



AOT HANDBOOK FOR EVALUATORS AS PETITIONERS



Assisted Outpatient Treatment (AOT)
22nd Judicial District Court

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Foreword

The Assisted Outpatient Treatment Program is a civil specialty court program to facilitate the delivery of community-based behavioral health treatment to individuals with a serious mental disorder. AOT also refers to Involuntary Outpatient Commitment. Individuals receiving AOT services participate in a civil court process. To be considered for AOT, individuals must meet specific criteria, including a history of non-adherence with voluntary treatment for their mental health diagnosis. Individuals participating in the AOT program must be able to live safely in the community with the support of comprehensive community-based mental health services. It is a 2-way commitment that requires treatment providers to serve individuals at the same time it commits individuals to adhere to their treatment plans. Through the ritual of court hearings and the symbolic weight of a judge's order, AOT seeks to leverage a "black robe effect," motivating the individual to regard treatment adherence as a legal obligation. AOT employs a recovery-focused approach that promotes wellness, self-management, shared decision making, natural supports, coping skills, self-advocacy, and development of independent living skills.

The goals of AOT include: preventing harmful outcomes such as relapse resulting in hospitalization, homelessness, incarceration, and trauma, while supporting individuals in maintaining stability and achieving personal goals.

AOT is recognized as an evidence-based practice by the National Institute of Justice, Office of Justice Programs; the Substance Abuse and Mental Health Services Administration (SAMHSA); and the Agency for Healthcare Research and Quality (AHRQ). Its use is also endorsed by the American Psychiatric Association, American College of Emergency Physicians, International Association of Chiefs of Police, National Sheriffs' Association and National Alliance on Mental Illness.

Definitions

An ***Advance Directive*** is a legal document written by a currently competent person who lives with mental illness to describe treatment preferences or names a person to make treatment decisions should the person with mental illness become unable to do.

Respondent is used in place of the statute's use of "patient" to reflect the person-centered principles and language of healthcare.

Physician is used, for brevity, in place of the statutes use of "physician, psychiatric mental health nurse practitioner or psychologist."

All parties should be served means that all parties from the original petition are to be served prior to court proceedings. Some petitioners may no longer have a vested interest, such as a hospital physician that is not actively treating the person, and may ask to be excused. Others, like family members, will have an ongoing interest in legal and treatment outcomes and will want continued involvement.

The Statute(s) will refer to Louisiana Revised Statutes 28: 66-76.

Person who has a mental illness means any person with a psychiatric disorder which has substantial adverse effects on his ability to function and who requires care and treatment. It does not refer to a person with, solely, an intellectual disability; or who suffers solely from epilepsy or a substance-related or addictive disorder. La. R.S. 28:2(24)

Dangerous to self means the condition of a person whose behavior, significant threats or inaction supports a reasonable expectation that there is a substantial risk that he will inflict physical or sever emotional harm upon his own person. La. R.S. 28:2(7)

Dangerous to others means the condition of a person whose behavior or significant threats support a reasonable expectation that there is a substantial risk that he will inflict physical harm upon another person in the near future. La. R.S. 28:2(6)

Gravely disabled means the condition of a person who is unable to provide for his own basic physical needs, such as essential food, clothing, medical care, and shelter, as a result of serious mental illness or a substance-related or addictive disorder and is unable to survive safely in freedom or protect himself from serious harm. The term also includes incapacitation by alcohol, which means the condition of a person who, as a result of the use of alcohol, is unconscious or whose judgment is otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment. La. R.S. 28:2(13)

Involuntary Outpatient Civil (Judicial) Commitment is a form of civil commitment in which a court orders an individual to receive outpatient treatment and related services in a community setting. Person retains right and may refuse treatment. Initial period shall not exceed 1 year but may be extended after review.

Interdiction is a legal process where a court determines that an individual is incapable of consistently making decisions about his person and/or his property (depending on full or limited). A curator is appointed by the court to make decisions for the interdicted person. Person may preserve some rights and may refuse treatment. Period shall be indefinite unless revoked or changed by the court.

Judicial Commitment is a form of civil commitment in which a court orders, after finding that the person is a danger to themselves or others or is gravely disabled, the person to an inpatient treatment facility. Initial period shall not exceed 180 days but may be extended after review. Person retains rights but may not refuse treatment.

Petition

The Petitioner may be, per La. R.S. 28:67:

- The director, administrator, or treating physician of a hospital in which the person is hospitalized OR an emergency receiving center in which the person is receiving services.
- The director of the local governing entity, or his designee, in the parish in which the person is present or reasonably believed to be present.
- Any interested person through counsel; the court may order the coroner in the jurisdiction in which the person is found to provide written concurrence to the allegations found in the petition to authorize involuntary outpatient treatment.
- The Louisiana Department of Health

Who prepares the petition? The evaluator will prepare the petition with the assistance of AOT program coordinator utilizing templates provided in the appendices

Private petitions (filed by interested parties without a current evaluation)

These petitions, if they meet legal criteria, will result in the court ordering an evaluation to be conducted by Florida Parishes Human Services Authority. These orders will be served and arranged through the AOT program coordinator. In these instances, FPHSA will NOT be responsible for the petition, but rather only evaluation, physician's report and treatment plan, to which they will complete and submit to coordinator no later than 3 days prior to scheduled hearing.

The petition, along with physician's report, treatment plan (if available at that time), and notice with service instructions should be filed either via fax-file, e-file or in person in the parish of residence. A signed and true copy will be provided via electronic and U.S. Mail via AOT Program Director once available.

Service instructions should include identity of those requiring service:

1. Respondent (personal service via sheriff)
2. Mental Health Advocate, Pamela Crawford (represents the respondent)
3. Petitioner
4. AOT Program Director
5. FPHSA if not the petitioner

**If examining physician is not the petitioner, the examining physician should also be served

All other parties with exception of respondent may be served in compliance with La. Civil Code 1313 that allows for electronic or U.S. mail notice and should be coordinated with AOT program director.

Evaluation

Must be conducted no earlier than 10 days prior to filing the petition by a physician/psychiatrist, psychologist, or psychiatric nurse practitioner.

Minimum qualifying criteria are as follows:

- (1) The person is eighteen years of age or older
- (2) The person is suffering from a mental illness (shall include SMI such as bipolar, schizophrenia or major depression)

In addition to the above, the following should be used as a guide to determine appropriateness for involuntary outpatient commitment:

- (1) The person is unlikely to survive safely in the community without supervision
- (2) The person has a history of lack of compliance with treatment for mental illness which can include starting and stopping treatment
- (3) The patient is, as a result of his mental illness, unlikely to voluntarily participate in the recommended treatment pursuant to the treatment plan. However a person may be found willing to participate likely due to current medication use/stabilization but has demonstrated a pattern of not maintaining treatment
- (4) In view of the treatment history and current behavior of the patient, the patient is in need of involuntary outpatient treatment to prevent a relapse or deterioration which would be likely to result in the patient becoming dangerous to self or others or gravely disabled.
- (5) It is likely that the patient will benefit from involuntary outpatient treatment.

Physician's report

Upon completion of the evaluation, the prescriber shall complete a Physician's report and it must accompany the petition. The report shall set forth specifically the objective factors leading to the conclusion that:

- (1) The respondent has a mental illness
- (2) That the mental illness renders him unlikely to voluntarily (or maintain) participation in the recommended treatment
- (3) That the person's treatment history and current behavior support the need of involuntary outpatient treatment to prevent a relapse or deterioration
- (4) That such relapse or deterioration would be likely to result in them becoming dangerous to self or others or gravely disabled
- (5) The report shall also include recommendations for a treatment plan.

Treatment Plan

Written treatment plan for involuntary outpatient treatment shall be provided to the court coordinator at least three days before the date of the hearing on the petition

Who participates in the development of the plan?

- The respondent, and any other individual whom the respondent may designate, shall be afforded a reasonable opportunity to participate in the development of the written treatment plan.
- The treatment plan shall reflect the expressed preferences of the respondent to the extent the preferences are reasonable and consistent with the respondent's best interests.
- The written treatment plan shall be deemed appropriate by the director.

What's included in the plan?

The written treatment plan shall include appropriate services to provide care coordination as well as include appropriate categories of services, as set forth in Subsection E of this Section, which the respondent is recommended to receive and are available to the respondent.

Certification of the plan

The written treatment plan shall specify a provider that has agreed to provide each of the specified services, if it's not being provided by agency evaluating the participant AND it *shall* be certified to the court that the services ordered in the plan are available and can be reasonably accessed by the respondent.

Medications

If the written treatment plan includes medication, it shall state whether the medication should be self-administered or administered by authorized personnel, and shall specify type and dosage range of medication most likely to provide maximum benefit for the respondent.

If the written treatment plan includes substance-related or addictive disorder counseling and treatment, it may include a provision requiring testing for either alcohol or illegal substances provided the clinical basis for recommending such plan provides sufficient facts for the court to find all of the following:

(1) The respondent has a history of a substance-related or addictive disorder that is clinically related to the mental illness.

(2) Testing is necessary to prevent a relapse or deterioration.

Categories of services within the plan

Services *shall* include but are not limited to

- Case management, provided by the local governing entity (which is defined as the assignment of the coordination of care for an outpatient individual with a serious mental illness to a single person or team)
- All necessary medical and mental health care and
- Associated supportive services

Services *may* include but are not limited to the following categories and will depend upon the availability in the respondent's area:

- Assertive community treatment
- Medication
- Laboratory testing to include periodic blood testing for therapeutic metabolic effects, toxicology testing, and breath analysis
- Individual or group therapy
- Day or partial day programming activities
- Education and vocational rehabilitation training
- Substance-related or addictive disorder treatment
- Supervised living
- Transportation
- Housing assistance

Treatment Plan Review guidelines

- a. The written treatment plan is subject to reviews before the court with the respondent and at least one representative of the treatment team. The initial frequency shall be stipulated in the treatment plan and modified with the court's approval.
- b. The court-ordered blood or laboratory testing may be subject to review after six months by the physician, psychiatric mental health nurse practitioner, or psychologist who developed the written treatment plan or who is designated by the director, and the blood or laboratory testing may be terminated without further action of the court.

Hearings

The Adjudication and Disposition hearing are held simultaneously. A hearing date will be set once petition is signed by the judge but no later than 18 days from filing. A signed and clocked copy of notice will be provided to you via electronic and U.S. mail. Attendance by examiner is required by law and may require testimony as to examination findings and reasons for treatment recommendations.

Adjudication

Hearing will consist of a hybrid format to allow for petitioner and witnesses to appear virtually in lieu of in-person. A Zoom invite will be sent a few days prior to hearing. Respondent will be noticed for in-person appearance unless their presence is waived by their attorney.

During the hearing, the judge will except evidence and allow for testimony if needed by all parties to include examiner, respondent and AOT program staff.

Disposition

Upon completion of evidence presentation and/or testimony the court will make a ruling in one of the following ways:

- A. The Court determines that evidence does not meet legal burden and will dismiss the petition.
 - a. If hospitalized, the person is discharged with appropriate planning from the hospital.
 - b. The Judgment will be prepared by the AOT Program Director

- B. The Court determines that evidence does meet legal burden and will uphold the petition and order AOT through involuntary outpatient commitment.
 - a. The order will specify the duration of treatment, not to be longer than one year.
 - b. The reasons why the treatment plan is the least restrictive and feasible for the respondent will be stated.
 - c. The categories of treatment will be stated and will usually be those recommended by the examiner in consultation with the treatment team.
 - d. When the petitioner is agencies other than Florida Parishes Human Services Authority, FPHSA where the client resides, will be ordered to provide all available categories of services.
 - e. The judgment will be prepared by the AOT Program Director
 - f. If hospitalized, the person is discharged in accordance with the judgment and treatment plan.

Changes to the treatment plan

The treatment provider will apply for court approval prior to instituting a proposed material change to the treatment plan.

A material change would include but not limited to:

- Methods of medication administration, i.e. injectable versus oral

- Increase or addition to treatment modality not included in initial treatment plan, i.e. adding Intensive Outpatient Treatment versus individual

A) All parties served in the original petition must be noticed, though the original petitioning physician may no longer be involved in the person's treatment.

B) The Court shall approve the change if a motion for hearing is not filed within 5 days from the date the application was filed.

Extension of Commitment

Prior to the expiration of involuntary outpatient commitment, respondent will be scheduled for a new evaluation. Qualifying/evaluation criteria remains the same as an original petition. If continued treatment is determined appropriate and is recommended by examiner, a petition for extension of commitment shall be filed.

- The Petition must be filed before the expiration of the involuntary treatment previously ordered by the court.
- The procedure will be the same as for the original order, however different template for petition and order shall be used reflecting the motion to extend the original involuntary outpatient commitment.

Respondent Legal Actions

The respondent may apply to the court to stay, vacate, or modify the order. See La. R.S. 28:73.

The respondent's avenues for appeal shall be in accordance with La. R.S. 28:56(D) and (E).

Non-compliance

What happens if an individual receiving AOT services does not comply with their treatment plan/the court order?

AOT Court cannot make a finding of contempt, nor can the court force an individual to take medications. If an individual participating in AOT is not complying with aspects of their treatment plan, the AOT Team will make every attempt to positively re-engage that person. If an individual is unable to positively re-engage in the AOT program and is at risk of harm to self or others, the AOT Team may request a court order for involuntary transportation for an evaluation, including inpatient hospitalization.

When the treatment team or the treatment provider alleges non-compliance, a judicial review can be scheduled.

- 1) Either attorney can file a “Motion for Judicial Review for Alleged Non-compliance”
- 2) All parties should be noticed

When a need for involuntary admission to a treatment facility is indicated, the physician may:

- 1) Execute an emergency certificate
- 2) Request an order for protective custody
- 3) Seek a judicial commitment

If the respondent refuses medication or refuses/fails blood or other laboratory tests, the physician may consider his refusal in determining whether the respondent is in need of inpatient treatment services.

If the respondent is hospitalized, the attorneys may request a judicial review to consider what effect an OPC or PEC/CEC would have on the AOT order.