

**SUBSTITUTE FOR
SENATE BILL NO. 684**

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending sections 226 and 469a (MCL 330.1226 and 330.1469a),
section 226 as amended by 2002 PA 595 and section 469a as added
by 1996 PA 588, and by adding section 433.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 226. (1) The board of a community mental health
2 services program shall do all of the following:

3 (a) Annually conduct a needs assessment to determine the
4 mental health needs of the residents of the county or counties it
5 represents and identify public and nonpublic services necessary
6 to meet those needs. Information and data concerning the mental
7 health needs of individuals with developmental disability,
8 serious mental illness, and serious emotional disturbance shall
9 be reported to the department in accordance with procedures and

1 at a time established by the department, along with plans to meet
2 identified needs. It is the responsibility of the community
3 mental health services program to involve the public and private
4 providers of mental health services located in the county or
5 counties served by the community mental health program in this
6 assessment and service identification process. The needs
7 assessment shall include information gathered from all
8 appropriate sources, including community mental health waiting
9 list data and school districts providing special education
10 services.

11 (b) Annually review and submit to the department a needs
12 assessment report, annual plan, and request for new funds for the
13 community mental health services program. The standard format
14 and documentation of the needs assessment, annual plan, and
15 request for new funds shall be specified by the department.

16 (c) In the case of a county community mental health agency,
17 obtain approval of its needs assessment, annual plan and budget,
18 and request for new funds from the board of commissioners of each
19 participating county before submission of the plan to the
20 department. In the case of a community mental health
21 organization, provide a copy of its needs assessment, annual
22 plan, request for new funds, and any other document specified in
23 accordance with the terms and conditions of the organization's
24 inter-local agreement to the board of commissioners of each
25 county creating the organization. In the case of a community
26 mental health authority, provide a copy of its needs assessment,
27 annual plan, and request for new funds to the board of

1 commissioners of each county creating the authority.

2 (d) Submit the needs assessment, annual plan, and request for
3 new funds to the department by the date specified by the
4 department. The submission constitutes the community mental
5 health services program's official application for new state
6 funds.

7 (e) Provide and advertise a public hearing on the needs
8 assessment, annual plan, and request for new funds before
9 providing them to the county board of commissioners.

10 (f) Submit to each board of commissioners for their approval
11 an annual request for county funds to support the program. The
12 request shall be in the form and at the time determined by the
13 board or boards of commissioners.

14 (g) Annually approve the community mental health services
15 program's operating budget for the year.

16 (h) Take those actions it considers necessary and appropriate
17 to secure private, federal, and other public funds to help
18 support the community mental health services program.

19 (i) Approve and authorize all contracts for the provision of
20 services.

21 (j) Review and evaluate the quality, effectiveness, and
22 efficiency of services being provided by the community mental
23 health services program. The board shall identify specific
24 performance criteria and standards to be used in the review and
25 evaluation. These shall be in writing and available for public
26 inspection upon request.

27 (k) Subject to subsection (3), appoint an executive director

1 of the community mental health services program who meets the
2 standards of training and experience established by the
3 department.

4 (l) Establish general policy guidelines within which the
5 executive director shall execute the community mental health
6 services program.

7 (m) Require the executive director to select a physician, a
8 registered professional nurse with a specialty certification
9 issued under section 17210 of the public health code, 1978
10 PA 368, MCL 333.17210, or a licensed psychologist to advise the
11 executive director on treatment issues.

12 (2) A community mental health services program may do all of
13 the following:

14 (a) Establish demonstration projects allowing the executive
15 director to do 1 or both of the following:

16 (i) Issue a voucher to a recipient in accordance with the
17 recipient's plan of services developed by the community mental
18 health services program.

19 (ii) Provide funding for the purpose of establishing
20 revolving loans to assist recipients of public mental health
21 services to acquire or maintain affordable housing. Funding
22 under this subparagraph shall only be provided through an
23 agreement with a nonprofit fiduciary.

24 (b) Carry forward any surplus of revenue over expenditures
25 under a capitated managed care system. Capitated payments under
26 a managed care system are not subject to cost settlement
27 provisions of section 236.

1 (c) Carry forward the operating margin up to 5% of the
2 community mental health services program's state share of the
3 operating budget for the fiscal years ending September 30, ~~2000,~~
4 ~~2001, 2002, 2003, and 2004~~ 2005, 2006, 2007, and 2008. A
5 community mental health services program that has provided
6 assisted outpatient treatment services during a fiscal year shall
7 be eligible for carryforward under this section of up to 7% of
8 the operating margin. As used in this subdivision, "operating
9 margin" means the excess of state revenue over state expenditures
10 for a single fiscal year exclusive of capitated payments under a
11 managed care system. In the case of a community mental health
12 authority, this carryforward is in addition to the reserve
13 accounts described in section 205(4)(h).

14 (d) Pursue, develop, and establish partnerships with private
15 individuals or organizations to provide mental health services.

16 (e) Share the costs or risks, or both, of managing and
17 providing publicly funded mental health services with other
18 community mental health services programs through participation
19 in risk pooling arrangements, reinsurance agreements, and other
20 joint or cooperative arrangements as permitted by law.

21 (3) In the case of a county community mental health agency,
22 the initial appointment by the board of an individual as
23 executive director is effective unless rejected by a 2/3 vote of
24 the county board of commissioners within 15 calendar days.

25 **Sec. 433. (1) Any individual 18 years of age or over may**
26 **file a petition with the court that asserts that an individual**
27 **meets the criteria for assisted outpatient treatment specified in**

1 section 401(d). The petition shall contain the facts that are
2 the basis for the assertion, the names and addresses, if known,
3 of any witnesses to the facts, and the name and address of the
4 nearest relative or guardian, if known, or, if none, a friend, if
5 known, of the individual who is the subject of the petition.

6 (2) Upon receipt of a petition, the court shall inform the
7 subject of the petition and the community mental health services
8 program serving the community in which the subject of the
9 petition resides that the court shall hold a hearing to determine
10 whether the subject of the petition meets the criteria for
11 assisted outpatient treatment. The hearing shall be governed by
12 sections 453, 454, 458 to 464, and 465.

13 (3) If in the hearing, the court verifies that the subject of
14 the petition meets the criteria for assisted outpatient treatment
15 and he or she is not scheduled to begin a course of outpatient
16 mental health treatment that includes case management services or
17 assertive community treatment team services, the court shall
18 order the subject of the petition to receive assisted outpatient
19 treatment through his or her local community mental health
20 services program. The order shall include case management
21 services or assertive community treatment team services. The
22 order may include 1 or more of the following:

23 (a) Medication.

24 (b) Blood or urinalysis tests to determine compliance with or
25 effectiveness of prescribed medications.

26 (c) Individual or group therapy.

27 (d) Day or partial day programs.

1 (e) Educational and vocational training.

2 (f) Supervised living.

3 (g) Alcohol or substance abuse treatment, or both.

4 (h) Alcohol or substance abuse testing, or both, for
5 individuals with a history of alcohol or substance abuse and for
6 whom that testing is necessary to prevent a deterioration of
7 their condition. A court order for alcohol or substance abuse
8 testing shall be subject to review every 6 months.

9 (i) Any other services prescribed to treat the individual's
10 mental illness and to either assist the individual in living and
11 functioning in the community or to help prevent a relapse or
12 deterioration that may reasonably be predicted to result in
13 suicide or the need for hospitalization.

14 (4) To fulfill the requirements of an assisted outpatient
15 treatment plan, the court's order may specify the service role
16 that a publicly-funded entity other than the community mental
17 health services program shall take.

18 (5) In developing an order under this section, the court
19 shall consider any preferences and medication experiences
20 reported by the subject of the petition or his or her designated
21 representative, whether or not the subject of the petition has an
22 existing individual plan of services under section 712, and any
23 directions included in a durable power of attorney or advance
24 directive that exists. If the subject of the petition has not
25 previously designated a patient advocate or executed an advance
26 directive, the responsible community mental health services
27 program shall, before the expiration of the assisted outpatient

1 treatment order, ascertain whether the subject of the petition
2 desires to establish an advance directive. If so, the community
3 mental health services program shall direct the subject of the
4 petition to the appropriate community resources for assistance in
5 developing an advance directive.

6 (6) If an assisted outpatient treatment order conflicts with
7 the provisions of an existing advance directive, durable power of
8 attorney, or individual plan of services developed under section
9 712, the assisted outpatient treatment order shall be reviewed
10 for possible adjustment by a psychiatrist not previously involved
11 with developing the assisted outpatient treatment order.

12 (7) Nothing in this section negates or interferes with an
13 individual's rights to appeal under any other state law or
14 Michigan court rule.

15 Sec. 469a. (1) Before ordering a course of treatment for an
16 individual found to be a person requiring treatment, the court
17 shall review a report on alternatives to hospitalization that was
18 prepared under section 453a not more than 15 days before the
19 court issues the order. After reviewing the report, the court
20 shall do all of the following:

21 (a) Determine whether a treatment program that is an
22 alternative to hospitalization or that follows an initial period
23 of hospitalization is adequate to meet the individual's treatment
24 needs and is sufficient to prevent harm that the individual may
25 inflict upon himself or herself or upon others within the near
26 future.

27 (b) Determine whether there is an agency or mental health

1 professional available to supervise the individual's alternative
2 treatment program.

3 (c) Inquire as to the individual's desires regarding
4 alternatives to hospitalization.

5 (2) If the court determines that there is a treatment program
6 that is an alternative to hospitalization that is adequate to
7 meet the individual's treatment needs and prevent harm that the
8 individual may inflict upon himself or herself or upon others
9 within the near future and that an agency or mental health
10 professional is available to supervise the program, the court
11 shall issue an order for alternative treatment or combined
12 hospitalization and alternative treatment in accordance with
13 section 472a. The order shall state the community mental health
14 services program or, if private arrangements have been made for
15 the reimbursement of mental health treatment services in an
16 alternative setting, the name of the mental health agency or
17 professional that is directed to supervise the individual's
18 alternative treatment program. The order may provide that if an
19 individual refuses to comply with a psychiatrist's order to
20 return to the hospital, a peace officer shall take the individual
21 into protective custody and transport the individual to the
22 hospital selected.

23 (3) **If the court orders assisted outpatient treatment as the**
24 **alternative to hospitalization, the order shall require assisted**
25 **outpatient treatment through a community mental health services**
26 **program or any other publicly-funded entity necessary for**
27 **fulfillment of the assisted outpatient treatment plan. The order**

Senate Bill No. 684 as amended November 9, 2004

1 shall include case management services or assertive community
2 treatment team services. The order for assisted outpatient
3 treatment may include 1 or more of the following:

4 (a) Medication.

5 (b) Blood or urinalysis tests to determine compliance with
6 prescribed medications.

7 (c) Individual or group therapy.

8 (d) Day or partial day programs.

9 (e) Educational and vocational training.

10 (f) Supervised living.

11 (g) Alcohol or substance abuse treatment, or both.

12 (h) Alcohol or substance abuse testing, or both, for
13 individuals with a history of alcohol or substance abuse and for
14 whom that testing is necessary to prevent a deterioration of
15 their condition. A court order for alcohol or substance abuse
16 testing shall be subject to review every 6 months.

17 (i) Any other services prescribed to treat the individual's
18 mental illness and to either assist the individual in living and
19 functioning in the community or to help prevent a relapse or
20 deterioration that may reasonably be predicted to result in
21 suicide or the need for hospitalization.

22 (4) In developing an order under this section, the court
23 shall consider any preferences and medication experiences
24 reported by the subject of the petition or his or her designated
25 representative, whether or not the subject of the petition has an
26 existing individual plan of services under section 712, and any
27 directions included in a durable power <<of>> attorney or advance

1 directive that exists. If the subject of the petition has not
2 previously executed a durable power of attorney or an advance
3 directive, the responsible community mental health services
4 program shall, before the expiration of the assisted outpatient
5 treatment order, ascertain whether the subject of the petition
6 desires to establish an advance directive. If so, the community
7 mental health services program shall offer to provide assistance
8 in developing an advance directive.

9 (5) If an assisted outpatient treatment order conflicts with
10 the provisions of an existing advance directive, durable power of
11 attorney, or individual plan of services developed under section
12 712, the assisted outpatient treatment order shall be reviewed
13 for possible adjustment by a psychiatrist not previously involved
14 with developing the assisted outpatient treatment order.

15 Enacting section 1. This amendatory act does not take
16 effect unless all of the following bills of the 92nd Legislature
17 are enacted into law:

- 18 (a) Senate Bill No. 683.
- 19 (b) Senate Bill No. 685.
- 20 (c) Senate Bill No. 686.
- 21 (d) Senate Bill No. 1464.