

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1196

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending sections 204, 212, 224, and 232a (MCL 330.1204,
330.1212, 330.1224, and 330.1232a), sections 204, 212, and 224 as
amended and section 232a as added by 1995 PA 290; and to repeal
acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 204. (1) ~~A~~EXCEPT AS PROVIDED IN SUBSECTION (4), A
2 community mental health services program established under this
3 chapter shall be a county community mental health agency, a
4 community mental health organization, or a community mental health
5 authority. A county community mental health agency is an official
6 county agency. A community mental health organization or a
7 community mental health authority is a public governmental entity
8 separate from the county or counties that establish it.

Senate Bill No. 1196 (H-2) as amended November 29, 2012

1 (2) Procedures and policies for a community mental health
2 organization or a community mental health authority shall be set by
3 the board of the community mental health services program.

4 Procedures and policies for a county community mental health agency
5 shall be set by the board of commissioners or boards of
6 commissioners as prescribed in this subsection. If a county
7 community mental health services agency represents a single county,
8 the county's board of commissioners shall determine the procedures
9 and policies that shall be applicable to the agency. If a county
10 community mental health services agency represents 2 or more
11 counties, the boards of commissioners of the represented counties
12 shall by agreement determine the procedures and policies that shall
13 be applicable to the agency. In a charter county with an elected
14 county executive, the county executive shall determine the
15 procedures and policies that shall be applicable to the agency.

16 (3) The procedures and policies for multicounty community
17 mental health services programs shall not take effect until at
18 least 3 public hearings on the proposed procedures and policies
19 have been held.

20 (4) BEGINNING [OCTOBER] 1, 2013, IN ORDER TO QUALIFY FOR STATE
21 SUPPORT UNDER SECTION 202, IF A SINGLE COUNTY THAT HAS SITUATED
22 TOTALLY WITHIN THAT COUNTY A CITY HAVING A POPULATION OF AT LEAST
23 500,000 ESTABLISHES OR ADMINISTERS A COMMUNITY MENTAL HEALTH
24 SERVICES PROGRAM, THAT COMMUNITY MENTAL HEALTH SERVICES PROGRAM
25 MUST BE ESTABLISHED AND ADMINISTERED AS A COMMUNITY MENTAL HEALTH
26 AUTHORITY AS SPECIFIED UNDER SECTION 205. ANY OPERATIONAL CHANGES
27 MADE BY THE COMMUNITY MENTAL HEALTH AGENCY THAT WILL REQUIRE A

1 FINANCIAL COMMITMENT FROM THE COMMUNITY MENTAL HEALTH AUTHORITY
2 ESTABLISHED AS A RESULT OF THE PROVISIONS OF THIS SUBSECTION SHALL
3 BE MADE IN CONSULTATION WITH THE DEPARTMENT DIRECTOR.

4 Sec. 212. (1) Upon electing to establish a community mental
5 health services program, the county or combination of counties
6 shall establish a 12-member community mental health services board,
7 except as provided in section 214, 219, or 222(2) or (5). ~~Each~~
8 EXCEPT AS PROVIDED IN SUBSECTION (2), EACH board of commissioners
9 shall by a majority vote appoint the board members from its county.
10 Recommended appointments to the board shall be made annually
11 following the organizational meeting of the board of commissioners.

12 (2) WHEN A SINGLE COUNTY ESTABLISHES A COMMUNITY MENTAL HEALTH
13 SERVICES PROGRAM AND TOTALLY SITUATED WITHIN THAT COUNTY IS A CITY
14 HAVING A POPULATION OF AT LEAST 500,000, THE 12 BOARD MEMBERS SHALL
15 BE APPOINTED TO THE BOARD AS FOLLOWS:

16 (A) SIX BOARD MEMBERS APPOINTED BY A MAJORITY VOTE OF THE
17 COUNTY BOARD OF COMMISSIONERS FROM A LIST OF NOMINEES SUBMITTED BY
18 THE COUNTY EXECUTIVE OF THAT COUNTY. TWO BOARD MEMBERS APPOINTED
19 UNDER THIS SUBDIVISION MUST BE PRIMARY CONSUMERS OR FAMILY MEMBERS
20 OF PRIMARY CONSUMERS. UPON NOTIFICATION THAT THE LIST PROVIDED UNDER
21 THIS SUBDIVISION DOES NOT MEET WITH THE COUNTY BOARD OF
22 COMMISSIONERS' APPROVAL, THE COUNTY EXECUTIVE OF THAT COUNTY SHALL
23 SUBMIT ANOTHER LIST TO THE COUNTY BOARD OF COMMISSIONERS WITH 6
24 DIFFERENT NOMINEES.

25 (B) SIX BOARD MEMBERS APPOINTED BY THE COUNTY BOARD OF
26 COMMISSIONERS FROM A LIST OF NOMINEES SUBMITTED BY THE MAYOR OF THE
27 CITY HAVING A POPULATION OF AT LEAST 500,000 THAT IS TOTALLY

1 SITUATED WITHIN THAT COUNTY. TWO BOARD MEMBERS APPOINTED UNDER THIS
2 SUBDIVISION MUST BE PRIMARY CONSUMERS OR FAMILY MEMBERS OF PRIMARY
3 CONSUMERS. UPON NOTIFICATION THAT THE LIST PROVIDED UNDER THIS
4 SUBDIVISION DOES NOT MEET WITH THE COUNTY BOARD OF COMMISSIONERS'
5 APPROVAL, THE MAYOR OF THE CITY HAVING A POPULATION OF AT LEAST
6 500,000 THAT IS TOTALLY SITUATED WITHIN THAT COUNTY SHALL SUBMIT
7 ANOTHER LIST TO THE COUNTY BOARD OF COMMISSIONERS WITH 6 DIFFERENT
8 NOMINEES.

9 (3) WHEN A SINGLE COUNTY ESTABLISHES A COMMUNITY MENTAL HEALTH
10 SERVICES PROGRAM AND TOTALLY SITUATED WITHIN THAT COUNTY IS A CITY
11 HAVING A POPULATION OF AT LEAST 500,000, THE 12 BOARD MEMBERS SHALL
12 BE APPOINTED TO THE BOARD AS THE APPOINTMENTS OF CURRENT BOARD
13 MEMBERS EXPIRE.

14 (4) WHEN A VACANCY OCCURS ON A BOARD THAT HAS MEMBERS
15 APPOINTED UNDER SUBSECTION (2), THE VACANCY SHALL BE FILLED IN THE
16 SAME MANNER AS THE BOARD MEMBER BEING REPLACED WAS APPOINTED.

17 (5) A BOARD MEMBER APPOINTED UNDER SUBSECTION (2) SHALL NOT BE
18 AN EMPLOYEE OR CONTRACTOR OF ANY OF THE FOLLOWING:

19 (A) THE CITY OR COUNTY DESCRIBED IN SUBSECTION (2).

20 (B) THE STATE.

21 (C) THE FEDERAL GOVERNMENT.

22 (D) A COMMUNITY MENTAL HEALTH AUTHORITY.

23 Sec. 224. The term of office of a board member shall be 3
24 years from April 1 of the year of appointment, except that of the
25 members first appointed, 4 shall be appointed for a term of 1 year,
26 4 for 2 years, and 4 for 3 years. A vacancy shall be filled for an
27 unexpired term in the same manner as an original appointment. A

1 board member may be removed from office by the appointing board of
2 commissioners ~~or, if the board member was appointed by the chief~~
3 ~~executive officer of a county or a city under section 216, by the~~
4 ~~chief executive officer who appointed the member~~ for neglect of
5 official duty or misconduct in office after being given a written
6 statement of reasons and an opportunity to be heard on the removal.
7 A board member shall be paid a per diem no larger than the highest
8 per diem for members of other county advisory boards set by the
9 county board of commissioners and be reimbursed for necessary
10 travel expenses for each meeting attended. The mileage expense
11 fixed by the county board of commissioners shall not exceed the
12 mileage reimbursement as determined by the state officers
13 compensation commission. A board member shall not receive more than
14 1 per diem payment per day regardless of the number of meetings
15 scheduled by the board for that day.

16 Sec. 232a. (1) Subject to section 114a, the department shall
17 promulgate rules to establish standards for certification and the
18 certification review process for community mental health services
19 programs. The standards shall include but not be limited to all of
20 the following:

21 (a) Matters of governance, resource management, quality
22 improvement, service delivery, and safety management.

23 (b) Promotion and protection of recipient rights.

24 (2) After reviewing a community mental health services
25 program, the department shall notify a program that substantially
26 complies with the standards established under this section that it
27 is certified by the department.

1 (3) The department may waive the certification review process
2 in whole or in part and consider the community mental health
3 services program to be in substantial compliance with the standards
4 established under this section if the program has received
5 accreditation from a national accrediting organization recognized
6 by the department that includes review of matters described in
7 subsection (1)(a).

8 (4) If the department certifies a community mental health
9 services program despite some items of noncompliance with the
10 standards established under this section, the notice of
11 certification shall identify the items of noncompliance and the
12 program shall correct the items of noncompliance. The department
13 shall require the community mental health board to submit a plan to
14 correct items of noncompliance before recertification or sooner at
15 the discretion of the department.

16 (5) Certification is effective for 3 years and is not
17 transferable. Requests for recertification shall be submitted to
18 the department at least 6 months before the expiration of
19 certification. Certification remains in effect after the submission
20 of a renewal request until the department conducts a review and
21 makes a redetermination.

22 (6) The department shall conduct an annual review of each
23 community mental health services program's recipient rights system
24 to ensure compliance with standards established under subsection
25 (1)(b). An on-site review shall be conducted once every 3 years.

26 (7) The community mental health services program shall
27 promptly notify the department of any changes that may affect

1 continued certification.

2 (8) The department may deny certification if the community
3 mental health services program cannot demonstrate substantial
4 compliance with the standards established under this section.

5 (9) In lieu of denying certification, the department may issue
6 a provisional certification for a period of up to 6 months upon
7 receiving a plan of correction submitted by the community mental
8 health services board. The department shall provide a copy of the
9 review and the approved plan of correction to the board of
10 commissioners of each county that established the county community
11 mental health agency or created the community mental health
12 organization or community mental health authority. A provisional
13 certification may be extended, but the entire provisional period
14 shall not exceed 1 year. The department shall conduct an on-site
15 review to determine the community mental health services program's
16 compliance with the plan of correction at least 30 days before the
17 expiration of the provisional certification. A provisional
18 certification automatically expires either on its original
19 expiration date or the expiration date of the extension granted.

20 (10) If a community mental health services program is denied
21 certification, fails to comply with an approved plan of correction
22 before the expiration of a provisional certification, or fails to
23 comply substantially with the standards established under this
24 section, the department shall notify the community mental health
25 services board and the board of commissioners of each county that
26 established the agency or created the organization or authority of
27 the department's intention to suspend, deny, or revoke

1 certification. The notice shall be sent by certified mail and shall
2 set forth the particular reasons for the proposed action and offer
3 an opportunity for a hearing with the director of the department's
4 division that manages contracts with community mental health
5 services programs. If it desires a hearing, the community mental
6 health services board shall request it in writing within 60 days
7 after receipt of the notice. The department shall hold the hearing
8 not less than 30 days or more than 60 days from the date it
9 receives the request for a hearing.

10 (11) The director of the department's division that manages
11 contracts with community mental health services programs shall make
12 a decision regarding suspension, denial, or revocation of
13 certification based on evidence presented at the hearing or on the
14 default of the community mental health services board. A copy of
15 the decision shall be sent by certified mail within 45 days after
16 the close of the hearing to the community mental health services
17 board and to the board of commissioners of each county that
18 established the agency or created the organization or authority.

19 (12) A community mental health services board may appeal a
20 decision made under subsection (11) as provided in chapter 4 of the
21 administrative procedures act of 1969, ~~Act No. 306 of the Public~~
22 ~~Acts of 1969, being sections 24.271 to 24.287 of the Michigan~~
23 ~~Compiled Laws.1969 PA 306, MCL 24.271 TO 24.287.~~

24 (13) During the period of certification, the department may
25 conduct an unannounced review of a certified community mental
26 health services program. The department shall conduct an
27 unannounced review of a certified community mental health services

1 program in response to information that raises questions regarding
2 recipient health or safety. If the department finds based on its
3 review that the community mental health services program does not
4 substantially comply with the standards established under this
5 section, the department shall provide notice and a hearing under
6 subsections (10) and (11).

7 (14) If a community mental health services program fails to
8 obtain or retain certification as a result of the department's
9 review, has exhausted the time period for provisional
10 certification, is not engaged in the process of appeal or appeal
11 has been unsuccessful, and if no agreement has been reached by the
12 department with the community mental health services program to
13 assure certification compliance within a specified time period, the
14 department shall within 90 days do both of the following:

15 (a) Cancel the state funding commitment to the community
16 mental health services board.

17 (b) Utilize the funds previously provided to the community
18 mental health services board to do 1 or more of the following:

19 (i) Secure services from other providers of mental health
20 services that the department has determined can operate in
21 substantial compliance with the standards established under this
22 section and continue the delivery of services within the county or
23 counties.

24 (ii) Provide the service.

25 (15) If state funding is canceled under subsection (14) and
26 the community mental health services program is an authority
27 created under section 205, the county or counties that created the

1 authority are financially liable only for the local match formula
2 established for the authority under chapter 3. If state funding is
3 canceled under subsection (14) and the community mental health
4 services program is a county community mental health agency or a
5 community mental health organization, the county or counties that
6 established the agency are financially liable for local match for
7 all services contractually or directly provided by the department
8 to residents of the county or counties in accordance with chapter
9 3.

10 (16) The department shall not utilize the certification
11 process under this section to require a community mental health
12 services program to become a community mental health authority.
13 ~~Community~~ **EXCEPT AS PROVIDED IN SECTION 204(4), COMMUNITY** mental
14 health authority status is voluntary as provided in section 205.

15 ~~—— (17) Subject to section 114a, the department shall submit~~
16 ~~proposed rules for certification to public hearing within 6 months~~
17 ~~after the effective date of the amendatory act that added this~~
18 ~~section.~~

19 Enacting section 1. Section 216 of the mental health code,
20 1974 PA 258, MCL 330.1216, is repealed.