

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

330.1754 State office of recipient rights; establishment by department; selection of director; powers and authority of state office of recipient rights.

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

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

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

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

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

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

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

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

(d) Staff of the state office of recipient rights receive training each year in recipient rights protection.

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

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

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

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

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

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

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

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

(4) After consulting with the state recipient rights advisory committee, the department director shall select a director of the state office of recipient rights who has the education, training, and experience to fulfill the responsibilities of the office. The department director shall not replace or dismiss the director of the state office of recipient rights without first consulting the state recipient rights advisory committee. The director of the state office of recipient rights shall have no direct service responsibility. The director of the state office of recipient rights shall report directly and solely to the department director. The department director shall not delegate his or her responsibility under this subsection.

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

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

(b) Resolve disputes relating to violations.

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

(d) Apply for and receive grants, gifts, and bequests to effectuate any purpose of this chapter.

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

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

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

(c) Maintain a record system for all reports of apparent or suspected rights violations received, including a mechanism for logging in all complaints and a mechanism for secure storage of all investigative documents and evidence.

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

(e) Receive reports of apparent or suspected violations of rights guaranteed by this chapter. The state office of recipient rights shall refer reports of apparent or suspected rights violations to the recipient rights office of

the appropriate provider to be addressed by the provider's internal rights protection mechanisms. The state office shall intervene as necessary to act on behalf of recipients in situations in which the director of the department considers the rights protection system of the provider to be out of compliance with this act and rules promulgated under this act.

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

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

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

(i) Ensure that each service site operated by the department or by a provider under contract with the department, other than a community mental health services program, is visited by recipient rights staff with the frequency necessary for protection of rights but in no case less than annually.

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

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

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

(m) Serve as consultant to the director in matters related to recipient rights.

(n) At least quarterly, provide summary complaint data consistent with the annual report required in subdivision (o), together with a summary of remedial action taken on substantiated complaints, to the department and the state recipient rights advisory committee.

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

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

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

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

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

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

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

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

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

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

(x) Recommendations to the department.

(p) Provide education and training to its recipient rights advisory committee and its recipient rights appeals committee.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2006, Act 604, Imd. Eff. Jan. 3, 2007.

Administrative rules: R 330.1001 et seq. of the Michigan Administrative Code.