

**ST. CLAIR COMMUNITY MENTAL HEALTH AUTHORITY**

**ADMINISTRATIVE PROCEDURE**

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I. APPLICATION:

- SCCCMHA Board
- SCCCMHA Providers & Subcontractors
- Direct-Operated Programs
- Community Agency Contractors
- Residential Programs
- Specialized Foster Care

II. PURPOSE STATEMENT:

St. Clair County Community Mental Health Authority (SCCCMHA) shall ensure that involuntary mental health treatment will be considered only when voluntary treatment has been ruled out, and then, guidelines in the Michigan Mental Health Code, outlining rights of individuals served, as well as court procedures, will be followed.

III. DEFINITIONS:

- A. Alternative Treatment: A term used to describe any court ordered treatment that is recommended other than hospitalization or other previously prescribed treatment that is no longer needed and/or effective.
- B. Civil Commitment: A process where a person 18 years of age or over, who is believed to be mentally ill and a danger to themselves or others, may be hospitalized against their will (also known as “the petitioning process”).
- C. Clinical Certificate: A document, generated following an examination by a physician, psychiatrist, or Ph.D. level clinical psychologist, stating whether the subject of a petition is mentally ill, and if he/she requires inpatient, alternative or no treatment.
- D. CMH Court Liaison: CMH designated staff that have extensive knowledge of the Michigan Mental Health Code criteria and will assist the petitioner at Probate Court to complete the “The Petition for Mental Health Treatment” aka Application for Hospitalization (court form PCM 201). (For the purpose of this administrative procedure, the CMH Court Liaison will further be referred to as “Court Liaison”).
- E. Criminal Commitment: A process where a person, who has been found not guilty of a crime because their crime was the direct result of a mental disorder, is placed in a psychiatric hospital for treatment rather than incarcerated. The discharge plan must be approved by a special review board.

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- F. Deferral Hearing (Pre-Hearing): A process where the subject of a petition after meeting with an assigned Court Appointed Attorney, may sign a legal agreement to participate in treatment, and forego a formal hearing for up to 180 days.
- G. Demand for Hearing: A process in which the treatment provider or the subject of a petition can request a formal court hearing be held at any time during the 180 day Deferral Period due to lack of compliance, or insufficiency, or belief that the original petition did not meet Michigan Mental Health Code criteria for civil commitment
- H. Formal Voluntary Hospitalization: Hospitalization of an individual 18 years of age or over based on both of the following: the individual's execution of an application for voluntary hospitalization and, the hospital director's determination that the individual is clinically suitable for voluntary hospitalization.
- I. Incompetent to Stand Trial (IST): A determination, made by a court of law, that a person is unable to understand charges and proceedings being brought against them and as a result is unable to participate in their own defense. The person is usually confined to a psychiatric hospital until he/she is deemed competent or a determination is made that they are unlikely to ever regain competency.
- J. Individual/Person Requiring Treatment: The term used in the Mental Health Code and the forms provided, to identify the person who is refusing appropriate voluntary mental health treatment and may require involuntary mental health treatment.
- K. Informal Voluntary Hospitalization: Hospitalization of an individual 18 years of age or over based on all of the following: the individuals request for hospitalization, the hospital director's determination that the individual is clinically suitable for voluntary hospitalization, and the individual's agreement to accept treatment.
- L. Involuntary Mental Health Treatment: Means court-ordered hospitalization, alternative treatment, or combined hospitalization and alternative treatment.
- M. Minor Requiring Treatment: Means either of the following: the individual under the age of 18 years is mentally ill per the definition above, and/or has a severe or persistent emotional condition characterized by seriously impaired personality development, individual adjustment, social adjustment, or emotional growth, which is demonstrated by behavior symptomatic of that impairment.
- N. Modifying an Order: A general term used when a treatment team is requesting some change in the status of an order, such as in an insufficiency, or notice of noncompliance. Modifying an existing order is not, however, the same as petitioning to continue treatment.
- O. NGRI (Not Guilty by Reason of Insanity): A form of legal defense in which a person accused of a crime pleads innocence on the basis of insanity, resulting in a criminal commitment to a psychiatric hospital rather than incarceration if the defense is successful.

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- P. Notice of Noncompliance & Request for Modified Order: A required notification by the treating professionals to the court, when a person on a court order is not complying with clearly established treatment recommendations.
- Q. Person Requiring Treatment (Section 401 of the Mental Health Code): is 1., 2., or 3.:
1. An individual who has mental illness and who, as a result of that mental illness, can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure himself or herself or another individual, and who has engaged in an act or acts or made significant threats that are substantially supportive of the expectation.
  2. An individual who has mental illness and who, as a result of that mental illness, is unable to attend to those of his or her basic physical needs such as food, clothing, or shelter that must be attended to in order for the individual to avoid serious harm in the near future, and who has demonstrated that inability by failing to attend to those basic physical needs.
  3. An individual who has mental illness whose judgment is so impaired by that mental illness, whose lack of understanding of the need for treatment has caused him or her to demonstrate an unwillingness to voluntarily participate in or adhere to treatment that is necessary, on the basis of competent clinical option, to prevent a relapse or harmful deterioration of his or her condition, and presents a substantial risk of significant physical or mental harm to the individual or others.
- R. Petition: An application to the court, stating that an individual is believed to be mentally ill, is believed to meet the criteria of a “person requiring treatment,” and is refusing appropriate voluntary treatment and should be examined by two doctors.
- S. Petition to Continue Treatment: A process where a treating professional, applies to the court to extend a treatment order for a period not to exceed one year. A clinical certificate is required and the request must be filed with the probate court prior to the 14<sup>th</sup> day before the expiration of the court order.
- T. Petitioner: Anyone who is 18 years of age or older who has directly witnessed or heard statements from another individual who is believed to have a mental illness and as a result they can be reasonably expected to harm them self or others. They must be willing to complete a petition and testify in under oath in court.
- U. Preadmission Screening Unit: Each community mental health board must designate at least one 24 hour-a-day screening site for persons who may be in need of inpatient admission or other treatment services. In general, this is the location where a Peace Officer transports the subject of a petition and one or both of the clinical certificate(s) are completed. In St. Clair County, McLaren Port Huron Hospital is a designated preadmission screening unit.
- V. Protective Custody: Means the temporary custody of an individual by a Peace Officer with or without the individual’s consent for the purpose of protecting that individual’s health and safety, or

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the health and safety of the public, and for the purpose of transporting the individual to a predetermined preadmission screening unit.

- W. Treatment Agreement: A document that outlines outpatient and re-hospitalization plans for an individual ordered by the court for mental health treatment. This document is developed by the outpatient treating agency, signed by the individual (and guardian if appropriate) then given to Probate Court for this individual's court file and a copy is provided to the individual and SCCCMHA's Court Liaisons.

IV. STANDARDS:

- A. This administrative procedure is consistent with Chapter 4 of the Michigan Mental Health Code. Chapter 4, covers "Civil Admission and Discharge Procedures" regarding mentally ill adults. Chapter 4A, refers to "Civil Admission and Discharge Procedures for Emotionally Disturbed Minors." Chapter 5 refers to "Civil Admission and Discharge Procedures" in regards to the developmentally disabled population. See Chapter 5 for information regarding administrative and judicial admissions. Chapter 7 covers Recipient Rights procedures, including dispute resolution. Case Holders should consult the chapter(s) relevant to the situation they are addressing.
- B. Since involuntary mental health treatment involves a loss of freedom, it is imperative that an individual's rights be held in the highest regard and that the complex issues surrounding the court ordered treatment are addressed within the treatment on an ongoing basis.
- C. It is essential that the staff who provide prerelease planning and follow-up outpatient treatment services clearly communicate, verbally and in writing, what is expected of an individual on a court order.
- D. Chapter 4A, Section 498a-p of the Michigan Mental Health Code refers to minors under the age of 18. Minors requiring treatment may be signed into a psychiatric hospital by parents or a legal guardian. However, in rare situations, a minor may need to be transported to a hospital by a Peace Officer due to his/her behavior. In this case, the parents or guardian would approach the court, provide testimony, and request that a pick-up and transport order be issued by the Probate Court. In the case of a crisis where there is serious potential for harm to self or others, the police would have to be called directly to intervene and to take the minor into protective custody. (Conversely, minors, 14 years or older, may seek out voluntary outpatient treatment, without parental consent, for up to 12 sessions or 4 months, per Section 707 of the Code.)
- E. A hospital may admit and treat voluntary or involuntary private-pay patients without going through the prescreening unit or consulting with community mental health, if no state, county, or community mental health services program funds are obligated for the services provided by the hospital, or the aftercare services.

V. PROCEDURES:

- A. Petitioning Through the Probate Court

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### **Individual/Person Requiring Treatment**

1. Refuses appropriate voluntary treatment and meets criteria for person requiring treatment:
  - a. An individual who has mental illness and, who as a result of that mental illness, can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure himself or herself or another individual and who has engaged in an act or acts or made significant threats that are substantially supportive of the expectation.
  - b. An individual who has mental illness and, who as a result of that mental illness, is unable to attend to those of his or her basic physical needs such as food, clothing, or shelter that must be attended to in order for the individual to avoid serious harm in the near future and who has demonstrated that inability by failing to attend to those basic physical needs.
  - c. An individual who has mental illness, whose judgment is so impaired by that mental illness, whose lack of understanding of the need for treatment has caused him or her to demonstrate an unwillingness to voluntarily participate in or adhere to treatment that is necessary, on the basis of competent clinical opinion, to prevent a relapse or harmful deterioration of his or her condition, and presents a substantial risk of significant physical or mental harm to the individual or others.

### **Petitioner**

2. Contacts the Probate Court or Court Liaison during the regular business hours of 8:00 a.m. through 4:30 p.m. for assistance or calls the Court Liaison cell phone if Liaison is off site.

### **Court Liaison**

3. Educates the person about the petitioning process and may make alternative, less restrictive recommendations, if appropriate. However, the petitioner will continue to proceed with the petition if requested; with the courts making the final decision of the petition.
4. Meets Petitioner at Probate Court to assist with the filing of paperwork and presents the petition to a judge for consideration with the Petitioner.

### **Presiding Judge**

5. Takes testimony, under oath, from petitioner and decides whether to authorize transport of allegedly mentally ill person by appropriate law enforcement agency to designated predetermination preadmission screening unit for evaluation.

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### **Probate Court**

6. Prepares appropriate paperwork for Court Liaison to deliver if evaluation is ordered. Otherwise, petition process stops here.

### **Court Liaison**

7. Delivers order for pick-up and transport as well as other paperwork to appropriate law enforcement agency.

### **Police Department/Sheriff Department**

8. Executes the order for transport and evaluation within 10 days (this is usually done within the first 24 hours if possible).

### **Physician/Psychiatrist or Ph.D. Psychologist**

9. Examines the individual/person requiring treatment and makes a determination as to if he/she is mentally ill and requires inpatient, alternative or no treatment services.

### **Individual Requiring Treatment**

10.
  - a. Is released if he/she receives one (1) or two (2) negative clinical certificates.
  - b. Is hospitalized if he/she receives two positive clinical certificates.
  - c. Is hospitalized with one clinical certificate and evaluation by psychiatrist who can offer an Adult Formal Voluntary hospitalization.
11. Is admitted to a secure mental health unit after medical clearance if individual is determined appropriate for involuntary admission according to section 401 of the Michigan Mental Health Code he/she
12. Has a right to legal counsel for representation.

### **Individual/Person Requiring Treatment, His/Her Attorney, Hospital Rep or Court Liaison**

13. Attends a deferral hearing, held within 72 hours (excluding weekends and holidays), where the individual may sign an agreement to participate in treatment, and forego a formal hearing in front of a judge or a jury (Request to Defer Hearing on Commitment court form, PCM 235).

### **Petitioner, Psychiatrist**

14. Are subpoenaed to testify if the formal hearing is held.

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### **Court Liaison**

15. Assists the outpatient program(s) with copies of court paperwork when requested, answers questions, and provides support.

### **Treatment Program/Hospital/Hospital Liaison**

16. Completes a Treatment Agreement (#0068) for CMH individuals with the individual and faxes completed copy to Probate Court.
17. Notifies (immediately) the Court Liaison of any issues of insufficiency and/or non-compliance on the part of the respondent.
18. Incorporates issues related to being on a court order as well as being discharged from a court order into the therapy and treatment plan.

## **B. Petitioning Through a Hospital**

### **Individual/Person Requiring Treatment**

1. Is brought into an emergency room of a hospital by any concerned party. (Note: Police can take a person into protective custody in the community if an officer observes threats or behavior that strongly suggest the individual may be a danger to themselves and/or others).

### **Petitioner, Hospital Rep, CMH Screener**

2. Follows hospital procedure for involuntary admission.

## **C. Modifying Existing Treatment Orders or Petitioning to Continue Treatment**

### **Court Liaison, Hospital Liaison, SCCCMHA Case Manager**

1. Ensures each individual served receives a written explanation of the minimum requirements of the court ordered treatment, and requests that they sign a Treatment Agreement (#0068) indicating their acceptance of the plan prior to being discharged from the hospital.

### **Treatment Program**

2. Develops a detailed and individualized treatment plan with the individual served, including issues related to the involuntary treatment.
3. Notifies immediately the Court Liaison if the individual served is not adhering with the requirements of the treatment order (even if the treatment team does not want the individual served re-hospitalized), or if the treatment is insufficient to prevent harm to the individual served or those around him/her. Treatment team will be flexible to outreach etc., before initiating court involvement. Treatment team will keep Court Liaison informed as needed.

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### **Court Liaison**

4. Instructs treatment program to complete applicable court form: Demand for Hearing, PCM 236 or Notification of Noncompliance, PCM 230, depending on the circumstances of the individual served.

### **Treatment Program**

5. Discusses with Court Liaison if recommendations are to continue the court order. Schedules an appointment for individual with psychiatrist for completion of Clinical Certificate, court form PCM 208.
6. May extend a treatment order by obtaining one clinical certificate from the treating psychiatrist and completing a Petition for Continuing Mental Health Treatment Order, court form PCM 218a. Both documents need to be delivered to the court at the same time prior to the 14<sup>th</sup> day before the expiration of the current order.
7. Notifies individuals served when they have fulfilled the requirements of the involuntary mental health treatment.

### VI. REFERENCES:

- A. State Court Administrative Offices – [courts.michigan.gov](http://courts.michigan.gov)
- B. Mental Health Code Chapter 4, 5 and 7
- C. St. Clair County Probate Court

### VII. EXHIBITS:

None Available

### VIII. REVISION HISTORY:

Dates issued 12/89, 06/92, 06/96, 10/96, 11/98, 10/00, 10/02, 10/04, 10/06, 10/08, 10/10, 08/12, 05/14, 07/15, 07/16, 11/17, 11/18, 11/19, 11/20, 11/22, 01/23.