



**Civil Admission and Discharge Procedures:
Persons with Mental Illness
Chapter 4 re-ordered
(with Administrative Rules)**



© 04/2019

MDHHS-ORR

Bev Sobolewski
Community Rights Specialist - LPH

330.1400 Definitions.

(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.

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. *This ONLY applies to processes completed by the court!*

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

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. (1438 p6)

330.1404 Forms.

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. (2017)

330.1409 Preadmission screening unit.

(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 assisted outpatient treatment programs. The community mental health services program shall employ mental health professionals or licensed bachelor's social workers licensed under part 185 of the public health code, 1978 PA 368, MCL 333.18501 to 333.18518, 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.

330.1415 Formal voluntary hospitalization; execution of application.

Subject to section 410, an individual 18 years of age or over may be hospitalized or otherwise treated as a formal voluntary patient if either of the following applies:

(a) The individual executes a written consent with the mental health facility for mental health treatment as a formal voluntary patient.

(b) The full or limited guardian with authority to execute a written consent to mental health treatment, 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 700.8206, executes a written consent to provide mental health treatment.

330.1416 Formal voluntary hospitalization; contents of application; communication of rights; copies of application. (forms P1-DCH-0086 04/19)

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.

330.1400 Definitions.

(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 700.8206, to make mental health treatment decisions for the individual.

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

AR 330.4031 Voluntary admission.

(1) An application for voluntary admission shall not be considered as lacking voluntariness because an individual has agreed to that action as a result of a probate court proceeding.

(2) The hospital director or his designee shall evaluate an individual's clinical suitability ~~for informal or formal~~ voluntary admission and shall include the following criteria in making the determination.

(a) The individual has a condition that the hospital director determines can benefit from the inpatient treatment that is provided 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.

330.1409 Preadmission screening unit.

(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.

(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.

AR 330.4039 Denial by director of voluntary admission.

(1) If the hospital director, or his or her designee does not deem an individual clinically suitable for full hospitalization as an ~~informal or formal~~ voluntary patient, he or she shall deny the request and shall refer the individual to an appropriate community mental health or other service. The reason or reasons for denial shall be made known to the applicant, shall be documented, and a copy of the document shall be given to the applicant. If the individual consents, the community mental health or other service shall be notified of the referral.

(2) If the hospital director denies admission, he or she may offer partial admission on a day, night, or weekend basis if the service is available and if the individual is deemed suitable for partial admission. The criteria for suitability for partial admission shall parallel that of other forms of voluntary admission.

330.1429 Examination; detention period.

(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.

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 or outpatient treatment program operated by the department or a hospital or outpatient treatment program under contract with a community mental health services program may be considered for admission by the hospital or outpatient treatment program only after authorization by a community mental health services preadmission screening unit.

330.1409 Preadmission screening unit.

(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.

330.1400 Definitions.

(f) Involuntary mental health treatment means court-ordered hospitalization, assisted outpatient treatment, or combined hospitalization and assisted outpatient treatment as described in section 468. For the purpose of this chapter, involuntary mental health treatment does not include a full or limited guardian authorized under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, with the authority to consent to mental health treatment for an individual found to be a legally incapacitated individual under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206.

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 a petition for hospitalization of the individual. As soon as practical, the preadmission screening unit shall offer to contact an immediate family member of the recipient to let the family know that the recipient has been taken into protective custody and where he or she is located. The preadmission screening unit shall honor the recipient's decision as to whether an immediate family member is to be contacted and shall document that decision in the recipient's record. In the course of providing services, the preadmission screening unit may provide advice and consultation to the peace officer, which may include a recommendation to release the individual from protective custody. In all cases where a peace officer has executed a petition, the preadmission screening unit shall ensure that an examination is conducted by a physician or licensed psychologist. The preadmission screening unit shall ensure provision of follow-up counseling and diagnostic and referral services if needed if it is determined under section 429 that the person does not meet the requirements for hospitalization.

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

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

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

(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.

330.1427b Liability of peace officer.

(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 willful and wanton misconduct.

330.1434 Petition; filing; contents; clinical certificates. (forms P3 PCM 201 (3/19))

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

(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, **the petitioner shall set forth** the reasons an examination could not be secured **within the petition**. The petition may also be accompanied by a second clinical certificate. If 2 clinical certificates accompany the petition, at least 1 clinical certificate must have been executed by a psychiatrist.

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

330.1401 "Person requiring treatment" defined; exception. (as indicated on forms P7)

(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.

330.1401 "Person requiring treatment" defined;

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

(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, 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.

330.1435 Examination; order; detention period; transmitting clinical certificate or report to court; third examination report; dismissal of petition. (forms P5 PCM 209a (2/19))

(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 (7) (AOT)**.

330.1436 Noncompliance with order of examination; protective custody. (forms P5)

Sec. 436 (1) 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.

(2) A court order for a peace officer to take an individual into protective custody and transport the individual as described in subsection (1) must be executed within 10 days after the court enters the order. If the order is not executed within 10 days after the court enters the order, the law enforcement agency must report to the court the reason the order was not executed within the prescribed time period.

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

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.

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

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. (see 1409 (6) &(7))

AR 330.4051 Admission by petition.

An individual shall be admitted to a hospital on a petition pending a hearing only upon order of immediate hospitalization by a probate court. The hospital director shall have the individual examined within 24 hours of hospitalization. If the required examination has not been accomplished within 24 hours, the hospital director shall release the individual and document in the records the reasons the examination was not completed. The hospital shall notify the probate court.

330.1439 Cause of action against person filing petition.

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.

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

(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.

330.1471 Preference as to hospitals.

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.

330.1400 Definitions.

(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.

330.1425 Execution of physician's or psychologist's clinical certificate. (forms P7 PCM208 (2/19))

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. "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."

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

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.

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

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).

330.1430 Examination; time; certification.

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.

AR 330.4045 Involuntary admissions.

(1) For the purpose of establishing the point at which hospitalization begins, 1 of the following conditions shall be met:

(a) An individual arrives at or is at a hospital and an application (petition) for hospitalization is completed and given to a hospital staff member with a completed certificate.

(b) An individual arrives at or is at a hospital under a court order for immediate hospitalization, other than an order to undergo an examination, after a petition has been filed with the court.

(c) An individual is at a hospital after giving written notice of an intention to terminate formal voluntary hospitalization and the director of the hospital or his or her designee has filed with a court an application for admission by certification and the required certificates.

(2) For the purpose of establishing when an individual may complete a reasonable number of telephone calls and when a preliminary hearing shall be convened if the person is not released, the time an individual is received for hospitalization by certification, or court-ordered immediate hospitalization, is any time the individual arrives at the hospital. A formal voluntary patient who is being admitted as an involuntary patient by application of a hospital director is considered received for hospitalization at the time application (petition) and certificates are filed with a probate court.

(3) When an individual is presented to a hospital, the hospital shall do all of the following:

(a) Require that the application for hospitalization, if any, meet the requirements of section 424 of the act.

(b) Require that the certificate accompanying the application (petition), if any, meet the requirements of section 400(K) of the act.

(c)...

(g) The admission officer, as soon as administratively possible after receiving an individual by certification who has been certified as a person requiring treatment, shall do all of the following:

(i) Notify the probate court by phone.

(ii) Obtain, when available, the tentative date of the preliminary or full court hearing and the name and address of counsel appointed by the court. (iii) Notify the patient of this information.

330.1406 Voluntary hospitalization; notice to court; dismissal.

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.

AR 330.4045 Involuntary admissions.

(3)(c) Determine if the individual presented is clinically suitable for ~~informal~~ or formal voluntary hospitalization. If this determination is affirmative, immediately offer the individual the opportunity to apply for hospitalization as an informal or formal voluntary patient, and as many times thereafter as deemed appropriate by the hospital director until an order of hospitalization, alternative treatment, or discharge is received. If the individual is hospitalized as a voluntary patient, the hospital director shall inform the court and recommend whether dismissal of pending proceedings would or would not be in the best interest of the individual or the public.

330.1419 Termination of formal voluntary hospitalization; notice; time limitation; written form. (forms P9 DCH-2419 04/19)

(1) Except as is provided in section 420, a formal voluntary patient 18 years of age or over shall not be hospitalized or provided mental health treatment for more than 3 days, excluding Sundays and holidays, after the patient, the full or limited guardian with authority to consent to mental health treatment, 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 700.8206, gives written notice of an intention to terminate the patient's mental health treatment.

(2) When the hospital or provider of mental health treatment is told of an intention to terminate mental health treatment under subsection (1), it shall promptly supply the written form that is required.

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)

If a written notice of termination of mental health treatment is given to a hospital or provider of mental health treatment under section 419, if the notice is not withdrawn, and if the hospital director or provider of mental health treatment determines that the patient is a person requiring treatment and should remain in the hospital or continue to receive mental health treatment, the hospital director, provider of mental health treatment, or other suitable person shall within 3 days after 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 or provider of mental health may continue hospitalization or mental health treatment of the patient pending hearings convened under sections 451 to 465.

330.1431 Notices; documents. (forms P11-PCM 211 (9/16))

(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.

330.1447 Telephone calls.

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.

AR 330.4045 Involuntary admissions. (d) Allow the individual to complete not less than 2 phone calls. If the individual does not have sufficient funds on his or her person, calls shall be made at hospital expense with the condition that they be limited to persons who are willing to receive the calls. The hospital director or his or her designee may determine the appropriateness of a call or calls that are at hospital expense and may limit their length to a reasonable duration, but a call shall not be limited to less than 5 minutes. If the hospital director or his or her designee restricts the call, appropriate written documentation of the reasons for the restriction shall be noted in the case record. Under circumstances in which the individual cannot make a call, or if it is necessary to restrict

calls that are at hospital expense, the hospital shall place the calls for the individual if so requested. Here the rule has used the words "restricts/restriction", which we, in rights understand to mean "limits/limitation".

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

(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.

AR 330.4045 Involuntary admissions. (e) Provide to the individual, not more than 12 hours after hospitalization, a copy of the application (*petition*) for admission asserting that the individual is a person requiring treatment, a written statement that the individual will be examined by a psychiatrist within 24 hours of the hospitalization, and a written statement, in simple terms, explaining the right of the individual to request a preliminary hearing, to be present at the preliminary hearing, and to be represented by legal counsel, if the individual is certified as a person requiring treatment; a written statement, in simple terms, explaining the right of the individual to a full court hearing, to be present at the hearing, to be represented by legal counsel, to a jury trial, and to an independent evaluation; and a copy of each certificate executed in connection with the individual's hospitalization if available. Each certificate shall be delivered to the individual within 24 hours of either a certificate's completion or receipt of a certificate by the hospital from a source outside the hospital. **(P 29 or 31 in forms)**

(f) 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 in the case record.

330.1449 Right to copy of clinical certificate.

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.

330.1451 Court hearings; applicable provisions.

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.

330.1452 Court hearing; date; receipt of certain documents.

(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(7)** 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.

330.1453 Court hearing; notice. (forms P13 PCM 212 (9/16))

(1) The court shall cause notice of a petition and of the time and place of any hearing to be given to the subject of the petition, his or her attorney, the petitioner, the prosecuting or other attorney provided for in section 457, the hospital director of any hospital in which the subject of a petition

is hospitalized, the spouse of the subject of the petition if his or her whereabouts are known, the guardian, if any, of the subject of the petition, and other relatives or persons as the court may determine. Notice shall be given at the earliest practicable time and sufficiently in advance of the hearing date to permit preparation for the hearing.

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

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

(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.

330.1453a Alternatives to hospitalization; preparation of assessment report. (forms P15 PCM 216 (2/19))

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.

330.1454 Legal counsel; appointment; waiver; preferred counsel; compensation; system for providing representation; consultation with subject of petition before court hearing; certificate. (P35 - Guidelines for Attorneys Representing Adults in Civil Commitment Proceedings)

(1) Every individual who is the subject of a petition is entitled to be represented by legal counsel. (2) Unless an appearance has been entered on behalf of the subject of a petition, the court shall, within 48 hours after its receipt of any petition together with the other documents required by section 452, appoint counsel to represent the subject of the petition, except that if an individual has been hospitalized under section 423 or 438, counsel shall be appointed within 24 hours after the hospitalization. (3) If, after consultation with appointed counsel, the subject of a petition desires to waive his or her right to counsel, he or she may do so by notifying the court in writing.

(4) If the subject of a petition prefers counsel other than the initially appointed counsel, the preferred counsel agrees to accept the appointment, and the court is notified of the preference by the subject of the petition or the preferred counsel, the court shall replace the initially appointed counsel with the preferred counsel. (5) If the subject of a petition is indigent, the court shall compensate appointed counsel from court funds in an amount that is reasonable and based upon time and expenses. (6) The supreme court may, by court rule, establish the compensation to be paid for counsel of indigents and may require that counsel be appointed from a system or organization established for the purpose of providing representation in proceedings governed by this chapter. (7) Legal counsel shall consult in person with the subject of a petition at least 24 hours before the time set for a court hearing. (8) Legal counsel for the subject of a petition under section 452 (1) (a) who is hospitalized pending the court hearing shall consult in person with the individual for the 1st 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. (forms P17 PCM 223 (9/07))

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.

(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. **(PCM 223)** 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.

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

(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 as designated by the department, and, if possible, a person designated by the subject of the petition, in order to be informed of all of the following:

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

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

(c) The proposed plan of treatment in the community consisting of either an alternative to hospitalization or a combination of hospitalization and **assisted outpatient** 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 **180** days if the individual chooses **outpatient** treatment or a combination of hospitalization and **outpatient** 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 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 **180** days if the individual chooses **outpatient** treatment or a combination of hospitalization and **outpatient** 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, to accept and follow the proposed plan of treatment as described in subsection (3)(c) for the deferral period, **or to accept and follow the proposed plan for outpatient treatment**, 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. **(forms p 19 PCM 235 (2/19))**

(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 **outpatient** 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. **(forms P21 PCM 236 (2/19)).**

AR 330.4055 Probate court hearings at hospital.

(1) It shall be the hospital director's responsibility to provide adequate facilities on the hospital grounds in which to conduct probate court hearings on petitions for hospitalization, discharge, and to hear objections to voluntary admissions and appeals of returns.

(2) The hospital director shall provide prompt access to the patient by his attorney upon proper notice, and shall provide a room where the patient and his attorney may confer in private.

(3) The hospital director shall develop rules and procedures establishing visiting rights by attorneys and requirements for proper notice.

330.1456 Place of hearing; change of venue.

(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.

330.1458 Jury.

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.

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

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

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

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

330.1457 Participation of prosecuting attorney; exception.

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.

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

- (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.

330.1460 Investigation by counsel; evidence.

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.

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

- (1) 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(7), that does not seek hospitalization before the hearing, an individual may not be found to require treatment unless a psychiatrist who has personally examined that individual testifies. A psychiatrist's testimony is not necessary if a psychiatrist signs the petition. If a psychiatrist signs the petition, at least 1 physician or licensed psychologist who has personally examined that individual must testify. The requirement for testimony may be waived by the subject of the petition. If the testimony given in person is waived, a clinical certificate completed by a physician, licensed psychologist, or psychiatrist must be presented to the court before or at the initial hearing.
- (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.

330.1462 Continuance or adjournment; grounds.

- (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.

330.1465 Clear and convincing evidence required.

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.

330.1464 Persons entitled to copies of court orders. (forms P23 PCM 214 (2/19))

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.

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

- (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 combined hospitalization and assisted outpatient treatment, as recommended by the community mental health services program or other entity as designated by the department.

(D) 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 a case management plan and case management services and 1 or more of the following:

(i) Medication.

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

(iii) Individual or group therapy, or both.

(iv) Day or partial day programs.

(v) Educational or vocational training.

(vi) Supervised living.

(vii) assertive 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 hearing once every 180 days.

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

(3) In developing an assisted outpatient treatment plan, a psychiatrist shall supervise the preparation and implementation of the assisted outpatient treatment plan. The assisted outpatient treatment plan shall be completed within 30 days after entry of the court's order of assisted outpatient treatment and a copy shall be forwarded to the probate court for filing within 3 days after completion of the plan to be maintained in the court file.

330.1434 Petition; filing; contents; clinical certificates.

(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.

(What if the team determines something else is needed or a part of the treatment is not working: forms P25 PCM 217a (2/19) ORDER TO MODIFY ORDER FOR ASSISTED OUTPATIENT TREATMENT OR COMBINED HOSPITALIZATION AND ASSISTED OUTPATIENT TREATMENT

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.

(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 combined hospitalization and assisted outpatient 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 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.*

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

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

(c) 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.

330.1469a Treatment program as alternative to hospitalization; court order. (form 8-PCM 216 (9/16))

Except for a petition filed as described under section 434(7), 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 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 assisted outpatient treatment or combined hospitalization and assisted outpatient 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 assisted outpatient 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)(d).

330.1474 Release of individual from hospital to alternative treatment program; decision; notice; appeal; court petition; information to be considered by court.

(1) If an individual is subject to a combined order of hospitalization and assisted outpatient treatment, the decision to release the individual from the hospital to the 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 assisted outpatient treatment program. If an individual is subject to an order of assisted outpatient treatment, the decision to release the individual from the assisted outpatient treatment program shall be a clinical decision made by a psychiatrist designated by the director of the assisted outpatient treatment program. Notice of the return of the individual to the assisted outpatient treatment program shall be provided to the court with a statement from a psychiatrist explaining the belief that the individual is clinically appropriate for assisted outpatient treatment. At least 5 days before releasing an individual from the hospital to the assisted outpatient treatment program, the hospital director shall notify the agency or mental health professional that is responsible to supervise the individual's 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 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 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 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.

330.1474a Order of combined hospitalization and alternative treatment; order of hospitalization; decision; notice to court.

During the period of an order of combined hospitalization and **assisted outpatient** 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 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.

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.

(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 **outpatient** treatment program provider not suitable for voluntary treatment, the executive director shall notify the court to convene a hearing under section 452(1)(d).

330.1475 Noncompliance with court order or determination that **assisted outpatient 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.**

(1) During the period of an order for **assisted outpatient** treatment or combined hospitalization and **assisted outpatient** treatment, if the agency or mental health professional who is supervising an individual's **assisted outpatient** treatment program determines that the individual is not complying with the court order or that the **assisted outpatient** 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 **assisted outpatient** 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 **assisted outpatient** treatment or combined hospitalization and **assisted outpatient** treatment is not complying with the order, that the **assisted outpatient** 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 **assisted outpatient** 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 **assisted outpatient** treatment for the duration of the order.

(b) Modify the order to direct the individual to undergo hospitalization or combined hospitalization and **assisted outpatient** treatment. The duration of the hospitalization, including the number of days the individual has already been hospitalized if the order being modified is a combined order, shall not exceed 60 days for an initial order or 90 days for a second or continuing order. The modified order may provide that if the individual refuses to comply with the psychiatrist's order to return to the hospital, a peace officer shall take the individual into protective custody and transport the individual to the hospital selected.

(3) During the period of an order for assisted outpatient treatment or a combination of hospitalization and assisted outpatient treatment, if the agency or mental health professional who is supervising an individual's assisted outpatient treatment determines that the individual is not complying with the court order, the supervising agency or mental health professional shall notify the court immediately.

(4) If it comes to the attention of the court that an individual subject to an order of assisted outpatient treatment or a combination of hospitalization and assisted outpatient treatment is not complying with the order, the court may require 1 or more of the following, without a hearing:

(a) That the individual be taken to the preadmission screening unit established by the community mental health services program serving the community in which the individual resides.

(b) That the individual be hospitalized for a period of not more than 10 days.

(c) Upon recommendation by the community mental health services program serving the community in which the individual resides, that the individual be hospitalized for a period of more than 10 days, but not longer than the duration of the order for assisted outpatient treatment or a combination of hospitalization and assisted outpatient treatment, or not longer than 90 days, whichever is less.

(5) The court may direct peace officers to transport the individual to a designated facility or a preadmission screening unit, as applicable, and the court may specify conditions under which the individual may return to assisted outpatient treatment before the order expires.

(6) An individual hospitalized without a hearing as provided in subsection (4) may object to the hospitalization according to the provisions of section 475a.

330.1475a Hospitalization without hearing; objection.

(1) If an individual is hospitalized without a hearing after placement in an **assisted outpatient** 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 **subsection** (1), the court shall schedule a hearing for a determination that the individual requires hospitalization.

330.1476 Discretionary discharge; mandatory discharge; notice; statements.

(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.

330.1477 Termination of treatment; notice.

(1) A person responsible for providing treatment to an individual ordered to undergo a program of **assisted outpatient** treatment or a program of combined hospitalization and **assisted outpatient** 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 **assisted outpatient** treatment or combined hospitalization and **assisted outpatient** treatment, the court shall be notified by the provider of the treatment.

330.1478 Treatment on voluntary basis; aid in obtaining other treatment.

If, upon the discharge of a patient hospitalized by court order or the termination of **assisted outpatient** treatment to an individual receiving **assisted outpatient** treatment **under** this chapter, it is determined that the individual would

benefit from the receipt of further treatment, the hospital or provider of assisted outpatient treatment shall offer him or her appropriate treatment on a voluntary basis, or shall aid him or her to obtain treatment from another source.

AR 330.4077 Discharge of voluntary patients.

(1) An ~~informal~~, voluntary patient shall be discharged either during normal day shift hours or immediately, at the discretion of the hospital director, after either of the following:

- (a) A request is made by the patient to terminate hospitalization.
- (b) The hospital director deems it clinically suitable.

(2) A formal, voluntary patient shall be discharged as soon as possible, but not later than 3 days, excluding Sundays and holidays, after either of the following:

- (a) Written notice of intent to terminate hospitalization is given by the patient.
- (b) The hospital director deems that it would be clinically suitable.

(3) Even if a guardian has been appointed for a patient, only the patient may give written notice of an intention to terminate hospitalization.

AR 330.4089 Discharge of involuntary patient.

(1) Discharge shall constitute release of a patient from jurisdiction of a hospital, by action of the hospital director or by court order, or if the court rejects an application or petition or fails to hold a requested preliminary hearing or final hearing within the required time or a continuance was not granted. A patient discharged may not be returned to the hospital without a new order for admission or application for voluntary admission.

(2) When a patient is discharged, the hospital director shall report the change in status to the probate court which ordered admission and indicate in this report which of the following factors have brought about this discharge:

- (a) Patient legally transferred out of state.
- (b) Patient, in the opinion of the hospital director, not mentally ill.
- (c) Patient not reasonably expected to seriously physically injure himself or others.
- (d) Patient no longer clinically suitable for this form of hospitalization.
- (e) Death of patient.
- (f) Patient, on an order of continuing hospitalization, after 1 year of continuous leave.
- (g) Any other reason acceptable under the act or procedures of the department.

PERIODIC REVIEW

330.1482 Review of status; frequency; assignment of physician or psychologist.

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 assisted outpatient treatment program shall assign a physician or licensed psychologist to review the individual's clinical status as a person requiring treatment.

330.1483 Review of status; disposition and notice of results; complaint.

(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).

330.1484 Review of status; report; objections; hearing; petition for discharge.

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.

330.1452 Court hearing; date; receipt of certain documents.

(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:

(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.

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).

330.1489 Legal competence; presumption; effect of prior commitment.

(1) No determination that a person requires treatment, no order of court authorizing hospitalization or **assisted outpatient** treatment, nor any form of admission to a hospital **gives** 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, in the absence of a concomitant appointment of a guardian, **constitutes** a finding of or **operates** as an adjudication of legal incompetence.

330.1490 Persons entitled to copies of MCL 330.1489.

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.

