

**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. (see also administrative rule 330.4031)

*(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

**330.1400a Repealed. 1995, Act 290, Eff. Mar. 28, 1996. Compiler's Notes:** The repealed section pertained to "mental illness" defined.

**330.1400b** A reference to a time frame under this chapter of 12 to 168 hours or an equivalent amount of days excludes Sundays and legal holidays.

### **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 by that mental illness that he or she is unable to understand his or her need for treatment, and whose impaired judgement, 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 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.

(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

**330.1402 Repealed. 1995, Act 290, Eff. Mar. 28, 1996. Compiler's Notes:** 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 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

### **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.** (see also administrative rule 330.4083)

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. (see administrative rule 330.4039)

(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.** (see also administrative rule 330.4031, 4039)

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 Notes:** 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 Continuing hospitalization where notice of termination not withdrawn; application to court; clinical certificates; hearings.** (*“as defined in sec 401” is removed from this section*)

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

### **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 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

ADMISSION BY MEDICAL CERTIFICATION (see also administrative rule 330.4045, 4047, 4049)

### **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 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 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

### **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 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

### **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 **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

### **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. (*"as defined in sec 401" is removed from this section*)**

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 **an 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. 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

### **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 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 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

### **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 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

ADMISSION BY PETITION (see also administrative rule see also Administrative Rule 330.4051, and 330.4045, 4047, 4049)

### **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 Petition; filing; contents; clinical certificates.** (see also administrative rule 330.4051)  
*("as defined in sec 401" is removed from this section)*

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* 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.

(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 section (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

**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 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

### **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 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

### **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 Telephone calls.** (see also administrative rule 330.4045 (d))

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

### **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 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

### **330.1449 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 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

## PRELIMINARY HEARING

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

## COURT HEARINGS

### **330.1451 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

### **330.1452 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

### **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 (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

### **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 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 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 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

**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.** (See also administrative rule 330.4055)

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 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 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

**330.1456 Place of hearing; change of venue.** (see also administrative rule 330.4055)

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 Testimony or deposition of physician or psychologist required; 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 designed 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

### **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 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 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

### **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 Disposition of person not requiring treatment; disposition of person requiring 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 medications.

(iii) Individual or group therapy, or both

(iv) Day or partial day programs.

(v) Educational and 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 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 experiences 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 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 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:** 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

**330.1469 Repealed. 1996, Act 588, Imd. Eff. Jan. 21, 1997.** **Compiler's Notes:** The repealed section pertained to alternatives to hospitalization, report, notice, petition, review, powers of court, and hearing.

### **330.1469a Treatment program as alternative to hospitalization; 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

### **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 Notes:** The repealed section pertained to duration of hospitalization.

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

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

### **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 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 **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 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

### **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, **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

**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 **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 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

### **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.** (see also administrative rule 4077)

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

## 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 Notes:** 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 Notes:** The repealed sections pertained to legal competency