

Information for Users of Mental Health Services

Oakland County Probate Court

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in a series of brochures presented to you by the Oakland County Probate Court

INTRODUCTION

If you are concerned about the mental health of a family member or a friend, you may be asking the Oakland County Probate Court Mental Health Division for information and assistance. This brochure will answer many of your initial questions. The Probate Court staff will make every effort to help you through the Court process.

WHAT IS “MENTAL ILLNESS” UNDER THE MENTAL HEALTH CODE?

MCL 330.1400(g)

Mental illness is, by law, “a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.”

You may be asking the Probate Court to help you obtain treatment for a mentally ill person. You must understand that according to the Mental Health Code, it is not enough for a person to be diagnosed as “mentally ill”; he/she must also be considered an adult “person requiring treatment” or a “minor requiring treatment” for the Court to become involved. The definitions follow:

WHO ARE ADULT “PERSONS REQUIRING TREATMENT”?

A “person requiring treatment” must have “mental illness” **and** any of the following:

- Can reasonably be expected within the near future to intentionally or unintentionally seriously harm himself/herself or another person, and who has already done so or threatened to do so, **OR**
- Is unable to attend to his/her basic physical needs such as food, clothing, or shelter, **OR**
- Is unable to understand his/her need for treatment which may result in significant physical harm to himself/herself or to others.

MCL 330.1401

Exceptions: An adult who has been affected by age, epilepsy, alcoholism, or drug dependence is not necessarily “a person requiring treatment.” The person must also meet at least one of the three requirements noted above. **MCL 330.1401(2)**

WHO ARE “MINORS REQUIRING TREATMENT”?

A “minor requiring treatment” means either of the following:

- A minor with a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life **OR** **MCL 330.1498b(b)(i)**
- A minor having a severe or persistent emotional condition characterized by seriously impaired personality development, individual adjustment, social adjustment, or emotional growth, which is demonstrated in behavior symptomatic of that impairment. **MCL 330.1498b(b)(ii)**

Exceptions: A minor *shall not* be determined to be a “minor requiring treatment” *solely* on the basis of one or more of the following conditions:

- Epilepsy.
- Developmental Disabilities.
- Drug or alcohol use, dependence, or addiction.
- Juvenile offenses, including school truancy, home truancy, or incorrigibility.
- Sexual Activity.
- Religious or political activity or beliefs. **MCL 330.1498d(5)**

HOW IS PSYCHIATRIC TREATMENT OBTAINED?

Minors

A request for hospitalization is made to a facility by the minor’s parent, a guardian, a person who has either legal or physical custody, and provides support and care for the minor, or the Department of Human Services (if minor is a ward), or the minor (if 14 years of age or older), or a police officer. **MCL 330.1498d(a)**

The minor must “require treatment”, must be in need of hospitalization and be expected to benefit from hospitalization; and there must not be an appropriate, less restrictive alternative to hospitalization available. **MCL 330.1498c(b)**

Adults

An adult may consent to voluntary treatment at a facility of his/her choice without involvement of the Court. The patient is permitted to leave, but if the facility determines that the patient needs to remain, that patient may be retained, a petition would be filed with the court, and a hearing would be held.

WHERE CAN PSYCHIATRIC TREATMENT BE OBTAINED?

- Voluntary treatment of an adult or minor may be obtained at any private or public facility willing and able to accept the patient.
- If voluntary treatment is not possible and the Court must become involved, the Court may order treatment.
- Oakland Community Health Network keeps a complete list of all facilities that offer voluntary and involuntary treatment of adults and minors.

EMERGENCY TRANSPORT OF A PERSON FOR EVALUATION

There are basically three ways to have a person transported to Common Ground Crisis Services for an emergency evaluation if the person does not voluntarily agree to treatment:

Protective Custody

MCL 330.1427

If a police officer observes someone acting in a manner which causes the officer to reasonably believe that the adult is a “person requiring treatment” or that the minor is a “minor requiring treatment” and presents a serious danger to self or others, the officer may take the individual into protective custody and transport to a hospital, **without** the necessity of obtaining a Transport Order from the Court.

Transport by Medical Certification

MCL 330.1423

If an adult agrees to be examined by a physician or psychiatrist and the doctor concludes that the individual is a “person requiring treatment,” a Court order is not necessary. The doctor completes a Clinical Certificate, and the family member or friend completes a *Petition for Mental Health Treatment*. This document is shown to the police or Ambulance Company so that the person may be transported. They are only good for 72 hours from the completion of the Clinical Certificate. No Court involvement or Court hearing is necessary to have the patient transported and evaluated. A Probate Court hearing will be held, however, within seven days of the Court’s receipt of the paperwork, to determine if the patient should remain hospitalized.

Court Order to Transport

MCL 330.1438

You may find it necessary to seek Probate Court’s Mental Health Division’s assistance in obtaining an Order for Examination/Transport the individual to Common Ground Crisis Services for evaluation and examination. You (the “petitioner”) must have personally observed recent examples of behavior or speech evidencing mental illness. Our staff will remind you that an Order to Transport should be the last resort and that every effort should be made to obtain voluntary treatment or examination before the Court becomes involved. You will need to complete a *Petition for Mental Health Treatment* and *Protected Personal Identifying Information* form and testify at the emergency hearing, which is held the same day. If the judge grants the *Order for Examination/Transport*, the petitioner will take the certified copy to the nearest police station to where the person is located. The peace officer will transport the person to Common Ground Crisis Services.

**Note that if the minor is hospitalized by any of the above methods, there is no further Court involvement or hearings unless the minor or his/her parents or guardian wish to terminate hospitalization against the facility's medical advice.

WHERE AND HOW IS A PETITION FILED?

- The Mental Health Division of the Oakland County Probate Court
1200 North Telegraph Road, Dept. 457, Pontiac, Michigan, 48341-0457
- All Court forms are available at that office or online at www.oakgov.com/probate.
- Office Hours are Monday through Friday, from 8:00 a.m. until 4:30 p.m.
- The alleged mentally ill person must be a resident of or found in Oakland County before a petition will be accepted.
- The petitioner must be 18 years of age or older.
- There are no filing fees.

WHAT HAPPENS AFTER THE PETITION IS FILED?

- If you have found it necessary to file a petition with the Probate Court and if the individual has been transported to Common Ground Crisis Services, an evaluation will be made within 24 hours. **MCL 330.1429(1)**
- If the examining physician or psychologist does **not** find that the individual is a “person requiring treatment,” the individual shall be released immediately. **MCL 330.1429(1)**
- If the examiner signs a Clinical Certificate, the individual will be hospitalized pending the hearing, which must be set within seven days. **MCL 330.1452**
- Unless the patient has his/her own attorney, the Court will appoint an attorney to represent him/her. **MCL 330.1454(2)**
- The patient may be billed for some or all of the attorney fees, unless the patient is found indigent. **MCL 330.1454(5)**
- Oakland Community Health Network will prepare an Alternative Treatment Report that the Judge will study to determine if there is a better alternative than hospitalization. **MCL 330.1453a**
- A meeting (sometimes called the “deferral”) will be held (within 72 hours of filing the petition) with the patient at the facility at which time the Court process will be explained, and he/she will be given the opportunity to accept the proposed plan of treatment, with the condition that he/she has the right to request a hearing at any time, and a hearing must be convened by the Court within seven days. **MCL 330.1454(8)**

AT THE HEARING

MCL 330.1455

- The patient has the right to an attorney, a jury, and an independent medical examination.
- Corporation Counsel will represent the petitioner and the County at the hearing.
- The hearing is held via zoom and the patient must be present at the hearing unless he/she waives his/her presence in open Court or signs a waiver in the presence of his/her attorney.
- A doctor designated by the hospital will testify; the petitioner might be asked to testify. The Court will decide whether the patient is a “person requiring treatment.”
- The Judge has the option of dismissing the initial petition or ordering up to 180 days of treatment, which may be a combination of a maximum of 60 days of hospitalization and the remainder of outpatient treatment.
- At the conclusion of the hearing, the family may wish to place the patient in a private facility rather than a public facility.
- As the treatment time expires, the facility may file a *Petition for Second Mental Health Treatment Order* or a *Petition for Continuing Menal Health Treatment Order* if continued hospitalization appears necessary, and a hearing will be held.

FOR MORE INFORMATION

Contact the Oakland County Probate Court Mental Health Division at (248) 858-0291, and Oakland Community Health Network at 1-800-341-2003.

OAKLAND COUNTY PROBATE COURT

**1200 NORTH TELEGRAPH ROAD
PONTIAC MI 48341**

The Probate Court for the County of Oakland does not discriminate on the basis of disability in admission or access to its programs, activities, or services as required by Title II of the Americans with Disabilities Act of 1990.

We are an Equal Opportunity Employer.

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For more information and forms go to:

www.oakgov.com/probate