

Assisted Community Treatment Act Checklist

Purpose. To use a Family Court Assisted Community Treatment (ACT) Order to stabilize seriously mentally ill individuals and/or substance abusers who often cycle between homelessness, hospitals and/or correctional facilities.

I. Process of Submitting the Petition

A. Petitioner's responsibilities

- Before filing a petition, the petitioner must understand their long-term commitment to support the potential ACT individual (subject or respondent). General commitments to an ACT individual includes:
 - Initiate the petition. Submit the petition to court and mail copies to all necessary parties;
 - Obtain an attorney to represent your position and petition;
 - Make certain the psychiatrist is willing and able to testify at the hearing;
 - Identify the designated mental health program responsible for the coordination of care and their 24/7 phone number;
 - Be present at court hearings;
 - Work with the psychiatrist. Provider and/or petitioner are responsible for securing the psychiatrist and ACT; and
 - Meet with the ACT individual on a regular basis to encourage adherence to the treatment specified by the court.

B. Petition Eligibility Criteria.

- These criteria are as written in law. A psychiatrist must submit to the court in writing that the person meets all seven criteria. A family court judge must agree that an individual meets all seven of the following criteria before the court can issue an ACT order:
 - The person is mentally ill or suffering from substance abuse; and
 - The person is unlikely to live safely in the community without available supervision based on the professional opinion of a psychiatrist; and
 - The person, at some time in the past: (1) has received inpatient hospital treatment for mental illness or substance abuse or (2) has been found to be imminently dangerous to self or others, as a result of mental illness or substance abuse; and

- The person, based on the person’s treatment history and current condition, is now in need of treatment in order to prevent a relapse or deterioration which would predictably result in the person becoming imminently dangerous to self or others; and
- The person has a history of a lack of adherence to treatment for mental illness or substance abuse, and the person’s current mental status or the nature of the person’s disorder limits or negates the person’s ability to make an informed decision to voluntarily seek or comply with recommended treatment; and
- The assisted community treatment is medically appropriate, and in the person’s medical interest; and
- Considering less intrusive alternatives, assisted community treatment is essential to prevent the danger posed by the person.

C. Submission of the Petition

- The petition must be filed in the county where the Respondent resides.
- An interested party (parent, grandparent, spouse, sibling, adult child, reciprocal beneficiary, service provider, case manager, outreach worker, or mental health professional) must complete and file the “Petition for Assisted Community Treatment” (Attachment A) with the family court. All Judiciary Assisted Community Treatment Forms can be found at http://www.courts.state.hi.us/self-help/courts/forms/oahu/family_court_forms.html.
- Attached to the petition, a psychiatrist is required to file a “Certificate of Licensed Psychiatrist for ACT” and a “Treatment Plan”, which are Exhibits A and B, respectively, of the “Petition for Assisted Community Treatment.” The Treatment Plan identifies the designated mental health program responsible for the coordination of care.
- The petition will be executed subject to the penalties of perjury.

II. Family Court Hearing of the Petition

- The hearing will be held within ten calendar days after filing the petition.
- The hearing notice shall be mailed by the petitioner by certified or registered mail, return receipt requested on the Respondent, public defender or Respondent’s own attorney, and to as many as are known to petitioner of the Respondent’s spouse or reciprocal beneficiary, legal parents, adult children, and legal guardian, if one has been appointed.
- A “Statement of Mailing” (Attachment B) shall be filed with the court for each of the above mailings.
- Oahu family court will be convened in Kapolei and will likely occur on Thursdays. Neighbor Islands’ family court will normally schedule hearings in any convenient location and day in the circuit.

- The Respondent or any interested party may request a hearing in another court within the circuit because of inconvenience to the parties, witnesses or the Respondent’s physical or mental condition.
- The hearing shall be closed to the public, unless the Respondent requests otherwise.
- The psychiatrist, who has personally assessed the subject within the time period commencing ten calendar days before filing the petition and ending at the time of the psychiatrist’s testimony, must testify in person at the hearing and must present the Treatment Plan at the hearing.
- If the subject does not consent to be examined and the court finds sufficient evidence to believe that the allegations in the petition are true the court may order the commitment of the subject to a psychiatric facility for an examination by an “Order for Psychiatric Examination” (Attachment C) for no longer than forty-eight hours.
- If the subject has been served with the petition and does not appear at the hearing, the court, in its discretion, may go forward with the hearing, or may “Order Continuing Hearing on Petition” (Attachment D). If the hearing is continued it will be delayed for not more than seven calendar days.
- If the family court orders the appointment of a public defender or other attorney to represent the subject and continues the hearing the court will complete an “Order Continuing Hearing for Appointment of Counsel” (Attachment E).
- A court decision not in favor of ACT shall result in dismissal of petition. See the “Order Granting or Dismissing Petition” (Attachment F).
- If the court supports ACT for the individual the initial order cannot be for a period more than 180 days. See the “Order Granting or Dismissing Petition” (Attachment F). The treatment plan will be part of the order.
- The court shall designate on the order, pursuant to the Treatment Plan, the treating psychiatrist who is to be responsible for the management and supervision of the subject’s treatment, or shall assign the administrator of a mental health program, as identified in the Treatment Plan, to designate the treating psychiatrist.
- The provider will provide the Department of Health (DOH) for the purposes of repository of court orders and program evaluation the following information:
 - A scanned copy of the initial ACT court order;
 - A copy of the successful petition; and
 - Name and contact information of the person managing the subject’s mental health treatment.
- All information pertaining to treatment will be treated as protected health information.

III. Failure to comply with ACT

- No Respondent shall be physically forced to take medication under an ACT order.
- The Respondent, if in a psychiatric facility, can be prescribed treatment per the ACT order.
- An interested party, with the consent of the Respondent, may transport the Respondent to the designated mental health program for failure to comply with ACT.
- The provider shall notify DOH regarding episodes of non-compliance with the order, psychiatric and medical hospitalizations, arrests, incarceration and emergency mental health evaluations that result in emergency room visit.

V. Notice of Intent to Discharge

- When the psychiatrist intends to discharge the subject early, or per the court order, the treating psychiatrist will file a “Notice of Intent to Discharge” (Attachment G) at least 10 calendar days prior to discharge and the petitioner shall notify all persons identified in the Order for ACT by certified or registered mail, return receipt requested.
- The “Statement of Mailing” (Attachment B) needs to be filed for each person receiving this notification.

VI. Objection to Early Discharge

- If the petitioner or others notified by the court are concerned about an **early** discharge they can file an “Objection to Intended Discharge” (Attachment H) with family court.
- The court will conduct a hearing in the same manner as the original hearing.
- If the court decides the subject still meets all ACT criteria the subject will continue treatment for the remaining period of the order, otherwise the court will order the early discharge of the Respondent.

VII. Petition for additional period of treatment

- Prior to the expiration of the ACT order an interested party may file a “Petition for the Continued Assisted Community Treatment” (Attachment I) with family court.
- The petition, notices, hearing and court decision shall be made in the same manner as the initial procedures.
- Family court may order additional ACT for up to one year.
- The Respondent may agree to the continuance of an existing court order without a hearing.

VIII. Legislation Effective Date

- This Act shall take effect on January 1, 2014, and shall be repealed on July 1, 2020; provided that petitions filed for ACT involving a state-operated provider shall not be filed until after July 1, 2015.

Attachment A – Petition for Assisted Community Treatment

http://www.courts.state.hi.us/docs/form/oahu/1_Petition_for_Assisted_Community_Treatment.pdf

Attachment B – Statement of Mailing

http://www.courts.state.hi.us/docs/form/oahu/8_%20Statement_of_Mailing.pdf

Attachment C - Order for Psychiatric Examination

http://www.courts.state.hi.us/docs/form/oahu/9%20_Order_for_Psychiatric_Examination.pdf

Attachment D – Order Continuing Hearing on Petition

http://www.courts.state.hi.us/docs/form/oahu/3_Order_Continuing_Hearing_on_Petition.pdf

Attachment E - Order Continuing Hearing for Appointment of Counsel

http://www.courts.state.hi.us/docs/form/oahu/4_Order_Continuing_Hearing_for_Appointment_of_Counsel.pdf

Attachment F – Order Granting or Dismissing Petition

http://www.courts.state.hi.us/docs/form/oahu/2_Order_Granteeing_or_Dismissing_Petition.pdf

Attachment G – Notice of Intent to Discharge

http://www.courts.state.hi.us/docs/form/oahu/5_Notice_of_Intent_to_Discharge.pdf

Attachment H – Objection to Intended Discharge

http://www.courts.state.hi.us/docs/form/oahu/6_Obejection_to_Intended_Discharge.pdf

Attachment I - Petition for the Continued Assisted Community Treatment

http://www.courts.state.hi.us/docs/form/oahu/7_Petition_for_Continued_Assisted_Community_Treatment.pdf