

Representing Respondents in Mental Commitment Proceedings in Wayne County Probate Court

- The number of cases assigned depends upon several factors: (1) the number of petitions received; (2) location of patients (i.e., video or court appearance); and (3) attorney's stated preference and availability. It is important that lawyers only give dates to the court that they are available. Attorneys who decline assignments on stated available days may be removed from future consideration.
- Attorneys may receive one to six cases per week for one hearing day.
- Your assignment packet will be sent via e-mail and you will not have to come to the Court to obtain them. Attorneys are urged to review their packets for deferral meeting times and to contact the hospital and reschedule if they are unavailable for the time set. Scheduling is important because hospitals need to make arrangements for their respective staffs to participate, as well as notifying the patient's family members and a representative from community mental health agency who may have planned to attend. Please refer to MCL 330.1455.
- At present, all hearings and deferral conferences are being held remotely via ZOOM.
- It is important to note that clients should not sign both the deferral *and* the waiver/stipulation form. They represent different intentions and outcomes. (The packets attorneys receive for mental health commitments contain Request to Defer and Certificate of Legal Counsel/Waiver forms).
- Attorneys should be aware that Wayne County Probate Court has added language to the waiver form which allows the subject of a petition to stipulate to the allegations of the petition. This form can also be used to withdraw a petition for discharge.
- Hearing days are Mondays, Wednesdays and Fridays.
- Review your packet to ascertain which hospitals are involved and the deferral conference times. The Mental Health Services staff does not provide this information by telephone.
- Pay close attention to the type of petition which has been filed. An involuntary treatment petition on an individual with a developmental disability is called a Petition for Intellectual Disability Treatment (formerly Judicial Admission). These petitions are within the scope of Chapter Five of the Mental Health Code. There is no deferral conference scheduled. There is no language in the statute which allows for stipulation. Orders entered in these matters are not the same as in other involuntary treatment matters.
- If a patient has entered into a deferral agreement, and a demand for hearing has been filed and set for hearing, that patient may not sign another deferral. No other conference will be scheduled.
- Once the attorney has contacted the client and has obtained a deferral or waiver, the original of the deferral or waiver should be faxed and delivered to the Courtroom at least two days before the hearing or at the latest submitted to the Courtroom at the time of the hearing.
- It is important to communicate with the hospital where your client is. If you are unable to attend a scheduled deferral conference, contact the hospital and let the staff know. Attempt to reschedule. Patients cannot sign waivers or deferrals outside the (virtual) presence of their attorney.
- Respondents in involuntary commitment proceedings may appeal. These appeals are taken to the Court of Appeals. There is no right to a Court appointed attorney to represent a respondent in an appeal.
- Attorney copies of vouchers are included in the assignment packet (which is sent via email). The voucher must be signed by the Judge's Court Clerk or Office Coordinator before they may be submitted for payment.
- A list of physicians and/or psychologists who have performed independent evaluations in the past, or expressed an interest and willingness to perform them, is available on the Court's website, www.wcpc.us, under Information-Frequently Asked Questions (FAQs)-Independent Evaluator List or from the Mental Health Services Department office.

- You must prepare the motion and order for the independent evaluation. You should have an examiner selected to include in the order. This examiner should be one who has agreed to the work and one who is acceptable to your client. Please refer to MCL 330.1463.
- You should review Chapters Four and Five of the Mental Health Code, beginning at MCL 330.1400 and MCL 330.1500.

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