

HOUSE BILL No. 5926

March 30, 2006, Introduced by Reps. Stewart, Tobocman, Accavitti, Meisner, Leland, Kolb, Anderson, Mortimer, Sheltroun, Alma Smith, Vagnozzi, Donigan, Plakas, Farrah, Gleason, Cushingberry and Zelenko and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending sections 720, 754, and 755 (MCL 330.1720, 330.1754, and 330.1755), sections 720 and 755 as added and section 754 as amended by 1995 PA 290, and by adding section 142a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 142A. A FACILITY LICENSED UNDER SECTIONS 134 TO 150 SHALL**
2 **MAKE AVAILABLE TO THE DEPARTMENT ALL REQUESTED INFORMATION ON THE**
3 **FACILITY'S RECIPIENT RIGHTS PROGRAM AND POLICIES.**

4 Sec. 720. The department shall provide ~~an annual statistical~~
5 ~~report to the members of~~ the house and senate standing
6 committees and appropriations subcommittees with legislative
7 oversight of mental health issues **AN ANNUAL STATISTICAL AND**
8 **ANALYTICAL REPORT** summarizing ~~all~~ **BOTH OF THE FOLLOWING:**

1 **(A) ALL** deaths and causes of deaths, if known, of mental
2 health care recipients **AND APPLICANTS** that have been reported to
3 the department and all deaths that have occurred in state
4 facilities.

5 **(B) ALL KNOWN INSTANCES OF SERIOUS INJURY, SERIOUS PHYSICAL**
6 **ILLNESS, INCARCERATION, HOMELESSNESS, AND DELAY OR INTERRUPTION OF**
7 **EDUCATION AMONG MENTAL HEALTH CARE RECIPIENTS AND APPLICANTS.**

8 Sec. 754. (1) The department shall establish a state office of
9 recipient rights subordinate only to the director. ~~of the~~
10 ~~department.~~

11 (2) The department shall ensure all of the following:

12 (a) The process for funding the state office of recipient
13 rights includes a review of the funding by the state recipient
14 rights advisory committee.

15 (b) The state office of recipient rights will be protected
16 from pressures that could interfere with the impartial, even-
17 handed, and thorough performance of its duties.

18 (c) The state office of recipient rights will have unimpeded
19 access to all of the following:

20 (i) All programs and services operated by or under contract
21 with the department except where other recipient rights systems
22 authorized by this act exist.

23 (ii) All staff employed by or under contract with the
24 department.

25 (iii) All evidence necessary to conduct a thorough investigation
26 or to fulfill its monitoring function.

27 (d) Staff of the state office of recipient rights receive

1 training each year in recipient rights protection.

2 (e) Each contract between the department and a provider
3 requires both of the following:

4 (i) That the provider and his or her employees receive annual
5 training in recipient rights protection.

6 (ii) That recipients will be protected from rights violations
7 while they are receiving services under the contract.

8 (f) Technical assistance and training in recipient rights
9 protection are available to all community mental health services
10 programs and other mental health service providers subject to this
11 act.

12 (3) The department shall endeavor to ensure all of the
13 following:

14 (a) The state office of recipient rights has sufficient staff
15 and other resources necessary to perform the duties described in
16 this section.

17 (b) Complainants, staff of the state office of recipient
18 rights, and any staff acting on behalf of a recipient will be
19 protected from harassment or retaliation resulting from recipient
20 rights activities.

21 (c) Appropriate remedial action is taken to resolve violations
22 of rights and notify the complainants of substantiated violations
23 in a manner that does not violate employee rights.

24 (4) After consulting with the state recipient rights advisory
25 committee, the director ~~of the department~~ shall select a director
26 of the state office of recipient rights who has the education,
27 training, and experience to fulfill the responsibilities of the

1 office. The director ~~of the department~~ shall not replace or
2 dismiss the director of the state office of recipient rights
3 without first consulting the state recipient rights advisory
4 committee. The director of the state office of recipient rights
5 shall have no direct service responsibility.

6 (5) The state office of recipient rights may do all of the
7 following:

8 (a) Investigate apparent or suspected violations of the rights
9 guaranteed by this chapter.

10 (b) Resolve disputes relating to violations.

11 (c) Act on behalf of recipients to obtain appropriate remedies
12 for any apparent violations.

13 (d) Apply for and receive grants, gifts, and bequests ~~in~~
14 ~~order~~ to effectuate any purpose of this chapter.

15 (6) The state office of recipient rights shall do all of the
16 following:

17 (a) Ensure that recipients, parents of minor recipients, and
18 guardians or other legal representatives have access to summaries
19 of the rights guaranteed by this chapter and chapter 7a and are
20 notified of those rights in an understandable manner, both at the
21 time services are requested and periodically during the time
22 services are provided to the recipient.

23 (b) Ensure that the telephone number and address of the office
24 of recipient rights and the names of rights officers are
25 conspicuously posted in all service sites.

26 (c) Maintain a record system for all reports of apparent or
27 suspected rights violations received, including a mechanism for

1 logging in all complaints and a mechanism for secure storage of all
2 investigative documents and evidence.

3 (d) Initiate actions that are appropriate and necessary to
4 safeguard and protect rights guaranteed by this chapter to
5 recipients of services provided directly by the department or by
6 its contract providers other than community mental health services
7 programs.

8 (e) Receive reports of apparent or suspected violations of
9 rights guaranteed by this chapter. The state office of recipient
10 rights shall refer reports of apparent or suspected rights
11 violations to the recipient rights office of the appropriate
12 provider to be addressed by the provider's internal rights
13 protection mechanisms. The state office shall intervene as
14 necessary to act on behalf of recipients in situations in which the
15 director ~~of the department~~ considers the **PROVIDER'S** rights
16 protection system ~~of the provider~~ to be out of compliance with
17 this act and rules promulgated under this act.

18 (f) Upon request, advise recipients of the process by which a
19 rights complaint or appeal may be made and assist recipients in
20 preparing written rights complaints and appeals.

21 (g) Advise recipients that there are advocacy organizations
22 available to assist recipients in preparing written rights
23 complaints and appeals and offer to refer recipients to those
24 organizations.

25 (h) Upon receipt of a complaint, advise the complainant of the
26 complaint process, appeal process, and mediation option.

27 (i) Ensure that each service site operated by the department

1 or by a provider under contract with the department, other than a
2 community mental health services program, is visited by recipient
3 rights staff with the frequency necessary for protection of rights
4 but in no case less than annually.

5 (j) Ensure that all individuals employed by the department
6 receive department-approved training related to recipient rights
7 protection before or within 30 days after being employed.

8 (k) Ensure that all reports of apparent or suspected
9 violations of rights within state facilities or programs operated
10 by providers under contract with the department other than
11 community mental health services programs are investigated in
12 accordance with section 778 and that those reports that do not
13 warrant investigation are recorded in accordance with subdivision
14 (c).

15 (l) Review semiannual statistical rights data submitted by
16 community mental health services programs and licensed hospitals to
17 determine trends and patterns in the protection of recipient rights
18 in the public mental health system and provide a summary of the
19 data to community mental health services programs and to the
20 director. ~~of the department.~~

21 **(M) REQUEST AND REVIEW ADDITIONAL INFORMATION AS NECESSARY**
22 **REGARDING RECIPIENT RIGHTS ISSUES IN LICENSED HOSPITALS AND**
23 **TRANSMIT THE FINDINGS AND RECOMMENDATIONS REGARDING PROBLEM AREAS**
24 **TO THE DIRECTOR.**

25 **(N) ~~(m)~~** Serve as consultant to the director in matters
26 related to recipient rights.

27 **(O) ~~(n)~~** At least quarterly, provide summary complaint data

1 consistent with the annual report required in subdivision ~~(e)~~
2 (Q), together with a summary of remedial action taken on
3 substantiated complaints, to the department and the state recipient
4 rights advisory committee.

5 (P) ANNUALLY REQUIRE THAT ALL COMMUNITY MENTAL HEALTH SERVICES
6 PROGRAMS, STATE FACILITIES, AND LICENSED HOSPITALS PROVIDE SUMMARY
7 INFORMATION AND ANALYSIS ON ALL KNOWN INSTANCES OF DEATH, SERIOUS
8 INJURY, SERIOUS PHYSICAL ILLNESS, INCARCERATION, HOMELESSNESS, AND
9 DELAY OR INTERRUPTION OF EDUCATION AMONG MENTAL HEALTH CARE
10 RECIPIENTS AND APPLICANTS. THE STATE OFFICE OF RECIPIENT RIGHTS
11 SHALL REVIEW AND INVESTIGATE, AS WARRANTED, RIGHTS ISSUES RELATED
12 TO THIS INFORMATION AND INFORMATION PROVIDED TO LEGISLATORS UNDER
13 SECTION 720.

14 (Q) ~~(e)~~ Submit to the director ~~of the department~~ and to
15 the committees and subcommittees of the legislature with
16 legislative oversight of mental health matters, for availability to
17 the public, an annual report on the current status of recipient
18 rights for the state. The report shall be submitted not later than
19 March 31 of each year for the preceding fiscal year. The annual
20 report shall include, at a minimum, all of the following:

21 (i) Summary data by type or category regarding the rights of
22 recipients receiving services from the department including the
23 number of complaints received by **EACH** state facility and other
24 state-operated placement agency, the number of reports filed, and
25 the number of reports investigated.

26 (ii) The number of substantiated rights violations by category
27 and by state facility.

1 (iii) The remedial actions taken on substantiated rights
2 violations by category and by state facility.

3 (iv) Training received by staff of the state office of
4 recipient rights.

5 (v) Training provided by the state office of recipient rights
6 to staff of contract providers.

7 (vi) Outcomes of assessments of the recipient rights system of
8 each community mental health services program.

9 (vii) Identification of patterns and trends in rights
10 protection in the public mental health system in this state.

11 (viii) Review of budgetary issues including staffing and
12 financial resources.

13 (ix) Summary of the results of any consumer satisfaction
14 surveys conducted.

15 (x) Recommendations to the department.

16 **(R)** ~~-(p)-~~ Provide education and training to its recipient
17 rights advisory committee and its recipient rights appeals
18 committee.

19 Sec. 755. (1) Each community mental health services program
20 and each licensed hospital shall establish an office of recipient
21 rights subordinate only to the executive director or hospital
22 director.

23 (2) Each community mental health services program and each
24 licensed hospital shall ensure all of the following:

25 (a) Education and training in recipient rights policies and
26 procedures are provided to its recipient rights advisory committee
27 and its recipient rights appeals committee.

1 (b) The process for funding the office of recipient rights
2 includes a review of the funding by the recipient rights advisory
3 committee.

4 (c) The office of recipient rights will be protected from
5 pressures that could interfere with the impartial, even-handed, and
6 thorough performance of its duties.

7 (d) The office of recipient rights will have unimpeded access
8 to all of the following:

9 (i) All programs and services operated by or under contract
10 with the community mental health services program or licensed
11 hospital.

12 (ii) All staff employed by or under contract with the community
13 mental health services program or licensed hospital.

14 (iii) All evidence necessary to conduct a thorough investigation
15 or to fulfill its monitoring function.

16 (e) Staff of the office of recipient rights receive training
17 each year in recipient rights protection.

18 (f) Each contract between the community mental health services
19 program or licensed hospital and a provider requires both of the
20 following:

21 (i) That the provider and his or her employees receive
22 recipient rights training.

23 (ii) That recipients will be protected from rights violations
24 while they are receiving services under the contract.

25 (3) Each community mental health services program and each
26 licensed hospital shall endeavor to ensure all of the following:

27 (a) Complainants, staff of the office of recipient rights, and

1 any staff acting on behalf of a recipient will be protected from
2 harassment or retaliation resulting from recipient rights
3 activities and that appropriate disciplinary action will be taken
4 if there is evidence of harassment or retaliation.

5 (b) Appropriate remedial action is taken to resolve violations
6 of rights and ~~notify~~ the complainants **ARE NOTIFIED** of
7 substantiated violations in a manner that does not violate employee
8 rights.

9 (4) The executive director or hospital director shall select a
10 director of the office of recipient rights who has the education,
11 training, and experience to fulfill the responsibilities of the
12 office. The executive director shall not select, replace, or
13 dismiss the director of the office of recipient rights without
14 first consulting the recipient rights advisory committee. The
15 director of the office of recipient rights shall have no direct
16 clinical service responsibility.

17 (5) Each office of recipient rights established under this
18 section shall do all of the following:

19 (a) Provide or coordinate the protection of recipient rights
20 for all directly operated or contracted services.

21 (b) Ensure that recipients, parents of minor recipients, and
22 guardians or other legal representatives have access to summaries
23 of the rights guaranteed by this chapter and chapter 7a and are
24 notified of those rights in an understandable manner, both at the
25 time services are initiated and periodically during the time
26 services are provided to the recipient.

27 (c) Ensure that the telephone number and address of the office

1 of recipient rights and the names of rights officers are
2 conspicuously posted in all service sites.

3 (d) Maintain a record system for all reports of apparent or
4 suspected rights violations received within the community mental
5 health services program system or the licensed hospital system,
6 including a mechanism for logging in all complaints and a mechanism
7 for secure storage of all investigative documents and evidence.

8 (e) Ensure that each service site is visited with the
9 frequency necessary for protection of rights but in no case less
10 than annually.

11 (f) Ensure that all individuals employed by the community
12 mental health services program, contract agency, or licensed
13 hospital receive training related to recipient rights protection
14 before or within 30 days after being employed.

15 (g) Review the recipient rights policies and the rights system
16 of each provider of mental health services under contract with the
17 community mental health services program or licensed hospital to
18 ensure that the rights protection system of each provider is in
19 compliance with this act and is of a uniformly high standard.

20 (h) Serve as consultant to the executive director or hospital
21 director and to staff of the community mental health services
22 program or licensed hospital in matters related to recipient
23 rights.

24 (i) Ensure that all reports of apparent or suspected
25 violations of rights within the community mental health services
26 program system or licensed hospital system are investigated in
27 accordance with section 778 and that those reports that do not

1 warrant investigation are recorded in accordance with subdivision
2 (d).

3 (j) Semiannually provide summary complaint data consistent
4 with the annual report required in subsection (6), together with a
5 summary of remedial action taken on substantiated complaints by
6 category, to the department and to the recipient rights advisory
7 committee of the community mental health services program or
8 licensed hospital.

9 **(K) PROVIDE THE DEPARTMENT WITH ADDITIONAL RECIPIENT RIGHTS**
10 **INFORMATION AS NEEDED FOR DEPARTMENTAL REVIEWS RELATED TO COMMUNITY**
11 **MENTAL HEALTH CERTIFICATION OR HOSPITAL LICENSURE.**

12 (6) The executive director or hospital director shall submit
13 to the board of the community mental health services program or the
14 governing board of the licensed hospital and the department an
15 annual report prepared by the office of recipient rights on the
16 current status of recipient rights in the community mental health
17 services program system or licensed hospital system and a review of
18 the operations of the office of recipient rights. The report shall
19 be submitted not later than December 30 of each year for the
20 preceding fiscal year or period specified in contract. The annual
21 report shall include, at a minimum, all of the following:

22 (a) Summary data by category regarding the rights of
23 recipients receiving services from the community mental health
24 services program or licensed hospital including complaints
25 received, the number of reports filed, and the number of reports
26 investigated by provider.

27 (b) The number of substantiated rights violations by category

1 and provider.

2 (c) The remedial actions taken on substantiated rights
3 violations by category and provider.

4 (d) Training received by staff of the office of recipient
5 rights.

6 (e) Training provided by the office of recipient rights to
7 contract providers.

8 (f) Desired outcomes established for the office of recipient
9 rights and progress toward these outcomes.

10 (g) Recommendations to the community mental health services
11 program board or licensed hospital governing board.