



Michigan Supreme Court

State Court Administrative Office

Trial Court Services Division

Michigan Hall of Justice

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Jennifer Warner
Director

MEMORANDUM

DATE: March 14, 2019

TO: Probate Judges
Circuit Judges
Probate Registers
Court Administrators

FROM: Robin Eagleson, Management Analyst

RE: 2018 Mental Health Code Revisions – Kevin’s Law

Effective March 28, 2019, [Public Act 593 of 2018](#) amends the Mental Health Code to clarify procedure and expand criteria for ordering individuals to receive assisted outpatient treatment (Kevin’s Law). Highlights of the legislative amendments are below.

Forms: The mental health forms have been revised to address the legislative changes. Highlighted form changes may be found [here](#). Forms will be available for use on the [SCAO forms website](#) by March 28, 2019.

Training: The State Court Administrative Office’s Trial Court Services Division is working in conjunction with the Michigan Judicial Institute to develop material and training for judges and court staff. Training information will be provided once finalized.

Case Management System Changes: The recent form additions and changes have resulted in new and updated event code changes for the JIS applications, as outlined below:

Probate Court System (PCS) and Trial Court System (TCS):

- PCM 201
 - For PCS: PAS – *Petition for Mental Health Treatment* assisted outpatient treatment only petitions (item 9b on PCM 201), count on caseload Part 1, Section D., Line #8.

- For TCS: PAS, IPAS – *Petition for Mental Health Treatment* assisted outpatient treatment only petitions (item 9b on PCM 201), count on caseload Part 1, Section D., Line #8.
- PCM209a
 - OET – *Order for Examination/Transport* (NEW) will count on caseload report, Part 1, Section D., Line #7
 - SPA – *Supplemental Petition to Application for Hospitalization and Order for Examination* and SPE – *Supplemental Petition for Examination/Hospitalization and Order* are obsolete and should no longer be used. Also, they will no longer count on caseload Part 1, Section D., Line #7
- PCM201
 - APM – *Amended Petition for Mental Health Treatment* (NEW) should be used when the ‘Amended’ checkbox is utilized.
- PCM 245
 - NIE – *Notice of Inability to Secure Evaluation/Examination* (NEW)

Highlights of Statutory Changes:

- Definitions
 - Assisted Outpatient Treatment: Provides the option of a “case management plan and case management services to provide care coordination under the supervision of a psychiatrist and developed in accordance with person-centered planning under section 712.”¹
 - Consent: Redefines consent to include a written agreement executed by “a full or limited guardian authorized under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, with the authority to consent.”²
 - Emergency Situation: Redefines an emergency situation as “the individual has mental illness that has impaired his or her judgement so that the individual is unable to understand his or her need for treatment and presents a risk of harm.”³
 - Involuntary mental health treatment: Deletes alternative treatment and replaces it with assisted outpatient treatment and clarifies that involuntary mental health treatment does not include when a full or limited guardian consents to mental health treatment for his or her ward.⁴

¹ MCL 330.1100a(8).

² MCL 330.1100a(19).

³ MCL 330.1100a(29)(c).

⁴ MCL 330.1400(f).

- Revised Criteria of a Person Requiring Treatment⁵
 - Subsection (c) has been revised to broaden the criteria for a court to find that a person requires treatment. The language of subsection (c) has been revised as follows: “[a]n individual who has mental illness, whose judgment is so impaired by that mental illness, and whose lack of understanding of the need for treatment has caused him or her to demonstrate an unwillingness to voluntarily participate in or adhere to treatment that is necessary, on the basis of competent clinical opinion, to prevent a relapse or harmful deterioration of his or her condition, and presents a substantial risk of significant physical or mental harm to the individual or others.”
 - Subsection (d) has been deleted.

- Transport of an Individual
 - If it appears to the court that an individual will not comply with an order of examination, the court may “order a peace officer to take the individual into protective custody and transport the individual” to a hospital or prescreening unit. The statute has been updated to require that the transport order must be executed within 10 days of the entry of the order; otherwise, the law enforcement agency “must report to the court the reason the order was not executed within the prescribed time period”⁶ SCAO form PCM 209a – Order for Examination/Transport has been revised to accommodate law enforcement’s report to the court.
 - A transport order may be entered based on a petition for hospitalization or for assisted outpatient treatment.
 - If a petition for assisted outpatient treatment is filed, a transport order for evaluation is entered, and it is found that the individual is in need of immediate hospitalization, the director must file a petition and 2 clinical certificates in the probate court within 24 hours from the medical professional’s finding. The court must then set a hearing within 7 days in accordance with section 452(1). SCAO form PCM 201 has been revised to include an amended box in the case caption for this situation.
 - The revisions in section 410 eliminated the requirement of a supplemental petition to request a transport and instead requires the filer to set forth the reasons an examination could not be secured within the initial petition (PCM 201) or following the filing of an initial petition, on newly created form PCM 245 (Notice of Inability to Secure Evaluation/Examination). Following submission of this notice, the court must make its findings and order on revised PCM 209a (Order for Examination and Transport).⁷

⁵ MCL 330.1401.

⁶ MCL 330.1436.

⁷ MCL 330.1410.

- Clinical Certificates and Testimony⁸
 - Request for hospitalization or request for a combination of hospitalization and assisted outpatient treatment: The initial petition (PCM 201) must be accompanied by 2 clinical certificates. In addition, testimony/written deposition by a physician or licensed psychologist who has personally examined the individual must be provided at the initial hearing.
 - Request for assisted outpatient treatment only: A clinical certificate is not required to be attached to an initial petition (PCM 201). Testimony of a psychiatrist must be provided at the initial hearing unless the psychiatrist signed the petition, then a physician or licensed psychologist who has personally examined the individual must testify. The requirement for testimony may be waived by the subject of the petition. However, if testimony is waived, a clinical certificate completed by a physician, licensed psychologist, or psychiatrist must be presented to the court before or at the initial hearing.
- Alternative Treatment Order (ATO): All references to alternative treatment order have been deleted and replaced with assisted outpatient treatment.
- Court Orders
 - The court may order hospitalization, assisted outpatient treatment, or a combination of hospitalization and assisted outpatient treatment.⁹ Changes to the disposition statute include:
 - Authority to order a case management plan and case management services.¹⁰
 - Substance use disorder testing is “subject to a review hearing once every 180 days.”¹¹
 - The preparation and implementation of an assisted outpatient treatment plan must be supervised by a psychiatrist. It must be completed within 30 days after entry of the court’s order and must be filed with the probate court within 3 days of completion of the plan.¹²
- Length of Orders¹³
 - Initial Order: Alternative treatment orders are no longer available in statute and, therefore, the length of the initial order was changed to only allow hospitalization and/or assisted outpatient treatment for the following lengths:
 - Hospitalization shall not exceed 60 days.

⁸ MCL 330.1461.

⁹ MCL 330.1468.

¹⁰ MCL 330.1468(2)(d).

¹¹ MCL 330.1468(2)(d)(ix).

¹² MCL 330.1468(3).

¹³ MCL 330.1472a.

- Assisted outpatient treatment shall not exceed 180 days.
- Combination of hospitalization and assisted outpatient treatment shall not exceed 180 days (hospitalization limited to 60 days).
- Second Order: Prior to this amendment, the statute provided the court the authority to order an individual to a second order for involuntary mental health treatment to 1 year, but the hospital portion not to exceed 90 days. However, the amendment now only provides the authority to order an individual for a second order of involuntary mental health treatment that shall not exceed 90 days total.
- Continuing Order: Prior to this amendment, the statute provided the court the authority to order an individual to a continuing order for involuntary mental health treatment to 1 year, but the hospital portion not to exceed 90 days in a combination order. However, the amendment now only provides the authority to order an individual for a continuing order of involuntary mental health treatment that shall not exceed 1 year total.
- Discharge from Assisted Outpatient Treatment¹⁴
 - The decision to release an individual from an assisted outpatient treatment program must be made by a psychiatrist.

For questions regarding JIS codes, please contact the JIS help desk. For any other questions, please contact me at trialcourtservices@courts.mi.gov or 517-373-5542.

¹⁴ MCL 330.1474.