



# ASHTABULA COUNTY COURT OF COMMON PLEAS PROBATE DIVISION

ALBERT S. CAMPLESE, JUDGE

PROGRAM MANUAL

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25 West Jefferson Street  
Jefferson, Ohio 44047  
T: 440-576-3451  
F: 440-576-3633  
[probate@ashtabulacounty.us](mailto:probate@ashtabulacounty.us)

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## **Involuntary Civil Commitment Generally**

Involuntary civil commitment, also known as judicial hospitalization, is the process by which a person, normally a physician, requests the Probate Court intervene in the treatment of an individual with a severe mental illness through the filing of an Affidavit of Mental Illness. An individual is a “mentally ill person subject to court order” if the individual falls within one of five categories listed in R.C. 5122.01(B) as a result of the individual’s mental illness. As the name suggests, this is a civil process, not criminal.

A person who is involuntarily committed, known as a Respondent, can be detained in a hospital setting, known as inpatient involuntary commitment, or receive outpatient involuntary commitment, depending on the statutory reason for the commitment, treatment goals, and needs of the individual.

A Respondent is entitled to immediately make a reasonable number of telephone calls to contact an attorney, licensed physician, licensed clinical psychologist, or any other person to aid in the securing of representation by counsel or medical or psychological assistance. A Respondent is also entitled to have an independent expert evaluation and retain counsel and, if the Respondent is unable to obtain same, to have both be appointed at public expenses if the Respondent is indigent. A Respondent is also entitled to a full hearing to determine if they are a mentally ill person subject to court order. A Respondent is also entitled to apply for voluntary admission.

After an Affidavit of Mental Illness is filed, the Probate Court refers the matter to the ADAMHS board or the community mental health services provider the ADAMHS board designates for investigation. In Ashtabula County, the ADAMHS board is the Mental Health and Recovery Services Board (“MHRS”).

After referral, MHRS becomes the Petitioner who is in charge of presenting the case for civil commitment to the Probate Court and ensuring the Respondent receives the necessary healthcare treatments. The Petitioner and Respondent present legal and factual arguments to the Probate Court at the full hearing after which the Court can either dismiss the case or order the Respondent involuntarily committed for a period not to exceed 90 days.

If the Petitioner believes continued commitment is necessary and the Respondent continues to meet the definition of a mentally ill person subject to court order, then MHRS must file an application before the expiration of the initial commitment period. Another hearing is held after which the Court can either dismiss the case or order the Respondent involuntarily committed for a period not to exceed 2 years.

Involuntary commitment does not give the Petitioner the automatic right to force a Respondent to take psychotropic medications. Forced medication can only be ordered after a hearing and a Court finding that the Respondent lacks the capacity to give or withhold informed consent regarding treatment, the medication is in the patient’s best interest, and no less intrusive treatment will be as effective in treating the mental illness.

## **Outpatient Program Overview**

The **Community Assisted Commitment Program** is an initiative of the Ashtabula County Probate Court in conjunction with the Ashtabula County Mental Health Services and Recovery Board to implement outpatient involuntary civil commitment.

CACP operates on a relationship-based model, encouraging regular communication between treatment providers, MHRS, and the Probate Court. Ashtabula County has chosen the court-led model to better respond to the mental health needs of those most at-risk in our community for homelessness, repeated hospitalizations, and law enforcement intervention. Treatment providers use evidence-based services to help program participants maintain stability and safety in the community. Regular conferences with the Court and care team allow for continual responsive evaluation of provided services and to safeguard the due process rights of participants. Every indigent participant is afforded a court-appointed attorney. A Respondent's continued participation in the program will prevent the implementation of a restrictive mental health guardianship.

### **Key Components**

- Combination of court-ordered and community-based mental health services
- Less restrictive alternative to guardianships and involuntary hospitalizations
- Treatment plans are tailored to the specific needs of the individual
- Participants are closely monitored by a multidisciplinary team of mental health professionals in the community
- Status reports must be filed regularly with the court and all service providers must comply with the statutory requirements for involuntary treatment
- Participation can be terminated by court order if an individual does not meet the criteria for continued treatment

## Criteria and Eligibility

CACP is specifically designed to focus on individuals with a severe mental illness as defined by Revised Code 5122.01(A): “a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.”

In order to be eligible for CACP, a person has to be a “mentally ill person subject to court order.” Revised Code 5122.01(B) defines such a person as one who, because of the person’s mental illness:

1. Represents a substantial risk of physical harm to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm;
2. Represents a substantial risk of physical harm to others by evidence of recent homicidal or other violent behavior or threats of similar behavior;
3. Represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person’s basic physical needs;
4. Would benefit from treatment for the mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person; or
5. Would benefit from treatment as manifested by evidence of behavior that indicates **all** of the following:
  - The person is unlikely to “survive safely” in the community;
  - The person has not complied with treatment in the past and one of the following applies:
    - The person has been hospitalized at least twice in the preceding 36 months for which lack of compliance has been a significant factor in requiring hospitalization;
    - The person has been violent or threatening in the preceding 48 months in part because of the lack of compliance;
    - The person is unlikely to voluntarily participate in treatment as a result of the person’s mental illness; or
    - The person needs treatment to prevent harm to themselves or others.

CACP is not “mental health court” nor is it an extension of the criminal court system.

**Participation in CACP does not require commission of a crime, nor does it impose criminal sanctions or confinement in jail for non-compliance.**

A Respondent who only meets the criteria in item 5 above is not eligible for inpatient involuntary commitment, but can participate in CACP through outpatient involuntary commitment.

## **Affidavit Process and Court Procedures**

If an individual meets the criteria outlined in Revised Code 5122.01 for involuntary outpatient commitment, an Affidavit of Mental Illness may be filed in the Probate Court. In addition, the affiant is required to submit a Case History of Mental Illness. If necessary, the affiant may also submit Form – Bailiff’s Special Pickup Instructions.

The Court will issue an order setting an initial hearing and appointing counsel to the Respondent. The initial hearing will be held in the Court’s virtual hearing room and must be attended by an attorney representing the MHRS Board, Respondent’s counsel, and the medical provider who submitted the affidavit. The Respondent is also permitted, but not required, to participate.

At the conclusion of the initial hearing, the Court will determine if there is probable cause to believe the Respondent is a mentally ill person subject to court order and what level of involuntary commitment is appropriate. If the Court finds no probable cause, then the case will be dismissed. If the Court finds probable cause that the Respondent is a mentally ill person subject to court order, then the Court will issue an Interim Detention Order and set a hearing in approximately 30 days for the full hearing required under R.C. 5122.15.

The Court will conduct the full hearing to determine whether there is clear and convincing evidence that the Respondent is a mentally ill person subject to court order. If so, then the Court shall order the Respondent committed for a period not to exceed 90 days (the “initial commitment period”) to one of the agencies or providers in R.C. 5122.15(C), which includes MHRS, and order the implementation of the least restrictive alternative available consistent with the Respondent’s treatment goals. Otherwise, the Court must immediately discharge the Respondent from the civil commitment.

Treatment may be extended beyond the initial commitment period upon the granting of an Application for Continued Commitment, which must be filed not later than 10 days prior to the termination of the initial commitment period. The Court will set the Application for hearing. If the Application is granted, then the Court shall order continued commitment of the Respondent for a period of up to 2 years.

When a Respondent is ready for discharge from a hospital setting, and prior to the discharge, the hospital must fax or email to the Court a copy of the Patient’s Discharge Plan and Outpatient Commitment Notification & Expectations form. The Court will forward this information to MHRS, the Respondent’s attorney, and to the mental health treatment provider upon receipt.

Key Deadlines and a general timeline are outlined below. All filings due to the Probate Court may be received via email, mail, fax, or in-person.

### **Court Contact Information**

Phone: 440-576-3451 | Fax: 440-576-3633 | Email: [probate@ashtabulacounty.us](mailto:probate@ashtabulacounty.us)

25 West Jefferson Street, Jefferson, Ohio 44047

## **CACP Care Conferences**

Care Conferences will be held on the first and third Wednesdays of each month from 11:00am to 1:00pm at the Probate Court in Jefferson. Frequency of participation is determined by the Court, with input from the Care Team. Members of the care team as designated by the MHRS must attend. Appointed Counsel for the Respondent is permitted, but not required, to attend Care Conferences.

Generally, a CACP participant's treatment team will consist of a case manager, a member of MHRS, and a representative of the medical team, including psychiatric care. The conferences will be structured as conversations with the participant for the purpose of celebrating victories, identifying roadblocks, and utilizing the "black robe effect" to ensure continued success. The tenor of the hearings will be cordial and focused on the ability of the participant to determine the success of their time in the program. The Court is responsible for ensuring participants understand what is expected of them, the parameters of the program, and the support they will be given as they continue treatment.

Participants shall attend the CACP Care Conferences unless the Court determines participation is inappropriate. The Court has assigned staff who will act as a liaison between the Court and the treatment team. The liaison is responsible for planning and managing the docket for all CACP Care Conferences, receiving status reports, notifying participants of upcoming court dates, and any other Court tasks necessary for the success of the program.

Treatment providers are required to submit a series of Status Reports related to the schedule of Care Conferences assigned to each participant. Status Reports are due by 4pm on the Friday prior to a scheduled Care Conference, and must be submitted via fax, mail, email, or in-person to the Court, to participant's counsel, and to the MHRS Board.

### **Court Conferences**

If the Treatment Team believes a more targeted court conference is necessary, outside of the group setting in the biweekly conferences, the team may submit an Application for Care Conference to the Probate Court. This Application must be served to the MHRS Board and appointed counsel by the treatment team.

## **General Timeline and Important Deadlines**

### **Timeline of Case Proceedings**

**Day 0: Receipt of Affidavit of Mental Illness** - Court issues Temporary Detention Order, sets Initial Hearing, and appoints Counsel for Respondent.

**Day 2: Court Refers Affidavit of Mental Illness to MHRS**

**Day 5: Initial Hearing** – (can be continued additional 5 days or waived by respondent.)  
Court issues Interim Detention Order

**Day 7: BCI Filing Due** – submitted by Probate Court to Attorney General

**Day 30: Full Hearing** – Commitment cannot exceed 90 days; Care Conferences are scheduled.

**\*Status Reports are due to Court by 4pm on Friday preceding Care Conference**

**Day 110: Deadline for Application for Continued Treatment**

**Day 120: Continued Commitment Full Hearing OR Order Expires** – Court issues continued commitment order for up to 2 years; Court reviews the frequency of Care Conference attendance and status reports.

**Day 300: Status Hearing\*** – Court reviews and revises the requirements for Care Conference attendance and reporting, including by extending the time between Care Conferences and/or Status Reports if warranted. This Status Hearing is a formal proceeding, outside the structure of the Care Conferences.

### **Beyond Day 300**

**Status Reports and Care Conferences\*** – every 30 or 90 days, as determined by Court.

**Full Hearing** – Court must conduct an evidentiary hearing at least every 2 years after the expiration of the first 90-day period. Respondents can also request a full evidentiary hearing once per 6-month period.

**10 Days Prior to Expiration of Any Commitment Period** – Application for Continued Treatment must be filed with the Court.

\*Indicates requirement of program, not of Revised Code.

## Care Team Members and Treatment Options

Treatment Providers are responsible for monitoring, providing, and arranging clinically appropriate care for the participant participating in CACP. Providers are also responsible for supplying Status Reports to MHRS, as required by the Court.

### Discharge to the Community

#### **Before Leaving the Hospital:**

1. Before discharge, the hospital social worker will explain outpatient commitment to the participant and will schedule an appointment with the designated community mental health agency provider within three (3) days of the participant's discharge.
2. The hospital will fax a copy of the Discharge Plan and Outpatient Commitment Notification & Expectations forms to the Court the day of discharge. The date, time, and place of the individual's follow up appointment and will appear on the forms.
3. The Probate Court will email the discharge plan and notification forms to appointed counsel, the MHRS Board, and the mental health treatment provider immediately upon receipt of the information. The notification form will include the first CACP Care Conference and any pending Probate Court hearing dates.

#### **Treatment Providers:**

1. The treating agency assigned is responsible for monitoring, providing, and arranging clinically appropriate care for the CACP participant. The participant will be closely monitored by his or her assigned Community Psychiatric Support Worker (CPS) and/or treatment team members of the treating agency.
2. In an effort to decrease participant anxiety, encourage CACP compliance, and potentially decrease the number of participant absences in court, the supervisor or appointed person of the treating mental health agency will forward the Outpatient Commitment Notification & Expectations form to the assigned case manager of their agency as soon as possible.
3. The assigned CPS will contact their new participant/s as soon as possible or no later than **three** days after discharge. This contact should be face to face.
4. Within 30 days after the participant's release from the hospital, the participant and the agency treatment team will complete an Individualized Treatment Plan (ITP) specifically tailored to the needs and goals of the individual participant. It will clearly outline the expectations of the individual on CACP. The participant will be clearly informed that failure to follow their agreed upon treatment plan

- will and must be reported to the Court by the treatment staff. The individual must follow the agreed upon treatment plan requirements that include but are not limited to:
- Taking their medications as prescribed
  - Attending all scheduled appointments
  - Adhering to the ITP
  - Obeying all laws and refraining from using illicit substances
5. The participant will appear at all CACP Care Conferences with their assigned CPS. Newly released participants are to appear at CACP within two weeks with their CPS after hospital discharge and thereafter at the discretion of the Judge. The CPS is responsible for ensuring that the participant will appear and has a means of transportation to and from Probate Court and all other scheduled appointments.
  6. The treating agency is responsible for completing a Status Report for each participant on the docket for that day and forwarding the reports to the court by email or fax to the Probate Court, appointed counsel, and the MHRS Board on the Friday prior to the date the participant is scheduled to appear in Court.
  7. Any emergencies arising between care conferences should be reported to the Probate Court within 24-48 hours using an Incident Report. These emergencies include crisis contacts, hospitalizations, missed appointments, and arrests. Incident Reports will be forward by the Probate Court to MHRS and appointed counsel.
    - If a CACP participant is arrested and held in jail, the CPS should contact the jail's healthcare staff to see if they will accept medication from the community.
    - Regular communication with the jail staff is strongly encouraged.
  8. Requests for changes to the CACP care conference schedule will be forwarded to the Court, appointed counsel, and the MHRS Board by the treatment agency supervisor or appointed designee and will include an alternative court date and reason for rescheduling. The participant's CPS will notify the participant of the new court hearing date.
  9. Whenever the CACP participant is not adhering to the ITP or if clinical monitoring of the individual reveals early indications of a deterioration of mental status, the provider may request the MHRS Board, via the Board Attorney, to file a motion for a Status Hearing of the individual with the Court.
  10. If clinical monitoring of the individual on CACP reveals substantial deterioration of their mental status and the individual meets clinical criteria for hospitalization, the treatment agency should notify the MHRS Board in writing

stating the expert opinion as to why the individual is appropriate for hospitalization so a Motion to Transfer can be filed with Court by the MHRS Board Attorney requesting that the individual be transferred to a more restrictive setting.

11. If the provider/treatment team determines that the individual on CACP meets clinical criteria to continue outpatient commitment beyond the initial period, the provider is to complete the Civil Commitment Termination Review form indicating continuation of commitment is requested and forward the document to the Ashtabula County Mental Health and Recovery Services Board. The provider is to also provide all required documentation as requested by the MHRS Board Attorney who will then file an Application for Continued Commitment. Filing of the Application for Continued Commitment needs to be completed no later than ten days prior to the expiration date of the civil commitment order.
12. When ongoing clinical monitoring of the individual reveals that the individual on CACP is adhering and responding to treatment and a continuation of the outpatient civil commitment is not clinically indicated, the provider is to complete the Civil Commitment Termination Review form and forward the document to the MHRS Board to approve and file with the Probate Court.
13. CACP participants may receive mental health treatment from Community Counseling Center or Signature Health, unless otherwise arranged with the Court by the participant and the hospital at the time of discharge. Services should include but are not limited to;
  - Psychiatry;
  - Community Psychiatric Support;
  - Nursing and Medical Services, including medications;
  - Individual and/or Group Therapy;
  - Recovery Support Services as identified in the ITP ;
  - Substance Misuse Treatment; and
  - Any other services to assist the participant in living and functioning in the community or to help prevent a relapse or deterioration of the participants' mental health condition

**Private Psychiatrist:**

1. CACP participants may be treated by a private psychiatrist who is willing to work with the CPS and other treatment services and provide documentation necessary to ensure treatment adherence.
2. The CPS will obtain the necessary releases to work with the private psychiatrist and allow the CPS to continue to closely monitor and provide appropriate services for the participant. The CPS will still be expected to forward a Status Report to the Probate Court within the allotted time frame.