

## **25. Voluntary & Involuntary Admission**

Voluntary and Involuntary forms

Explanation for Recipients

Guidelines for Attorneys Representing Adults in Civil Commitment Proceedings

Admission Date

**FORMAL VOLUNTARY ADMISSION APPLICATION - ADULT**  
Michigan Department of Health and Human Services

To the Director of \_\_\_\_\_

I \_\_\_\_\_, consent to the formal voluntary admission and mental health treatment of \_\_\_\_\_. I understand the admission is temporary and discharge will occur when, in the hospital director's opinion, inpatient treatment is no longer required.

**DISCLOSURE OF INFORMATION**

I agree to disclose such information, as is required by law, to determine the individual's and other legally responsible individual's ability to pay for mental health services. The applicant understands that, if the mental health services are state supported, determination of ability to pay will be made subsequent to admission and a notice of the determination and appeal procedure will be sent to the individual and other legally liable persons as required by law.

The applicant has been informed as to whether the community mental health services program serving the county in which the recipient lives contracts with this hospital for inpatient care. If it does, I further understand that information concerning admission and treatment will be shared with them.

**CONSENT AND AUTHORIZATION**

The applicant consents to and authorizes the hospital to provide treatment including medication but understands that consent to electroshock, psychosurgery, experimental drugs, and surgical procedures must be obtained separately by the hospital.

**PERSON TO BE ADMITTED**

Name		
Address	City	State
Phone	Birth Date	County Residence
Name of Applicant		
The applicant is the: <input type="checkbox"/> Recipient <input type="checkbox"/> Guardian <input type="checkbox"/> Patient Advocate designated in Psychiatric Advance Directive		
Signature of Adult Applicant	Date	Time

**ACKNOWLEDGEMENT OF PROVISION OF A WRITTEN AND ORAL EXPLANATION OF THE RIGHTS OF RECIPIENT OF MENTAL HEALTH SERVICES (MCL 330.1416; MCL 330.1706)**

Signature of Recipient	Date	Time
Signature of Guardian/Advocate	Date	Time

The required oral explanation to the individual was not given at this time since it is my opinion that the individual is not presently capable of comprehending the explanation because:

Name of Person Providing Explanation	Date	Time
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**ACKNOWLEDGEMENT OF THE RECIPIENT OF A COPY OF THIS APPLICATION (MCL 330.1416)**

Signature of Adult Applicant	Date	Time
Signature of Guardian/Advocate	Date	Time

**ADDITIONAL PERSON DESIGNATED BY APPLICANT TO RECEIVE A COPY OF THIS APPLICATION**

Name		
Address	City	State

**ACTION BY THE HOSPITAL**

A determination of clinical suitability for formal voluntary admission shall be based on one of the following criteria:

- a) The individual has a condition that the hospital director determines can benefit from the inpatient treatment that is offered by the hospital;
- b) Appropriate alternatives to hospitalization have been considered by the hospital, and, with the consent of the individual, the Community Mental Health program in the individual's county of residence;
- c) Adequate alternative treatment is not available or suitable at the time of admission as determined by the hospital and, with the consent of the individual, the Community Mental Health program in the individual's county of residence.

<input type="checkbox"/> <b>Clinically Suitable for Admission</b>	<input type="checkbox"/> <b>Not Clinically Suitable for Admission</b>
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If determined to be not clinically suitable, describe rationale for this decision (indicate the outpatient programs that the recipient is being referred to)

Physician Name		
Physician Signature	Date	Time

Authority: Public Act 258 of 1974 as amended. Administrative Rule Code 330.4031  
Information contained on this form is covered by Federal and  
State privacy and confidentiality laws.

THIS LEGAL FORM IS APPROVED BY THE  
MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES  
AND CANNOT BE ALTERED OR ABRIDGED WITHOUT FORMAL APPROVAL.

<b>STATE OF MICHIGAN PROBATE COURT COUNTY OF</b>	<b>PETITION FOR MENTAL HEALTH TREATMENT</b> <input type="checkbox"/> <b>AMENDED</b>	<b>FILE NO.</b>
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In the matter of \_\_\_\_\_ **XXX-XX-**  
First, middle, and last name Last four digits of SSN

Court ORI	Date of birth	Place of birth	Race	Sex
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1. I, \_\_\_\_\_, an adult \_\_\_\_\_ petition because  
Name (type or print) specify whether a relative, neighbor, peace officer, etc.  
 I believe the individual named above needs treatment.

2. The individual was born \_\_\_\_\_, has a permanent residence in \_\_\_\_\_  
Date  
 County at \_\_\_\_\_  
Street address City State ZIP  
 and can presently be found at \_\_\_\_\_  
Facility name or other address

This petition is for a person who was found not guilty by reason of insanity in this county (NGRI).

3. I believe the individual has mental illness and **1**  
 a. as a result of that mental illness, the individual can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure self or others, and has engaged in an act or acts or made significant threats that are substantially supportive of this expectation.  
 b. as a result of that mental illness, the individual is unable to attend to those basic physical needs that must be attended to in order to avoid serious harm in the near future, and has demonstrated that inability by failing to attend to those basic physical needs.  
 c. the individual's judgment is so impaired by that mental illness, and whose lack of understanding of the need for treatment has caused him or her to demonstrate an unwillingness to voluntarily participate in or adhere to treatment that is necessary, on the basis of competent clinical opinion, to prevent a relapse or harmful deterioration of his or her condition, and presents a substantial risk of significant physical or mental harm to the individual or others.

4. The conclusions stated above are based on  
 a. my personal observation of the person doing the following acts and saying the following things:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 b. the following conduct and statements that others have seen or heard and have told me about:  
 \_\_\_\_\_  
 \_\_\_\_\_

by: \_\_\_\_\_  
Witness name Complete address Telephone no.  
 (SEE SECOND PAGE)

**USE NOTE:** If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.  
 \_\_\_\_\_  
 Do not write below this line - For court use only

5. The persons interested in these proceedings are:

NAME	RELATIONSHIP	ADDRESS	TELEPHONE
	Spouse		
	Guardian*		

\*(Specify the county where the guardianship was established and the case number.) \_\_\_\_\_

6. The individual  is  is not a veteran.

7. Attached is a  clinical certificate by a physician or licensed psychologist taken within the last 72 hours.  
 clinical certificate by a psychiatrist taken within the last 72 hours.  
 no clinical certificate is attached because only assisted outpatient treatment is requested.

8. (For hospitalization and combined treatment only.) An examination could not be secured because \_\_\_\_\_

I request:

- a. the individual be examined at \_\_\_\_\_,  
the preadmission screening unit or hospital designated by the community mental health services program.  
 b. a peace officer take the individual into protective custody and transport the individual to \_\_\_\_\_

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

- a. order appropriate mental health treatment including hospitalization or a combination of hospitalization and assisted outpatient treatment.  
 b. order that the individual participate in assisted outpatient treatment without hospitalization.

10. I request the individual be hospitalized pending a hearing.

I declare under the penalties of perjury that this petition has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Signature of attorney \_\_\_\_\_

Date \_\_\_\_\_

Name (type or print) \_\_\_\_\_ Bar no. \_\_\_\_\_

Signature of petitioner \_\_\_\_\_

Address \_\_\_\_\_

Address \_\_\_\_\_

City, state, zip \_\_\_\_\_ Telephone no. \_\_\_\_\_

City, state, zip \_\_\_\_\_

Home telephone no. \_\_\_\_\_

Work telephone no. \_\_\_\_\_

FOR HOSPITAL USE ONLY	This petition for mental health treatment was received by the hospital on _____ at _____.
	Date _____ Time _____
_____ Signature of hospital representative	

<b>STATE OF MICHIGAN PROBATE COURT COUNTY OF</b>	<b>ORDER FOR EXAMINATION/TRANSPORT</b>	<b>FILE NO.</b>
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In the matter of \_\_\_\_\_ DOB: \_\_\_\_\_  
First, middle, and last name

1. Date of hearing: \_\_\_\_\_ Judge: \_\_\_\_\_ Bar no. \_\_\_\_\_

**THE COURT FINDS:**

2. A petition alleging the individual is a person requiring treatment and requesting hospitalization or a combined treatment order has been filed with the court, and
- a. one clinical certificate accompanies the petition. The individual must be examined by a psychiatrist.
  - b. no clinical certificate accompanies the petition. A reasonable effort was made to secure an examination. The individual must be examined by a psychiatrist and either a physician or a licensed psychologist.
3. The court has received information that a petition for assisted outpatient treatment has been filed, the petitioner has made reasonable efforts to secure an examination, and the individual will not make himself/herself available for evaluation.
4. The individual requires immediate assessment because the individual presents a substantial risk of significant physical or mental harm to himself/herself in the near future or presents a substantial risk of significant physical harm to others in the near future.
5. There does not appear to be probable cause to order the individual be taken into protective custody and transported to the designated prescreening unit or hospital.

**IT IS ORDERED:**

6. The individual be examined by a  psychiatrist.  psychiatrist and a physician or licensed psychologist at \_\_\_\_\_  
Prescreening unit or hospital

Upon completion of the examination(s), the executed clinical certificate(s) shall be filed with the court or a report that a clinical certificate is not warranted shall be made to the court.

- The individual shall be hospitalized. If the examinations and clinical certificates are not completed within 24 hours after hospitalization, the individual shall be released.
- A peace officer shall take the individual into protective custody and transport him/her to the designated prescreening unit or hospital. If the order is not executed by \_\_\_\_\_, the law enforcement agency must report to the court the reason the order was not executed within the prescribed time period.  
10 days from entry of order
- 7. A peace officer shall take the individual into protective custody and transport him/her to the designated prescreening unit or hospital for assessment for assisted outpatient treatment. If the order is not executed by \_\_\_\_\_, the law enforcement agency must report to the court the reason the order was not executed within the prescribed time period.  
10 days from entry of order
- 8. The request to take the individual into protective custody for transport is denied.

\_\_\_\_\_  
Date Judge Bar no.

Do not write below this line - For court use only

**REPORT OF NON-EXECUTION**

The Order for Examination/Transport issued on \_\_\_\_\_ has not been executed. The reason the order was  
Date not executed within 10 days after entry is: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name

\_\_\_\_\_  
Law enforcement agency

\_\_\_\_\_  
Telephone no.

**TO THE LAW ENFORCEMENT AGENCY:** Under MCL 330.1436(2), this report must be filed with the court that issued the Order for Examination/Transport if the order is not executed within 10 days after entry of the order.

STATE OF MICHIGAN PROBATE COURT COUNTY OF	CLINICAL CERTIFICATE	FILE NO.
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In the matter of \_\_\_\_\_  
First, middle, and last name

TO THE EXAMINER: The following is a statement that must be read to the individual before proceeding with any questions.

I am authorized by law to examine you for the purpose of advising the court if you have a mental condition which needs treatment and whether such treatment should take place in a hospital or in some other place. I am also here to determine if you should be hospitalized or remain hospitalized before a court hearing is held. I may be required to tell the court what I observe and what you tell me.

1. I am a  psychiatrist.  licensed psychologist.  physician.
2. I certify that on this date I read the above statement to the individual before asking any questions or conducting any examination.
3. I further certify that I, \_\_\_\_\_, personally examined \_\_\_\_\_  
Name (type or print) Patient  
at \_\_\_\_\_  
Name and address where examination took place  
on \_\_\_\_\_ starting at \_\_\_\_\_ and continuing for \_\_\_\_\_ minutes.  
Date Time

INSTRUCTIONS: Describe in detail the specific actions, statements, demeanor, and appearance of the individual, together with other information which underlie your conclusion. **Indicate the source of any information not personally known or observed.** If this certificate is to accompany a petition for discharge, state why the individual continues to be or is no longer a person requiring treatment or in need of hospitalization.

4. My determination is that the person is  
 mentally ill (has a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life).  
 not mentally ill.
5. (if applicable) The person has  
 convulsive disorder.  alcoholism.  other drug dependence.  
 mental processes weakened by reason of advanced years.  
 other (specify): \_\_\_\_\_
6. My diagnosis is: \_\_\_\_\_
7. Facts serving as the basis for my determination are: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(SEE SECOND PAGE)

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8. Explain in the space below the facts which lead you to believe that future conduct may result in (check applicable box)

a. likelihood of injury to self. Facts:

Therefore, I believe that the examined person, as a result of mental illness, can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure self.

b. likelihood of injury to others. Facts:

Therefore, I believe that the examined person, as a result of mental illness, can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure others.

c. inability to attend to basic physical needs. Facts:

Therefore, I believe that the examined person, as a result of mental illness, is unable to attend to those basic physical needs (such as food, clothing or shelter) that must be attended to in order to avoid serious harm in the near future and has demonstrated that inability by failing to attend to those basic physical needs.

d. inability to understand need for treatment. Facts:

Therefore, I believe that the examined person, as a result of mental illness, is so impaired by that mental illness and whose lack of understanding of the need for treatment has caused him or her to demonstrate an unwillingness to voluntarily participate in or adhere to treatment that is necessary, on the basis of competent clinical opinion, to prevent a relapse or harmful deterioration of his or her condition, and presents a substantial risk of significant physical or mental harm to himself/herself or others.

9. I conclude the individual  is  is not a person requiring treatment.

10. (optional) I recommend  hospitalization  assisted outpatient treatment

as follows: \_\_\_\_\_

I certify that I am a person authorized by law to certify as to the individual's mental condition. I am not related by blood or marriage either to the person about whom this certificate is concerned or to any person who has filed, or whom I know to be planning to file, a petition in this proceeding. I declare under the penalties of perjury that this certificate has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Time of signing

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or type name and business telephone no.

# INTENT TO TERMINATE MENTAL HEALTH TREATMENT

Michigan Department of Health and Human Services

Authority: Section 330.4019 of Public Act 258 of 1974 as amended.

Information contained on this form is covered by Federal and State privacy and confidentiality laws.

THIS LEGAL FORM IS APPROVED BY THE  
MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES  
AND CANNOT BE ALTERED OR ABRIDGED WITHOUT FORMAL APPROVAL.

I _____ hereby give notice of intent to terminate mental health treatment of _____, effective _____ (a.m./p.m.) on _____ (date).		
Signed: _____		
<input type="checkbox"/> Recipient <input type="checkbox"/> Guardian <input type="checkbox"/> Patient Advocate		
Signature of Witness	Date	Time

I understand that, except if rescinded, a formal voluntary patient over 18 years of age **shall not be kept in the hospital/provided mental health treatment for more than 3 days, excluding Sundays and holidays**, after receipt by the hospital of a written notice of intent to terminate mental health treatment. Seventy-two (72) hours from this time and date (excluding Sundays and Holidays) will be:

Date	Time
	<input type="checkbox"/> a.m. <input type="checkbox"/> p.m.

Recipient:

Once the written notice of termination of mental health treatment is given to the hospital, and if the notice is not withdrawn, recipient attending psychiatrist will begin the evaluation of your need for involuntary hospitalization/mental health treatment within 24 hours of the written notice. If he/she determines that you are dangerous to yourself or others, or that you are unable to attend to my basic personal needs such as food, clothing and shelter, that are necessary to avoid serious harm in the near future, the doctor and the hospital, as required by law, will file an application for involuntary hospitalization/mental health treatment.

## CONTINUATION OF HOSPITALIZATION/MENTAL HEALTH TREATMENT

(Revocation of Intent to Terminate Mental Health Treatment)

I _____ hereby rescind the request to terminate mental health treatment effective _____ (a.m./p.m.) on _____ (date).	
Signature	Date

The Michigan Department of Health and Human Services (MDHHS) does not discriminate against any individual or group because of race, religion, age, national origin, color, height, weight, marital status, genetic information, sex, sexual orientation, gender identity or expression, political beliefs or disability.

**AUTHORITY:** PA 258 of 1974, as amended 300.1419 Administrative Code, Rule 330.4077



**STATE OF MICHIGAN  
PROBATE COURT  
COUNTY OF**

**NOTICE OF HOSPITALIZATION AND  
CERTIFICATE OF SERVICE**

**FILE NO.**

In the matter of \_\_\_\_\_  
First, middle, and last name

**NOTICE**

TO THE PROBATE COURT: Attached is a petition for hospitalization and two clinical certificates. You are notified that

1. The individual named above was hospitalized on \_\_\_\_\_ at \_\_\_\_\_ at \_\_\_\_\_ .  
Date Time Name of hospital
2. The clinical certificate of the psychiatrist that is required for hospitalization was completed on \_\_\_\_\_ at \_\_\_\_\_ .  
Date Time

**CERTIFICATE OF SERVICE ON PATIENT**

3. I certify that on the dates and times indicated a copy of each of the following documents was given to the individual named above.

- a. Petition  
Date \_\_\_\_\_ Time \_\_\_\_\_ Signature \_\_\_\_\_
- b. Statement explaining individual's rights  
Date \_\_\_\_\_ Time \_\_\_\_\_ Signature \_\_\_\_\_
- c. Clinical certificate of psychiatrist  
Date \_\_\_\_\_ Time \_\_\_\_\_ Signature \_\_\_\_\_
- d. Clinical certificate of licensed psychologist/physician/psychiatrist  
Date \_\_\_\_\_ Time \_\_\_\_\_ Signature \_\_\_\_\_
- e. Notice of hearing  
Date \_\_\_\_\_ Time \_\_\_\_\_ Signature \_\_\_\_\_

**CERTIFICATE OF SERVICE ON OTHERS**

4. I certify that copies of the petition, two clinical certificates, statement explaining rights, and notice of hearing were served

- by first-class mail     personally    on \_\_\_\_\_ on \_\_\_\_\_  
Date and time    Individual's  guardian     nearest relative
- and**
- by first-class mail     personally    on \_\_\_\_\_ on \_\_\_\_\_  
Date and time    Individual's attorney

5. I further certify that the individual was asked whether to serve other persons with copies of the above documents.

- a. \_\_\_\_\_ was designated.  
Name
- Copies could not be served.     Copies were served     by first-class mail     personally    on \_\_\_\_\_  
Date
- b. \_\_\_\_\_ was designated.  
Name
- Copies could not be served.     Copies were served     by first-class mail     personally    on \_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

Do not write below this line - For court use only



<b>STATE OF MICHIGAN PROBATE COURT COUNTY OF</b>	<b>NOTICE OF HEARING AND ADVICE OF RIGHTS</b>	<b>FILE NO.</b>
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In the matter of \_\_\_\_\_  
First, middle, and last name

1. Based on the petition and other documents you received, this court is requested to order mental health treatment for you.
2. A hearing on the petition will be held at:

\_\_\_\_\_  
Location

\_\_\_\_\_  
Date and time

before Judge \_\_\_\_\_  
Bar no.

3. You are entitled to be represented by an attorney at a full court hearing. The court has appointed:

\_\_\_\_\_  
Attorney name Bar no.

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, state, zip Telephone no.

as your attorney. If an attorney of your choice agrees to represent you and notifies the court of his/her appearance on your behalf, that attorney may replace the court-appointed attorney. If you believe you are unable to pay for an attorney, and the court agrees, your attorney will be reasonably compensated from public funds.

4. You have the right to be present at the hearing. If you fail to attend the hearing after having an opportunity to meet with your attorney, you will be considered to have waived your right to attend and the hearing may be held without you.
5. You have a right to an independent clinical evaluation, except that if the petition is for judicial admission, you also have the right to an independent psychological evaluation instead of a clinical evaluation. If you believe you are unable to pay for this, and the court agrees, the evaluation will be paid for from public funds.
6. You have the right to demand a jury trial.
7. After consulting with an attorney, you may stipulate to the entry of an order for treatment.
8. You should discuss your rights with your attorney.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Deputy probate register/clerk

Do not write below this line - For court use only



<b>STATE OF MICHIGAN PROBATE COURT COUNTY OF</b>	<b>ORDER AND REPORT ON ALTERNATIVE MENTAL HEALTH TREATMENT</b>	<b>FILE NO.</b>
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In the matter of \_\_\_\_\_  
First, middle, and last name

**ORDER**

**IT IS ORDERED** that \_\_\_\_\_ shall prepare a report assessing the current  
Name (type or print)  
availability and appropriateness of alternatives to hospitalization for the individual named above including alternatives available following an initial period of court-ordered hospitalization.

The report shall be made to the court before the hearing on \_\_\_\_\_ for  
Date and time of hearing

\_\_\_\_\_  
Petition for 60-day order, discharge, etc.

\_\_\_\_\_  
Date Judge Bar no.

**REPORT ON EVALUATION OF HOSPITAL TREATMENT AND/OR ALTERNATIVE PROGRAMS**

1. I, \_\_\_\_\_, as \_\_\_\_\_, report as follows.  
Name Profession, organization, and position

2. I have reviewed, as to their availability in or near the individual's home community, treatment resources alternative to hospitalization and report as follows: (If practical, give name of agency, program, etc.)

a. Independent mental health professional: \_\_\_\_\_  
\_\_\_\_\_

b. Community mental health day treatment, aftercare service, work activity, or other program: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c. Substance abuse, rehabilitation service, or similar program of public or private agency: \_\_\_\_\_  
\_\_\_\_\_

d. Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(SEE SECOND PAGE)

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3. I have reviewed, as to their availability in or near the individual's home community, residential accommodations and report as follows: (If practical, give name of residence, location, etc.)

a. Independent: \_\_\_\_\_  
Individual's own house, apartment, etc.

b. Residence of relative or friend: \_\_\_\_\_

c. Foster care home: \_\_\_\_\_

\_\_\_\_\_

d. Nursing home: \_\_\_\_\_

e. Other: \_\_\_\_\_

4. I recommend release.

5. I recommend a course of treatment of  hospitalization  hospitalization for \_\_\_\_\_ days, followed by assisted outpatient treatment as follows:

\_\_\_\_\_

\_\_\_\_\_

6. My recommendation is based upon the following described interviews, observations, and information:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

7. I believe the hospital to which admission is proposed  can  cannot provide its prescribed treatment program appropriately and adequately because \_\_\_\_\_

\_\_\_\_\_

8. I recommend the following agency or independent mental health professional to supervise the outpatient treatment:

Name \_\_\_\_\_ Complete address \_\_\_\_\_

The agency or professional  has  has not indicated capability and willingness to supervise the recommended program.

9. The individual currently has the following source(s) of funds to cover his or her care in the community:

\_\_\_\_\_

10. The individual does not currently have sufficient sources of funds for community living.

a. Application for supplemental funds has been made. They should be available \_\_\_\_\_.

b. Application for supplemental funds has not been made because \_\_\_\_\_.

Application will be made on \_\_\_\_\_ and should be available about \_\_\_\_\_.

c. Pending receipt of supplemental funds, the following funds will be available:

Direct relief.

MDHHS/CMH emergency care funds.

Other assistance: \_\_\_\_\_

None. Reason: \_\_\_\_\_

<p align="center"><b>STATE OF MICHIGAN PROBATE COURT COUNTY CIRCUIT COURT - FAMILY DIVISION</b></p>	<p align="center"><b>CERTIFICATE OF LEGAL COUNSEL / WAIVER OF ATTENDANCE</b></p>	<p><b>FILE NO.</b></p>
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In the matter of \_\_\_\_\_

**CERTIFICATE OF LEGAL COUNSEL**

1. I have been appointed by the court as legal counsel for the individual named above.
2. A hearing on the petition for admission/hospitalization/assisted outpatient treatment has been set as follows:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Location: \_\_\_\_\_

Judge: \_\_\_\_\_

3. I certify that I personally have seen and consulted with the individual at least 24 hours before the time set for the hearing.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of attorney Bar no.

\_\_\_\_\_  
Attorney name (type or print)

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, state, zip Telephone no.

**WAIVER OF ATTENDANCE**

I understand that it is my right to be present at the hearing on the petition for admission/hospitalization/assisted outpatient treatment set for the date stated above but I waive that right.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of the individual named above

Witness: \_\_\_\_\_  
Signature of legal counsel

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**STATE OF MICHIGAN  
PROBATE COURT  
COUNTY OF**

**REQUEST TO DEFER  
HEARING ON COMMITMENT**

**FILE NO.**

In the matter of \_\_\_\_\_  
First, middle, and last name

PLEASE PRINT OR TYPE CLEARLY

1. I state that I have met with my legal counsel, a representative from the county community mental health program, and a member of the treatment team assigned to provide treatment. I agree to one of the following:

- a. Inpatient hospital treatment not to exceed 60 days.
- b. Outpatient treatment not to exceed 180 days.
- c. Combined hospitalization and outpatient treatment up to 180 days with hospitalization not to exceed 60 days.

2. The treatment program will be as follows:

Hospitalization: \_\_\_\_\_

Outpatient treatment under the supervision of: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. I request that the court hearing be deferred for not longer than 60 days from today if I have chosen to remain hospitalized, or 180 days from today if I have chosen outpatient treatment or a combination of hospitalization and outpatient treatment.

4. I understand that I may refuse this treatment at any time during this deferral period and demand a court hearing.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Patient's signature

\_\_\_\_\_  
Witness/Legal counsel

\_\_\_\_\_  
Bar no.

**USE NOTE:** If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.

Do not write below this line - For court use only



**STATE OF MICHIGAN  
PROBATE COURT  
COUNTY OF**

**DEMAND FOR HEARING**

**FILE NO.**

In the matter of \_\_\_\_\_  
First, middle, and last name

- 1. I am the individual, and I demand a court hearing.
- 2. I am the  hospital director/designee,  outpatient treatment provider/designee, and I demand a court hearing because  the individual refuses to accept prescribed treatment.  the individual orally demanded a hearing.
- 3. I am the executive director of the community mental health services program. The individual deferred the initial hearing and is participating in an outpatient treatment program in the community. The deferral period ends on \_\_\_\_\_  
Date
  - I believe s/he continues to require treatment, but s/he refuses to sign a voluntary treatment form, and I demand a court hearing.
  - I believe s/he continues to require treatment, but s/he is found not suitable for voluntary treatment, and I demand a court hearing.
- 4. I am the director of the hospital where the individual has remained hospitalized since deferring the initial hearing on \_\_\_\_\_  
Date. I believe the individual continues to require treatment and
  - will not agree to sign a formal voluntary admission, and I demand a court hearing.
  - is not suitable for voluntary admission, and I demand a court hearing.
- 5. The individual requires hospitalization pending the hearing and it is necessary that the court order a peace officer to transport the individual to the \_\_\_\_\_ hospital pending the hearing.
- 6. The individual is located at \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (type or print)

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, state, zip

(Complete only if item 5 is checked.)

**ORDER**

1. Date of hearing: \_\_\_\_\_ Judge: \_\_\_\_\_  
Bar no.

2. A peace officer shall take the individual into protective custody and transport him/her to the hospital stated above.

\_\_\_\_\_  
Signature

**USE NOTE:** If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.

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**STATE OF MICHIGAN  
PROBATE COURT  
COUNTY OF**

**INITIAL ORDER AFTER  
HEARING ON PETITION FOR  
MENTAL HEALTH TREATMENT**

**FILE NO.**

In the matter of \_\_\_\_\_  
First, middle, and last name

Court ORI	Date of birth	Place of birth	Race	Sex
Current address of individual				

1. Date of Hearing: \_\_\_\_\_ Judge: \_\_\_\_\_ Bar no.

2. A petition has been filed by \_\_\_\_\_ asserting that the individual named  
Petitioner name (type or print)  
above is a person requiring treatment.

**THE COURT FINDS:**

3. Notice of hearing has been given according to law.

4. The individual  was present in court.  was not present for reasons stated on the record.  
The hearing was  with  without a jury.

Present were: \_\_\_\_\_, attorney for the individual, and  
\_\_\_\_\_, attorney for the petitioner.

5. Testimony of a physician, psychiatrist, or licensed psychologist was waived by the individual and the individual's attorney.

6.  Testimony was given by \_\_\_\_\_.  
 Testimony was not given because the parties stipulated to entry of the order.

7. By clear and convincing evidence, the individual is a person requiring treatment because the individual has a mental illness,  
 a. and as a result of that mental illness can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure self or others, and has engaged in an act or acts or made significant threats that are substantially supportive of this expectation.  
 b. and as a result of that mental illness is unable to attend to those basic physical needs that must be attended to in order to avoid serious harm in the near future, and has demonstrated that inability by failing to attend to those basic physical needs.  
 c. whose judgment is so impaired by that mental illness and whose lack of understanding of the need for treatment has caused him or her to demonstrate an unwillingness to voluntarily participate in or adhere to treatment that is necessary, on the basis of competent clinical opinion, to prevent a relapse or harmful deterioration of his or her condition, and presents a substantial risk of significant physical or mental harm to the individual or others.

8. There  is  is not an available treatment program that is an alternative to hospitalization or that follows an initial period of hospitalization adequate to meet the individual's treatment needs and is sufficient to prevent harm that the individual may inflict upon self or others within the near future.

9. \_\_\_\_\_ hospital can provide treatment, which is adequate and appropriate to the individual's condition.

10. The individual is not a person requiring treatment.

(SEE SECOND PAGE)

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**IT IS ORDERED:**

11. Any hospitalization of the individual for mental health treatment shall occur in the hospital listed in item 9.

12. The individual be hospitalized for up to \_\_\_\_\_ days.  
1 to 60 days

13. The individual receive assisted outpatient treatment for no longer than 180 days, supervised by

\_\_\_\_\_  
Community mental health services or other designated entity

a. The following assisted outpatient treatment services are ordered: (See MCL 330.1468[2][e] for specific services.)

\_\_\_\_\_  
\_\_\_\_\_

b. The individual shall be hospitalized for up to \_\_\_\_\_ days of the 180-day assisted outpatient treatment period.  
1 to 60 days

An initial hospitalization period shall be up to \_\_\_\_\_ days.  
1 to 60 days

14. The petition is  denied on the merits.  dismissed.  withdrawn.

15. If the individual refuses to comply with a psychiatrist's order for hospitalization, a peace officer shall take the individual into protective custody and transport the individual to the hospital designated by the psychiatrist.

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

17. If felony charges have been previously dismissed under MCL 330.2044(1)(b) and the time for petitioning to refile charges has not elapsed, not less than 30 days before the scheduled release or discharge:

- a. the director of the treating facility shall notify the prosecutor's office in the county in which charges against the person were originally brought that the patient's release or discharge is pending.
- b. the patient to be released or discharged shall undergo a competency examination as described in MCL 330.2026. A copy of the written report of the examination along with the notice required in item 18a above shall be submitted to the prosecutor's office in the county in which the charges against the patient were originally brought. The written report is admissible as provided in MCL 330.2030(3).

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge

<b>STATE OF MICHIGAN PROBATE COURT COUNTY OF</b>	<b>ORDER TO MODIFY ORDER FOR ASSISTED OUTPATIENT TREATMENT OR COMBINED HOSPITALIZATION AND ASSISTED OUTPATIENT TREATMENT</b>	<b>FILE NO.</b>
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In the matter of \_\_\_\_\_  
First, middle, and last name

1. Date of hearing (if one): \_\_\_\_\_ Judge: \_\_\_\_\_ Bar no.

2. This court issued an  initial  second  continuing order on \_\_\_\_\_ directing the individual  
Date  
named above to undergo a program of assisted outpatient treatment or combined hospitalization and assisted outpatient treatment.

3. The court has been notified that  
 the individual is not complying with the order for assisted outpatient treatment or combined hospitalization and assisted outpatient treatment.  
 assisted outpatient treatment has not been or will not be sufficient to prevent harm the individual may inflict upon self or others.  
 the individual believes that the assisted outpatient treatment program is not appropriate.

4. **THE COURT FINDS:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**IT IS ORDERED:**

5. The order for assisted outpatient treatment or combined hospitalization and assisted outpatient treatment is modified and the individual shall undergo a program of assisted outpatient treatment under the supervision of  
 a community mental health services program  
\_\_\_\_\_  
 a mental health agency or professional

as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This assisted outpatient treatment shall not exceed the time from the date of issuance of the  
 initial  second  continuing combined order.

6. The order for assisted outpatient treatment or combined hospitalization and assisted outpatient treatment is modified and the individual shall be hospitalized at \_\_\_\_\_  
for a period not to exceed the remainder of the previously-ordered hospitalization portion of the  
 initial  second  continuing combined order.

(SEE SECOND PAGE)

**USE NOTE:** Use form PCM 244 to modify an order for assisted outpatient treatment or an order for combined hospitalization and assisted outpatient treatment under MCL 330.1475(3)-(5).

Do not write below this line - For court use only

7. The order for assisted outpatient treatment or combined hospitalization and assisted outpatient treatment is modified and the individual shall continue to undergo combined hospitalization and assisted outpatient treatment for the remainder of the previously-ordered period. The individual shall be hospitalized at \_\_\_\_\_ for a period not to exceed the remainder of the initially ordered hospitalization portion of the  initial  second  continuing combined order. Assisted outpatient treatment shall be under the supervision of  a community mental health services program  a mental health agency or professional

as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NOTICE:** The court must be promptly notified of the individual's release from the hospital to the assisted outpatient treatment program, along with a psychiatrist's statement that the individual is clinically appropriate for assisted outpatient treatment.

8. If the 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 designated by the psychiatrist.

9. This order expires on \_\_\_\_\_ .  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge

**NOTICE OF RIGHT TO OBJECT TO HOSPITALIZATION**

If the court has ordered you to be hospitalized rather than continue in an assisted outpatient treatment program you have a right to object to this hospitalization. If you wish to object, complete the objection below and send a copy to the court.

**PROOF OF SERVICE**

I certify that this notice was personally served on the individual named above on \_\_\_\_\_ at \_\_\_\_\_  
Date Time  
and a copy was mailed to the \_\_\_\_\_ Court on \_\_\_\_\_ .  
Date

\_\_\_\_\_  
Signature

**OBJECTION TO HOSPITALIZATION**

I object to my hospitalization and request that the court schedule a hearing on the objection.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

<b>STATE OF MICHIGAN PROBATE COURT COUNTY OF</b>	<b>NOTIFICATION OF NONCOMPLIANCE</b> <input type="checkbox"/> <b>REQUEST FOR MODIFIED ORDER</b>	<b>FILE NO.</b>
--	--	-----------------

In the matter of \_\_\_\_\_ First, middle, and last name      DOB: \_\_\_\_\_

1. I, \_\_\_\_\_, make this notification as the  
Name (type or print)

- agency.
- mental health professional who is supervising the individual's assisted outpatient treatment program.
- individual.

2. The individual who is the subject of this notification was ordered to undergo a program of assisted outpatient treatment or combined hospitalization and assisted outpatient treatment.

- a. The assisted outpatient treatment has not been or will not be sufficient to prevent the individual from inflicting harm or injuries to self or others.
- b. The individual is not complying with the order for assisted outpatient treatment or combined hospitalization and assisted outpatient treatment.
- c. I believe that my assisted outpatient treatment program is not appropriate.

3. The individual was in the hospital \_\_\_\_\_ days for mental health treatment. The individual needs immediate hospitalization.

4. This conclusion is based upon

- a. my personal observation of the individual doing the following acts and saying the following things:

\_\_\_\_\_  
\_\_\_\_\_

- b. conduct and statements seen or heard by others and related to me: State the conduct and statements and the name, address, and telephone number of each witness.

\_\_\_\_\_  
\_\_\_\_\_

5. A psychiatrist has ordered the individual to return to the hospital.

6. **I request** the court to modify its last order of  assisted outpatient treatment

combined hospitalization and assisted outpatient treatment      to direct the individual to:

- a. undergo another assisted outpatient treatment program.
- b. undergo hospitalization or combined hospitalization and assisted outpatient treatment, with hospitalization not to exceed \_\_\_\_\_ days.
- c. be transported to the hospital by a peace officer if the individual refuses to comply with the psychiatrist's order to return to the hospital.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
Agency

\_\_\_\_\_  
City, state, zip      Telephone no.

**USE NOTE:** If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.

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# OVERVIEW OF INVOLUNTARY MENTAL ILLNESS TREATMENT PROCESS

## **The Petition/Application**

- To obtain court-ordered involuntary mental illness hospitalization or treatment for a person, a Petition/Application for Hospitalization must be filled out and two clinical certificates of the person's mental illness must be completed.
- A completed petition/application should include a report of observations or witness statements which are basis for the request, address information on all relevant relatives (if no spouse, then next of kin), and whether or not the person is a veteran.

## **Pick-up Orders**

- If someone is not able to have the person examined, he/she may be able to file a Supplemental Petition for Examination/Hospitalization and Order for an order to have the person examined and for law enforcement to pick up the person and transport him/her to Community Mental Health (CMH) for the examination.
- The supplemental petition requires the petitioner to affirm under oath that he/she has been unable, after reasonable effort, to secure an examination, and give the reasons for not getting the examination.
- It is possible that someone transported to CMH for examination is not in a proper state for mental health assessment and may need some type of stabilization at a hospital.

## **The Clinical Certificate**

- The clinical certificate certifies that the individual personally examined is mentally ill and a person requiring treatment.
- The first certificate can be executed by any physician or licensed psychologist and is good for up to 72 hours prior to hospitalization.
- The second certificate must be completed by a psychiatrist within 24 hours of hospitalization.

## **Pending the Hearing**

- The hearing on the petition/application must be held within 7 days of the court's receipt of the paperwork.
- Unless ordered to be hospitalized, the person can be allowed to return home pending the hearing.
- The court will appoint an attorney for the person.

## **The Deferral Agreement**

- Before the scheduled hearing on the petition, the person and his/her attorney will meet to discuss whether the person will voluntarily agree to undergo mental health treatment.
- If the respondent so agrees, a deferral agreement will be filled out and signed.
- The hospital for any hospitalization and the supervisor of any outpatient treatment (this is CMH, unless there is another entity willing and able to do this) must be identified.
- The deferral period for a petition/application is 90 days; if there is no action after 90 days the petition/application is dismissed.

### **Subsequent Non-Compliance with the Deferral Agreement**

- If, during the deferral period, the person deferring does not comply with the agreement he/she signed (either in the hospital or in outpatient treatment) the court is to be notified immediately through a demand for hearing to convene a hearing on the deferred petition.
- A hearing before the judge on the original petition/application will be scheduled.

### **The Hearing**

- The person has a right to be present; his/her attorney will be present.
- A physician or psychologist who has personally examined the person must testify at the hearing.
- The applicant/petitioner must attend the hearing.
- The judge will listen to the testimony and make a decision whether or not to order mental illness hospitalization and/or outpatient treatment for the person.

### **The Initial Order**

- The typical initial order for mental health treatment will authorize up to 60 days of hospitalization and up to 90 days of alternative treatment.
- The initial order may contain a conditional pick-up order such that if after release from the hospital the person fails to abide by a psychiatrist's order to return to the hospital, law enforcement will pick up the person and transport him/her to the hospital.

### **Non-Compliance with the Order**

- If a person does not comply with ordered hospitalization or alternative treatment, the supervising agency or mental health professional must notify the court immediately.
- The court may order law enforcement to pick up the person and take him/her to CMH.

### **Petitions for Second or Continuing Orders**

- Not less than 14 days before the expiration of an order someone may file a petition for a second or continuing mental illness order so that the person continues to receive mental illness hospitalization or outpatient treatment.



<http://pr.ingham.org/mentalhealthinformation.aspx>

## **Involuntary Hospitalization - Brief Summary for Patients**

Someone is worried about your mental health and wants you to be seen by a doctor to decide if you need help from the hospital. However, you do NOT want to be admitted!

This concerned person writes examples of the behavior they are worried about and why they believe you need help from the hospital. The concerned person writes this information on a form called a **Petition**. (The petition may be given to the police so they know you need to go to the hospital. The police may need to bring you to the hospital.)

The petition is then given to the hospital or screening center. The doctor at the hospital/screening center will meet with you to decide if your behavior is serious enough for you to require staying at the hospital for help. If the doctor decides you need help from the hospital, the doctor will write out the reasons why you need help at the hospital. The form the doctor will write on is called a **First Clinical Certificate**.

Now, a psychiatrist needs to meet with you within 24 hours of being at the hospital. This doctor will also be deciding if your behavior is serious enough to require staying at the hospital. If this second doctor decides you need help from the hospital, the doctor will write out the reasons on a form also called a Certificate, but this one is known as the **Second Clinical Certificate**.

Now that you are in the hospital you may make at least 2 phone calls. You will have a lawyer who will work with you, once your paperwork has been filed with the court. You can also get your own lawyer as long as you pay for the services the lawyer provides to you.

You will be working with Hospital Name/Unit staff to assure you have access to the care you need. A physician will meet with you within the first 24 hours of your stay. Your psychiatrist will meet with you everyday that you are in the hospital. You will be evaluated for medication and treatment options. Your physician or nurse will explain the risks and benefits to any medication recommended for your treatment.

You can decide if you want to take the recommended medications. You have a right to refuse treatment until there is a deferral conference or a court order for your treatment, **unless** you are in immediate danger to your own safety or the safety of others.

### **Deferral Conference or Court Hearing**

You have the right to Due Process (your time in court). Your attorney will meet with you within 3 days of your papers being filed with the court. You must have met with your attorney within the first 3 days but no less 1 full day (24 hours) before your scheduled court date. Your attorney should meet with you before the deferral conference.



Your physician and the staff will provide input and recommendations for your treatment during the deferral process.

If you are working with Community Mental Health, you will have a case manager meet with you. Your case manager will provide recommendations and information regarding your care during the deferral conference.

When you have your deferral conference your attorney will be present, as well as hospital treatment staff and a representative from the CMH. You will have several options:

1. You may decide to DEFER (delay) going to court. This means you are agreeing to take medication and participate in therapy/treatment now and when you are discharged. This is called "stipulating to the treatment".
  - When you DEFER, it can last for 90 days; anytime in the next 90 days you can change your mind and ask for a court hearing. You are now considered a "voluntary patient".
  - The hospital can also ask for a court hearing at anytime if you decide not to participate in treatment. The hospital will ask for a hearing to determine if you need inpatient treatment and if so, the court will order you to take medications and participate in treatment. You are now an "involuntary patient".

Some people prefer to DEFER their court hearing because it keeps the involuntary commitment to hospitalization off their permanent legal record.

2. You can decide to have a hearing and appear before the PROBATE JUDGE and let the judge decide if you need to be in the hospital for mental health treatment.
3. You may request a JURY TRIAL, allowing the jury to decide if you need to be in the hospital for mental health treatment. (you have to request a jury trial before the first witness takes the stand at the hearing with the probate judge – option 2 described above.)

You have many rights under the Michigan Mental Health Code during hospitalization and treatment. You will be provided with a rights booklet at admission. This book is a guide to your rights as a patient. If you have questions or would like to make a complaint regarding your rights, we have a Rights Advisor at the hospital you can talk to.

For more information on Recipient Rights please call or ask staff to contact the Rights Advisor at: \_\_\_\_\_

### Statements for Persons Hospitalized Involuntarily:

- **A psychiatrist will examine you within 24 hours of your admission to the Mental Health Unit** (excluding legal holidays). If you do not require mental health treatment, you will be discharged immediately. Otherwise, you will be held in the hospital pending a court hearing. If the doctor considers you appropriate for it, you may be given the opportunity to sign a formal *voluntary*.
- You are entitled to copies of the petition and clinical certificates that are filed concerning you.

- **You will be given a full court hearing within seven days** (excluding Sundays and holidays) **to determine whether or not there is a legal basis to forcibly treat you for a mental illness.**
- You have the right to attend the commitment hearing.
- Unless other arrangements are made, you will be represented by a court appointed attorney.
- You have the right to a jury trial. (This may delay your hearing date)
- You have the right to obtain an independent clinical evaluation.
- You have the right to refuse medication before your hearing, unless it is determined that you are in danger of physically hurting yourself, or others.

- **Instead of having a court hearing, you may choose to “defer” it.**
- Within 3 days (excluding Sundays and holidays), a meeting will take place including you, your attorney, a CMH worker, an MHU team member, and a person of your choice.
- You will be told of the type of treatment being offered to you while you are in the hospital, and after you are discharged.
- The nature and possible consequences of convening the commitment hearing will be explained to you.
- You will be given the opportunity to sign the deferral form. If you choose this option, you will be expected to follow the treatment prescribed for you, both while in the hospital and out of the hospital for a period of 90 days.
- During the deferral period you or the treatment team may demand a hearing at any time.

For more information about these, and the other rights you are entitled to under the Michigan Mental Health Code, please refer to the “Your Rights” booklet in your blue admission packet.

### **Frequently Asked Questions:**

**Question:** *I am told I have to go before the judge, am I in legal trouble?*

**Answer:** You are not being charged with any kind of crime, you are involved in the legal system because of a petitioner’s concern about your well being due to a perceived mental illness.

**Question:** *I have other court hearings scheduled, for other reasons; will these be addressed during my commitment hearing?*

**Answer:** It is unlikely that your other legal issues will be discussed during your commitment hearing, unless it relates to needing treatment for a mental illness. A ruling will only be made concerning mental health treatment during this hearing. If you are scheduled for a different court hearing that you are likely to miss due to your hospitalization, please let the treatment team know, so that it can be addressed with the appropriate court.

**Question:** *I was told that if the judge places me on a treatment order, it goes on my permanent record, what does this mean?*

**Answer:** If you are placed on a treatment order, your information will be entered in to the Law Enforcement Information Network (L.E.I.N.) and the State Police will be notified of your status. This information can only be removed by court order.

**Question:** *What is a “60/90 day” order?*

**Answer:** A 60/90 day treatment order is a court order compelling a person to undergo combined mental health treatment for a period of 90 days. This means that a Community Mental Health agency or a private physician as applicable will manage your care on an outpatient basis during those 90 days. The order provides that you may also be treated in the hospital for up to 60 of those days. The hospitalization does not have to take place all at once, but can be applied as needed during the 90 days.

**Question:** *If I am placed on an order or if I defer, do I have to take all the medications that are prescribed for me?*

**Answer:** Yes. The doctor will take your preferences under consideration, but you will be expected to take all of the medications that are prescribed. If you have been court ordered, and you refuse to accept the medications, they may be administered to you forcibly. If you have signed a deferral, and you refuse the medications, the treatment team may demand a hearing.

**Question:** *What is the residential placement I see on the deferral and/or commitment order?*

**Answer:** When you no longer meet criteria for the hospital, you may be placed in a crisis residential program, on a short term basis. This residential setting is less restrictive than the hospital. Occasionally there is a need for a long-term program. Placement in a setting outside of the hospital is only given on an “as-needed” basis, most recipients go home or into the care of their families when they leave the hospital.

# Guidelines for Attorneys Representing Adults in Civil Commitment Proceedings

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by Members of the State Bar  
Committee on Mental Disability Law

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*This Court repeatedly has recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection....Moreover, it is indisputable that involuntary commitment to a mental hospital after a finding of probable dangerousness to self or others can engender adverse social consequences to the individual. Whether we label this phenomena "stigma" or choose to call it something else is less important than that we recognize that it can occur and that it can have a very significant impact on the individual.<sup>1</sup>*

This article, which is an attempt by the members of the State Bar Committee on Mental Disability Law to offer guidance to attorneys representing adults in civil commitment proceedings, has appeared twice previously in the *Michigan Bar Journal*.<sup>2</sup> By updating this article, it is hoped that changes in the law, as well as in the delivery of mental health services, will be brought to the attention of members of the bar. The committee hopes that it will be helpful for those attorneys who do not regularly practice in this area to gain some understanding of the civil commitment process.

More importantly, however, it is the intent of the committee to restate the fundamental, but often forgotten, principle that civil commitment for mental health treatment is inherently a deprivation of an individual's civil liberty. The duty of zealous representation is owed by attorneys to their clients in civil commitment proceedings.

The Michigan Supreme Court has been quite clear on this point. According to the Probate Court rules, the duty of an attorney is to "....serve as an advocate for the individual's preferred position."<sup>3</sup> Thus, the failure of an attorney under any circumstances and for whatever reason to zealously advocate for the stated preferences of his or her client is a violation of the ethical responsibilities of the attorney and is an act of malpractice. We hope that the guidance furnished in this article will help attorneys avoid such pitfalls.

## **VOLUNTARY HOSPITALIZATION**

There are options available to clients who voluntarily seek inpatient mental health treatment. In Michigan, there are two forms of voluntary mental health treatment, informal and formal. Informal voluntary hospitalization,<sup>4</sup> which is rarely utilized, allows the individual to terminate the hospitalization and leave the hospital at any time during normal shift hours by informing hospital personnel of the decision.

Formal voluntary hospitalization<sup>5</sup> occurs when an adult executes an application for hospitalization and is deemed by the hospital to be clinically suitable for that form of hospitalization. In a formal voluntary hospitalization, the individual must give the hospital a three-day written notice of the intent to terminate the hospitalization. This gives the hospital the opportunity to clinically evaluate the person to determine whether he or she meets the criteria for involuntary admission and to file the application. If the application is filed, the individual remains hospitalized pending the hearing. If not, he or she is discharged.

An application for formal voluntary hospitalization may be executed by a guardian if the individual "assents."<sup>6</sup> Note that this term is undefined in the Mental Health Code.

## THE COMMITMENT PROCESS

Before discussing the specific duties of the attorney in the commitment process, it may be helpful to review the process itself. There are essentially two determinations that must be made before the involuntary civil commitment of an individual to a hospital. The first is that the individual is a "person requiring treatment." This term is defined as follows:

*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.*

*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.*

*An individual who has mental illness, whose judgment is so impaired by that mental illness, and whose lack of understanding of the need for treatment has caused him or her to demonstrate an unwillingness to voluntarily participate in or adhere to treatment that is necessary, on the basis of competent clinical opinion, to prevent a relapse or harmful deterioration of his or her condition, and presents a substantial risk of significant physical or mental harm to the individual or others.*

*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). 7*

Without a finding that the respondent is a person requiring treatment, there is no basis for a court in Michigan to order the involuntary civil commitment of an adult for mental health treatment. No matter how beneficial the attorney may believe that a course of treatment would be for his or her client or how hopeful a family member may be that their loved one will finally receive treatment, involuntary civil commitment cannot be ordered.

The second determination that a court must make (if it is first determined that the respondent is a person requiring treatment) is that there is no alternative to hospitalization. Although the Mental Health Code is replete with references to the concept of alternative treatment, the term is undefined. However, it is generally understood that alternative treatment includes some combination of the various services that are available from a community mental health services program.

It could include, for example, placement in a group home, outpatient therapy services, medication management, or the services of what is known as an assertive community treatment program. The requirement that the court find that there is no alternative treatment to hospitalization for a person requiring treatment is as follows:

*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.*

*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.<sup>8</sup>*

The initiation of civil commitment proceedings occurs either by certification or by petition. The certification process begins when an application is completed by any person 18 years of age or over who asserts that the respondent is an individual requiring treatment, alleges facts for that assertion, together with the names and addresses of any known witnesses to the alleged and relevant facts.<sup>9</sup>

The application must also state the name and address of the nearest relative or guardian of the respondent or, if not known, a friend.<sup>10</sup> The application must have been executed not more than ten days before it was filed with the hospital that will ultimately accept the individual for hospitalization. This application must be accompanied by a clinical certificate that may be executed by any physician or licensed psychologist that has personally examined the respondent. The clinical certificate must be completed no more than 72 hours before the time is filed at the hospital.<sup>11</sup>

The commitment by certification process continues when the application and clinical certificate are delivered to a peace officer. The peace officer who receives the documents may then take the named individual into protective custody and transport him or her immediately to the pre-admission screening unit or hospital designated by the local community mental health services program. If the pre-admission screening unit determines that the individual meets the requirements for hospitalization, the peace officer must take the individual to a hospital designated by the community mental health services program.<sup>12</sup>

The hospital that has taken a person into custody through an application of medical certification must arrange for an examination by a psychiatrist as soon as it is practical, but within no more than 24 hours, excluding legal holidays, after hospitalization.<sup>13</sup> The examining psychiatrist may not be the same physician who executed the clinical certificate to form the basis for hospitalization of the individual. If this psychiatrist does certify that the individual is a person requiring treatment, the hearing process, described in more detail herein, is begun.

The admission by medical certification process can also be initiated when an individual who has agreed to be hospitalized under the formal voluntary procedure has withdrawn his or her consent to the formal voluntary hospitalization. The certification process can also be started by any peace officer who observes an individual conducting himself or herself in a manner that causes the peace officer to reasonably believe that he or she is a person requiring treatment.<sup>14</sup>

Under such circumstances, the peace officer may take the individual into protective custody and transport him or her to the pre-admission screening unit of the community mental health services program. If someone has executed an application for hospitalization of an individual and is unable, after reasonable effort, to secure an examination of the individual by a physician or licensed psychologist, the application may be presented to the local probate court.

If the court is convinced that the application is reasonable and is in full compliance with the requirements of the code and that a reasonable effort was made to secure an examination, the court may order the individual to be examined at a pre-admission screening unit. The court may also order a peace officer to take the individual into protective custody and transport him or her immediately to the pre-admission screening unit.

Civil commitment proceedings can also be started by petition. A petition may be executed or filed in the court by anyone 18 years or older.<sup>15</sup> The petition must assert that the individual requires treatment, set forth the facts that form the basis of the assertion, together with the names and addresses of any witnesses to the fact, as well as the name and address of the nearest relative or guardian or friend of the respondent.<sup>16</sup>

The petition may be accompanied by one of two clinical certificates. If accompanied by two clinical certificates, at least one must have been executed by a psychiatrist. If no clinical certificates accompany the petition, there must be an affidavit setting forth why the petitioner cannot secure an examination.

If the petition is accompanied by one clinical certificate, the court must order the individual to be examined by a psychiatrist. If no clinical certificates accompany the petition, and the court is satisfied that a reasonable effort was made to secure an examination, the court may order the individual to be examined by a psychiatrist and either a physician or licensed psychologist.<sup>17</sup>

The individual named in the petition may be received and detained at a place of examination for the purposes of examination for not more than 24 hours. If one of the examiners has concluded that the individual does not require treatment, it is possible for the court to order a third examination. If the results of the third examination are that the individual does not require treatment, the court must dismiss the petition.

The filing of the petition with the court, the clinical certificate executed by a physician or licensed psychologist, and a clinical certificate executed by a psychiatrist begins the hearing process and, with it, the involvement of the attorney.

## **THE DUTIES OF THE ATTORNEY**

The court-appointed counsel's involvement in civil commitment proceedings begins with appointment by the court. Generally speaking, counsel must be appointed within 24 hours after the involuntary hospitalization of an individual.<sup>18</sup>

The potential for a favorable outcome to the commitment process and the likelihood that the respondent will believe that he or she has been zealously represented is dependent, in large part, upon the interview and investigation that the attorney undertakes. The code specifically requires counsel to consult in person with his or her client at least 24 hours prior to the time set for the court hearing.

Since the initial court hearing must occur within seven days of the date in which the court receives the petition or application and certification documents, time frames are somewhat compressed. Therefore, it is imperative that an attorney appointed in a civil commitment proceeding take immediate steps to interview his or her client. This means going to the hospital where the client is confined to conduct the interview.

Since the interview is being conducted under less than favorable circumstances, it is important for the attorney to give considerable thought and attention to the mechanics of the interview. Interviews should take place, and



hospitals should make available, a closed room where confidentiality can be preserved. The attorney should make clear to the client that he or she has ample time to speak with the client and to gather facts.

To make some assessment of the client's condition and ability to clearly relate facts, the attorney should determine whether the client has been administered psychotropic medication. Psychotropic medication generally may not be administered before the court hearing without consent of the individual and may not be administered on the day of or the day proceeding a court hearing unless the individual consents. However, psychotropic medications may be forcibly administered if they are necessary to prevent physical injury to the individual or to others.<sup>19</sup>

After making appropriate arrangements for a client interview and determining that the client is in condition to participate in the interview, the attorney must discuss his or her role with respect to the client. Specifically, the attorney should advise the client of his or her rights to preferred counsel. It is not uncommon for some individuals to have been through the civil commitment process previously. In the event that the respondent has counsel with whom they have had a favorable experience, they have the right to preferred counsel, provided that that attorney is willing to represent him or her.<sup>20</sup>

Assuming that the client wishes to use the services of the court-appointed counsel, the next step is to review the formal assertions of the petition or application and the certifications that have been completed. Close attention should be given to issues of factual allegations that are remote in time and statements by witnesses who are not competent under the rules of evidence to support the allegations.

Additionally, close scrutiny should be given to the medical evidence. Any statement from a medical professional that is submitted to support the petition or application should be considered a violation of client confidentiality unless the requirements of the code have been met. Those requirements are that privileged communications between a health care professional and an individual subject to civil commitment proceedings may be disclosed only if the individual was informed at the outset of the interview that any communication with the health care professional could be used as evidence in a civil commitment proceeding. Without affirmative evidence by the medical professional that communication between him or her and the respondent was preceded by such a warning, the statement should be considered to be privileged and thus not admissible.

Another matter to be explored in some depth with clients is whether there has been compliance with code requirements for the timely completion of certification, filing of documents, and so on. Typically, hospital charts of a client will contain legal documents that should be readily available in the hospital ward to the attorney conducting the interview. By reviewing those documents, the attorney can decide whether or not there has been compliance with the time requirements. If there has not, then the attorney should move for a dismissal of the petition at the outset of the hearing.

Assuming that the attorney can find no procedural defect that should result in the dismissal of a petition or application, and there appears to be a colorable claim that the client may be a person requiring treatment as that term is defined under the mental health code, the attorney should spend some time with the client in exploring alternatives to hospitalization.

Here, the client's history and experience with the mental health system is critical. If the client has had a lengthy history with the public mental health system, they likely have an understanding of the services and supports that they find most beneficial and helpful. For example, a client may report that he or she is willing to accept outpatient therapy on a weekly basis and the services of what is known as an assertive community treatment team. Having ascertained what the client is willing to accept as an alternative to hospitalization, the attorney should be prepared to offer that to the court at the time of the hearing.

However, the attorney's responsibility with respect to exploring alternatives to hospitalization does not end there. All too frequently, community mental health services programs, which are required to submit to the court a report



of the availability of alternatives to hospitalization, simply indicate that there are no alternatives available. The code reserves to counsel adequate time to investigate matters at issue, including alternatives to hospitalization.<sup>21</sup>

Thus, the attorney who is representing a client who faces hospitalization, but who is willing to accept some alternative to that hospitalization, must develop his or her case for an alternative to hospitalization. Preparation should include a complete review of the client's file at the community mental health services program and interviews with mental health professionals who have been providing treatment, including therapists, case managers, psychologists, and psychiatrists. If these interviews cannot be conducted by agreement with the prosecuting attorney, the court-appointed counsel must use depositions and other forms of discovery.

Another means of exploring the issue of alternatives to hospitalization, as well as contesting the conclusion that the client is a person requiring treatment, is by seeking the appointment of a physician or psychologist as an independent expert. This is a right guaranteed under the mental health code and must be paid for at public expense if the client is indigent.<sup>22</sup> Attorneys should note that the request for an independent clinical evaluation must be made before the first scheduled hearing.<sup>23</sup>

Attorneys who regularly represent clients in civil commitment proceedings should try to gain some sense of the medical community in which they are practicing and identify those psychiatrists and psychologists who will do a good job in evaluating clients subjected to civil commitment. Specifically, the attorneys should become aware of those psychiatrists and psychologists who have come to the hospitals, spend considerable time, and who give a thoughtful assessment both regarding whether the person truly requires treatment and whether alternatives to hospitalization should be available.

The attorney must also explore with his or her client the right to request a jury trial.<sup>24</sup> It is the right of the client to request a jury trial, which may, on occasion, be an effective way to secure the dismissal of the petition or application.

Finally, the attorney must explore with the client the possibility of a deferral. A deferral meeting must occur within 72 hours after the petition and clinical certificates have been filed with the court. The meeting is to be held between the attorney, the treatment team member from the hospital, a representative of the community mental health services program, and the client.

At the deferral meeting, a hospital representative is to present a proposed plan of treatment. The attorney should discuss the nature and possible consequences of commitment procedures. Alternatives to hospitalization should be discussed. The respondent has a right to request that the hearing be temporarily deferred. During the period of deferral, the respondent agrees to accept the plan of treatment in the hospital or in the community. This will be treated as a formal voluntary admission. If the individual chooses to later reject the treatment plan, a hearing will be scheduled.

A deferral of the hearing differs from two other options that are available to the client. An individual may waive his or her right to attend the hearing or he or she may stipulate to the petition. In either case, the entry of an order of involuntary treatment is almost inevitable.

Having interviewed the client thoroughly and arrived at a trial strategy, the attorney must then begin to implement the trial strategy. It should be noted, however, that many of the strategies discussed above (requesting a jury trial, requesting the appointment of an independent clinical examiner, and extending discovery to explore alternatives to hospitalization) can all result in a delay in the hearing, during which the client typically remains hospitalized. The attorney should review that reality with the client. The attorney should also note, however, that the hospital is under an obligation to discharge an individual who no longer meets the status of requiring treatment.

## POST-HEARING OBLIGATIONS

If the efforts of the attorney to defeat the petition or application are unsuccessful, the attorney has an obligation to advise his or her client on certain issues. For example, the attorney must advise the client of his or her right to seek an appeal and of the timelines for filing the appeal. There is no specific statute or court rule guarantee of the right to appointment of counsel to assist in the appeal. However, some probate courts do appoint counsel and it would seem that there may be an equal protection argument that respondents are entitled to the appointment of counsel.

Counsel should also advise his or her client of the impact of the hospitalization order in both practical and legal terms. For example, the question may arise regarding whether a hospital can forcibly administer electroconvulsive therapy (ECT) or shock treatment against the will of the hospitalized individual. While some probate courts have held otherwise, the Mental Health Code is clear that a competent adult may refuse ECT and that the order of commitment does not grant the hospital the right to forcibly administer ECT.

Counsel should also advise his or her client of the impact of the alternative treatment order, which is typically a component of the commitment order. A person subject to an alternative treatment order can be returned to a hospital if he or she fails to comply with it. Currently, there is no requirement that there is a hearing prior to probate court ordering the return of the individual to the hospital and the order directing the return of the individual occurs after an ex parte communication, typically from a community mental health services worker.

## CONCLUSION

The role of the attorney in protecting and securing the liberty interests of a person subjected to a civil commitment proceeding is fundamental. Although there are many pressures on attorneys to give little consideration to the rights of their clients or to be less than zealous advocates, there are many tools at the disposal of attorneys that can and should be utilized.

## Footnotes

<sup>1</sup>. *Addington v Texas*, 441 US 418, 425-426, 99 S Ct 1804, 1809 (1979).

<sup>2</sup>. Committee on the Mentally Disabled, *Guidelines for Defense Counsel in Commitment Cases*, 56 Mich Bar J 709 (Oct. 1980) and Committee on the Mentally Disabled, *Guidelines for Representing Adult Clients in Mental Health Adjudication*, \_\_\_ Mich Bar J 1054 (Oct. 1990).

<sup>3</sup>. PCR 5.732(B).

<sup>4</sup>. MCL 330.1411.

<sup>5</sup>. MCL 330.1415.

<sup>6</sup>. *Id.*

<sup>7</sup>. MCL 330.1401.

<sup>8</sup>. MCL 330.1469a.

<sup>9</sup>. MCL 330.1424.

<sup>10</sup>. *Id.*

<sup>11</sup>. MCL 330.1425.

<sup>12</sup>. MCL 330.1426.

<sup>13</sup>. MCL 330.1429.

<sup>14</sup>. MCL 330.1427.

<sup>15</sup>. MCL 330.1434.

<sup>16</sup>. *Id.*

<sup>17</sup>. MCL 330.1435(2).

<sup>18</sup>. MCL 330.1454(2).

<sup>19</sup>. MCL 330.1718.

<sup>20</sup>. MCL 330.1454(4).

<sup>21</sup>. MCL 330.1460.

<sup>22</sup>. MCL 330.1463.

<sup>23</sup>. MCL 330.1463(1).

<sup>24</sup>. MCL 330.1458.