

STOP THE MERRY-GO-ROUND: MICHIGAN'S APPROACH TO EFFECTIVE DELIVERY OF MENTAL HEALTH TREATMENT

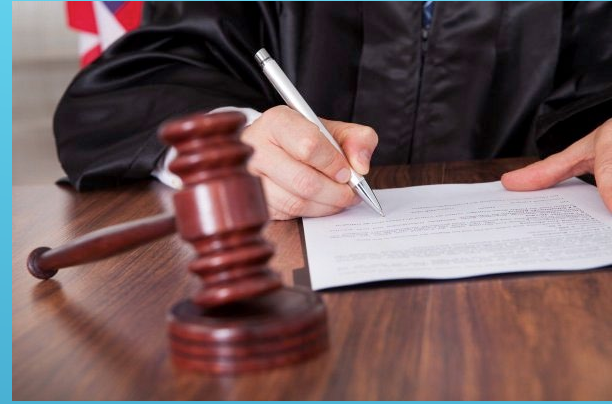


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THE REVOLVING DOOR



Repeated, short hospital stays, without effective follow up, accomplishes nothing, except to create a revolving door.

This is a stunning waste of scarce resources that produces nothing of value, but does produce the risk of tragedy.

EARLY TREATMENT



Michigan has opened the door for early intervention.

Court-ordered outpatient treatment is now a viable alternative to hospitalization.

SECTION 401(A) RISK OF SERIOUS HARM

(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, herself, or another individual, and who *has engaged in an act or acts* or made significant threats that are *substantially supportive* of the expectation.

NEW STANDARD INTERPRETED

Another panel of the Court of Appeals held that an “act” from two years ago could be the act that would support a finding the person needed treatment citing the doctor’s statement that past history is more predictive of future behavior than current statements.



In re Nicholas Heidarisafo, March 11, 2021 (No. 353582)

SECTION 401(C) LACK OF UNDERSTANDING OF NEED FOR TREATMENT, REFUSING TREATMENT, CREATING RISK OF PHYSICAL OR MENTAL HARM

(c) An individual who has mental illness, whose judgment is so impaired by that mental illness, and 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.

THE QUESTIONS TO BE ANSWERED IN ORDERING TREATMENT

Does the individual have a mental illness?

Is the person's judgement impaired?

Does the impairment in judgement cause a lack of understanding of the need for treatment?

Is the person unwilling to engage in voluntary treatment?

Is that treatment necessary to prevent a relapse or harmful deterioration of the person's condition?

Will this present a substantial risk of significant physical or mental harm to the person or others?

NEW STANDARD INTERPRETED



Court of Appeals held that testimony from a doctor that untreated schizophrenia increased the risk of dementia, drug abuse, suicide, and further decompensation, including delusions and paranoia sufficient to order involuntary treatment.

In re Daniel Spaulding (CA #354408, March 11, 2021)

NEW STANDARD INTERPRETED



In Spaulding the doctor testified that the respondent was not at risk of harm at the hearing, but was at risk of harm due to lack of insight and history of decompensation.

TREATMENT-NOT COMMITMENT



The standard relates to ordering treatment, not hospitalization.

The severity of the illness and the immediacy of the risk of harm dictates whether hospitalization or AOT is more appropriate.

THE MENTAL HEALTH CODE IS NOW AN OUT-PATIENT MODEL IN AN OUT-PATIENT WORLD

Intervention can take place before crisis and the court can order Assisted Outpatient Treatment.

No special provision to order AOT. A history of hospitalization or incarceration not required.

Review hearings are not required. In the event of noncompliance a hearing or status conference can be held.

FIRST RESPONDER CATCH PHRASE

Old Standard:

“Immediate risk of harm to self or others.”

New Standard:

“Substantial risk of harm due to impaired judgment.”



TWO PATHWAYS TO CARE



The Mental Health Code now provides two pathways to obtain court ordered AOT:

1. The first is the traditional method of filing petitions for mental health treatment from the hospital.
2. The second is AOT only, bypassing the hospital.

NEW PATHWAY

If only seeking outpatient treatment, the petition can be filed with the court without a certification by a physician.



If the person refuses to be examined, the Court can order an examination and the police can be ordered to transport the individual for an evaluation.

NEW PATHWAY



The challenge with AOT only petitions is the need for a psychiatrist.

Community providers with access to psychiatrists can secure treatment for their clients without waiting for a crisis.

COMPETENCY AND RESTORATION

- ▶ Huge delays in forensic cases.
- ▶ Create space by sharply reducing misdemeanor referrals.
- ▶ No value in assessing competence for misdemeanants.
- ▶ Many not restorable before time runs out.
- ▶ Michigan no longer performing assessments for criminal responsibility for misdemeanants.
- ▶ Michigan is looking to divert misdemeanants into AOT instead of Forensic Center. HB 6399

CONTACT INFORMATION

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