual into protective custody and transport the individual to a preadmission screening unit designated by the community mental health services program. If the preadmission screening unit authorizes hospitalization, the peace officer shall transport the individual to a hospital designated by the community mental health services program, unless other arrangements are provided by the preadmission screening unit. If the examinations and clinical certificates of the psychiatrist, and the physician or the licensed psychologist, are not completed within 24 hours after hospitalization, the individual shall be released.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1439 Cause of action against person filing petition.

Sec. 439. A cause of action shall not be cognizable in a court of this state against a person who in good faith files a petition under this chapter alleging that an individual is a person requiring treatment, unless the petition is filed as the result of an act or omission amounting to gross negligence or willful and wanton misconduct.

History: Add. 1986, Act 118, Eff. Mar. 31, 1987.

PERSONS 65 AND OLDER

330.1441-330.1444 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

TELEPHONE AND NOTICE RIGHTS

***** 330.1447 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1447.amended *****

330.1447 Telephone calls.

Sec. 447. Immediately after an individual is received at a hospital for hospitalization under section 423 or 438, or for examination under any provision of this chapter, he shall be allowed to complete a reasonable number of telephone calls to persons of his own choice. In no event shall the calls be limited to less than 2. If the individual has insufficient funds on his person, at least 2 calls shall be allowed at the expense of the hospital.

History: 1974, Act 258, Eff. Nov. 6, 1974.

***** 330.1447.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1447.amended Telephone calls.

Sec. 447. Immediately after an individual is received at a hospital for hospitalization under section 423 or 438, or for examination under any provision of this chapter, he or she shall be allowed to complete a reasonable number of telephone calls to persons of his or her own choice. In no event shall the calls be limited to less than 2. If the individual has insufficient funds on his or her person, at least 2 calls shall be allowed at

the expense of the hospital.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

***** 330.1448 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1448.amended

330.1448 Right to copy of certain documents; explanation in individual's language; consent to treatment by person awaiting hearing; form.

Sec. 448. (1) Not later than 12 hours after an individual is hospitalized under section 423 or 438, the hospital director shall ensure that the individual receives all of the following:

(a) A copy of the application or petition that asserted that the individual is a person requiring treatment.

(b) A written statement explaining that the individual will be examined by a psychiatrist within 24 hours after his or her hospitalization, excluding legal holidays.

(c) A written statement in simple terms explaining the rights of the individual to a full court hearing pursuant to sections 451 to 465, to be present at the hearing, to be represented by legal counsel, to a jury trial, and to an independent clinical evaluation.

(2) If the individual is unable to read or understand the written materials, every effort shall be made to explain them to him or her in a language he or she understands, and a note of the explanation and by whom made shall be entered into his or her patient record.

(3) An individual awaiting a court hearing mandated pursuant to section 452 may sign a form provided by the department accepting psychotropic drugs and other treatment without having to consent to the hospitalization, unless the hospital director has reason to believe the individual is not capable of giving informed consent to treatment.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 178, Imd. Eff. June 14, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1448.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1448.amended Right to copy of certain documents; explanation in individual's language; consent to treatment by person awaiting hearing; form.

Sec. 448. (1) Not later than 12 hours after an individual is hospitalized under section 423 or 438, the hospital director shall ensure that the individual receives all of the following:

(a) A copy of the petition that asserted that the individual is a person requiring treatment.

(b) A written statement explaining that the individual will be examined by a psychiatrist within 24 hours after his or her hospitalization.

(c) A written statement in simple terms explaining the rights of the individual to a full court hearing according to sections 451 to 465, to be present at the hearing, to be represented by legal counsel, to a jury trial, and to an independent clinical evaluation.

(2) If the individual is unable to read or understand the written materials, every effort shall be made to explain them to him or her in a language he or she understands, and a note of the explanation and by whom made shall be entered into his or her patient record.

(3) An individual awaiting a court hearing mandated under section 452 may sign a form provided by the department accepting psychotropic drugs and other treatment without having to consent to the hospitalization, unless the hospital director has reason to believe the individual is not capable of giving informed consent to treatment.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 178, Imd. Eff. June 14, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

***** 330.1449 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1449.amended

330.1449 Right to copy of clinical certificate.

Sec. 449. The hospital director shall ensure that an individual who is hospitalized pursuant to section 423 or 438 receives a copy of each clinical certificate executed in connection with the individual's hospitalization. Each clinical certificate shall be delivered to the individual within 24 hours of either the clinical certificate's completion or the receipt of the clinical certificate by the hospital.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1449.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1449.amended Right to copy of clinical certificate.

Sec. 449. The hospital director shall ensure that an individual who is hospitalized under section 423 or 438 receives a copy of each clinical certificate executed in connection with the individual's hospitalization. Each clinical certificate shall be delivered to the individual within 24 hours of either the clinical certificate's completion or receipt of the clinical certificate by the hospital.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

PRELIMINARY HEARING

330.1450 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

COURT HEARINGS

***** 330.1451 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1451.amended *****

330.1451 Court hearings; applicable provisions.

Sec. 451. Court hearings convened under authority of this chapter shall be governed by sections 452 to 465.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1451.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1451.amended Court hearings; applicable provisions.

Sec. 451. Court hearings convened under authority of this chapter are governed by sections 452 to 465, except that sections 453(2), 453a, and 455(3) to (11) do not apply to a petition seeking only assisted outpatient treatment.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

***** 330.1452 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1452.amended *****

330.1452 Court hearing; date; receipt of certain documents.

Sec. 452. The court shall fix a date for every hearing convened under this chapter. The hearing shall be convened promptly, but not more than 7 days, excluding Sundays and holidays, after the court's receipt of any of the following:

(a) An application for hospitalization, which shall serve as a petition for a determination that an individual is a person requiring treatment, a clinical certificate executed by a physician or a licensed psychologist, and a clinical certificate executed by a psychiatrist.

(b) A petition for a determination that an individual is a person requiring treatment, a clinical certificate executed by a physician or a licensed psychologist, and a clinical certificate executed by a psychiatrist.

(c) A petition for a determination that an individual continues to be a person requiring treatment and a clinical certificate executed by a psychiatrist.

(d) A petition for discharge filed under section 484.

(e) A petition for discharge filed under section 485 and a physician's or a licensed psychologist's clinical certificate.

(f) A demand or notification that a hearing that has been temporarily deferred under section 455(5) be convened.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1976, Act 346, Imd. Eff. Dec. 21, 1976;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1986, Act 118, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1452.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1452.amended Court hearing; date; receipt of certain documents.

Sec. 452. (1) The court shall fix a date for every hearing convened under this chapter. Except as provided in subsection (2), the hearing shall be convened promptly, but not more than 7 days after the court's receipt of any of the following:

(a) A petition for a determination that an individual is a person requiring treatment, a clinical certificate executed by a physician or a licensed psychologist, and a clinical certificate executed by a psychiatrist.

(b) A petition for a determination that an individual continues to be a person requiring treatment and a clinical certificate executed by a psychiatrist.

(c) A petition for discharge filed under section 484.

(d) A demand or notification that a hearing that has been temporarily deferred under section 455(6) be convened.

(2) A hearing for a petition under section 434(6) shall be convened not more than 28 days after the filing of the petition, unless the petition was filed while the subject of the petition was an inpatient at a psychiatric hospital, in which case the hearing shall be convened within 7 days of the filing of the petition.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1976, Act 346, Imd. Eff. Dec. 21, 1976;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1986, Act 118, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

***** 330.1453 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1453.amended *****

330.1453 Court hearing; notice.

Sec. 453. (1) The court shall cause notice of a petition and of the time and place of any hearing to be given to the subject of the petition, his or her attorney, the petitioner, the prosecuting or other attorney provided for in section 457, the hospital director of any hospital in which the subject of a petition is hospitalized, the spouse of the subject of the petition if his or her whereabouts are known, the guardian, if any, of the subject of the petition, and other relatives or persons as the court may determine. Notice shall be given at the earliest practicable time and sufficiently in advance of the hearing date to permit preparation for the hearing.

(2) Within 4 days of the court's receipt of the documents described in section 452(b), the court shall cause the subject of the petition to be given a copy of the petition, a copy of each clinical certificate executed in connection with the proceeding, notice of the right to a full court hearing, notice of the right to be present at the hearing, notice of the right to be represented by legal counsel, notice of the right to demand a jury trial, and notice of the right to an independent clinical evaluation.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1453.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1453.amended Court hearing; notice.

Sec. 453. (1) The court shall cause notice of a petition and of the time and place of any hearing to be given to the subject of the petition, his or her attorney, the petitioner, the prosecuting or other attorney provided for in section 457, the hospital director of any hospital in which the subject of a petition is hospitalized, the spouse of the subject of the petition if his or her whereabouts are known, the guardian, if any, of the subject of the petition, and other relatives or persons as the court may determine. Notice shall be given at the earliest practicable time and sufficiently in advance of the hearing date to permit preparation for the hearing.

(2) Within 4 days of the court's receipt of the documents described in section 452(1)(a), the court shall cause the subject of the petition to be given a copy of the petition, a copy of each clinical certificate executed in connection with the proceeding, notice of the right to a full court hearing, notice of the right to be present at the hearing, notice of the right to be represented by legal counsel, notice of the right to demand a jury trial, and notice of the right to an independent clinical evaluation.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1453a Alternatives to hospitalization; preparation of assessment report.

Sec. 453a. Upon receipt of documents described in section 452, the court shall order a report assessing the current availability and appropriateness for the individual of alternatives to hospitalization, including alternatives available following an initial period of court-ordered hospitalization. The report shall be prepared by the community mental health services program, a public or private agency, or another individual found suitable by the court. In deciding which individual or agency should be ordered to prepare the report, the court shall give preference to an agency or individual familiar with the treatment resources in the individual's home community.

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

***** 330.1454 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1454.amended *****

330.1454 Legal counsel; appointment; waiver; preferred counsel; compensation; system for providing representation; consultation with subject of petition before court hearing;

Rendered Thursday, December 8, 2016

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certificate.

Sec. 454. (1) Every individual who is the subject of a petition is entitled to be represented by legal counsel.

(2) Unless an appearance has been entered on behalf of the subject of a petition, the court shall, within 48 hours after its receipt of any petition together with the other documents required by section 452, appoint counsel to represent the subject of the petition, except that if an individual has been hospitalized under section 423 or 438, counsel shall be appointed within 24 hours after the hospitalization.

(3) If, after consultation with appointed counsel, the subject of a petition desires to waive his or her right to counsel, he or she may do so by notifying the court in writing.

(4) If the subject of a petition prefers counsel other than the initially appointed counsel, the preferred counsel agrees to accept the appointment, and the court is notified of the preference by the subject of the petition or the preferred counsel, the court shall replace the initially appointed counsel with the preferred counsel.

(5) If the subject of a petition is indigent, the court shall compensate appointed counsel from court funds in an amount that is reasonable and based upon time and expenses.

(6) The supreme court may, by court rule, establish the compensation to be paid for counsel of indigents and may require that counsel be appointed from a system or organization established for the purpose of providing representation in proceedings governed by this chapter.

(7) Legal counsel shall consult in person with the subject of a petition at least 24 hours before the time set for a court hearing.

(8) Legal counsel for the subject of a petition under section 452(a) or (b) who is hospitalized pending the court hearing shall consult in person with the individual not more than 72 hours, excluding Sundays and holidays, after the petition and 2 clinical certificates have been filed with the court.

(9) After the consultation required in subsection (7) or (8), counsel promptly shall file with the court a certificate stating that he or she personally has seen and has consulted with the subject of a petition as required by this section.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 178, Imd. Eff. June 14, 1982;—Am. 1986, Act 118, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1454.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1454.amended Legal counsel; appointment; waiver; preferred counsel; compensation; system for providing representation; consultation with subject of petition before court hearing; certificate.

Sec. 454. (1) Every individual who is the subject of a petition is entitled to be represented by legal counsel.

(2) Unless an appearance has been entered on behalf of the subject of a petition, the court shall, within 48 hours after its receipt of any petition together with the other documents required by section 452, appoint counsel to represent the subject of the petition, except that if an individual has been hospitalized, counsel shall be appointed within 24 hours after the hospitalization.

(3) If, after consultation with appointed counsel, the subject of a petition desires to waive his or her right to counsel, he or she may do so by notifying the court in writing.

(4) If the subject of a petition prefers counsel other than the initially appointed counsel, the preferred counsel agrees to accept the appointment, and the court is notified of the preference by the subject of the petition or the preferred counsel, the court shall replace the initially appointed counsel with the preferred counsel.

(5) If the subject of a petition is indigent, the court shall compensate appointed counsel from court funds in an amount that is reasonable and based upon time and expenses.

(6) The supreme court may, by court rule, establish the compensation to be paid for counsel of indigents and may require that counsel be appointed from a system or organization established for the purpose of providing representation in proceedings governed by this chapter.

(7) Legal counsel shall consult in person with the subject of a petition at least 24 hours before the time set for a court hearing.

(8) Legal counsel for the subject of a petition under section 452(1)(a) who is hospitalized pending the court hearing shall consult in person with the individual for the first time not more than 72 hours after the petition and 2 clinical certificates have been filed with the court.

(9) After the consultation required in subsection (7) or (8), counsel promptly shall file with the court a certificate stating that he or she personally has seen and has consulted with the subject of a petition as required by this section.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 178, Imd. Eff. June 14, 1982;—Am. 1986, Act 118, Eff. Mar. 31, 1987; Rendered Thursday, December 8, 2016

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***** 330.1455 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1455.amended

330.1455 Right to be present at all hearings; waiver; exclusion of subject by court; meeting; request to defer hearing; continuing jurisdiction during deferral period; treatment as formal voluntary patient; effect of refusing treatment or requesting hearing; participation in alternative to hospitalization; notice to convene hearing.

Sec. 455. (1) The subject of a petition has the right to be present at all hearings. This right may be waived by a waiver of attendance signed by the subject of a petition, witnessed by his or her legal counsel, and filed with the court or it may be waived in open court at a scheduled hearing. The subject's right to be present at a hearing is considered waived by the subject's failure to attend the hearing after receiving notice required by section 453 and any applicable court rule, providing the subject has had an opportunity to consult with counsel as required under section 454. The court may exclude the subject from a hearing if the subject's behavior at the hearing makes it impossible to conduct the hearing. The court shall enter on the record its reasons for excluding the subject of a petition from the hearing. The subject's presence may be waived by the court if there is testimony by a physician or licensed psychologist who has recently observed the subject that the subject's attendance would expose him or her to serious risk of physical harm.

(2) The subject of a petition under section 452(a) or (b) who is hospitalized pending the court hearing, within 72 hours, excluding Sundays and holidays, after the petition and clinical certificates have been filed with the court, shall meet with legal counsel, a treatment team member assigned by the hospital director, a person assigned by the executive director of the responsible community mental health services program, and, if possible, a person designated by the subject of the petition, in order to be informed of all of the following:

(a) The proposed plan of treatment in the hospital.

(b) The nature and possible consequences of commitment procedures.

(c) The proposed plan of treatment in the community consisting of either an alternative to hospitalization or a combination of hospitalization and alternative treatment with hospitalization not to exceed 60 days.

(d) The right to request that the hearing be temporarily deferred, with a continuing right to demand a hearing during the deferral period. The deferral period shall be 60 days if the individual chooses to remain hospitalized, or 90 days if the individual chooses alternative treatment or a combination of hospitalization and alternative treatment.

(3) The person designated by the subject of the petition under subsection (2) may be any person who is willing and able to attend the meeting, including a representative of an advocacy group or the recipient rights adviser of the hospital.

(4) The hospital in which the subject of a petition under section 452(a) or (b) is hospitalized shall notify the participants of the meeting required by subsection (2).

(5) The subject of a petition under section 452(a) or (b) who is hospitalized pending the court hearing may file with the court a request to temporarily defer the hearing for not longer than 60 days if the individual chooses to remain hospitalized, or 90 days if the individual chooses alternative treatment or a combination of hospitalization and alternative treatment. The request shall include a stipulation that the individual agrees to remain hospitalized and to accept treatment as may be prescribed for the deferral period, or to accept and follow the proposed plan of treatment as described in subsection (2)(c) for the deferral period, and further agrees that at any time the individual may refuse treatment and demand a hearing under section 452. The request to temporarily defer the hearing shall be on a form provided by the department and signed by the individual in the presence of his or her legal counsel and shall be filed with the court by legal counsel.

(6) Upon receipt of the request and stipulation, the court shall temporarily defer the hearing. During the deferral period, both the original petition and the clinical certificates remain valid. However, if the hearing is convened, the court may require additional clinical certificates and information from the provider. The court shall retain continuing jurisdiction during the deferral period.

(7) Upon receipt of a copy of the request to temporarily defer the hearing under subsection (5), if the individual has agreed to remain hospitalized as described in subsection (2)(a) or (c), the hospital director shall treat the individual as a formal voluntary patient without requiring the individual to sign formal voluntary admission forms. If the individual, at any time during the period in which the hearing is being deferred, refuses the prescribed treatment or requests a hearing, either in writing or orally, treatment shall cease, the hospitalized individual shall remain hospitalized with the status of the subject of a petition under section 452(a) or (b), and the court shall be notified to convene a hearing under section 452(f).

(8) Upon receipt of a copy of the request to temporarily defer the hearing under subsection (5), if the

individual has agreed to participate in an alternative to hospitalization in the community, the hospital director shall release the individual from the hospital to the alternative treatment provider. If the individual, at any time during the deferral period, refuses the prescribed treatment or requests a hearing, either in writing or orally, treatment shall cease and the court shall be notified to convene a hearing under section 452(f). Upon notification, the court shall, if necessary, order a peace officer to transport the individual to the hospital where the individual shall remain until the hearing is convened. The individual shall be given the status of the subject of a petition under section 452(a) or (b).

(9) If the individual has remained hospitalized and if, not earlier than 14 days nor later than 7 days before the expiration of the deferral period, the hospital director believes that the condition of the individual is such that he or she continues to require treatment, and believes that the individual will not agree to sign a formal voluntary admission request or is considered by the hospital not to be suitable for voluntary admission, the hospital director shall notify the court to convene a hearing under section 452(f).

(10) If the individual is participating in an alternative to hospitalization in the community as described in subsection (2)(c) and if, not earlier than 14 days nor later than 7 days before the expiration of the deferral period, the executive director of the community mental health services program responsible for the treatment that is an alternative to hospitalization believes that the condition of the individual is such that he or she continues to require treatment, and believes that the individual will not agree to accept treatment voluntarily or is considered by the alternative treatment program provider not suitable for voluntary treatment, the executive director shall notify the court to convene a hearing under section 452(f).

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 178, Imd. Eff. June 14, 1982;—Am. 1986, Act 118, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1455.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1455.amended Right to be present at all hearings; waiver; exclusion of subject by court; stipulation to entry of treatment order; meeting; request to defer hearing; continuing jurisdiction during deferral period; treatment as formal voluntary patient; effect of refusing treatment or requesting hearing; participation in alternative to hospitalization; notice to convene hearing.

Sec. 455. (1) The subject of a petition has the right to be present at all hearings. This right may be waived by a waiver of attendance signed by the subject of a petition, witnessed by his or her legal counsel, and filed with the court or it may be waived in open court at a scheduled hearing. The subject's right to be present at a hearing is considered waived by the subject's failure to attend the hearing after receiving notice required by section 453 and any applicable court rule, providing the subject has had an opportunity to consult with counsel as required under section 454. The court may exclude the subject from a hearing if the subject's behavior at the hearing makes it impossible to conduct the hearing. The court shall enter on the record its reasons for excluding the subject of a petition from the hearing. The subject's presence may be waived by the court if there is testimony by a physician or licensed psychologist who has recently observed the subject that the subject's attendance would expose him or her to serious risk of physical harm.

(2) The subject of the petition under section 434, after consultation with counsel, may stipulate to the entry of any order for treatment.

(3) The subject of a petition under section 434 who is hospitalized pending the court hearing, within 72 hours after the petition and clinical certificates have been filed with the court, shall meet with legal counsel, a treatment team member assigned by the hospital director, a person assigned by the executive director of the responsible community mental health services program or other program as designated by the department, and, if possible, a person designated by the subject of the petition, in order to be informed of all of the following:

(a) The proposed plan of treatment in the hospital.

(b) The nature and possible consequences of commitment procedures.

(c) The proposed plan of treatment in the community consisting of either an alternative to hospitalization or a combination of hospitalization and alternative treatment with hospitalization not to exceed 60 days.

(d) The right to request that the hearing be temporarily deferred, with a continuing right to demand a hearing during the deferral period. The deferral period shall be 60 days if the individual chooses to remain hospitalized, or 90 days if the individual chooses alternative treatment or a combination of hospitalization and alternative treatment.

(4) The person designated by the subject of the petition under subsection (3) may be any person who is willing and able to attend the meeting, including a representative of an advocacy group or the recipient rights adviser of the hospital.

(5) The hospital in which the subject of a petition under section 434 is hospitalized shall notify the participants of the meeting required by subsection (3).

(6) The subject of a petition under section 434 who is hospitalized pending the court hearing may file with the court a request to temporarily defer the hearing for not longer than 60 days if the individual chooses to remain hospitalized, or 90 days if the individual chooses alternative treatment or a combination of hospitalization and alternative treatment. The request shall include a stipulation that the individual agrees to remain hospitalized and to accept treatment as may be prescribed for the deferral period, or to accept and follow the proposed plan of treatment as described in subsection (3)(c) for the deferral period, and further agrees that at any time the individual may refuse treatment and demand a hearing under section 452. The request to temporarily defer the hearing shall be on a form provided by the department and signed by the individual in the presence of his or her legal counsel and shall be filed with the court by legal counsel.

(7) Upon receipt of the request and stipulation under subsection (6), the court shall temporarily defer the hearing. During the deferral period, both the original petition and the clinical certificates remain valid. If the hearing is convened, the court may require additional clinical certificates and information from the provider. The court shall retain continuing jurisdiction during the deferral period.

(8) Upon receipt of a copy of the request to temporarily defer the hearing under subsection (6), if the individual has agreed to remain hospitalized, the hospital director shall treat the individual as a formal voluntary patient without requiring the individual to sign formal voluntary admission forms. If the individual, at any time during the period in which the hearing is being deferred, refuses the prescribed treatment or requests a hearing, either in writing or orally, treatment shall cease, the hospitalized individual shall remain hospitalized with the status of the subject of a petition under section 434, and the court shall be notified to convene a hearing under section 452(1)(d).

(9) Upon receipt of a copy of the request to temporarily defer the hearing under subsection (6), if the individual has agreed to participate in an alternative to hospitalization in the community, the hospital director shall release the individual from the hospital to the alternative treatment provider. If the individual, at any time during the deferral period, refuses the prescribed treatment or requests a hearing, either in writing or orally, treatment shall cease and the court shall be notified to convene a hearing under section 452(1)(d). Upon notification, the court shall, if necessary, order a peace officer to transport the individual to the hospital where the individual shall remain until the hearing is convened. The individual shall be given the status of the subject of a petition under section 434.

(10) If the individual has remained hospitalized and if, not earlier than 14 days nor later than 7 days before the expiration of the deferral period, the hospital director believes that the condition of the individual is such that he or she continues to require treatment, and believes that the individual will not agree to sign a formal voluntary admission request or is considered by the hospital not to be suitable for voluntary admission, the hospital director shall notify the court to convene a hearing under section 452(1)(d).

(11) If the individual is participating in an alternative to hospitalization in the community as described in subsection (3)(c) and if, not earlier than 14 days nor later than 7 days before the expiration of the deferral period, the executive director of the community mental health services program responsible for the treatment that is an alternative to hospitalization believes that the condition of the individual is such that he or she continues to require treatment, and believes that the individual will not agree to accept treatment voluntarily or is considered by the alternative treatment program provider not suitable for voluntary treatment, the executive director shall notify the court to convene a hearing under section 452(1)(d).

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 178, Imd. Eff. June 14, 1982;—Am. 1986, Act 118, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1456 Place of hearing; change of venue.

Sec. 456. (1) Hearings may be held in such quarters as the court directs; either within or without the county in which the court has its principal office, in a hospital or other convenient place. Whenever practicable, the court shall convene hearings in a hospital.

(2) The subject of a petition, any interested person, or the court on its own motion may request a change of venue because of residence, convenience to parties, witnesses, or the court, or the individual's mental or physical condition.

History: 1974, Act 258, Eff. Nov. 6, 1974.

330.1457 Participation of prosecuting attorney; exception.

Sec. 457. The prosecuting attorney of the county in which a court has its principal office shall participate, in person or by assistant, in hearings convened by the court of his or her county under this chapter, or he or she may permit the prosecuting attorney or assistant prosecuting attorney from another county to participate

on his or her behalf, except that a prosecutor need not participate in or be present at a hearing whenever a petitioner or some other appropriate person has retained private counsel who will be present in court and will present to the court the case for requiring treatment or for a finding of incompetence.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1996, Act 395, Imd. Eff. Oct. 8, 1996.

330.1458 Jury.

Sec. 458. The subject of a petition may demand that the question of whether he requires treatment or is legally incompetent be heard by a jury. A jury shall consist of 6 persons to be chosen in the same manner as jurors in civil proceedings.

History: 1974, Act 258, Eff. Nov. 6, 1974.

330.1459 Documents, witnesses, and cross-examination; rules of evidence.

Sec. 459. (1) The parties in a proceeding under this chapter have the right to present documents and witnesses and to cross-examine witnesses.

(2) The court shall receive all relevant, competent, and material evidence which may be offered. The rules of evidence in civil actions are applicable, except to the extent that specific exceptions have been provided for in this chapter or elsewhere by statute or court rule.

History: 1974, Act 258, Eff. Nov. 6, 1974.

330.1460 Investigation by counsel; evidence.

Sec. 460. Counsel for the subject of a petition shall be allowed adequate time for investigation of the matters at issue and for preparation, and shall be permitted to present the evidence that counsel believes necessary to a proper disposition of the proceedings, including evidence as to alternatives to hospitalization.

History: 1974, Act 258, Eff. Nov. 6, 1974.

***** 330.1461 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1461.amended *****

330.1461 Testimony or deposition of physician or psychologist required; presence of attorney during deposition; cross-examination of deponent; waiver.

Sec. 461. An individual may not be found to require treatment unless at least 1 physician or licensed psychologist who has personally examined that individual testifies in person or by written deposition at the hearing. A written deposition may be introduced as evidence at the hearing only if the attorney for the subject of the petition was given the opportunity to be present during the taking of the deposition and to cross-examine the deponent. This testimony or deposition may be waived by the subject of a petition. An individual may be found to require treatment even if the petitioner does not testify, as long as there is competent evidence from which the relevant criteria in section 401 can be established.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1976, Act 346, Imd. Eff. Dec. 21, 1976;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1461.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1461.amended Testimony or deposition of physician or psychologist required; examinations; presence of attorney during deposition; cross-examination of deponent; waiver.

Sec. 461. (1) Except as otherwise provided in this section, an individual may not be found to require treatment unless at least 1 physician or licensed psychologist who has personally examined that individual testifies in person or by written deposition at the hearing.

(2) For a petition filed under section 434(6) that was not accompanied by, or that has not subsequently been supplemented by, a psychiatrist's clinical certificate, an individual may not be found to require treatment unless at least 1 physician or licensed psychologist and 1 psychiatrist who have personally examined that individual testify in person or by written deposition at the hearing.

(3) The examinations required under this section for a petition filed under section 434(6) shall be arranged by the court and the local community mental health services program or other entity as designated by the department.

(4) A written deposition may be introduced as evidence at the hearing only if the attorney for the subject of the petition was given the opportunity to be present during the taking of the deposition and to cross-examine the deponent. This testimony or deposition may be waived by the subject of a petition. An individual may be found to require treatment even if the petitioner does not testify, as long as there is competent evidence from

which the relevant criteria in section 401 can be established.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1976, Act 346, Imd. Eff. Dec. 21, 1976;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1462 Continuance or adjournment; grounds.

Sec. 462. (1) Requests for continuances for any reasonable time shall be granted for good cause.

(2) Unless the subject of a petition or his or her attorney objects, the failure to timely notify a spouse, guardian, relative, or other person determined by the court to be entitled to notice shall not be cause to adjourn or continue a hearing.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1463 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1463.amended

330.1463 Independent clinical evaluation by physician or psychologist; compensation; use by subject of petition.

Sec. 463. (1) If requested before the first scheduled hearing or at the first scheduled hearing before the first witness has been sworn on an application or petition, the subject of a petition in a hearing under this chapter has the right at his or her own expense, or if indigent, at public expense, to secure an independent clinical evaluation by a physician, psychiatrist, or licensed psychologist of his or her choice relevant to whether he or she requires treatment, whether he or she should be hospitalized or receive treatment other than hospitalization, and whether he or she is of legal capacity.

(2) Compensation for an evaluation performed by a physician or a licensed psychologist shall be in an amount that is reasonable and based upon time and expenses.

(3) The independent clinical evaluation described in this section is for the sole use of the subject of the petition. The independent clinical evaluation or the testimony of the individual performing the evaluation shall not be introduced into evidence without the consent of the subject of the petition.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1463.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1463.amended Independent clinical evaluation by physician, psychiatrist or psychologist; compensation; use by subject of petition.

Sec. 463. (1) If requested before the first scheduled hearing or at the first scheduled hearing before the first witness has been sworn on a petition, the subject of a petition in a hearing under this chapter has the right at his or her own expense, or if indigent, at public expense, to secure an independent clinical evaluation by a physician, psychiatrist, or licensed psychologist of his or her choice relevant to whether he or she requires treatment, whether he or she should be hospitalized or receive treatment other than hospitalization, and whether he or she is of legal capacity.

(2) Compensation for an evaluation performed by a physician or a licensed psychologist shall be in an amount that is reasonable and based upon time and expenses.

(3) The independent clinical evaluation described in this section is for the sole use of the subject of the petition. The independent clinical evaluation or the testimony of the individual performing the evaluation shall not be introduced into evidence without the consent of the subject of the petition.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1464 Persons entitled to copies of court orders.

Sec. 464. Copies of court orders issued pursuant to this chapter shall be given to the individual who is the subject of the order; to the individual's guardian, if a guardian has been appointed; to the individual's attorney; to the executive director of the community mental health services program; and to the hospital director of any hospital in which the individual is or will be a patient.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1464a Order of involuntary hospitalization, alternative treatment, or combination of hospitalization and alternative treatment; entering or removing order from law enforcement information network; applicability of section to order of involuntary treatment for substance use disorder.

Sec. 464a. (1) Upon entry of a court order directing that an individual be involuntarily hospitalized under this chapter or that an individual involuntarily undergo a program of alternative treatment or a program of combined hospitalization and alternative treatment under this chapter, the court shall immediately order the department of state police to enter the court order into the law enforcement information network. The department of state police shall remove the court order from the law enforcement information network only upon receipt of a subsequent court order for that removal.

(2) The department of state police shall immediately enter an order described in subsection (1) into the law enforcement information network or shall immediately remove an order from the law enforcement information network as ordered by the court under this section.

(3) This section does not apply to an order of involuntary treatment for substance use disorder under chapter 2A.

History: Add. 1994, Act 339, Eff. Apr. 1, 1996;—Am. 2014, Act 200, Imd. Eff. June 24, 2014.

330.1465 Clear and convincing evidence required.

Sec. 465. A judge or jury shall not find that an individual is a person requiring treatment unless that fact has been established by clear and convincing evidence.

History: 1974, Act 258, Eff. Nov. 6, 1974.

FINDINGS AND DISPOSITIONS

***** 330.1468 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1468.amended

330.1468 Disposition of person not requiring treatment; disposition of person requiring treatment.

Sec. 468. (1) If the court finds that an individual is not a person requiring treatment, the court shall enter a finding to that effect and, if the person has been hospitalized before the hearing, shall order that the person be discharged immediately.

(2) If an individual is found to be a person requiring treatment, the court shall do 1 of the following:

(a) Order the individual hospitalized in a hospital recommended by the community mental health services program.

(b) Order the individual hospitalized in a private or veterans administration hospital at the request of the individual or his or her family, if private or federal funds are to be utilized and if the hospital agrees. If the individual is hospitalized in a private or veterans administration hospital pursuant to this subdivision, any financial obligation for the hospitalization shall be satisfied from funding sources other than the community mental health services program, the department, or other state or county funding.

(c) Order the individual to undergo a program of treatment that is an alternative to hospitalization and that is recommended by the community mental health services program.

(d) Order the individual to undergo a program of combined hospitalization and alternative treatment as recommended by the community mental health services program.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1980, Act 138, Imd. Eff. May 29, 1980;—Am. 1982, Act 178, Imd. Eff. June 14, 1982;—Am. 1986, Act 117, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

***** 330.1468.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1468.amended Treatment; disposition; order of assisted outpatient treatment.

Sec. 468. (1) For a petition filed under section 434, if the court finds that an individual is not a person requiring treatment, the court shall enter a finding to that effect and, if the person has been hospitalized before the hearing, shall order that the person be discharged immediately.

(2) For a petition filed under section 434, if an individual is found to be a person requiring treatment, the court shall do 1 of the following:

(a) Order the individual hospitalized in a hospital recommended by the community mental health services program or other entity as designated by the department.

(b) Order the individual hospitalized in a private or veterans administration hospital at the request of the individual or his or her family, if private or federal funds are to be utilized and if the hospital agrees. If the individual is hospitalized in a private or Veterans Administration hospital under this subdivision, any financial obligation for the hospitalization shall be satisfied from funding sources other than the community mental health services program, the department, or other state or county funding.

(c) Order the individual to undergo a program of treatment that is an alternative to hospitalization and that

is recommended by the community mental health services program or other entity as designated by the department.

(d) Order the individual to undergo a program of combined hospitalization and alternative treatment or hospitalization and assisted outpatient treatment, as recommended by the community mental health services program or other entity as designated by the department.

(e) Order the individual to receive assisted outpatient treatment through a community mental health services program, or other entity as designated by the department, capable of providing the necessary treatment and services to assist the individual to live and function in the community as specified in the order. The court may include case management services and 1 or more of the following:

(i) Medication.

(ii) Blood or urinalysis tests to determine compliance with or effectiveness of prescribed medication.

(iii) Individual or group therapy, or both.

(iv) Day or partial day programs.

(v) Educational or vocational training.

(vi) Supervised living.

(vii) Assisted community treatment team services.

(viii) Substance use disorder treatment.

(ix) Substance use disorder testing for individuals with a history of alcohol or substance use and for whom that testing is necessary to assist the court in ordering treatment designed to prevent deterioration. A court order for substance use testing is subject to review once every 180 days.

(x) Any other services prescribed to treat the individual's mental illness and either to assist the individual in living and functioning in the community or to help prevent a relapse or deterioration that may reasonably be predicted to result in suicide or the need for hospitalization.

(3) In developing an assisted outpatient treatment order, the court shall consider any preference or medication experience reported by the individual or his or her designated representative, whether or not the individual has an existing individual plan of services under section 712, and any direction included in a durable power of attorney or advance directive that exists.

(4) Before an order of assisted outpatient treatment expires, if the individual has not previously designated a patient advocate or executed a durable power of attorney or an advance directive, the responsible community mental health services program or other entity as designated by the department shall ascertain whether the individual desires to establish a durable power of attorney or an advance directive. If so, the community mental health services program or other entity as designated by the department shall direct the individual to the appropriate community resource for assistance in developing a durable power of attorney or an advance directive.

(5) If an order for assisted outpatient treatment conflicts with the provisions of an existing durable power of attorney, advance directive, or individual plan of services developed under section 712, the assisted outpatient treatment order shall be reviewed for possible adjustment by a psychiatrist not previously involved with developing the assisted outpatient treatment order. If an order for assisted outpatient treatment conflicts with the provisions of an existing advance directive, durable power of attorney, or individual plan of services developed under section 712, the court shall state the court's findings on the record or in writing if the court takes the matter under advisement, including the reason for the conflict.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1980, Act 138, Imd. Eff. May 29, 1980;—Am. 1982, Act 178, Imd. Eff. June 14, 1982;—Am. 1986, Act 117, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1469 Repealed. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

Compiler's note: The repealed section pertained to alternatives to hospitalization, report, notice, petition, review, powers of court, and hearing.

***** 330.1469a THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1469a.amended *****

330.1469a Treatment program as alternative to hospitalization; court order.

Sec. 469a. (1) Before ordering a course of treatment for an individual found to be a person requiring treatment, the court shall review a report on alternatives to hospitalization that was prepared under section 453a not more than 15 days before the court issues the order. After reviewing the report, the court shall do all of the following:

(a) Determine whether a treatment program that is an alternative to hospitalization or that follows an initial period of hospitalization is adequate to meet the individual's treatment needs and is sufficient to prevent harm

that the individual may inflict upon himself or herself or upon others within the near future.

(b) Determine whether there is an agency or mental health professional available to supervise the individual's alternative treatment program.

(c) Inquire as to the individual's desires regarding alternatives to hospitalization.

(2) If the court determines that there is a treatment program that is an alternative to hospitalization that is adequate to meet the individual's treatment needs and prevent harm that the individual may inflict upon himself or herself or upon others within the near future and that an agency or mental health professional is available to supervise the program, the court shall issue an order for alternative treatment or combined hospitalization and alternative treatment in accordance with section 472a. The order shall state the community mental health services program or, if private arrangements have been made for the reimbursement of mental health treatment services in an alternative setting, the name of the mental health agency or professional that is directed to supervise the individual's alternative treatment program. The order may provide that if an individual refuses to comply with a psychiatrist's order to return to the hospital, a peace officer shall take the individual into protective custody and transport the individual to the hospital selected.

(3) If the court orders assisted outpatient treatment as the alternative to hospitalization, the order shall require assisted outpatient treatment through a community mental health services program or any other publicly-funded entity necessary for fulfillment of the assisted outpatient treatment plan. The order shall include case management services. The order for assisted outpatient treatment may include 1 or more of the following:

(a) Medication.

(b) Blood or urinalysis tests to determine compliance with prescribed medications.

(c) Individual or group therapy.

(d) Day or partial day programs.

(e) Educational and vocational training.

(f) Supervised living.

(g) Assertive community treatment team services.

(h) Alcohol or substance abuse treatment, or both.

(i) Alcohol or substance abuse testing, or both, for individuals with a history of alcohol or substance abuse and for whom that testing is necessary to prevent a deterioration of their condition. A court order for alcohol or substance abuse testing shall be subject to review every 6 months.

(j) Any other services prescribed to treat the individual's mental illness and to either assist the individual in living and functioning in the community or to help prevent a relapse or deterioration that may reasonably be predicted to result in suicide or the need for hospitalization.

(4) In developing an order under this section, the court shall consider any preferences and medication experiences reported by the subject of the petition or his or her designated representative, whether or not the subject of the petition has an existing individual plan of services under section 712, and any directions included in a durable power of attorney or advance directive that exists. If the subject of the petition has not previously executed a durable power of attorney or an advance directive, the responsible community mental health services program shall, before the expiration of the assisted outpatient treatment order, ascertain whether the subject of the petition desires to establish an advance directive. If so, the community mental health services program shall offer to provide assistance in developing an advance directive.

(5) If an assisted outpatient treatment order conflicts with the provisions of an existing advance directive, durable power of attorney, or individual plan of services developed under section 712, the assisted outpatient treatment order shall be reviewed for possible adjustment by a psychiatrist not previously involved with developing the assisted outpatient treatment order. If an assisted outpatient treatment order conflicts with the provisions of an existing advance directive, durable power of attorney, or individual plan of services developed under section 712, the court shall state the court's findings on the record or in writing if the court takes the matter under advisement, including the reason for the conflict.

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2004, Act 497, Eff. Mar. 30, 2005.

***** 330.1469a.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1469a.amended Treatment program as alternative to hospitalization; assisted outpatient treatment; court order.

Sec. 469a. (1) Except for a petition filed as described under section 434(6), before ordering a course of treatment for an individual found to be a person requiring treatment, the court shall review a report on alternatives to hospitalization that was prepared under section 453a not more than 15 days before the court issues the order. After reviewing the report, the court shall do all of the following:

(a) Determine whether a treatment program that is an alternative to hospitalization or that follows an initial period of hospitalization is adequate to meet the individual's treatment needs and is sufficient to prevent harm that the individual may inflict upon himself or herself or upon others within the near future.

(b) Determine whether there is an agency or mental health professional available to supervise the individual's alternative treatment program.

(c) Inquire as to the individual's desires regarding alternatives to hospitalization.

(2) If the court determines that there is a treatment program that is an alternative to hospitalization that is adequate to meet the individual's treatment needs and prevent harm that the individual may inflict upon himself or herself or upon others within the near future and that an agency or mental health professional is available to supervise the program, the court shall issue an order for alternative treatment or combined hospitalization and alternative treatment in accordance with section 472a. The order shall state the community mental health services program or, if private arrangements have been made for the reimbursement of mental health treatment services in an alternative setting, the name of the mental health agency or professional that is directed to supervise the individual's alternative treatment program. The order may provide that if an individual refuses to comply with a psychiatrist's order to return to the hospital, a peace officer shall take the individual into protective custody and transport the individual to the hospital selected.

(3) If the court orders assisted outpatient treatment as the alternative to hospitalization, the order shall be consistent with the provisions of section 468(2)(e).

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2004, Act 497, Eff. Mar. 30, 2005;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1470 Adequate and appropriate treatment required; inquiry.

Sec. 470. Prior to ordering the hospitalization of an individual, the court shall inquire into the adequacy of treatment to be provided to the individual by the hospital. Hospitalization shall not be ordered unless the hospital in which the individual is to be hospitalized can provide him with treatment which is adequate and appropriate to his condition.

History: 1974, Act 258, Eff. Nov. 6, 1974.

330.1471 Preference as to hospitals.

Sec. 471. Preference between the department designated hospital and other available hospitals shall be given to the hospital which is located nearest to the individual's residence except when the individual requests otherwise or there are other compelling reasons for an order reversing the preference.

History: 1974, Act 258, Eff. Nov. 6, 1974.

330.1472 Repealed. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

Compiler's note: The repealed section pertained to duration of hospitalization.

***** 330.1472a THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1472a.amended *****

330.1472a Initial, second, or continuing order for involuntary mental health treatment; duration of order; hearing.

Sec. 472a. (1) Upon the receipt of an application under section 423 or a petition under section 434 and a finding that an individual is a person requiring treatment, the court shall issue an initial order of involuntary mental health treatment that shall be limited in duration as follows:

(a) An initial order of hospitalization shall not exceed 60 days.

(b) Except as provided in subdivision (d), an initial order of alternative treatment shall not exceed 90 days.

(c) Except as provided in subdivision (e), an initial order of combined hospitalization and alternative treatment shall not exceed 90 days. The hospitalization portion of the initial order shall not exceed 60 days.

(d) An initial order of assisted outpatient treatment shall not exceed 180 days.

(e) An initial order of combined hospitalization and assisted outpatient treatment shall not exceed 180 days. The hospitalization portion of the initial order shall not exceed 60 days.

(2) Upon the receipt of a petition under section 473 before the expiration of an initial order under subsection (1) and a finding that the individual continues to be a person requiring treatment, the court shall issue a second order for involuntary mental health treatment that shall be limited in duration as follows:

(a) A second order of hospitalization shall not exceed 90 days.

(b) A second order of alternative treatment or assisted outpatient treatment shall not exceed 1 year.

(c) A second order of combined hospitalization and alternative treatment or assisted outpatient treatment shall not exceed 1 year. The hospitalization portion of the second order shall not exceed 90 days.

(3) Upon the receipt of a petition under section 473 before the expiration of a second order under subsection (2) and a finding that the individual continues to be a person requiring treatment, the court shall issue a continuing order for involuntary mental health treatment that shall be limited in duration as follows:

(a) A continuing order of hospitalization shall not exceed 1 year.

(b) A continuing order of alternative treatment or assisted outpatient treatment shall not exceed 1 year.

(c) A continuing order of combined hospitalization and alternative treatment or assisted outpatient treatment shall not exceed 1 year. The hospitalization portion of a continuing order for combined hospitalization and alternative treatment or assisted outpatient treatment shall not exceed 90 days.

(4) Upon the receipt of a petition under section 473 before the expiration of a continuing order of involuntary mental health treatment, including a continuing order issued under section 485a or a 1-year order of hospitalization issued under former section 472, and a finding that the individual continues to be a person requiring treatment, the court shall issue another continuing order for involuntary mental health treatment as provided in subsection (3) for a period not to exceed 1 year. The court shall continue to issue consecutive 1-year continuing orders for involuntary mental health treatment under this section until a continuing order expires without a petition having been filed under section 473 or the court finds that the individual is not a person requiring treatment.

(5) If a petition for an order of involuntary mental health treatment is not brought under section 473 at least 14 days before the expiration of an order of involuntary mental health treatment as described in subsections (2) to (4), a person who believes that an individual continues to be a person requiring treatment may file a petition under section 434 for an initial order of involuntary mental health treatment as described in subsection (1).

(6) An individual who on March 28, 1996 was subject to an order of continuing hospitalization for an indefinite period of time shall be brought for hearing no later than 15 days after the date of the second 6-month review that occurs after March 28, 1996. If the court finds at the hearing that the individual continues to be a person requiring treatment, the court shall enter a continuing order of involuntary mental health treatment as described in subsection (3).

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2004, Act 498, Eff. Mar. 30, 2005.

***** 330.1472a.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1472a.amended Initial, second, or continuing order for involuntary mental health treatment; duration of order.

Sec. 472a. (1) Upon the filing of a petition under section 434 and a finding that an individual is a person requiring treatment, the court shall issue an initial order of involuntary mental health treatment that shall be limited in duration as follows:

(a) An initial order of hospitalization shall not exceed 60 days.

(b) Except as provided in subdivision (d), an initial order of alternative treatment shall not exceed 90 days.

(c) Except as provided in subdivision (e), an initial order of combined hospitalization and alternative treatment shall not exceed 90 days. The hospitalization portion of the initial order shall not exceed 60 days.

(d) An initial order of assisted outpatient treatment shall not exceed 180 days.

(e) An initial order of combined hospitalization and assisted outpatient treatment shall not exceed 180 days. The hospitalization portion of the initial order shall not exceed 60 days.

(2) Upon the receipt of a petition under section 473 before the expiration of an initial order under subsection (1) and a finding that the individual continues to be a person requiring treatment, the court shall issue a second order for involuntary mental health treatment that shall be limited in duration as follows:

(a) A second order of hospitalization shall not exceed 90 days.

(b) A second order of alternative treatment or assisted outpatient treatment shall not exceed 1 year.

(c) A second order of combined hospitalization and alternative treatment or hospitalization and assisted outpatient treatment shall not exceed 1 year. The hospitalization portion of the second order shall not exceed 90 days.

(3) Upon the receipt of a petition under section 473 before the expiration of a second order under subsection (2) and a finding that the individual continues to be a person requiring treatment, the court shall issue a continuing order for involuntary mental health treatment that shall be limited in duration as follows:

(a) A continuing order of hospitalization shall not exceed 1 year.

(b) A continuing order of alternative treatment or assisted outpatient treatment shall not exceed 1 year.

(c) A continuing order of combined hospitalization and alternative treatment or hospitalization and assisted outpatient treatment shall not exceed 1 year. The hospitalization portion of a continuing order for combined hospitalization and alternative treatment or hospitalization and assisted outpatient treatment shall not exceed

90 days.

(4) Upon the receipt of a petition under section 473 before the expiration of a continuing order of involuntary mental health treatment, including a continuing order issued under section 485a or a 1-year order of hospitalization issued under former section 472, and a finding that the individual continues to be a person requiring treatment, the court shall issue another continuing order for involuntary mental health treatment as provided in subsection (3) for a period not to exceed 1 year. The court shall continue to issue consecutive 1-year continuing orders for involuntary mental health treatment under this section until a continuing order expires without a petition having been filed under section 473 or the court finds that the individual is not a person requiring treatment.

(5) If a petition for an order of involuntary mental health treatment is not brought under section 473 at least 14 days before the expiration of an order of involuntary mental health treatment as described in subsections (2) to (4), a person who believes that an individual continues to be a person requiring treatment may file a petition under section 434 for an initial order of involuntary mental health treatment as described in subsection (1).

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2004, Act 498, Eff. Mar. 30, 2005;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1473 Petition for second or continuing order of involuntary mental health treatment; contents; clinical certificate.

Sec. 473. Not less than 14 days before the expiration of an initial, second, or continuing order of involuntary mental health treatment issued under section 472a or section 485a, a hospital director or an agency or mental health professional supervising an individual's alternative treatment or assisted outpatient treatment shall file a petition for a second or continuing order of involuntary mental health treatment if the hospital director or supervisor believes the individual continues to be a person requiring treatment and that the individual is likely to refuse treatment on a voluntary basis when the order expires. The petition shall contain a statement setting forth the reasons for the hospital director's or supervisor's or their joint determination that the individual continues to be a person requiring treatment, a statement describing the treatment program provided to the individual, the results of that course of treatment, and a clinical estimate as to the time further treatment will be required. The petition shall be accompanied by a clinical certificate executed by a psychiatrist.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2004, Act 498, Eff. Mar. 30, 2005.

***** 330.1474 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1474.amended *****

330.1474 Release of individual from hospital to alternative treatment program; decision; notice; appeal; court petition; information to be considered by court.

Sec. 474. (1) If an individual is subject to a combined order of hospitalization and alternative treatment, the decision to release the individual from the hospital to the alternative treatment program shall be a clinical decision made by a psychiatrist designated by the hospital director in consultation with the director of the alternative program. If the hospital is operated by or under contract with the department or a community mental health services program and private payment arrangements have not been made, the decision shall be made in consultation with the treatment team designated by the executive director of the community mental health services program. Notice of the return of the individual to the alternative treatment program shall be provided to the court with a statement from a psychiatrist explaining the belief that the individual is clinically appropriate for alternative treatment. At least 5 days before releasing an individual from the hospital to the alternative treatment program, the hospital director shall notify the agency or mental health professional that is responsible to supervise the individual's alternative treatment program that the individual is about to be released. The hospital shall share relevant information about the individual with the supervising agency or professional for the purpose of providing continuity of treatment.

(2) If there is a disagreement between the hospital and the executive director regarding the decision to release the individual to the alternative treatment program, either party may appeal in writing to the department director within 24 hours of the decision. The department director shall designate the psychiatrist responsible for clinical affairs in the department, or his or her designee, who shall also be a psychiatrist, to consider the appropriateness of the release and make a decision within 48 hours after receipt of the written appeal. Either party may appeal the decision of the department to the court in writing within 24 hours, excluding Sundays and holidays, after the department's decision.

(3) If private arrangements have been made for the reimbursement of mental health treatment services in an alternative setting and there is a disagreement between the hospital and the director of the alternative treatment program regarding the decision to release the individual, either party may petition the court for a determination of whether the individual should be released from the hospital to the alternative treatment program.

(4) The court shall make a decision within 48 hours, excluding Sundays and holidays, after receipt of a written appeal under subsection (2) or a petition under subsection (3). The court shall consider information provided by both parties and may appoint a psychiatrist to provide an independent clinical examination.

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

***** 330.1474.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1474.amended Release of individual from hospital to alternative treatment program or assisted outpatient treatment; decision; notice; appeal; court petition; information to be considered by court.

Sec. 474. (1) If an individual is subject to a combined order of hospitalization and either alternative treatment or assisted outpatient treatment, the decision to release the individual from the hospital to the alternative treatment program or assisted outpatient treatment program shall be a clinical decision made by a psychiatrist designated by the hospital director in consultation with the director of the alternative treatment program or the assisted outpatient treatment program. If the hospital is operated by or under contract with the department or a community mental health services program and private payment arrangements have not been made, the decision shall be made in consultation with the treatment team designated by the executive director of the community mental health services program. Notice of the return of the individual to the alternative treatment program or to the assisted outpatient treatment program shall be provided to the court with a statement from a psychiatrist explaining the belief that the individual is clinically appropriate for alternative treatment or assisted outpatient treatment. At least 5 days before releasing an individual from the hospital to the alternative treatment program or assisted outpatient treatment program, the hospital director shall notify the agency or mental health professional that is responsible to supervise the individual's alternative treatment program or assisted outpatient treatment program that the individual is about to be released. The hospital shall share relevant information about the individual with the supervising agency or professional for the purpose of providing continuity of treatment.

(2) If there is a disagreement between the hospital and the executive director regarding the decision to release the individual to the alternative treatment program or assisted outpatient treatment program, either party may appeal in writing to the department director within 24 hours of the decision. The department director shall designate the psychiatrist responsible for clinical affairs in the department, or his or her designee, who shall also be a psychiatrist, to consider the appropriateness of the release and make a decision within 48 hours after receipt of the written appeal. Either party may appeal the decision of the department to the court in writing within 24 hours after the department's decision.

(3) If private arrangements have been made for the reimbursement of mental health treatment services in an alternative setting and there is a disagreement between the hospital and the director of the alternative treatment program or assisted outpatient treatment program regarding the decision to release the individual, either party may petition the court for a determination of whether the individual should be released from the hospital to the alternative treatment program or assisted outpatient treatment program.

(4) The court shall make a decision within 48 hours after receipt of a written appeal under subsection (2) or a petition under subsection (3). The court shall consider information provided by both parties and may appoint a psychiatrist to provide an independent clinical examination.

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

***** 330.1474a THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1474a.amended *****

330.1474a Order of combined hospitalization and alternative treatment; order of hospitalization; decision; notice to court.

Sec. 474a. During the period of an order of combined hospitalization and alternative treatment, hospitalization may be used as clinically appropriate and when ordered by a psychiatrist, for up to the maximum period for hospitalization specified in the order. Subject to section 475, the decision to hospitalize the individual shall be made by the director of the alternative treatment program, who shall notify the court when the individual is hospitalized. The notice to the court shall include a statement from a psychiatrist

explaining the need for hospitalization.

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

***** 330.1474a.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1474a.amended Order of combined hospitalization and alternative treatment or combined hospitalization and assisted outpatient treatment; order of hospitalization; decision; notice to court.

Sec. 474a. During the period of an order of combined hospitalization and alternative treatment or combined hospitalization and assisted outpatient treatment, hospitalization may be used as clinically appropriate and when ordered by a psychiatrist, for up to the maximum period for hospitalization specified in the order. Subject to section 475, the decision to hospitalize the individual shall be made by the director of the alternative treatment program or assisted outpatient treatment program, who shall notify the court when the individual is hospitalized. The notice to the court shall include a statement from a psychiatrist explaining the need for hospitalization.

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

***** 330.1475 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 14, 2017: See 330.1475.amended *****

330.1475 Noncompliance with court order or determination that alternative treatment not appropriate; permissible actions by court without hearing; notice of noncompliance; actions by court; transport and return to facility or unit; objection to hospitalization.

Sec. 475. (1) During the period of an order for alternative treatment or combined hospitalization and alternative treatment, if the agency or mental health professional who is supervising an individual's alternative treatment program determines that the individual is not complying with the court order or that the alternative treatment has not been or will not be sufficient to prevent harm that the individual may inflict on himself or herself or upon others, then the supervising agency or mental health professional shall notify the court immediately. If the individual believes that the alternative treatment program is not appropriate, the individual may notify the court of that fact.

(2) If it comes to the attention of the court that an individual subject to an order of alternative treatment or combined hospitalization and alternative treatment is not complying with the order, that the alternative treatment has not been or will not be sufficient to prevent harm to the individual or to others, or that the individual believes that the alternative treatment program is not appropriate, the court may do either of the following without a hearing and based upon the record and other available information:

(a) Consider other alternatives to hospitalization and modify the order to direct the individual to undergo another program of alternative treatment for the duration of the order.

(b) Modify the order to direct the individual to undergo hospitalization or combined hospitalization and alternative treatment. The duration of the hospitalization, including the number of days the individual has already been hospitalized if the order being modified is a combined order, shall not exceed 60 days for an initial order or 90 days for a second or continuing order. The modified order may provide that if the individual refuses to comply with the psychiatrist's order to return to the hospital, a peace officer shall take the individual into protective custody and transport the individual to the hospital selected.

(3) During the period of an order for assisted outpatient treatment, if the agency or mental health professional who is supervising an individual's assisted outpatient treatment determines that the individual is not complying with the court order, the supervising agency or mental health professional shall notify the court immediately.

(4) If it comes to the attention of the court that an individual subject to an order of assisted outpatient treatment is not complying with the order, the court may require 1 or more of the following, without a hearing:

(a) That the individual be taken to the preadmission screening unit established by the community mental health services program serving the community in which the individual resides.

(b) That the individual be hospitalized for a period of not more than 10 days.

(c) Upon recommendation by the community mental health services program serving the community in which the individual resides, that the individual be hospitalized for a period of more than 10 days, but not longer than the duration of the order for assisted outpatient treatment or not longer than 90 days, whichever is less.

(5) The court may direct peace officers to transport the individual to a designated facility or a preadmission

screening unit, as applicable, and the court may specify conditions under which the individual may return to assisted outpatient treatment before the order expires.

(6) An individual hospitalized without a hearing as provided in subsection (4) may object to the hospitalization according to the provisions of section 475a.

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2004, Act 498, Eff. Mar. 30, 2005.

***** 330.1475.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 14, 2017 *****

330.1475.amended Noncompliance with court order or determination that alternative treatment not appropriate; permissible actions by court without hearing; notice of noncompliance; actions by court; transport and return to facility or unit; objection to hospitalization.

Sec. 475. (1) During the period of an order for alternative treatment or combined hospitalization and alternative treatment, if the agency or mental health professional who is supervising an individual's alternative treatment program determines that the individual is not complying with the court order or that the alternative treatment has not been or will not be sufficient to prevent harm that the individual may inflict on himself or herself or upon others, then the supervising agency or mental health professional shall notify the court immediately. If the individual believes that the alternative treatment program is not appropriate, the individual may notify the court of that fact.

(2) If it comes to the attention of the court that an individual subject to an order of alternative treatment or combined hospitalization and alternative treatment is not complying with the order, that the alternative treatment has not been or will not be sufficient to prevent harm to the individual or to others, or that the individual believes that the alternative treatment program is not appropriate, the court may do either of the following without a hearing and based upon the record and other available information:

(a) Consider other alternatives to hospitalization and modify the order to direct the individual to undergo another program of alternative treatment for the duration of the order.

(b) Modify the order to direct the individual to undergo hospitalization or combined hospitalization and alternative treatment. The duration of the hospitalization, including the number of days the individual has already been hospitalized if the order being modified is a combined order, shall not exceed 60 days for an initial order or 90 days for a second or continuing order. The modified order may provide that if the individual refuses to comply with the psychiatrist's order to return to the hospital, a peace officer shall take the individual into protective custody and transport the individual to the hospital selected.

(3) During the period of an order for assisted outpatient treatment or a combination of hospitalization and assisted outpatient treatment, if the agency or mental health professional who is supervising an individual's assisted outpatient treatment determines that the individual is not complying with the court order, the supervising agency or mental health professional shall notify the court immediately.

(4) If it comes to the attention of the court that an individual subject to an order of assisted outpatient treatment or a combination of hospitalization and assisted outpatient treatment is not complying with the order, the court may require 1 or more of the following, without a hearing:

(a) That the individual be taken to the preadmission screening unit established by the community mental health services program serving the community in which the individual resides.

(b) That the individual be hospitalized for a period of not more than 10 days.

(c) Upon recommendation by the community mental health services program serving the community in which the individual resides, that the individual be hospitalized for a period of more than 10 days, but not longer than the duration of the order for assisted outpatient treatment or a combination of hospitalization and assisted outpatient treatment, or not longer than 90 days, whichever is less.

(5) The court may direct peace officers to transport the individual to a designated facility or a preadmission screening unit, as applicable, and the court may specify conditions under which the individual may return to assisted outpatient treatment before the order expires.

(6) An individual hospitalized without a hearing as provided in subsection (4) may object to the hospitalization according to the provisions of section 475a.

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2004, Act 498, Eff. Mar. 30, 2005;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1475a Hospitalization without hearing; objection.

Sec. 475a. (1) If an individual is hospitalized without a hearing after placement in an alternative treatment program, the individual has a right to object to the hospitalization. Upon transfer of the individual to the hospital, the hospital shall notify the individual of his or her right to object under this section.

(2) Upon receipt of an objection to a hospitalization under section (1), the court shall schedule a hearing for a determination that the individual requires hospitalization.

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

DISCHARGE AND LEAVES

330.1476 Discretionary discharge; mandatory discharge; notice; statements.

Sec. 476. (1) The hospital director may at any time discharge a voluntarily or judicially hospitalized patient whom the hospital director considers clinically suitable for discharge.

(2) The hospital director shall discharge a patient hospitalized by court order when the patient's mental condition is such that he or she no longer meets the criteria of a person requiring treatment.

(3) If a patient discharged under subsection (1) or (2) has been hospitalized by court order, or if court proceedings are pending, the court shall be notified of the discharge by the hospital.

(4) If the court orders a person to be hospitalized under an initial or continuing order for hospitalization subsequent to dismissal of felony charges under section 1044(1)(b), the court shall include both of the following statements in the initial or continuing order unless the time for petitioning to refile charges under section 1044 has elapsed:

(a) A requirement that not less than 30 days before the patient's scheduled release or discharge, the director of the treating facility shall notify the prosecutor's office in the county in which charges against the person were originally brought that the patient's release or discharge is pending.

(b) A requirement that not less than 30 days before the scheduled release or discharge, the patient to be released or discharged undergo a competency examination as described in section 1026. A copy of the written report of the examination along with the notice required in subdivision (a) shall be submitted to the prosecutor's office in the county in which the charges against the patient were originally brought. The written report is admissible as provided in section 1030(3).

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1998, Act 382, Imd. Eff. Oct. 23, 1998.

330.1477 Termination of treatment; notice.

Sec. 477. (1) A person responsible for providing treatment to an individual ordered to undergo a program of alternative treatment or a program of combined hospitalization and alternative treatment may terminate the treatment to the individual if the provider of the treatment considers the individual clinically suitable for termination of treatment, and shall terminate the treatment when the individual's mental condition is such that he or she no longer meets the criteria of a person requiring treatment.

(2) Upon termination of alternative treatment or combined hospitalization and alternative treatment, the court shall be notified by the provider of the treatment.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1980, Act 138, Imd. Eff. May 29, 1980;—Am. 1986, Act 117, Eff. Mar. 31, 1987.

330.1478 Treatment on voluntary basis; aid in obtaining other treatment.

Sec. 478. If, upon the discharge of a patient hospitalized by court order or the termination of alternative treatment to an individual receiving alternative treatment pursuant to this chapter, it is determined that the individual would benefit from the receipt of further treatment, the hospital or provider of alternative treatment shall offer him appropriate treatment on a voluntary basis, or shall aid him to obtain treatment from another source.

History: 1974, Act 258, Eff. Nov. 6, 1974.

330.1479 Leaves or absence from hospital; rules; procedures; mandatory discharge; notice.

Sec. 479. All leaves or absences from a hospital, other than release or discharge, and all revocations of leaves and absences under section 408, shall be governed in accordance with rules or procedures established by the department or the hospital; except that a hospital director shall discharge any patient who has been hospitalized subject to an order of continuing hospitalization and who has been on an authorized leave or absence from the hospital for a continuous period of 1 year. Upon such discharge, the hospital director shall notify the court.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

Administrative rules: R 330.1001 et seq. of the Michigan Administrative Code.

PERIODIC REVIEW

330.1482 Review of status; frequency; assignment of physician or psychologist.

Sec. 482. Each individual subject to a 1-year order of involuntary mental health treatment has the right to

adequate and prompt review of his or her current status as a person requiring treatment. Six months from the date of a 1-year order of involuntary mental health treatment, the executive director of the community mental health services program responsible for treatment or, if private arrangements for the reimbursement of mental health treatment services have been made, the hospital director or director of the alternative treatment program shall assign a physician or licensed psychologist to review the individual's clinical status as a person requiring treatment.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1986, Act 117, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

330.1483 Review of status; disposition and notice of results; complaint.

Sec. 483. (1) The results of each periodic review shall be made part of the individual's record, and shall be filed within 5 days of the review in the form of a written report with the court that last ordered the individual's treatment, and within those 5 days, the executive director or director of the hospital or treatment program with which private reimbursement arrangements have been made shall give notice of the results of the review and information on the individual's right to petition for discharge to the individual, the individual's attorney, the individual's guardian, and the individual's nearest relative or a person designated by the individual.

(2) An individual under a 1-year order of involuntary mental health treatment or a person designated by the individual may submit a complaint to the provider of services at any time regarding the quality and appropriateness of the treatment provided. A copy of each complaint and the provider's response to each complaint shall be submitted to the executive director or director of the private program and the court along with the written report required by subsection (1).

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1986, Act 117, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

330.1484 Review of status; report; objections; hearing; petition for discharge.

Sec. 484. If the report required under section 483 concludes that the individual requires continuing involuntary mental health treatment and the individual or the executive director objects to the conclusions, the individual or the executive director has the right to a hearing and may petition the court for discharge of the individual from the treatment program. This petition shall be presented to the court within 7 days, excluding Sundays and holidays, after the report is received.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1986, Act 117, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1485 Repealed. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

Compiler's note: The repealed section pertained to annual hearing and petition for discharge.

330.1485a Individual no longer requiring treatment; individual continuing to require treatment; finding; order.

Sec. 485a. (1) Upon a hearing under section 484, if the court finds that an individual under an order of involuntary mental health treatment is no longer a person requiring treatment, the court shall enter a finding to that effect and shall order that the individual be discharged.

(2) Upon a hearing under section 484, if the court finds that an individual under a 1-year order of involuntary mental health treatment continues to be a person requiring treatment, and after consideration of complaints submitted under section 483(2), the court shall do 1 of the following:

(a) Continue the order.

(b) Issue a new continuing order for involuntary mental health treatment under section 472a(3) or (4).

History: Add. 1980, Act 138, Imd. Eff. May 29, 1980;—Am. 1986, Act 117, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

330.1486 Writ of habeas corpus.

Sec. 486. Nothing in this chapter shall prevent the filing or deprive any individual of the benefits of a writ of habeas corpus.

History: 1974, Act 258, Eff. Nov. 6, 1974.

LEGAL COMPETENCE

330.1489 Legal competence; presumption; effect of prior commitment.

Sec. 489. (1) No determination that a person requires treatment, no order of court authorizing hospitalization or alternative treatment, nor any form of admission to a hospital shall give rise to a presumption of, constitute a finding of, or operate as an adjudication of legal incompetence.

(2) No order of commitment under any previous statute of this state shall, in the absence of a concomitant appointment of a guardian, constitute a finding of or operate as an adjudication of legal incompetence.

History: 1974, Act 258, Eff. Nov. 6, 1974.

330.1490 Persons entitled to copies of MCL 330.1489.

Sec. 490. Individuals receiving involuntary mental health treatment under this chapter shall receive a copy of section 489 upon the commencement of involuntary mental health treatment. An individual discharged from a hospital shall receive a copy of section 489 upon request.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1491-330.1497 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed sections pertained to legal competency.

AOT Legislative Outline

100a(29)(c):

The definition of “emergency situation” has been revised to state “[t]he individual has mental illness that has impaired his or her judgment so that the individual is unable to understand his or her need for treatment, and that impaired judgment, on the basis of competent clinical opinion, presents a substantial risk of significant harm to the individual or others in the near future.”

202(2):

CMH must determine an individual’s eligibility for a private health insurer, Medicaid, or Medicare and must bill them first before expending money from the state general fund to provide treatment and services to the individual.

400b:

Clarifies that time frames as listed in code excludes Sundays and legal holidays.

401(a):

An individual with mental illness + due to the mental illness can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure himself, herself, or another + has engaged in an act(s) or has made significant threats that are substantially supportive of the expectation.

401(b):

An individual with mental illness + due to the mental illness is unable to attend to his/her basic physical needs (food, clothing, or shelter) in order to avoid serious harm in the near future + has demonstrated that inability by failing to attend to those basic needs.

Modified 401(c):

An individual with mental illness + judgment is so impaired that is unable to understand need for treatment and based on that impaired judgment presents a substantial risk of significant physical or mental harm to self or presents a substantial risk of physical harm to others in the near future based on competent clinical opinion.

Modified 401(d):

An individual with mental illness, whose understanding of need for treatment is impaired to the point that (s)he is unlikely to participate in and/or adhere to receiving treatment voluntarily + determined to be necessary to prevent a relapse/harmful deterioration of condition + noncompliance with treatment has been a factor in the individual’s placement at least twice within the last 48 months OR noncompliance with treatment has been a factor in the individual committing one or more acts, attempts, or threats of serious violent behavior within the last 48 months. (Note – only applies to AOT.)

Forms (404):

The department of community health will create forms to be used by all hospitals. The SCAO will create forms to be used in all court proceedings.

Petition Requirements (434):

Who May File? Any individual age 18 or over.

Content Requirements:

- Facts as basis for assertion
- Names and addresses (if known)
- Witnesses to the facts
- Name and addresses of nearest relative or guardian (if known) OR if none, a friend of the individual (if known)

Petitioner may assert the subject of the petition should receive AOT.

Clinical certificate not required if only AOT since the person is not hospitalized prior to the hearing.

Note: If a petition is filed as the result of an act or omission amounting to gross negligence or willful and wanton misconduct, a cause of action may be initiated (439). If the petition is filed in good faith, then there is no cause of action.

Prescreening Unit (409 and 410) – only applies to 401(a), (b), or (c):

A preadmission screening unit must assess an individual being considered for admission into a hospital. If the individual is assessed and found not to be suitable for hospitalization, the preadmission screening unit must provide information regarding alternative services and the availability of those services, and make the appropriate referrals.

A preadmission screening unit must assess and examine, or refer to a hospital for examination, an individual who is brought to the unit by a peace officer ordered by a court to be examined. The preadmission screening unit must designate the hospital to which the individual must be admitted if the individual meets the requirements for hospitalization. The unit must consult with the individual as to the preferred hospital for admission of the individual (409).

An individual may be considered for admission to a hospital only after authorization by a community mental health services preadmission screening unit (410).

Order for Evaluation and Transportation to Hospital (436 through 438):

If it appears that the subject of the petition will not comply with an order of examination, the court may order a peace officer to take the individual into protective custody and transport him/her to a preadmission screening unit or hospital for the ordered examination (436).

If it appears that the individual requires immediate involuntary mental health treatment, it may order the individual be hospitalized to prevent harm to self or others. This transport may be done by a peace officer if ordered by the court. The examination must be completed within 24 hours after hospitalization or the individual must be released (438). If the court does not see an immediate need for hospitalization, the individual may remain in home pending the examination (437).

Hospitalization (447, 449):

Once an individual is hospitalized for examination (also applies to a case of a combination of hospitalization and AOT), the individual must be allowed to complete a reasonable number of telephone calls (at minimum 2) to persons of his/her choice and at least 2 calls must be at the expense of the hospital if the individual has insufficient funds.

Within 12 hours of hospitalization, the hospital director must ensure that the individual receives the following:

- A copy of the petition explaining that the individual will be examined by a psychiatrist within 24 hours.
- A written statement explaining that the individual will be examined by a psychiatrist within 24 hours.
- A written statement in simple terms explaining the rights of the individual to a full court hearing, representation by legal counsel, to a jury trial, and to an independent clinical evaluation.

If the individual is unable to read or understand the written materials, every effort must be made to explain them to him/her in a language that he/she understands. The explanation and by whom must be noted in the patient record.

The hospital director must ensure that the individual receives a copy of each clinical certificate executed in connection with the individual's hospitalization within 24 hours of completion/receipt of the certificate (also applies to a case of a combination of hospitalization and AOT).

Court Hearing Notice (453):

- Notice must be given at the earliest practicable time and sufficiently in advance of the hearing date to prepare for the hearing.
- Within 4 days of the court's receipt of an initial petition and clinical certificate, the court must have the subject of the petition be provided a copy of the petition, a copy of the clinical certificate, notice of rights to a full court hearing, to be present in the hearing, to be represented by legal counsel, to demand a jury trial, and to an independent clinical evaluation.
 - The notice provision does not apply if only AOT is requested as a clinical certificate is not required.

Notice must be provided to the following:

- Subject of the petition

- Subject of the petition's attorney
- Petitioner
- Prosecuting attorney or other attorney pursuant to section 457 (retained by petitioner)
- Hospital director of any hospital where the subject has been hospitalized
- Spouse of the subject (if whereabouts known)
- Guardian of subject (if any)
- Other relatives or persons as the court determines

Right to Participate (455):

- Right to be present at all hearings unless waived
- Subject of petition may stipulate to the entry of any order for treatment (including AOT) following consultation with legal counsel.

Right to Legal Counsel (454):

- Every individual that is the subject of a petition is entitled to be represented by legal counsel.
- Absent an appearance filed, the court must appoint legal counsel within 48 hours following receipt of the petition.
 - If hospitalized, the court must appoint legal counsel within 24 hours.
- May waive right to legal counsel in writing to the court following consultation with the appointed attorney.
- If the subject of the petition prefers another counsel, preferred counsel agrees to the appointment, and the court is notified of the preference by the subject of the petition, the court must replace the initial appointed attorney with the preferred one.
- If the subject of the petition is indigent, the court must compensate legal counsel.
- Legal counsel must consult with the subject of the petition in person at least 24 hours before the hearing.
 - If hospitalized, legal counsel must consult not more than 72 hours following the filing of the petition.

Participation of a Prosecuting Attorney (457):

- The prosecuting attorney from the county or the prosecuting attorney from another county with the permission of the county prosecuting attorney must participate in all hearings convened by the court.
- The prosecuting attorney is not required to participate when the petitioner or some other appropriate person has retained private counsel who will be present in court and will present the case for requiring treatment or for a finding of incompetence.

Right to a Jury, Evidence, Adjournments, and Copies of Orders (458-460, 462, 464):

- Subject of a petition may demand a jury trial consisting of six jurors (458).
- 459:

- The parties have the right to present documents and witnesses and to cross-examine witnesses.
- The court must receive all relevant, competent, and material evidence which may be offered. The rules of evidence apply except when exceptions have been provided by court rule and statutes.
- The subject of the petition's attorney must have adequate time to prepare and present necessary evidence at the hearing (460).
- Granting of requests for continuances for a reasonable time for good cause. Failure to notify a spouse, guardian, relative, or other person determined by the court must not be the reason to adjourn or continue a hearing unless the subject of the petition or his or her attorney objects (462).
- Copies of court orders must be given to the subject of the order, the individual's guardian (if any), the individual's attorney, the executive director of the CMH program, and the hospital director of any hospital in which the individual is or will be a patient (464).
- Upon entry of an order, the court must immediately order the department of state police to enter the court order into LEIN. The order must be immediately removed only upon receipt of a subsequent court order for that removal (464a).
 - Entry into LEIN is not required under current law for AOT only orders.

Court Hearings:

Court hearings are governed by sections 452 through 465. AOT only petitions are not governed by sections 453(2) 453a, and 455(3)-(11).

- Fix a date for every hearing.
- A hearing must be convened promptly but no more than 7 days from receipt of the following:
 - A petition for hospitalization.
 - A petition for determination that an individual is a person requiring treatment.
 - A petition for determination that an individual continues to be a person requiring treatment.
 - A petition for discharge under section 484.
 - A petition for discharge under section 485.
 - A demand/notification that a hearing has been temporarily deferred under section 455(2) or (5).
 - AOT cannot be deferred.
- A hearing must be set for petition under 434(6) [AOT only petition and individual not patient in a psychiatric facility] within 28 days for AOT only petition.

Disposition (461, 465, and 468):

An individual may not be found to require treatment unless at least 1 physician or licensed psychologist who has personally examined the individual testifies in person or by written deposition at the hearing (461). This testimony or deposition may be waived by the subject of the petition.

Requires the court find that a person requiring treatment must be made by clear and convincing evidence (465).

For any petition filed under 434, if the court finds that an individual is not a person requiring treatment, the court must enter an order to that effect. If the individual is hospitalized, the individual must be discharged immediately (468).

For petition filed under 434, if the individual is found to be a person requiring treatment, the court must do 1 of the following:

- Order individual hospitalized as recommended by CMH or other entity.
- Order individual hospitalized in a private or VA hospital at the request of the individual or family if private or family funds are to be used.
- Order individual to undergo program of treatment that is alternative to hospitalization as recommended by CMH or other entity.
- Order individual to undergo combined hospitalization and ATO or AOT as recommended.
- Order individual to undergo AOT through CMH program or other entity.
 - In developing an AOT order, the court must consider preferences and medication experiences reported by the subject of the petition or the subject's representative, and any directions in a durable POA or a current advance directive. An advance directive must be established with the assistance of CMH prior to the expiration of the AOT order if one does not exist and if the individual wants one.
 - If an AOT order conflicts with the existing advance directive, durable POA, or individual plan of services under section 712, the AOT order must be reviewed for possible adjustment by a psychiatrist not previously involved with developing the AOT order. The court must state the court's findings on the record or in writing if the court takes the matter under advisement, including the reason for the conflict.

Orders (468, 469a, 470):

The court may order that the subject receive AOT through CMH or another entity, which may include case management services and may include 1 or more of the following:

- Medication
- Blood/urinalysis tests to determine compliance with or effectiveness of prescribed medications
- Individual/Group Therapy
- Day/partial day programs
- Educational and Vocational Training
- Supervised living
- Assertive communication treatment team services
- Alcohol/substance use disorder treatment, or both
- Alcohol/substance use disorder testing, or both, for individuals with history and testing necessary to prevent deterioration of condition
 - Court order subject to review every 6 months

- Any other services prescribed to treat the mental illness and to assist in living and functioning in the community OR to help prevent relapse or deterioration that may reasonably be predicted to result in suicide or need for hospitalization

If the court orders AOT as the alternative to hospitalization, the order must be consistent with the provisions of sections 434(5) and 468(2)(e).

Before ordering a course of treatment, the court must review a report on alternatives to hospitalization not more than 15 days before the court issues the order except for AOT only petitions (469a). Following review of the report, the court must do all of the following:

- Determine whether the treatment program is adequate to meet the individual's treatment needs and is sufficient enough to prevent harm that the individual may inflict upon self or others within the near future.
- Determine whether there is an available agency or mental health professional available to supervise the treatment program.
- Inquire as to the individual's desires regarding alternatives to hospitalization.

If the court finds there is a treatment program alternate to hospitalization that would meet the individual's needs and there is no harm to self or others, the court must order the alternate treatment or a combination of hospitalization and the alternate treatment.

If the court orders AOT as the alternative to hospitalization, the order must be consistent with the provisions set forth in section 468(2)(e).

Prior to ordering hospitalization of an individual, the court must inquire into the adequacy of the treatment (470).

Duration and Continuing Orders (472a):

- An initial order of AOT must not exceed 180 days.
- An initial order of combined hospitalization and AOT must not exceed 180 days. The hospitalization portion of the initial order must not exceed 60 days.
- A second order of AOT must not exceed 1 year.
- A second order of combined hospitalization and AOT must not exceed 1 year. The hospitalization portion of the second order must not exceed 90 days.
- A continuing order for AOT must not exceed 1 year.
- A continuing order of combined hospitalization and AOT must not exceed 1 year. The hospitalization portion of the continuing order must not exceed 90 days.
- The court must continue to issue consecutive 1 year continuing orders until a continuing order expires without a petition having been filed.

Responsibilities of hospital/CMH following court Order:

Section 473: A hospital director or an agency or mental health professional supervising an individual's AOT shall file a petition for a second or continuing order if he/she/it believes the individual continues to be a person requiring treatment and that the individual is likely to refuse treatment on a voluntary basis when the order expires.

Section 475: If the individual who is subject to an AOT order is found to be not complying with the court order, the supervising agency or mental health professional must notify the court immediately. If the court is notified of the noncompliance, the court may require 1 or more of the following without a hearing:

- Individual be taken to the preadmission screening unit established by the CMH program where the individual resides.
- The individual be hospitalized for no more than 10 days.
- Upon recommendation by the CMH program where the individual resides, the individual be hospitalized for a period of more than 10 days, but not longer than the duration of the order for AOT or not longer than 90 days, whichever is less.

The court may direct peace officers to transport the individual to a designated facility or a preadmission screening unit and may specify the conditions under which the individual may return to the AOT before the order expires.

An individual hospitalized may object to the hospitalization according to provisions of section 475a.

4 Key Highlights to the Revised MHC

4 Key Highlights of the Revised Mental Health Code

1. Focuses on Capacity and not Conduct
 - a. Traditional Standard: immediate risk of harm to self or others (suicide and violence)
 - b. Expanded Standard: broadened to include “substantial risk of harm due to impaired judgment”
 - c. Changed criteria to impaired judgment for need of treatment (401(c))
 - i. Adds mental harm to self
2. No longer requires existing noncompliance (401(d))
3. Clarifies that AOT may be ordered under 401(a), (b), (c), or (d)
 - a. May be used as a discharge tool
 - b. Hospitalization not required
4. One petition process

AOT Flowchart

Petition filed (2 clinical certs required except AOT only requests)

Court hearing date within 7 days; 28 days if AOT only requested + no hospitalization

Provide notice at earliest practicable time. Provide petition, clinical certs, and rights notice to subject within 4 days of receipt

Appoint counsel within 48 hours

Order report assessing current availability and appropriateness for individual of alternatives to hospitalization (PCM 216)

Hold deferral conference if requested and hospitalized

Stipulation must be received once agreement reached

Hearing convened as court directs [Prosecuting attorney (or private retained attorney) must be present at all hearings.]

Trial: Bench or Jury (6 persons)
Court must receive all relevant, competent, and material evidence offered.

If petition alleges 401(a), (b), and/or (c), and (d):

- Clinical cert: physician/psychologist
- Clinical cert: psychiatrist
- Testimony by only one physician

If petition alleges only 401(d)-AOT only and person not hospitalized:

- Testimony/written deposition: physician/psychologist
- Clinical cert: psychiatrist
- OR
- Testimony/written deposition: physician/psychologist
- Testimony/written deposition: psychiatrist

Judge/Jury must find individual requires treatment by clear and convincing evidence

Findings:

- Individual does not require treatment
- Individual requires treatment pursuant to 401(a), 401(b), 401(c), or 401(d).

Orders:

- No treatment required: dismiss petition + immediately release from hospital (if applicable).
- Treatment required, court order 1 of the following:
 - Hospitalization
 - Hospitalization in private/VA hospital as requested
 - ATO program
 - Combination of hospitalization and ATO or hospitalization and AOT
 - AOT program: may include case management services and 1 or more:
 - Medication (consider preference)
 - Blood/urinalysis tests
 - Individual/group therapy, or both
 - Day/partial day programs
 - Educational/vocational training
 - Supervised living
 - Assisted community treatment team services
 - Substance use disorder treatment
 - Substance use disorder testing with history of alcohol/substance use
 - Any other services prescribed

With the exception of AOT only, if ordered for involuntary treatment, order must be sent to LEIN (may only be removed by subsequent order).

<p>Initial duration:</p> <ul style="list-style-type: none"> • Hospital: 60 days • ATO: 90 days • Hospital (60 days) + ATO: 90 days • AOT: 180 days • Hospital (60 days) + AOT: 180 days 	<p>Second duration:</p> <ul style="list-style-type: none"> • Hospital: 90 days • ATO or AOT: 1 year <p>Continuing duration:</p> <ul style="list-style-type: none"> • Hospital: 1 year • ATO/AOT: 1 year • Hospital (90 days) + AOT/ATO: 1 year
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Noncompliance:

- Show cause individual (transport order available)
- Show cause agency

AOT Comprehensive Flowchart

COURT PROCESS: PROBATE MI FILINGS

Court may order peace officer to take individual into protective custody and transport to preadmission screening unit or hospital for ordered examination if found that subject of petition will not comply with an order of examination (409 and 410 only applies to 401(a), (b), or (c)). (436-438)

Filing with the court (434):

- Petition for Treatment (PCM 201)
- 2 Clinical Certificates (PCM 208) - must be completed within 24 hours. Exception: AOT only requests do not require 2 clinical certificates.
 - 1 from physician/psychologist
 - 1 from psychiatrist

Court Requirements:

- +Hearing Scheduling (452):
 - If hospitalized, court must schedule hearing within 7 days.
 - If not hospitalized and requesting AOT only (401(d)), court must schedule hearing within 28 days (if hospitalized, schedule within 7 days).
- +Attorney Appointments (454)
- +Receive PCM 216 CMH completion (453a)
- +Deferral conference (non-AOT only) (455)

Court Hearing Notice (453):

- Notice to be provided ASAP
 - Subject of petition must be provided initial petition and clinical certificates (if applicable) within 4 days of receipt.
- Notice must be provided to:
- Subject of petition and his/her attorney
 - Petitioner
 - Prosecuting attorney/private retained attorney (457)
 - Hospital director where subject hospitalized
 - Spouse of the subject (if applicable)
 - Guardian of subject (if applicable)
 - Other relatives/persons as the court determines

Rights of Subject (455):

- Right to participate
- Right to legal counsel
- Right to stipulate to entry of order
- Right to jury
- Prepare and present evidence
- Right to a continuance for a reasonable time for good cause
- Copies of court orders to statutorily required individuals

Court Hearings governed by sections 452-465 (AOT (and not hospitalized) only petitions are not governed by sections 453(2), 453a, and 455(3)-(11)):

+Fix a date for every hearing

+Deferral allowed if hospitalized

+Testimony (461):

- Request hospitalization and/or AOT/ATO: Requires testimony from one physician.
- Request AOT only: Requires physician/psychologist testimony/deposition + a clinical certificate from a psychiatrist OR testimony/deposition from a psychiatrist and a physician/psychologist.

Court must find one of the following to require treatment:

- 401(a): An individual with mental illness + due to the mental illness can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure himself, herself, or another + has engaged in an act(s) or has made significant threats that are substantially supportive of the expectation.
- 401(b): An individual with mental illness + due to the mental illness is unable to attend to his/her basic physical needs (food, clothing, or shelter) in order to avoid serious harm in the near future + has demonstrated that inability by failing to attend to those basic needs.
- 401(c): An individual with mental illness + judgment is so impaired that is unable to understand need for treatment and based on that impaired judgment presents a substantial risk of significant physical or **mental harm** to self or presents a substantial risk of physical harm to others in the near future based on competent clinical opinion.
- 401(d): An individual with mental illness, whose understanding of need for treatment is impaired to the point that (s)he is unlikely to participate in and/or adhere to receiving treatment voluntarily + determined to be necessary to prevent a relapse/harmful deterioration of condition + noncompliance with treatment has been a factor in the individual's placement at least twice within the last 48 months OR noncompliance with treatment has been a factor in the individual committing one or more acts, attempts, or threats of serious violent behavior within the last 48 months. (Note – only applies to AOT.)

Orders (469a):

- Hospitalization
- ATO order
- AOT order (may consider 1 or more of the following):
 - Case management services
 - Medication
 - Blood/urinalysis tests to determine compliance with or effectiveness of prescribed medications
 - Individual/Group therapy
 - Day/partial day programs
 - Educational and vocational training
 - Supervised living
 - Assisted community treatment team services
 - Alcohol/substance use disorder treatment, or both
 - Alcohol/substance use disorder testing, or both, for individuals with history and testing necessary to prevent deterioration of condition
 - Subject to review by the court every 6 months
 - Any other services prescribed to treat the mental illness and to assist in living and functioning in the community OR to help prevent relapse or deterioration that may reasonably be predicted to result in suicide or need for hospitalization.

Note: LEIN requirement: Enter order into LEIN (except for AOT only) (464a)

Duration and Continuing Orders (472a):

- An initial order of AOT must not exceed 180 days.
- An initial order of combined hospitalization and AOT must not exceed 180 days. The hospitalization portion of the initial order must not exceed 60 days.
- A second order of AOT must not exceed 1 year.
- A second order of combined hospitalization and AOT must not exceed 1 year. The hospitalization portion of the second order must not exceed 90 days.
- A continuing order for AOT must not exceed 1 year.
- A continuing order of combined hospitalization and AOT must not exceed 1 year. The hospitalization portion of the continuing order must not exceed 90 days.
- The court must continue to issue consecutive 1 year continuing orders until a continuing order expires without a petition having been filed.

Noncompliance (475):

- If individual not in compliance with court order, the supervising agency/mental health professional must notify the court immediately. Once notified, the court may require 1 or more of the following without a hearing:
 - Individual be taken to preadmission screening unit
 - Individual hospitalized for no more than 10 days
 - Individual hospitalized for 10 days but no longer than AOT duration, whichever is less.
- Individual may also report noncompliance of agency to the court.

Dispositions (468):

- An individual may not be found to require treatment unless at least 1 physician/psychologist who has personally examined the individual testifies in person/by written deposition at the hearing.
 - Testimony/deposition may be waived by the subject of petition.
- Clear and convincing evidence must be found.
- If found that individual does not require treatment, court must enter order and if individual is hospitalized, individual must be discharged immediately.
- If found that individual requires treatment, court must do 1 or more of the following:
 - Order hospitalization per CMH/other entity recommendation.
 - Order hospitalization in private/VA hospital.
 - Order to undergo program of treatment that is alternative to hospitalization per CMH/other entity recommendation.
 - Order to undergo combined hospitalization and ATO/AOT as recommended.
 - Order to undergo AOT through CMH program/other entity.
 - Must consider preferences, medication experiences, existing IPOS, and any advance directive. CMH was assist in creating one prior to expiration of AOT order.
 - If AOT order conflicts with existing advance directive or existing IPOS, AOT order must be reviewed for possible adjustment by psychiatrist not previously involved with developing AOT order. The court must state the court's findings on the record or in writing if the court takes the matter under advisement, including the reason for the conflict.

Before issuing orders, the court must (461, 465, and 468):

- Review a report on alternatives to hospitalization not more than 15 days before the court issues the order (exception: AOT only petitions).
- Following review of the report, the court must do all of the following:
 - Determine whether the treatment program is adequate to meet the individual's treatment needs and is sufficient enough to prevent harm that the individual may inflict upon self or others within the near future.
 - Determine whether there is an available agency/mental health professional available to supervise the treatment program.
 - Inquire as to the individual's desires regarding alternatives to hospitalization.
- If the court finds a treatment program alternate to hospitalization that would meet the individual's needs and there is no harm to self or others, the court must order the alternate treatment or a combination of hospitalization and the alternate treatment.
- If the court orders AOT as the alternative to hospitalization, the order must be consistent with the statutory provisions.
- Prior to ordering hospitalization of an individual, the court must inquire into the adequacy of the treatment.

ATO vs AOT Chart

Differences between AOT and ATO:

	ATO	AOT
Initiation	Starts with inpatient	Starts with community or inpatient
Limits of the Orders	No specific orders (empowerment order for CMH to dictate criteria for individual to follow).	Provides specific options for the court to order (order may be more specific with the individual's elements/components).
Time Frame	90 days (60 days inpatient); 1 year second/continuing	180 days; 1 year second/continuing (more investment)
Status Hearings	None Required. Under 1 year orders, 6 month agency reviews are required.	None Required. Requires review of existing IPOS, advance directives, medication preferences, and possible 2 nd opinion prior to each order. Substance abuse testing orders are subject to court review every 180 days. Under 1 year orders, 6 month agency reviews are required.
Enforcement	Pick up orders available. The court may take action to enforce the order.	Pick up orders available. If a specific court order(s) is provided and therefore both the individual and the agency/entity providing services, the court may take action to enforce the order.

**Sample AOT
Orders
(Not SCAO Approved)**

STATE OF MICHIGAN PROBATE COURT COUNTY OF	SUPPLEMENTAL TO INITIAL ORDER AFTER HEARING ON PETITION FOR MENTAL HEALTH TREATMENT	FILE NO.
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In the matter of _____
 First, middle, and last name

The following assisted outpatient treatment services are ordered (addendum to item 14):

- Case management services. _____
- Medication. _____
- Blood or urinalysis tests to determine compliance with or effectiveness of prescribed medication. _____
- Individual and/or group therapy. _____
- Day or partial day programs. _____
- Educational or vocational training. _____
- Supervised living. _____
- Assisted community treatment team services. _____
- Substance use disorder treatment. _____
- Substance use disorder testing (for individuals with a history of alcohol or substance use and for whom that testing is necessary to assist the court in ordering treatment designed to prevent deterioration). _____
- Substance use testing order shall be reviewed by the court once every 180 days. _____
- Any other services prescribed to treat the individual's mental illness and either to assist the individual in living and functioning in the community or to help prevent a relapse or deterioration that may reasonably be predicted to result in suicide or the need for hospitalization. _____

STATE OF MICHIGAN PROBATE COURT COUNTY OF	SUPPLEMENTAL TO <input type="checkbox"/> SECOND <input type="checkbox"/> CONTINUING ORDER FOR MENTAL HEALTH TREATMENT	FILE NO.
--	--	-----------------

In the matter of _____
 First, middle, and last name

The following assisted outpatient treatment services are ordered (addendum to item 14):

- Case management services. _____
- Medication. _____
- Blood or urinalysis tests to determine compliance with or effectiveness of prescribed medication. _____
- Individual and/or group therapy. _____
- Day or partial day programs. _____
- Educational or vocational training. _____
- Supervised living. _____
- Assisted community treatment team services. _____
- Substance use disorder treatment. _____
- Substance use disorder testing (for individuals with a history of alcohol or substance use and for whom that testing is necessary to assist the court in ordering treatment designed to prevent deterioration). _____
- Substance use testing order shall be reviewed by the court once every 180 days. _____
- Any other services prescribed to treat the individual's mental illness and either to assist the individual in living and functioning in the community or to help prevent a relapse or deterioration that may reasonably be predicted to result in suicide or the need for hospitalization. _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____

Forms Highlighted

STATE OF MICHIGAN PROBATE COURT COUNTY OF	PETITION FOR MENTAL HEALTH TREATMENT	FILE NO.
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In the matter of _____ **XXX-XX-**
First, middle, and last name Last four digits of SSN

Court ORI	Date of Birth	Place of Birth	Race	Sex
-----------	---------------	----------------	------	-----

1. I, _____, an adult _____ petition because
Name (type or print) specify whether a relative, neighbor, peace officer, etc.
 I believe the individual named above needs treatment.

2. The individual was born _____, has a permanent residence in _____
Date

County at _____
Street address City State ZIP

and can presently be found at _____
Facility name or other address

This petition is for a person who was found not guilty by reason of insanity in this county.

3. I believe the individual has mental illness and

a. as a result of **that** mental illness, the individual can **reasonably be** expected within the near future to intentionally or unintentionally seriously physically injure self or others, and has engaged in an act or acts or made significant threats that are substantially supportive of this expectation.

b. **as a result of that mental illness**, the individual is unable to attend to those basic physical needs that must be attended to in order to avoid serious harm in the near future, and has demonstrated that inability by failing to attend to those basic physical needs.

c. the individual's judgment is so impaired **by that mental illness** that s/he is unable to understand **his/her** need for treatment, and **whose impaired judgment, on the basis of competent clinical opinion, presents a substantial risk of significant physical or mental harm to the individual or presents a substantial risk of physical harm to others in the near future.**

d. the individual's understanding of the need for treatment is impaired to the point that s/he is unlikely to voluntarily participate in or to adhere to treatment that has been determined necessary to prevent a relapse or harmful deterioration of his/her condition. The individual's noncompliance with treatment has been a factor in the individual's

i. placement in a psychiatric hospital jail prison at least two times within the last 48 months.
 (Specify the name[s] and location[s] of the hospital, jail, or prison and the date[s] of hospitalization or incarceration.)

AND/OR

ii. committing one or more acts, attempts, or threats of serious violent behavior within the last 48 months.
 (Specify the acts, attempts, or threats of serious violent behavior.)

(SEE SECOND PAGE)

USE NOTE: If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.

Do not write below this line - For court use only

4. The conclusions stated above are based on

a. my personal observation of the person doing the following acts and saying the following things:

b. the following conduct and statements that others have seen or heard and have told me about:

by: _____
Witness name Complete address Telephone no.

5. The persons interested in these proceedings are:

NAME	RELATIONSHIP	ADDRESS	TELEPHONE
	Spouse		
	Guardian*		

*(Specify the county where the guardianship was established and the case number.) _____

6. The individual is is not a veteran.

7. Attached is a clinical certificate by a physician or licensed psychologist taken within the last 72 hours.
 clinical certificate by a psychiatrist taken within the last 72 hours.
 petition/affidavit for examination (form PCM 209a) because an examination could not be secured.

8. I request the court to determine the individual to be a person requiring treatment and

- a. (Check if item 3a, 3b, or 3c is checked.) order appropriate mental health treatment.
 b. (Check if item 3d is checked.) order that the individual participate in assisted outpatient treatment without hospitalization.

9. I request the individual be hospitalized pending a hearing.

I declare under the penalties of perjury that this petition/application has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Signature of attorney _____ Date _____

Name (type or print) _____ Bar no. _____ Signature of petitioner _____

Address _____ Address _____

City, state, zip _____ Telephone no. _____ City, state, zip _____

Home telephone no. _____ Work telephone no. _____

FOR HOSPITAL USE ONLY

This petition for mental health treatment was received by the hospital on _____ at _____ .
Date Time

Signature of hospital representative _____

STATE OF MICHIGAN PROBATE COURT COUNTY OF	CLINICAL CERTIFICATE	FILE NO.
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In the matter of _____
First, middle, and last name

TO THE EXAMINER: The following is a statement that must be read to the individual before proceeding with any questions.

I am authorized by law to examine you for the purpose of advising the court if you have a mental condition which needs treatment and whether such treatment should take place in a hospital or in some other place. I am also here to determine if you should be hospitalized or remain hospitalized before a court hearing is held. I may be required to tell the court what I observe and what you tell me.

1. I am a psychiatrist. licensed psychologist. physician.

2. I certify that on this date I read the above statement to the individual before asking any questions or conducting any examination.

3. I further certify that I, _____, personally examined _____
Name (type or print) Patient
at _____
Name and address where examination took place
on _____ starting at _____ and continuing for _____ minutes.
Date Time

INSTRUCTIONS: Describe in detail the specific actions, statements, demeanor, and appearance of the individual, together with other information which underlie your conclusion. **Indicate the source of any information not personally known or observed.** If this certificate is to accompany a petition for discharge, state why the individual continues to be or is no longer a person requiring treatment or in need of hospitalization.

4. My determination is that the person is
 mentally ill (has a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life).
 not mentally ill.

5. (if applicable) The person has
 convulsive disorder. alcoholism. other drug dependence.
 mental processes weakened by reason of advanced years.
 other (specify): _____

6. My diagnosis is: _____

7. Facts serving as the basis for my determination are: _____

(SEE SECOND PAGE)

Do not write below this line - For court use only

8. Explain in the space below the facts which lead you to believe that future conduct may result in (check applicable box)

a. likelihood of injury to self. Facts:

Therefore, I believe that the examined person, as a result of mental illness, can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure self.

b. likelihood of injury to others. Facts:

Therefore, I believe that the examined person, as a result of mental illness, can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure others.

c. inability to attend to basic physical needs. Facts:

Therefore, I believe that the examined person, as a result of mental illness, is unable to attend to those basic physical needs (such as food, clothing or shelter) that must be attended to in order to avoid serious harm in the near future.

d. inability to understand need for treatment. Facts:

Therefore, I believe that the examined person, as a result of mental illness, is so impaired by that mental illness that s/he is unable to understand the need for treatment, and his/her impaired judgment presents a substantial risk of significant physical or mental harm to himself/herself or presents a substantial risk of physical harm to others in the near future.

9. I conclude the individual is is not a person requiring treatment.

10. (optional) I recommend hospitalization alternative treatment

as follows: _____

I certify that I am a person authorized by law to certify as to the individual's mental condition. I am not related by blood or marriage either to the person about whom this certificate is concerned or to any person who has filed, or whom I know to be planning to file, a petition in this proceeding. I declare under the penalties of perjury that this certificate has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Date

Time of signing

Signature

Print or type name and business telephone no.

STATE OF MICHIGAN
PROBATE COURT
COUNTY OF

SUPPLEMENTAL PETITION TO
APPLICATION FOR HOSPITALIZATION
AND ORDER FOR EXAMINATION

FILE NO.

In the matter of

PETITION

1. I executed the attached Application for Hospitalization (PCM 201). I have been unable to have the individual examined by a physician or licensed psychologist although I have made the following efforts:

- 2. I request the court to order
 - a. the individual to be examined at _____ the preadmission screening unit designated by the community mental health services program.
 - b. a peace officer to take the individual into protective custody and transport him/her to the preadmission screening unit named above for the examination.

I declare under the penalties of perjury that this petition has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Date

Signature of petitioner

Attorney name (type or print) Bar no.

Name (type or print)

Address

Address

City, state, zip Telephone no.

City, state, zip

ORDER

THE COURT FINDS:

- 3. The application is is not reasonable and in full compliance with section 424 of the Mental Health Code.
- 4. A reasonable effort was was not made to secure an examination.
- 5. It is necessary that a peace officer take the individual into protective custody and immediately transport him or her to the designated preadmission screening unit for the examination.
- 6. There does not appear to be probable cause to take action on this petition.

IT IS ORDERED:

- 7. The individual be examined at the designated preadmission screening unit.
- 8. A peace officer shall take the individual into protective custody and immediately transport him or her to the designated preadmission screening unit provided that the individual is presented for examination by _____, which is within 10 days of the date of execution of the application. Date
- 9. The petition is denied.

Date

Judge Bar no.

USE NOTE: If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.

Do not write below this line - For court use only

ORDER FOR EXAMINATION/TRANSPORT

THE COURT FINDS:

- 6. A petition alleging the individual is a person requiring treatment has been filed with the court and
 - a. one clinical certificate accompanies the petition. The individual must be examined by a psychiatrist.
 - b. no clinical certificate accompanies the petition. A reasonable effort was made to secure an examination. The individual must be examined by a psychiatrist and either a physician or a licensed psychologist.
- 7. The individual requires immediate assessment because the individual presents a substantial risk of significant physical or mental harm to himself/herself in the near future or presents a substantial risk of significant physical harm to others in the near future.
- 8. There does not appear to be probable cause to take action on this petition.

IT IS ORDERED:

- 9. The individual be examined by a psychiatrist. psychiatrist and a physician or licensed psychologist

at _____
Prescreening unit or hospital

Upon completion of the examination(s), the executed clinical certificate(s) shall be filed with the court or a report that a clinical certificate is not warranted shall be made to the court.

- The individual shall be hospitalized. If the examinations and clinical certificates are not completed within 24 hours after hospitalization, the individual shall be released.
- A peace officer shall immediately take the individual into protective custody and transport him/her to the designated prescreening unit or hospital.
- 10. The petition is denied.

Date

Judge

Bar no.

STATE OF MICHIGAN PROBATE COURT COUNTY OF	NOTICE OF HOSPITALIZATION AND CERTIFICATE OF SERVICE	FILE NO.
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In the matter of _____
First, middle, and last name

NOTICE

TO THE PROBATE COURT: Attached is a **petition** for hospitalization and two clinical certificates. You are notified that

1. The individual named above was hospitalized on _____ at _____ at _____ .
Date Time Name of hospital
2. The clinical certificate of the psychiatrist that is required for hospitalization was completed on _____ at _____ .
Date Time

CERTIFICATE OF SERVICE ON PATIENT

3. I certify that on the dates and times indicated a copy of each of the following documents was given to the individual named above.

- a. **Petition**
Date Time Signature
- b. Statement explaining individual's rights
Date Time Signature
- c. Clinical certificate of psychiatrist
Date Time Signature
- d. Clinical certificate of licensed
psychologist/physician/psychiatrist
Date Time Signature
- e. Notice of hearing
Date Time Signature

CERTIFICATE OF SERVICE ON OTHERS

4. I certify that copies of the **petition**, two clinical certificates, statement explaining rights, and notice of hearing were served

- by first-class mail personally on _____ on _____
Date and time Individual's guardian nearest relative
- by first-class mail personally on _____ on _____
Date and time Individual's attorney

5. I further certify that the individual was asked whether to serve other persons with copies of the above documents.

- a. _____ **was designated.**
Name
 Copies could not be served. **Copies were served** **by first-class mail** **personally** on _____
Date
- b. _____ **was designated.**
Name
 Copies could not be served. **Copies were served** **by first-class mail** **personally** on _____
Date

Date Signature

Do not write below this line - For court use only

STATE OF MICHIGAN
PROBATE COURT
COUNTY OF

**NOTICE OF HEARING AND
ADVICE OF RIGHTS**

FILE NO.

In the matter of _____
First, middle, and last name

1. Based on the petition and other documents you received, this court is requested to order mental health treatment for you.

2. A hearing on the petition will be held at:

Location

Date and time

before Judge _____
Bar no.

3. You are entitled to be represented by an attorney at a full court hearing. The court has appointed:

Attorney name Bar no.

Address

City, state, zip Telephone no.

as your attorney. If an attorney of your choice agrees to represent you and notifies the court of his/her appearance on your behalf, that attorney may replace the court-appointed attorney. If you believe you are unable to pay for an attorney, and the court agrees, your attorney will be reasonably compensated from public funds.

4. You have the right to be present at the hearing. If you fail to attend the hearing after having an opportunity to meet with your attorney, you will be considered to have waived your right to attend and the hearing may be held without you.

5. You have a right to an independent clinical evaluation, except that if the petition is for judicial admission, you also have the right to an independent psychological evaluation instead of a clinical evaluation. If you believe you are unable to pay for this, and the court agrees, the evaluation will be paid for from public funds. _____

6. You have the right to demand a jury trial.

7. After consulting with an attorney, you may stipulate to the entry of an order for treatment.

8. You should discuss your rights with your attorney.

Date

Deputy probate register/clerk

Do not write below this line - For court use only

STATE OF MICHIGAN PROBATE COURT COUNTY OF	INITIAL ORDER AFTER HEARING ON PETITION FOR MENTAL HEALTH TREATMENT	FILE NO.
--	--	-----------------

In the matter of _____
First, middle, and last name

Court ORI	Date of birth	Place of birth	Race	Sex
Current address of individual				

1. Date of Hearing: _____ Judge: _____ Bar no. _____

2. A petition has been filed by _____ asserting that the individual named
Petitioner name (type or print)
above is a person requiring treatment.

THE COURT FINDS:

3. Notice of hearing has been given according to law.

4. The individual was present in court. was not present for reasons stated on the record.
The hearing was with without a jury.

Present were: _____, attorney for the individual, and

_____, attorney for the petitioner.

5. Testimony of a physician, **psychiatrist**, or licensed psychologist was waived by the individual and the individual's attorney.

6. Testimony was given by _____

Testimony was not given because the parties stipulated to entry of the order.

7. By clear and convincing evidence, the individual is a person requiring treatment because the individual has a mental illness,

a. **and as a result of that mental illness** can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure self or others, and has engaged in an act or acts or made significant threats that are substantially supportive of **this** expectation.

b. **and as a result of that mental illness** is unable to attend to those basic physical needs that must be attended to in order to avoid serious harm in the near future, and has demonstrated that inability by failing to attend to those basic physical needs.

c. whose judgment is so impaired **by that mental illness** that s/he is unable to understand **his/her** need for treatment, **and** whose impaired judgment, on the basis of competent clinical opinion, presents a substantial risk of significant physical or mental harm to the individual or presents a substantial risk of physical harm to others in the near future.

d. **and as a result of that mental illness**, the individual's understanding of the need for treatment is impaired to the point that s/he is unlikely to voluntarily participate in or to adhere to recommended treatment that has been determined necessary to prevent a relapse or harmful deterioration of his/her condition, and the individual's noncompliance with treatment has been a factor in the individual's placement in a psychiatric hospital, jail, and/or prison at least two times within the last 48 months and/or in committing one or more acts, attempts, or threats of serious violent behavior **within the last 48 months.**

8. There is is not an available treatment program that is an alternative to hospitalization or that follows an initial period of hospitalization adequate to meet the individual's treatment needs and is sufficient to prevent harm that the individual may inflict upon self or others within the near future.

9. _____ hospital can provide treatment, which is adequate and appropriate to the individual's condition.

10. The individual is not a person requiring treatment.

(SEE SECOND PAGE)

Do not write below this line - For court use only

IT IS ORDERED:

This page was completely revised.

11. Any hospitalization of the individual for mental health treatment shall occur in the hospital listed in item 9.

12. The individual be hospitalized for up to _____ days.
1 to 60 days

13. The individual receive alternative treatment for no longer than 90 days, supervised by

Community mental health services or other designated entity

as follows: _____

The individual shall be hospitalized for up to _____ days of the 90-day alternative treatment period.
1 to 60 days

An initial hospitalization period shall be up to _____ days.
1 to 60 days

14. The individual receive assisted outpatient treatment for no longer than 180 days, supervised by

Community mental health services or other designated entity

a. The following assisted outpatient treatment services are ordered: (See MCL 330.1468[2][e] for specific services.)

b. The individual shall be hospitalized for up to _____ days of the 180-day assisted outpatient treatment period.
1 to 60 days

An initial hospitalization period shall be up to _____ days.
1 to 60 days

15. The petition is denied on the merits. dismissed. withdrawn.

16. If the individual refuses to comply with a psychiatrist's order for hospitalization, a peace officer shall take the individual into protective custody and transport the individual to the hospital designated by the psychiatrist.

17. If item 12, 13, or 14b is checked, the Michigan State Police shall immediately enter the individual's identifying information in this court order on LEIN.

18. If felony charges have been previously dismissed under MCL 330.2044(1)(b) and the time for petitioning to refile charges has not elapsed, not less than 30 days before the scheduled release or discharge:

a. the director of the treating facility shall notify the prosecutor's office in the county in which charges against the person were originally brought that the patient's release or discharge is pending.

b. the patient to be released or discharged shall undergo a competency examination as described in MCL 330.2026. A copy of the written report of the examination along with the notice required in item 18a above shall be submitted to the prosecutor's office in the county in which the charges against the patient were originally brought. The written report is admissible as provided in MCL 330.2030(3).

Date

Judge

STATE OF MICHIGAN PROBATE COURT COUNTY OF	ORDER AND REPORT ON ALTERNATIVE MENTAL HEALTH TREATMENT	FILE NO.
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In the matter of _____
First, middle, and last name

ORDER

IT IS ORDERED that _____ shall prepare a report assessing the current
Name (type or print)
availability and appropriateness of alternatives to hospitalization for the individual named above including alternatives available following an initial period of court-ordered hospitalization.

The report shall be made to the court before the hearing on _____ for
Date and time of hearing

Petition for 60-day order, discharge, etc.

Date

Judge

Bar no.

REPORT ON EVALUATION OF HOSPITAL TREATMENT AND/OR ALTERNATIVE PROGRAMS

1. I, _____, as _____, report as follows.
Name Profession, organization, and position

2. I have reviewed, as to their availability in or near the individual's home community, treatment resources alternative to hospitalization and report as follows: (If practical, give name of agency, program, etc.)

a. Independent mental health professional: _____

b. Community mental health day treatment, aftercare service, work activity, or other program: _____

c. Substance abuse, rehabilitation service, or similar program of public or private agency: _____

d. Other: _____

(SEE SECOND PAGE)

Do not write below this line - For court use only

3. I have reviewed, as to their availability in or near the individual's home community, residential accommodations and report as follows: (If practical, give name of residence, location, etc.)
- a. Independent: _____
Individual's own house, apartment, etc.
 - b. Residence of relative or friend: _____
 - c. Foster care home: _____

 - d. Nursing home: _____
 - e. Other: _____

4. I recommend release.

5. I recommend a course of treatment of hospitalization hospitalization for _____ days, followed by alternative treatment assisted outpatient treatment as follows:

6. My recommendation is based upon the following described interviews, observations, and information:

7. I believe the hospital to which admission is proposed can cannot provide its prescribed treatment program appropriately and adequately because _____

8. I recommend the following agency or independent mental health professional to supervise the alternative treatment:

Name _____ Complete address _____

The agency or professional has has not indicated capability and willingness to supervise the recommended program.

9. The individual currently has the following source(s) of funds to cover his or her care in the community:

10. The individual does not currently have sufficient sources of funds for community living.
- a. Application for supplemental funds has been made. They should be available _____.
 - b. Application for supplemental funds has not been made because _____.
Application will be made on _____ and should be available about _____.
 - c. Pending receipt of supplemental funds, the following funds will be available:
 - Direct relief.
 - DHHS/CMH emergency care funds.
 - Other assistance: _____
 - None. Reason: _____

STATE OF MICHIGAN PROBATE COURT COUNTY OF _____	PETITION FOR <input type="checkbox"/> SECOND <input type="checkbox"/> CONTINUING MENTAL HEALTH TREATMENT ORDER	FILE NO. _____
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In the matter of _____ **First, middle, and last name** _____ DOB: _____

1. I, _____, state that I am
 Name (type or print) _____

the authorized representative of the agency or mental health professional supervising the individual's alternative or **assisted outpatient treatment** program.

_____ of _____
 Director or authorized representative Name of hospital

2. The individual is currently residing hospitalized at _____
 Address and telephone no. _____

3. The **initial** **second** **continuing** order entered by this court for the individual expires on _____
 Date

4. The individual continues to be a person requiring treatment and is in need of
 hospitalization for not more than 90 days. continuing hospitalization for a period of one year.
 combined hospitalization and alternative/assisted outpatient treatment for not more than one year.
 alternative/assisted outpatient treatment for not more than one year.

5. The individual is likely to refuse treatment on a voluntary basis when the order expires.

INSTRUCTIONS: In answering items 6 and 7, include a description of the observed or reported behavior of the individual including, but not limited to, how behavior and conditions have changed since the last order and whether any stabilization or remission is contingent on continued medication or other treatment. Avoid medical terms and conclusions other than diagnosis.

6. The basis for this allegation is that I believe the individual has a mental illness and: (Check all that apply.)

a. as a result of that mental illness, the individual can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure self or others, and has engaged in an act or acts or made significant threats that are substantially supportive of this expectation.

b. as a result of that mental illness, the individual is unable to attend to those basic physical needs that must be attended to in order to avoid serious harm in the near future, and has demonstrated that inability by failing to attend to those basic physical needs.

c. the individual's judgment is so impaired by that mental illness that s/he is unable to understand his/her need for treatment, and whose impaired judgment, on the basis of competent clinical opinion, presents a substantial risk of significant physical or mental harm to the individual or presents a substantial risk of physical harm to others in the near future.

d. the individual's understanding of the need for treatment is impaired to the point that s/he is unlikely to voluntarily participate in or to adhere to treatment that has been determined necessary to prevent a relapse or harmful deterioration of his/her condition. The individual's noncompliance with treatment has been a factor in the individual's

i. placement in a psychiatric hospital jail prison at least two times within the last 48 months.
 (Specify the name[s] and location[s] of the hospital, jail, or prison and the date[s] of hospitalization or incarceration.)

AND/OR

ii. committing one or more acts, attempts, or threats of serious violent behavior within the last 48 months.
 (Specify the acts, attempts, or threats of serious violent behavior.)

(SEE SECOND PAGE)

USE NOTE: If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.

Do not write below this line - For court use only

7. This conclusion is based upon

a. my personal observation of the person doing the following acts and saying the following things:

b. the following conduct and statements that others have seen or heard and have told me about:

by: _____
Witness name Complete address Telephone no.

8. The diagnoses of physical and mental conditions are _____

9. The treatment program(s) provided to the individual thus far, and the results, are _____

10. The present treatment is is not adequate and appropriate to the individual's condition.
The individual is is not motivated to participate in this treatment program. The estimate of further time necessary

to provide the required treatment is _____

The following modifications are currently planned for the next period of treatment: (Write "none" if no modifications are expected.)

11. The interested parties, their addresses, and their representatives are identical to those appearing on the initial petition except as follows:

12. Attached is a clinical certificate executed by a psychiatrist.

13. I REQUEST the court to order the individual to receive

- hospitalization for not more than 90 days.
- continuing hospitalization for not more than one year.
- combined hospitalization and alternative/assisted outpatient treatment for not more than one year.
- alternative/assisted outpatient treatment for not more than one year.

I declare under the penalties of perjury that this petition has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Date

Signature of petitioner

Address

City, state, zip Telephone no.

STATE OF MICHIGAN PROBATE COURT COUNTY OF	<input type="checkbox"/> SECOND <input type="checkbox"/> CONTINUING ORDER FOR MENTAL HEALTH TREATMENT	FILE NO.
--	---	-----------------

In the matter of _____
First, middle, and last name

Court ORI	Date of birth	Place of birth	Race	Sex
Current address of individual				

1. Date of hearing: _____ Judge: _____ Bar no. _____

2. A petition has been filed by _____ asserting that the individual named
Petitioner name (type or print)
above is a person requiring treatment. _____

THE COURT FINDS:

3. Notice of hearing has been given according to law.

4. The individual _____ was present in court. was not present for reasons stated on the record.
The hearing was with without a jury.

Present were: _____, attorney for the individual, and

_____, attorney for the petitioner.

5. Testimony of a physician, **psychiatrist**, or licensed psychologist was waived by the individual and the individual's attorney.

6. Testimony was given by _____.

Testimony was not given because the parties stipulated to entry of the order.

7. By clear and convincing evidence, the individual continues to be a person requiring treatment because the individual has a mental illness, _____

a. **and as a result of that mental illness** can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure self or others, and has engaged in an act or acts or made significant threats that are substantially supportive of **this** expectation.

b. **and as a result of that mental illness** is unable to attend to those basic physical needs that must be attended to in order to avoid serious harm in the near future, and has demonstrated that inability by failing to attend to those basic physical needs.

c. whose judgment is so impaired **by that mental illness** that s/he is unable to understand his/her need for treatment, and whose impaired judgment, on the basis of competent clinical opinion, presents a substantial risk of significant physical or mental harm to the individual or presents a substantial risk of physical harm to others in the near future.

d. and as a result of that mental illness, the individual's understanding of his/her need for treatment is impaired to the point that s/he is unlikely to voluntarily participate in or to adhere to recommended treatment that has been determined necessary to prevent a relapse or harmful deterioration of his/her condition, and the individual's noncompliance with treatment has been a factor in the individual's placement in a psychiatric hospital, jail, and/or prison at least two times within the last 48 months and/or in committing one or more acts, attempts, or threats of serious violent behavior within the last 48 months.

8. There is is not an available treatment program that is an alternative to hospitalization or that follows an initial period of hospitalization adequate to meet the individual's treatment needs and is sufficient to prevent harm that the individual may inflict upon self or others within the near future.

9. _____ hospital can provide treatment that is adequate and appropriate to the individual's condition.

10. The individual is not a person requiring treatment.

(SEE SECOND PAGE)

Do not write below this line - For court use only

This page was completely revised.

IT IS ORDERED:

11. Any hospitalization of the individual for mental health treatment shall occur in the hospital listed in item 9.

12. a. (For a second order) The individual be hospitalized for up to _____ days.
1 to 90 days

b. (For a continuing order) The individual be hospitalized for up to _____ days.
1 to 365 days

13. The individual receive alternative treatment for no longer than one year, supervised by

Community mental health services or other designated entity

as follows: _____

The individual shall be hospitalized for up to _____ days of the one-year alternative treatment period.
1 to 90 days

An initial hospitalization period shall be up to _____ days.
1 to 90 days

14. The individual receive assisted outpatient treatment for no longer than one year, supervised by

Community mental health services or other designated entity

a. The following assisted outpatient treatment services are ordered: (See MCL 330.1468[2][e] for specific services.)

b. The individual shall be hospitalized for up to _____ days of the one-year assisted outpatient treatment period.
1 to 90 days

An initial hospitalization period shall be up to _____ days.
1 to 90 days

15. The petition is denied on the merits. dismissed. withdrawn.

16. If the individual refuses to comply with a psychiatrist's order for hospitalization, a peace officer shall take the individual into protective custody and transport the individual to the hospital designated by the psychiatrist.

17. If item 12, 13, or 14b is checked, the Michigan State Police shall immediately enter the individual's identifying information in this court order on LEIN.

18. If felony charges have been previously dismissed under MCL 330.2044(1)(b) and the time for petitioning to refile charges has not elapsed, not less than 30 days before the scheduled release or discharge:

a. the director of the treating facility shall notify the prosecutor's office in the county in which charges against the person were originally brought that the patient's release or discharge is pending.

b. the patient to be released or discharged shall undergo a competency examination as described in MCL 330.2026. A copy of the written report of the examination along with the notice required in item 17a above shall be submitted to the prosecutor's office in the county in which the charges against the patient were originally brought. The written report is admissible as provided in MCL 330.2030(3).

Date

Judge

**STATE OF MICHIGAN
PROBATE COURT
COUNTY OF**

**PETITION FOR DISCHARGE FROM
CONTINUING MENTAL HEALTH TREATMENT**

FILE NO.

In the matter of _____
First, middle, and last name

1. I, _____, state that the individual is subject to a one-year order
Name (type or print)
of involuntary mental health treatment and I am

the executive director of the community mental health services program for the county of residence of the individual.

hospitalized in _____
Name of hospital

under a one-year alternative/assisted outpatient or a one-year combined treatment order under the supervision of

2. I object to the conclusion(s) in the periodic review report of _____
Name of patient/resident
dated _____ and filed with this court. The individual named in that report is not
a person requiring continuing involuntary mental health treatment and should be discharged from the program.

3. The interested parties, their addresses, and their representatives are identical to those appearing on the initial petition,
except as follows:

4. I **REQUEST** that the court set a hearing and order a discharge.

I declare under the penalties of perjury that this petition has been examined by me and that its contents are true to the best of
my information, knowledge, and belief.

Date

Signature of petitioner

USE NOTE: If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.

Do not write below this line - For court use only

STATE OF MICHIGAN
PROBATE COURT
COUNTY OF _____

ORDER **AFTER** HEARING
ON PETITION FOR DISCHARGE FROM
CONTINUING **MENTAL HEALTH** TREATMENT

FILE NO. _____

In the matter of _____
First, middle, and last name

1. Date of hearing: _____ Judge: _____ Bar no. _____

2. A petition has been filed by _____ asserting that the individual named
Petitioner name (type or print)
above be discharged from the treatment program.

THE COURT FINDS:

3. Notice of hearing has been given according to law.

4. The individual **was** present in court. **was** not present for reasons stated on the record.
The hearing was with without a jury.

Present were: _____, attorney for the individual, and
_____, attorney for the hospital.

5. Testimony was given by _____ .
 Testimony was waived and the parties consented to entry of the order.

6. The individual is under a one-year order of involuntary mental health treatment.

7. a. There is clear and convincing evidence that the individual has a mental illness and continues to require treatment.
 b. The individual no longer is a person requiring treatment.

8. _____ **hospital can provide treatment**
that is adequate and appropriate to the individual's condition.

IT IS ORDERED:

9. The individual **is** discharged from _____ hospital and/or from the
treatment program.

10. The order requiring involuntary mental health treatment be continued.

11. Any hospitalization of the individual for mental health treatment shall occur in the hospital listed in item 8.

12. The individual be hospitalized under a continuing order for up to one year from date of this order.

(SEE SECOND PAGE)

Do not write below this line - For court use only

13. The individual receive alternative treatment for no longer than one year, supervised by

Community mental health services or other designated entity

a. The following alternative treatment services are ordered:

b. The individual shall be hospitalized for up to _____ days of the one-year alternative treatment period.
1 to 90 days

An initial hospitalization period shall be up to _____ days.
1 to 90 days

14. The individual receive assisted outpatient treatment for no longer than one year, supervised by

Community mental health services or other designated entity

a. The following assisted outpatient treatment services are ordered: (See MCL 330.1468[2][e] for specific services.)

b. The individual shall be hospitalized for up to _____ days of the one-year assisted outpatient treatment period.
1 to 90 days

An initial hospitalization period shall be up to _____ days.
1 to 90 days

Date

Judge

STATE OF MICHIGAN PROBATE COURT COUNTY OF	SIX-MONTH REVIEW REPORT	FILE NO.
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In the matter of _____
First, middle, and last name

1. The individual presently resides at
- own home or with relatives
 - a center
 - a hospital
 - a private facility
 - _____

and the address is _____.

2. The individual was placed on authorized leave on _____ and continues on leave status.

3. By order of this court dated _____ the individual was placed in a

- a. one-year alternative treatment program.
- b. one-year assisted outpatient treatment program.
- c. one-year combined treatment program.
- d. one-year continuing hospitalization program.
- e. center or private facility as a judicial admission.

4. I believe the individual has mental illness and

- a. as a result of that mental illness, the individual can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure self or others, and has engaged in an act or acts or made significant threats that are substantially supportive of this expectation.
- b. as a result of that mental illness, the individual is unable to attend to those basic physical needs that must be attended to in order to avoid serious harm in the near future, and has demonstrated that inability by failing to attend to those basic physical needs.
- c. the individual's judgment is so impaired by that mental illness that s/he is unable to understand his/her need for treatment, and whose impaired judgment, on the basis of competent clinical opinion, presents a substantial risk of significant physical or mental harm to the individual or presents a substantial risk of physical harm to others in the near future.
- d. the individual's understanding of the need for treatment is impaired to the point that s/he is unlikely to voluntarily participate in or to adhere to treatment that has been determined necessary to prevent a relapse or harmful deterioration of his/her condition. The individual's noncompliance with treatment has been a factor in the individual's
 - i. placement in a psychiatric hospital jail prison at least two times within the last 48 months.
(Specify the name[s] and location[s] of the hospital, jail, or prison and the date[s] of hospitalization or incarceration.)

AND/OR

- ii. committing one or more acts, attempts, or threats of serious violent behavior within the last 48 months.
(Specify the acts, attempts, or threats of serious violent behavior.)

5. I believe the individual has an intellectual disability and can be reasonably expected in the near future to intentionally or unintentionally seriously physically injure self or another person and has overtly acted in a manner substantially supportive of that expectation.

(SEE SECOND PAGE)

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6. This conclusion is based on
a. the following facts of which I have personal knowledge:

b. the following facts, which are based on reports by others whose names and addresses, if known, are:

7. The alternative treatment program assisted outpatient treatment program provided to the individual since the order, and the results are:

8. This treatment is is not adequate and appropriate to the individual's condition. The estimated time required for further treatment is _____ days. months. The following modifications in treatment are currently planned during the next six-month period, or proposed as alternative treatment, assisted outpatient treatment, and will be adequate and appropriate to the individual's condition: (Write "none" if no modifications are expected.)

9. The individual should be discharged from the treatment program.
 continues to be a person requiring treatment.
 continues to be a person meeting the criteria for judicial admission.

I declare under the penalties of perjury that this report has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Date

Signature of physician or licensed psychologist

Name (type or print)

Title

Telephone no.

STATE OF MICHIGAN PROBATE COURT COUNTY OF	NOTIFICATION OF NONCOMPLIANCE <input type="checkbox"/> REQUEST FOR MODIFIED ORDER	FILE NO.
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In the matter of _____ **DOB:** _____
First, middle, and last name

1. I, _____, make this notification as the
Name (type or print)

- agency.
- mental health professional who is supervising the individual's alternative/assisted outpatient treatment program.**
- individual.

2. The individual who is the subject of this notification was ordered to undergo a program of alternative/assisted outpatient treatment or combined hospitalization and alternative/assisted outpatient treatment.

- a. The alternative treatment has not been or will not be sufficient to prevent the individual from inflicting harm or injuries to self or others.
- b. The individual is not complying with the order for alternative/assisted outpatient treatment or combined hospitalization and alternative/assisted outpatient treatment.
- c. I believe that my alternative treatment program is not appropriate.

3. **The individual was in the hospital** _____ **days for mental health treatment.** The individual needs immediate hospitalization.

4. This conclusion is based upon

- a. my personal observation of the individual doing the following acts and saying the following things:

- b. conduct and statements seen or heard by others and related to me: **State the conduct and statements and the name, address, and telephone number of each witness.**

5. A psychiatrist has ordered the individual to return to the hospital.

6. **I request** the court to modify its last order of alternative treatment assisted outpatient treatment combined hospitalization and alternative/assisted outpatient treatment to direct the individual to:

- a. undergo another alternative/assisted outpatient treatment program.
- b. undergo hospitalization or combined hospitalization and alternative/assisted outpatient treatment, with hospitalization not to exceed _____ days.
- c. be transported to the hospital by a peace officer if the individual refuses to comply with the psychiatrist's order to return to the hospital.

Date

Signature

Title

Business Address

Agency

City, state, zip

Telephone no.

USE NOTE: If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.

Do not write below this line - For court use only

STATE OF MICHIGAN PROBATE COURT COUNTY OF	ORDER FOR REPORT AFTER NOTIFICATION AND REPORT	FILE NO.
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In the matter of _____
First, middle, and last name

1. The court has received notification that
 - a. the 90-day order for alternative treatment has not been sufficient to prevent the individual from inflicting harm or injuries upon self or others.
 - b. the one-year order for alternative treatment has not been or will not be sufficient to prevent the individual from inflicting harm or injuries upon self or others.
 - c. the individual named above is not complying with the order of alternative treatment.
 - d. it is believed that the alternative treatment program is not appropriate.
2. **IT IS ORDERED** that the _____ community mental health services program prepare and file a report on the adequacy and suitability of the present alternative care or treatment and the availability of care and treatment in another alternative treatment program or in a hospital or center.

Date Judge Bar no.

REPORT ON ADEQUACY AND SUITABILITY OF ALTERNATIVE TREATMENT

3. I, _____, as _____ of the

_____ community mental health services program, report as follows.

4. I have reviewed the notification to the court to report **as to** spoken with the person who notified the court to report **as to**
 reviewed other available records to report **as to** spoken with other knowledgeable persons to report **as to**

a. the reason for concern about the adequacy of the ordered care or treatment: _____

b. the continued suitability of the care or treatment: _____

c. the adequacy, for the needs of the individual, of care or treatment available at a hospital or center: _____

(SEE SECOND PAGE)

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5. I recommend that the court

a. set a date for hearing.

b. modify the order for alternative care and treatment program as follows: _____

c. order the individual to be hospitalized in _____ hospital, which I believe has an adequate and appropriate treatment program of the type and extent to meet the individual's needs and condition.

d. order the individual be judicially admitted to _____ center.

e. order a peace officer to take the individual into protective custody and transport the individual to the hospital or center if the individual refuses to comply with the order of hospitalization or judicial admission.

6. My recommendation is based upon the following described interviews, observations, and information:

Date

Signature

Business address

City, state, zip

Telephone no.

**STATE OF MICHIGAN
PROBATE COURT
COUNTY OF**

**ORDER AFTER HEARING ON
OBJECTION TO HOSPITALIZATION**

FILE NO.

In the matter of _____
First, middle, and last name

1. Date of hearing: _____ Judge: _____ Bar no.

2. After placement in an alternative treatment program, _____
Name

was hospitalized without a hearing, and the individual has filed an objection to that hospitalization.

THE COURT FINDS:

3. Notice of hearing was given to or waived by all interested persons.

4. The individual **was present in court.** **was not present for reasons stated on the record.**

Present were: _____

5. Testimony by a physician or licensed psychologist was waived by the individual and the individual's attorney.

6. Testimony was given by _____ .

Testimony was not given because the parties stipulated to entry of the order.

7. The individual has withdrawn the objection to hospitalization.

8. There is is not **clear and convincing evidence** that the individual requires hospitalization.

IT IS ORDERED:

9. The objection to hospitalization is withdrawn and the individual shall remain in the hospital.

10. The objection is dismissed and the individual shall remain in the hospital.

11. The individual is discharged from the hospital. The order dated _____ shall continue.

Date

Judge

Do not write below this line - For court use only

STATE OF MICHIGAN PROBATE COURT COUNTY OF	REQUEST TO DEFER HEARING ON COMMITMENT	FILE NO.
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In the matter of _____
First, middle, and last name

PLEASE PRINT OR TYPE CLEARLY

1. I state that I have met with my legal counsel, a representative from the county community mental health program, and a member of the treatment team assigned to provide treatment. I agree to one of the following:

- a. Inpatient hospital treatment not to exceed 60 days.
- b. Treatment in a community alternative not to exceed 90 days.
- c. Combined hospitalization and alternative treatment up to 90 days with hospitalization not to exceed 60 days.

2. The treatment program will be as follows:

Hospitalization: _____

Alternative treatment under the supervision of: _____

3. I request that the court hearing be deferred for not longer than 60 days from today if I have chosen to remain hospitalized, or 90 days from today if I have chosen alternative treatment or a combination of hospitalization and alternative treatment.

4. I understand that I may refuse this treatment at any time during this deferral period and demand a court hearing.

Date

Patient's signature

Witness/Legal counsel

Bar no.

USE NOTE: If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.

Do not write below this line - For court use only

STATE OF MICHIGAN PROBATE COURT COUNTY OF	DEMAND FOR HEARING	FILE NO.
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In the matter of _____
First, middle, and last name

- 1. I am the individual, and I demand a court hearing.
- 2. I am the hospital director/designee, alternative treatment provider/designee, and I demand a court hearing because the individual refuses to accept prescribed treatment. the individual orally demanded a hearing.
- 3. I am the executive director of the community mental health services program. The individual deferred the initial hearing and is participating in an alternative treatment program in the community. The deferral period ends on _____ Date.
 - I believe s/he continues to require treatment, but s/he refuses to sign a voluntary treatment form, and I demand a court hearing.
 - I believe s/he continues to require treatment, but s/he is found not suitable for voluntary treatment, and I demand a court hearing.
- 4. I am the director of the hospital where the individual has remained hospitalized since deferring the initial hearing on _____ Date. I believe the individual continues to require treatment and
 - will not agree to sign a formal voluntary admission, and I demand a court hearing.
 - is not suitable for voluntary admission, and I demand a court hearing.
- 5. The individual requires hospitalization pending the hearing and it is necessary that the court order a peace officer to transport the individual to the _____ hospital pending the hearing.
- 6. The individual is located at _____

Date

Signature

Name (type or print)

Address

City, state, zip

(Complete only if item 5 is checked.)

ORDER

1. Date of hearing: _____ Judge: _____ Bar no. _____

2. A peace officer shall take the individual into protective custody and transport him/her to the hospital stated above.

Signature

USE NOTE: If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.

Do not write below this line - For court use only

**STATE OF MICHIGAN
PROBATE COURT
COUNTY OF**

**NOTICE OF RIGHT TO
OBJECT TO HOSPITALIZATION AND
OBJECTION AND DEMAND FOR HEARING**

FILE NO.

In the matter of _____
First, middle, and last name

1. On _____, after a hearing required by statute, the court found you to be a person requiring
Date treatment and entered an order for a program of alternative treatment.

2. a. After being notified that the alternative program was insufficient, you did not comply with the alternative program,
the court entered an order (form PCM 217a) that resulted in your **hospitalization** and/or placement **in** a different
alternative treatment program. A copy of the amended order (form PCM 217a) is attached.

b. The court has been notified that you have been hospitalized by a psychiatrist's order **under** MCL 330.1474a.

NOTICE OF RIGHT TO OBJECT

TO: _____

You are notified that you may object to the court's or psychiatrist's order **to hospitalize you** by completing the objection below
and returning it to the court no later than 7 days after receiving this notice. The court will schedule a hearing within 10 days after
receiving your objection.

PROOF OF SERVICE

I certify that on _____ at _____ I personally served this notice on the individual named in the
Date Time Notice of Right to Object.

Date

Signature

OBJECTION TO HOSPITALIZATION AND DEMAND FOR HEARING

I object to my hospitalization and demand a hearing.

I request court-appointed legal counsel.

Date

Signature

Name (type or print)

Do not write below this line - For court use only

STATE OF MICHIGAN PROBATE COURT COUNTY CIRCUIT COURT - FAMILY DIVISION	PETITION FOR ASSISTED OUTPATIENT TREATMENT	FILE NO.
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In the matter of _____

Court ORI	Date of birth	Place of birth	Race	Sex
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1. I, _____, an adult _____, petition because I believe the individual named above needs treatment.
Name (type or print) Specify whether a relative, neighbor, peace officer, etc.

2. The individual was born _____, has a permanent residence in _____
Date
County at _____,
Street address City State Zip
and can presently be found at _____.
Address

3. I believe the individual has mental illness and as a result of this mental illness the individual's understanding of the need for treatment is impaired to the point that the individual is unlikely to participate in treatment voluntarily.

4. The individual is currently noncompliant with treatment, recommended by _____
Name of mental health provider

Address of mental health provider City State Telephone no.
which has been determined to be necessary to prevent relapse or harmful deterioration of the individual's condition.

5. The individual's noncompliance with this treatment has been a factor in the individual's
 a. placement in a psychiatric hospital jail prison at least two times within the last 48 months. (Specify the name[s] and location[s] of the hospital, jail, or prison and the date[s] of hospitalization or incarceration.)
 b. committing one or more acts, attempts, or threats of serious violent behavior within the last 48 months. (Specify the acts, attempts, or threats of serious violent behavior.)

6. The above statements are based on
a. my personal observation of the person doing the following acts and saying the following things:

(SEE SECOND PAGE)

Do not write below this line - For court use only

b. conduct and statements that others have seen or heard and have told me about.

by _____
Witness name Complete address Telephone no.

by _____
Witness name Complete address Telephone no.

7. The persons interested in these proceedings are:

NAME	RELATIONSHIP	ADDRESS	TELEPHONE
	Spouse		
	Guardian		

8. The individual is is not a veteran.

9. I request that the court determine the individual to be a person who requires assisted outpatient treatment.

I declare under the penalties of perjury that this petition has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Signature of attorney

Date

Name (type or print) Bar no.

Signature of petitioner

Address

Address

City, state, zip Telephone no.

City, state, zip

Home telephone no. Work telephone no.

MERGED WITH PCM 201

STATE OF MICHIGAN
PROBATE COURT
COUNTY

INITIAL ORDER FOLLOWING HEARING
ON PETITION FOR
ASSISTED OUTPATIENT TREATMENT

FILE NO.

In the matter of _____

Court ORI	Date of birth	Place of birth	Race	Sex
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Current address of individual _____

1. Date of hearing: _____ Judge: _____ Bar no. _____

2. A petition has been filed by _____ pursuant to MCL 330.1433 asserting
Petitioner name (type or print)
that the individual named above is a person requiring treatment.

3. Notice of hearing has been given according to law.

4. The individual was present in court. not present for reasons stated on the record. The hearing was with without a jury.

Present were _____, attorney for the individual, and
_____, attorney for the petitioner.

5. Testimony of a physician or licensed psychologist was waived by the individual and the individual's attorney.

6. Testimony was given by _____.
 Testimony was not given because the parties stipulated to entry of the order.

THE COURT FINDS:

7. By clear and convincing evidence, the individual is a person requiring treatment because the individual has a mental illness, and as a result of that mental illness, the individual's understanding of the need for treatment is impaired to the point that he or she is unlikely to participate in treatment voluntarily.

8. The individual is currently noncompliant with treatment that was recommended by a mental health professional and that has been determined to be necessary to prevent a relapse or harmful deterioration of the individual's condition, and the individual's noncompliance with this treatment has been a factor in his/her placement in a psychiatric hospital, jail, and/or prison at least two times within the last 48 months and/or in committing one or more acts, attempts, or threats of serious violent behavior within the last 48 months.

9. The individual is is not scheduled to begin a course of outpatient mental health treatment that includes case management services or assertive community treatment team services.

10. There is an existing advance directive. durable power of attorney. individual plan of services developed pursuant to MCL 330.1712.

11. The individual is is not a person requiring treatment.

(SEE SECOND PAGE)

Do not write below this line - For court use only

STATE OF MICHIGAN PROBATE COURT COUNTY OF	ORDER AFTER NOTICE OF NONCOMPLIANCE WITH ASSISTED OUTPATIENT TREATMENT OR COMBINED HOSPITALIZATION AND ASSISTED OUTPATIENT TREATMENT ORDER	FILE NO.
--	---	-----------------

In the matter of _____
First, middle, and last name

1. Date of hearing (if one): _____ Judge: _____ Bar no. _____
2. This court issued an order on _____ directing the individual named above to undergo a program of
Date assisted outpatient treatment or combined hospitalization and assisted outpatient treatment.
3. The court has been notified that the individual is not complying with the order for assisted outpatient treatment or combined hospitalization and assisted outpatient treatment.
4. **THE COURT FINDS:**

IT IS ORDERED:

- 5. A peace officer shall take the individual into protective custody and transport the individual to
 - the preadmission screening unit established by the community mental health services program serving the community in which the individual resides. _____
Designated facility
- 6. The individual shall be hospitalized at _____
 - for a period of not more than 10 days. If necessary, a peace officer shall take the individual into protective custody.
 - as recommended by the community mental health services program, more than 10 days but not longer than the duration of the order for assisted outpatient treatment or a combination of hospitalization and assisted outpatient treatment, or not longer than 90 days, whichever is less. If necessary, a peace officer shall take the individual into protective custody.
- 7. The individual may return to assisted outpatient treatment before the expiration of the prior order of assisted outpatient treatment or combined hospitalization and assisted outpatient treatment as follows:

Date

Judge

NOTICE OF RIGHT TO OBJECT TO HOSPITALIZATION

If the court ordered, without a hearing, that you be hospitalized, you have a right to object to this hospitalization. If you wish to object, complete the objection below and send a copy to the court within 7 days of receiving this notice.

PROOF OF SERVICE

I certify that this notice was personally served on the above individual on _____ at _____
Date Time
and a copy mailed to the _____ Court on _____
Date

Signature

OBJECTION TO HOSPITALIZATION

I object to my hospitalization and request that the court schedule a hearing on the objection in accordance with MCR 5.744.

Date

Signature

Do not write below this line - For court use only