

SENATE BILL No. 874

September 24, 2009, Introduced by Senators GLEASON, BRATER, JACOBS, CLARK-COLEMAN, CLARKE, SCOTT, CHERRY, ANDERSON, SWITALSKI, BASHAM and THOMAS and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending sections 100b, 116, and 206 (MCL 330.1100b, 330.1116, and 330.1206), section 100b as amended by 2004 PA 499, section 116 as amended by 1998 PA 67, and section 206 as amended by 1995 PA 290, and by adding section 206a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 100b. (1) "Facility" means a residential facility for the
2 care or treatment of individuals with serious mental illness,
3 serious emotional disturbance, or developmental disability that is
4 either a state facility or a licensed facility.

5 (2) "Family" as used in sections 156 to 161 means an eligible
6 minor and his or her parent or legal guardian.

7 (3) "Family member" means a parent, stepparent, spouse,

1 sibling, child, or grandparent of a primary consumer, or an
2 individual upon whom a primary consumer is dependent for at least
3 50% of his or her financial support.

4 (4) "Federal funds" means funds received from the federal
5 government under a categorical grant or similar program and does
6 not include federal funds received under a revenue sharing
7 arrangement.

8 (5) "Functional impairment" means both of the following:

9 (a) With regard to serious emotional disturbance, substantial
10 interference with or limitation of a minor's achievement or
11 maintenance of 1 or more developmentally appropriate social,
12 behavioral, cognitive, communicative, or adaptive skills.

13 (b) With regard to serious mental illness, substantial
14 interference or limitation of role functioning in 1 or more major
15 life activities including basic living skills such as eating,
16 bathing, and dressing; instrumental living skills such as
17 maintaining a household, managing money, getting around the
18 community, and taking prescribed medication; and functioning in
19 social, vocational, and educational contexts.

20 (6) "Guardian" means a person appointed by the court to
21 exercise specific powers over an individual who is a minor, legally
22 incapacitated, or developmentally disabled.

23 (7) "Hospital" or "psychiatric hospital" means an inpatient
24 program operated by the department for the treatment of individuals
25 with serious mental illness or serious emotional disturbance or a
26 psychiatric hospital or psychiatric unit licensed under section
27 137.

1 (8) "Hospital director" means the chief administrative officer
2 of a hospital or his or her designee.

3 (9) "Hospitalization" or "hospitalize" means to provide
4 treatment for an individual as an inpatient in a hospital.

5 (10) "Individual plan of services" or "plan of services" means
6 a written individualized plan of services developed with a
7 recipient as required by section 712.

8 (11) "Licensed facility" means a facility licensed by the
9 department under section 137 or an adult foster care facility.

10 (12) "Licensed psychologist" means a doctoral level
11 psychologist licensed under section 18223(1) of the public health
12 code, 1978 PA 368, MCL 333.18223.

13 (13) "Medical director" means a psychiatrist appointed under
14 section 231 to advise the executive director of a community mental
15 health services program.

16 (14) **"MEDICAL NECESSITY" MEANS THAT A SPECIFIC SERVICE, AS**
17 **DOCUMENTED IN AN INDIVIDUAL'S PLAN OF SERVICES, IS CLINICALLY**
18 **APPROPRIATE, NECESSARY TO MEET NEEDS, CONSISTENT WITH THE PERSON'S**
19 **DIAGNOSIS, SYMPTOMATOLOGY, AND FUNCTIONAL IMPAIRMENTS, THE MOST**
20 **COST-EFFECTIVE OPTION IN THE LEAST RESTRICTIVE ENVIRONMENT, AND**
21 **CONSISTENT WITH CLINICAL STANDARDS OF CARE.**

22 (15) ~~(14)~~ "Mental health professional" means an individual who
23 is trained and experienced in the area of mental illness or
24 developmental disabilities and who is 1 of the following:

25 (a) A physician who is licensed to practice medicine or
26 osteopathic medicine and surgery in this state under article 15 of
27 the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

1 (b) A psychologist licensed to practice in this state under
2 article 15 of the public health code, 1978 PA 368, MCL 333.16101 to
3 333.18838.

4 (c) A registered professional nurse licensed to practice in
5 this state under article 15 of the public health code, 1978 PA 368,
6 MCL 333.16101 to 333.18838.

7 ~~(d) Until July 1, 2005, a certified social worker registered~~
8 ~~under article 15 of the public health code, 1978 PA 368, MCL~~
9 ~~333.16101 to 333.18838. Beginning July 1, 2005, a~~ A licensed
10 master's social worker licensed under article 15 of the public
11 health code, 1978 PA 368, MCL 333.16101 to 333.18838.

12 (e) A licensed professional counselor licensed to practice in
13 this state under article 15 of the public health code, 1978 PA 368,
14 MCL 333.16101 to 333.18838.

15 (f) A marriage and family therapist licensed under article 15
16 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

17 **(16)** ~~(15)~~ "Mental retardation" means a condition manifesting
18 before the age of 18 years that is characterized by significantly
19 subaverage intellectual functioning and related limitations in 2 or
20 more adaptive skills and that is diagnosed based on the following
21 assumptions:

22 (a) Valid assessment considers cultural and linguistic
23 diversity, as well as differences in communication and behavioral
24 factors.

25 (b) The existence of limitation in adaptive skills occurs
26 within the context of community environments typical of the
27 individual's age peers and is indexed to the individual's

1 particular needs for support.

2 (c) Specific adaptive skill limitations often coexist with
3 strengths in other adaptive skills or other personal capabilities.

4 (d) With appropriate supports over a sustained period, the
5 life functioning of the individual with mental retardation will
6 generally improve.

7 (17) ~~(16)~~ "Minor" means an individual under the age of 18
8 years.

9 (18) ~~(17)~~ "Multicultural services" means specialized mental
10 health services for multicultural populations such as African-
11 Americans, Hispanics, Native Americans, Asian and Pacific
12 Islanders, and Arab/Chaldean-Americans.

13 (19) ~~(18)~~ "Neglect" means an act or failure to act committed
14 by an employee or volunteer of the department, a community mental
15 health services program, or a licensed hospital; a service provider
16 under contract with the department, community mental health
17 services program, or licensed hospital; or an employee or volunteer
18 of a service provider under contract with the department, community
19 mental health services program, or licensed hospital, that denies a
20 recipient the standard of care or treatment to which he or she is
21 entitled under this act.

22 Sec. 116. (1) Consistent with section 51 of article IV of the
23 state constitution of 1963, which declares that the health of the
24 people of the state is a matter of primary public concern, and as
25 required by section 8 of article VIII of the state constitution of
26 1963, which declares that services for the care, treatment,
27 education, or rehabilitation of those who are seriously mentally

1 disabled shall always be fostered and supported, the department
2 shall continually and diligently endeavor to ensure that adequate
3 and appropriate mental health services are available to all
4 citizens throughout the state. To this end, the department ~~shall~~
5 ~~have~~**HAS** the general powers and duties described in this section.

6 (2) The department shall do all of the following:

7 (a) Direct services to individuals who have a serious mental
8 illness, developmental disability, or serious emotional
9 disturbance. The department shall give priority to the following
10 services:

11 (i) Services for individuals with the most severe forms of
12 serious mental illness, serious emotional disturbance, or
13 developmental disability.

14 (ii) Services for individuals with serious mental illness,
15 serious emotional disturbance, or developmental disability who are
16 in urgent or emergency situations.

17 (b) Administer the provisions of chapter 2 so as to promote
18 and maintain an adequate and appropriate system of community mental
19 health services programs throughout the state. In the
20 administration of chapter 2, it shall be the objective of the
21 department to shift primary responsibility for the direct delivery
22 of public mental health services from the state to a community
23 mental health services program whenever the community mental health
24 services program has demonstrated a willingness and capacity to
25 provide an adequate and appropriate system of mental health
26 services for the citizens of that service area.

27 (C) LIST ON ITS WEBSITE AND INCLUDE IN ITS CONTRACTS WITH

1 **COMMUNITY MENTAL HEALTH SERVICES PROGRAMS ALL ELEMENTS OF SECTION**
2 **206(1) .**

3 **(D)** ~~(e)~~—Engage in planning for the purpose of identifying,
4 assessing, and enunciating the mental health needs of the state.

5 **(E)** ~~(d)~~—Submit to the members of the house and senate standing
6 committees and appropriation subcommittees with legislative
7 oversight of mental health matters an annual report summarizing its
8 assessment of the mental health needs of the state and
9 incorporating information received from community mental health
10 services programs under section 226. The report shall include an
11 estimate of the cost of meeting all identified needs. Additional
12 information shall be made available to the legislature upon
13 request.

14 **(F)** ~~(e)~~—Endeavor to develop and establish arrangements and
15 procedures for the effective coordination and integration of all
16 public mental health services, and for effective cooperation
17 between public and nonpublic services, for the purpose of providing
18 a unified system of statewide mental health care.

19 **(G)** ~~(f)~~—Review and evaluate the relevance, quality,
20 effectiveness, and efficiency of mental health services being
21 provided by the department and assure the review and evaluation of
22 mental health services provided by community mental health services
23 programs. The department shall establish and implement a structured
24 system to provide data necessary for the reviews and evaluations.

25 **(H)** ~~(g)~~—Implement those provisions of law under which it is
26 responsible for the licensing or certification of mental health
27 facilities or services.

1 (I) ~~(h)~~—Establish standards of training and experience for
2 executive directors of community mental health services programs.

3 (J) ~~(i)~~—Support research activities.

4 (K) ~~(j)~~—Support evaluation and quality improvement activities.

5 (L) ~~(k)~~—Support training, consultation, and technical
6 assistance regarding mental health programs and services and
7 appropriate prevention and mental health promotion activities,
8 including those that are culturally sensitive, to employees of the
9 department, community mental health services programs, and other
10 nonprofit agencies providing mental health services under contract
11 with community mental health services programs.

12 (M) ~~(l)~~—Support multicultural services.

13 (3) The department may do all of the following:

14 (a) Direct services to individuals who have mental disorders
15 that meet diagnostic criteria specified in the most recent
16 diagnostic and statistical manual of mental health disorders
17 published by the American psychiatric association and approved by
18 the department and to the prevention of mental disability and the
19 promotion of mental health. Resources that have been specifically
20 appropriated for services to individuals with dementia, alcoholism,
21 or substance abuse, or for the prevention of mental disability and
22 the promotion of mental health shall be utilized for those specific
23 purposes.

24 (b) Provide, on a residential or nonresidential basis, any
25 type of patient or client service including but not limited to
26 prevention, diagnosis, treatment, care, education, training, and
27 rehabilitation.

1 (c) Operate mental health programs or facilities directly or
2 through contractual arrangement.

3 (d) Institute pilot projects considered appropriate by the
4 director to test new models and concepts in service delivery or
5 mental health administration. Pilot projects may include, but need
6 not be limited to, both of the following:

7 (i) Issuance of a voucher to a recipient of public mental
8 health services in accordance with the recipient's individual plan
9 of services and guidelines developed by the department.

10 (ii) Establishment of revolving loans to assist recipients of
11 public mental health services to acquire or maintain affordable
12 housing. Funding under this subparagraph shall only be provided
13 through an agreement with a nonprofit fiduciary in accordance with
14 guidelines and procedures developed by the department related to
15 the use, issuance, and accountability of revolving loans used for
16 recipient housing.

17 (e) Enter into an agreement, contract, or arrangement with any
18 individual or public or nonpublic entity that is necessary or
19 appropriate to fulfill those duties or exercise those powers that
20 have by statute been given to the department.

21 (f) Accept gifts, grants, bequests, and other donations for
22 use in performing its functions. Any money or property accepted
23 shall be used as directed by its donor and in accordance with law
24 and the rules and procedures of the department.

25 (g) The department has any other power necessary or
26 appropriate to fulfill those duties and exercise those powers that
27 have been given to the department by law and that are not otherwise

1 prohibited by law.

2 Sec. 206. (1) The purpose of a community mental health
3 services program ~~shall be~~ **IS** to provide a comprehensive array of
4 mental health services appropriate to conditions of ~~individuals~~
5 **ADULTS AND MINORS** who are located within its geographic service
6 area, regardless of an individual's ability to pay **OR MEDICAID**
7 **STATUS. SERVICES SHALL BE EFFECTIVE AND NECESSARY TO IMPACT AN**
8 **INDIVIDUAL'S CONDITION AND ITS EFFECTS ON THE INDIVIDUAL'S LIFE.**

9 The array of mental health services **SHALL BE DESIGNED AND DELIVERED**
10 **IN A MANNER THAT PROMOTES COMMUNITY INCLUSION AND INTEGRATION AND**
11 shall include, at a minimum, all of the following:

12 (a) Crisis stabilization and response including a 24-hour, 7-
13 day per week, crisis emergency service that is prepared to respond
14 to persons experiencing acute emotional, behavioral, or social
15 dysfunctions, and the provision of inpatient or other protective
16 environment for treatment.

17 (b) Identification, assessment, and diagnosis to determine the
18 specific needs of the recipient and to develop an individual plan
19 of services. **THIS INCLUDES REFERRAL TO, COORDINATION WITH, AND**
20 **COLLABORATION WITH OTHER HEALTH CARE, HUMAN SERVICE, AND**
21 **EDUCATIONAL SYSTEMS.**

22 (c) Planning, linking, coordinating, follow-up, and monitoring
23 to assist the recipient in gaining access to services.

24 (d) Specialized mental health recipient training, treatment,
25 and support, including therapeutic clinical interactions,
26 socialization and adaptive skill and coping skill training, health
27 and rehabilitative services, and pre-vocational and vocational

1 services.

2 (E) INPATIENT TREATMENT.

3 (F) INTENSIVE COMMUNITY-BASED SERVICES THAT PROVIDE
4 ALTERNATIVES TO, OR STEP-DOWNS FROM, INPATIENT TREATMENT.

5 (G) ~~(e)~~ Recipient rights services.

6 (H) ~~(f)~~ Mental-RECIPIENT AND FAMILY SERVICES THAT PROVIDE FOR
7 CONSUMER AND FAMILY ORIENTATION AND INVOLVEMENT, CONSUMER AND
8 FAMILY INFORMATION AND EDUCATION, MENTAL health advocacy, AND
9 MECHANISMS FOR ADDRESSING CONSUMER COMPLAINTS, GRIEVANCES, AND
10 APPEAL REQUESTS.

11 (I) ~~(g)~~ Prevention activities that serve to inform and educate
12 with the intent of reducing the risk of severe recipient
13 dysfunction.

14 (J) ~~(h)~~ Any other service approved by the department **THAT IS**
15 **SPECIFIED IN THE DEPARTMENT'S CONTRACT WITH THE COMMUNITY MENTAL**
16 **HEALTH SERVICES PROGRAM.**

17 (2) Services shall promote the best interests of the
18 individual and shall be designed to increase independence, improve
19 quality of life, ~~and~~ support community integration, ~~and~~ **SUPPORT**
20 **COMMUNITY** inclusion, **AND HELP FOSTER RESILIENCY, RECOVERY, SKILL**
21 **DEVELOPMENT, AND STABILITY IN THE COMMUNITY.** Services for children
22 and families shall promote the best interests of the individual
23 receiving services and shall be designed to strengthen and preserve
24 the family unit if appropriate. The community mental health
25 services program shall deliver services in a manner that
26 demonstrates they are based upon recipient choice and involvement,
27 and shall include wraparound services when appropriate.

1 (3) A RECIPIENT SHALL NOT BE TERMINATED OR DISCHARGED FROM
2 COMMUNITY MENTAL HEALTH SERVICES PROGRAM SERVICE IF ALL OF THE
3 FOLLOWING CONDITIONS EXIST:

4 (A) CONTINUED SERVICES ARE MEDICALLY NECESSARY.

5 (B) THE RECIPIENT EXPRESSES A DESIRE TO CONTINUE TO RECEIVE
6 SERVICES.

7 (C) THE RECIPIENT MEETS THE PRIORITY CRITERIA FOR RECEIPT OF
8 SERVICES.

9 SEC. 206A. THE DEPARTMENT SHALL LIST ON ITS WEBSITE AND
10 INCLUDE IN ITS CONTRACTS WITH COMMUNITY MENTAL HEALTH SERVICES
11 PROGRAMS A LISTING OF SERVICE SELECTION GUIDELINE PRINCIPLES TO AID
12 CONSUMERS, FAMILIES, PROVIDERS, AND SERVICE MANAGERS IN MATCHING
13 TREATMENT AND SUPPORT OPTIONS TO A RECIPIENT'S NEEDS, DESIRES, AND
14 CIRCUMSTANCES. THE LIST OF PRINCIPLES SHALL INCLUDE, AT LEAST, ALL
15 OF THE FOLLOWING:

16 (A) TREATMENT PLANNING, INCLUDING INITIAL AND REVISED SERVICE
17 PLANS, SHALL BE PERSON-CENTERED WITH INVOLVEMENT OF ALL APPROPRIATE
18 PARTIES FACILITATED AS QUICKLY AS POSSIBLE.

19 (B) RECIPIENTS SHALL BE OFFERED THE MOST CLINICALLY
20 APPROPRIATE AND CULTURALLY RELEVANT AND EFFECTIVE TREATMENT AND
21 SUPPORT FOR THEIR CONDITION.

22 (C) THE MEDICAL NECESSITY CRITERIA UTILIZED SHALL BE
23 TRANSPARENT, OPEN TO PUBLIC REVIEW, AND UPDATED REGULARLY TO
24 REFLECT ADVANCES IN DIAGNOSIS AND TREATMENT.

25 (D) MEDICALLY NECESSARY SERVICES IDENTIFIED IN THE PLAN OF
26 SERVICE SHALL SPECIFICALLY IDENTIFY THE AMOUNT, SCOPE, AND DURATION
27 OF EACH SERVICE TO BE PROVIDED, WHEN THE RECIPIENT CAN EXPECT THE

1 SERVICES TO BEGIN, AND WHO WILL BE RESPONSIBLE FOR PROVIDING THEM.
2 SERVICES AND SUPPORTS IDENTIFIED IN THE PLAN OF SERVICE SHALL NOT
3 BE REDUCED, SUSPENDED, OR TERMINATED WITHOUT ADVANCE NOTICE TO THE
4 RECIPIENT. UNDER THOSE CIRCUMSTANCES, THE RECIPIENT SHALL BE
5 ASSISTED IN APPEALING THE REDUCTION, SUSPENSION, OR TERMINATION OF
6 SERVICES OR SUPPORTS.

7 (E) PROTOCOLS USED BY A COMMUNITY MENTAL HEALTH SERVICES
8 PROGRAM FOR RESPONDING TO AN ACUTE PSYCHIATRIC CRISIS SHALL BE
9 WELL-DEFINED AND UNIFORMLY APPLIED.

10 (F) SERVICE SELECTION CRITERIA AND PROTOCOLS FOR INDIVIDUALS
11 MERITING PRIORITY CONSIDERATION UNDER SECTION 208 SHALL BE WELL-
12 DEFINED AND UNIFORMLY APPLIED.

13 (G) SERVICE SELECTION CRITERIA AND PROTOCOLS SHALL COVER BOTH
14 ADULTS AND MINORS.

15 (H) CRITERIA FOR CONTINUATION OF A SERVICE SHALL BE FLEXIBLE
16 SO THAT CLINICALLY APPROPRIATE AND EFFECTIVE DECISIONS MAY BE MADE
17 ACCORDING TO RECIPIENT NEEDS AND CIRCUMSTANCES.

18 (I) INDIVIDUALS WITH A CO-OCCURRING MENTAL ILLNESS AND
19 SUBSTANCE ABUSE DISORDER SHALL BE OFFERED INTEGRATED TREATMENT.

20 (J) SERVICE SELECTION GUIDELINES SHALL ADDRESS COLLABORATIVE
21 AND BOUNDARY ISSUES BETWEEN MENTAL HEALTH AND OTHER PUBLIC AND
22 PRIVATE HUMAN SERVICE PROVIDERS.

23 (K) SERVICE SELECTION GUIDELINES SHALL BE UNIFORM AND READILY
24 UNDERSTANDABLE, ACROSS DEMOGRAPHIC, SOCIOECONOMIC, AND CULTURAL
25 GROUPS, BY CONSUMERS, THEIR ADVOCATES OR REPRESENTATIVES, AND THEIR
26 FAMILIES.