

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

FINDINGS AND DISPOSITIONS

330.1468 Treatment; disposition; order of assisted outpatient treatment; assisted outpatient treatment plan.

Sec. 468. (1) For a petition filed under section 434, if the court finds that an individual is not a person requiring treatment, the court shall enter a finding to that effect and, if the person has been hospitalized before the hearing, shall order that the person be discharged immediately.

(2) For a petition filed under section 434, if an individual is found to be a person requiring treatment, the court shall do 1 of the following:

(a) Order the individual hospitalized in a hospital recommended by the community mental health services program or other entity as designated by the department.

(b) Order the individual hospitalized in a private or veterans administration hospital at the request of the individual or his or her family, if private or federal funds are to be utilized and if the hospital agrees. If the individual is hospitalized in a private or Veterans Administration hospital under this subdivision, any financial obligation for the hospitalization shall be satisfied from funding sources other than the community mental health services program, the department, or other state or county funding.

(c) Order the individual to undergo a program of 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.

(4) In developing an assisted outpatient treatment order, the court shall consider any preference or medication experience reported by the individual or his or her designated representative, whether or not the individual has an existing individual plan of services under section 712, and any direction included in a durable power of attorney or advance directive that exists.

(5) Before an order of assisted outpatient treatment expires, if the individual has not previously designated a patient advocate or executed a durable power of attorney or an advance directive, the responsible community mental health services program or other entity as designated by the department shall ascertain whether the individual desires to establish a durable power of attorney or an advance directive. If so, the community mental health services program or other entity as designated by the department shall direct the individual to the appropriate community resource for assistance in developing a durable power of attorney or an advance directive.

(6) If an order for assisted outpatient treatment conflicts with the provisions of an existing durable power

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

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1980, Act 138, Imd. Eff. May 29, 1980;—Am. 1982, Act 178, Imd. Eff. June 14, 1982;—Am. 1986, Act 117, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

330.1469 Repealed. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

Compiler's note: The repealed section pertained to alternatives to hospitalization, report, notice, petition, review, powers of court, and hearing.

330.1469a Treatment program as alternative to hospitalization; assisted outpatient treatment; court order.

Sec. 469a. (1) 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 must 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 must take the individual into protective custody. After the individual is taken into protective custody by a peace officer, a peace officer or a security transport officer shall transport the individual to the hospital selected.

(3) If the court orders assisted outpatient treatment as the alternative to hospitalization, the order must be consistent with the provisions of section 468(2)(d).

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2004, Act 497, Eff. Mar. 30, 2005;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2018, Act 593, Eff. Mar. 28, 2019;—Am. 2022, Act 146, Eff. (sine die);—Am. 2022, Act 214, Imd. Eff. Oct. 14, 2022.

330.1470 Adequate and appropriate treatment required; inquiry.

Sec. 470. Prior to ordering the hospitalization of an individual, the court shall inquire into the adequacy of treatment to be provided to the individual by the hospital. Hospitalization shall not be ordered unless the hospital in which the individual is to be hospitalized can provide him with treatment which is adequate and appropriate to his condition.

History: 1974, Act 258, Eff. Nov. 6, 1974.

330.1471 Preference as to hospitals.

Sec. 471. Preference between the department designated hospital and other available hospitals shall be given to the hospital which is located nearest to the individual's residence except when the individual requests otherwise or there are other compelling reasons for an order reversing the preference.

History: 1974, Act 258, Eff. Nov. 6, 1974.

330.1472 Repealed. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

Compiler's note: The repealed section pertained to duration of hospitalization.

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

Sec. 472a. (1) Upon the filing of a petition under section 434 and a finding that an individual is a person requiring treatment, the court shall issue an initial order of involuntary mental health treatment that shall be limited in duration as follows:

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

(b) 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.

(2) Upon the receipt of a petition under section 473 before the expiration of an initial order under subsection (1) and a finding that the individual continues to be a person requiring treatment, the court shall issue a second order for involuntary mental health treatment that shall not exceed 90 days.

(3) Upon the receipt of a petition under section 473 before the expiration of a second order under subsection (2) and a finding that the individual continues to be a person requiring treatment, the court shall issue a continuing order for involuntary mental health treatment that shall not exceed 1 year.

(4) Upon the receipt of a petition under section 473 before the expiration of a continuing order of involuntary mental health treatment, including a continuing order issued under section 485a or a 1-year order of hospitalization issued under former section 472, and a finding that the individual continues to be a person requiring treatment, the court shall issue another continuing order for involuntary mental health treatment as provided in subsection (3) for a period not to exceed 1 year. The court shall continue to issue consecutive 1-year continuing orders for involuntary mental health treatment under this section until a continuing order expires without a petition having been filed under section 473 or the court finds that the individual is not a person requiring treatment.

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

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2004, Act 498, Eff. Mar. 30, 2005;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

330.1473 Petition for second or continuing order of involuntary mental health treatment; contents; clinical certificate.

Sec. 473. Not less than 14 days before the expiration of an initial, second, or continuing order of involuntary mental health treatment issued under section 472a or section 485a, a hospital director or an agency or mental health professional supervising an individual's assisted outpatient treatment shall file a petition for a second or continuing order of involuntary mental health treatment if the hospital director or supervisor believes the individual continues to be a person requiring treatment and that the individual is likely to refuse treatment on a voluntary basis when the order expires. The petition shall contain a statement setting forth the reasons for the hospital director's or supervisor's or their joint determination that the individual continues to be a person requiring treatment, a statement describing the treatment program provided to the individual, the results of that course of treatment, and a clinical estimate as to the time further treatment will be required. The petition shall be accompanied by a clinical certificate executed by a psychiatrist.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2004, Act 498, Eff. Mar. 30, 2005;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

330.1474 Release of individual from hospital to assisted outpatient treatment; clinical decision; notice; appeal; court petition; information to be considered by court.

Sec. 474. (1) If an individual is subject to a combined order of hospitalization and 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.

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

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

Sec. 474a. 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.

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

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.

Sec. 475. (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.

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2004, Act 498, Eff. Mar. 30, 2005;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

330.1475a Hospitalization without hearing; objection.

Sec. 475a. (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.

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2018, Act 593, Eff. Mar. 28, 2019.