FORENSIC PROCESS FOR NGRI
(Not Guilty by Reason of Insanity)
Effective July, 2021

NGRI Process and Responsibilities

DEFINITIONS:

Alternative Treatment Report

A report developed and submitted by the responsible community mental health services program (CMHSP) to the probate court during the hearing for involuntary hospitalization offering a community treatment alternative during the involuntary hospitalization hearing.

Assisted Outpatient Treatment (AOT) Order

A directive issued by a probate court requiring an individual to undergo AOT consistent with §468(2)(c) and (d) of the Michigan Mental Health Code (MMHC). Assisted outpatient treatment can be both an order to adhere to outpatient services or it may incorporate both outpatient and admission to a hospital.

Assisted Outpatient Treatment (AOT)

Services ordered by a probate court under §468 or 469a of the MMHC. Assisted outpatient treatment may include a case management plan and related services to provide care coordination under the supervision of a psychiatrist and developed in accordance with person-centered planning under §712 of the MMHC. This definition also may include one or more of the following:

- Medication.
- Periodic blood tests or urinalysis to determine compliance with prescribed medications.
- Individual or group therapy.
- Day or partial day programming activities.
- Vocational, educational, or self-help training or activities.
- Assertive community treatment team services.
- Alcohol or substance use disorder treatment and counseling and periodic tests for the presence of alcohol or illegal drugs for an individual with a history of alcohol abuse or substance use disorder.
- Supervision of living arrangements, and
- Any other services within a local or unified services plan developed under the MMHC that are prescribed to treat the individual's mental illness and to assist the individual in living and functioning in the community or to attempt to prevent a relapse or deterioration that may reasonably be predicted to result in suicide, the need for hospitalization, or serious violent behavior.

- The medical review and direction included in AOT must be provided under the supervision of the psychiatrist.

Diagnostic Period

A period of time, not to exceed 60 days, that the Center for Forensic Psychiatry (CFP) has to thoroughly examine and evaluate the present mental condition of a person adjudicated as being not guilty by reason of insanity (NGRI) to determine whether they meet criteria as requiring treatment.

Discharge

An absolute, unconditional release of an individual from a hospital by action of the hospital or a court. Discharge decisions must be based on each person's actual, real, and individualized risk mitigation and behavioral health treatment needs. For purposes of this policy, a discharge also includes a person's release from a hospital on an AOT order pursuant to §468(2)(c) and (d). This document does not address an individual's discharge from an AOT order.

Forensic Liaison

An individual assigned by CFP, another hospital operated by the department, or community mental health services program to provide administrative management and coordination between the treating parties. Such coordination activities include, but may not necessarily be limited to, leave of absences (LOAs) and discharges.

Hospital

An inpatient program operated by the department for the treatment of individuals with serious mental illness, serious emotional disturbance, or intellectual/developmental disability.

Individual Plan of Service (IPOS)

The fundamental document in the person's record, developed in partnership with the person using a person-centered planning process that establishes meaningful goals and measurable objectives including risk mitigation strategies overseen by the NGRI Committee. The plan must identify services (including discharge planning), supports and treatment as desired or required by the person.

Leave of Absence (LOA)

A temporary leave from a hospital ordered by a physician for treatment or community engagement purposes that does not exceed one year. The NGRI committee will be notified of LOAs and evaluate and approve any non-medical LOAs that include an overnight stay. Any LOA may require an NGRI committee evaluation and approval, if indicated in the IPOS and based upon the individualized treatment needs including appropriate risk mitigation strategies.

Not Guilty by Reason of Insanity (NGRI)

An affirmative defense to a prosecution of a criminal offense that the defendant was legally insane when they committed the acts constituting the offense. An individual is legally insane if, because of a mental illness as defined in § 400 of the MMHC, or because of having an intellectual disability as defined in §100b of the MMHC, that person lacks substantial capacity either to appreciate the nature and quality or the wrongfulness of their conduct or to conform their conduct to the requirements of the law. Mental illness or having an intellectual disability does not otherwise constitute a defense of legal insanity.

Not Guilty by Reason of Insanity (NGRI) Committee

A multidisciplinary team consisting of forensic clinical staff (psychiatrists, psychologists, and social workers) who are certified or consulting forensic examiners. Members of the committee are appointed by the CFP director.

Person

For purposes of this document, an individual who has been adjudicated NGRI.

Plan Coordinator

A licensed social worker or psychologist who integrates, coordinates, monitors and assures implementation of each person's IPOS. Monitoring includes ongoing review of the IPOS, recording progress and changes, and initiating modification of the IPOS, as necessary. A member of the treatment team will be designated as the plan coordinator for the hospital treatment team or community treatment team where indicated.

Risk Mitigation Strategies

Strategies in a person's IPOS designed to reduce a person's risk of harming themselves or others. Risk mitigations strategies must be tied to the person's behavioral health treatment needs.

Supervisory Level Forensic Psychiatrist

A forensic psychiatrist assigned by the CFP director who coordinates services between the hospital treatment team, the NGRI Committee and the forensic liaison. This position advises the hospital treatment team to ensure, at a minimum, that risk mitigation strategies have been addressed based upon the person's behavioral health needs.

Treatment Team

Those individuals who work together to develop and implement an IPOS. A treatment team includes the person, the person's guardian, a multidisciplinary team of mental health care professionals, including the plan coordinator, and involved direct care staff, A treatment team may be either a hospital treatment team or community treatment team.

Violent Crime

First-, second- and third-degree murder, voluntary manslaughter, and criminal sexual conduct crimes.

NOT GUILTY BY REASON OF INSANITY

1. Overview

Persons adjudicated NGRI will be immediately committed to CFP. During the diagnostic period CFP will:

- Examine and evaluate the present mental condition of the person to determine whether they meet the criteria of the person requiring treatment as defined by §401 of the MMHC.
- File a report to the court indicating the findings of the individual's condition and whether they meet § 401 criteria. If the person is determined to be a person requiring treatment, the court may direct the prosecutor to file a petition pursuant to §434 for an order of hospitalization.

The contractual provisions below describe the responsibilities of the NGRI Committee, CFP, regional hospitals (RH), and CMHSP in the coordination of care, treatment, and transition to community living.

2. Petitions of Involuntary Treatment / Assisted Outpatient Treatment Orders

Petitions for involuntary mental health treatment must accurately reflect the treatment the individual will receive. Petitions for hospitalization should only be filed if the person meets the criteria for in-patient hospitalization and will receive treatment in the hospital. If the person is going to receive treatment in the community, the petition must request AOT or combined AOT/hospitalization. This is the case regardless of an individual's NGRI status.

Individuals adjudicated NGRI may be discharged from a hospital on an AOT order. The NGRI Committee will collaborate with the CMHSP on the AOT order to ensure appropriate risk mitigation strategies are incorporated into the IPOS. The NGRI committee's involvement will end after the individual has been in the community for five continuous years on an AOT order. Nothing in this contract precludes the CMHSP from petitioning for an AOT order following NGRI involvement if the CMHSP determines it is clinically appropriate.

3. Roles and Responsibilities

a. NGRI Committee

i. Consult with the supervisory level forensic psychiatrist to incorporate appropriate risk mitigation strategies into the IPOS. The risk mitigation strategies should be designed to promote the person's discharge to a less restrictive setting.
ii. Receive clinical information from, and provide feedback to, the hospital treatment teams and the CMHSP on proposed changes to the IPOS as it relates to risk mitigation strategies.
iii. Review and authorize request for discharges and LOAs based on whether the person continues to meet the criteria of a person requiring treatment pursuant to §401.
iv. Submit requests for discharge or LOA for individuals charged with a violent crime to a forensic psychiatrist independent of the NGRI committee designated by the senior deputy director of the State Hospital Administration (SHA) in accordance with APF 106.
v. Provide written notification to the person, hospital treatment team and CMHSP of the approval or disapproval of the requested discharge or LOA that includes a detailed reason for the decision and treatment recommendations that will lead the person towards approval.
vi. Consult with the CMHSP on appropriate risk mitigation strategies to be included in an IPOS once a person is discharged to the community on an AOT order.
vii. End NGRI involvement when the risk mitigation goals are met and the person no longer meets treatment criteria, or after five continuous years in the community whether on an AOT order or under an ALS contract, which ever happens first.

b. Hospital Treatment Team

i. Consult with the supervisory level forensic psychiatrist to ensure risk mitigation strategies, based on the person's behavioral health needs, are addressed in the IPOS.
ii. Consult with the CMHSP on an individualized pre-release plan for appropriate community placement and aftercare services appropriate for each person in accordance with §209a of the MMHC.
iii. Request in writing a request for discharge or LOA to the NGRI committee in accordance with MDHHS Hospital Policy APF 106.
iv. Provide advance notice to the CMHSP of a person's anticipated release to the community.
v. Notify and provide a Petition for Discharge (PCM 220) to the person and their guardian, of the ability to file a petition for discharge in accordance with §484 of the MMHC if a discharge is denied by the NGRI Committee.
vi. Notify the person and their guardian of the right to request an administrative review of a denial for discharge or LOA in accordance with MDHHS Hospital Policy APF 106.

vii. Notify the NGRI committee of any significant changes in the behavioral or medical health status of the individual as its impacts risk mitigation.
viii. Request an emergent consultation with the NGRI Committee as necessary.

c. Community Mental Health Service Providers

i. Identify a primary and secondary Forensic Liaison that is primarily responsible for:
   1. Tracking, reviewing, and monitoring court documentation and statutorily required reports. See Exhibit A.
   2. Documenting and summarizing the risk mitigation strategies recommended by the NGRI Committee. These strategies will be monitored and submitted to Disability Rights Michigan by the NGRI Committee upon request.
   3. Notify the court pursuant to §475 of the MMHC when mental health professional who is supervising an individual's assisted outpatient treatment program determines that the individual is not complying with the court order or that the assisted outpatient treatment has not been or will not be sufficient to prevent harm that the individual may inflict on himself or herself or upon others.
   4. Notify the NGRI Committee as outlined in Exhibit B.
   5. Transition all ALS/hospitalization order to an AOT order with appropriate risk mitigation strategies incorporated into the IPOS at the expiration of a hospitalization order or upon request. AOT orders should only be pursued if the person meets the criteria for treatment.
   6. Ensure that each person currently in the community is provided a NGRI Handbook.
   7. Include the following language in the IPOS when there is NGRI committee oversight:

AOT IPOS Notification Language

As an individual adjudicated NGRI, risk mitigation strategies are incorporated into your IPOS. The NGRI Committee is consulted on these risk mitigation strategies, and the NGRI Committee reviews and approves your IPOS. These risk mitigation strategies cannot be restrictions that are not clinically indicated.

If you believe that your IPOS contains risk mitigations strategies or restrictions that are not related to your mental health treatment, or have other issues with your treatment, contact Disability Rights Michigan at 517-487-1755.

You also have the right to submit a complaint to the State Office of Recipient Rights. Phone number 1-800-854-9090, send written complaints to:

Michigan Department of Community Health
Office of Recipient Rights
Lewis Cass Building-Garden Level
Lansing, MI 48933

8. Notify people who have received treatment in the community for five years or longer that they are no longer under NGRI supervision.

ii. Participate in prerelease planning services in accordance with §209a and §209b. This includes but is not limited to consulting with the hospital treatment team, the NGRI Committee, and the person on an individualized pre-release plan for appropriate community placement as well as appropriate aftercare services. The release plan must include individualized risk mitigation strategies as recommended by the NGRI Committee.

iii. Supervise treatment and the individualized risk mitigation strategies in the IPOS in accordance with the individual's clinical needs. This includes, but is not limited to, developing and monitoring IPOS, medication management, providing day or residential programs, counseling, psychotherapy, and other treatment deemed necessary by the individual's treatment team.

iv. Provide an opportunity to resolve disputes regarding the planning and provision of services and supports in accordance with MCL 330.1206a.

v. Attend MDHHS trainings on NGRI processes.

vi. Submit all petitions and reports by fax to the NGRI committee the Forensic Liaison at the responsible RH, and the person in accordance with Exhibit A.

vii. All notification and authorization requirements are to be in writing and faxed to the NGRI Committee and Forensic Liaison as provided in Sec. 6 of this agreement.

viii. Must seek authorization from the NGRI committee within 14 days of the recommended changes in treatment or living arrangements.

ix. Must notify the NGRI Committee and Forensic Liaison at the RH within 72 hours of occurrence giving rise to the notification requirement described in Exhibit B.

x. Will seek NGRI Committee Authorization or Notification as outlined in in Exhibit B.

xi. If a person adjudicated NGRI is receiving treatment in the community on an AOT order and is determined to be on Unauthorized Leave of Absence, the CMH Forensic Liaison/designee will:
   1) Notify the NGRI Committee and SHA Regional Hospital Forensic Liaison as soon as possible but no later than 72 hours of determination of the ULOA status.
   2) Contact the local police to file a missing person's report.
   3) Report and any additional updates/information to the NGRI Committee and SHA Regional Hospital Forensic Liaison.
   4) Once the person is located, coordinate with local police and hospital personnel to facilitate admission if rehospitalization is indicated.
   5) If a determination has been made that the patient needs to be readmitted to CFP, send a CMH Approval Letter to the SHA Regional Hospital Forensic Liaison to facilitate the administrative transfer process.

xii. If a person adjudicated NGRI is receiving treatment in the community on an AOT order or in LOA status, and is displaying a dangerous behavior or poses a safety risk that may require rehospitalization, the CMH Forensic Liaison/designee will:
   1) Secure local hospitalization to ensure stability and inform the local hospital that patient is on a current court order.
   2) Notify the NGRI Committee and SHA Regional Hospital Forensic Liaison of the circumstances.
   3) Maintain contact with the RH staff and convey information to the NGRI Committee and SHA Regional Hospital Forensic Liaison.
   4) If stabilization cannot occur locally and additional hospitalization is required, will coordinate with the RH admissions staff and the NGRI Committee to secure a bed at a RH.
   5) Upon securing a bed at a RH, prepare a rehospitalization packet and arrange admission.
   6) If the person needs to be readmitted to CFP, provide a CMH Approval Letter to the hospital to facilitate the administrative transfer process.

4. Notices

All notices and other communications required or permitted under this Contract must be in writing and will be considered given and received when:

- Verified by written receipt if sent by courier.
- Received if sent by mail without verification of receipt; or
- Verified by automated receipt or electronic logs if sent by facsimile or email

NGRI Committee	**CMH Forensic Liaison**
Insert Fax/ phone/email	**Insert Fax/ phone/email**

EXHIBIT A

Court Documentation and Reporting

CMH required court forms and Reports	**When**	**Court Form**	**MCL /MCR**
Order and Report on Alternative Mental Health Treatment	14 prior to the expiration of the current order	PCM 216	330.1453a, 330.1468 MCR 5.741
Petition for continuing Mental Health Treatment Order	14 days prior to expiration of current order	PCM 218a	MCL 330.1472a, MCL 330.1473
Ninety-day reports	90 days and 270 days after the date the current order was signed	x	x
(3) Thirty - Day Reports when individuals are released to community directly from CFP.	At 30, 90 and 120 days from the date of release.		

Exhibit B

Authorization from NGRI Committee 14 days prior to event.		**Notification to NGRI/RH Forensic Liaison within 72 hours.**
Significant changes in treatment plans		Any significant changes in the behavioral or medical health status of the individual.
Overnight leaves of absence from the designated living setting		Community Hospital Admissions, including the reason for the hospitalizations, facility name, date of admission and date of discharge
Movement between dependent living settings		Contacts with law enforcement
Any changes from one independent setting to another		Any change in case manager or case management providers/ contractual agencies
Any change in the patients permanent living address		
Permission to leave the state of Michigan		

EXHIBIT C

SAMPLE 30/90 DAY REPORT

EXHIBIT D

Community Leave of Absence Request

Exhibit E

Flow Chart

CMHSP/Contractual CMH Agency 30 or 90 Day Progress Report

☐ **30 Day Report** ☐ **90-Day Report**

MEMORANDUM

To: NGRI Committee
Center for Forensic Psychiatry
Box 2060
Ann Arbor, MI 48106-2060
Phone: (734)295-4295/(734)295-4328
Fax: (734) 429-0487

FROM: Aftercare Agency Representative Name
Agency Address
Phone Number
Email Address
Fax Number

DATE:

RE: **Patient's Name, DOB, CFP Number**

Date of most recent release to community from state hospital setting:

1. **The patient was adjudicated NGRI on charges(s) of:**

2. **Present mental status:** *(Clinical assessment including individual's appearance, attitude, behavior, mood and affect, speech, thought process, thought content, perception, cognition, insight and judgment, suicidal or homicidal ideation)*
    - Customize to individual's pattern of symptoms, note any changes in acuity, and indicate status of persistent, long-standing symptoms if present.

3. **Current Medication List:**
    - Include all medications and dosages (psychotropic and medical)
    - Please identify all recent medication changes/dosage adjustments, and rationale for changes.

4. **Living arrangements, level of care, and current address:**

5. **Describe therapeutic services:**
    - Frequency of individual and group sessions, day treatment/clubhouse participation, substance abuse treatment, Urine Drug Screens, work hours

6. **Describe patient's progress towards treatment goals in IPOS:**
    - Level of participation/engagement in treatment

7. **Additional comments/concerns:**

Signature: _____ Date: _____
Printed name

Cc: Supervising Hospital

CMHSP/Contractual CMH Agency NGRI Request Form

☐ **LOA Request** ☐ **Move Request** ☐ **Special Request**

MEMORANDUM

To: NGRI Committee
Center for Forensic Psychiatry
Box 2060
Ann Arbor, MI 48106-2060
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    - Customize to individual's pattern of symptoms, note any changes in acuity, and indicate status of persistent, long-standing symptoms if present.

3. **Current Medication List:**
    - Include all medications and dosages (psychotropic and medical)
    - Please identify all recent medication changes/dosage adjustments, and rationale for changes.

4. **Living arrangements, level of care, and current address:**

5. **Describe therapeutic services:**
    - Frequency of individual and group sessions, day treatment/clubhouse participation, substance abuse treatment, Urine Drug Screens, work hours

6. **Describe patient's progress towards treatment goals in IPOS:**
    - Level of participation/engagement in treatment

7. **Request:**

☐ LOA *(date, location, purpose, degree of supervision, etc.)*
- Does individual who is monitoring patient on LOA understand the patient's illness and warning signs? Have they been involved in treatment?
- How will patient get to LOA (family picks up/public transportation/etc)?
- Prior successful LOAs? Any concerns/problematic behavior on previous LOAs?
- Please make note of any special considerations that may impact this individual (PPOs, Crime Victim Notifications, Limitations on unsupervised contacts, etc)
- Include Emergency Plan
- Does team support request?

☐ Move Request
- Provide rationale why move is indicated
- Please include proposed level of supervision/level of care/frequency of services/who will be living in residence/etc.
- Please make note of any special considerations that may impact this individual (PPOs, Crime Victim Notifications, Limitations on unsupervised contacts, etc)
- Does team support request?

☐ Special Request _____
- Level of Service change (Please include level of supervision/frequency of services/why indicated)
- Employment Request-if approval indicated in IPOS (Please describe in detail type of employment, number of hours, shift hours)
- Does team support request?

Signature: _____ Date: _____
Printed name

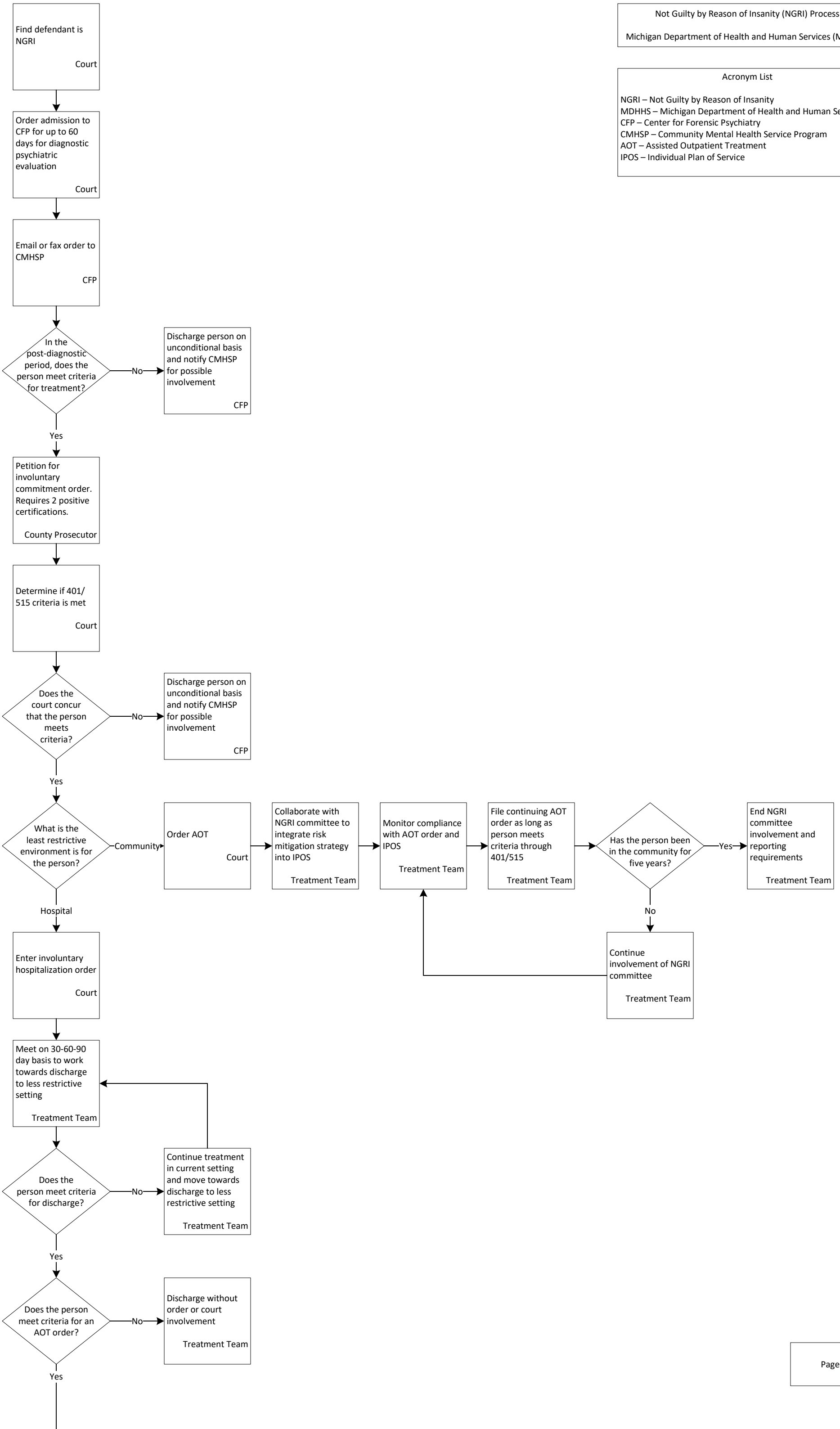
Cc: Supervising Hospital

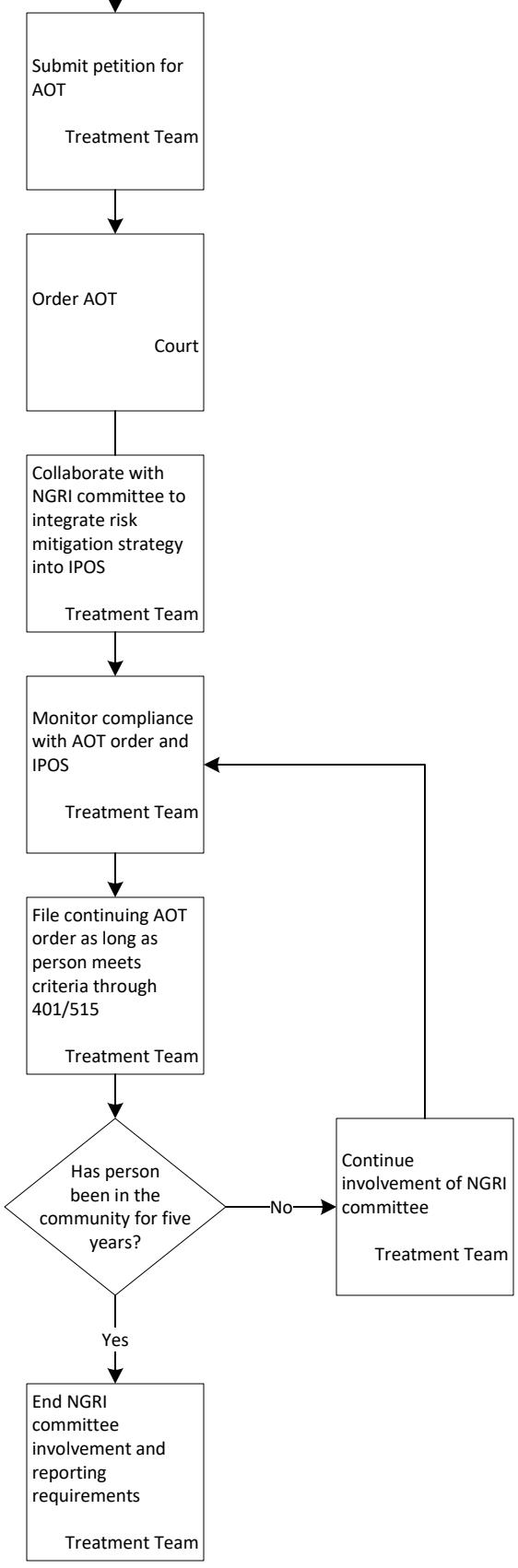
Not Guilty by Reason of Insanity (NGRI) Process

Michigan Department of Health and Human Services (MDHHS)

Acronym List

NGRI – Not Guilty by Reason of Insanity
MDHHS – Michigan Department of Health and Human Services
CFP – Center for Forensic Psychiatry
CMHSP – Community Mental Health Service Program
AOT – Assisted Outpatient Treatment
IPOS – Individual Plan of Service




Submit petition for AOT
Treatment Team
Order AOT
Court
Collaborate with NGRI committee to integrate risk mitigation strategy into IPOS
Treatment Team
Monitor compliance with AOT order and IPOS
Treatment Team
File continuing AOT order as long as person meets criteria through 401/515
Treatment Team
Has person been in the community for five years?
No
Continue involvement of NGRI committee
Treatment Team
Yes
End NGRI committee involvement and reporting requirements
Treatment Team