

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974
ADMISSION BY PETITION

330.1433 Repealed. 2016, Act 320, Eff. Feb. 14, 2017.

Compiler's Notes: The repealed section pertained to petition for assisted outpatient treatment.

330.1434 Petition; filing; contents; clinical certificate; confidentiality; assisted outpatient treatment; petition not seeking hospitalization.

Sec. 434.

(1) Any individual 18 years of age or over may file with the court a petition that asserts that an individual is a person requiring treatment.

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

(3) Except as provided in subsection (7), the petition shall be accompanied by the clinical certificate of a physician or a licensed psychologist, unless after reasonable effort the petitioner could not secure an examination. If a clinical certificate does not accompany the petition, the petitioner shall set forth the reasons an examination could not be secured within the petition. The petition may also be accompanied by a second clinical certificate. If 2 clinical certificates accompany the petition, at least 1 clinical certificate must have been executed by a psychiatrist.

(4) Except as otherwise provided in subsection (7) and section 455, a clinical certificate that accompanies a petition must have been executed within 72 hours before the filing of the petition, and after personal examination of the individual.

(5) If the individual is found not to be a person requiring treatment under this section, the petition and any clinical certificate shall be maintained by the court as a confidential record to prevent disclosure to any person who is not specifically authorized under this chapter to receive notice of the petition or clinical certificate.

(6) The petition described in this section may assert that the subject of the petition should receive assisted outpatient treatment in accordance with section 468(2)(d).

(7) A petition that does not seek hospitalization but only requests that the subject of the petition receive assisted outpatient treatment is not subject to subsection (3) or (4).

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982 ;-- Am. 1986, Act 118, Eff. Mar. 31, 1987 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 2016, Act 113, Eff. Aug. 8, 2016 ;-- Am. 2016, Act 320, Eff. Feb. 14, 2017 ;-- Am. 2018, Act 593, Eff. Mar. 28, 2019

330.1435 Examination; order; detention period; transmitting clinical certificate or report to court; third examination report; dismissal of petition; section inapplicable to petition under MCL 330.1434(7).

Sec. 435.

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

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

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

(4) After an examination ordered under 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 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(7).

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 2016, Act 320, Eff. Feb. 14, 2017 ;-- Am. 2018, Act 593, Eff. Mar. 28, 2019

330.1436 Noncompliance with order of examination or evaluation; protective custody; petition for involuntary hospitalization; hearing.

Sec. 436.

(1) If it appears to the court that the individual will not comply with an order of examination under section 435, the court may order a peace officer to take the individual into protective custody. After the individual is taken into protective custody, a peace officer or security transport officer must transport the individual to a preadmission screening unit or hospital designated by the community mental health services program or to another suitable place for the ordered examination or examinations.

(2) A court order for a peace officer to take an individual into protective custody and transport the individual as described in subsection (1) must be executed within 10 days after the court enters the order. If the order is not executed within 10 days after the court enters the order, the law enforcement agency must report to the court the reason the order was not executed within the prescribed time period.

(3) Following the filing of a petition for assisted outpatient treatment, if it comes to the court's attention that the individual will not make themselves available for an evaluation, the court may order a peace officer to take the individual into protective custody. After the individual is taken into protective custody, a peace officer or security transport officer shall transport the individual to the designated preadmission screening unit or hospital. The court must be satisfied that reasonable effort was made to secure an examination before the court orders an individual to be taken into protective custody and transported for an evaluation. At the time the individual arrives at the preadmission screening unit or hospital, the preadmission screening unit or hospital must complete an assessment that includes an examination upon the arrival of the individual and release the individual following the conclusion of the examination unless the medical professional who examines the individual finds the need for immediate hospitalization. If immediate hospitalization is necessary, the director must file a petition, accompanied by 2 clinical certificates, with the probate court within 24 hours after the medical professional's finding. The petition must request involuntary hospitalization and may request a combination of hospitalization and assisted outpatient treatment. The court must set a hearing in accordance with section 452(1).

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 2018, Act 593, Eff. Mar. 28, 2019 ;-- Am. 2022, Act 146, Eff. (sine die) ;-- Am. 2022, Act 214, Imd. Eff. Oct. 14, 2022

330.1437 Right to remain in home pending examination; right to return to home; accompaniment by relatives or friends.

Sec. 437.

Unless the individual has been ordered hospitalized pursuant to section 438, he shall be allowed to remain in his home or other place of residence pending an ordered examination or examinations and to return to his home or other place of residence upon completion of the examination or examinations. The individual may be accompanied

by one or more of his relatives or friends to the place of examination.

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

330.1438 Order of hospitalization; protective custody; transportation; conditions to release after 24 hours.

Sec. 438.

If it appears to the court that the individual requires immediate assessment because the individual presents a substantial risk of significant physical or mental harm to himself in the near future or presents a substantial risk of significant physical harm to others in the near future, the court may order the individual hospitalized and may order a peace officer to take the individual into protective custody and transport the individual to a preadmission screening unit designated by the community mental health services program. After the individual is taken into protective custody by a peace officer, the court may, also, order a security transport officer to transport the individual to a preadmission screening unit designated by the community mental health services program. If the preadmission screening unit authorizes hospitalization, the peace officer or security transport officer must transport the individual to a hospital designated by the community mental health services program, unless other arrangements are provided by the preadmission screening unit. If the examinations and clinical certificates of the psychiatrist, and the physician or the licensed psychologist, are not completed within 24 hours after hospitalization, the individual must be released.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- 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

Compiler's Notes: Act 593 of 2018 did not amend this section and evidently should not have been cited as amended.

330.1439 Cause of action against person filing petition.

Sec. 439.

(1) A cause of action is not cognizable against a person who in good faith files a petition under this chapter alleging that an individual is a person requiring treatment, unless the petition is filed as the result of an act or omission amounting to gross negligence or willful and wanton misconduct.

(2) A cause of action is not cognizable against a preadmission screening unit or its employees or contractors or a crisis stabilization unit or its employees or contractors, who in good faith makes a determination as to whether an individual is a person requiring treatment or not, unless the determination is the result of an act or omission amounting to gross negligence or willful and wanton misconduct.

History: Add. 1986, Act 118, Eff. Mar. 31, 1987 ;-- Am. 2020, Act 402, Eff. Mar. 24, 2021