# Legislative Analysis

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**OUTPATIENT MENTAL HEALTH TREATMENT**

**House Bill 4412 as introduced**
**Sponsor: Rep. Donni Steele**

**House Bill 4413 as introduced**
**Sponsor: Rep. Mark A. Tisdel**

**House Bill 4414 as introduced**
**Sponsor: Rep. Tom Kuhn**

**Committee: Health Policy**
**Complete to 12-10-25**

**SUMMARY:**

**House Bill 4412** would amend the Mental Health Code to revise procedures related to assisted outpatient treatment and involuntary mental health treatment. In general, the bill would change referral requirements for assisted outpatient treatment, modify who may testify about a patient's need for assisted outpatient treatment, establish new time frames for second and continuing treatment orders, and authorize courts to convene status conferences when a patient is not complying with an assisted outpatient treatment order.

Referral to assisted outpatient treatment

Current law requires a psychiatrist to examine an individual within 24 hours of hospitalization and allows hospitalization to continue if the psychiatrist certifies that the individual requires treatment.

Under the bill, if a psychiatrist certifies that an individual requires treatment in the form of assisted outpatient treatment, the hospital would have to refer the patient to the community mental health services program (CMHSP) serving the patient's county of residence. After the referral, proceedings could be held under existing sections governing court hearings for treatment.

Testimony required for petitions seeking assisted outpatient treatment

Current law requires a petition asserting that an individual requires treatment to include testimony from a physician or licensed psychologist who personally examined the individual. For a petition that seeks only assisted outpatient treatment, current law also requires testimony from a psychiatrist unless the psychiatrist signed the petition.

The bill would allow a court to find that an individual requires assisted outpatient treatment if a physician, psychologist, or ***qualified health professional*** personally examines the individual and testifies that treatment is required, unless the individual waives the testimony requirement. Evidence also would have to be presented that the examining professional discussed the findings and treatment plan with a psychiatrist during or immediately after the examination.

***Qualified health professional*** would include a ***psychiatric nurse practitioner*** acting under delegation from a psychiatrist or a physician assistant acting under a practice agreement with a psychiatrist.

***Psychiatric nurse practitioner*** would mean a registered professional nurse who holds a specialty certification as a nurse practitioner and has training in the area of mental health.

Duration of court orders for treatment

Current law limits the second court order for involuntary mental health treatment to 90 days and the third order to one year. The bill would revise these limits as follows:

- A second order of hospitalization could not exceed 90 days.
- A second order of assisted outpatient treatment could not exceed one year.
- A second order that combines hospitalization and assisted outpatient treatment could not exceed one year, and the hospitalization portion could not exceed 90 days.

The bill would apply the same maximum durations to third and continuing orders.

Court status conferences for noncompliance

Under the bill, if a person subject to an assisted outpatient treatment order or a combined hospitalization and assisted outpatient treatment order is not complying with the terms of the order, a court could, without holding a hearing, to convene a status conference with the supervising agency and the individual to review compliance.

MCL 330.1401 et seq.

**House Bill 4413** would amend the Mental Health Code to revise procedures related to mediation for disputes involving community mental health services and to update requirements for hospital examinations when an individual is presented for evaluation. The bill would expand the group of individuals who may request mediation, restructure notification and participation requirements, clarify timelines for the mediation process, and revise language governing the detention and examination of individuals presented to designated hospitals.

Mediation for individuals seeking or receiving mental health services

Current law allows a recipient of mental health services or their representative to request mediation to resolve disputes with a CMHSP or contracted service provider regarding planning or providing services or supports. Under the bill, this right would also apply to an individual who is allowed to file a petition for treatment under section 434.[1] The bill would require these individuals to be notified of the right to request mediation when services are initiated, at least annually, and when certain dispute resolution processes are requested.

The bill would retain the current requirement that the Department of Health and Human Services (DHHS) fund and contract with mediation organizations, but it would make several structural changes to the mediation process. Under the bill, a request for mediation would have to be recorded by a mediation organization, and mediation would have to begin within 10 business days after the request is recorded. Mediation would have to be completed within 30

[1] https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-330-1434

days unless extended in writing for up to an additional 30 days. The bill provides that the mediation process may not exceed sixty days.

If the dispute is resolved, the mediator would prepare a legally binding agreement that must be signed by the recipient, the individual permitted to file a petition if applicable, and an individual authorized to bind the CMHSP or service provider. The mediator would have to provide copies of the agreement to all parties within 10 business days. If mediation does not result in an agreement, the mediator would prepare a document stating that the dispute could not be resolved and distribute it to all parties.

The bill also would require contracted mediation organizations to submit aggregate data and outcome summaries to DHHS at least every six months.

Hospital detainment and examination requirements

The code currently requires a designated hospital to receive and detain an individual presented for examination under certain sections for up to 24 hours and to ensure that the individual is examined by a physician or licensed psychologist unless the hospital has already received a clinical certificate.

The bill would retain these provisions but modernizes language and provides that if the examining physician or psychologist does not certify that the individual is a person requiring treatment, the individual must be released immediately. If a clinical certificate is executed, hospitalization could proceed under section 423.[2]

For individuals examined by a preadmission screening unit, the bill would maintains the requirement that the examination occur as soon as possible and be completed within two hours, except for documented medical reasons or other agreed-upon arrangements between the preadmission screening unit and the transporting officer.

MCL 330.1206a and 330.1429

**House Bill 4414** would amend the Mental Health Code by adding a new Chapter 10A to establish procedures for diverting certain misdemeanor defendants to assisted outpatient treatment. The bill sets out the process for requesting an assessment, filing a petition for assisted outpatient treatment, entering an assisted outpatient treatment order, and dismissing misdemeanor charges following participation in treatment.

Motion for assessment

Under Chapter 10A, when a misdemeanor is charged or at any later time before trial, the prosecuting attorney, defendant, or defense counsel could request an assessment by a physician, psychologist, or qualified health professional to determine whether the defendant meets the criteria for assisted outpatient treatment. Unless they are a psychiatrist, the examiner would have to discuss the findings and treatment plan with a psychiatrist during or immediately after the examination.

[2] https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-330-1423

Any party could oppose the assessment motion. If the motion is opposed, the defendant could not be diverted into assisted outpatient treatment and existing competency procedures under Chapter 10 would apply.

If the assessment determines that assisted outpatient treatment criteria are met, the prosecuting attorney would have to file a petition as provided for individuals requiring treatment under section 434. The judge of the district court could request assignment as a probate judge to hear the petition or direct that the petition be filed in the probate court of the defendant's county of residence.

If either the prosecuting attorney or the defendant objects at the hearing on the petition, the petition would have to be dismissed and Chapter 10 competency procedures would apply. If neither party objects, the court would enter an assisted outpatient treatment order.

Order for assisted outpatient treatment and compliance

If diversion is ordered, the court would enter an assisted outpatient treatment order for up to 180 days. A defendant's failure to comply with the order would be handled under section 475.[3] During the treatment period, any criminal prosecution could proceed, and bond conditions would be limited to appearing as required, not committing new crimes, not violating no-contact orders, and not leaving the state without the court's permission. Bond conditions would be separate from the defendant's obligations under the treatment plan.

Misdemeanor charges and dismissal

Misdemeanor charges would remain pending while assisted outpatient treatment is underway to allow the court to enforce release conditions. Compliance with the treatment plan could not be a condition of release, and issues involving noncompliance with the treatment plan would be addressed through civil proceedings under section 475.

The bill would require the district court to dismiss the pending misdemeanor charge 90 days after entry of the assisted outpatient treatment order, or 180 days after the order if the charge is a *serious misdemeanor* as defined in the Crime Victim's Rights Act.[4]

Notification upon termination

The treatment provider would have to notify the prosecuting attorney, district court, and probate court, as applicable, when assisted outpatient treatment ends.

Exemption from competency provisions

The bill would provide that the competency procedures under sections 1022 to 1044 of the code[5] do not apply to an individual charged with a misdemeanor who has been diverted to assisted outpatient treatment under the new Chapter 10A.

MCL 330.1021 and proposed MCL 330.1075 to 330.1078

House Bill 4414 cannot take effect unless House Bill 4412 is also enacted.

[3] https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-330-1475
[4] https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-780-796a
[5] https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-330-2022 and https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-330-2024

**FISCAL IMPACT:**

House Bills 4412, 4413, and 4414 would likely have a minimal fiscal cost to DHHS and an indeterminate, but probably varied, fiscal cost to local CMHSPs. Section 308 of the Mental Health Code requires the state to pay 90% of the annual net cost of a CMHSP, subject to appropriations from the legislature. This means that, without a specific appropriations increase from the legislature, any net cost increases would be incurred by each individual CMHSP and would be dependent on the individual CMHSP's decision to increase the availability of assisted outpatient treatment in its region.

In addition, House Bill 4414 would have an indeterminate fiscal impact on the state and on local units of government that would depend on the number of misdemeanor charges that are dismissed for defendants diverted from criminal prosecution. A decrease in misdemeanor convictions would result in less costs for county jails and/or local misdemeanor probation supervision. These costs and how they are financed vary by jurisdiction. Also, less penal fine revenue could be collected which would result in less funding for public and county law libraries, which are the constitutionally designated recipients of those revenues. The fiscal impact on local court systems would depend on how provisions of the bill affect court caseloads and related administrative costs.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.