

Assisted Outpatient Treatment Guide to Court Petition Process

What is Assisted Outpatient Treatment?

Assisted outpatient treatment is court-ordered care for adults with severe mental illnesses, like schizophrenia or bipolar disorder, who struggle to stay in treatment and may be a danger to themselves or others if they do not receive treatment. The AOT court proceeding is not criminal in nature and does not result in a criminal record.

AOT must be ordered by a court after an application process. The legal term for this application is “petition.”

The petition can be found on page 5 of this guide.

Who Can File a Petition?

The law allows a parent, spouse, adult child, adult sibling, and roommate to petition for an order to AOT.

Certain medical professionals are also allowed to file a petition. This includes hospital directors, surrogate decision-makers, directors of residential treatment facilities, doctors, and nurses with a specialty in mental health.

Who is Eligible for Assisted Outpatient Treatment?

Someone is eligible if they meet all of these requirements:

- 18 or older.
- Diagnosed with mental illness **and**
- Refusing to agree to treatment on their own, but need it to stop their symptoms from getting worse or coming back

The last requirement is that the individual has...

- Been in the hospital or jail two or more times in the past four years;
- Tried to hurt themselves or others at least once in the past four years;
- OR, been in the hospital or jail for six months or longer.

You can review the eligibility requirements at:

NMSA 1978 Section 43-1B-3

Assisted Outpatient Treatment

Guide to Court Petition Process

How to File a Petition

To file a petition, use the forms on pages 4 to 6 of this packet. There is a checklist on page 4 that includes everything needed. Work with your qualified professional to accurately fill out the qualified professional affidavit. The treatment team is the participant's personalized group that assists with addressing the participant's needs. To make sure the person qualifies for this program, review the eligibility requirements listed above on page 1.

Who is the Treatment Team?

Participants will receive ongoing support from a treatment team designed to address their needs and help manage their behavioral health.

Treatment Team Members

- The participant
- The judge
- A case manager
- A psychiatrist or mental health professional
- The attorney appointed to represent the participant

The goal of AOT is to build a positive relationship between the participant and the treatment team. The participant, at the end of treatment, should be able to manage their mental health on their own and live well in the community they choose.

How to Prepare for the Hearing

To prepare for the hearing, make sure everyone involved in the case knows the date and time the hearing will take place. The petitioner must work with a qualified professional to develop a proposed treatment plan that must include case management and medication management. Bring the proposed treatment plan and make sure the qualified professional can attend the hearing.

What Happens at AOT Hearings and Meetings?

At the **petition hearing**, the judge will review the petition and ask questions about the participant's behavioral health. A petition must include information and approval from a qualified professional, who may be asked to testify.

After the first hearing, treatment team meetings are held to monitor the participant's progress. These are called **staffing meetings**, and they are informal and conversational.

At a **review hearing**, the participant, the treatment team, and possibly others will speak with the judge about the participant's progress. The review hearings are formal and require action that will be entered into the case.

Assisted Outpatient Treatment Checklist

- Check eligibility on page 1 and make sure the individual entering treatment fits the required categories.
- Fill out the forms but do not sign them:
 - Petition Form (go to page 5)
 - Qualified Professional Affidavit (go to page 6)
 - Motion Seeking a Qualified Protective Order (go to page 7)
- Make three copies of everything before you go to the court.
- File these forms with the district court.
- Get all forms notarized by the Court Clerk.
- Pay the filing fee for the Petition. (\$132)
- Work with the qualified professional to prepare the proposed treatment plan.
- Attend the hearing and bring all documents and witnesses to the hearing.

Notice of the court date will be sent by mail or e-mail.

Assisted Outpatient Treatment Petition Form

What is in the Petition?

The petition is a document that requests the court to order someone to AOT. It includes what makes the participant eligible for assisted outpatient treatment and the county where the individual lives.

STATE OF NEW MEXICO
COUNTY OF _____
____ JUDICIAL DISTRICT COURT

IN THE MATTER OF _____:
A PERSON ALLEGED TO BE IN NEED
OF ASSISTED OUTPATIENT TREATMENT

D-____-SI-20-_____

PETITION FOR ASSISTED OUTPATIENT TREATMENT

COMES NOW Petitioner, _____, by and through undersigned counsel, pursuant to the Assisted Outpatient Treatment Act, NMSA 1978, §§ 43-1B-1 to -14 (2016), and states the following:

1. The _____ District Court has entered into a Memorandum of Understanding with _____ County for an Assisted Outpatient Treatment (AOT) program.
2. The Petitioner is:

[Initial one of the following]

- ____ a qualified professional who either supervises the treatment of or treats the Respondent for a mental disorder or has supervised or treated the Respondent for a mental disorder within the past forty-eight months; or
- ____ the director of a hospital where the Respondent is hospitalized; or
- ____ the director of a public or charitable organization or agency or a home where the Respondent resides and that provides mental health services to the Respondent; or
- ____ a person eighteen years of age or older who resides with the Respondent; or
- ____ the parent or spouse of the Respondent; or
- ____ a person eighteen years of age or older and the sibling or child of the Respondent; or
- ____ a surrogate decision-maker.

This form must be
notarized in order
to file.
This can be
provided at the
clerks office.

Scan the QR code below to
fill out the form.



Assisted Outpatient Treatment Qualified Professional Affidavit

What is in the Qualified Professional Affidavit?

The qualified professional affidavit tells the judge why the qualified professional believes that the person qualifies for assisted outpatient treatment. This form must be filled out by the qualified professional.

STATE OF NEW MEXICO
COUNTY OF _____ JUDICIAL DISTRICT COURT

IN THE MATTER OF :
A PERSON ALLEGED TO BE IN NEED
OF ASSISTED OUTPATIENT TREATMENT

D-____-SI-20-_____

AFFIDAVIT OF QUALIFIED PROFESSIONAL

Affiant under NMSA 1978, Section 43-1-B-4(D), states:

I, _____, alert the Court to the following:

1. I am a physician, licensed psychologist, prescribing psychologist, certified nurse practitioner or clinical nurse specialist with a specialty in mental health, or a physician assistant with a specialty in mental health.

Please initial either 2 or 3:

2. _____ I have personally examined the Respondent no more than ten days prior to the filing of the instant petition, and I recommend assisted outpatient treatment for the Respondent; OR
3. _____ No more than ten days prior to the filing of the instant petition, I have unsuccessfully attempted to persuade the Respondent to submit to an examination, and I have reason to believe that the Respondent meets the criteria for assisted outpatient treatment.
4. I am willing and able to testify at the hearing on the petition either in person or by contemporaneous transmission from a different location.
5. Respondent meets all of the criteria for assisted outpatient treatment:

- a. The Respondent's last known address is:

_____;

- b. The Respondent is eighteen years of age or older:
Date of Birth: _____;

- c. The Respondent's [suspected] primary diagnosis is:

_____;

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Assisted Outpatient Treatment

Motion Seeking a Qualified Protective Order

What is in the Motion?

The motion for a qualified protective order asks the judge to let members of the treatment team share the participant's private health information with each other to make assisted outpatient treatment easier.

STATE OF NEW MEXICO
COUNTY OF _____
____ JUDICIAL DISTRICT COURT

IN THE MATTER OF :
A PERSON ALLEGED TO BE IN NEED
OF ASSISTED OUTPATIENT TREATMENT

D- ____-SI-20- ____

MOTION SEEKING A QUALIFIED PROTECTIVE ORDER

COMES NOW the Petitioner, _____, and respectfully moves this Honorable Court for a Qualified Protective Order under NMSA 1978, Section 43-1B-5. In support thereof, Counsel for Petitioner asserts the following:

1. The Petitioner has filed a petition under Section 43-1B-3 for the Respondent to participate in Assisted Outpatient Treatment.
2. Counsel for Petitioner moves this Court to determine which parties to the proceeding and their attorneys are authorized to receive, subpoena and transmit protected health information pertaining to the Respondent for the purposes of the proceeding.
3. Counsel for Petitioner moves that within forty-five (45) days after the later of the exhaustion of all appeals or the date on which the Respondent is no longer receiving Assisted Outpatient Treatment, the parties, their attorneys, and any person or entity in possession of the Respondent's protected health information received from a party or the party's attorney in the court of the proceeding, shall destroy all copies of protected health information pertaining to the respondent, except that counsel are not required to secure the return or destruction of protected health information submitted to the court.

WHEREFORE, Counsel for Petitioner moves the Court for a Qualified Order of Protection pursuant to NMSA 1978, Section 43-1B-5.

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to file.
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Assisted Outpatient Treatment Flowchart

Petition is prepared for AOT, which includes the Qualified Professional Affidavit.

Petition is filed in District Court.

The AOT program manager receives the petition for AOT and reviews for completeness.

The AOT program manager schedules the AOT hearing with the pilot judge within 3-7 days of the petition being reviewed.

Attend the hearing. The person petitioning must have a proposed treatment plan ready before the hearing.

Judge orders AOT.

Judge denies AOT.

If appropriate, prepare a new petition and file.

The proposed treatment plan will be reviewed by the judge and should outline the participants' needs when they are in the program, if ordered into AOT.

Assisted Outpatient Treatment Guide to Court Petition Process

What is the Timeline for the AOT Process?

The timeline of a typical case is:

- Petition hearing- the court will act on the petition within a week of receiving it.
- 6-month review hearing
- Graduation hearing

Staffing meetings happen at least once a month.

Upon completing the AOT program, a participant will receive a certificate to acknowledge and celebrate their accomplishment.

Are There Ways to Support Someone While They Are In The AOT Program?

Supporting a participant may include:

- Attend future AOT hearings
- Participate in the development of the treatment plan, if permitted
- Notify the treatment team when there are concerns
- Encourage the participant to share their concerns with the treatment team
- Recognize and celebrate improvement
- Provide emotional support for the participant

What If Someone Does Not Follow Their Treatment Plan?

The AOT program is handled by civil court, not criminal court, so someone will not go to jail or face criminal penalties if they don't follow their treatment plan.

If the participant doesn't stick to the treatment plan, there could be changes to the AOT order. These changes to the AOT order could include having to see the judge more often, staying in the program longer, having the treatment plan changed, or being considered for hospitalization.

Can The Order Be Extended?

Yes. If someone is ordered to AOT, it lasts for a year, but can be extended upon request to the court.

Assisted Outpatient Treatment

Guide to Court Accessibility

Things to Know Before Going to Court

- At the hearing, be sure to show up and be on time.
- Plan out parking and transportation ahead of time.
- Check with the specific court for their cell phone policy.
- Avoid bringing children to hearings if possible.
- Take notes to write down any court orders the judge makes or information given at the hearing.

Disabilities or Interpreters

Disabilities:

[Request for Accommodations Form](#)

[Information on Accommodations](#)

Interpreters:

[Visit specific court site for interpreter services.](#)

[Example site: Interpreter Services](#)

[Interpreter Request Form](#)

Scribing:

[Scribing Services](#)

Scribing Services provide assistance to individuals who need help filling out forms without giving legal advice.

For Further Insight: AOT Webpage

