



Michigan Supreme Court

State Court Administrative Office

Trial Court Services Division

Michigan Hall of Justice

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September 13, 2019

MICHIGAN COURT FORMS COMMITTEE
Mental Health and Commitment Forms Workgroup
Minutes of September 12, 2019 Meeting

Present: Robin Eagleson, Michigan State University
Raymond Harris, Buhl Little Lynwood & Harris PLC
Kelley James-Jura, Cass County Probate Court
April Maycock, Wayne County Probate Court
Mike McClory, Wayne County Probate Court
Honorable Patrick McGraw, Saginaw County Probate Court
Honorable David Murkowski, Chief Judge, Kent County Probate Court
Cindy Rude, Calhoun County Probate Court
Honorable John Tomlinson, St. Clair County Probate Court
Milton Mack, State Court Administrator
Melissa Brand-Orweller, Judicial Information Services (Staff)
Noah Bradow, Trial Court Services (Staff)
Sheryl Doud, Trial Court Services (Staff)
Rebecca Schnelz, Trial Court Services (Staff)
Matthew Walker, Trial Court Services (Staff)

Absent: Diane Breckenridge, MDHHS
Steven Burnham, Kalamazoo County Probate Court
Tim Schalk, Judicial Information Services (Staff)

Add on Agenda Item: [MC 205, Finding and Order on Competency](#)

The Mental Health Diversion Council (MHDC) has suggested revising form MC 205, Finding and Order on Competency. This item was added to the mental health forms

agenda by SCAO in order to get the workgroup's input and opinion regarding treatment aspects that are included in the order.

The committee reviewed proposed revisions that would allow for outpatient competency restoration services and delegate some decision-making authority as medical supervisor to MDHHS or the Community Mental Health Services program (where the defendant resides). The purpose of the proposed changes is to assist in freeing bed space for inpatient competency restoration and alleviate the need for criminal defendants to stay in jail while awaiting competency restoration services.

The committee considered the following questions:

(1) Does MCL 330.2030, MCL 330.2031 and MCL 330.2032 allow the court to order outpatient treatment for an incompetent, but restorable defendant?

(2) Can the court delegate the decision regarding inpatient or outpatient treatment to the medical supervisor of treatment?

The committee agreed that the statutes do allow the court to order outpatient treatment for an incompetent, but restorable defendant, particularly noting MCL 330.2036. It was also agreed that the statute allows the court to delegate the issue of inpatient or outpatient treatment.

The committee discussed the statute's requirements regarding who will direct treatment and noted that there is no definition of the term "medical supervisor." Concern was expressed that the draft of the form automatically appoints MDHHS as the medical supervisor for the reason that the statute allows other options. Some members also saw this as creating a possible issue if the treatment is through CMH and the individual has private insurance.

The committee discussed the possibility of putting in a fillable space to write in who is appointed the medical supervisor, but there was concern that it will not be clear to the judges who can direct the treatment. It was noted that MDHHS had reviewed the language appointing them and were satisfied that it provided the authority to do what they would need to do.

Following discussion, the committee agreed that an appropriate and practical resolution to their concern would be to keep the language appointing MDHHS as the medical supervisor and add the sentence, "MDHHS shall notify the court if a different medical supervisor should be appointed," at the end of item three. The committee noted that this would require MDHHS to notify the court if a change was required and alert the court to enter an amended order. The committee briefly discussed putting language on the form

regarding the periodic treatment reports, but no consensus was reached.

The committee agreed that a citation to 42 USC 290dd-2 and MCL 330.1750 should be added relative to the HIPPA language on the form.

The committee also discussed the general layouts of the current form and the proposed draft. SCAO staff explained that part of the redesign was intended to move away from separate findings and order sections and move to a more logical sequence and wording that would assist the court in making its ruling.

The committee discussed language in item 4b of the draft and decided to remove the language, “of the defendant’s county of residence.” In addition, the committee discussed the proposed distribution list for the form, added defendant’s attorney and MDHHS to the list and struck treatment.

[State Court Administrator Milt Mack left the meeting following the discussion of MC 205.]

1. **Minor Changes**

[PCM 214, Initial Order After Hearing on Petition for Mental Health Treatment](#)

The committee corrected a reference in item 17b to read “17a.”

The form was approved as revised.

STAFF NOTE: During typesetting, the reference was modified to “19a” due to other changes made by the committee.

[PCM 245, Notice of Inability to Secure Evaluation/Examination](#)

The committee approved adding an additional line to the signature block for the person completing the form to print his or her name.

The form was approved as revised.

[PCM 231, Order for Report After Notification and Report](#)

The committee added citation MCL 330.1469a to the bottom of the form.

The form was approved as revised.

PCM 237, Petition for Continued Hospitalization of Minor

The committee modified references to “mother” and “father” in the party grid to read “parent.”

The form was approved as revised.

2. **PCM 201, Petition for Mental Health Treatment**

- A. The committee considered a suggestion to add questions to the form as to whether the individual has a durable power of attorney or an advance directive. There is no statute that requires the information be on the petition. The suggestor noted, however, that in MCL 330.1468(4) and (6), the issue of whether the individual has either a power of attorney or advance directive must be addressed in relation to the development of an assisted outpatient treatment plan.

The committee noted that, in mental health cases, it is likely that the petitioner might not have the necessary information. The committee agreed with a member’s suggestion that a more efficient option would be to have CMH inquire into the existence of any planning documents during the preparation of the alternative treatment report (ATR) and include the information on the report for the court. The committee agreed that the court has the authority to have CMH handle the issue in the order for the ATR under MCL 330.1453a.

The committee agreed to add a new item 7 to PCM 216, Order and Report on Alternative Mental Health Treatment, that will read, “The individual [] has [] does not have a durable power of attorney or advance directive that directs the following mental health treatment:_____.

The committee also recommended adding a citation to MCL 330.1468 in reference to court’s responsibility to take the individual’s preferences into account when developing an assisted outpatient treatment plan.

- B. A probate register had suggested that item 9 of this form be modified to specifically list the three options for treatment that are available, i.e. hospitalization, assisted outpatient treatment, or combined hospitalization and assisted outpatient treatment. Specifically, the suggestor recommended modifying all relevant PCM forms so that the treatment options are consistently provided as three distinct options throughout. The committee agreed that laying out the individual options and being consistent across forms was a good idea.

The committee discussed the current language on the form that requests “appropriate mental health treatment” and whether a self-represented litigant would understand which treatment option to check if that language was removed to create the three separate options. A suggestion was made to remove the options and include language simply requesting “appropriate mental health treatment.” It was noted, however, that the statute allows for a petitioner to specifically request assisted outpatient treatment, which is why the options were included on the form. It was also noted that when a petition seeks AOT only, the hearing must happen within 28 days, as opposed to 7 days for a petition where hospitalization is involved, and therefore the options are necessary to assist court staff in processing the petition.

The committee agreed that the language in item 9 would be modified by adding the word “order” to the end of the introductory sentence and the options would be:

- a. hospitalization only.
- b. a combination of hospitalization and assisted outpatient treatment.
- c. assisted outpatient treatment without hospitalization.

The committee agreed that this language should be used consistently across the forms.

- C. A probate judge had suggested adding questions to the petition regarding the following:
- any known diagnoses of the individual
 - information on known medications and whether the individual takes them as prescribed
 - information specifically regarding the most recent event that was an issue

SCAO staff explained that this suggestion was pending prior to the legislature eliminating the supplemental petition and the suggestor stated that the information would be helpful in reviewing the requests for transport. The committee agreed that the additional questions should not be added.

The form was approved as revised.

STAFF NOTE: During typesetting, the use note regarding family court was removed in keeping with a previous decision by the committee regarding format.

3. **PCM 205, Order Following Hearing on Objection by Minor to Hospitalization/Administrative Admission**

A suggestion was received to reword the last sentence under item 9 on the form for the reason that it is awkward. The sentence, which is part of the findings section of the form, currently reads, “[n]o order sustaining the objection will be entered.” The suggestion was to reword the sentence so that it reads, “[t]he objection is denied.”

The current language is written to coincide with the wording of MCL 330.1498n which reads:

(2) The court shall sustain an objection to hospitalization and order the discharge of the minor unless the court finds by clear and convincing evidence that the minor is suitable for hospitalization. If the court does not sustain the objection, an order shall not be entered, the objection shall be dismissed, and the hospital shall continue to hospitalize the minor.

Committee members agreed that an order needs to enter to dispose of the objections in some manner, and saw no purpose in including a finding that no order sustaining the objection would enter. The committee agreed to remove the sentence “No order sustaining the objection will be entered,” at the end of item 9.

The form was approved as revised.

STAFF NOTE: During typesetting, the use note regarding family court was removed in keeping with a previous decision by the committee regarding format.

4. **PCM 208, Clinical Certificate**

A. The committee considered a suggestion to either rewrite or remove the statement on the form that the examiner is to read to the individual because there is no specific requirement for the statement in MCL 330.1435. The concern was that there have been occasions where the doctor has not read the statement and the petition has been dismissed due to lack of a proper clinical certificate.

With the exception of a few non-substantive word changes, the statement has been on the form since 1980. Part of the content of the statement comes from MCL 330.1750(2) in relation to privileged communications and the committee recognized that the individual has to be informed of the information.

Alternatively, a probate register suggested adding the following statement to the certification at the end of the form: I have read the required statement at the top of

the first page of this certificate to the individual before proceeding with any questions.

A committee member stated that they had consulted with a few psychiatrists and psychologists regarding the form and that the individuals consulted want the statement on the form because it assists in malpractice claims, HIPPA concerns, and disclosures by physicians on paper or by testimony. The member was also told that if the statement wasn't on the form, the treatment professionals would require every patient to sign a release.

Committee members discussed a suggestion that the SCAO form should be deleted because it is defined as a form "prescribed by the department" in MCL 330.1400(a) and should therefore be owned by MDHHS. The suggestor also noted that the department would be aware of other requirements similar to the privilege issue that could be included on the form where the committee is not aware of all requirements. The committee recognized that the form has been in place since shortly after the code was passed and that the department has never created a form, and therefore declined to delete the form.

The committee agreed that the statement should be left on the form as is and the introductory note to the examiner should be emphasized by bolding the text. SCAO staff noted that as the forms are reformatted to meet the new document standards, additional ways of calling out the statement will be looked at.

- B. A suggestion was received to add options under the signature line for the signatory to indicate whether they are a licensed psychologist, physician, or psychiatrist.

As a result of the 2015 workgroup discussions, item 1 was added to the form and a line for designating the professional's title was removed from the signature block. Item 1 on the form requires the person completing it to indicate whether they are a psychiatrist, licensed psychologist, or physician. The current suggestion was made to address a concern that persons other than the individual that did the examination are filling out and signing the form.

The committee did not feel it was necessary to add the suggested options and declined to modify the form.

- C. A suggestion was received to add an option box under item 10 of the form to allow a recommendation specifically for a combined treatment order. In addition, it was suggested that a fill-in blank be added to each checkbox item under item 10 to detail the proposed maximum number of treatment days.

Alternatively, a probate register had suggested that item 10 of this form be modified to specifically list the three options for treatment that are available in all situations, i.e. hospitalization, assisted outpatient treatment, or combined hospitalization and assisted outpatient treatment, and to list these options consistently throughout the forms.

The committee agreed that the combined treatment option should be added to item 10. The committee did not think that adding line space for maximum treatment days would be helpful due, in part, to the time lag between when this document is completed and the fresh information the judge will receive through a doctor's testimony at hearing.

The committee added a third option to item 10 that reads, "[] combination of hospitalization and assisted outpatient treatment."

The form was approved as revised.

STAFF NOTE: During typesetting, the introductory sentence was modified to read, "You must read the following statement to the individual before proceeding with any questions." The point size of the instruction to the examiner was also increased to improve visibility. Under item 10, SCAO staff added the word "only" to the hospitalization option and the word "a" to the combination option to be consistent with the wording the committee decided upon for these options in agenda item 2B.

5. [PCM 214, Initial Order After Hearing on Petition for Mental Health Treatment](#)
[PCM 217a, Order to Modify Order for Assisted Outpatient Treatment or Combined Hospitalization and Assisted Outpatient Treatment](#)
[PCM 219, Second or Continuing Order for Mental Health Treatment](#)
[PCM 222, Order After Hearing on Petition for Discharge from Continuing Mental Health Treatment](#)
[PCM 244, Order After Notice of Noncompliance with Assisted Outpatient Treatment or Combined Hospitalization and Assisted Outpatient Treatment Order](#)
 - A. The committee considered multiple suggestions to add checkboxes as appropriate on the forms to detail the particular services to be provided to the individual under an assisted outpatient treatment order. One of the suggestors noted that doctors are not administering medication because the orders they receive do not specifically indicate that it can be given.

The forms currently have writing space for the judge to list the particular services ordered. PCM 214, PCM 219, and PCM 222 also include a reference to the statute for specific service options.

Committee members were in favor of listing out the available options in checkbox form on the current order forms so that it is clear what the court is authorizing. The committee agreed that the lines for writing out the services ordered would be removed and replaced by a checklist of available treatment options. SCAO will develop the list based on the statute and the sample provided by Genesee County. The committee agreed the first check box should be. “[] all services recommended by the treatment provider,” to accommodate situations where that is what the court orders.

The committee agreed that the checkbox list should be added to all the forms listed in the agenda item.

The committee discussed ways to modify the forms to include the checkbox list while keeping the new treatment option formatting in place. The committee decided that the alternative treatment options should only be listed once.

PCM 214, Initial Order after Hearing on Petition for Mental Health Treatment

The committee discussed that some courts are misunderstanding this particular form and are checking both items 12 and 13 when a combined order is desired, rather than inserting the appropriate hospitalization under item 13. To resolve this issue, and incorporate the other modifications agreed upon, the committee decided the following:

- a. Current item 11 will become item 14.
- b. Current item 12 will become item 11. The phrase, “with no assisted outpatient treatment,” will be added to the end of the sentence.
- c. A new item 12 will be added that will read, “The individual receive combined hospitalization and assisted outpatient treatment.” The language regarding hospitalization in current item 13(b) will be placed in new item 12.
- d. In item 13, the language “supervised by” will be removed from the introductory sentence and the fill in line will be removed.
- e. Current item 14 will become new item 19.

- f. A new item 15 will be added that will take the place of current item 13(a). No checkbox will be used, similarly to current item 11, to help ensure courts do not miss marking a box. The committee will revisit including a checkbox if issues are reported that agencies are resistant to following the order because the option is not specifically selected.

New item 15 will read, “Any assisted outpatient services shall be supervised by _____. The following assisted outpatient services are ordered: [] all services recommended by the treatment provider.” The check box list will follow.

- B. The committee considered a probate register’s suggestion that item 11 be removed from PCM 214 and PCM 219 and that items 12 and 13 be revised to more clearly reflect the three options for treatment that are available in all situations, i.e. hospitalization, assisted outpatient treatment, or combined hospitalization and assisted outpatient treatment. The suggestor stated that item 11 would be unnecessary because the appropriate hospital is named in item 9.

The committee agreed on revising items 12 and 13 in agenda item 2B. The committee declined to remove item 11 because item 11 is an order and item 9 is a finding, therefore item 11 needs to remain.

The committee considered an alternate suggestion that item 13 on PCM 214 be modified to remove the second checkbox under item 13 and change the language for the first checkbox, b, from “shall” to “may,” to allow initial hospitalization for as long as needed. The committee agreed that the issue was addressed by the language decided in item 5A.

STAFF NOTE: The committee did not specifically review PCM 217a, PCM 219, PCM 222, or PCM 244 regarding the above changes. SCAO staff reviewed the forms in conjunction with the committee’s direction and the changes made to PCM 214. Changes are listed by form number below. PCM 244 was not modified and will be placed on a future agenda for the committee’s input regarding the wording of the assisted outpatient treatment item.

PCM 214, Initial Order after Hearing on Petition for Mental Health Treatment

During typesetting, SCAO staff corrected the internal references in original item 16 to read 11 and 12 due to reordering changes made by the committee. In addition, the fill-in blanks of “1-60 days” in new items 11 and 12 were modified to read, “60 days,” except with regard to initial hospitalization. The phrase, “for no longer than 180 days,” was added to the first sentence in new item 12.

PCM 217a, Order to Modify Order for Assisted Outpatient Treatment or
Combined Hospitalization and Assisted Outpatient Treatment

- a. Item 5 was revised to remove the language and fill-in lines starting with the word “under” up to the phrase, “This assisted outpatient...” The language, “As ordered in item 8 below” was added at the end of the first sentence.
- b. The phrase, “as ordered in item 8 below,” was added immediately before the phrase, “for the remainder,” in the first sentence. The details regarding AOT were removed.
- c. The following was added as item 8:

8. Assisted outpatient treatment services shall be supervised by

_____.
Community mental health services or other designated entity

The following assisted outpatient services are ordered:

- all services recommended by the treatment provider
- medication
- blood or urinalysis tests to determine compliance with or effectiveness of prescribed medication
- individual therapy group therapy individual and group therapy
- day programs partial day programs
- educational training vocational training
- supervised living
- assertive community treatment team services
- substance use disorder treatment
- substance use disorder testing (for individuals with a history of alcohol or substance use and for who testing is necessary to assist the court in ordering treatment designed to prevent deterioration)
- 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. Those services are: _____

- d. Current items 8 and 9 were renumbered 9 and 10, respectively.

PCM 219, Second or Continuing Order for Mental Health Treatment

Pursuant to the committee's recommendation, this form was split into two forms. The changes listed below reflect that division.

NEW PCM 219 – Second Order for Mental Health Treatment

- a. Current item 11 was moved to become item 14.
- b. Current item 12a was changed to item 11 and was modified by replacing the fill-in line with "90."
- c. New item 12 was added that reads:
The individual receive combined hospitalization and assisted outpatient treatment for no longer than 90 days. The individual shall be hospitalized for up to _____ days of the assisted outpatient treatment period. An initial hospitalization period shall be up to _____ days.
- d. Item 13 was modified to read, "The individual shall receive assisted outpatient treatment for no longer than 90 days."
- e. The following was added as item 15:
15. Assisted outpatient treatment services shall be supervised by

Community mental health services or other designated entity

The following assisted outpatient services are ordered:

- all services recommended by the treatment provider
- medication
- blood or urinalysis tests to determine compliance with or effectiveness of prescribed medication
- individual therapy group therapy individual and group therapy
- day programs partial day programs
- educational training vocational training
- supervised living
- assertive community treatment team services
- substance use disorder treatment
- substance use disorder testing (for individuals with a history of alcohol or substance use and for who testing is necessary to assist the court in ordering treatment designed to prevent deterioration)
- 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. Those services are: _____

- f. Items 14 through 17 were renumbered 16 through 19, respectively.

- g. The citation to MCL 330.1472a was modified to include only sub (2).
- h. The title of the form was modified to “Second Order for Mental Health Treatment.”
- i. In item 18, the internal references were changed to items 11 and 12.

NEW PCM 219a, Continuing Order for Mental Health Treatment

- a. Current item 11 was moved to become item 14.
- b. Current item 12a was changed to item 11 and was modified by replacing the fill-in line with “one year.”
- c. New item 12 was added that reads:
The individual receive combined hospitalization and assisted outpatient treatment for no longer than one year. The individual shall be hospitalized for up to _____ days of the assisted outpatient treatment period. An initial hospitalization period shall be up to _____ days.
- d. Item 13 was modified to read, “The individual shall receive assisted outpatient treatment for no longer than one year.”
- e. The following was added as item 15:
15. Assisted outpatient treatment services shall be supervised by

Community mental health services or other designated entity

The following assisted outpatient services are ordered:

- all services recommended by the treatment provider
- medication
- blood or urinalysis tests to determine compliance with or effectiveness of prescribed medication
- individual therapy group therapy individual and group therapy
- day programs partial day programs
- educational training vocational training
- supervised living
- assertive community treatment team services
- substance use disorder treatment
- substance use disorder testing (for individuals with a history of alcohol or substance use and for who testing is necessary to assist the court in ordering treatment designed to prevent deterioration)
- 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. Those services are: _____

- f. Items 14 through 17 were renumbered 16 through 19, respectively.
- g. The citation to MCL 330.1472a was modified to include only subsections (3) and (4).

- h. The title of the form was modified to “Continuing Order for Mental Health Treatment.”
- i. The form number was changed to PCM 219a.
- j. In item 18, the internal references were changed to items 11 and 12.

PCM 222, Order After Hearing on Petition for Discharge from Continuing Mental Health Treatment

- a. Current item 11 was moved to become item 14.
- b. Current item 12 was changed to item 11.
- c. New item 12 was added that reads:
The individual receive combined hospitalization and assisted outpatient treatment for no longer than one year. The individual shall be hospitalized for up to _____ days of the assisted outpatient treatment period. An initial hospitalization period shall be up to _____ days.
- d. Item 13 was modified to read, “The individual receive assisted outpatient treatment for no longer than one year.”
- e. The following was added as item 15:
15. Assisted outpatient treatment services shall be supervised by

Community mental health services or other designated entity

The following assisted outpatient services are ordered:
 all services recommended by the treatment provider
 medication
 blood or urinalysis tests to determine compliance with or effectiveness of prescribed medication
 individual therapy group therapy individual and group therapy
 day programs partial day programs
 educational training vocational training
 supervised living
 assertive community treatment team services
 substance use disorder treatment
 substance use disorder testing (for individuals with a history of alcohol or substance use and for who testing is necessary to assist the court in ordering treatment designed to prevent deterioration)
 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. Those services are: _____

6. **PCM 216, Order and Report on Alternative Mental Health Treatment**

The committee reviewed a suggestion to add an option for alternative outpatient treatment only under item 5 of this form.

MCL 330.1453a provides:

Upon receipt of documents described in section 452, the court shall order a report assessing the current availability and appropriateness for the individual of alternatives to hospitalization, including alternatives available following an initial period of court-ordered hospitalization...

The committee approved adding, “[] assisted outpatient treatment as follows:” at the end of item 5.

The form was approved as revised.

7. **PCM 218, Petition for Second or Continuing Mental Health Treatment Order**

A. The committee considered a suggestion to modify item 4 of the form by adding an option for the petitioner to request a combined hospitalization and assisted outpatient treatment order for not more than 90 days. The purpose of the addition would be to make the options that the petitioner can request under item 4 match the options the judge can order under item 13.

Committee members agreed that the modification would make the form more clear.

B. The committee also considered a suggestion to review the language of item 8 on the form and whether the inclusion of the word “physical” would leave a petitioner to believe that this item involved treatment other than mental health treatment.

The committee agreed that information regarding any physical conditions is not helpful in this instance and recommended removing the words, “physical and” from item 8.

The form was approved as revised.

STAFF NOTE: During typesetting, SCAO staff noted that the changes approved under agenda item 7A were no longer necessary because the form was being divided into two

forms resulting in each form having the appropriate available treatment orders. During typesetting, the use note regarding family court was removed in keeping with a previous decision by the committee regarding format. In addition, the citation MCL 330.1472a(5) was revised to remove the subsection because it does not apply for this form.

8. **[PCM 219, Second or Continuing Order for Mental Health Treatment](#)**

The committee reviewed a suggestion to modify the language of the form due to the holding in *In re Charles Portus*, 325 Mich. App. 374 (2018), which cited MCL 330.1469a for findings that the court must make regarding alternatives to hospitalization. The suggestor stated that, under *In re Portus*, the form should include a finding related to MCL 330.1469a(1)(b) as to “whether there is an agency or mental health professional available to supervise the individual’s treatment program.”

Committee members noted that item 8 of the form details findings regarding available treatment programs and would be an appropriate location on the form to include the necessary findings. The committee reviewed the exact language of the statute and determined that the language of item 8 should be modified by adding a comma after the word “needs,” striking the following word “and”, and adding “and there is an agency or mental health professional available to supervise the individual’s treatment program” to the end of the sentence. The committee decided that the three findings from the statute that are grouped together in item 8 should not be divided into separate checkboxes because a general finding that all three are or are not available is required.

The form was approved as revised.

9. **[PCM 218, Petition for Second/Continuing Mental Health Treatment Order](#)
[PCM 219, Second/Continuing Order for Mental Health Treatment](#)**

The committee considered a probate register’s suggestion to split each of these forms into two forms so that there are individualized forms for second and continuing petitions.

SCAO staff noted that the forms perform the exact same functions and the forms standard is to not create separate forms in that situation because it becomes difficult to ensure that all forms are up to date if changes need to be made.

Committee members noted that these particular forms are distinguishable because the different uses are reported separately on the caseload reports and this presents a difficult training issue and opportunity for error.

It was the consensus of the committee that the forms should be split.

The committee also considered a suggestion to add a blank space next to the word “continuing” in the titles of the form. The purpose would be to provide a space to specify the sequential number of the petition or order. The committee agreed that it was not necessary to know the sequential order and declined to adopt the suggestion.

The forms were approved as revised.

STAFF NOTE: PCM 219 was revised to become the new Second Order for Mental Health Treatment. The new Order for Continuing Mental Health Treatment was assigned form number PCM 219a. Detailed changes to PCM 219 and PCM 219a are listed above in item 5 above. PCM 218 was revised to become the new Petition for Second Mental Health Treatment Order. The new Petition for Continuing Mental Health Treatment Order was assigned form number PCM 218a.

On PCM 218, item 3 was modified to remove the checkboxes and the words, “second” and “continuing.” Item 4 was modified to remove the option for continuing hospitalization for a period of one year and to change the remaining references to “one year” to be “90 days.” In item 13, the option for continuing hospitalization was removed and the one year options and check boxes were removed from the remaining selections. The title was modified to remove the checkboxes and “continuing.”

New PCM 218a was created as a copy of PCM 218. In item 3, the option for “initial” was removed. In item 4, the reference to “90 days” was modified to “one year.” In item 13, the options for 90 days were removed. The title was modified to remove the checkboxes and “second.”

10. **[PCM 223, Certificate of Legal Counsel/Waiver of Attendance](#)**

The committee considered a suggestion to update the language under the waiver portion of the form to read “mental health treatment” rather than “admission/hospitalization/assisted outpatient treatment” in order to be consistent with statutory language and other form titles.

The committee agreed to remove the phrase “admission/hospitalization/assisted outpatient treatment” from item 2 and the Waiver of Attendance and replace it with the phrase, “mental health.”

The form was approved as revised.

STAFF NOTE: This form was placed on hold for a future forms meeting.

11. **PCM 226, Six-Month Review Report**

- A. The committee considered a suggestion to remove the option boxes regarding treatment from item 7 given that the type of treatment ordered is specified in item 3. The purpose of the change would be to prevent confusion between the term “assisted outpatient treatment” for individuals with a mental illness and “outpatient program of care and treatment” for a person with an intellectual disability.

The committee agreed that the options should be removed from item 7. As revised, item 7 will read, “The treatment provided to the individual since the order, and the results are:”

- B. The committee considered a suggestion to add a space on the report for information regarding any substance abuse testing to assist a court in performing the 180 day review required under MCL 330.1468.

MCL 330.1468 details the assisted outpatient treatment and services that a court can order the individual receives. MCL 330.1468(2)(d)(ix) provides the option for:

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.

The authority for PCM 226 comes from MCL 330.1483(1) which states:

The results of each periodic review shall be made part of the individual's record, and shall be filed within 5 days of the review in the form of a written report with the court that last ordered the individual's treatment,...

The committee discussed the meaning of the statute and whether the review was mandatory. Consensus regarding the issue was not reached by the committee and it was noted that the entire treatment plan is subject to review every six months. The committee declined to add information regarding substance abuse treatment to the form.

The form was approved as revised.

12. **PCM 237, Petition for Continued Hospitalization of Minor**
PCM 240, Petition and Order Regarding Transport of Minor

The committee considered a suggestion that these two forms should have space for the petitioner to include information on whether there is a court with prior continuing jurisdiction over the minor. MCR 5.112 provides:

Proceedings affecting the person of a minor subject to the prior continuing jurisdiction of another court of record are governed by MCR 3.205, including the requirement that petitions in such proceedings must contain allegations with respect to the prior proceedings.

MCR 3.205(A) states:

(A) Jurisdiction. If an order or judgment has provided for continuing jurisdiction of a minor and proceedings are commenced in another Michigan court having separate jurisdictional grounds for an action affecting that minor, a waiver or transfer of jurisdiction is not required for the full and valid exercise of jurisdiction by the subsequent court.

The committee discussed the purpose of the court rule and agreed that the addition is appropriate under the court rule. SCAO will add appropriate items that mirror the items on PC 651, Petition for the Appointment of Guardian of Minor.

The form was approved as revised.

STAFF NOTE: During typesetting, PCM 237 was revised to comply with current standards regarding second page headers. On PCM 237, “Circuit Court – Family Division” was removed from the header and on PCM 240 the use note regarding family division was removed in keeping with a previous decision by the committee on format. The following language was added to PCM 237 as item 4 and PCM 240 as item 3 regarding jurisdiction

[] #. An action within the jurisdiction of the family division of circuit court involving the family or family members of the minor has been previously filed in _____ Court, Case Number _____, was assigned to Judge _____, and [] remains [] is no longer pending.

13. **Discussion regarding stipulation process**

SCAO staff noted that multiple suggestions were received to modify PCM 223, Certificate of Legal Counsel/Waiver of Attendance so that it may also be used as an

individual's stipulation to treatment under MCL 330.1455(2). As an alternative, a request was received to put signature lines on forms ordering treatment so that parties may stipulate to an order.

MCL 330.1455(2) provides that, "[t]he subject of the petition under [MCL 330.1434], after consultation with counsel, may stipulate to the entry of any order for treatment." By reference to MCL 330.1434, this subsection does not immediately appear to apply to petitions for second or continuing treatment under MCL 330.1473.

SCAO staff noted that samples had been submitted by courts that have modified PCM 223, Certificate of Legal Counsel/Waiver of Attendance to accommodate a stipulation, and that the samples varied widely.

SCAO presented several questions for the committee's consideration regarding stipulations and possible changes to PCM 223. The committee members were in agreement that a form mechanism is needed for an individual to be able to stipulate to a treatment order. The committee members also agreed that stipulations are appropriate on petitions for second and continuing orders for treatment based on case law and general practice.

The committee discussed the issue of whether a stipulation automatically waives any other rights, such as the right to a hearing, the right to attend the hearing, or the right to have a doctor testify. The committee agreed upon the following:

- a. The individual must stipulate to what is on the petition, but the individual needs clear information as to what might be ordered.
- b. A stipulation to an order does not waive the right to a hearing, the right to attend the hearing, or the right to have a doctor testify. Members noted that it is unusual for a party to stipulate and still want a hearing, but that it does happen and that the hearing and testimony rights are clearly called out in statute. Therefore, any form created needs to clearly separate out these options.
- c. The suggestion of putting a signature line on the order forms for the individual to sign when stipulating is not viable because the individual often does not attend the hearing, courts have a variety of processes regarding who prepares the order, and getting an order signed by a patient after a hearing would be an unreliable and cumbersome process.

PCM 223, Certificate of Legal Counsel/Waiver of Attendance

Following the above discussion, the committee agreed that PCM 223 should be modified to include a new section specifically for stipulation, as well as options for waiving the testimony of a physician, psychologist or licensed psychiatrist. The committee agreed

that, to make the stipulation clear to the individual, the same treatment options that are on the orders should be included in the stipulation, with the exception that the assisted outpatient treatment options should be included as a list of possible services that might be ordered.

SCAO will draft a form for the committee's review based on the sample provided by Kent County.

The form was approved for development.

STAFF NOTE: This form is on hold for a future committee meeting.

14. **New Form – Order to Appoint Appellate Counsel**

The committee considered a suggestion to create a form for use in the appointment of an attorney to appeal a mental health order. The committee members agreed that there is no statutory authority requiring the court to appoint an attorney and, as a result, no clear information as to what would be on the form. The committee declined to create a form for these reasons

No form was created.