



AMERICAN  
BANKRUPTCY  
INSTITUTE

# 2019 Hon. Steven W. Rhodes Consumer Bankruptcy Conference

## Mental Health Issues

### **Chief Judge Scott W. Dales**

*U.S. Bankruptcy Court (W.D. Mich.); Grand Rapids*

### **Dr. Barika M. Butler**

*Detroit Wayne Mental Health Authority; Detroit*

### **Erika D. Hart**

*Taunt Law Firm; Birmingham, Mich.*

### **Hon. Terrance A. Keith**

*Wayne County Probate Court; Detroit*



Erika D. Hart  
700 E. Maple Road, Second Floor  
Birmingham, MI 48009  
(248) 644-0950 - ehart@tauntlaw.com

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## **Mental Health Issues & Bankruptcy**

Personal bankruptcy can often be the result of or related to a difficult period in a client's life, sometimes a combination of several traumatic life events such as divorce, illness, job loss, or death of loved one. Mental health issues such as depression, anxiety, addiction, and other mental health challenges can be an exacerbating factor of financial distress or a consequence of the financial circumstances. While the origin of a client's mental health issues may not be identifiable, an awareness of the condition by bankruptcy counsel can significantly improve a client's likelihood of not only a successful bankruptcy (viewed as obtaining a discharge) but of the bankruptcy experience for both client and counsel. In addition, the ability to identify mental health issues may result in a better outcome for the client, such as discharge of student loans where applicable, meaningful negotiations with creditors and the trustee, and a more streamlined process for obtaining information and documents.

### **I. Boost Your Intake Questions**

Many practitioners ask clients to self-complete the written client questionnaire available from Best Case or other bankruptcy software. These forms can be useful, but often do not provide the entire picture of a client's situation. Many clients see these forms as overwhelming and difficult to understand. The language mostly mirrors the language in the Schedules and Statement of Financial Affairs which, despite the updates to forms in an attempt at simplification, is still complicated for a lay person to understand.

With the attempt to drive the cost of bankruptcy lower, it may seem overwhelming as a practitioner to add another layer of questions to your intake process. But a few additional questions like the ones below may significantly increase your understanding of the client's situation and set up a smoother bankruptcy for both the client and the practitioner. These questions are also tied to information needed for the Schedules and Statement of Financial Affairs, and are not a wasted effort. Given the stigma that is often associated with depression and mental illness, a client may be unlikely to offer up information on a written questionnaire or without a direct question.

**Example Questions:**

Are you receiving any medical or other treatment or services? (Schedule J)

Have you had any medical treatment in the last few years (SOFA)(capacity to testify/potential cause of action if an injury occurred/Exemptions(undisclosed personal injury cases))

Do you take any medications? (Schedule J)(capacity to execute documents or testify)

If unemployed or have scattered employment, would you like to work or work more but are having difficulty getting or holding a job? Why?

When asking about dependents/spouse in the home, are any of the dependents receiving medical or other treatment or services? Are any dependents or spouse taking any medications? Are you a caregiver for a family member?

Are there any pending lawsuits or proceedings? Is there anyone who is helping you with your finances or to make decisions? (SOFA/capacity issues if there is a guardianship or conservatorship)

**II. Legal Impact of Mental Illness in Bankruptcy**

Mental illness can be found in many forms in bankruptcy cases, often seen in the form of depression, anxiety, and substance abuse. As a practitioner, it is important to be aware of your client's mental health, not only for directing the client to available mental health resources, but for managing your case as efficiently as possible for a successful outcome, with an eye towards the impact on the legal proceedings. Below are a few categories of issues where the mental health of your client can impact their case.

**a. Capacity to Act or be Excused from Action.**

- i. Appearance and testimony at 341, an examination under FBR 2004 or in discovery.

The requirement to appear and testify is part of the Debtor's duties under §343, however the Debtor is not the only party who may be required to testify. Under Rule 2004 and as part of discovery in an adversary proceeding as to non-dischargeability or to recover Chapter 5 causes of action, a non-debtor party or witness made be required to appear and testify.

There are several cases which hold that a debtor may excuse appearance at a §341 hearing under very limited circumstances such as death or infirmity. *In re Palmer*, 2015 Bankr. LEXIS 370 (Bkrcty.WD Louisiana.2015). See also the discussion below about whether a power of attorney or other fiduciary can appear in the Debtor's place.

Such appearance and testimony may be excused where a potential deponent is suffering from a mental illness that would either hinder their ability to testify or dramatically impact their mental condition. In *Nicholls v. Jones (In re Jones)*, 2004 Bank. Lexis 485 (Bkrcty.Colo.2004) the court excused the debtor's mother from being deposed as a witness in an adversary proceeding to recover transfers due to the mother's depression and dementia, which a doctor's opinion confirmed would worsen if required to appear.

**PRACTICE POINTER:** Get ahead of this issue. If you think your client cannot testify at the §341, take action as soon as possible. If you feel your client cannot appear at a deposition or a 2004 examination, the requirements are less strict than the statutory appearance at the §341 hearing. Consider filing a motion to explain the circumstances to the court and request the party be excused from appearing as soon as possible. Be prepared to provide an alternative to allow access to the information which was the subject of the exam, such as production of documents or another witness who may have similar information.

ii. Requirement to Complete Prepetition Credit Counseling and Post-Petition Debtor Education.

11 U.S.C. § 109(h)(1) provides in relevant part, that an individual may not be a debtor unless complete the pre-petition credit counseling within 180 days prior to filing. Section § 109(h)(4) provides a limited exception to § 109(h)(1)'s requirement of obtaining a credit counseling briefing on or before the date of filing the bankruptcy petition. It provides:

(4) The requirements of paragraph (1) shall not apply with respect to a debtor whom the court determines, after notice and hearing, is unable to complete those requirements because of incapacity, disability, or active military duty in a military combat zone. For the purposes of this paragraph, incapacity means that the debtor is impaired by reason of mental illness or mental deficiency so that he is incapable of realizing and making rational decisions with respect to his financial responsibilities; and "disability" means that the debtor is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or Internet briefing required under paragraph (1).

**PRACTICE POINTER:** To avoid dismissal, file a motion to excuse pre-petition counseling immediately upon filing the petition. Be prepared with an affidavit or doctor's opinion to explain why the debtor cannot complete the counseling. Note: If the debtor is so incapacitated that they cannot complete the counseling, be prepared to discuss who executed the petition

and schedules on the debtor's behalf. If a guardian, power of attorney or other fiduciary executed the documents, a simpler route may be to have that individual complete the credit counseling as well.

Oddly, the requirement that a debtor complete post-petition debtor education under §727(a)(11) does not have the same qualifications for excuse as provided in §109(h)(1) above. If you are in a position to waive the pre-petition credit counseling, consider asking to waive the post-petition debtor education at the same time in order to be most efficient. If the debtor has substantial mental illness on the petition date, their condition is not likely to change in the 90 day window in which the debtor education would be completed. See also *In re Faircloth*, 2006 WL 3731299 n1 (Bankr.MDNC.2006) which discussed excusing the debtor's post-petition debtor education requirements due to disability.

iii. Testimony of Fiduciary for Debtor.

Under appropriate circumstances, a person other than the debtor can testify or act on behalf of the debtor in the bankruptcy case. If a guardian or conservator has been appointed over the debtor, these fiduciaries have legal authority to act on behalf of the debtor in certain cases. If no formal fiduciary has been appointed, a general power of attorney may be sufficient to allow a third party to act on behalf of the debtor both in execution of the documents and appearance at the 341. *United States v. Spurlin*, 664 F.3d 954, 959 (5<sup>th</sup> Cir. 2011).

A "guardian" or a "conservator" have very different roles under Michigan law. A guardian may be appointed over a formerly competent adult who loses the ability to take care of him or her self properly. A person who loses this ability is called "incapacitated." When an incapacitated person lacks the understanding or ability to make or communicate informed decisions, the individual may need the help of a guardian or conservator. If the incapacitated person has a Durable Power of Attorney or a Designation of Patient Advocate, then a guardian and/or conservator may not be necessary. A guardian takes care of an incapacitated adult's personal needs. A conservator takes care of an incapacitated adult's property. One person can be both the guardian and the conservator for an incapacitated adult. A guardianship or conservatorship will limit an incapacitated adult's legal right to handle his or her own matters and can cost the incapacitated adult time and money.

A Durable Power of Attorney and Designation of Patient Advocate are legal documents which are signed by a person to designate certain financial powers or medical powers, respectively, to another person. These powers can be effective immediately or upon the person's disability (springing).

For purposes of a bankruptcy filing, a Durable Power of Attorney or the appointment of a conservator are the most relevant, although appointment of a guardian should make you pause to consider whether your client has capacity to sign necessary bankruptcy documents.

**PRACTICE POINTER:** If your client does not have capacity to sign bankruptcy schedules, he or she may not have capacity to execute a Durable Power of Attorney. Be careful of recently executed powers of attorney which may indicate elder abuse or manipulation by family (especially if there are large recent credit card purchases). Make sure you actually meet your client in person to determine whether filing a bankruptcy is consistent with their wishes and to gauge their capacity on your own. While you are not a doctor nor required to make a medical determination, if your gut tells you there is something amiss, filing a bankruptcy for a few hundred or few thousand dollars is not worth the potential fallout if the bankruptcy should not have been filed or the power of attorney was not properly obtained.

**b. Impact on Chapter 13 cases.**

i. Ability to Work and Contribute to Plan.

Understanding your client and your client's family's mental health issues is critical when there is a spouse, child or other dependent of the debtor who is unable to work or contribute to the family as a result of their mental health diagnosis. Every Chapter 13 practitioner has encountered the situation of a "loafer" adult child who still lives at home and does not work, but inquiring as to the reason the child is not working or costs that surround the child's circumstances can paint a more accurate picture of the client's circumstances. A Chapter 13 Trustee will often ask if an adult child is contributing to the household income, as well as why a debtor may be choosing to work part time. Be prepared to answer these questions if the debtor must spend time caring for a loved one with a mental illness, attend doctors' appointments, or if an adult child cannot work or move out due to a mental illness.

ii. Medical Expenses.

A debtor's income and expenses are the key to creating a feasible Chapter 13 plan. If a debtor appears to qualify only for Chapter 13, ask specifically about medical expenses which may have been accidentally left off of their questionnaire. Often these are not recurring and may not come to mind when a debtor is listing their monthly expenses. Medical expenses such as prescriptions, therapist appointments, and other alternative or homeopathic treatments such as acupuncture and yoga may be necessary but often forgotten. A client may be embarrassed to discuss such expenses. In addition to having a full picture of your client's circumstances, inclusion of all actual expenses may qualify a debtor for a Chapter 7 filing instead, saving the debtor from years of payments and providing a prompt fresh start. Medical deductions that are approved by the IRS may include those below.

- acupuncture, addiction treatment, ambulance service, annual physical examination, artificial teeth, autoette
- bandage, blood sugar test kit, body scan, breast pumps, breast reconstruction surgery, birth control pills, Braille books and magazines
- capital expenses, car (special equipment), chiropractor, Christian Science practitioner, clinic costs, contact lenses, cosmetic surgery to correct a disfigurement, crutches
- dental treatments, dentist, diagnostic devices, diagnostic tests, disabled dependent care expenses, doctor visit, drug addiction treatment, drugs (when prescribed by a physician)
- eye doctor, eyeglasses, eye surgery (including laser)
- fertility enhancement, founder's fees
- guide dog or other helper animal service
- health institute, health maintenance organization, hearing aids, home care, home improvements, hospital fees and services
- insulin, insulin treatments, insurance premiums, (care for the) intellectually or developmentally disabled
- laboratory fees, lactation supplies, lead-based paint removal, learning disability, legal fees, lifetime care, lodging while receiving medical care (up to \$50 a person per night), long-term care
- meals, medical conferences, medical examinations, medical information plan, medical services, Medicare Part B supplemental costs, Medicare Part D premiums, medicines (when prescribed by a physician)
- nursing home, nursing services
- occupational therapy, operations, optometrist, organ donors, osteopath, oxygen
- physical examination, physical therapy, podiatrist, pregnancy tests and pregnancy test kit, prescription drugs and medicines, prosthesis, psychiatric care, psychoanalysis, psychologist
- reconstructive surgery
- special education, sterilization, stop-smoking programs and prescription drugs, surgery
- telephone, television, therapy, transplants, transportation\*\*, trips, tuition (under special circumstances)
- vasectomy, vision correction surgery
- weight-loss program, wheelchair, whirlpool baths (if ordered by a doctor), wig
- x-ray

**c. Issues of Proof.**

Whether expert testimony is required to prove mental illness depends on the situation. If a guardian or conservator has been appointed to the debtor or witness, a probate court has already made a determination as to that individual's capacity, but be careful as there could be limitations on the guardian or conservator's role or scope. Read all court orders carefully and speak to the guardian or conservator.

For a waiver of credit counseling or appearance at a deposition, the evidentiary requirements for demonstrating the debtor's mental health might be lower, such as a doctor's opinion letter.

For dischargeability of a student loan or defending a §727 action which is based on the debtor's behavior, the standard is higher and more evidence of a debtor's mental illness is likely required as discussed below.

**d. Student Loans – Dischargeability.**

The dischargeability of student loans is a hot topic in bankruptcy and the subject of another section of this conference. As such, these materials will focus solely on whether a debtor's mental illness can be a basis for the discharge of student loans. The *Brunner* test for dischargeability is still applicable in the 6<sup>th</sup> Circuit, requiring a three-part showing that: (1) the debtor cannot maintain, based on current income and expenses, a minimal standard of living for herself and her dependents if forced to repay the loans; (2) that additional circumstances exist indicating that this state of affairs is likely to persist for a significant portion of the repayment period for the student loans; and (3) that the debtor has made good faith efforts to repay the loans. *Oyler v. Educ. Credit Mgmt. Corp. (In re Oyler)*, 397 F.3d 382, 385 (6th Cir. 2005), *Brunner v. New York State Higher Educ. Servs. Corp.*, 831 F.2d 395 (2d Cir. 1987). See also *Kuznicki v. Educ. Credit Mgmt. Corp. (In re Kuznicki)*, 2012 Bankr. LEXIS 605, at \*10 (Bankr.W.D.Pa.2012) which held that the second and third prongs of the *Brunner* test should not be examined if the first prong cannot be met.

The debtor's mental health goes to the second prong of the *Brunner* test, which is often the most difficult of the three prongs to prove and is very fact intensive.

In challenging the dischargeability of a student loan, both the debtor's mental illness itself and the impact of such mental illness on the debtor's ability to be gainfully employed in the future to repay even a portion of the student loan is at issue.

Sufficient evidence is the key factor. A debtor's testimony about her own condition will not be enough to support the high standard of required by *Brunner*. See *Thompson v. N.M. Student Loan Guarantee Corp. (In re Thompson)*, 329 B.R. 145, 163 (Bankr. E.D. Va. 2005) where the Court refused to rely on a debtor's own description of a number of mental disorders that she believes she is afflicted with, including depression, multiple personalities. See also *Gibson v. ECMC (In re Gibson)*, 428 B.R. 385, 390 (Bankr. W.D. Mich. 2010), where the lack of admissible evidence would not support the discharge of a student loan obligation.

But with the right evidence, Courts are willing to find student loans to be dischargeable where mental illness is a factor in the ability to repay. The 6<sup>th</sup> Circuit has made it clear that

expert evidence is not necessarily required in order to meet the *Brunner* standards, stating that the debtor must ‘precisely identify [his] problems and explain how [his] condition would impair [his] ability to work in the future.’ But that the offer of corroborating expert testimony is not necessarily required to meet this burden. *Barrett v. Educ. Credit Mgmt. Corp. (In re Barrett)*, 487 F.3d 353, 359-60 (6th Cir. 2007), citing *In re Tirch*, 409 F.3d 677, 682 (6th Cir. 2005).

See also *Reynolds v. Pa. Higher Educ. Assistance Agency (In re Reynolds)*, 425 F.3d 526, 527 (8th Cir. 2005). The court affirmed dischargeability of a student loan where the debtor suffered from anxiety, panic attacks and depression, and a persistent personality disorder that precluded her from practicing law, although she had a law degree and was licensed. The court found that there was no prospect that her condition would improve to such an extent that she could even work as a paralegal.

“Where the evidence shows that financial obligations are likely to undermine a debtor's health, which in turn will affect the debtor's financial outlook, we think it entirely consistent with *Andrews* and *Long* to take such facts and circumstances into account. We will not adopt an interpretation of ‘undue hardship’ that causes the courts to shut their eyes to factors that may lead to disaster, both personal and financial, for a suffering debtor.” *Renville v. Mont. Guar. Student Loans (In re Renville)*, 2006 Bankr. LEXIS 3211, at \*29 (Bankr. D. Mont. 2006), citing *Reynolds, supra*.

Evidence found to be sufficient to discharge student loans in the Bankruptcy Court for the Eastern District of Kentucky include: “the debtor's testimony and demeanor at trial were demonstrative identification of her problems and explanation of how her condition, major depression, will impair her ability to work in the future. The debtor's exhibits from Bluegrass Comprehensive Care Center accurately reflected the debtor's diagnosis as testified by her at trial. Certainly her difficulties are beyond her control. Additional circumstances indicating that the debtor's current state of financial affairs is likely to persist for a significant portion of the repayment period include her age and the age of her children; her family history; her demeanor on the stand; that she did not obtain a degree and in the past has had only low-paying jobs; that although she has worked with a physician for the last year and a half and her condition is improved, she is not symptom-free; and that she is female and a single parent.” *Gobin v. Coll. Access Network (In re Gobin)*, 2006 Bankr. LEXIS 3794, at \*13-14 (Bankr. E.D. Ky. 2006).

**PRACTICE POINTER:** If your client has substantial student loans, ask questions about their circumstances to determine the viability of a dischargeability proceeding. If they appear to have mental health reasons to support a dischargeability proceeding, ask for the client to provide you with their medical records as soon as possible. A debtor’s self-diagnosis of depression is not enough but a detailed medical history provides a place to start.

e. **§727 – Debtor’s behavior.**

A debtor who suffers from mental health issues may face challenges in keeping good financial records, responding to requests in a timely or meaningful way, or producing records sufficient to satisfy a trustee’s demands. It can be challenging to decipher which debtor clients are unorganized and nonresponsive as a result of mental health issues as opposed to simple disorganization, but too often the debtor’s inability to comply with requests is seen as laziness or a character flaw when medical issues may underlie their failure to act.

Failure to cooperate with the trustee or to adequately explain financial loss can subject your client to a proceeding for potential denial of discharge under certain sections of 11 U.S.C. §727(a).

**§727 (a)(3)** provides for denial of discharge if the debtor has concealed, destroyed, mutilated, falsified, or failed to keep or preserve any recorded information, including books, documents, records, and papers, from which the debtor’s financial condition or business transactions might be ascertained, unless such act or failure to act was justified under all of the circumstances of the case.

Impact of Mental Health Issues: The debtor may be unable to manage his/her financial records and keep track of documents due to depression, addiction or other episodes which could make providing records to the trustee impossible.

**§727(a)(4)** provides for denial of discharge if the debtor knowingly and fraudulently, in or in connection with the case—

(A) made a false oath or account;

...

(D) withheld from an officer of the estate entitled to possession under this title, any recorded information, including books, documents, records, and papers, relating to the debtor’s property or financial affairs.

Impact of Mental Health Issues: The debtor’s understanding of his/her finances may be minimal or change depending on taking medication or assistance from family, resulting in inadvertent misstatements at the §341 meeting or in the schedules and statement of financial affairs.

**§727(a)(5)** provides for denial of discharge if the debtor has failed to explain satisfactorily, before determination of denial of discharge under this paragraph, any loss of assets or deficiency of assets to meet the debtor’s liabilities.

Impact of Mental Health Issues: Similar to §727(a)(4), the debtor’s ability to explain the loss of assets may be impacted by his/her ability to cope with day to day management of his/her finances.

**§727(a)(6)(A)** provides for denial of discharge if the debtor has refused, in the case — to obey any lawful order of the court, other than an order to respond to a material question or to testify.

Impact of Mental Health Issues: A debtor with mental health issues may not be able to timely comply with a court order for production of documents. A consumer practitioner needs to be careful of entering into orders for production under any circumstance, but especially where a mental health issue is suspected and the debtor's ability to comply is questionable. Violating a court order for production of documents gives a trustee the leverage of a §727 claim – explaining to a client with mental health issues that their bankruptcy discharge itself may be in jeopardy could trigger a downward spiral.

# MENTAL HEALTH RESOURCES

MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Community Mental Health Services Programs

**Allegan County CMH Services**

Mark Witte, Director  
3283 122<sup>nd</sup> Avenue  
PO Drawer 130  
Allegan, Michigan 49010  
[mwitte@accmhs.org](mailto:mwitte@accmhs.org)  
269-673-6617 or 800-795-6617 Voice  
**269-673-6617 or 800-795-6617 24-Hour Crisis**  
269-686-5216 TDD/TTY  
269-673-2738 Fax  
A Member of the Lakeshore Regional Entity PIHP

**AuSable Valley CMH Services**

Diane Pelts, Chief Executive Officer  
1199 West Harris Avenue  
PO Box 310  
Tawas City, Michigan 48764  
[diane.pelts@avcmh.org](mailto:diane.pelts@avcmh.org)  
989-362-8636 Voice  
**800-442-7315 24-Hour Crisis**  
800-649-3777 TDD/TTY  
989-362-7800 Fax  
A Member of the Northern MI Regional Entity PIHP

**Barry County CMH Authority**

Richard Thiemkey, Executive Director  
500 Barfield Drive  
Hastings, Michigan 49058  
[rithiemkey@bccmha.org](mailto:rithiemkey@bccmha.org)  
269-948-8041 Voice  
**269-948-8041 24-Hour Crisis**  
269-948-8041 TDD/TTY  
269-948-9319 Fax  
A Member of Southwest MI Behavioral Health PIHP

**Bay-Arenac Behavioral Health**

Christopher Pinter, Chief Executive Officer  
201 Mulholland  
Bay City, Michigan 48708  
[cpinter@babha.org](mailto:cpinter@babha.org)  
989-895-2348 Voice  
**989-895-2300 or 800-327-4693 24-Hour Crisis**  
989-895-2300 TDD/TTY  
989-895-2357 Fax  
A Member of the Mid-State Health Network PIHP

**Berrien Mental Health Authority**

Ric Compton, Chief Executive Officer  
1485 M-139, PO Box 547  
Benton Harbor, Michigan 49023  
[ric.compton@riverwoodcenter.org](mailto:ric.compton@riverwoodcenter.org)  
269-934-1602 Voice  
**269-925-0585 or 800-336-0341 24-Hour Crisis**  
269-925-6746 TDD/TTY-800-799-488-9800 TTY/Suicide  
269-927-6063 Fax  
A Member of Southwest MI Behavioral Health PIHP

**Cass County CMH Authority dba**

**Woodlands Behavioral Healthcare Network**  
Kathy Sheffield, Interim Chief Executive Officer  
960 M-60 East  
Cassopolis, Michigan 49031  
[kathys@woodlandsbhn.org](mailto:kathys@woodlandsbhn.org)  
269-445-2451 Voice  
**800-323-0335 24-Hour Crisis**  
269-445-2451 TDD/TTY  
269-445-3216 Fax  
A Member of Southwest MI Behavioral Health PIHP

**CMH Authority of Clinton-Eaton-Ingham Counties**

Sara Lurie, Chief Executive Officer  
812 East Jolly Road, Suite G-10  
Lansing, Michigan 48910  
[luriesa@ceicmh.org](mailto:luriesa@ceicmh.org)  
517-346-8238 Voice  
**800-372-8460 24-Hour Crisis**  
517-374-7037 TDD/TTY  
517-346-8245 Fax  
A Member of the Mid-State Health Network PIHP

**CMH for Central Michigan**

John Obermesik, Executive Director  
The George Rouman Center  
301 South Crapo Street, Suite 100  
Mt. Pleasant, Michigan 48858  
[jobermesik@cmhcm.org](mailto:jobermesik@cmhcm.org)  
989-772-5938 Voice  
**800-317-0708 24-Hour Crisis**  
989-773-2890 TDD/TTY  
989-773-1968 Fax  
A Member of the Mid-State Health Network PIHP

**Copper Country CMH Services**

Cari Raboin, Executive Director  
901 West Memorial Drive  
Houghton, Michigan 49931  
[carir@cccsmh.org](mailto:carir@cccsmh.org)  
906-482-9400 Voice  
**906-482-4357 or 800-562-7622 24-Hour Crisis**  
906-482-8037 TDD/TTY  
906-483-0269 Fax  
A Member of NorthCare Network PIHP

**Detroit Wayne Mental Health Authority**

Willie Brooks, Chief Executive Officer  
707 West Milwaukee  
Detroit, Michigan 48202  
[wbrooks@dwmha.com](mailto:wbrooks@dwmha.com)  
313-344-9099 ext. 3066 Voice  
**313-224-7000 or 800-241-4949 24-Hour Crisis**  
800-630-1044 TDD/TTY  
313-833-2461 Fax

# AMERICAN BANKRUPTCY INSTITUTE

## MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES Community Mental Health Services Programs

### Genesee Health System

Danis Russell, Chief Executive Officer  
420 West Fifth Avenue  
Flint, Michigan 48503  
[drussell@genhs.org](mailto:drussell@genhs.org)  
810-257-3705 Voice  
**877-346-3648 24-Hour Crisis**  
810-257-1346 TDD/TTY  
810-257-3770 Fax  
A Member of the Region 10 PIHP

### Gogebic CMH Authority

Julie Hautala, Chief Executive Officer  
103 West US 2  
Wakefield, Michigan 49968  
[jhautala@gccmh.org](mailto:jhautala@gccmh.org)  
906-229-6106 Voice  
**800-348-0032 24-Hour Crisis**  
906-229-6120 TDD/TTY  
906-229-6190 Fax  
A Member of NorthCare Network PIHP

### Gratiot Integrated Health Network

Steve Vernon, Chief Executive Officer  
608 Wright Avenue  
Alma, Michigan 48801-0069  
[svernon@GCCMHA.org](mailto:svernon@GCCMHA.org)  
989-463-4971 or 800-622-5583 Voice  
**989-463-4971 or 800-622-5583 24-Hour Crisis**  
989-463-3521 TDD/TTY  
989-466-5470 Fax  
A Member of the Mid-State Health Network PIHP

### Hiawatha Behavioral Health

Dan McKinney, Chief Executive Officer  
125 North Lake Street  
Manistique, Michigan 49854  
[dmckinney@hbhcmh.org](mailto:dmckinney@hbhcmh.org)  
906-341-2144 or 800-839-9443 Voice  
**906-341-2144 or 800-839-9443 24-Hour Crisis**  
906-632-5539 TDD/TTY  
906-341-5793 Fax  
A Member of NorthCare Network PIHP

### Huron Behavioral Health

Suzanne Prich, Executive Director  
1375 R. Dale Wertz Drive  
Bad Axe, Michigan 48413  
[suz@huroncmh.org](mailto:suz@huroncmh.org)  
989-269-9293 ext. 448 Voice  
**800-356-5568 24-Hour Crisis**  
989-269-8966 TDD/TTY  
989-269-7544 Fax  
A Member of the Mid-State Health Network PIHP

### Ionia County CMH dba

**The Right Door for Hope, Recovery and Wellness**  
Kerry Possehn, Chief Executive Officer  
375 Apple Tree Drive  
Ionia, Michigan 48846  
[KPossehn@rightdoor.org](mailto:KPossehn@rightdoor.org)  
616-527-1790 Voice  
**888-527-1790 24-Hour Crisis**  
616-527-0453 TDD/TTY  
616-527-0538 Fax  
A Member of the Mid-State Health Network PIHP

### Kalamazoo CMH & Substance Abuse Services

Jeff Patton, Executive Director  
2030 Portage Street  
Kalamazoo, Michigan 49001  
[jpatton@kazoocmh.org](mailto:jpatton@kazoocmh.org)  
269-364-6901 Voice  
**269-373-6000 or 888-373-6200 24-Hour Crisis**  
Call MRC at 7-1-1 TDD/TTY  
269-364-6992 Fax  
A Member of Southwest MI Behavioral Health PIHP

### Lapeer County CMH Services

Lauren Emmons, Chief Executive Officer  
1570 Suncrest Drive  
Lapeer, Michigan 48446  
[lemmons@lapeercmh.org](mailto:lemmons@lapeercmh.org)  
810-245-8526 Voice  
**888-225-4447 24-Hour Crisis**  
888-225-1973 TDD/TTY  
810-664-8728 Fax  
A Member of the Region 10 PIHP

### Lenawee CMH Authority

Kathryn Szewczuk, Executive Director  
1040 South Winter, Suite 1022  
Adrian, Michigan 49221  
[kszewczuk@lcmha.org](mailto:kszewczuk@lcmha.org)  
517-263-8905 Voice  
**517-263-8905 24-Hour Crisis**  
517-263-8905 TDD/TTY  
517-263-7616 Fax  
A Member of the CMH Partnership of SE MI PIHP

### LifeWays

Maribeth Leonard, Chief Executive Officer  
1200 North West Avenue  
Jackson, Michigan 49202  
[maribeth.leonard@lifewayscmh.org](mailto:maribeth.leonard@lifewayscmh.org)  
517-789-1208 or 517-780-3332 Voice  
**517-789-1200 or 800-284-8288 24-Hour Crisis**  
517-789-2492 TDD/TTY  
517-789-1276 Fax  
A Member of the Mid-State Health Network PIHP

MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Community Mental Health Services Programs

**Livingston County CMH Authority**

Connie Conklin, Executive Director  
622 East Grand River Avenue  
Howell, Michigan 48843  
[cconklin@cmhliv.org](mailto:cconklin@cmhliv.org)  
517-548-0081 Voice  
**517-546-4126 24-Hour Crisis**  
517-546-4126 TDD/TTY  
517-548-0498 Fax  
A Member of the CMH Partnership of SE MI PIHP

**Macomb County CMH Services**

Dave Pankotai, CEO  
22550 Hall Road  
Clinton Township, Michigan 48036  
[dave.pankotai@mccmh.net](mailto:dave.pankotai@mccmh.net)  
586-469-5263 Voice  
**586-307-9100 24-Hour Crisis**  
586-307-9100 TDD/TTY  
586-469-7674 Fax

**Manistee-Benzie CMH dba**

**Centra Wellness Network**

Joseph L. Johnston II, Executive Director  
310 North Glocheski Drive  
Manistee, Michigan 49660  
[cjohnston@centrawellness.org](mailto:cjohnston@centrawellness.org)  
877-398-2013 Voice  
**877-398-2013 24-Hour Crisis**  
Call MRC at 7-1-1 TDD/TTY  
231-723-1504 Fax  
A Member of the Northern MI Regional Entity PIHP

**Monroe CMH Authority**

Lisa Jennings, Executive Director  
PO Box 726  
1001 South Raisinville Road  
Monroe, Michigan 48161-0726  
[ljennings@monroecmh.org](mailto:ljennings@monroecmh.org)  
734-384-8312 Voice  
**734-243-7340 or 800-886-7340 24-Hour Crisis**  
734-243-7340 TDD/TTY  
734-243-5564 Fax  
A Member of the CMH Partnership of SE MI PIHP

**Montcalm Center for Behavioral Health  
dba Montcalm Care Network**

Tammy J. Warner, Executive Director  
611 North State Street  
Stanton, Michigan 48888  
[twarner@montcalmcare.net](mailto:twarner@montcalmcare.net)  
989-831-7520 or 800-377-0974 Voice  
**989-831-7520 24-Hour Crisis**  
989-831-7540 TDD/TTY  
989-831-7578 Fax  
A Member of the Mid-State Health Network PIHP

**CMH Services of Muskegon County dba HealthWest**

Julia Rupp, Executive Director  
376 Apple Avenue  
Muskegon, Michigan 49442  
[julia.rupp@healthwest.net](mailto:julia.rupp@healthwest.net)  
231-724-1104 Voice  
**231-722-4357 24-Hour Crisis**  
231-720-3280 TDD/TTY  
231-724-1300 Fax  
A Member of the Lakeshore Regional Entity PIHP

**network180**

Bill Riley, Transition Manager  
790 Fuller Avenue, NE  
Grand Rapids, Michigan 49503  
[bill.riley@network180.org](mailto:bill.riley@network180.org)  
616-855-5073 Voice  
**616-336-3909 24-Hour Crisis**  
800-649-3777 TDD/TTY  
616-336-3593 Fax  
A Member of the Lakeshore Regional Entity PIHP

**Newaygo County Mental Health Center**

Carol Mills, Chief Executive Officer  
1049 Newell, PO Box 867  
White Cloud, Michigan 49349  
[cmills@newaygocmh.org](mailto:cmills@newaygocmh.org)  
231-689-7553 Voice  
**231-689-7330 or 800-968-7330 24-Hour Crisis**  
231-689-7330 TDD/TTY  
231-689-7345 Fax  
A Member of the Mid-State Health Network PIHP

**North Country CMH**

Christine Gebhard, Chief Executive Officer  
1420 Plaza Drive  
Petoskey, Michigan 49770  
[cgebhard@norcocmh.org](mailto:cgebhard@norcocmh.org)  
877-470-7130 Voice  
**877-470-4668 24-Hour Crisis**  
711 TDD/TTY  
231-347-1241 Fax  
A Member of the Northern MI Regional Entity PIHP

**Northeast Michigan CMH Authority**

Nena Sork, Executive Director  
400 Johnson Street  
Alpena, Michigan 49707  
[nsork@nemcmh.org](mailto:nsork@nemcmh.org)  
989-356-2161 or 800-968-1964 Voice  
**800-442-7315 After Hours Crisis**  
Call MRC at 7-1-1 TDD/TTY  
989-354-5898 Fax  
A Member of the Northern MI Regional Entity PIHP

# AMERICAN BANKRUPTCY INSTITUTE

## MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES Community Mental Health Services Programs

### Northern Lakes CMH Authority

Karl Kovacs, Chief Executive Officer  
105 Hall Street, Suite A  
Traverse City, Michigan 49684

[karl.kovacs@nlcmh.org](mailto:karl.kovacs@nlcmh.org)

231-935-3645 Voice

#### **231-922-4802 24-Hour Crisis**

231-935-3871 or 231-876-3281 TDD/TTY

231-935-3082 Fax

A Member of the Northern MI Regional Entity PIHP

### Northpointe Behavioral Healthcare Systems

Jennifer Cescolini, Chief Executive Officer  
715 Pyle Drive

Kingsford, Michigan 49802

[JCescolini@nbhs.org](mailto:JCescolini@nbhs.org)

906-774-0522 Voice or 1-800-750-0522 (access 24 hrs)

800-649-3777 TDD/TTY

906-774-1570 Fax

A Member of NorthCare Network PIHP

### Oakland Community Health Network

Annette Downey, Chief Executive Officer  
5505 Corporate Drive

Troy, Michigan 48098

[downeya@oaklandchn.org](mailto:downeya@oaklandchn.org)

248-858-1210 Voice

#### **248-456-1991 or 800-231-1127 24-Hour Crisis**

248-209-6902 Video Conference Phone

800-552-8774 TDD/TTY

248-920-0480 Fax

### CMH of Ottawa County

Lynne Doyle, Executive Director  
12265 James Street

Holland, Michigan 49424

[lidoyle@miottawa.org](mailto:lidoyle@miottawa.org)

616-494-5421 Voice

#### **866-512-4357 24-Hour Crisis**

616-494-5508 TDD/TTY

616-393-5687 Fax

A Member of the Lakeshore Regional Entity PIHP

### Pathways

Mary Swift, Chief Executive Officer  
200 West Spring Street

Marquette, Michigan 49855

[mswift@up-pathways.org](mailto:mswift@up-pathways.org)

906-225-7357 Voice

#### **888-728-4929 24-Hour Crisis**

800-649-3777 TDD/TTY

906-225-7204 or 906-225-7203 Fax

A Member of NorthCare Network PIHP

### Pines Behavioral Health Services

Sue Germann, Chief Executive Officer  
200 Vista Drive

Coldwater, Michigan 49036

[sgermann@pinesbhs.org](mailto:sgermann@pinesbhs.org)

517-278-2129 Voice

#### **888-725-7534 24-Hour Crisis**

800-649-3777 TDD/TTY

517-279-8172 Fax

A Member of Southwest MI Behavioral Health PIHP

### St. Clair County Mental Health Authority

Debra Johnson, Executive Director

3111 Electric Avenue

Port Huron, Michigan 48060

[djohnson@scccmh.org](mailto:djohnson@scccmh.org)

810-985-8900 Voice

#### **888-225-4447 24-Hour Crisis**

888-225-1973 TDD/TTY

810-985-7620 Fax

A Member of the Region 10 PIHP

### CMH & Substance Abuse Services of St. Joseph Co

Kris Kirsch, Executive Director

677A East Main Street

Centreville, Michigan 49032

[KKirsch@stjoecmh.org](mailto:KKirsch@stjoecmh.org)

269-467-1000 Voice

#### **800-622-3967 24-Hour Crisis**

800-649-3777 TDD/TTY

269-273-9456 Fax

A Member of Southwest MI Behavioral Health PIHP

### Saginaw County CMH Authority

Sandra M. Lindsey, Chief Executive Officer

500 Hancock

Saginaw, Michigan 48602

[slindsey@sccmha.org](mailto:slindsey@sccmha.org)

989-797-3505 Voice

#### **800-233-0022 or 989-792-9732 24-Hour Crisis**

989-797-3460 TDD/TTY

989-799-0206 Fax

A Member of the Mid-State Health Network PIHP

### Sanilac County CMH Authority

Wil Morris, Executive Director

227 East Sanilac Avenue

Sandusky, Michigan 48471

[wmorris@sanilaccmh.org](mailto:wmorris@sanilaccmh.org)

810-583-0386 Voice

#### **888-225-4447 24-Hour Crisis**

888-225-1973 TDD/TTY

810-648-0319 Fax

A Member of the Region 10 PIHP

**MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Community Mental Health Services Programs**

**Shiawassee County CMH Authority  
dba Shiawassee Health & Wellness**

Lindsey Hull, Chief Executive Officer  
1555 Industrial Drive

Owosso, Michigan 48867

[lhull@shiabewell.org](mailto:lhull@shiabewell.org)

989-723-6791 Voice

**989-723-0710 24-Hour Crisis**

989-723-6791 TDD/TTY

989-725-5061 Fax

A Member of the Mid-State Health Network PIHP

**West Michigan CMH System**

Lisa Williams, Executive Director

920 Diana Street

Ludington, Michigan 49431

[LisaH@wmcms.org](mailto:LisaH@wmcms.org)

231-845-6294 Voice

**800-992-2061 24-Hour Crisis**

800-790-8326 TDD/TTY

231-845-7095 Fax

A Member of the Lakeshore Regional Entity PIHP

**Summit Pointe**

Jeannie Goodrich, Chief Executive Officer

140 West Michigan Avenue

Battle Creek, Michigan 49017

[jmg@summitpointe.org](mailto:jmg@summitpointe.org)

269-966-1460 or 800-783-5449 Voice

**800-632-5449 24-Hour Crisis**

269-966-2890 TDD/TTY

269-966-2844 Fax

A Member of Southwest MI Behavioral Health PIHP

**Tuscola Behavioral Health Systems**

Sharon Beals, Chief Executive Officer

323 N. State Street

Caro, Michigan 48723

[sebeals@tbhs.net](mailto:sebeals@tbhs.net)

989-673-6191 Voice

**989-673-6191 or 800-462-6814 24-Hour Crisis**

989-672-4780 TDD/TTY

989-673-1596 Fax

A Member of the Mid-State Health Network PIHP

**VanBuren Community Mental Health Authority**

Debra Hess, Chief Executive Officer

801 Hazen Street, Suite C, PO Box 249

Paw Paw, Michigan 49079

[dhess@vbcmh.com](mailto:dhess@vbcmh.com)

269-657-5574 Voice

**800-922-1418 24-Hour Crisis**

Call MRC at 7-1-1 TDD/TTY

269-657-3474 Fax

A Member of Southwest MI Behavioral Health PIHP

**Washtenaw County Community Mental Health**

Trish Cortes, Executive Director

555 Towner Street

Ypsilanti, Michigan 48198

[cortest@ewashtenaw.org](mailto:cortest@ewashtenaw.org)

734-544-3050 Voice

**734-996-4747 24-Hour Crisis**

800-649-3777 TDD/TTY

734-544-6732 Fax

A Member of the CMH Partnership of SE MI PIHP

**DWMHA's Mission:**

We are a safety net organization that provides access to a full array of services and supports to empower persons within the Detroit Wayne County behavioral health system.

**Values:**

- ❖ We are a person centered, family and community focused organization.
- ❖ We are an outcome, data driven and evidence-based organization.
- ❖ We respect the dignity and diversity of individuals, providers, staff and communities.
- ❖ We are culturally sensitive and competent.
- ❖ We are fiscally responsible and accountable with the highest standards of integrity.
- ❖ We achieve our mission and vision through partnerships and collaboration.



**Important Numbers**

**Detroit Wayne Mental Health Authority**  
707 West Milwaukee St.  
Detroit, MI 48202  
[www.dwmha.com](http://www.dwmha.com)

**General Office**  
313.833.2500

**Centralized Access Center  
24-Hour Crisis/Information & Referral**  
Toll Free: 1.800.241.4949  
Local: 313.224.7000  
TTY: 1.866.870.2599

**Customer Service,  
Consumer Affairs and Community  
Outreach**  
Toll Free: 1.888.490.9698  
Local: 313.833.3232  
TTY: 1.800.630.1044

**Grievances & Appeals**  
Toll Free: 1.888.490.9698  
Fax: 313.833.4280

**Family Support Subsidy**  
Toll Free: 1.888.490.9698  
Fax: 313.833.4150

**Office of Recipient Rights**  
Toll Free: 1.888.339.5595  
TTY: 1.888.339.5588  
Fax: 313.833.2043



**How to Access  
Routine  
Behavioral  
Health Services**



**Who is Eligible for Mental Health Services?**

The Detroit Wayne Mental Health Authority (DWMHA) is responsible for behavioral health services to Wayne County's two million residents. DWMHA is a safety net organization that provides a full array of services and supports to adults with mental illness (SMI), individuals with intellectual and developmental disabilities (IDD), children and adolescents with serious emotional disturbances (SED), and people with substance use disorders (SUD) or co-occurring disorders (COD).

Services include:

- Information & Referral
- Crisis Intervention/Suicide Prevention
- Disaster Mental Health Resources
- Consultation & Education

Additionally, DWMHA is responsible for behavioral health services for persons with the following insurances:

- Medicaid
- Children's Waiver
- Children with Serious Emotional Disturbance Waiver
- Habilitation Supports Waiver
- Medicare and Medicaid (MI Health Link)

**Steps to Access Routine Mental Health Services**

**Step 1:** DWMHA welcomes you to contact our Access Center to obtain a professional and confidential screening. We are here to assist you with treatment options for your behavioral health needs.

**Step 2:** An Access Center Representative will provide you with a telephonic screening to determine what available services will best suit your needs.

**Step 3:** After the screening, the Access Center will determine if you meet criteria for community behavioral health services.

**Step 4:** If you meet criteria, the Access Center will schedule an appointment for a face-to-face evaluation with one of our behavioral health providers. If you do not meet the criteria, information on community based services may be given to you.

**Step 5:** Upon enrollment, you will be mailed a confirmation letter and a welcome packet with your appointment information.

**Access Center**  
800.241.4949

**Information and Referral**

DWMHA provides an array of services through coordination and collaboration with over 120 service providers. The purpose of Information and Referral services is to conduct a brief screening to determine the appropriate level of care for individuals. DWMHA's Access Center will assist you by:

- ❖ Identifying your needs
- ❖ Finding the most appropriate services and resources to meet your needs
- ❖ Linking you to the most appropriate service provider
- ❖ Providing information on mental health and substance use services and how to access them

**Disclaimer:** DWMHA does not discriminate or exclude people or treat them differently because of race, color, national origin, age, disability or sex.

**MICHIGAN RULES OF PROFESSIONAL CONDUCT**

**Rule: 1.14 Client Under a Disability**

(a) When a client's ability to make adequately considered decisions in connection with the representation is impaired, whether because of minority or mental disability or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.

(b) A lawyer may seek the appointment of a guardian or take other protective action with respect to a client only when the lawyer reasonably believes that the client cannot adequately act in the client's own interest.

Comment: The normal client-lawyer relationship is based on the assumption that the client, when properly advised and assisted, is capable of making decisions about important matters. When the client is a minor or suffers from a mental disorder or disability, however, maintaining the ordinary client-lawyer relationship may not be possible in all respects. In particular, an incapacitated person may have no power to make legally binding decisions. Nevertheless, a client lacking legal competence often has the ability to understand, deliberate upon, and reach conclusions about matters affecting the client's own well-being. Furthermore, to an increasing extent the law recognizes intermediate degrees of competence. For example, children as young as five or six years of age, and certainly those of ten or twelve, are regarded as having opinions that are entitled to weight in legal proceedings concerning their custody. So also, it is recognized that some persons of advanced age can be quite capable of handling routine financial matters while needing special legal protection concerning major transactions.

The fact that a client suffers a disability does not diminish the lawyer's obligation to treat the client with attention and respect. If the person has no guardian or legal Michigan Rules of Professional Conduct Last Updated 5/1/2019 representative, the lawyer often must act de facto as guardian. Even if the person does have a legal representative, the lawyer should as far as possible accord the represented person the status of client, particularly in maintaining communication.

If a legal representative has already been appointed for the client, the lawyer should ordinarily look to the representative for decisions on behalf of the client. If a legal representative has not been appointed, the lawyer should see to such an appointment where it would serve the client's best interests. Thus, if a disabled client has substantial property that should be sold for the client's benefit, effective completion of the transaction ordinarily requires appointment of a legal representative. In many circumstances, however, appointment of a legal representative may be expensive or traumatic for the client. Evaluation of these considerations is a matter of professional judgment on the lawyer's part.

If the lawyer represents the guardian as distinct from the ward, and is aware that the guardian is acting adversely to the ward's interest, the lawyer may have an obligation to prevent or rectify the guardian's misconduct. See Rule 1.2(c).

If the lawyer seeks the appointment of a legal representative for the client, the filing of the request itself, together with the facts upon which it is predicated, may constitute the disclosure of confidential information which could be used against the client. If the court to whom the matter is submitted thereafter determines that a legal representative is not necessary, the harm befalling the client as the result of the disclosure may be irreparable. Consequently, consideration should be given to initially filing the petition seeking the appointment of a legal representative *ex parte* so that the court can decide how best to proceed to minimize the potential adverse consequences to the client by, for example, issuing a protective order limiting the disclosure of the confidential information upon which the request is predicated.

**DISCLOSURE OF THE CLIENT'S CONDITION** Rules of procedure in litigation generally provide that minors or persons suffering mental disability shall be represented by a guardian or next friend if they do not have a general guardian. However, disclosure of the client's disability can adversely affect the client's interests. For example, raising the question of disability could, in some circumstances, lead to proceedings for involuntary commitment. The lawyer's position in such cases is an unavoidably difficult one. The lawyer may seek guidance from an appropriate diagnostician.

MICHIGAN ESTATES AND PROTECTED INDIVIDUALS CODE

**700.5313 Guardian; qualifications.**

Sec. 5313.

(1) The court may appoint a competent person as guardian of a legally incapacitated individual. The court shall not appoint as a guardian an agency, public or private, that financially benefits from directly providing housing, medical, mental health, or social services to the legally incapacitated individual. If the court determines that the ward's property needs protection, the court shall order the guardian to furnish a bond or shall include restrictions in the letters of guardianship as necessary to protect the property.

(2) In appointing a guardian under this section, the court shall appoint a person, if suitable and willing to serve, in the following order of priority:

(a) A person previously appointed, qualified, and serving in good standing as guardian for the legally incapacitated individual in another state.

(b) A person the individual subject to the petition chooses to serve as guardian.

(c) A person nominated as guardian in a durable power of attorney or other writing by the individual subject to the petition.

(d) A person named by the individual as a patient advocate or attorney in fact in a durable power of attorney.

(3) If there is no person chosen, nominated, or named under subsection (2), or if none of the persons listed in subsection (2) are suitable or willing to serve, the court may appoint as a guardian an individual who is related to the individual who is the subject of the petition in the following order of preference:

(a) The legally incapacitated individual's spouse. This subdivision shall be considered to include a person nominated by will or other writing signed by a deceased spouse.

(b) An adult child of the legally incapacitated individual.

(c) A parent of the legally incapacitated individual. This subdivision shall be considered to include a person nominated by will or other writing signed by a deceased parent.

(d) A relative of the legally incapacitated individual with whom the individual has resided for more than 6 months before the filing of the petition.

(e) A person nominated by a person who is caring for the legally incapacitated individual or paying benefits to the legally incapacitated individual.

(4) If none of the persons as designated or listed in subsection (2) or (3) are suitable or willing to serve, the court may appoint any competent person who is suitable and willing to serve, including a professional guardian as provided in section 5106.

**700.5314 Powers and duties of guardian.**

Sec. 5314.

If meaningful communication is possible, a legally incapacitated individual's guardian shall consult with the legally incapacitated individual before making a major decision affecting the legally incapacitated individual. To the extent a guardian of a legally incapacitated individual is granted powers by the court under section 5306, the guardian is responsible for the ward's care, custody, and control, but is not liable to third persons because of that responsibility for the ward's acts. In particular and without qualifying the previous sentences, a guardian has all of the following powers and duties, to the extent granted by court order:

(a) The custody of the person of the ward and the power to establish the ward's place of residence in or outside this state. The guardian shall visit the ward within 3 months after the guardian's appointment and not less than once within 3 months after each previous visit. The guardian shall notify the court within 14 days of a change in the ward's place of residence or a change in the guardian's place of residence.

(b) If entitled to custody of the ward, the duty to make provision for the ward's care, comfort, and maintenance and, when appropriate, arrange for the ward's training and education. The guardian shall secure services to restore the ward to the best possible state of mental and physical well-being so that the ward can return to self-management at the earliest possible time. Without regard to custodial rights of the ward's person, the guardian shall take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects and commence a protective proceeding if the ward's other property needs protection. If a guardian commences a protective proceeding because the guardian believes that it is in the ward's best interest to sell or otherwise dispose of the ward's real property or interest in real property, the court may appoint the guardian as special conservator and authorize the special conservator to proceed under section 5423(3). A guardian shall not otherwise sell the ward's real property or interest in real property.

(c) The power to give the consent or approval that is necessary to enable the ward to receive medical, mental health, or other professional care, counsel, treatment, or service. However, a guardian does not have and shall not exercise the power to give the consent to or approval for inpatient hospitalization unless the court expressly grants the power in its order. If the ward objects or actively refuses mental health treatment, the guardian or any other interested person must follow the procedures provided in chapter 4 of the mental health code, 1974 PA 258, MCL 330.1400 to 330.1490, to petition the court for an order to provide involuntary mental health treatment. The power of a guardian to execute a do-not-resuscitate order under subdivision (d), execute a nonopioid directive form under subdivision (f), or execute a physician orders for scope of treatment form under subdivision (g) does not affect or limit the power of a guardian to consent to a physician's order to withhold resuscitative measures in a hospital. As used in this subdivision, "involuntary mental health treatment" means that term as defined in section 400 of the mental health code, 1974 PA 258, MCL 330.1400.

(d) The power to execute, reaffirm, and revoke a do-not-resuscitate order on behalf of a ward. However, a guardian shall not execute a do-not-resuscitate order unless the guardian does all of the following:

(i) Not more than 14 days before executing the do-not-resuscitate order, visits the ward and, if meaningful communication is possible, consults with the ward about executing the do-not-resuscitate order.

(ii) Consults directly with the ward's attending physician as to the specific medical indications that warrant the do-not-resuscitate order.

(e) If a guardian executes a do-not-resuscitate order under subdivision (d), not less than annually after the do-not-resuscitate order is first executed, the duty to do all of the following:

(i) Visit the ward and, if meaningful communication is possible, consult with the ward about reaffirming the do-not-resuscitate order.

(ii) Consult directly with the ward's attending physician as to specific medical indications that may warrant reaffirming the do-not-resuscitate order.

(f) The power to execute, reaffirm, and revoke a nonopioid directive form on behalf of a ward.

(g) The power to execute, reaffirm, and revoke a physician orders for scope of treatment form on behalf of a ward. However, a guardian shall not execute a physician orders for scope of treatment form unless the guardian does all of the following:

(i) Not more than 14 days before executing the physician orders for scope of treatment form, visits the ward and, if meaningful communication is possible, consults with the ward about executing the physician orders for scope of treatment form.

(ii) Consults directly with the ward's attending physician as to the specific medical indications that warrant the physician orders for scope of treatment form.

(h) If a guardian executes a physician orders for scope of treatment form under subdivision (f), not less than annually after the physician orders for scope of treatment is first executed, the duty to do all of the following:

(i) Visit the ward and, if meaningful communication is possible, consult with the ward about reaffirming the physician orders for scope of treatment form.

(ii) Consult directly with the ward's attending physician as to specific medical indications that may warrant reaffirming the physician orders for scope of treatment form.

(i) If a conservator for the ward's estate is not appointed, the power to do any of the following:

(i) Institute a proceeding to compel a person under a duty to support the ward or to pay money for the ward's welfare to perform that duty.

(ii) Receive money and tangible property deliverable to the ward and apply the money and property for the ward's support, care, and education. The guardian shall not use money from the ward's estate for room and board that the guardian or the guardian's spouse, parent, or child have furnished the ward unless a charge for the service is approved by court order made on notice to at least 1 of the ward's next of kin, if notice is possible. The guardian shall exercise care to conserve any excess for the ward's needs.

(j) The duty to report the condition of the ward and the ward's estate that is subject to the guardian's possession or control, as required by the court, but not less often than annually. The guardian shall also serve the report required under this subdivision on the ward and interested persons as specified in the Michigan court rules. A report under this subdivision must contain all of the following:

(i) The ward's current mental, physical, and social condition.

(ii) Improvement or deterioration in the ward's mental, physical, and social condition that occurred during the past year.

- (iii) The ward's present living arrangement and changes in his or her living arrangement that occurred during the past year.
- (iv) Whether the guardian recommends a more suitable living arrangement for the ward.
- (v) Medical treatment, including mental health treatment, received by the ward.
- (vi) Whether the guardian has executed, reaffirmed, or revoked a do-not-resuscitate order on behalf of the ward during the past year.
- (vii) Whether the guardian has executed, reaffirmed, or revoked a nonopioid directive form on behalf of the ward during the past year.
- (viii) Whether the guardian has executed, reaffirmed, or revoked a physician orders for scope of treatment form on behalf of the ward during the past year.
- (ix) Services received by the ward.
- (x) A list of the guardian's visits with, and activities on behalf of, the ward.
- (xi) A recommendation as to the need for continued guardianship.
- (k) If a conservator is appointed, the duty to pay to the conservator, for management as provided in this act, the amount of the ward's estate received by the guardian in excess of the amount the guardian expends for the ward's current support, care, and education. The guardian shall account to the conservator for the amount expended.

**700.5423 Powers of conservator in administration.**

Sec. 5423.

(1) Subject to a limitation imposed under section 5427, a conservator has all of the powers conferred in this section and the additional powers conferred by law on trustees in this state. In addition, a conservator of the estate of an unmarried minor, as to whom no one has parental rights, has the powers, responsibilities, and duties of a guardian described in section 5215 until the individual is no longer a minor or marries. The parental rights conferred on a conservator by this section do not preclude a guardian's appointment as provided in part 2.

(2) Acting reasonably in an effort to accomplish the purpose of the appointment and without court authorization or confirmation, a conservator may do any of the following:

- (a) Collect, hold, or retain estate property, including land in another state, until the conservator determines that disposition of the property should be made. Property may be retained even though it includes property in which the conservator is personally interested.
- (b) Receive an addition to the estate.
- (c) Continue or participate in the operation of a business or other enterprise.
- (d) Acquire an undivided interest in estate property in which the conservator, in a fiduciary capacity, holds an undivided interest.
- (e) Invest or reinvest estate property. If the conservator exercises the power conferred by this subdivision, the conservator must invest or reinvest the property in accordance with the Michigan prudent investor rule.
- (f) Deposit estate money in a state or federally insured financial institution including one operated by the conservator.

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(g) Except as provided in subsection (3), acquire or dispose of estate property, including land in another state, for cash or on credit, at public or private sale, or manage, develop, improve, exchange, partition, change the character of, or abandon estate property.

(h) Make an ordinary or extraordinary repair or alteration in a building or other structure, demolish an improvement, or raze an existing or erect a new party wall or building.

(i) Subdivide, develop, or dedicate land to public use; make or obtain the vacation of a plat or adjust a boundary; adjust a difference in valuation on exchange or partition by giving or receiving consideration; or dedicate an easement to public use without consideration.

(j) Enter for any purpose into a lease as lessor or lessee with or without option to purchase or renew for a term within or extending beyond the term of the conservatorship.

(k) Enter into a lease or arrangement for exploration and removal of a mineral or other natural resource or enter into a pooling or unitization agreement.

(l) Grant an option involving disposition of estate property or take an option for the acquisition of property.

(m) Vote a security, in person or by general or limited proxy.

(n) Pay a call, assessment, or other amount chargeable or accruing against or on account of a security.

(o) Sell or exercise stock subscription or conversion rights.

(p) Consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise.

(q) Hold a security in the name of a nominee or in other form without disclosure of the conservatorship so that title to the security may pass by delivery. However, the conservator is liable for an act of the nominee in connection with the stock so held.

(r) Insure the estate property against damage or loss or the conservator against liability with respect to third persons.

(s) Borrow money to be repaid from estate property or otherwise.

(t) Advance money for the protection of the estate or the protected individual, and for all expense, loss, or liability sustained in the estate's administration or because of the holding or ownership of estate property. The conservator has a lien on the estate as against the protected individual for such an advance.

(u) Pay or contest a claim; settle a claim by or against the estate or the protected individual by compromise, arbitration, or otherwise; and release, in whole or in part, a claim belonging to the estate to the extent that the claim is uncollectible.

(v) Pay a tax, assessment, conservator's compensation, or other expense incurred in the estate's collection, care, administration, and protection.

(w) Allocate an item of income or expense to either estate income or principal, as provided by law, including creation of a reserve out of income for depreciation, obsolescence, or amortization, or for depletion in mineral or timber property.

(x) Pay money distributable to a protected individual or the protected individual's dependent by paying the money to the distributee or by paying the money for the use of the distributee to the distributee's guardian, or if none, to a relative or other person having custody of the distributee.

(y) Employ a person, including an auditor, investment advisor, or agent, even though the person is associated with the conservator, to advise or assist in the performance of an

administrative duty; act upon the person's recommendation without independent investigation; and, instead of acting personally, employ an agent to perform an act of administration, whether or not discretionary.

(z) Employ an attorney to perform necessary legal services or to advise or assist the conservator in the performance of the conservator's administrative duties, even if the attorney is associated with the conservator, and act without independent investigation upon the attorney's recommendation. An attorney employed under this subdivision shall receive reasonable compensation for his or her employment.

(aa) Prosecute or defend an action, claim, or proceeding in any jurisdiction for the protection of estate property and of the conservator in the performance of a fiduciary duty.

(bb) Execute and deliver an instrument that will accomplish or facilitate the exercise of a power vested in the conservator.

(cc) Respond to an environmental concern or hazard affecting property as provided in section 5424.

(3) A conservator shall not sell or otherwise dispose of the protected individual's principal dwelling, real property, or interest in real property or mortgage, pledge, or cause a lien to be placed on any such property without approval of the court. The court shall only approve the sale, disposal, mortgage, or pledge of or lien against the principal dwelling, real property, or interest in real property if, after a hearing with notice to interested persons as specified in the Michigan court rules, the court considers evidence of the value of the property and otherwise determines that the sale, disposal, mortgage, pledge, or lien is in the protected individual's best interest.