

Act No. 17
Public Acts of 1995
Approved by the Governor
April 10, 1995
Filed with the Secretary of State
April 12, 1995

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1995**

Introduced by Rep. Anthony

ENROLLED HOUSE BILL No. 4001

AN ACT to amend Act No. 258 of the Public Acts of 1974, entitled as amended "An act to modernize, add to, revise, consolidate, and codify the statutes relating to mental health; to delineate the powers and duties of the department of mental health; to establish county community mental health programs; to delineate state and county financial responsibility for public mental health services; to create certain funds; to establish procedures for the civil admission and discharge of mentally ill persons to and from mental health facilities; to establish procedures for the civil admission and discharge of persons with developmental disabilities to and from facilities; to establish guardianship arrangements for persons with developmental disabilities; to establish certain rights of persons who receive mental health services; to establish financial liability for the receipt of public mental health services; to establish certain miscellaneous provisions relating to mental health; to establish procedures pertaining to persons with mental illness or developmental disabilities who are under criminal sentence, to persons who are mentally incompetent to stand trial, and to persons who have been found not guilty by reason of insanity; to repeal certain acts and parts of acts; and to repeal certain parts of this act on a specific date," as amended, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws, by adding section 919.

The People of the State of Michigan enact:

Section 1. Act No. 258 of the Public Acts of 1974, as amended, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws, is amended by adding section 919 to read as follows:

Sec. 919. (1) As used in this section:

(a) "County program" means a county community mental health program.

(b) "Department" means the department of mental health.

(c) "Individual" means an individual requiring mental health treatment services.

(d) "Receiving agency" means a public or private agency or county program that, under this section, provides treatment to individuals from a state other than the state in which the agency or county program is located.

(e) "Receiving state" means the state in which a receiving agency is located.

(f) "Sending agency" means a public or private agency located in a state that sends an individual to another state for treatment under this section.

(g) "Sending state" means the state in which a sending agency is located.

(2) A county program may contract as provided under this section with a public or private agency located in a state bordering Michigan to secure services under this act for an individual who receives services through the county program.

(3) A county program may contract as provided under this section with a public or private agency located in a state bordering Michigan to provide services under this act in an approved treatment facility in this state for an individual

who is a resident of the bordering state, except that such services may not be provided for an individual who is involved in criminal proceedings.

(4) A contract entered into under this section may not be validly executed until the department has reviewed and approved the provisions of the contract and determined that the receiving agency provides services in accordance with the standards of this state and the attorney general has certified that the receiving state's laws governing patient rights are substantially similar to those of this state.

(5) An individual does not establish legal residence in the state where the receiving agency is located while the individual is receiving services pursuant to a contract executed under this section.

(6) Section 748 applies to treatment records of an individual receiving services pursuant to a contract executed under this section through a receiving agency in this state, except that the sending agency has the same right of access to the treatment records of the individual as provided for the department under section 748(4)(e).

(7) An individual who is detained, committed, or placed on an involuntary basis under this act may be admitted and treated in another state pursuant to a contract executed under this section. An individual who is detained, committed, or placed under the civil law of a state bordering Michigan may be admitted and treated in this state pursuant to a contract executed under this section. Court orders valid under the law of the sending state are granted recognition and reciprocity in the receiving state for individuals covered by a contract executed under this section to the extent that the court orders relate to admission for the treatment or care of a mental disability. The court orders are not subject to legal challenge in the courts of the receiving state. An individual who is detained, committed, or placed under the law of a sending state and who is transferred to a receiving state under this section continues to be in the legal custody of the authority responsible for the individual under the law of the sending state. Except in an emergency, such an individual may not be transferred, removed, or furloughed from a facility of the receiving agency without the specific approval of the authority responsible for the individual under the law of the sending state.

(8) While in the receiving state pursuant to a contract executed under this section, an individual is subject to all of the laws and regulations applicable to an individual detained, committed, or placed pursuant to the corresponding laws of the receiving state, except those laws and regulations of the receiving state pertaining to length of involuntary inpatient treatment, reexaminations, and extensions of involuntary inpatient treatment and except as otherwise provided by this section. The laws and regulations of the sending state relating to length of involuntary inpatient treatment, reexaminations, and extensions of involuntary inpatient treatment apply. An individual shall not be sent to another state pursuant to a contract executed under this section until the receiving state has enacted a law recognizing the validity and applicability of this state's laws as provided in this section.

(9) If an individual receiving treatment on a voluntary basis pursuant to a contract executed under this section requests discharge, the receiving agency shall immediately notify the sending agency and shall return the individual to the sending state as directed by the sending agency within 48 hours after the request, excluding Saturdays, Sundays, and legal holidays, unless other arrangements are made with the sending agency. The sending agency shall immediately upon return of the individual either arrange for the discharge of the individual or detain the individual pursuant to the emergency detention laws of the sending state.

(10) If an individual receiving services pursuant to a contract executed under this section leaves the receiving agency without authorization and the individual at the time of the unauthorized leave is subject to involuntary inpatient treatment under the laws of the sending state, the receiving agency shall use all reasonable means to locate and return the individual. The receiving agency shall immediately report the unauthorized leave of absence to the sending agency. The receiving state has the primary responsibility for, and the authority to direct, the return of individuals within its borders and is liable for the cost of such action to the extent that it would be liable for costs if an individual who is a resident of the receiving state left without authorization.

(11) An individual may be transferred between facilities of the receiving state if transfers are permitted by the contract executed under this section providing for the individual's care.

(12) Each contract executed under this section shall do all of the following:

(a) Establish the responsibility for payment for each service to be provided under the contract. Charges to the sending state shall not be more or less than the actual cost of providing the service.

(b) Establish the responsibility for the transportation of individuals to and from receiving agencies.

(c) Provide for reports by the receiving agency to the sending agency on the condition of each individual covered by the contract.

(d) Provide for arbitration of disputes arising out of the contract that cannot be settled through discussion between the contracting parties and specify how the arbitrators will be chosen.

(e) Include provisions ensuring the nondiscriminatory treatment, as required by law, of employees, individuals receiving services, and applicants for employment and services.

(f) Establish the responsibility for providing legal representation for an individual receiving services in a legal proceeding involving the legality of admission and the conditions of involuntary inpatient treatment.

(g) Establish the responsibility for providing legal representation for an employee of a contracting party in legal proceedings initiated by an individual receiving treatment pursuant to the contract.

(h) Include provisions concerning the length of the contract and the means by which the contract can be terminated.

(i) Establish the right of 1 or more qualified employees or representatives of the sending agency and sending state to inspect, at all reasonable times, the records of the receiving agency and its treatment facilities to determine if appropriate standards of care are met for individuals receiving services under the contract.

(j) Require the sending agency to provide the receiving agency with copies of all relevant legal documents authorizing involuntary inpatient treatment of an individual who is admitted pursuant to the laws of the sending state and is receiving services pursuant to a contract executed under this section.

(k) Require each individual who seeks treatment on a voluntary basis to agree in writing to be returned to the sending state upon making a request for discharge as provided in subsection (9) and require an agent or employee of the sending agency to certify that the individual understands that agreement.

(l) Establish the responsibility for securing a reexamination for an individual and for extending an individual's period of involuntary inpatient treatment.

(m) Include provisions specifying when a receiving facility can refuse to admit or retain an individual.

(n) Specify the circumstances under which an individual will be permitted a home visit or granted a pass to leave the facility, or both.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.