

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Senator Caswell

ENROLLED SENATE BILL No. 1196

AN ACT to amend 1974 PA 258, entitled "An act to codify, revise, consolidate, and classify the laws relating to mental health; to prescribe the powers and duties of certain state and local agencies and officials and certain private agencies and individuals; to regulate certain agencies and facilities providing mental health services; to provide for certain charges and fees; to establish civil admission procedures for individuals with mental illness or developmental disability; to establish guardianship procedures for individuals with developmental disability; to establish procedures regarding individuals with mental illness or developmental disability who are in the criminal justice system; to provide for penalties and remedies; and to repeal acts and parts of acts," 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:

Sec. 204. (1) Except as provided in subsection (4), a community mental health services program established under this chapter shall be a county community mental health agency, a community mental health organization, or a community mental health authority. A county community mental health agency is an official county agency. A community mental health organization or a community mental health authority is a public governmental entity separate from the county or counties that establish it.

(2) Procedures and policies for a community mental health organization or a community mental health authority shall be set by the board of the community mental health services program. Procedures and policies for a county community mental health agency shall be set by the board of commissioners or boards of commissioners as prescribed in this subsection. If a county community mental health services agency represents a single county, the county's board of commissioners shall determine the procedures and policies that shall be applicable to the agency. If a county community mental health services agency represents 2 or more counties, the boards of commissioners of the represented counties shall by agreement determine the procedures and policies that shall be applicable to the agency. In a charter county with an elected county executive, the county executive shall determine the procedures and policies that shall be applicable to the agency.

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

(4) Beginning October 1, 2013, in order to qualify for state support under section 202, if a single county that has situated totally within that county a city having a population of at least 500,000 establishes or administers a community mental health services program, that community mental health services program must be established and administered as a community mental health authority as specified under section 205. Any operational changes made by the community mental health agency that will require a financial commitment from the community mental health authority established as a result of the provisions of this subsection shall be made in consultation with the department director.

Sec. 212. (1) Upon electing to establish a community mental health services program, the county or combination of counties shall establish a 12-member community mental health services board, except as provided in section 214, 219, or 222(2) or (5). Except as provided in subsection (2), each board of commissioners shall by a majority vote appoint the board members from its county. Recommended appointments to the board shall be made annually following the organizational meeting of the board of commissioners.

(2) When a single county establishes a community mental health services program and totally situated within that county is a city having a population of at least 500,000, the 12 board members shall be appointed to the board as follows:

(a) Six board members appointed by a majority vote of the county board of commissioners from a list of nominees submitted by the county executive of that county. Two board members appointed under this subdivision must be primary consumers or family members of primary consumers. Upon notification that the list provided under this subdivision does not meet with the county board of commissioners' approval, the county executive of that county shall submit another list to the county board of commissioners with 6 different nominees.

(b) Six board members appointed by the county board of commissioners from a list of nominees submitted by the mayor of the city having a population of at least 500,000 that is totally situated within that county. Two board members appointed under this subdivision must be primary consumers or family members of primary consumers. Upon notification that the list provided under this subdivision does not meet with the county board of commissioners' approval, the mayor of the city having a population of at least 500,000 that is totally situated within that county shall submit another list to the county board of commissioners with 6 different nominees.

(3) When a single county establishes a community mental health services program and totally situated within that county is a city having a population of at least 500,000, the 12 board members shall be appointed to the board as the appointments of current board members expire.

(4) When a vacancy occurs on a board that has members appointed under subsection (2), the vacancy shall be filled in the same manner as the board member being replaced was appointed.

(5) A board member appointed under subsection (2) shall not be an employee or contractor of any of the following:

(a) The city or county described in subsection (2).

(b) The state.

(c) The federal government.

(d) A community mental health authority.

Sec. 224. The term of office of a board member shall be 3 years from April 1 of the year of appointment, except that of the members first appointed, 4 shall be appointed for a term of 1 year; 4 for 2 years, and 4 for 3 years. A vacancy shall be filled for an unexpired term in the same manner as an original appointment. A board member may be removed from office by the appointing board of commissioners for neglect of official duty or misconduct in office after being given a written statement of reasons and an opportunity to be heard on the removal. A board member shall be paid a per diem no larger than the highest per diem for members of other county advisory boards set by the county board of commissioners and be reimbursed for necessary travel expenses for each meeting attended. The mileage expense fixed by the county board of commissioners shall not exceed the mileage reimbursement as determined by the state officers compensation commission. A board member shall not receive more than 1 per diem payment per day regardless of the number of meetings scheduled by the board for that day.

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

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

(b) Promotion and protection of recipient rights.

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

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

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

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

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

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

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

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

(10) If a community mental health services program is denied certification, fails to comply with an approved plan of correction before the expiration of a provisional certification, or fails to comply substantially with the standards established under this section, the department shall notify the community mental health services board and the board of commissioners of each county that established the agency or created the organization or authority of the department's intention to suspend, deny, or revoke certification. The notice shall be sent by certified mail and shall set forth the particular reasons for the proposed action and offer an opportunity for a hearing with the director of the department's division that manages contracts with community mental health services programs. If it desires a hearing, the community mental health services board shall request it in writing within 60 days after receipt of the notice. The department shall hold the hearing not less than 30 days or more than 60 days from the date it receives the request for a hearing.

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

(12) A community mental health services board may appeal a decision made under subsection (11) as provided in chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287.

(13) During the period of certification, the department may conduct an unannounced review of a certified community mental health services program. The department shall conduct an unannounced review of a certified community mental health services program in response to information that raises questions regarding recipient health or safety. If the department finds based on its review that the community mental health services program does not substantially comply with the standards established under this section, the department shall provide notice and a hearing under subsections (10) and (11).

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

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

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

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

(ii) Provide the service.

(15) If state funding is canceled under subsection (14) and the community mental health services program is an authority created under section 205, the county or counties that created the authority are financially liable only for the local match formula established for the authority under chapter 3. If state funding is canceled under subsection (14) and the community mental health services program is a county community mental health agency or a community mental health organization, the county or counties that established the agency are financially liable for local match for all

services contractually or directly provided by the department to residents of the county or counties in accordance with chapter 3.

(16) The department shall not utilize the certification process under this section to require a community mental health services program to become a community mental health authority. Except as provided in section 204(4), community mental health authority status is voluntary as provided in section 205.

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

Carol Morey Viventi

Secretary of the Senate

Ray E. Randall

Clerk of the House of Representatives

Approved

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Governor