

# SANILAC COUNTY COMMUNITY MENTAL HEALTH AUTHORITY

## CLINICAL POLICY

**NUMBER: BC011**

**NAME: COURT ORDERED TREATMENT (INCLUDING INVOLUNTARY HOSPITALIZATION)**

INITIAL APPROVAL DATE:	02/19/2002	BY: Sanilac CMH Board
STAKEHOLDER REVIEW:	09/06/2023	BY: Consumer Advisory Board
(LAST) REVISION DATE:	04/28/2015	BY: Clinical Policy Committee
(LAST) REVIEW DATE:	07/27/2023	BY: Policy Committee
DISCONTINUED DATE:	N/A	REPLACED BY: N/A

### I. APPLICATION

Populations: **ALL**  
Programs: **Direct - ALL**  
**Contracted - ALL**

### II. POLICY

It shall be the policy of the Sanilac County Community Mental Health Authority (Sanilac CMH) 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 an individual's rights, 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 as an alternative to hospitalization or other previously prescribed treatment that is no longer needed and/or effective. Recommendations for alternative treatment may come from a doctor completing a clinical certificate who does not believe hospitalization is necessary, from liaison staff who are coordinating the discharge plan for a hospitalized individual, or from an outpatient treatment team who may recommend a different program of treatment rather than re-hospitalize the person during the course of a court order.
- B. Civil Commitment: A process where a person, who is believed to be mentally ill and a danger to themselves or others, may be hospitalized in a psychiatric hospital against their will. Also known as "the petitioning process".
- C. Clinical Certificate: A document, generated following an examination by a physician, or Ph.D. level clinical psychologist, stating whether the subject of a petition is mentally ill and if he/she requires inpatient or alternative treatment. One clinical certificate is required to hold a person up to 24 hours so that a second evaluation may occur. Two clinical certificates are required to detain a person in a hospital prior to holding a court hearing. One is required to request an extension of a treatment order from the court. Clinical certificates are valid for 72 hours.
- D. 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. A special review board must approve the discharge plan.
- E. Deferral Hearing: A process where the subject of a petition may sign an agreement to participate in treatment and forego a formal hearing.

III. DEFINITIONS cont.

- F. Demand for Hearing: A process where a treating professional may request that a formal court hearing be held because the subject of a deferral hearing is not following through with their agreement to participate in treatment. The subject of the petition/clinical certificates/deferral hearing may also request that the formal hearing be held if they disagree with how they are being treated. A hearing may be requested at any time during the court order. See Exhibit B for a copy of the Demand for Hearing form.
- G. Formal Voluntary Hospitalization: A voluntary hospitalization where there is a signed application for hospitalization by the individual (or after their verbal agreement, by their guardian). The application allows the hospital to hold the person for up to 3 working days (excluding Sundays and Holidays) if they decide to leave against medical advice.
- H. Informal Voluntary Hospitalization: A voluntary hospitalization, without a signed application by the individual, which means they may leave at any time without being held for 3 days.
- 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. Involuntary Mental Health Treatment: Means court-ordered hospitalization, alternative treatment, or combined hospitalization and alternative treatment. Most initial treatment orders are for up to 60 inpatient days. Combined inpatient and outpatient treatment may not exceed a total of 90 days.
- K. Mental Illness: Per the Mental Health Code, means 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.
- L. Minor Requiring Treatment: Means either of the following: the child is mentally ill per the definition above, and/or the minor 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.
- M. 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.
- N. NGRI (Not Guilty by Reason of Insanity): A form of legal defense in which a person accused of a crime pleads innocent on the basis of insanity resulting in a criminal commitment to a psychiatric hospital rather than incarceration if the defense is successful.
- O. 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.
- P. Person Requiring Treatment (Section 401 of the Mental Health Code) is one of the following:
  - 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 that he or she is unable to understand his or her need for treatment and whose continued behavior as a result of this mental illness can reasonably be expected, on the basis of competent clinical opinion (from a physician or fully licensed Ph.D. psychologist), to result in significant

III. DEFINITIONS cont.

- physical harm to himself or herself or others. This individual shall receive involuntary mental health treatment initially only under the provisions of sections 434 through 438.
- 4) An individual who has mental illness, whose understanding of the need for treatment is impaired to the point that he or she is unlikely to participate in treatment voluntarily, who is currently noncompliant with treatment that has been recommended by a mental health professional and that has been determined to be necessary to prevent a relapse or harmful deterioration of his or her condition and whose noncompliance with treatment has been a factor in the individual's placement in a psychiatric hospital, prison, or jail at least 2 times within the last 48 months or whose noncompliance with treatment has been a factor in the individual's committing 1 or more acts, attempts, or threats of serious violent behavior within the last 48 months. An individual under this subdivision is only eligible to receive assisted outpatient treatment under section 433 or 469a.
- 5) An individual whose mental processes have been weakened or impaired by a dementia, an individual with a primary diagnosis of epilepsy, or an individual with alcoholism or other drug dependence is not a person requiring treatment under this chapter unless the individual also meets the criteria specified in mental health code subsection (1), An individual described in this subsection may be hospitalized under the informal or formal voluntary hospitalization provision of this chapter if he or she is considered clinically suitable for hospitalization by the hospital director.
- Q. Petition: An application to the court stating that the subject of the petition is believed to be mentally ill, is believed to meet the criteria of a "person requiring treatment," is refusing appropriate voluntary treatment and should be examined by two doctors.
- R. Petition to Continue Treatment: A process where a treating professional will try to extend a treatment order before it expires. A clinical certificate is required and the request must be filed with the probate court not less than 14 days before the expiration of the court order.
- S. 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.
- T. Petitioner: The person, age 18 or over, who has heard statements or witnessed behavior of another person indicating that the "person requires treatment." The petitioner must be willing to complete a petition and to testify 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.
- 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 the health and safety of the public and for the purpose of transporting the individual to a preadmission screening unit. Protective custody is civil in nature and is not to be confused with an arrest.
- W. Centralized access system: The CMH program that 1) is knowledgeable about the array of mental health services available to the system and the community at large, 2) attempts to match the presenting problem(s) with the most appropriate treatment available, and 3) authorizes and monitors use of more intensive Level II services.

IV. **STANDARDS**

- A. Staff will be in compliance with all standards of the Michigan Mental Health Code. Caseholders 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 during the treatment process.

**Sanilac County Community Mental Health Authority Policy**

- C. It is essential that the staff providing prerelease planning and follow-up outpatient treatment services clearly communicate, verbally and in writing, what is expected of court ordered individuals.
- D. 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. ATTACHMENTS:**

None

**VI. REFERENCES:**

Michigan Mental Health Code- Section 400