

**SUBSTITUTE FOR
HOUSE BILL NO. 4674**

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending sections 100a, 100c, 202, 401, 404, 420, 422, 423, 425,
426, 427, 429, 431, 434, 435, 447, 448, 449, 451, 452, 453, 454,
455, 461, 463, 468, 469a, 472a, 474, 474a, and 475 (MCL 330.1100a,
330.1100c, 330.1202, 330.1401, 330.1404, 330.1420, 330.1422,
330.1423, 330.1425, 330.1426, 330.1427, 330.1429, 330.1431,
330.1434, 330.1435, 330.1447, 330.1448, 330.1449, 330.1451,
330.1452, 330.1453, 330.1454, 330.1455, 330.1461, 330.1463,
330.1468, 330.1469a, 330.1472a, 330.1474, 330.1474a, and 330.1475),
section 100a as amended by 2012 PA 500, section 100c as amended by
2015 PA 59, sections 202, 420, 423, 425, 426, 427, 429, 431, 434,
435, 448, 449, 451, 452, 453, 454, 455, 461, 463, and 468 as
amended by 1995 PA 290, section 401 as amended by 2004 PA 496,

section 422 as amended by 2004 PA 317, section 469a as amended by 2004 PA 497, sections 472a and 475 as amended by 2004 PA 498, and sections 474 and 474a as added by 1996 PA 588, and by adding section 400b; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

15 (a) Communication.

16 (b) Self-care.

17 (c) Home living.

18 (d) Social skills.

19 (e) Community use.

20 (f) Self-direction.

21 (g) Health and safety.

22 (h) Functional academics.

1 (i) Leisure.

2 (j) Work.

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

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

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

13 (7) "Approved service program" means a substance use disorder
14 services program licensed under part 62 of the public health code,
15 1978 PA 368, MCL 333.6230 to 333.6251, to provide substance use
16 disorder treatment and rehabilitation services by the department-
17 designated community mental health entity and approved by the
18 federal government to deliver a service or combination of services
19 for the treatment of incapacitated individuals.

20 (8) "Assisted outpatient treatment" or "AOT" means the
21 categories of outpatient services ordered by the court under
22 section ~~433-468~~ or 469a. Assisted outpatient treatment ~~includes~~ **MAY**
23 **INCLUDE** case management services to provide care coordination.
24 Assisted outpatient treatment may also include 1 or more of the
25 following categories of services: medication; periodic blood tests
26 or urinalysis to determine compliance with prescribed medications;
27 individual or group therapy; day or partial day programming

1 activities; vocational, educational, or self-help training or
2 activities; assertive community treatment team services; alcohol or
3 substance use disorder treatment and counseling and periodic tests
4 for the presence of alcohol or illegal drugs for an individual with
5 a history of alcohol abuse or substance use disorder; supervision
6 of living arrangements; and any other services within a local or
7 unified services plan developed under this act that are prescribed
8 to treat the individual's mental illness and to assist the
9 individual in living and functioning in the community or to attempt
10 to prevent a relapse or deterioration that may reasonably be
11 predicted to result in suicide, the need for hospitalization, or
12 serious violent behavior. The medical review and direction included
13 in an assisted outpatient treatment plan shall be provided under
14 the supervision of a psychiatrist.

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

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

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

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

25 (13) "Child abuse" and "child neglect" mean those terms as
26 defined in section 2 of the child protection law, 1975 PA 238, MCL
27 722.622.

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

3 (a) A physician who has completed a residency program in child
4 and adolescent psychiatry approved by the ~~accreditation council for~~
5 ~~graduate medical education~~ **ACCREDITATION COUNCIL FOR GRADUATE**
6 **MEDICAL EDUCATION** or the American ~~osteopathic association,~~
7 **OSTEOPATHIC ASSOCIATION**, or who has completed 12 months of child
8 and adolescent psychiatric rotation and is enrolled in an approved
9 residency program as described in this subsection.

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

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

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

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

27 (17) "Community mental health organization" means a community

1 mental health services program that is organized under the urban
2 cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to
3 124.512.

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

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

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

18 (21) "Department" means the department of ~~community health~~ **AND**
19 **HUMAN SERVICES.**

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

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

2 (a) An adult foster care facility.

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

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

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

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

11 (b) A paramedic licensed or otherwise authorized under part
12 209 of the public health code, 1978 PA 368, MCL 333.20901 to
13 333.20979.

14 (c) A physician's assistant licensed or otherwise authorized
15 under part 170 or 175 of the public health code, 1978 PA 368, MCL
16 333.17001 to 333.17084 and 333.17501 to 333.17556.

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

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

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

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

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

27 (iii) Is likely to continue indefinitely.

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

3 (A) Self-care.

4 (B) Receptive and expressive language.

5 (C) Learning.

6 (D) Mobility.

7 (E) Self-direction.

8 (F) Capacity for independent living.

9 (G) Economic self-sufficiency.

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

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

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

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

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

27 (a) Severely mentally impaired.

1 (b) Severely multiply impaired.

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

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

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

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

19 ~~(c) The individual's judgment is so impaired that he or she is~~
20 ~~unable to understand the need for treatment and, in the opinion of~~
21 ~~the mental health professional, his or her continued behavior as a~~
22 ~~result of the mental illness, developmental disability, or~~
23 ~~emotional disturbance can reasonably be expected in the near future~~
24 ~~to result in physical harm to the individual or to another~~
25 ~~individual.~~ **THE INDIVIDUAL HAS MENTAL ILLNESS THAT HAS IMPAIRED HIS**
26 **OR HER JUDGMENT SO THAT THE INDIVIDUAL IS UNABLE TO UNDERSTAND HIS**
27 **OR HER NEED FOR TREATMENT, AND THAT IMPAIRED JUDGMENT, ON THE BASIS**

1 OF COMPETENT CLINICAL OPINION, PRESENTS A SUBSTANTIAL RISK OF HARM
2 TO THE INDIVIDUAL OR OTHERS IN THE NEAR FUTURE.

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

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

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

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

26 (4) "Physician" means an individual licensed or otherwise
27 authorized to engage in the practice of medicine under part 170 of

1 the public health code, 1978 PA 368, MCL 333.17001 to 333.17084, or
2 to engage in the practice of osteopathic medicine and surgery under
3 part 175 of the public health code, 1978 PA 368, MCL 333.17501 to
4 333.17556.

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

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

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

22 (8) "Psychiatric unit" means a unit of a general hospital that
23 provides inpatient services for individuals with serious mental
24 illness or serious emotional disturbance. As used in this
25 subsection, "general hospital" means a hospital as defined in
26 section 20106 of the public health code, 1978 PA 368, MCL
27 333.20106.

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

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

7 (b) A psychiatrist employed by or under contract with the
8 department or a community mental health services program on March
9 28, 1996.

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

13 (10) "Psychologist" means an individual who is licensed or
14 otherwise authorized to engage in the practice of psychology under
15 part 182 of the public health code, 1978 PA 368, MCL 333.18201 to
16 333.18237, and who devotes a substantial portion of his or her time
17 to the diagnosis and treatment of individuals with serious mental
18 illness, serious emotional disturbance, substance use disorder, or
19 developmental disability.

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

1 services.

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

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

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

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

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

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

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

27 Sec. 202. (1) The state shall financially support, in

1 accordance with chapter 3, community mental health services
2 programs that have been established and that are administered
3 pursuant ~~to~~ **ACCORDING** to the provisions of this chapter.

4 **(2) A COMMUNITY MENTAL HEALTH SERVICES PROGRAM SHALL DETERMINE**
5 **AN INDIVIDUAL'S ELIGIBILITY FOR A PRIVATE HEALTH INSURER, MEDICAID,**
6 **OR MEDICARE AND SHALL BILL THE PRIVATE HEALTH INSURER, MEDICAID, OR**
7 **MEDICARE FIRST BEFORE EXPENDING MONEY FROM THE STATE GENERAL FUND**
8 **FOR PROVIDING TREATMENT AND SERVICES UNDER THIS ACT TO THAT**
9 **INDIVIDUAL.**

10 **SEC. 400B. A REFERENCE TO A TIME FRAME UNDER THIS CHAPTER OF**
11 **12 HOURS TO 168 HOURS OR AN EQUIVALENT AMOUNT OF DAYS EXCLUDES**
12 **SUNDAYS AND LEGAL HOLIDAYS.**

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

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

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

27 (c) An individual who has mental illness, whose judgment is so

1 impaired **BY THAT MENTAL ILLNESS** that he or she is unable to
2 understand his or her need for treatment, and ~~whose continued~~
3 ~~behavior as the result of this mental illness can reasonably be~~
4 ~~expected,~~ **WHOSE IMPAIRED JUDGMENT**, on the basis of competent
5 clinical opinion, ~~to result in significant physical~~ **PRESENTS A**
6 **SUBSTANTIAL RISK OF** harm to himself, herself, **THE INDIVIDUAL** or
7 others **IN THE NEAR FUTURE**. ~~This individual shall receive~~
8 ~~involuntary mental health treatment initially only under the~~
9 ~~provisions of sections 434 through 438.~~

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

24 (2) An individual whose mental processes have been weakened or
25 impaired by a dementia, an individual with a primary diagnosis of
26 epilepsy, or an individual with alcoholism or other drug dependence
27 is not a person requiring treatment under this chapter unless the

1 individual also meets the criteria specified in subsection (1). An
 2 individual described in this subsection may be hospitalized under
 3 the informal or formal voluntary hospitalization provisions of this
 4 chapter if he or she is considered clinically suitable for
 5 hospitalization by the hospital director.

6 Sec. 404. ~~The~~ **EXCEPT AS PROVIDED IN THIS SECTION, THE**
 7 department shall prescribe the forms to be used under this chapter,
 8 and all hospitals shall use department forms. ~~Forms that may be~~
 9 ~~used in court proceedings under this chapter shall be subject to~~
 10 ~~the approval of the supreme court.~~ **AT THE DIRECTION OF THE SUPREME**
 11 **COURT, THE STATE COURT ADMINISTRATIVE OFFICE SHALL PRESCRIBE THE**
 12 **FORMS USED FOR COURT PROCEEDINGS UNDER THIS CHAPTER.**

13 Sec. 420. If a written notice of termination of
 14 hospitalization is given to a hospital under section 419, if the
 15 notice is not withdrawn, and if the hospital director determines
 16 that the patient is a person requiring treatment ~~as defined in~~
 17 ~~section 401~~ and should remain in the hospital, the hospital
 18 director or other suitable person shall within 3 days ~~, excluding~~
 19 ~~Sundays and holidays,~~ after the hospital's receipt of the notice,
 20 file ~~an application~~ **A PETITION** with the court that complies with
 21 section 423. ~~434.~~ The ~~application~~ **PETITION** shall be accompanied by
 22 1 clinical certificate executed by a psychiatrist and 1 clinical
 23 certificate executed by either a physician or a licensed
 24 psychologist. If ~~an application~~ **A PETITION** is filed, the hospital
 25 may continue hospitalization of the patient pending hearings
 26 convened ~~pursuant to~~ **UNDER** sections 451 to 465.

27 Sec. 422. (1) Each community mental health services program

1 shall designate the hospitals with which it has a contract to
2 receive and detain individuals under section **426**, 427, ~~or 428-435,~~
3 **436, OR 438.**

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

8 (3) The department shall designate ~~those~~ **ANY ADDITIONAL**
9 hospitals that are required to receive and detain individuals
10 presented for examination under section **426**, 427, ~~or 428-435,~~ **436,**
11 **OR 438.**

12 Sec. 423. A hospital designated by the department or by a
13 community mental health services program shall hospitalize an
14 individual presented to the hospital, pending receipt of a clinical
15 certificate by a psychiatrist stating that the individual is a
16 person requiring treatment, if ~~an application,~~ **A PETITION**, a
17 physician's or a licensed psychologist's clinical certificate, and
18 an authorization by a preadmission screening unit have been
19 executed. **FOR AN INDIVIDUAL HOSPITALIZED UNDER THIS SECTION, A**
20 **PETITION SHALL HAVE BEEN EXECUTED NOT MORE THAN 10 DAYS BEFORE THE**
21 **PRESENTATION OF THE INDIVIDUAL TO THE HOSPITAL, AND THE PETITION**
22 **MUST MEET THE CONDITIONS SET FORTH IN SECTION 434(1) AND (2).**

23 Sec. 425. A physician's or a licensed psychologist's clinical
24 certificate required for hospitalization of an individual under
25 section 423 shall have been executed after personal examination of
26 the individual named in the clinical certificate, and within 72
27 hours before the time the clinical certificate is ~~filed with~~

1 **RECEIVED BY** the hospital. The clinical certificate may be executed
2 by any physician or licensed psychologist, including **A PHYSICIAN OR**
3 **LICENSED PSYCHOLOGIST WHO IS** a staff member or employee of the
4 hospital ~~with which~~ **THAT RECEIVED** the ~~application and~~ clinical
5 certificate. ~~are filed.~~

6 Sec. 426. Upon delivery to a peace officer of ~~an application~~ **A**
7 **PETITION** and **A** physician's or licensed psychologist's clinical
8 certificate, the peace officer shall take the individual named in
9 the ~~application~~ **PETITION** into protective custody and transport the
10 individual immediately to the preadmission screening unit or
11 hospital designated by the community mental health services program
12 for hospitalization under section 423. If the individual taken to a
13 preadmission screening unit meets the requirements for
14 hospitalization, then unless the community mental health services
15 program makes other transportation arrangements, the peace officer
16 shall take the individual to a hospital designated by the community
17 mental health services program. Transportation to another hospital
18 due to a transfer is the responsibility of the community mental
19 health services program.

20 Sec. 427. (1) If a peace officer observes an individual
21 conducting himself or herself in a manner that causes the peace
22 officer to reasonably believe that the individual is a person
23 requiring treatment, ~~as defined in section 401,~~ the peace officer
24 may take the individual into protective custody and transport the
25 individual to a preadmission screening unit designated by a
26 community mental health services program for examination under
27 section 429 or for mental health intervention services. The

1 preadmission screening unit shall provide those mental health
2 intervention services that it considers appropriate or shall
3 provide an examination under section 429. The preadmission
4 screening services may be provided at the site of the preadmission
5 screening unit or at a site designated by the preadmission
6 screening unit. Upon arrival at the preadmission screening unit or
7 site designated by the preadmission screening unit, the peace
8 officer shall execute ~~an application~~ **A PETITION** for hospitalization
9 of the individual. As soon as practical, the preadmission screening
10 unit shall offer to contact an immediate family member of the
11 recipient to let the family know that the recipient has been taken
12 into protective custody and where he or she is located. The
13 preadmission screening unit shall honor the recipient's decision as
14 to whether an immediate family member is to be contacted and shall
15 document that decision in the recipient's record. In the course of
16 providing services, the preadmission screening unit may provide
17 advice and consultation to the peace officer, which may include a
18 recommendation ~~to transport the individual to a hospital for~~
19 ~~examination under section 429, or to release the individual from~~
20 ~~protective custody. However,~~ **IN ALL CASES WHERE A PEACE OFFICER HAS**
21 **EXECUTED A PETITION,** the preadmission screening unit shall ensure
22 that an examination is conducted by a physician or licensed
23 psychologist. ~~prior to a recommendation to release the individual.~~
24 The preadmission screening unit shall ensure provision of follow-up
25 counseling and diagnostic and referral services if needed if it is
26 determined under section 429 that the person does not meet the
27 requirements for hospitalization.

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

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

9 Sec. 429. (1) A hospital designated under section 422 shall
10 receive and detain an individual presented for examination under
11 section **426**, 427, **435**, **436**, or ~~428—438~~, for not more than 24 hours.
12 During that time the individual shall be examined by a physician or
13 a licensed psychologist **UNLESS A CLINICAL CERTIFICATE HAS ALREADY**
14 **BEEN PRESENTED TO THE HOSPITAL**. If the examining physician or
15 psychologist does not certify that the individual is a person
16 requiring treatment, the individual shall be released immediately.
17 If the examining physician or psychologist executes a clinical
18 certificate, the individual may be hospitalized under section 423.

19 (2) If a preadmission screening unit provides an examination
20 under section **409**, 410, **OR** 427, ~~or 428~~, the examination shall be
21 conducted as soon as possible after the individual arrives at the
22 preadmission screening site, and the examination shall be completed
23 within 2 hours, unless there are documented medical reasons why the
24 examination cannot be completed within that time frame or other
25 arrangements are agreed upon by the peace officer and the
26 preadmission screening unit.

27 Sec. 431. (1) Within 24 hours after receipt of a clinical

1 certificate by a psychiatrist ~~pursuant~~ **ACCORDING** to section 430,
2 the hospital director shall transmit a notice to the court that the
3 patient has been hospitalized. The notice shall be accompanied by a
4 ~~copy of the application~~ **THE PETITION** and ~~copies of the 2 clinical~~
5 certificates that were executed.

6 (2) A copy of the ~~application~~, **PETITION**, a copy of the 2
7 clinical certificates, and a statement of the right of the patient
8 to court hearings under sections 451 to 465 shall also be given or
9 mailed to the patient's nearest relative, **HIS** or **HER** guardian, **IF**
10 **ANY**, and ~~to~~ his or her attorney.

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

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

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

23 (3) ~~The~~ **EXCEPT AS PROVIDED IN SUBSECTION (6),** ~~THE~~ petition
24 shall be accompanied by the clinical certificate of a physician or
25 a licensed psychologist, unless after reasonable effort the
26 petitioner could not secure an examination. If a clinical
27 certificate does not accompany the petition, an affidavit setting

1 forth the reasons an examination could not be secured shall also be
2 filed. The petition may also be accompanied by a second clinical
3 certificate. If 2 clinical certificates accompany the petition, at
4 least 1 clinical certificate shall have been executed by a
5 psychiatrist.

6 (4) Except as otherwise provided in **SUBSECTION (6) AND** section
7 455, a clinical certificate that accompanies a petition shall have
8 been executed within 72 hours before the filing of the petition,
9 and after personal examination of the individual.

10 (5) **THE PETITION DESCRIBED IN THIS SECTION MAY ASSERT THAT THE**
11 **SUBJECT OF THE PETITION SHOULD RECEIVE ASSISTED OUTPATIENT**
12 **TREATMENT IN ACCORDANCE WITH SECTION 468(2)(E).**

13 (6) **A PETITION THAT DOES NOT SEEK HOSPITALIZATION BUT ONLY**
14 **REQUESTS THAT THE SUBJECT OF THE PETITION RECEIVE ASSISTED**
15 **OUTPATIENT TREATMENT IS NOT SUBJECT TO SUBSECTION (3) OR (4).**

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

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

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

27 (4) After ~~any~~**AN** examination ordered under ~~this section, the~~

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

(6) THIS SECTION DOES NOT APPLY TO A PETITION FILED UNDER SECTION 434(6).

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

1 of the hospital.

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

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

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

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

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

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

26 Sec. 449. The hospital director shall ensure that an
27 individual who is hospitalized ~~pursuant to~~ **UNDER** section 423 or 438

1 receives a copy of each clinical certificate executed in connection
 2 with the individual's hospitalization. Each clinical certificate
 3 shall be delivered to the individual within 24 hours of either the
 4 clinical certificate's completion or ~~the~~ receipt of the clinical
 5 certificate by the hospital.

6 Sec. 451. Court hearings convened under authority of this
 7 chapter ~~shall be~~ **ARE** governed by sections 452 to 465, **EXCEPT THAT**
 8 **SECTIONS 453(2), 453A, AND 455(3) TO (11) DO NOT APPLY TO A**
 9 **PETITION SEEKING ONLY ASSISTED OUTPATIENT TREATMENT.**

10 Sec. 452. (1) The court shall fix a date for every hearing
 11 convened under this chapter. ~~The~~ **EXCEPT AS PROVIDED IN SUBSECTION**
 12 **(2), THE** hearing shall be convened promptly, but not more than 7
 13 days ~~, excluding Sundays and holidays,~~ after the court's receipt of
 14 any of the following:

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

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

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

27 **(C)** ~~(d)~~ A petition for discharge filed under section 484.

~~1 (c) A petition for discharge filed under section 485 and a~~
~~2 physician's or a licensed psychologist's clinical certificate.~~

3 (D) ~~(f)~~ A demand or notification that a hearing that has been
 4 temporarily deferred under section ~~455(5)~~ 455(6) be convened.

5 (2) A HEARING FOR A PETITION UNDER SECTION 434(6) SHALL BE
 6 CONVENED NOT MORE THAN 28 DAYS AFTER THE FILING OF THE PETITION,
 7 UNLESS THE PETITION WAS FILED WHILE THE SUBJECT OF THE PETITION WAS
 8 AN INPATIENT AT A PSYCHIATRIC HOSPITAL, IN WHICH CASE THE HEARING
 9 SHALL BE CONVENED WITHIN 7 DAYS OF THE FILING OF THE PETITION.

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

21 (2) Within 4 days of the court's receipt of the documents
 22 described in section ~~452(b)~~, 452(1)(A), the court shall cause the
 23 subject of the petition to be given a copy of the petition, a copy
 24 of each clinical certificate executed in connection with the
 25 proceeding, notice of the right to a full court hearing, notice of
 26 the right to be present at the hearing, notice of the right to be
 27 represented by legal counsel, notice of the right to demand a jury

1 trial, and notice of the right to an independent clinical
2 evaluation.

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

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

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

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

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

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

1 by this chapter.

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

5 (8) Legal counsel for the subject of a petition under section
6 ~~452(a) or (b)~~ **452(1)(A)** who is hospitalized pending the court
7 hearing shall consult in person with the individual **FOR THE FIRST**
8 **TIME** not more than 72 hours ~~, excluding Sundays and holidays,~~ after
9 the petition and 2 clinical certificates have been filed with the
10 court.

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

15 Sec. 455. (1) The subject of a petition has the right to be
16 present at all hearings. This right may be waived by a waiver of
17 attendance signed by the subject of a petition, witnessed by his or
18 her legal counsel, and filed with the court or it may be waived in
19 open court at a scheduled hearing. The subject's right to be
20 present at a hearing is considered waived by the subject's failure
21 to attend the hearing after receiving notice required by section
22 453 and any applicable court rule, providing the subject has had an
23 opportunity to consult with counsel as required under section 454.
24 The court may exclude the subject from a hearing if the subject's
25 behavior at the hearing makes it impossible to conduct the hearing.
26 The court shall enter on the record its reasons for excluding the
27 subject of a petition from the hearing. The subject's presence may

1 be waived by the court if there is testimony by a physician or
2 licensed psychologist who has recently observed the subject that
3 the subject's attendance would expose him or her to serious risk of
4 physical harm.

5 (2) **THE SUBJECT OF THE PETITION UNDER SECTION 434, AFTER**
6 **CONSULTATION WITH COUNSEL, MAY STIPULATE TO THE ENTRY OF ANY ORDER**
7 **FOR TREATMENT.**

8 (3) ~~(2)~~ The subject of a petition under section ~~452(a) or (b)~~
9 **434** who is hospitalized pending the court hearing, within 72 hours
10 ~~, excluding Sundays and holidays,~~ after the petition and clinical
11 certificates have been filed with the court, shall meet with legal
12 counsel, a treatment team member assigned by the hospital director,
13 a person assigned by the executive director of the responsible
14 community mental health services program **OR OTHER PROGRAM AS**
15 **DESIGNATED BY THE DEPARTMENT**, and, if possible, a person designated
16 by the subject of the petition, in order to be informed of all of
17 the following:

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

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

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

25 (d) The right to request that the hearing be temporarily
26 deferred, with a continuing right to demand a hearing during the
27 deferral period. The deferral period shall be 60 days if the

1 individual chooses to remain hospitalized, or 90 days if the
2 individual chooses alternative treatment or a combination of
3 hospitalization and alternative treatment.

4 (4) ~~(3)~~—The person designated by the subject of the petition
5 under subsection ~~(2)~~—(3) may be any person who is willing and able
6 to attend the meeting, including a representative of an advocacy
7 group or the recipient rights adviser of the hospital.

8 (5) ~~(4)~~—The hospital in which the subject of a petition under
9 section ~~452(a) or (b)~~—434 is hospitalized shall notify the
10 participants of the meeting required by subsection ~~(2)~~—(3).

11 (6) ~~(5)~~—The subject of a petition under section ~~452(a) or (b)~~
12 434 who is hospitalized pending the court hearing may file with the
13 court a request to temporarily defer the hearing for not longer
14 than 60 days if the individual chooses to remain hospitalized, or
15 90 days if the individual chooses alternative treatment or a
16 combination of hospitalization and alternative treatment. The
17 request shall include a stipulation that the individual agrees to
18 remain hospitalized and to accept treatment as may be prescribed
19 for the deferral period, or to accept and follow the proposed plan
20 of treatment as described in subsection ~~(2)(e)~~—(3) (C) for the
21 deferral period, and further agrees that at any time the individual
22 may refuse treatment and demand a hearing under section 452. The
23 request to temporarily defer the hearing shall be on a form
24 provided by the department and signed by the individual in the
25 presence of his or her legal counsel and shall be filed with the
26 court by legal counsel.

27 (7) ~~(6)~~—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. ~~However, if~~ **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) ~~(7)~~ Upon receipt of a copy of the request to temporarily defer the hearing under subsection ~~(5)~~, **(6)**, if the individual has agreed to remain hospitalized, ~~as described in subsection (2)(a) or (e)~~, the hospital director shall treat the individual as a formal voluntary patient without requiring the individual to sign formal voluntary admission forms. If the individual, at any time during the period in which the hearing is being deferred, refuses the prescribed treatment or requests a hearing, either in writing or orally, treatment shall cease, the hospitalized individual shall remain hospitalized with the status of the subject of a petition under section ~~452(a) or (b)~~, **434**, and the court shall be notified to convene a hearing under section ~~452(f)~~. **452(1)(D)**.

(9) ~~(8)~~ Upon receipt of a copy of the request to temporarily defer the hearing under subsection ~~(5)~~, **(6)**, if the individual has agreed to participate in an alternative to hospitalization in the community, the hospital director shall release the individual from the hospital to the alternative treatment provider. If the individual, at any time during the deferral period, refuses the prescribed treatment or requests a hearing, either in writing or orally, treatment shall cease and the court shall be notified to convene a hearing under section ~~452(f)~~. **452(1)(D)**. Upon

1 notification, the court shall, if necessary, order a peace officer
2 to transport the individual to the hospital where the individual
3 shall remain until the hearing is convened. The individual shall be
4 given the status of the subject of a petition under section ~~452(a)~~
5 ~~or (b)~~. **434.**

6 **(10)** ~~(9)~~—If the individual has remained hospitalized and if,
7 not earlier than 14 days nor later than 7 days before the
8 expiration of the deferral period, the hospital director believes
9 that the condition of the individual is such that he or she
10 continues to require treatment, and believes that the individual
11 will not agree to sign a formal voluntary admission request or is
12 considered by the hospital not to be suitable for voluntary
13 admission, the hospital director shall notify the court to convene
14 a hearing under section ~~452(f)~~. **452 (1) (D) .**

15 **(11)** ~~(10)~~—If the individual is participating in an alternative
16 to hospitalization in the community as described in subsection
17 ~~(2)(e)~~ **(3) (C)** and if, not earlier than 14 days nor later than 7
18 days before the expiration of the deferral period, the executive
19 director of the community mental health services program
20 responsible for the treatment that is an alternative to
21 hospitalization believes that the condition of the individual is
22 such that he or she continues to require treatment, and believes
23 that the individual will not agree to accept treatment voluntarily
24 or is considered by the alternative treatment program provider not
25 suitable for voluntary treatment, the executive director shall
26 notify the court to convene a hearing under section
27 ~~452(f)~~. **452 (1) (D) .**

1 Sec. 461. (1) ~~An~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,
2 AN individual may not be found to require treatment unless at least
3 1 physician or licensed psychologist who has personally examined
4 that individual testifies in person or by written deposition at the
5 hearing.

6 (2) FOR A PETITION FILED UNDER SECTION 434(6) THAT WAS NOT
7 ACCOMPANIED BY, OR THAT HAS NOT SUBSEQUENTLY BEEN SUPPLEMENTED BY,
8 A PSYCHIATRIST'S CLINICAL CERTIFICATE, AN INDIVIDUAL MAY NOT BE
9 FOUND TO REQUIRE TREATMENT UNLESS AT LEAST 1 PHYSICIAN OR LICENSED
10 PSYCHOLOGIST AND 1 PSYCHIATRIST WHO HAVE PERSONALLY EXAMINED THAT
11 INDIVIDUAL TESTIFY IN PERSON OR BY WRITTEN DEPOSITION AT THE
12 HEARING.

13 (3) THE EXAMINATIONS REQUIRED UNDER THIS SECTION FOR A
14 PETITION FILED UNDER SECTION 434(6) SHALL BE ARRANGED BY THE COURT
15 AND THE LOCAL COMMUNITY MENTAL HEALTH SERVICES PROGRAM OR OTHER
16 ENTITY AS DESIGNATED BY THE DEPARTMENT.

17 (4) A written deposition may be introduced as evidence at the
18 hearing only if the attorney for the subject of the petition was
19 given the opportunity to be present during the taking of the
20 deposition and to cross-examine the deponent. This testimony or
21 deposition may be waived by the subject of a petition. An
22 individual may be found to require treatment even if the petitioner
23 does not testify, as long as there is competent evidence from which
24 the relevant criteria in section 401 can be established.

25 Sec. 463. (1) If requested before the first scheduled hearing
26 or at the first scheduled hearing before the first witness has been
27 sworn on ~~an application or~~ A petition, the subject of a petition in

1 a hearing under this chapter has the right at his or her own
2 expense, or if indigent, at public expense, to secure an
3 independent clinical evaluation by a physician, psychiatrist, or
4 licensed psychologist of his or her choice relevant to whether he
5 or she requires treatment, whether he or she should be hospitalized
6 or receive treatment other than hospitalization, and whether he or
7 she is of legal capacity.

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

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

16 Sec. 468. (1) ~~IF~~**FOR A PETITION FILED UNDER SECTION 434, IF**
17 the court finds that an individual is not a person requiring
18 treatment, the court shall enter a finding to that effect and, if
19 the person has been hospitalized before the hearing, shall order
20 that the person be discharged immediately.

21 (2) ~~IF~~**FOR A PETITION FILED UNDER SECTION 434, IF** an
22 individual is found to be a person requiring treatment, the court
23 shall do 1 of the following:

24 (a) Order the individual hospitalized in a hospital
25 recommended by the community mental health services program **OR**
26 **OTHER ENTITY AS DESIGNATED BY THE DEPARTMENT.**

27 (b) Order the individual hospitalized in a private or veterans

1 administration hospital at the request of the individual or his or
2 her family, if private or federal funds are to be utilized and if
3 the hospital agrees. If the individual is hospitalized in a private
4 or ~~veterans administration~~ **VETERANS ADMINISTRATION** hospital
5 ~~pursuant to~~ **UNDER** this subdivision, any financial obligation for
6 the hospitalization shall be satisfied from funding sources other
7 than the community mental health services program, the department,
8 or other state or county funding.

9 (c) Order the individual to undergo a program of treatment
10 that is an alternative to hospitalization and that is recommended
11 by the community mental health services program **OR OTHER ENTITY AS**
12 **DESIGNATED BY THE DEPARTMENT.**

13 (d) Order the individual to undergo a program of combined
14 hospitalization and alternative treatment **OR HOSPITALIZATION AND**
15 **ASSISTED OUTPATIENT TREATMENT**, as recommended by the community
16 mental health services program **OR OTHER ENTITY AS DESIGNATED BY THE**
17 **DEPARTMENT.**

18 (E) **ORDER THE INDIVIDUAL TO RECEIVE ASSISTED OUTPATIENT**
19 **TREATMENT THROUGH A COMMUNITY MENTAL HEALTH SERVICES PROGRAM, OR**
20 **OTHER ENTITY AS DESIGNATED BY THE DEPARTMENT, CAPABLE OF PROVIDING**
21 **THE NECESSARY TREATMENT AND SERVICES TO ASSIST THE INDIVIDUAL TO**
22 **LIVE AND FUNCTION IN THE COMMUNITY AS SPECIFIED IN THE ORDER. THE**
23 **COURT MAY INCLUDE CASE MANAGEMENT SERVICES AND 1 OR MORE OF THE**
24 **FOLLOWING:**

25 (i) **MEDICATION.**

26 (ii) **BLOOD OR URINALYSIS TESTS TO DETERMINE COMPLIANCE WITH OR**
27 **EFFECTIVENESS OF PRESCRIBED MEDICATION.**

1 (iii) INDIVIDUAL OR GROUP THERAPY, OR BOTH.

2 (iv) DAY OR PARTIAL DAY PROGRAMS.

3 (v) EDUCATIONAL OR VOCATIONAL TRAINING.

4 (vi) SUPERVISED LIVING.

5 (vii) ASSISTED COMMUNITY TREATMENT TEAM SERVICES.

6 (viii) SUBSTANCE USE DISORDER TREATMENT.

7 (ix) SUBSTANCE USE DISORDER TESTING FOR INDIVIDUALS WITH A
8 HISTORY OF ALCOHOL OR SUBSTANCE USE AND FOR WHOM THAT TESTING IS
9 NECESSARY TO ASSIST THE COURT IN ORDERING TREATMENT DESIGNED TO
10 PREVENT DETERIORATION. A COURT ORDER FOR SUBSTANCE USE TESTING IS
11 SUBJECT TO REVIEW ONCE EVERY 180 DAYS.

12 (x) ANY OTHER SERVICES PRESCRIBED TO TREAT THE INDIVIDUAL'S
13 MENTAL ILLNESS AND EITHER TO ASSIST THE INDIVIDUAL IN LIVING AND
14 FUNCTIONING IN THE COMMUNITY OR TO HELP PREVENT A RELAPSE OR
15 DETERIORATION THAT MAY REASONABLY BE PREDICTED TO RESULT IN SUICIDE
16 OR THE NEED FOR HOSPITALIZATION.

17 (3) IN DEVELOPING AN ASSISTED OUTPATIENT TREATMENT ORDER, THE
18 COURT SHALL CONSIDER ANY PREFERENCE OR MEDICATION EXPERIENCE
19 REPORTED BY THE INDIVIDUAL OR HIS OR HER DESIGNATED REPRESENTATIVE,
20 WHETHER OR NOT THE INDIVIDUAL HAS AN EXISTING INDIVIDUAL PLAN OF
21 SERVICES UNDER SECTION 712, AND ANY DIRECTION INCLUDED IN A DURABLE
22 POWER OF ATTORNEY OR ADVANCE DIRECTIVE THAT EXISTS.

23 (4) BEFORE AN ORDER OF ASSISTED OUTPATIENT TREATMENT EXPIRES,
24 IF THE INDIVIDUAL HAS NOT PREVIOUSLY DESIGNATED A PATIENT ADVOCATE
25 OR EXECUTED A DURABLE POWER OF ATTORNEY OR AN ADVANCE DIRECTIVE,
26 THE RESPONSIBLE COMMUNITY MENTAL HEALTH SERVICES PROGRAM OR OTHER
27 ENTITY AS DESIGNATED BY THE DEPARTMENT SHALL ASCERTAIN WHETHER THE

1 INDIVIDUAL DESIRES TO ESTABLISH A DURABLE POWER OF ATTORNEY OR AN
2 ADVANCE DIRECTIVE. IF SO, THE COMMUNITY MENTAL HEALTH SERVICES
3 PROGRAM OR OTHER ENTITY AS DESIGNATED BY THE DEPARTMENT SHALL
4 DIRECT THE INDIVIDUAL TO THE APPROPRIATE COMMUNITY RESOURCE FOR
5 ASSISTANCE IN DEVELOPING A DURABLE POWER OF ATTORNEY OR AN ADVANCE
6 DIRECTIVE.

7 (5) IF AN ORDER FOR ASSISTED OUTPATIENT TREATMENT CONFLICTS
8 WITH THE PROVISIONS OF AN EXISTING DURABLE POWER OF ATTORNEY,
9 ADVANCE DIRECTIVE, OR INDIVIDUAL PLAN OF SERVICES DEVELOPED UNDER
10 SECTION 712, THE ASSISTED OUTPATIENT TREATMENT ORDER SHALL BE
11 REVIEWED FOR POSSIBLE ADJUSTMENT BY A PSYCHIATRIST NOT PREVIOUSLY
12 INVOLVED WITH DEVELOPING THE ASSISTED OUTPATIENT TREATMENT ORDER.
13 IF AN ORDER FOR ASSISTED OUTPATIENT TREATMENT CONFLICTS WITH THE
14 PROVISIONS OF AN EXISTING ADVANCE DIRECTIVE, DURABLE POWER OF
15 ATTORNEY, OR INDIVIDUAL PLAN OF SERVICES DEVELOPED UNDER SECTION
16 712, THE COURT SHALL STATE THE COURT'S FINDINGS ON THE RECORD OR IN
17 WRITING IF THE COURT TAKES THE MATTER UNDER ADVISEMENT, INCLUDING
18 THE REASON FOR THE CONFLICT.

19 Sec. 469a. (1) ~~Before~~ EXCEPT FOR A PETITION FILED AS DESCRIBED
20 UNDER SECTION 434(6), BEFORE ordering a course of treatment for an
21 individual found to be a person requiring treatment, the court
22 shall review a report on alternatives to hospitalization that was
23 prepared under section 453a not more than 15 days before the court
24 issues the order. After reviewing the report, the court shall do
25 all of the following:

26 (a) Determine whether a treatment program that is an
27 alternative to hospitalization or that follows an initial period of

1 hospitalization is adequate to meet the individual's treatment
2 needs and is sufficient to prevent harm that the individual may
3 inflict upon himself or herself or upon others within the near
4 future.

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

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

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

27 (3) If the court orders assisted outpatient treatment as the

1 alternative to hospitalization, the order shall ~~require assisted~~
2 ~~outpatient treatment through a community mental health services~~
3 ~~program or any other publicly funded entity necessary for~~
4 ~~fulfillment of the assisted outpatient treatment plan. The order~~
5 ~~shall include case management services. The order for assisted~~
6 ~~outpatient treatment may include 1 or more of the following:~~**BE**
7 **CONSISTENT WITH THE PROVISIONS OF SECTION 468(2)(E).**

8 ~~—— (a) Medication.~~

9 ~~—— (b) Blood or urinalysis tests to determine compliance with~~
10 ~~prescribed medications.~~

11 ~~—— (c) Individual or group therapy.~~

12 ~~—— (d) Day or partial day programs.~~

13 ~~—— (e) Educational and vocational training.~~

14 ~~—— (f) Supervised living.~~

15 ~~—— (g) Assertive community treatment team services.~~

16 ~~—— (h) Alcohol or substance abuse treatment, or both.~~

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

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

27 ~~—— (4) In developing an order under this section, the court shall~~

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

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

Sec. 472a. (1) Upon the receipt of an application under section 423 or **FILING OF** a petition under section 434 and a finding

1 that an individual is a person requiring treatment, the court shall
2 issue an initial order of involuntary mental health treatment that
3 shall be limited in duration as follows:

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

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

8 (c) Except as provided in subdivision (e), an initial order of
9 combined hospitalization and alternative treatment shall not exceed
10 90 days. The hospitalization portion of the initial order shall not
11 exceed 60 days.

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

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

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

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

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

27 (c) A second order of combined hospitalization and alternative

1 treatment or **HOSPITALIZATION AND** assisted outpatient treatment
2 shall not exceed 1 year. The hospitalization portion of the second
3 order shall not exceed 90 days.

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

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

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

13 (c) A continuing order of combined hospitalization and
14 alternative treatment or **HOSPITALIZATION AND** assisted outpatient
15 treatment shall not exceed 1 year. The hospitalization portion of a
16 continuing order for combined hospitalization and alternative
17 treatment or **HOSPITALIZATION AND** assisted outpatient treatment
18 shall not exceed 90 days.

19 (4) Upon the receipt of a petition under section 473 before
20 the expiration of a continuing order of involuntary mental health
21 treatment, including a continuing order issued under section 485a
22 or a 1-year order of hospitalization issued under former section
23 472, and a finding that the individual continues to be a person
24 requiring treatment, the court shall issue another continuing order
25 for involuntary mental health treatment as provided in subsection
26 (3) for a period not to exceed 1 year. The court shall continue to
27 issue consecutive 1-year continuing orders for involuntary mental

1 health treatment under this section until a continuing order
2 expires without a petition having been filed under section 473 or
3 the court finds that the individual is not a person requiring
4 treatment.

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

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

20 Sec. 474. (1) If an individual is subject to a combined order
21 of hospitalization and **EITHER** alternative treatment **OR ASSISTED**
22 **OUTPATIENT TREATMENT**, the decision to release the individual from
23 the hospital to the alternative treatment program **OR ASSISTED**
24 **OUTPATIENT TREATMENT PROGRAM** shall be a clinical decision made by a
25 psychiatrist designated by the hospital director in consultation
26 with the director of the alternative **TREATMENT** program **OR THE**
27 **ASSISTED OUTPATIENT TREATMENT PROGRAM**. If the hospital is operated

1 by or under contract with the department or a community mental
2 health services program and private payment arrangements have not
3 been made, the decision shall be made in consultation with the
4 treatment team designated by the executive director of the
5 community mental health services program. Notice of the return of
6 the individual to the alternative treatment program **OR TO THE**
7 **ASSISTED OUTPATIENT TREATMENT PROGRAM** shall be provided to the
8 court with a statement from a psychiatrist explaining the belief
9 that the individual is clinically appropriate for alternative
10 treatment **OR ASSISTED OUTPATIENT TREATMENT**. At least 5 days before
11 releasing an individual from the hospital to the alternative
12 treatment program **OR ASSISTED OUTPATIENT TREATMENT PROGRAM**, the
13 hospital director shall notify the agency or mental health
14 professional that is responsible to supervise the individual's
15 alternative treatment program **OR ASSISTED OUTPATIENT TREATMENT**
16 **PROGRAM** that the individual is about to be released. The hospital
17 shall share relevant information about the individual with the
18 supervising agency or professional for the purpose of providing
19 continuity of treatment.

20 (2) If there is a disagreement between the hospital and the
21 executive director regarding the decision to release the individual
22 to the alternative treatment program **OR ASSISTED OUTPATIENT**
23 **TREATMENT PROGRAM**, either party may appeal in writing to the
24 department director within 24 hours of the decision. The department
25 director shall designate the psychiatrist responsible for clinical
26 affairs in the department, or his or her designee, who shall also
27 be a psychiatrist, to consider the appropriateness of the release

1 and make a decision within 48 hours after receipt of the written
2 appeal. Either party may appeal the decision of the department to
3 the court in writing within 24 hours ~~, excluding Sundays and~~
4 ~~holidays,~~ after the department's decision.

5 (3) If private arrangements have been made for the
6 reimbursement of mental health treatment services in an alternative
7 setting and there is a disagreement between the hospital and the
8 director of the alternative treatment program **OR ASSISTED**
9 **OUTPATIENT TREATMENT PROGRAM** regarding the decision to release the
10 individual, either party may petition the court for a determination
11 of whether the individual should be released from the hospital to
12 the alternative treatment program **OR ASSISTED OUTPATIENT TREATMENT**
13 **PROGRAM**.

14 (4) The court shall make a decision within 48 hours ~~7~~
15 ~~excluding Sundays and holidays,~~ after receipt of a written appeal
16 under subsection (2) or a petition under subsection (3). The court
17 shall consider information provided by both parties and may appoint
18 a psychiatrist to provide an independent clinical examination.

19 Sec. 474a. During the period of an order of combined
20 hospitalization and alternative treatment **OR COMBINED**
21 **HOSPITALIZATION AND ASSISTED OUTPATIENT TREATMENT**, hospitalization
22 may be used as clinically appropriate and when ordered by a
23 psychiatrist, for up to the maximum period for hospitalization
24 specified in the order. Subject to section 475, the decision to
25 hospitalize the individual shall be made by the director of the
26 alternative treatment program **OR ASSISTED OUTPATIENT TREATMENT**
27 **PROGRAM**, who shall notify the court when the individual is

1 hospitalized. The notice to the court shall include a statement
2 from a psychiatrist explaining the need for hospitalization.

3 Sec. 475. (1) During the period of an order for alternative
4 treatment or combined hospitalization and alternative treatment, if
5 the agency or mental health professional who is supervising an
6 individual's alternative treatment program determines that the
7 individual is not complying with the court order or that the
8 alternative treatment has not been or will not be sufficient to
9 prevent harm that the individual may inflict on himself or herself
10 or upon others, then the supervising agency or mental health
11 professional shall notify the court immediately. If the individual
12 believes that the alternative treatment program is not appropriate,
13 the individual may notify the court of that fact.

14 (2) If it comes to the attention of the court that an
15 individual subject to an order of alternative treatment or combined
16 hospitalization and alternative treatment is not complying with the
17 order, that the alternative treatment has not been or will not be
18 sufficient to prevent harm to the individual or to others, or that
19 the individual believes that the alternative treatment program is
20 not appropriate, the court may do either of the following without a
21 hearing and based upon the record and other available information:

22 (a) Consider other alternatives to hospitalization and modify
23 the order to direct the individual to undergo another program of
24 alternative treatment for the duration of the order.

25 (b) Modify the order to direct the individual to undergo
26 hospitalization or combined hospitalization and alternative
27 treatment. The duration of the hospitalization, including the

1 number of days the individual has already been hospitalized if the
2 order being modified is a combined order, shall not exceed 60 days
3 for an initial order or 90 days for a second or continuing order.
4 The modified order may provide that if the individual refuses to
5 comply with the psychiatrist's order to return to the hospital, a
6 peace officer shall take the individual into protective custody and
7 transport the individual to the hospital selected.

8 (3) During the period of an order for assisted outpatient
9 treatment **OR A COMBINATION OF HOSPITALIZATION AND ASSISTED**
10 **OUTPATIENT TREATMENT**, if the agency or mental health professional
11 who is supervising an individual's assisted outpatient treatment
12 determines that the individual is not complying with the court
13 order, the supervising agency or mental health professional shall
14 notify the court immediately.

15 (4) If it comes to the attention of the court that an
16 individual subject to an order of assisted outpatient treatment **OR**
17 **A COMBINATION OF HOSPITALIZATION AND ASSISTED OUTPATIENT TREATMENT**
18 is not complying with the order, the court may require 1 or more of
19 the following, without a hearing:

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

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

25 (c) Upon recommendation by the community mental health
26 services program serving the community in which the individual
27 resides, that the individual be hospitalized for a period of more

1 than 10 days, but not longer than the duration of the order for
2 assisted outpatient treatment **OR A COMBINATION OF HOSPITALIZATION**
3 **AND ASSISTED OUTPATIENT TREATMENT**, or not longer than 90 days,
4 whichever is less.

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

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

13 Enacting section 1. Sections 116a, 424, 428, and 433 of the
14 mental health code, 1974 PA 258, MCL 330.1116a, 330.1424, 330.1428,
15 and 330.1433, are repealed.

16 Enacting section 2. This amendatory act takes effect 90 days
17 after the date it is enacted into law or April 1, 2016, whichever
18 is later.