

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

330.1455 Right to be present at all hearings; waiver; exclusion of subject by court; stipulation to entry of treatment order; meeting; request to defer hearing; continuing jurisdiction during deferral period; treatment as formal voluntary patient; effect of refusing treatment or requesting hearing; participation in outpatient treatment; notice to convene hearing.

Sec. 455. (1) The subject of a petition has the right to be present at all hearings. This right may be waived by a waiver of attendance signed by the subject of a petition, witnessed by his or her legal counsel, and filed with the court or it may be waived in open court at a scheduled hearing. The subject's right to be present at a hearing is considered waived by the subject's failure to attend the hearing after receiving notice required by section 453 and any applicable court rule, providing the subject has had an opportunity to consult with counsel as required under section 454. The court may exclude the subject from a hearing if the subject's behavior at the hearing makes it impossible to conduct the hearing. The court shall enter on the record its reasons for excluding the subject of a petition from the hearing. The subject's presence may be waived by the court if there is testimony by a physician or licensed psychologist who has recently observed the subject that the subject's attendance would expose him or her to serious risk of physical harm.

(2) The subject of the 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.

(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.

(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).

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 178, Imd. Eff. June 14, 1982;—Am. 1986, Act 118, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2018, Act 593, Eff. Mar. 28, 2019.