CHAPTER 330. MENTAL HEALTH CODE

DEPARTMENT OF MENTAL HEALTH
Act 271 of 1945

330.1-330.4 Repealed. 1963, Act 236, Imd. Eff. May 23, 1963;—1970, Act 138, Imd. Eff. Aug. 1, 1970;—1974, Act 258, Eff. Aug. 6, 1975.

THE HOSPITAL ACT FOR MENTALLY DISEASED PERSONS
Act 151 of 1923

330.11-330.71 Repealed. 1966, Act 175, Imd. Eff. July 1, 1966;—1974, Act 107, Eff. Aug. 1, 1974;—1974, Act 258, Eff. Aug. 6, 1975.

Compiler's note: Subsequent to its repeal by Act 258 of 1974, MCL 330.11 was amended by Act 323 of 1974.
Prior to the effective date of its repeal, MCL 330.15 was amended by Act 117 of 1975, which expired on Aug. 6, 1975.

INTERSTATE COMPACT ON MENTAL HEALTH
Act 270 of 1965

330.81-330.86 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

REIMBURSEMENT FOR HOSPITAL CARE OF MENTALLY ILL PERSONS
Act 229 of 1956

330.91-330.94 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

STATE ASYLUM AT IONIA
Act 7 of 1901

330.101 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

JAMES DECKER MUNSON HOSPITAL
Act 129 of 1945

330.161-330.166 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

JAMES DECKER MUNSON HOSPITAL; LEASE
Act 223 of 1947

330.171-330.175 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

CHILDREN'S CLINIC AT TRAVERSE CITY STATE HOSPITAL
Act 39 of 1935

330.181-330.183 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

COMMUNITY HOSPITAL; TRAVERSE CITY
Act 48 of 1949

330.191-330.194 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

DETENTION OF MENTALLY DISEASED PERSONS
Act 231 of 1923

330.201,330.202 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

FEEBLE-MINDED AND EPILEPTIC PERSONS
Act 392 of 1921

330.251-330.255 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

DAY SCHOOL PROGRAM FOR MENTALLY HANDICAPPED CHILDREN
Act 148 of 1957

330.261 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

DRUG ADDICTS; WAYNE COUNTY HOSPITAL
Act 148 of 1927

330.301-330.305 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

STATE PSYCHOPATHIC HOSPITAL
Act 85 of 1937

330.401-330.407 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

COMBINED PSYCHIATRIC HOSPITAL AND CLINIC
Act 217 of 1954

330.421-330.427 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

MICHIGAN PICTURE TEST
Act 5 of 1951

330.451-330.453 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

HOSPITAL BONDS
Act 12 of 1951

330.501-330.506 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

EMERGENCY HOSPITALIZATION OF MENTALLY DEFICIENT CHILDREN
Act 1 of 1955 (2nd Ex. Sess.)

330.557,330.558 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

GAYLORD STATE HOME
Act 21 of 1963

330.561,330.562 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

SOUTHWESTERN TUBERCULOSIS SANATORIUM
Act 56 of 1969

330.571,330.572 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

COMMUNITY MENTAL HEALTH SERVICES PROGRAM
Act 54 of 1963

330.601-330.615 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

MENTALLY RETARDED PERSONS AND MENTALLY ILL CHILDREN

Act 335 of 1965

330.651-330.666 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

MENTAL HOSPITALS, PSYCHIATRIC HOSPITALS, OR PSYCHIATRIC UNITS
Act 107 of 1974

330.701-330.720 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

MENTAL HEALTH CODE
Act 258 of 1974

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 or substance use disorder services; to provide for certain charges and fees; to establish civil admission procedures for individuals with mental illness, substance use disorder, or developmental disability; to establish guardianship procedures for individuals with developmental disability; to establish procedures regarding individuals with mental illness, substance use disorder, or developmental disability who are in the criminal justice system; to provide for penalties and remedies; and to repeal acts and parts of acts.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1980, Act 423, Eff. Mar. 31, 1981;—Am. 1990, Act 263, Imd. Eff. Oct. 15, 1990;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2014, Act 200, Imd. Eff. June 24, 2014.

The People of the State of Michigan enact:

330.1001 Short title.

Sec. 1. This act shall be known and may be cited as the "mental health code".

History: 1974, Act 258, Eff. Aug. 6, 1975.

Compiler's note: For renaming of the department of mental health to the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For creation of department of health and human services and abolishment of department of community health, see E.R.O. No. 2015-1, compiled at MCL 400.227.

CHAPTER 1
DEPARTMENT OF MENTAL HEALTH

330.1100 Definitions.

Sec. 100. The definitions in sections 100a to 100d apply to this act unless the context requires otherwise. Other definitions applicable to specific chapters are found in those chapters.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1990, Act 124, Imd. Eff. June 26, 1990;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: For transfer of powers and duties of licensing, monitoring, and accreditation, with the exception of the clinical services team, from the department of community health to the director of the department of commerce, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

330.1100a Definitions; A to E.

Sec. 100a. (1) "Abilities" means the qualities, skills, and competencies of an individual that reflect the individual's talents and acquired proficiencies.

(2) "Abuse" means nonaccidental physical or emotional harm to a recipient, or sexual contact with or sexual penetration of a recipient as those terms are defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a, that is committed by an employee or volunteer of the department, a community mental health services program, or a licensed hospital or by an employee or volunteer of a service provider under contract with the department, community mental health services program, or licensed hospital.

(3) "Adaptive skills" means skills in 1 or more of the following areas:

(a) Communication.

(b) Self-care.

(c) Home living.

(d) Social skills.

(e) Community use.

(f) Self-direction.

(g) Health and safety.

(h) Functional academics.

(i) Leisure.

(j) Work.

(4) "Adult foster care facility" means an adult foster care facility licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(5) "Alcohol and drug abuse counseling" means the act of counseling, modification of substance use disorder related behavior, and prevention techniques for individuals with substance use disorder, their significant others, and individuals who could potentially develop a substance use disorder.

(6) "Applicant" means an individual or his or her legal representative who makes a request for mental health services.

(7) "Approved service program" means a substance use disorder services program licensed under part 62 of the public health code, 1978 PA 368, MCL 333.6230 to 333.6251, to provide substance use disorder treatment and rehabilitation services by the department-designated community mental health entity and approved by the federal government to deliver a service or combination of services for the treatment of incapacitated individuals.

(8) "Assisted outpatient treatment" or "AOT" means the categories of outpatient services ordered by the court under section 468 or 469a. Assisted outpatient treatment may include a case management plan and case management services to provide care coordination under the supervision of a psychiatrist and developed in accordance with person-centered planning under section 712. Assisted outpatient treatment may also include 1 or more of the following categories of services: medication; periodic blood tests or urinalysis to determine compliance with prescribed medications; individual or group therapy; day or partial day programming activities; vocational, educational, or self-help training or activities; assertive community treatment team services; alcohol or substance use disorder treatment and counseling and periodic tests for the presence of alcohol or illegal drugs for an individual with a history of alcohol abuse or substance use disorder; supervision of living arrangements; and any other services within a local or unified services plan developed under this act that are prescribed to treat the individual's mental illness and to assist the individual in living and functioning in the community or to attempt to prevent a relapse or deterioration that may reasonably be predicted to result in suicide, the need for hospitalization, or serious violent behavior. The medical review and direction included in an assisted outpatient treatment plan shall be provided under the supervision of a psychiatrist.

(9) "Board" means the governing body of a community mental health services program.

(10) "Board of commissioners" means a county board of commissioners.

(11) "Center" means a facility operated by the department to admit individuals with developmental disabilities and provide habilitation and treatment services.

(12) "Certification" means formal approval of a program by the department in accordance with standards developed or approved by the department.

(13) "Child abuse" and "child neglect" mean those terms as defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

(14) "Child and adolescent psychiatrist" means 1 or more of the following:

(a) A physician who has completed a residency program in child and adolescent psychiatry approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, or who has completed 12 months of child and adolescent psychiatric rotation and is enrolled in an approved residency program as described in this subsection.

(b) A psychiatrist employed by or under contract as a child and adolescent psychiatrist with the department or a community mental health services program on March 28, 1996, who has education and clinical experience in the evaluation and treatment of children or adolescents with serious emotional disturbance.

(c) A psychiatrist who has education and clinical experience in the evaluation and treatment of children or adolescents with serious emotional disturbance who is approved by the director.

(15) "Children's diagnostic and treatment service" means a program operated by or under contract with a community mental health services program, that provides examination, evaluation, and referrals for minors, including emergency referrals, that provides or facilitates treatment for minors, and that has been certified by the department.

(16) "Community mental health authority" means a separate legal public governmental entity created under section 205 to operate as a community mental health services program.

(17) "Community mental health organization" means a community mental health services program that is organized under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(18) "Community mental health services program" means a program operated under chapter 2 as a county community mental health agency, a community mental health authority, or a community mental health organization.

(19) "Consent" means a written agreement executed by a recipient, a minor recipient's parent, a recipient's legal representative with authority to execute a consent, or a full or limited guardian authorized under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, with the authority to consent, or a verbal agreement of a recipient that is witnessed and documented by an individual other than the individual providing treatment.

(20) "Conversion therapy" means any practice or treatment by a mental health professional that seeks to change an individual's sexual orientation or gender identity, including, but not limited to, efforts to change behavior or gender expression or to reduce or eliminate sexual or romantic attractions or feelings toward an

individual of the same gender. Conversion therapy does not include counseling that provides assistance to an individual undergoing a gender transition, counseling that provides acceptance, support, or understanding of an individual or facilitates an individual's coping, social support, or identity exploration and development, including sexual orientation-neutral intervention to prevent or address unlawful conduct or unsafe sexual practices, as long as the counseling does not seek to change an individual's sexual orientation or gender identity. As used in this subsection:

(a) "Gender identity" means "gender identity or expression" as that term is defined in section 103 of the Elliott-Larsen civil rights act, 1976 PA 453, MCL 37.2103.

(b) "Sexual orientation" means that term as defined in section 103 of the Elliot-Larsen civil rights act, 1976 PA 453, MCL 37.2103.

(21) "County community mental health agency" means an official county or multicounty agency created under section 210 that operates as a community mental health services program and that has not elected to become a community mental health authority or a community mental health organization.

(22) "Crisis stabilization unit" means a prescreening unit established under section 409 or a facility certified under chapter 9A that provides unscheduled clinical services designed to prevent or ameliorate a behavioral health crisis or reduce acute symptoms on an immediate, intensive, and time-limited basis in response to a crisis situation.

(23) "Department" means the department of health and human services.

(24) "Department-designated community mental health entity" means the community mental health authority, community mental health organization, community mental health services program, county community mental health agency, or community mental health regional entity designated by the department to represent a region of community mental health authorities, community mental health organizations, community mental health services programs, or county community mental health agencies.

(25) "Dependent living setting" means all of the following:

(a) An adult foster care facility.

(b) A nursing home licensed under part 217 of the public health code, 1978 PA 368, MCL 333.21701 to 333.21799e.

(c) A home for the aged licensed under part 213 of the public health code, 1978 PA 368, MCL 333.21301 to 333.21335.

(26) "Designated representative" means any of the following:

(a) A registered nurse or licensed practical nurse licensed or otherwise authorized under part 172 of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242.

(b) A paramedic licensed or otherwise authorized under part 209 of the public health code, 1978 PA 368, MCL 333.20901 to 333.20979.

(c) A physician's assistant licensed or otherwise authorized under part 170 or 175 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17097 and 333.17501 to 333.17556.

(d) An individual qualified by education, training, and experience who performs acts, tasks, or functions under the supervision of a physician.

(27) "Developmental disability" means either of the following:

(a) If applied to an individual older than 5 years of age, a severe, chronic condition that meets all of the following requirements:

(*i*) Is attributable to a mental or physical impairment or a combination of mental and physical impairments.

(*ii*) Is manifested before the individual is 22 years old.

(*iii*) Is likely to continue indefinitely.

(*iv*) Results in substantial functional limitations in 3 or more of the following areas of major life activity:

(A) Self-care.

(B) Receptive and expressive language.

(C) Learning.

(D) Mobility.

(E) Self-direction.

(F) Capacity for independent living.

(G) Economic self-sufficiency.

(*v*) Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

(b) If applied to a minor from birth to 5 years of age, a substantial developmental delay or a specific congenital or acquired condition with a high probability of resulting in developmental disability as defined in subdivision (a) if services are not provided.

(28) "Director" means the director of the department or his or her designee.

(29) "Discharge" means an absolute, unconditional release of an individual from a facility by action of the facility or a court.

(30) "Eligible minor" means an individual less than 18 years of age who is recommended in the written report of a multidisciplinary team under rules promulgated by the department of education to be classified as 1 of the following:

(a) Severely mentally impaired.

(b) Severely multiply impaired.

(c) Autistic impaired and receiving special education services in a program designed for the autistic impaired under R 340.1758 of the Michigan Administrative Code or in a program designed for the severely mentally impaired or severely multiply impaired.

(31) "Emergency situation" means a situation in which an individual is experiencing a serious mental illness or a developmental disability, or a minor is experiencing a serious emotional disturbance, and 1 of the following applies:

(a) The individual can reasonably be expected within the near future to physically injure himself, herself, or another individual, either intentionally or unintentionally.

(b) The individual is unable to provide himself or herself food, clothing, or shelter or to attend to basic physical activities such as eating, toileting, bathing, grooming, dressing, or ambulating, and this inability may lead in the near future to harm to the individual or to another individual.

(c) The individual has mental illness that has impaired his or her judgment so that the individual is unable to understand his or her need for treatment and presents a risk of harm.

(32) "Executive director" means an individual appointed under section 226 to direct a community mental health services program or his or her designee.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1998, Act 497, Eff. Mar. 1, 1999;—Am. 2004, Act 499, Eff. Mar. 30, 2005;—Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2018, Act 593, Eff. Mar. 28, 2019;—Am. 2018, Act 595, Eff. Mar. 28, 2019;—Am. 2020, Act 402, Eff. Mar. 24, 2021;—Am. 2023, Act 118, Eff Feb. 13, 2024.

330.1100b Definitions; F to N.

Sec. 100b. (1) Except as otherwise provided in this subsection, "facility" means a residential facility for the care or treatment of individuals with serious mental illness, serious emotional disturbance, or developmental disability that is either a state facility or a licensed facility. Facility includes a preadmission screening unit established under section 409 that is operating a crisis stabilization unit.

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

(3) "Family member" means a parent, stepparent, spouse, sibling, child, or grandparent of a primary consumer, or an individual upon whom a primary consumer is dependent for at least 50% of his or her financial support.

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

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

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

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

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

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

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

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

(10) "Incapacitated" means that an individual, as a result of the use of alcohol or other drugs, is unconscious or has his or her mental or physical functioning so impaired that he or she either poses an immediate and substantial danger to his or her own health and safety or is endangering the health and safety of the public.

(11) "Individual plan of services" or "plan of services" means a written individual plan of services developed with a recipient as required by section 712.

(12) "Individual representative" means a recipient's legal guardian, minor recipient's parent, or other person authorized by law to represent the recipient in decision-making related to the recipient's services and supports.

(13) "Intellectual disability" means a condition manifesting before the age of 18 years that is characterized by significantly subaverage intellectual functioning and related limitations in 2 or more adaptive skills and that is diagnosed based on the following assumptions:

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

(b) The existence of limitation in adaptive skills occurs within the context of community environments typical of the individual's age peers and is indexed to the individual's particular needs for support.

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

(d) With appropriate supports over a sustained period, the life functioning of the individual with an intellectual disability will generally improve.

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

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

(16) "Mediation" means a confidential process in which a neutral third party facilitates communication between parties, assists in identifying issues, and helps explore solutions to promote a mutually acceptable resolution. A mediator does not have authoritative decision-making power.

(17) "Medicaid" means the program of medical assistance established under section 105 of the social welfare act, 1939 PA 280, MCL 400.105.

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

(19) "Mental health professional" means an individual who is trained and experienced in the area of mental illness or developmental disabilities and who is 1 of the following:

(a) A physician.

(b) A psychologist.

(c) A registered professional nurse licensed or otherwise authorized to engage in the practice of nursing under part 172 of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242.

(d) A licensed master's social worker licensed or otherwise authorized to engage in the practice of social work at the master's level under part 185 of the public health code, 1978 PA 368, MCL 333.18501 to 333.18518.

(e) A licensed professional counselor licensed or otherwise authorized to engage in the practice of counseling under part 181 of the public health code, 1978 PA 368, MCL 333.18101 to 333.18117.

(f) A marriage and family therapist licensed or otherwise authorized to engage in the practice of marriage and family therapy under part 169 of the public health code, 1978 PA 368, MCL 333.16901 to 333.16915.

(20) "Minor" means an individual under the age of 18 years.

(21) "Multicultural services" means specialized mental health services for multicultural populations such as African-Americans, Hispanics, Native Americans, Asian and Pacific Islanders, and Arab/Chaldean-Americans.

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

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2004, Act 499, Eff. Mar. 30, 2005;—Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012;—Am. 2014, Act 72, Imd. Eff. Mar. 28, 2014;—Am. 2014, Act 200, Imd. Eff. June 24, 2014;—Am. 2020, Act 55, Imd. Eff. Mar. 3, 2020;—Am. 2020, Act 285, Eff. Mar. 24, 2021;—Am. 2020, Act 402, Eff. Mar. 24, 2021.

330.1100c Definitions; P to R.

Sec. 100c. (1) "Peace officer" means an officer of the department of state police, an officer of a law enforcement agency of a county, township, city, or village who is responsible for preventing and detecting crime and enforcing the criminal laws of this state, or an officer of a law enforcement agency who is licensed under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615. For

the purposes of sections 408, 426, 427a, and 427b, peace officer also includes an officer of the United States Secret Service with the officer's consent and a police officer of the Veterans' Administration Medical Center Reservation.

(2) "Peer review" means a process, including the review process required under section 143a, in which mental health professionals of a state facility, licensed hospital, or community mental health services program evaluate the clinical competence of staff and the quality and appropriateness of care provided to recipients. Peer review evaluations are confidential in accordance with section 748(9) and are based on criteria established by the facility or community mental health services program itself, the accepted standards of the mental health professions, and the department.

(3) "Person requiring treatment" means an individual who meets the criteria described in section 401.

(4) "Physician" means an individual licensed or otherwise authorized to engage in the practice of medicine under part 170 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17097, or to engage in the practice of osteopathic medicine and surgery under part 175 of the public health code, 1978 PA 368, MCL 333.17501 to 333.17556.

(5) "Primary consumer" means an individual who has received or is receiving services from the department or a community mental health services program or services from the private sector equivalent to those offered by the department or a community mental health services program.

(6) "Priority" means preference for and dedication of a major proportion of resources to specified populations or services. Priority does not mean serving or funding the specified populations or services to the exclusion of other populations or services.

(7) "Protective custody" means the temporary custody of an individual by a peace officer with or without the individual's consent for the purpose of protecting that individual's health and safety, or the health and safety of the public, and for the purpose of transporting the individual under section 276, 408, or 427 if the individual appears, in the judgment of the peace officer, to be a person requiring treatment or is a person requiring treatment. Protective custody is civil in nature and is not an arrest.

(8) "Psychiatric residential treatment facility" or "PRTF" means a facility other than a hospital that provides psychiatric services, as described in 42 CFR 441.150 to 441.184, in an inpatient setting to individuals under age 21.

(9) "Psychiatric unit" means a unit of a general hospital that provides inpatient services for individuals with serious mental illness or serious emotional disturbance. As used in this subsection, "general hospital" means a hospital as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(10) "Psychiatrist" means 1 or more of the following:

(a) A physician who has completed a residency program in psychiatry approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, or who has completed 12 months of psychiatric rotation and is enrolled in an approved residency program as described in this subdivision.

(b) A psychiatrist employed by or under contract with the department or a community mental health services program on March 28, 1996.

(c) A physician who devotes a substantial portion of his or her time to the practice of psychiatry and is approved by the director.

(11) "Psychologist" means an individual who is licensed or otherwise authorized to engage in the practice of psychology under part 182 of the public health code, 1978 PA 368, MCL 333.18201 to 333.18237, and who devotes a substantial portion of his or her time to the diagnosis and treatment of individuals with serious mental illness, serious emotional disturbance, substance use disorder, or developmental disability.

(12) "Public patient" means an individual approved for mental health services by a community mental health services program. Public patient includes an individual who is admitted as a patient under section 423, 429, or 438.

(13) "Recipient" means an individual who receives mental health services, either in person or through telemedicine, from the department, a community mental health services program, or a facility or from a provider that is under contract with the department or a community mental health services program. For the purposes of this act, recipient does not include an individual receiving substance use disorder services under chapter 2A unless that individual is also receiving mental health services under this act in conjunction with substance use disorder services.

(14) "Recipient rights advisory committee" means a committee of a community mental health services program board appointed under section 757 or a recipient rights advisory committee appointed by a licensed hospital under section 758.

(15) "Recovery" means a highly individualized process of healing and transformation by which the individual gains control over his or her life. Related services include recovery management, recovery support

services, recovery houses or transitional living programs, and relapse prevention. Recovery involves the development of a new meaning, purpose, and growing beyond the impact of addiction or a diagnosis. Recovery may include the pursuit of spiritual, emotional, mental, or physical well-being.

(16) "Regional entity" means an entity established under section 204b to provide specialty services and supports.

(17) "Rehabilitation" means the act of restoring an individual to a state of mental and physical health or useful activity through vocational or educational training, therapy, and counseling.

(18) "Resident" means an individual who receives services in a facility.

(19) "Responsible mental health agency" means the hospital, center, or community mental health services program that has primary responsibility for the recipient's care or for delivering services or supports to that recipient.

(20) "Rule" means a rule promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2002, Act 589, Imd. Eff. Oct. 17, 2002;—Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012;—Am. 2014, Act 200, Imd. Eff. June 24, 2014;—Am. 2015, Act 59, Eff. Oct. 1, 2015;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2020, Act 99, Imd. Eff. June 24, 2020;—Am. 2020, Act 285, Eff. Mar. 24, 2021;—Am. 2023, Act 56, Imd. Eff. July 12, 2023.

330.1100d Definitions; S to W.

Sec. 100d. (1) "Security transport officer" means an officer employed by a private security company under contract with a county under section 170.

(2) "Service" means a mental health service or a substance use disorder service.

(3) "Serious emotional disturbance" means a diagnosable mental, behavioral, or emotional disorder affecting a minor that exists or has existed during the past year for a period of time sufficient to meet diagnostic criteria specified in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association and approved by the department and that has resulted in functional impairment that substantially interferes with or limits the minor's role or functioning in family, school, or community activities. The following disorders are included only if they occur in conjunction with another diagnosable serious emotional disturbance:

(a) A substance use disorder.

(b) A developmental disorder.

(c) "V" codes in the Diagnostic and Statistical Manual of Mental Disorders.

(4) "Serious mental illness" means a diagnosable mental, behavioral, or emotional disorder affecting an adult that exists or has existed within the past year for a period of time sufficient to meet diagnostic criteria specified in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association and approved by the department and that has resulted in functional impairment that substantially interferes with or limits 1 or more major life activities. Serious mental illness includes dementia with delusions, dementia with depressed mood, and dementia with behavioral disturbance. Serious mental illness does not include any other dementia unless the dementia occurs in conjunction with another diagnosable serious mental illness. The following disorders also are included only if they occur in conjunction with another diagnosable serious mental illness:

(a) A substance use disorder.

(b) A developmental disorder.

(c) A "V" code in the Diagnostic and Statistical Manual of Mental Disorders.

(5) "Special compensation" means payment to an adult foster care facility to ensure the provision of a specialized program in addition to the basic payment for adult foster care. Special compensation does not include payment received directly from the Medicaid program for personal care services for a resident, or payment received under the supplemental security income program.

(6) "Specialized program" means a program of services, supports, or treatment that are provided in an adult foster care facility to meet the unique programmatic needs of individuals with serious mental illness or developmental disability as set forth in the resident's individual plan of services and for which the adult foster care facility receives special compensation.

(7) "Specialized residential service" means a combination of residential care and mental health services that are expressly designed to provide rehabilitation and therapy to a recipient, that are provided in the recipient's residence, and that are part of a comprehensive individual plan of services.

(8) "State administered funds" means revenues appropriated by the legislature exclusively for the purposes provided for in regard to substance use disorder services and prevention.

(9) "State facility" means a center or a hospital operated by the department.

(10) "State recipient rights advisory committee" means a committee appointed by the director under

section 756 to advise the director and the director of the department's office of recipient rights.

(11) "Substance abuse" means the taking of alcohol or other drugs at dosages that place an individual's social, economic, psychological, and physical welfare in potential hazard or to the extent that an individual loses the power of self-control as a result of the use of alcohol or drugs, or while habitually under the influence of alcohol or drugs, endangers public health, morals, safety, or welfare, or a combination thereof.

(12) "Substance use disorder" means chronic disorder in which repeated use of alcohol, drugs, or both, results in significant and adverse consequences. Substance use disorder includes substance abuse.

(13) "Substance use disorder prevention services" means services that are intended to reduce the consequences of substance use disorders in communities by preventing or delaying the onset of substance abuse and that are intended to reduce the progression of substance use disorders in individuals. Substance use disorder prevention is an ordered set of steps that promotes individual, family, and community health, prevents mental and behavioral disorders, supports resilience and recovery, and reinforces treatment principles to prevent relapse.

(14) "Substance use disorder treatment and rehabilitation services" means providing identifiable recovery-oriented services including the following:

(a) Early intervention and crisis intervention counseling services for individuals who are current or former individuals with substance use disorder.

(b) Referral services for individuals with substance use disorder, their families, and the general public.

(c) Planned treatment services, including chemotherapy, counseling, or rehabilitation for individuals physiologically or psychologically dependent upon or abusing alcohol or drugs.

(15) "Supplemental security income" means the program authorized under title XVI of the social security act, 42 USC 1381 to 1383f.

(16) "Telemedicine" means the use of an electronic media to link patients with health care professionals in different locations. To be considered telemedicine under this section, the health care professional must be able to examine the patient via a health insurance portability and accountability act of 1996, Public Law 104-191 compliant, secure interactive audio or video, or both, telecommunications system, or through the use of store and forward online messaging.

(17) "Transfer facility" means a facility selected by the department-designated community mental health entity, which facility is physically located in a jail or lockup and is staffed by at least 1 designated representative when in use according to chapter 2A.

(18) "Transition services" means a coordinated set of activities for a special education student designed within an outcome-oriented process that promotes movement from school to postschool activities, including postsecondary education, vocational training, integrated employment including supported employment, continuing and adult education, adult services, independent living, or community participation.

(19) "Treatment" means care, diagnostic, and therapeutic services, including administration of drugs, and any other service for treatment of an individual's serious mental illness, serious emotional disturbance, or substance use disorder.

(20) "Urgent situation" means a situation in which an individual is determined to be at risk of experiencing an emergency situation in the near future if he or she does not receive care, treatment, or support services.

(21) "Wraparound services" means an individually designed set of services provided to minors with serious emotional disturbance or serious mental illness and their families that includes treatment services and personal support services or any other supports necessary to foster education preparedness, employability, and preservation of the child in the family home. Wraparound services are to be developed through an interagency collaborative approach and a minor's parent or guardian and a minor age 14 or older are to participate in planning the services.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012;—Am. 2014, Act 200, Imd. Eff. June 24, 2014;—Am. 2015, Act 59, Eff. Oct. 1, 2015;—Am. 2020, Act 99, Imd. Eff. June 24, 2020;—Am. 2022, Act 146, Eff. (sine die);—Am. 2022, Act 214, Imd. Eff. Oct. 14, 2022.

330.1102 Department; establishment.

Sec. 102. The department of mental health is established by section 400 of Act No. 380 of the Public Acts of 1965, being section 16.500 of the Michigan Compiled Laws.

History: 1974, Act 258, Eff. Aug. 6, 1975.

Compiler's note: For renaming of the department of mental health to the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For creation of department of health and human services and abolishment of department of community health, see E.R.O. No. 2015-1, compiled at MCL 400.227.

330.1104 Director as head of department; authority; delegation; appointment of medical

director of mental health services; clinical psychiatric decisions.

Sec. 104. (1) The head of the department is the director of mental health as provided in section 401 of the executive organization act of 1965, 1965 PA 380, MCL 16.501.

(2) All executive authority of and within the department is vested in the director, who may delegate that authority as he or she considers necessary or appropriate. Any authority that has by law been vested in any entity owned or operated by the department, or any employee of the department is exercisable by the director at his or her option. The director shall delegate authority for clinical decisions to appropriately trained clinical professionals. This subsection applies to each chapter of this act.

(3) The director shall appoint a medical director of mental health services who is an appropriately credentialed psychiatrist. The medical director shall do all of the following:

(a) Advise the director on mental health policy and treatment issues.

(b) Serve as a resource on mental health clinical matters to all divisions within the department, other state departments, and the mental health field.

(c) Promote the use of mental health care and treatment best practices that are scientifically validated and recovery oriented.

(4) Clinical psychiatric decisions regarding the admission, treatment, and discharge of psychiatric patients in state mental hospitals shall be made by qualified state hospital physicians or appropriately credentialed psychiatrists granted state hospital staff privileges under section 245.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1986, Act 287, Imd. Eff. Dec. 22, 1986;—Am. 2006, Act 586, Imd. Eff. Jan. 3, 2007.

330.1106 Director; appointment, term, and qualifications.

Sec. 106. (1) As provided in section 508 of Act No. 380 of the Public Acts of 1965, being section 16.608 of the Michigan Compiled Laws, the director shall be appointed by the governor by and with the advice and consent of the senate and shall serve at the pleasure of the governor.

(2) The director shall be a person with at least 5 years of previous executive experience in mental health or human services.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1981, Act 188, Imd. Eff. Dec. 28, 1981.

330.1108 Director; compensation; restriction.

Sec. 108. (1) The director shall receive compensation prescribed by law, as provided in section 8(a) of Act No. 380 of the Public Acts of 1965, as amended, being section 16.108 of the Michigan Compiled Laws.

(2) The director shall not engage in any business, vocation, or employment other than his office, as provided in section 8(b) of Act No. 380 of the Public Acts of 1965, as amended.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.1110 Citizens mental health advisory council.

Sec. 110. (1) A citizens mental health advisory council is established to advise and assist the director in developing and executing mental health policies and programs.

(2) The council shall consist of 12 members who shall be appointed by the governor. The term of office of each member shall be 2 years. A member shall be paid a reasonable per diem and reimbursed for necessary travel expenses for each meeting attended. A meeting shall be held at least once every 3 months, upon call of the director. The council shall annually, by majority vote, choose a chairperson from among its own membership.

(3) The composition of the citizens mental health advisory council shall be representative of primary consumers, family members, agencies and professionals having a working involvement with mental health services, and the general public. At least 4 members of the council shall be primary consumers or family members, and at least 2 of those 4 shall be primary consumers.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: For transfer of powers and duties of the citizens mental health advisory council to the director of the department of community health and abolishment of the council, see E.R.O. No. 1997-4, compiled at MCL 333.26324 of the Michigan Compiled Laws.

330.1112 Internal organization of department.

Sec. 112. As provided in section 7(a) of Act No. 380 of the Public Acts of 1965, being section 16.107 of the Michigan Compiled Laws, and except as is otherwise provided by law, the director with the approval of the governor is authorized to establish the internal organization of the department and to allocate and reallocate duties and functions to promote economic and efficient administration and operation of the department.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.1113 Injury to employee as result of assault by recipient of mental health services; compensation and fringe benefits.

Sec. 113. A person employed by the department who is injured as a result of an assault by a recipient of mental health services shall receive his full wages by the department until workmen's compensation benefits begin and then shall receive in addition to workmen's compensation benefits a supplement from the department which together with the workmen's compensation benefits shall equal but not exceed the weekly net wage of the employee at the time of the injury. This supplement shall only apply while the person is on the department's payroll and is receiving workmen's compensation benefits and shall include an employee who is currently receiving workmen's compensation due to an injury covered by this section. Fringe benefits normally received by an employee shall be in effect during the time the employee receives the supplement provided by this section from the department.

History: Add. 1976, Act 414, Imd. Eff. Jan. 9, 1977.

330.1114 Rules.

Sec. 114. (1) Subject to section 114a, as provided in section 9 of Act No. 380 of the Public Acts of 1965, being section 16.109 of the Michigan Compiled Laws, the director may promulgate rules as necessary to carry out the functions vested in the department.

(2) All modifications to rules that are needed to comply with the amendatory act that added this subsection shall be submitted to public hearing within 2 years after the effective date of that amendatory act.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

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

330.1114a Applicability of provisions requiring or permitting rule promulgation.

Sec. 114a. If the Michigan supreme court rules that sections 45 and 46 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.245 and 24.246 of the Michigan Compiled Laws, are unconstitutional, and a statute requiring legislative review of administrative rules is not enacted within 90 days after the Michigan supreme court ruling, any provision of this act that requires or permits the department to promulgate rules does not apply.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: In separate opinions, the Michigan Supreme Court held that Section 45(8), (9), (10), and (12) and the second sentence of Section 46(1) ("An agency shall not file a rule ... until at least 10 days after the date of the certificate of approval by the committee or after the legislature adopts a concurrent resolution approving the rule.") of the Administrative Procedures Act of 1969, in providing for the Legislature's reservation of authority to approve or disapprove rules proposed by executive branch agencies, did not comply with the enactment and presentment requirements of Const 1963, Art 4, and violated the separation of powers provision of Const 1963, Art 3, and, therefore, were unconstitutional. These specified portions were declared to be severable with the remaining portions remaining effective. Blank v Department of Corrections, 462 Mich 103 (2000).

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

330.1116 Powers and duties of department.

Sec. 116. (1) Consistent with section 51 of article IV of the state constitution of 1963, which declares that the health of the people of the state is a matter of primary public concern, and as required by section 8 of article VIII of the state constitution of 1963, which declares that services for the care, treatment, education, or rehabilitation of those who are seriously mentally disabled shall always be fostered and supported, the department shall continually and diligently endeavor to ensure that adequate and appropriate mental health services are available to all citizens throughout the state. To this end, the department shall have the general powers and duties described in this section.

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

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

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

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

(b) Administer the provisions of chapter 2 so as to promote and maintain an adequate and appropriate system of community mental health services programs throughout the state. In the administration of chapter 2, it shall be the objective of the department to shift primary responsibility for the direct delivery of public mental health services from the state to a community mental health services program whenever the

community mental health services program has demonstrated a willingness and capacity to provide an adequate and appropriate system of mental health services for the citizens of that service area.

(c) Engage in planning for the purpose of identifying, assessing, and enunciating the mental health needs of the state.

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

(e) Endeavor to develop and establish arrangements and procedures for the effective coordination and integration of all public mental health services, and for effective cooperation between public and nonpublic services, for the purpose of providing a unified system of statewide mental health care.

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

(g) Implement those provisions of law under which it is responsible for the licensing or certification of mental health facilities or services.

(h) Establish standards of training and experience for executive directors of community mental health services programs.

(i) Support research activities.

(j) Support evaluation and quality improvement activities.

(k) Support training, consultation, and technical assistance regarding mental health programs and services and appropriate prevention and mental health promotion activities, including those that are culturally sensitive, to employees of the department, community mental health services programs, and other nonprofit agencies providing mental health services under contract with community mental health services programs.

(*l*) Support multicultural services.

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

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

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

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

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

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

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

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

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

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

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1990, Act 29, Imd. Eff. Mar. 13, 1990;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1998, Act 67, Eff. Dec. 19, 1998.

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

330.1116a Repealed. 2016, Act 320, Eff. Feb. 14, 2017.

Compiler's note: The repealed section pertained to assisted outpatient treatment services report.

330.1118 Official name of facility; terminology.

Sec. 118. The department shall designate an official name for each of its facilities that is of sufficient size or scope. No official name shall contain terminology that from a public standpoint could be reasonably regarded as stigmatizing or denigrating.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.1120 Official head of facility.

Sec. 120. The department shall designate an official head of each of its facilities that is of sufficient size or scope.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.1122 Geographical service districts.

Sec. 122. The department may establish geographical service districts for its facilities which shall define the geographical area that will be serviced by a facility.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.1124 Waiting lists for admissions.

Sec. 124. (1) The department shall establish waiting lists for admissions to state operated programs. Waiting lists shall be by diagnostic groups or program categories, age, and gender, and shall specify the length of time each individual has been on the waiting list from the date of the initial request for services.

(2) The department shall require that community mental health services programs maintain waiting lists if all service needs are not met, and that the waiting lists include data by type of services, diagnostic groups or program categories, age, and gender, and that they specify the length of time each individual has been on the waiting list from the date of the initial request for services. The order of priority on the waiting lists shall be based on severity and urgency of need. Individuals determined to be of equal severity and urgency of need shall be served in the order in which they applied for services.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1126 Admission or services appropriate to individual's condition or needs; duration of treatment.

Sec. 126. The department shall endeavor to ensure that no individual will be admitted to or provided services by a facility of the department or a facility of a community mental health services program unless the facility can provide treatment or services appropriate to the individual's condition and needs. The department shall also endeavor to ensure that an individual's course of treatment will be completed in the shortest practicable time.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1128 Center for forensic psychiatry.

Sec. 128. The department shall maintain under its jurisdiction an entity to be known as the center for forensic psychiatry. The center shall perform such services as are required by law and may, with the approval of the director of the department, perform any other service or activity, including research, that pertains to mental health and the criminal law.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.1130 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to certification of a community mental health center.

330.1132 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to certification of mental retardation service facility.

330.1134 Psychiatric hospitals and psychiatric units; licensing; separate criteria for minors; coordination, cooperation, and agreements with state agencies; purpose.

Sec. 134. (1) The director shall establish a comprehensive system of licensing for psychiatric hospitals and psychiatric units in the state to protect the public by ensuring that these hospitals and units provide the facilities and the ancillary supporting services necessary to maintain a high quality of patient care. Separate

criteria shall be developed for licensing hospital beds for minors.

(2) The director shall coordinate all functions within state government affecting psychiatric hospitals, and shall cooperate with other state agencies that establish standards or requirements for facilities providing mental health care to assure necessary, equitable, and consistent state regulation of these facilities without duplication of inspections or services. The director may enter into agreements with other state agencies to accomplish this purpose.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1988, Act 155, Imd. Eff. June 14, 1988;—Am. 1994, Act 137, Eff. June 1, 1994;—Am. 2015, Act 59, Eff. Oct. 1, 2015.

330.1134a Employing, contracting, or granting clinical privileges to individuals; prohibitions; written consent; criminal history check; conditional employment or granting clinical privileges; false information; use of information obtained under subsection (3) or (4); condition of continued employment; failure to conduct criminal history check; establishment of automated fingerprint identification system database; electronic web-based system; definitions.

Sec. 134a. (1) Except as otherwise provided in subsection (2), a psychiatric facility or other facility defined in 42 USC 1396d(d) shall not employ, independently contract with, or grant clinical privileges to an individual who regularly has direct access to or provides direct services to patients or residents in the psychiatric facility or other facility defined in 42 USC 1396d(d) if the individual satisfies 1 or more of the following:

(a) Has been convicted of a relevant crime described under 42 USC 1320a-7(a).

(b) Has been convicted of any of the following felonies, an attempt or conspiracy to commit any of those felonies, or any other state or federal crime that is similar to the felonies described in this subdivision, other than a felony for a relevant crime described under 42 USC 1320a-7(a), unless 15 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction prior to the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(*i*) A felony that involves the intent to cause death or serious impairment of a body function, that results in death or serious impairment of a body function, that involves the use of force or violence, or that involves the threat of the use of force or violence.

(*ii*) A felony involving cruelty or torture.

(*iii*) A felony under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(*iv*) A felony involving criminal sexual conduct.

(*v*) A felony involving abuse or neglect.

(*vi*) A felony involving the use of a firearm or dangerous weapon.

(*vii*) A felony involving the diversion or adulteration of a prescription drug or other medications.

(c) Has been convicted of a felony or an attempt or conspiracy to commit a felony, other than a felony for a relevant crime described under 42 USC 1320a-7(a) or a felony described under subdivision (b), unless 10 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction prior to the date of application for employment or clinical privileges or the date of the execution of the independent contract.

(d) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 10 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(*i*) A misdemeanor involving the use of a firearm or dangerous weapon with the intent to injure, the use of a firearm or dangerous weapon that results in a personal injury, or a misdemeanor involving the use of force or violence or the threat of the use of force or violence.

(*ii*) A misdemeanor under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(*iii*) A misdemeanor involving criminal sexual conduct.

(*iv*) A misdemeanor involving cruelty or torture unless otherwise provided under subdivision (e).

(*v*) A misdemeanor involving abuse or neglect.

(e) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 5 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(*i*) A misdemeanor involving cruelty if committed by an individual who is less than 16 years of age.

(*ii*) A misdemeanor involving home invasion.

(*iii*) A misdemeanor involving embezzlement.

(*iv*) A misdemeanor involving negligent homicide or a violation of section 601d(1) of the Michigan vehicle code, 1940 PA 300, MCL 257.601d.

(*v*) A misdemeanor involving larceny unless otherwise provided under subdivision (g).

(*vi*) A misdemeanor of retail fraud in the second degree unless otherwise provided under subdivision (g).

(*vii*) Any other misdemeanor involving assault, fraud, theft, or the possession or delivery of a controlled substance unless otherwise provided under subdivision (d), (f), or (g).

(f) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 3 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(*i*) A misdemeanor for assault if there was no use of a firearm or dangerous weapon and no intent to commit murder or inflict great bodily injury.

(*ii*) A misdemeanor of retail fraud in the third degree unless otherwise provided under subdivision (g).

(*iii*) A misdemeanor under part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, unless otherwise provided under subdivision (g).

(g) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the year immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(*i*) A misdemeanor under part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, if the individual, at the time of conviction, is under the age of 18.

(*ii*) A misdemeanor for larceny or retail fraud in the second or third degree if the individual, at the time of conviction, is under the age of 16.

(h) Is the subject of an order or disposition under section 16b of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16b.

(i) Engages in conduct that becomes the subject of a substantiated finding of neglect, abuse, or misappropriation of property by a state or federal agency according to an investigation conducted in accordance with 42 USC 1395i-3 or 1396r.

(2) Except as otherwise provided in this subsection or subsection (5), a psychiatric facility or other facility defined in 42 USC 1396d(d) shall not employ, independently contract with, or grant privileges to an individual who regularly has direct access to or provides direct services to patients or residents in the psychiatric facility or other facility defined in 42 USC 1396d(d) until the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency has conducted a criminal history check in compliance with this section or received criminal history record information in compliance with subsection (3) or (10). This subsection and subsection (1) do not apply to any of the following:

(a) An individual who is employed by, under independent contract to, or granted clinical privileges in a psychiatric facility or other facility defined in 42 USC 1396d(d) before April 1, 2006. On or before April 1, 2011, an individual who is exempt under this subdivision and who has not been the subject of a criminal history check conducted in compliance with this section shall provide the department of state police with a set of fingerprints and the department of state police shall input those fingerprints into the automated fingerprint identification system database established under subsection (13). An individual who is exempt under this subdivision is not limited to working within the psychiatric facility or other facility defined in 42 USC 1396d(d) with which he or she is employed by, under independent contract to, or granted clinical privileges on April 1, 2006 but may transfer to another psychiatric facility or other facility defined in 42 USC 1396d(d), covered health facility, or adult foster care facility. If an individual who is exempt under this subdivision is subsequently convicted of a crime described under subsection (1)(a) through (g) or found to be the subject of a substantiated finding described under subsection (1)(i) or an order or disposition described under subsection (1)(h), or is found to have been convicted of a relevant crime described under subsection (1)(a), then he or she is no longer exempt and shall be terminated from employment or denied employment or clinical privileges.

(b) An individual who is under an independent contract with a psychiatric facility or other facility defined in 42 USC 1396d(d) if he or she is not under the facility's control and the services for which he or she is contracted is not directly related to the provision of services to a patient or resident or if the services for which he or she is contracted allows for direct access to the patients or residents but is not performed on an ongoing basis. This exception includes, but is not limited to, an individual who is under an independent contract with the psychiatric facility or other facility defined in 42 USC 1396d(d) to provide utility, maintenance, construction, or communications services.

(3) An individual who applies for employment either as an employee or as an independent contractor or for clinical privileges with a psychiatric facility or other facility defined in 42 USC 1396d(d) or a staffing agency and who has not been the subject of a criminal history check conducted in compliance with this section shall give written consent at the time of application for the department of state police to conduct a criminal history check under this section, along with identification acceptable to the department of state police. If the applicant has been the subject of a criminal history check conducted in compliance with this section, the applicant shall give written consent at the time of application for the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency to obtain the criminal history record information as prescribed in subsection (4) from the relevant licensing or regulatory department and for the department of state police to conduct a criminal history check under this section if the requirements of subsection (10) are not met and a request to the federal bureau of investigation to make a determination of the existence of any national criminal history pertaining to the applicant is necessary, along with identification acceptable to the department of state police. Upon receipt of the written consent to obtain the criminal history record information and identification required under this subsection, the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency that has made a good-faith offer of employment or an independent contract or clinical privileges to the applicant shall request the criminal history record information from the relevant licensing or regulatory department and shall make a request regarding that applicant to the relevant licensing or regulatory department to conduct a check of all relevant registries in the manner required in subsection (4). If the requirements of subsection (10) are not met and a request to the federal bureau of investigation to make a subsequent determination of the existence of any national criminal history pertaining to the applicant is necessary, the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency shall proceed in the manner required in subsection (4). A staffing agency that employs an applicant who regularly has direct access to or provides direct services to patients or residents under an independent contract with a psychiatric facility or other facility defined in 42 USC 1396d(d) shall submit information regarding the criminal history check conducted by the staffing agency to the psychiatric facility or other facility defined in 42 USC 1396d(d) that has made a good-faith offer of independent contract to that applicant.

(4) Upon receipt of the written consent to conduct a criminal history check and identification required under subsection (3), a psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency that has made a good-faith offer of employment or an independent contract or clinical privileges to the applicant shall make a request to the department of state police to conduct a criminal history check on the applicant, to input the applicant's fingerprints into the automated fingerprint identification system database, and to forward the applicant's fingerprints to the federal bureau of investigation. The department of state police shall request the federal bureau of investigation to make a determination of the existence of any national criminal history pertaining to the applicant. The applicant shall provide the department of state police with a set of fingerprints. The request shall be made in a manner prescribed by the department of state police. The psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency shall make the written consent and identification available to the department of state police. The psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency shall make a request regarding that applicant to the relevant licensing or regulatory department to conduct a check of all relevant registries established under federal and state law and regulations for any substantiated findings of abuse, neglect, or misappropriation of property. If the department of state police or the federal bureau of investigation charges a fee for conducting the criminal history check, the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency shall pay the cost of the charge. The psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency shall not seek reimbursement for a charge imposed by the department of state police or the federal bureau of investigation from the individual who is the subject of the criminal history check. A prospective employee or a prospective independent contractor covered under this section may not be charged for the cost of a criminal history check required under this section. The department of state police shall conduct a criminal history check on the applicant named in the request. The department of state police shall provide the department with a written report of the criminal history check conducted under this subsection. The report shall contain any criminal history record information on the applicant maintained by the department of state police. The department of state police shall provide the results of the federal bureau of investigation determination to the department within 30 days after the request is made. If the requesting psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency is not a state department or agency and if criminal history record information is disclosed on the written report of the criminal history check or the federal bureau of investigation determination that resulted in a conviction, the department shall notify the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency and the applicant in writing of the type of crime disclosed on the written report of the criminal history check or the federal bureau of investigation determination without disclosing the details of the crime. Any charges imposed by the

department of state police or the federal bureau of investigation for conducting a criminal history check or making a determination under this subsection shall be paid in the manner required under this subsection. The notice shall include a statement that the applicant has a right to appeal the information relied upon by the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency regarding his or her employment eligibility based on the criminal history check. The notice shall also include information regarding where to file and describing the appellate procedures established under section 20173b of the public health code, 1978 PA 368, MCL 333.20173b.

(5) If a psychiatric facility or other facility defined in 42 USC 1396d(d) determines it necessary to employ or grant clinical privileges to an applicant before receiving the results of the applicant's criminal history check or criminal history record information under this section, the psychiatric facility or other facility defined in 42 USC 1396d(d) may conditionally employ or grant conditional clinical privileges to the individual if all of the following apply:

(a) The psychiatric facility or other facility defined in 42 USC 1396d(d) requests the criminal history check or criminal history record information under this section upon conditionally employing or conditionally granting clinical privileges to the individual.

(b) The individual signs a statement in writing that indicates all of the following:

(*i*) That he or she has not been convicted of 1 or more of the crimes that are described in subsection (1)(a) through (g) within the applicable time period prescribed by each subdivision respectively.

(*ii*) That he or she is not the subject of an order or disposition described in subsection (1)(h).

(*iii*) That he or she has not been the subject of a substantiated finding as described in subsection (1)(i).

(*iv*) The individual agrees that, if the information in the criminal history check conducted under this section does not confirm the individual's statements under subparagraphs (*i*) through (*iii*), his or her employment or clinical privileges will be terminated by the psychiatric facility or other facility defined in 42 USC 1396d(d) as required under subsection (1) unless and until the individual appeals and can prove that the information is incorrect.

(*v*) That he or she understands the conditions described in subparagraphs (*i*) through (*iv*) that result in the termination of his or her employment or clinical privileges and that those conditions are good cause for termination.

(c) Except as otherwise provided in this subdivision, the psychiatric facility or other facility defined in 42 USC 1396d(d) does not permit the individual to have regular direct access to or provide direct services to patients or residents in the psychiatric facility or other facility defined in 42 USC 1396d(d) without supervision until the criminal history check or criminal history record information is obtained and the individual is eligible for that employment or clinical privileges. If required under this subdivision, the psychiatric facility or other facility defined in 42 USC 1396d(d) shall provide on-site supervision of an individual in the facility on a conditional basis under this subsection by an individual who has undergone a criminal history check conducted in compliance with this section. A psychiatric facility or other facility defined in 42 USC 1396d(d) may permit an individual in the facility on a conditional basis under this subsection to have regular direct access to or provide direct services to patients or residents in the psychiatric facility or other facility defined in 42 USC 1396d(d) without supervision if all of the following conditions are met:

(*i*) The psychiatric facility or other facility defined in 42 USC 1396d(d), at its own expense and before the individual has direct access to or provides direct services to patients or residents of the psychiatric facility or other facility defined in 42 USC 1396d(d), conducts a search of public records on that individual through the internet criminal history access tool maintained by the department of state police and the results of that search do not uncover any information that would indicate that the individual is not eligible to have regular direct access to or provide direct services to patients or residents under this section.

(*ii*) Before the individual has direct access to or provides direct services to patients or residents of the psychiatric facility or other facility defined in 42 USC 1396d(d), the individual signs a statement in writing that he or she has resided in this state without interruption for at least the immediately preceding 12-month period.

(*iii*) If applicable, the individual provides to the department of state police a set of fingerprints on or before the expiration of 10 business days following the date the individual was conditionally employed or granted conditional clinical privileges under this subsection.

(6) The department shall develop and distribute a model form for the statements required under subsection (5)(b) and (c). The department shall make the model form available to psychiatric facilities or other facility defined in 42 USC 1396d(d) subject to this section upon request at no charge.

(7) If an individual is employed as a conditional employee or is granted conditional clinical privileges under subsection (5), and the information under subsection (3) or report under subsection (4) does not confirm

the individual's statement under subsection (5)(b)(*i*) through (*iii*), the psychiatric facility or other facility defined in 42 USC 1396d(d) shall terminate the individual's employment or clinical privileges as required by subsection (1).

(8) An individual who knowingly provides false information regarding his or her identity, criminal convictions, or substantiated findings on a statement described in subsection (5)(b)(*i*) through (*iii*) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(9) A psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency shall use criminal history record information obtained under subsection (3) or (4) only for the purpose of evaluating an applicant's qualifications for employment, an independent contract, or clinical privileges in the position for which he or she has applied and for the purposes of subsections (5) and (7). A psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency or an employee of the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency shall not disclose criminal history record information obtained under subsection (3) or (4) to a person who is not directly involved in evaluating the applicant's qualifications for employment, an independent contract, or clinical privileges. An individual who knowingly uses or disseminates the criminal history record information obtained under subsection (3) or (4) in violation of this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both. Except for a knowing or intentional release of false information, a psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency has no liability in connection with a criminal history check conducted in compliance with this section or the release of criminal history record information under this subsection.

(10) Upon consent of an applicant as required in subsection (3) and upon request from a psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency that has made a good-faith offer of employment or an independent contract or clinical privileges to the applicant, the relevant licensing or regulatory department shall review the criminal history record information, if any, and notify the requesting psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency of the information in the manner prescribed in subsection (4). Until the federal bureau of investigation implements an automatic notification system similar to the system required of the state police under subsection (13) and federal regulations allow the federal criminal record to be used for subsequent authorized uses, as determined in an order issued by the department, a covered health or staffing agency facility may rely on the criminal history record information provided by the relevant licensing or regulatory department under this subsection and a request to the federal bureau of investigation to make a subsequent determination of the existence of any national criminal history pertaining to the applicant is not necessary if all of the following requirements are met:

(a) The criminal history check was conducted during the immediately preceding 12-month period.

(b) The applicant has been continuously employed by a psychiatric facility or other facility defined in 42 USC 1396d(d), covered health facility, or adult foster care facility or the staffing agency since the criminal history check was conducted in compliance with this section or meets the continuous employment requirement of this subdivision other than being on layoff status for less than 1 year from a psychiatric facility or other facility defined in 42 USC 1396d(d), covered health facility, or adult foster care facility.

(c) The applicant can provide evidence acceptable to the relevant licensing or regulatory department that he or she has been a resident of this state for the immediately preceding 12-month period.

(11) As a condition of continued employment, each employee, independent contractor, or individual granted clinical privileges shall do each of the following:

(a) Agree in writing to report to the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency immediately upon being arraigned for 1 or more of the criminal offenses listed in subsection (1)(a) through (g), upon being convicted of 1 or more of the criminal offenses listed in subsection (1)(a) through (g), upon becoming the subject of an order or disposition described under subsection (1)(h), and upon being the subject of a substantiated finding of neglect, abuse, or misappropriation of property as described in subsection (1)(i). Reporting of an arraignment under this subdivision is not cause for termination or denial of employment.

(b) If a set of fingerprints is not already on file with the department of state police, provide the department of state police with a set of fingerprints.

(12) In addition to sanctions set forth in this act, a licensee, owner, administrator, or operator of a psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency who knowingly and willfully fails to conduct the criminal history checks as required under this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $5,000.00, or both.

(13) In collaboration with the department of state police, the department of technology, management, and

budget shall establish and maintain an automated fingerprint identification system database that would allow the department of state police to store and maintain all fingerprints submitted under this section and would provide for an automatic notification if and when a subsequent criminal arrest fingerprint card submitted into the system matches a set of fingerprints previously submitted under this section. Upon notification, the department of state police shall immediately notify the department and the department shall immediately contact each respective psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency with which that individual is associated. Information in the database established under this subsection is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.

(14) The department shall maintain an electronic web-based system to assist psychiatric facilities or other facility defined in 42 USC 1396d(d) and staffing agencies required to check relevant registries and conduct criminal history checks of its employees and independent contractors, and individuals granted privileges and to provide for an automated notice to those psychiatric facilities or other facility defined in 42 USC 1396d(d) and staffing agencies for those individuals inputted in the system who, since the initial criminal history check, have been convicted of a disqualifying offense or have been the subject of a substantiated finding of abuse, neglect, or misappropriation of property. The department may charge a staffing agency a 1-time set-up fee of up to $100.00 for access to the electronic web-based system under this section.

(15) As used in this section:

(a) "Adult foster care facility" means an adult foster care facility licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(b) "Convicted" means either of the following:

(*i*) For a crime that is not a relevant crime, a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt for a criminal law violation or a juvenile adjudication or disposition by the juvenile division of probate court or family division of circuit court for a violation that if committed by an adult would be a crime.

(*ii*) For a relevant crime described under 42 USC 1320a-7(a), convicted means that term as defined in 42 USC 1320a-7.

(c) "Covered health facility" means a nursing home, county medical care facility, hospice, hospital that provides swing bed services, or home for the aged licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260, or home health agency.

(d) "Criminal history check conducted in compliance with this section" includes a criminal history check conducted under this section, under section 20173a of the public health code, 1978 PA 3658, MCL 333.20173a, or under section 34b of the adult foster care facility licensing act, 1979 PA 218, MCL 400.734b.

(e) "Direct access" means access to a patient or resident or to a patient's or resident's property, financial information, medical records, treatment information, or any other identifying information.

(f) "Home health agency" means a person certified by medicare whose business is to provide to individuals in their places of residence other than in a hospital, nursing home, or county medical care facility 1 or more of the following services: nursing services, therapeutic services, social work services, homemaker services, home health aide services, or other related services.

(g) "Independent contract" means a contract entered into by a health facility or agency with an individual who provides the contracted services independently or a contract entered into by a health facility or agency with a staffing agency that complies with the requirements of this section to provide the contracted services to the psychiatric facility or other facility defined in 42 USC 1396d(d) on behalf of the staffing agency.

(h) "Medicare" means benefits under the federal medicare program established under title XVIII of the social security act, 42 USC 1395 to 1395kkk-1.

(i) "Staffing agency" means an entity that recruits candidates and provides temporary and permanent qualified staffing for psychiatric facilities or other facility defined in 42 USC 1396d(d), including independent contractors.

(j) "Under the facility's control" means an individual employed by or under independent contract with a psychiatric facility or other facility defined in 42 USC 1396d(d) for whom the psychiatric facility or other facility defined in 42 USC 1396d(d) does both of the following:

(*i*) Determines whether the individual who has access to patients or residents may provide care, treatment, or other similar support service functions to patients or residents served by the psychiatric facility or other facility defined in 42 USC 1396d(d).

(*ii*) Directs or oversees 1 or more of the following:

(A) The policy or procedures the individual must follow in performing his or her duties.

(B) The tasks performed by the individual.

(C) The individual's work schedule.

(D) The supervision or evaluation of the individual's work or job performance, including imposing discipline or granting performance awards.

(E) The compensation the individual receives for performing his or her duties.

(F) The conditions under which the individual performs his or her duties.

History: Add. 2006, Act 27, Eff. Apr. 1, 2006;—Am. 2008, Act 445, Imd. Eff. Jan. 9, 2009;—Am. 2008, Act 446, Eff. Oct. 31, 2010;—Am. 2010, Act 293, Imd. Eff. Dec. 16, 2010;—Am. 2014, Act 72, Imd. Eff. Mar. 28, 2014.

Compiler's note: Enacting section 1 of Act 27 of 2006 provides:

"Enacting section 1. Section 134a of the mental health code, 1974 PA 258, MCL 330.1134a, as added by this amendatory act, takes effect April 1, 2006, since the department has secured the necessary federal approval to utilize federal funds to reimburse those facilities for the costs incurred for requesting a national criminal history check to be conducted by the federal bureau of investigation and the department has filed written notice of that approval with the secretary of state."

In subsection (15)(d), the citation "1978 PA 3658, MCL 333.20173a" evidently should read "1978 PA 368, MCL 333.20173a".

330.1135 Rules; MCL 330.1134 to 330.1150 inapplicable to adult foster care facilities or child care organizations.

Sec. 135. (1) Subject to section 114a, the director shall promulgate rules to define psychiatric hospitals and psychiatric hospital services to clearly differentiate between the active intensive care expected in psychiatric hospitals or psychiatric units and that care which is characteristically expected in general hospitals, long-term care facilities, or residential facilities.

(2) Sections 134 to 150 do not cover adult foster care facilities or child care organizations licensed under 1973 PA 116, MCL 722.111 to 722.128.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1994, Act 137, Eff. June 1, 1994;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2015, Act 59, Eff. Oct. 1, 2015.

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

330.1136 Administration of MCL 330.1134 to 330.1150; rules.

Sec. 136. The director shall administer sections 134 through 150 and promulgate rules to implement the purposes of sections 134 through 150 for the maintenance and operation of psychiatric hospitals and psychiatric units as necessary to enable state or private facilities, or both, to qualify for federal funds available for patient care or for construction or remodeling of facilities. The rules shall be promulgated according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1994, Act 137, Eff. June 1, 1994;—Am. 2015, Act 59, Eff. Oct. 1, 2015.

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

330.1137 Psychiatric hospital and psychiatric unit, license required; disclosures; provisional license; violation; penalty; annual licensure; fees; receipt of completed application; issuance of license within certain time period; report; “completed application” defined.

Sec. 137. (1) A person shall not construct, establish, or maintain a psychiatric hospital or psychiatric unit or use the terms psychiatric hospital or psychiatric unit without first obtaining a license. The director shall require an applicant or a licensee to disclose the names, addresses, and official positions of all persons who have an ownership interest in a psychiatric hospital or psychiatric unit. If the psychiatric hospital or psychiatric unit is located on or in real estate that is leased, the applicant or licensee shall disclose the name of the lessor and any direct or indirect interest that the applicant or licensee has in the lease other than as lessee. A license shall be granted for no longer than 1 year after the date of issuance, unless otherwise provided in sections 134 to 150. The director may issue a provisional license for 1 year to provide a licensee or applicant time to undertake remedial action to correct programmatic or physical plant deficiencies. A provisional license may be renewed for not longer than 1 additional year. A violation of this section is a misdemeanor and is punishable by a fine of not more than $1,000.00 for each violation.

(2) Annual licensure of psychiatric hospitals and psychiatric units shall be implemented by March 28, 1997. License fees shall be prorated according to the period of time that the license will be in force.

(3) The department shall issue an initial license under this section not later than 6 months after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of this state. If the application is considered incomplete by the department, the department shall notify the applicant in writing or make notice electronically available within 30 days after receipt of the incomplete application, describing the deficiency and requesting additional information. The 6-month period is tolled upon notification by the department of a deficiency until the date the requested information is received by the department. The determination of the completeness of an application is not an approval of the application for the license and does not confer eligibility on an applicant

determined otherwise ineligible for issuance of a license.

(4) If the department fails to issue or deny a license or registration within the time required by this section, the department shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. Failure to issue or deny a license within the time period required under this section does not allow the department to otherwise delay the processing of the application. A completed application shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of the application based on the fact that the application fee was refunded or discounted under this subsection.

(5) The director of the department shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with issues relating to mental health. The director shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial applications the department received and completed within the 6-month time period described in subsection (3).

(b) The number of applications rejected.

(c) The number of applicants not issued a license within the 6-month time period and the amount of money returned to licensees under subsection (4).

(6) As used in this section, "completed application" means an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of this state.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1976, Act 55, Eff. Mar. 31, 1977;—Am. 1994, Act 137, Eff. June 1, 1994;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2004, Act 259, Imd. Eff. July 23, 2004;—Am. 2015, Act 59, Eff. Oct. 1, 2015.

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

330.1137a Psychiatric residential treatment facilities (PRTFs) for Medicaid recipients; request for proposals for providers; reimbursement requirements; rules; evaluation and revocation.

Sec. 137a. (1) The department shall, subject to appropriation of sufficient funding, establish PRTFs for Medicaid recipients under age 21 as described under 42 CFR 441.151 to 441.184.

(2) The department shall select PRTF providers through a request for proposals process. Public or private providers, including, but not limited to, those providing state-operated services, may respond to the request for proposals.

(3) To be eligible for reimbursement from the department, a PRTF must meet all of the following requirements:

(a) Be certified by the department.

(b) Be accredited by the Joint Commission, Commission on Accreditation of Rehabilitation Facilities, or Council on Accreditation.

(c) Be enrolled in the Medicaid Management Information System.

(d) Any other requirement the department considers appropriate and necessary to provide PRTF services and comply with 42 CFR 441.151 to 441.182.

(4) The department may establish a Medicaid policy and promulgate administrative rules necessary to implement this section. When promulgating administrative rules or developing the criteria by which a PRTF will be selected or certified under this section, the department shall consider both of the following:

(a) The geographic need and appropriateness for PRTF services, including, but not limited to, all of the following:

(*i*) Prioritizing the selection and certification of PRTFs in areas of this state lacking inpatient psychiatric services for individuals under age 21.

(*ii*) Avoiding concentration of PRTFs in any particular community or area of this state to ensure the easiest possible access for families or guardians to visit patients when appropriate.

(*iii*) Consideration of the availability of community resources sufficient to support a PRTF and its patients, including, but not limited to, the capacity of public safety and emergency medical response services and proximity to ancillary medical providers.

(b) The capacity of a PRTF to provide care that results in the successful integration of patients back into the community within 60 to 120 days after admission to the PRTF, including a reintegration with family whenever possible and appropriate.

(5) The department shall evaluate each selected PRTF no less than every 2 years based on the criteria developed by the department, including the criteria described in subsection (4)(a) and (b). The department

may revoke the selection and certification of, or take corrective action considered necessary against, any PRTF that is determined to no longer be needed or appropriate under the criteria described in subsection (4)(a) or found not to be in compliance with the criteria described in subsection (4)(b). This subsection does not limit the ability of the department to take corrective action or to revoke the selection or certification of a PRTF for other good cause at any time.

History: Add. 2020, Act 285, Eff. Mar. 24, 2021.

330.1138 Original or annual license; inspection and approval by bureau of fire services.

Sec. 138. Before the issuance of an original or annual license, a psychiatric hospital or psychiatric unit shall be inspected by the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b. A license shall not be issued until the bureau of fire services approves the hospital or unit.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2006, Act 207, Imd. Eff. June 19, 2006;—Am. 2015, Act 59, Eff. Oct. 1, 2015.

Compiler's note: For transfer of powers and duties of the fire marshal division on programs relating to fire safety inspections of adult foster care, correctional, and health care facilities from the department of state police to the department of consumer and industry services, see E.R.O. No. 1997-2, compiled at MCL 29.451 of the Michigan Compiled Laws.

For transfer of powers and duties of the fire marshal division programs relating to plan review and construction inspections of schools, colleges, universities, school dormitories, as well as adult foster care, correctional, and health care facilities, from the department of state police to the department of consumer and industry services, see E.R.O. No. 1997-2, compiled MCL 29.451 of the Michigan Compiled Laws.

330.1139 License and permit fees.

Sec. 139. (1) Until October 1, 2027, an applicant for a license under this act must submit to the department with the application form, or license renewal, a license fee of $500.00 plus $10.00 per patient bed.

(2) The license fee for a provisional license is the same as the fee for a license. When the requirements for licensure are met, the provisional license shall be replaced by a license without an additional fee for the balance of the 1-year period.

(3) An applicant for a construction permit must submit to the department with the application form a permit fee of $300.00.

(4) If an application for a license or permit is denied, or if a license or permit is revoked before its expiration date, the fees paid to the department shall not be refunded.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1994, Act 137, Eff. June 1, 1994;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2015, Act 59, Eff. Oct. 1, 2015;—Am. 2019, Act 83, Imd. Eff. Sept. 30, 2019;—Am. 2023, Act 137, Imd. Eff. Sept. 29, 2023.

330.1140 Premises of applicant or licensee; right of entry.

Sec. 140. The director or the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, or their designated representatives may enter upon the premises of an applicant or licensee at a reasonable time for the purpose of determining whether the applicant or licensee meets the requirements of sections 134 through 150.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 2006, Act 207, Imd. Eff. June 19, 2006.

330.1141 Record of patient.

Sec. 141. A licensee shall maintain a complete record for each patient. The record shall contain at a minimum a written assessment and individual plan of services for the patient, a statement of the purpose of hospitalization or treatment, a description of any tests and examinations performed, and a description of any observations made and treatments provided.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1994, Act 137, Eff. June 1, 1994;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1141a Exchange of confidential mental health and substance use disorder information; development of standard release form; workgroup; considerations; availability; electronic transmission.

Sec. 141a. (1) On or before January 1, 2015, the department shall develop a standard release form for exchanging confidential mental health and substance use disorder information for use by all public and private agencies, departments, corporations, or individuals that are involved with treatment of an individual experiencing serious mental illness, serious emotional disturbance, developmental disability, or substance use disorder. All parties described in this subsection shall honor and accept the standard release form created by the department under this section for the purpose for which it was created unless the party is subject to a federal law or regulation that provides more stringent requirements, as defined under 45 CFR 160.202, for the protection of individually identifiable health information.

(2) Beginning on the effective date of the amendatory act that added this section, the department shall create a workgroup to implement the provisions of this section.

(3) The workgroup created in subsection (2) shall meet periodically, as the department considers necessary, but not less than once a year.

(4) In developing the standard release form under subsection (1), the department shall comply with all federal and state laws relating to the protection of individually identifiable health information and shall consider all of the following:

(a) Existing and potential technologies that could be used to securely transmit a standard release form.

(b) The national standards pertaining to electronic release of confidential information, including protecting a patient's identity and privacy in accordance with the health insurance portability and accountability act of 1996, Public Law 104-191.

(c) Any prior release forms and methodologies used in this state.

(d) Any prior release forms and methodologies developed by federal agencies.

(5) The standard release form shall be available in both electronic and paper form.

(6) Any transmission of a standard release form via electronic media may be accepted as an original by the party receiving the standard release form.

History: Add. 2014, Act 129, Imd. Eff. May 22, 2014.

330.1142 Compliance with nondiscriminatory laws.

Sec. 142. The governing body of a facility licensed under sections 134 through 150 shall certify to the department of mental health that its policies, procedures, and practices are consistent with the Americans with disabilities act of 1990, Public Law 101-336, 104 Stat. 327, the rehabilitation act of 1973, Public Law 93-112, 87 Stat. 355, the Elliott-Larsen civil rights act, Act No. 453 of the Public Acts of 1976, being sections 37.2101 to 37.2804 of the Michigan Compiled Laws, and the Michigan handicappers' civil rights act, Act No. 220 of the Public Acts of 1976, being sections 37.1101 to 37.1607 of the Michigan Compiled Laws. The governing body shall direct the administrator of the facility to take such action as is necessary to assure that the facility adheres to all of the nondiscriminatory laws described in this section.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1143 Governing body of facility; responsibilities.

Sec. 143. The governing body of a facility licensed under sections 134 through 150 is responsible for the operation of the facility, for the selection of the medical staff, and for the quality of care rendered by the facility. The governing body shall cooperate with the director of mental health in the enforcement of sections 134 through 150, and shall insure that physicians and other personnel for whom a state license or registration is required are currently licensed or registered.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1994, Act 137, Eff. June 1, 1994;—Am. 2015, Act 59, Eff. Oct. 1, 2015.

330.1143a Review of professional practices; scope; confidentiality; disclosure.

Sec. 143a. (1) The owner, operator, and governing body of a psychiatric hospital or psychiatric unit licensed under this chapter or operated by the department shall assure that licensed, registered, or certified mental health professionals admitted to practice in the facility are organized in order to enable an effective review of the professional practices in the psychiatric hospital or psychiatric unit for the purpose of improving the quality of patient care provided in the facility. This review shall include the quality and appropriateness of the care provided.

(2) The records, data, and knowledge collected for or by individuals or committees assigned a review function under subsection (1) are confidential, shall be used only for the purposes of review, are not public records, and are not subject to court subpoena.

(3) This section does not prevent disclosure of individual case records under section 748 or disclosure required by federal law to the agency designated by the governor to provide protection and advocacy under section 931.

History: Add. 1990, Act 167, Imd. Eff. July 2, 1990;—Am. 1994, Act 137, Eff. June 1, 1994;—Am. 2015, Act 59, Eff. Oct. 1, 2015.

330.1143b Patient referral; money or other consideration prohibited; violation; penalty.

Sec. 143b. (1) A licensee, a community mental health services program, or a person acting on behalf of or for the benefit of a licensee or community mental health services program shall not pay or give or offer to pay or give any money or other consideration or thing of value, directly or indirectly, to a person in return for a referral of a patient.

(2) A licensee or community mental health services program that violates this section, or on whose behalf

or for whose benefit a person violates this section, shall for the first violation be subject to an administrative fine equal to 3 times the amount paid for the referral. A licensee that fails to pay the administrative fine to the department or that violates or on whose behalf or for whose benefit a person violates this section a second or subsequent time shall have its license suspended for at least 1 month under section 144. A community mental health services program that fails to pay the administrative fine to the department or that violates or on whose behalf or for whose benefit a person violates this section a second or subsequent time is subject to an administrative fine equal to 6 times the amount paid for the referral and to an immediate certification review by the department.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1144 Suspension, denial, or revocation of license; notice.

Sec. 144. The director, after notice to the applicant or licensee, may suspend, deny, or revoke a license if he finds that there is a substantial failure to comply with the requirements of sections 134 through 150. The notice shall be by certified mail or by personal service, setting forth the particular reasons for the proposed action and fixing a date, not less than 30 days from the date of service, on which the applicant or licensee shall be afforded a hearing before the director or his designee.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.1145 Hearing.

Sec. 145. The hearing authorized by this section shall be in accordance with rules promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended. A complete record shall be kept of the proceedings, and shall be transcribed when requested by an interested party. The interested party shall pay the cost of preparing a transcript. On the basis of the hearing, or on the default of the applicant or licensee, the director shall issue, deny, revoke, or suspend a license. A copy of the director's determination shall be sent by certified mail to, or served personally upon, the applicant or licensee. The revocation or suspension of a license shall become final 30 days after the determination is mailed or served, unless the applicant or licensee, within the 30-day period, appeals the decision to the circuit court. The director may not suspend, deny, or revoke a license for failure to show a need for a hospital.

History: 1974, Act 258, Eff. Aug. 6, 1975.

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

330.1146 Appeal.

Sec. 146. A person aggrieved by a decision of the director or bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, may appeal to the circuit court, requesting an order reversing the decision. The appeal shall be based upon the whole record, and the circuit court shall consider whether the decision is authorized by law and supported by competent evidence.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 2006, Act 207, Imd. Eff. June 19, 2006.

330.1147 Exemptions.

Sec. 147. Except as otherwise provided in sections 134a and 149b, psychiatric hospitals or units operated by the state or federal government are exempt from sections 134 through 150.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1990, Act 13, Eff. May 28, 1990;—Am. 1991, Act 40, Imd. Eff. June 11, 1991;—Am. 2006, Act 27, Imd. Eff. Feb. 17, 2006.

330.1148 Use of term “psychiatric hospital” or “psychiatric unit.”

Sec. 148. The terms psychiatric hospital or psychiatric unit shall not be used to describe or refer to an institution or program, unless the institution or program is licensed by the director according to sections 134 through 150.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1994, Act 137, Eff. June 1, 1994;—Am. 2015, Act 59, Eff. Oct. 1, 2015.

330.1149 Action to restrain or prevent construction, establishment, management, or operation of psychiatric hospital or unit without license.

Sec. 149. The director may maintain action in the name of the people of the state to restrain or prevent the construction, establishment, management, or operation of a psychiatric hospital or psychiatric unit without a license.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1994, Act 137, Eff. June 1, 1994;—Am. 2015, Act 59, Eff. Oct. 1, 2015.

330.1149b Compliance with MCL 333.13801 to 333.13832.

Sec. 149b. A psychiatric hospital or psychiatric unit operated or licensed by the department shall comply

with the medical waste regulatory act, part 138 of the public health code, 1978 PA 368, MCL 333.13801 to 333.13832.

History: Add. 1990, Act 13, Eff. May 28, 1990;—Am. 1994, Act 137, Eff. June 1, 1994;—Am. 2015, Act 59, Eff. Oct. 1, 2015.

330.1150 Violation.

Sec. 150. A person who violates sections 134 through 150 or a rule authorized by sections 134 through 150 is guilty of a misdemeanor.

History: 1974, Act 258, Eff. Aug. 6, 1975.

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

330.1151 Electronic inpatient bed registry; accessibility; guidance committee; reporting requirements; quarterly status reports; secondary use; Michigan crisis and access line.

Sec. 151. (1) As used in this section:

(a) "Psychiatric facility" means a psychiatric hospital or psychiatric unit licensed under section 134.

(b) "Registry" means the inpatient psychiatric bed registry created in subsection (2).

(2) The department shall establish and administer an electronic inpatient psychiatric bed registry. The registry must be a web-based resource to identify available psychiatric beds in this state categorized by patient gender, acuity, age, and diagnosis. The registry must be accessible through the department's website.

(3) The department may, by contract, delegate creating, operating, and maintaining the registry to a private entity.

(4) Psychiatric facilities and other providers determined by the department must provide the department with the number of inpatient psychiatric beds available in those facilities at the time the information is provided. The information must be provided by the psychiatric facilities and other providers on a basis as close to real time as possible. Psychiatric facilities and other providers must provide the department with this information as specified under subsection (7).

(5) The registry must be made accessible to prepaid inpatient health plans, licensed health plans, community mental health services programs, acute care hospitals, psychiatric facilities, and employees and caregivers with other appropriate providers.

(6) The department shall create a committee to provide guidance on creating, operating, and maintaining the registry. The committee shall include representatives from the following groups:

(a) The department.

(b) The department of licensing and regulatory affairs.

(c) Psychiatric facilities.

(d) End users of the registry as described under subsection (5).

(e) Consumers, families, and advocates.

(f) Law enforcement.

(7) The department shall establish requirements for psychiatric facilities and other providers as determined by the department to report information to the department in consultation with the committee established under subsection (6).

(8) The department must provide quarterly reports on the progress of implementing the registry beginning on the first quarter after the effective date of the amendatory act that added this section. The department must provide these quarterly reports to the chairs of the house and senate committees on health policy and the chairs of the house and senate appropriations subcommittees for the department of health and human services.

(9) The department, in consultation with the committee established under subsection (6), may establish a policy for the secondary use of registry data.

(10) The department must provide all of the information listed on the registry under this section to the contractor or entity that operates or maintains the Michigan crisis and access line created under section 165.

History: Add. 2018, Act 658, Eff. Mar. 28, 2019;—Am. 2021, Act 21, Eff. Mar. 30, 2022.

330.1152 Adult foster care facility; noncompliance with contract, agreement, or arrangement; notice; suspension, revocation, or cancellation.

Sec. 152. The director, after notice to the operator or owner of an adult foster care facility may suspend, revoke, or cancel a contract, agreement, or arrangement entered into under section 116(3)(e) if he or she finds that there has been a substantial failure to comply with the requirements as set forth in the contract, agreement, or arrangement. The notice shall be by certified mail or personal service, setting forth the particular reasons for the proposed action and fixing a date, not less than 30 days from the date of service, on which the operator or owner shall be afforded a hearing before the director or his or her designee. The contract, agreement, or arrangement shall not be suspended, revoked, or canceled until the director notifies the

operator or owner in writing of his or her findings of fact and conclusions following such hearing.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

330.1153 Rules for placement of mentally ill or developmentally disabled adults into community based dependent living settings or programs; rules for certification of specialized programs; inspection of facility; inspection report and certification, denial of certification, revocation, or certification with limited terms; reinspection; notice; contracts; licensure or placement pending promulgation of rules.

Sec. 153. (1) Subject to section 114a, the department shall promulgate rules for the placement of adults who have serious mental illness or developmental disability into community based dependent living settings by department agencies, community mental health services programs, and by agencies under contract to the department or to a community mental health services program. The rules shall include, but not be limited to, the criteria to be used to determine a suitable placement and the specific agencies responsible for making decisions regarding a placement.

(2) Subject to section 114a, the department shall promulgate rules for the certification of specialized programs offered in an adult foster care facility to individuals with serious mental illness or developmental disability. The rules shall provide for an administrative appeal to the department of a denial or limitation of the terms of certification under chapter 4 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 of the Michigan Compiled Laws.

(3) Upon receipt of a request from an adult foster care facility for certification of a specialized program, the department shall inspect the facility to determine whether the proposed specialized program conforms with the requirements of this section and rules promulgated under this section. The department shall provide the department of social services with an inspection report and a certification, denial of certification, revocation, or certification with limited terms for the proposed specialized program. The department shall reinspect a certified specialized program not less than once biennially and notify the department of social services in the same manner as for the initial certification. In carrying out this subsection, the department may contract with a community mental health services program or any other agency.

(4) This section does not prevent licensure of an adult foster care facility or the placement of individuals with serious mental illness or developmental disability into community based dependent living settings pending the promulgation by the department of rules under subsection (1) or (2).

History: Add. 1986, Act 256, Imd. Eff. Dec. 9, 1986;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

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

330.1155 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to definitions in MCL 330.1155 to 330.1161.

330.1156 Family support subsidy program; establishment; purpose.

Sec. 156. The director of the department shall establish a family support subsidy program. The purpose of the family support subsidy program is to keep families together and to reduce capacity in state facilities by defraying some of the special costs of caring for eligible minors, thus facilitating the return of eligible minors from out-of-home placements to their family homes, and preventing or delaying the out-of-home placement of eligible minors who reside in their family homes.

History: Add. 1983, Act 249, Imd. Eff. Dec. 15, 1983;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: Section 2 of Act 249 of 1983 provides: "This amendatory act shall take effect January 1, 1984, for the purpose of promulgating rules pursuant to section 157, and July 1, 1984, for the purpose of accepting written application."

330.1157 Rules; creation and contents of application forms.

Sec. 157. (1) Subject to section 114a, the department shall promulgate rules to implement sections 156 to 161. The rules shall include an adoption by reference of the standards and criteria used by the department of education in the identification of eligible minors. The department shall also consult with the department of education on the implementation and coordination of the family support subsidy program.

(2) The department shall create application forms and shall make the forms available to community mental health services programs for determining the eligibility of applicants. The forms shall require at least the following information, which constitutes the eligibility criteria for receipt of a family subsidy:

(a) A statement that the family resides in this state.

(b) Verification that the eligible minor meets the definition in section 100a.

(c) A statement that the eligible minor resides, or is expected to reside, with his or her parent or legal guardian or, on a temporary basis, with another relative.

(d) A statement that the family is not receiving a medical subsidy for the eligible minor under section 115h of the social welfare act, Act No. 280 of the Public Acts of 1939, being section 400.115h of the Michigan Compiled Laws.

(e) Verification that the taxable income for the family for the year immediately preceding the date of application did not exceed $60,000.00, unless it can be verified that the taxable income for the family for the year in which the application is made will be less than $60,000.00.

History: Add. 1983, Act 249, Imd. Eff. Dec. 15, 1983;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: Section 2 of Act 249 of 1983 provides: "This amendatory act shall take effect January 1, 1984, for the purpose of promulgating rules pursuant to section 157, and July 1, 1984, for the purpose of accepting written application."

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

330.1158 Effect of approval of application; contract; report.

Sec. 158. (1) If an application for a family support subsidy is approved by the community mental health services program, all of the following apply:

(a) A family support subsidy shall be paid to the parent or legal guardian on behalf of an eligible minor, and shall be considered a benefit to the eligible minor. An approved subsidy shall be payable as of the first of the next month after the community mental health services program receives the written application.

(b) A family support subsidy shall be used to meet the special needs of the family. Except as otherwise provided in this chapter, this subsidy is intended to complement but not supplant public assistance or social service benefits based on economic need, available through governmental programs.

(c) Except as provided in section 160(2), a family support subsidy shall be in an amount equivalent to the monthly maximum supplemental security income payment available in Michigan for an adult recipient living in the household of another, as formulated under federal regulations as of July 1, 1984. Increases to this rate shall be determined annually by legislative appropriation. In addition, the parent or legal guardian of an eligible minor who is in an out-of-home placement at the time of application may receive a 1-time, lump-sum advance payment of twice the monthly family subsidy amount for the purpose of meeting the special needs of the family to prepare for in-home care.

(2) A community mental health services program may contract with the department for services that provide for the payment of family support subsidies through the department.

(3) The parent or legal guardian who receives a family support subsidy shall report, in writing, at least the following information to the community mental health services program:

(a) Not less than annually, a statement that the family support subsidy was used to meet the special needs of the family.

(b) Immediately, the occurrence of any event listed in section 159.

(c) Immediately, if the parent or legal guardian requests termination of the family support subsidy.

History: Add. 1983, Act 249, Imd. Eff. Dec. 15, 1983;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: Section 2 of Act 249 of 1983 provides: "This amendatory act shall take effect January 1, 1984, for the purpose of promulgating rules pursuant to section 157, and July 1, 1984, for the purpose of accepting written application."

330.1158a Family support subsidy payments not alienable.

Sec. 158a. Family support subsidy payments shall not be alienable by assignment, sale, garnishment, execution, or otherwise, and in the event of bankruptcy shall not pass to or through a trustee or any other person acting on behalf of creditors.

History: Add. 1984, Act 186, Imd. Eff. July 3, 1984.

330.1159 Termination or denial of family support subsidy; hearing.

Sec. 159. (1) The family support subsidy shall terminate if 1 or more of the following occur:

(a) The eligible minor dies.

(b) The family no longer meets the eligibility criteria in section 157(2).

(c) The eligible minor attains the age of 18 years.

(2) The family support subsidy may be terminated by a community mental health services program if a report required by section 158(3) is not timely made or a report required by section 158(3)(a) is false.

(3) If an application for a family support subsidy is denied or a family support subsidy is terminated by a community mental health services program, the parent or legal guardian of the affected eligible minor may demand, in writing, a hearing by the community mental health services program. The hearing shall be conducted in the same manner as provided for contested case hearings under chapter 4 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 of the Michigan Compiled Laws.

History: Add. 1983, Act 249, Imd. Eff. Dec. 15, 1983;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: Section 2 of Act 249 of 1983 provides: "This amendatory act shall take effect January 1, 1984, for the purpose of promulgating rules pursuant to section 157, and July 1, 1984, for the purpose of accepting written application."

330.1160 Family support subsidies; payment; adjustment of amounts.

Sec. 160. (1) Family support subsidy payments shall be paid from accounts as appropriated by the legislature.

(2) The department, after notifying the governor and the house and senate appropriations committees, may adjust the amounts available for family support subsidies by equal apportionment in the event available revenues are insufficient to cover the obligations. The department shall not reduce the amount of the monthly payment by more than an aggregate of 25% in 1 fiscal year without written approval of the house and senate appropriations committees.

History: Add. 1983, Act 249, Imd. Eff. Dec. 15, 1983.

Compiler's note: Section 2 of Act 249 of 1983 provides: "This amendatory act shall take effect January 1, 1984, for the purpose of promulgating rules pursuant to section 157, and July 1, 1984, for the purpose of accepting written application."

330.1161 Annual evaluation of program.

Sec. 161. In conjunction with community mental health services programs, the department must conduct annually and forward to the governor and the house of representatives and senate appropriations committees, and the senate and house of representatives committees with legislative oversight of human services and mental health, an evaluation of the family support subsidy program that shall include, but is not limited to, all of the following:

(a) The impact of the family support subsidy program upon children covered by this act in facilities and residential care programs including, to the extent possible, sample case reviews of families who choose not to participate.

(b) Case reviews of families who voluntarily terminate participation in the family support subsidy program for any reason, particularly if the eligible minor is placed out of the family home, including the involvement of the department and community mental health services programs in offering suitable alternatives.

(c) Sample assessments of families receiving family support subsidy payments including adequacy of subsidy and need for services not available.

(d) The efforts to encourage program participation of eligible families.

(e) The geographic distribution of families receiving subsidy payments and, to the extent possible, eligible minors presumed to be eligible for family support subsidy payments.

(f) Programmatic and legislative recommendations to further assist families in providing care for eligible minors.

(g) Problems that arise in identifying eligible minors through diagnostic evaluations performed under rules promulgated by the department of education.

(h) The number of beds reduced in state facilities and foster care facilities serving severely mentally, multiply, and autistic impaired children when the children return home to their natural families as a result of the family support subsidy program.

(i) Caseload figures by eligibility category as described in section 100a(29).

History: Add. 1983, Act 249, Imd. Eff. Dec. 15, 1983;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1998, Act 497, Eff. Mar. 1, 1999;—Am. 2004, Act 499, Eff. Mar. 30, 2005;—Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012;—Am. 2020, Act 402, Eff. Mar. 24, 2021.

Compiler's note: Section 2 of Act 249 of 1983 provides: "This amendatory act shall take effect January 1, 1984, for the purpose of promulgating rules pursuant to section 157, and July 1, 1984, for the purpose of accepting written application."

330.1162 Office of multicultural services; creation; director.

Sec. 162. The office of multicultural services is created within the department. The office shall be headed by a director.

History: Add. 1990, Act 124, Imd. Eff. June 26, 1990;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: For transfer of powers and duties of the standing committee on multicultural services to the director of the department of community health and abolishment of the committee, see E.R.O. No. 1997-4, compiled at MCL 333.26324 of the Michigan Compiled Laws.

330.1163 Standing committee on multicultural services; appointment of members; purpose.

Sec. 163. A 13-member standing committee on multicultural services shall be appointed by the director of the department to advise the office and the department on matters pertaining to multicultural services.

History: Add. 1990, Act 124, Imd. Eff. June 26, 1990.

330.1164 Duties of office.

Sec. 164. The office shall do all of the following:

(a) Assess the mental health needs of multicultural populations in the state.

(b) Recommend to the director of the department treatment methods and programs that are sensitive and relevant to the unique linguistic, cultural, and ethnic characteristics of multicultural populations.

(c) Provide consultation, technical assistance, training programs, and reference materials to agencies and organizations serving multicultural populations.

(d) Promote awareness of multicultural mental health concerns, and encourage, promote, and aid in the establishment of multicultural services.

(e) Disseminate information on available multicultural services.

(f) Provide adequate and effective opportunities for multicultural populations to express their views on departmental policy development and program implementation.

(g) Request adequate funds for multicultural services from the director of the department.

History: Add. 1990, Act 124, Imd. Eff. June 26, 1990.

330.1165 Michigan crisis and access line; electronic inpatient psychiatric bed registry.

Sec. 165. (1) Subject to appropriation, the department shall establish and make available to the public a mental health telephone access line known as the Michigan crisis and access line.

(2) The department shall contract for the design, operation, and maintenance of the access line. The access line must be available 24 hours a day, 7 days a week. A contractor operating or maintaining the access line shall do all of the following:

(a) Have the ability to access information related to the availability of services, including near real-time access to any registry of available inpatient psychiatric beds, crisis residential beds, and substance use disorder beds.

(b) Refer and connect individuals requiring mental health or substance use disorder services to mental health professionals, including, but not limited to, community mental health services programs and prepaid inpatient health plans, using telecommunications and digital communications methods commonly in use, such as a telephone call, text message, electronic mail, and internet chat.

(c) Implement practices to comply with all applicable laws respecting individual and patient privacy.

(d) Implement practices to ensure the security of the data collected, in line with industry best practices and in compliance with all applicable laws.

(e) Notwithstanding subdivisions (c) and (d), collect data and utilize data analytics to track the success of the access line's operations and identify trends in service needs and outcomes.

(f) Develop and utilize a customer relationship management infrastructure for the access line to track, monitor, assign, follow up, and report on access line operations. This customer relationship management infrastructure must provide appropriate community and provider access.

(g) Require contractors maintaining the access line to inform individuals seeking behavioral health care that bed registry data may not be accurate and bed availability is not guaranteed.

(3) The department of licensing and regulatory affairs shall provide behavioral health provider licensure data to the department. The department may use this data and work with the contractor described in subsection (2) to leverage existing databases and other sources of information identifying mental health professionals providing mental health services and providers of substance use disorder treatment and rehabilitation services and to utilize the most current provider information available.

(4) The department has operational oversight for, including access to and utilization of, the customer relationship management infrastructure. Community mental health services programs and prepaid inpatient health plans may access the customer relationship management infrastructure.

(5) The access line must be able to support calls relating to services and supports described in section 206.

(6) An individual operating or maintaining the access line under contract with the department has the same immunity provided for a governmental employee under section 7 of 1964 PA 170, MCL 691.1407.

(7) A state-operated registry of available inpatient psychiatric beds, crisis residential beds, or substance use disorder beds must report all data collected for that registry to the department or the entity operating or maintaining the access line under contract with the department.

(8) A health facility, health professional, or contractor shall not be held civilly or criminally liable for inaccurate registry data that is shared under this section.

History: Add. 2020, Act 12, Eff. Apr. 26, 2020;—Am. 2021, Act 22, Eff. Mar. 30, 2022.

330.1170 County mental health transportation panel; membership; contract with private security company; security transport officers.

Sec. 170. (1) A county board of commissioners may establish a county mental health transportation panel. The purpose of the panel is to establish a transportation mechanism to serve as an alternative to a peace officer transporting an individual when required under this act.

(2) The members of the county mental health transportation panel must include all of the following:

(a) A county administrator or an individual who has similar responsibilities within the county as a county administrator.

(b) A judge of a court having jurisdiction in the county.

(c) A peace officer who works at a law enforcement agency or state police post within the county.

(d) A mental health professional who is an employee of a community mental health services program located within the county.

(3) The panel may recommend a contract with a private security company to hire security transport officers to transport individuals for involuntary psychiatric hospitalization or screening under this act and, only upon that recommendation, the county board of commissioners may enter into that contract.

(4) In order to enter into a contract with a county board of commissioners as described in subsection (3), the private security company must meet all of the following requirements:

(a) Maintain insurance coverage on file with the department that satisfies the following:

(*i*) As to motor vehicle coverage, a policy of insurance issued by an insurer authorized to do business in this state that provides the coverage required by chapter 31 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 to 500.3179, including, but not limited to, personal protection insurance in the amount stated in section 3107c.

(*ii*) As to motor vehicle residual liability coverage relative to a vehicle or a vehicle operator used to transport an individual for involuntary psychiatric hospitalization or screening under this act, a policy of insurance issued by an insurer authorized to do business in this state that provides a limit of not less than $2,000,000.00 for bodily injury to or death of 1 or more persons in an accident.

(*iii*) As to liability, other than for a motor vehicle, a policy of insurance issued by an insurer authorized to do business in this state that names the private security company, the county, and the county mental health transportation panel as co-insureds in the amount of $25,000.00 per occurrence, for property damages and $2,000,000.00 per occurrence for injury to or death of 1 or more persons arising out of the operation of the activity.

(*iv*) As to coverage required by this subsection, the insurer of the private security company is primary to any insurer, or coverage provider, of the county or the county mental health transportation panel, including any self-insurance or group self-insurance.

(b) Provide to security transport officers a specialized training program for best practices when working with and transporting an individual with severe mental illness or a person requiring treatment safely and effectively, which program must be approved by the department. This specialized training program must include training on recipient rights.

(c) Maintain a dispatch system that is available 24 hours a day, 7 days a week to receive transport orders and deploy security transport officers.

(d) Deploy 2 security transport officers for every transport order. Deployment of security transport officers under this subdivision must be gender appropriate for the situation.

(e) Establish a well-maintained company vehicle fleet appropriately equipped for recipient and security transport officer travel and safety.

(f) Utilize the level of force authorized for peace officers under section 427a.

(g) Protect and respect all recipient regulations under the health insurance portability and accountability act of 1996, Public Law 101-191, and recipient rights under chapter 7. If the provisions of this subdivision are not met, the office of recipient rights of the local community mental health services program may investigate the matter and recommend remedial action as described in section 780 to the county board of commissioners.

(h) Maintain transport security officer duties, protocols, and procedures.

(i) Maintain transport service policies and procedures.

(j) Maintain protocols and procedures for transportation emergencies, recipient safety and transport care, de-escalation techniques, crisis intervention and prevention, and recipient and customer relations.

(k) Maintain mental health facility policies and procedures in the same manner as required of peace officers under chapter 4.

(*l*) Maintain hospital emergency room policies and procedures in the same manner as required of peace officers under chapter 4.

(m) Provide security transport officers with a defensive driving course.

(n) Maintain transport vehicle requirements and care and transport vehicle inspection procedures.

(o) Maintain roadside emergency procedures and policies, including basic first aid and courses in

cardiopulmonary resuscitation.

(5) Transportation by a security transport officer is not an arrest of the individual. A security transport officer has the authority to maintain custody of an individual who is taken into protective custody by a peace officer pursuant to a court order. However, the authority under this subsection only applies if the individual is being transported to or from a hospital, a mental health screening unit, or other mental health treatment center pursuant to a court order.

(6) A private security company entering into a contract with a county board of commissioners is an independent contractor of the county and is not an employee, officer, or agent of the county or the county mental health transportation panel.

(7) A security transport officer is not an employee, officer, agent, or independent contractor of the county or the county mental health transportation panel.

History: Add. 2022, Act 146, Eff. Mar. 29, 2023.

330.1172 Mental health transportation fund.

Sec. 172. (1) The mental health transportation fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall be the administrator of the fund for auditing purposes.

(5) The department shall expend money from the fund, upon appropriation, only to carry out the provisions of section 170.

History: Add. 2022, Act 146, Eff. Mar. 29, 2023.

CHAPTER 2
COUNTY COMMUNITY MENTAL HEALTH PROGRAMS

330.1200 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to definitions.

330.1200a “Charter county” defined.

Sec. 200a. As used in this chapter, "charter county" means a home rule county created under Act No. 293 of the Public Acts of 1966, being sections 45.501 to 45.525 of the Michigan Compiled Laws.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1201 Rules.

Sec. 201. The department shall promulgate rules which provide for the certification of children's diagnostic and treatment services. The rules shall require at least all of the following:

(a) Children's diagnostic and treatment services shall facilitate hospitalization, if hospitalization is necessary.

(b) Children's diagnostic and treatment services shall facilitate treatment.

(c) Children's diagnostic and treatment services shall be staffed by persons trained or experienced in providing mental health services to minors.

History: Add. 1984, Act 186, Imd. Eff. July 3, 1984.

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

330.1202 Community mental health services programs; state support; determination of private health insurer, Medicaid, or Medicare eligibility; billing.

Sec. 202. (1) The state shall financially support, in accordance with chapter 3, community mental health services programs that have been established and that are administered according to the provisions of this chapter.

(2) A community mental health services program shall determine an individual's eligibility for a private health insurer, Medicaid, or Medicare and shall bill the private health insurer, Medicaid, or Medicare first before expending money from the state general fund for providing treatment and services under this act to that individual.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1204 Community mental health services program as county community mental health

agency, community mental health organization, or community mental health authority; official county agency; procedures and policies; establishment or administration of program by county with city having population of at least 500,000.

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.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2012, Act 376, Eff. Mar. 28, 2013.

330.1204a Creation of community mental health organization by two or more counties; creation of community mental health organization by one or more counties and institution of higher education; compliance of county.

Sec. 204a. (1) Two or more counties may organize and operate a community mental health services program by creating a community mental health organization under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(2) One or more counties and an institution of higher education in this state that has the authority to grant a baccalaureate degree, has a medical school, has its main facility in a city having a population of at least 100,000 but no more than 500,000, and is located in a county initiating the formation of a community mental health organization under this subsection may organize and operate a community mental health services program by creating a community mental health organization under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(3) Subsequent to the formation of a community mental health organization under subsection (2), a county that joins or merges with that community mental health organization shall comply with all of the following:

(a) The manner of employing, compensating, transferring, or discharging necessary personnel is subject to the provisions of the applicable civil service and merit systems and the following restrictions:

(*i*) An employee of a community mental health organization is a public employee.

(*ii*) A community mental health organization and its employees are subject to the provisions of 1947 PA 336, MCL 423.201 to 423.217.

(b) At the time a community mental health organization is expanded under this subsection, the employees of the former community mental health services program shall be transferred to the community mental health organization and appointed as employees who shall retain all the rights and benefits for 1 year. An employee of the community mental health organization shall not, by reason of the transfer, be placed in a worse position for a period of 1 year with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or another benefit that the employee had as an employee of the former community mental health services program. A transferred employee's accrued benefits or credits shall not be diminished by reason of the transfer.

(c) If a former county community mental health services program was the designated employer or

participated in the development of a collective bargaining agreement, the community mental health organization assumes and is bound by the existing collective bargaining agreement. The expansion of a community mental health organization does not adversely affect existing rights or obligations contained in the existing collective bargaining agreement. For the purposes of this subsection, "participation in the development of a collective bargaining agreement" means that a representative of the community mental health services program actively participated in bargaining sessions with the employer representative and union or was consulted during the bargaining process.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2000, Act 130, Imd. Eff. May 31, 2000.

330.1204b Regional entity.

Sec. 204b. (1) A combination of community mental health organizations or authorities may establish a regional entity by adopting bylaws that satisfy the requirements of this section. A community mental health agency may combine with a community mental health organization or authority to establish a regional entity if the board of commissioners of the county or counties represented by the community mental health agency adopts bylaws that satisfy the requirements of this section. All of the following shall be stated in the bylaws establishing the regional entity:

(a) The purpose and power to be exercised by the regional entity to carry out the provisions of this act, including the manner by which the purpose shall be accomplished or the power shall be exercised.

(b) The manner in which a community mental health services program will participate in governing the regional entity, including, but not limited to, all of the following:

(*i*) Whether a community mental health services program that subsequently participates in the regional entity may participate in governing activities.

(*ii*) The circumstances under which a participating community mental health services program may withdraw from the regional entity and the notice required for that withdrawal.

(*iii*) The process for designating the regional entity's officers and the method of selecting the officers. This process shall include appointing a fiscal officer who shall receive, deposit, invest, and disburse the regional entity's funds in the manner authorized by the bylaws or the regional entity's governing body. A fiscal officer may hold another office or other employment with the regional entity or a participating community mental health services program.

(c) The manner in which the regional entity's assets and liabilities shall be allocated to each participating community mental health services program, including, at a minimum, all of the following:

(*i*) The manner for equitably providing for, obtaining, and allocating revenues derived from a federal or state grant or loan, a gift, bequest, grant, or loan from a private source, or an insurance payment or service fee.

(*ii*) The method or formula for equitably allocating and financing the regional entity's capital and operating costs, payments to reserve funds authorized by law, and payments of principal and interest on obligations.

(*iii*) The method for allocating any of the regional entity's other assets.

(*iv*) The manner in which, after the completion of its purpose as specified in the regional entity's bylaws, any surplus funds shall be returned to the participating community mental health services programs.

(d) The manner in which a participating community mental health services program's special fund account created under section 226a shall be allocated.

(e) A process providing for strict accountability of all funds and the manner in which reports, including an annual independent audit of all the regional entity's receipts and disbursements, shall be prepared and presented.

(f) The manner in which the regional entity shall enter into contracts including a contract involving the acquisition, ownership, custody, operation, maintenance, lease, or sale of real or personal property and the disposition, division, or distribution of property acquired through the execution of the contract.

(g) The manner for adjudicating a dispute or disagreement among participating community mental health services programs.

(h) The effect of a participating community mental health service program's failure to pay its designated share of the regional entity's costs and expenses, and the rights of the other participating community mental health services programs as a result of that failure.

(i) The process and vote required to amend the bylaws.

(j) Any other necessary and proper matter agreed to by the participating community mental health services programs.

(2) Except as otherwise stated in the bylaws, a regional entity has all of the following powers:

(a) The power, privilege, or authority that the participating community mental health services programs share in common and may exercise separately under this act, whether or not that power, privilege, or authority is specified in the bylaws establishing the regional entity.

(b) The power to contract with the state to serve as the medicaid specialty service prepaid health plan for the designated service areas of the participating community mental health services programs.

(c) The power to accept funds, grants, gifts, or services from the federal government or a federal agency, the state or a state department, agency, instrumentality, or political subdivision, or any other governmental unit whether or not that governmental unit participates in the regional entity, and from a private or civic source.

(d) The power to enter into a contract with a participating community mental health service program for any service to be performed for, by, or from the participating community mental health services program.

(e) The power to create a risk pool and take other action as necessary to reduce the risk that a participating community mental health services program otherwise bears individually.

(3) A regional entity established under this section is a public governmental entity separate from the county, authority, or organization that establishes it.

(4) All the privileges and immunity from liability and exemptions from laws, ordinances, and rules provided under section 205(3)(b) to county community mental health service programs and their board members, officers, and administrators, and county elected officials and employees of county government are retained by a regional entity created under this section and the regional entity's board members, officers, agents, and employees.

(5) A regional entity shall provide an annual report of its activities to each participating community mental health services program.

(6) The regional entity's bylaws shall be filed with the clerk of each county in which a participating community mental health services program is located and with the secretary of state, before the bylaws take effect.

(7) If a regional entity assumes the duties of a participating community mental health services program or contracts with a private individual or entity to assume the duties of a participating community mental health services program, the regional entity shall comply with all of the following:

(a) The manner of employing, compensating, transferring, or discharging necessary personnel is subject to the provisions of the applicable civil service and merit systems and the following restrictions:

(*i*) An employee of a regional entity is a public employee.

(*ii*) A regional entity and its employees are subject to 1947 PA 336, MCL 423.201 to 423.217.

(b) At the time a regional entity is established under this section, the employees of the participating community mental health services program who are transferred to the regional entity and appointed as employees shall retain all the rights and benefits for 1 year. If at the time a regional entity is established under this section a participating community mental health services program ceases to operate, the employees of the participating community mental health services program shall be transferred to the regional entity and appointed as employees who shall retain all the rights and benefits for 1 year. An employee of the regional entity shall not, by reason of the transfer, be placed in a worse position for a period of 1 year with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or another benefit that the employee had as an employee of the participating community mental health services program. A transferred employee's accrued benefits or credits shall not be diminished by reason of the transfer.

(c) If a participating community mental health services program was the designated employer or participated in the development of a collective bargaining agreement, the regional entity assumes and is bound by the existing collective bargaining agreement. Establishing a regional entity does not adversely affect existing rights or obligations contained in the existing collective bargaining agreement. For the purposes of this subsection, "participation in the development of a collective bargaining agreement" means that a representative of the participating community mental health services program actively participated in bargaining sessions with the employer representative and union or was consulted during the bargaining process.

History: Add. 2002, Act 594, Imd. Eff. Oct. 17, 2002.

330.1205 Community mental health authority.

Sec. 205. (1) A county community mental health agency or a community mental health organization that is certified by the department under section 232a may become a community mental health authority as provided in this section through an enabling resolution adopted by the board of commissioners of each creating county after at least 3 public hearings held in accordance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The resolution is considered adopted if it is approved by a majority of the commissioners elected and serving in each county creating the authority. The enabling resolution is not effective until it has been filed with the secretary of state and with the county clerk of each county creating the authority. If any provision of

the enabling resolution conflicts with this act, this act supersedes the conflicting provision.

(2) All of the following shall be stated in the enabling resolution:

(a) The purpose and the power to be exercised by the community mental health authority shall be to comply with and carry out the provisions of this act.

(b) The duration of the existence of the community mental health authority and the method by which the community mental health authority may be dissolved or terminated by itself or by the county board or boards of commissioners. These provisions shall comply with section 220.

(c) The manner in which any net financial assets originally made available to the authority by the participating county or counties will be returned or distributed if the authority is dissolved or terminated. All other remaining assets, net of liabilities, shall be transferred to the community mental health services program or programs that replace the authority.

(d) The liability of the community mental health authority for costs associated with real or personal property purchased or leased by the county for use by the community mental health services program to the extent necessary to discharge the financial liability if desired by the county or counties.

(e) The manner of employing, compensating, transferring, or discharging necessary personnel subject to the provisions of applicable civil service and merit systems, and the following restrictions:

(*i*) Employees of a community mental health authority are public employees. A community mental health authority and its employees are subject to 1947 PA 336, MCL 423.201 to 423.217.

(*ii*) Upon the creation of a community mental health authority, the employees of the former community mental health services program shall be transferred to the new authority and appointed as employees subject to all rights and benefits for 1 year. Such employees of the new community mental health authority shall not be placed in a worse position by reason of the transfer for a period of 1 year with respect to workers' compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other benefit that the employee enjoyed as an employee of the former community mental health services program. Employees who are transferred shall not by reason of the transfer have their accrued pension benefits or credits diminished.

(*iii*) If the former county community mental health agency or community mental health organization was the designated employer or participated in the development of a collective bargaining agreement, the newly established community mental health authority shall assume and be bound by the existing collective bargaining agreement. The formation of a community mental health authority shall not adversely affect any existing rights and obligations contained in the existing collective bargaining agreement. For purposes of this provision, participation in the development of a collective bargaining agreement means that a representative of the community mental health agency or organization actively participated in bargaining sessions with the employer representative and union or was consulted with during the bargaining process.

(f) Any other matter consistent with this act that is necessary to assure operation of the community mental health authority as agreed upon by the creating county or counties.

(3) If a county community mental health agency or a community mental health organization becomes a community mental health authority pursuant to this section, both of the following apply:

(a) All assets, debts, and obligations of the county community mental health agency or community mental health organization, including, but not limited to, equipment, furnishings, supplies, cash, and other personal property, shall be transferred to the community mental health authority.

(b) All the privileges and immunities from liability and exemptions from laws, ordinances, and rules that are applicable to county community mental health agencies or community mental health organizations and their board members, officers, and administrators, and county elected officials and employees of county government are retained by the authority and the board members, officers, agents, and employees of an authority created under this section.

(4) In addition to other powers of a community mental health services program as set forth in this act, a community mental health authority has all of the following powers, whether or not they are specified in the enabling resolution:

(a) To fix and collect charges, rates, rents, fees, or other charges and to collect interest.

(b) To make purchases and contracts.

(c) To transfer, divide, or distribute assets, liabilities, or contingent liabilities, unless the community mental health authority is a single-county community mental health services program and the county has notified the department of its intention to terminate participation in the community mental health services program. During the interim period between notification by a county under section 220 of its intent to terminate participation in a multi-county community mental health services program and the official termination of that participation, a community mental health authority's power under this subdivision is subject to any agreement between the community mental health authority and the county that is terminating participation, if that

agreement is consistent with the enabling resolution that created the authority.

(d) To accept gifts, grants, or bequests and determine the manner in which those gifts, grants, or bequests may be used consistent with the donor's request.

(e) To acquire, own, operate, maintain, lease, or sell real or personal property. Before taking official action to sell residential property, however, the authority shall do all of the following:

(*i*) Implement a plan for alternative housing arrangements for recipients residing on the property.

(*ii*) Provide the recipients residing on the property or their legal guardians, if any, an opportunity to offer their comments and concerns regarding the sale and planned alternatives.

(*iii*) Respond to those comments and concerns in writing.

(f) To do the following in its own name:

(*i*) Enter into contracts and agreements.

(*ii*) Employ staff.

(*iii*) Acquire, construct, manage, maintain, or operate buildings or improvements.

(*iv*) Subject to subdivision (e), acquire, own, operate, maintain, lease, or dispose of real or personal property, unless the community mental health authority is a single-county mental health services program and the county has notified the department of its intention to terminate participation in the community mental health services program. During the interim period between notification by a county under section 220 of its intent to terminate participation in a multi-county community mental health services program and the official termination of that participation, a community mental health authority's power under this subdivision is subject to any agreement between the community mental health authority and the county that is terminating participation, if that agreement is consistent with the enabling resolution that created the authority.

(*v*) Incur debts, liabilities, or obligations that do not constitute the debts, liabilities, or obligations of the creating county or counties.

(*vi*) Commence litigation and defend itself in litigation.

(g) To invest funds in accordance with statutes regarding investments.

(h) To set up reserve accounts, utilizing state funds in the same proportion that state funds relate to all revenue sources, to cover vested employee benefits including, but not limited to, accrued vacation, health benefits, the employee payout portion of accrued sick leave, if any, and worker's compensation. In addition, an authority may set up reserve accounts for depreciation of capital assets and for expected future expenditures for an organizational retirement plan.

(i) To develop a charge schedule for services provided to the public and utilize the charge schedule for first and third-party payers. The charge schedule may include charges that are higher than costs for some service units by spreading nonrevenue service unit costs to revenue-producing service unit costs with total charges not exceeding total costs. All revenue over cost generated in this manner shall be utilized to provide services to priority populations.

(5) In addition to other duties and responsibilities of a community mental health services program as set forth in this act, a community mental health authority shall do all of the following:

(a) Provide to each county creating the authority and to the department a copy of an annual independent audit performed by a certified public accountant in accordance with governmental auditing standards issued by the comptroller of the United States.

(b) Be responsible for all executive administration, personnel administration, finance, accounting, and management information system functions. The authority may discharge this responsibility through direct staff or by contracting for services.

(6) A county that has created a community mental health authority is not liable for any intentional, negligent, or grossly negligent act or omission, for any financial affairs, or for any obligation of a community mental health authority, its board, employees, representatives, or agents. This subsection applies only to county government.

(7) A community mental health authority shall not levy any type of tax or, except as provided in subsection (13), issue any type of bond in its own name or financially obligate any unit of government other than itself.

(8) An employee of a community mental health authority is not a county employee. The community mental health authority is the employer with regard to all laws pertaining to employee and employer rights, benefits, and responsibilities.

(9) As a public governmental body, a community mental health authority is subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, except for those documents produced as a part of the peer review process required in section 143a and made confidential by section 748(9).

(10) A community mental health authority may borrow money to finance or refinance the purchase of real property or tangible personal property of the authority. These contractual obligations shall be secured by a

mortgage on the real property or a security interest or other lien on the tangible personal property. These contractual obligations shall be for not longer than the useful life of the collateral and shall be authorized by resolution approved by a majority of the community mental health board. A mortgage given by a community mental health authority to finance the purchase of real property under this subsection is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(11) A community mental health authority may enter into an installment purchase agreement for the purchase or refinancing of tangible personal property for public purposes. The installment purchase agreement for the purchase of tangible personal property shall not be for a longer term than the useful life of the tangible personal property. The installment purchase agreements described in this subsection are not subject to the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The total of all outstanding installment purchase agreements under this subsection shall not exceed 1% of the taxable value of all property located within the area served by that community mental health authority.

(12) If a community mental health authority has financed the purchase of property in a substantially similar manner to that as described in subsection (10) or (11), prior to the effective date of the amendatory act that added this subsection, that purchase is ratified as if it was made under subsection (10) or (11).

(13) A community mental health authority may borrow money and issue notes by resolution of a majority vote of its governing board, which notes shall not exceed 20% of the previous year's annual income and shall mature not more than 18 months from the date of their issuance. Notes shall be issued for the purpose of meeting the expenses of the community mental health authority, including the expenses of operation and maintenance of its facilities, and payments due to its contracted service providers. The resolution authorizing the issuance of the notes shall provide for the pledge of income and revenues of the community mental health authority for the payment of the notes, and may also provide for a special sinking fund into which there may be paid, as collected, a sufficient fund from the revenues of the community mental health authority to retire both the principal of and interest on the notes at or before maturity. The resolution may also authorize 1 or more officers or board members of the authority to provide for the mortgage, pledge, or grant of security interests or other liens in other assets of the community mental health authority as additional security for the payment of notes. Notes issued by a community mental health authority under this subsection are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2000, Act 228, Imd. Eff. June 27, 2000;—Am. 2002, Act 343, Imd. Eff. May 23, 2002.

330.1206 Community mental health services program; purpose; services.

Sec. 206. (1) The purpose of a community mental health services program shall be to provide a comprehensive array of mental health services appropriate to conditions of individuals who are located within its geographic service area, regardless of an individual's ability to pay. The array of mental health services shall include, at a minimum, all of the following:

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

(b) Identification, assessment, and diagnosis to determine the specific needs of the recipient and to develop an individual plan of services.

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

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

(e) Recipient rights services.

(f) Mental health advocacy.

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

(h) Any other service approved by the department.

(2) Services shall promote the best interests of the individual and shall be designed to increase independence, improve quality of life, and support community integration and inclusion. Services for children and families shall promote the best interests of the individual receiving services and shall be designed to strengthen and preserve the family unit if appropriate. The community mental health services program shall deliver services in a manner that demonstrates they are based upon recipient choice and involvement, and shall include wraparound services when appropriate.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

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

330.1206a Mediation; notification of rights; funding; mediator and mediation requirements; report; "recording" defined.

Sec. 206a. (1) A recipient or his or her individual representative must be offered an opportunity to request mediation to resolve a dispute between the recipient or his or her individual representative and the community mental health services program or other service provider under contract with the community mental health services program related to planning and providing services or supports to the recipient.

(2) The community mental health services program or service provider shall provide notice to a recipient, or his or her individual representative, of the right to request and access mediation at the time services or supports are initiated and at least annually after that. When the community mental health services program's or service provider's local dispute resolution process, local appeals process, or state Medicaid fair hearing is requested, notification of the right to request mediation must also be provided to the recipient or his or her individual representative.

(3) The department must provide funding and directly contract with 1 or more mediation organizations experienced in coordinating statewide case intake and mediation service delivery through local community dispute resolution centers.

(4) A mediator must be an individual trained in effective mediation technique and mediator standard of conduct. A mediator must be knowledgeable in the laws, regulations, and administrative practices relating to providing behavioral health services and supports. The mediator must not be involved in any manner with the dispute or with providing services or supports to the recipient.

(5) The community mental health services program or service provider described in subsection (2) involved in the dispute must participate in mediation if mediation is requested.

(6) A request for mediation must be recorded by a mediation organization, and mediation must begin within 10 business days after the recording. Mediation does not prevent a recipient or his or her individual representative from using another available dispute resolution option, including, but not limited to, the community mental health services program's local dispute resolution process, the local appeals process, the state Medicaid fair hearing, or filing a recipient rights complaint. A mediation organization shall ascertain if an alternative dispute resolution process is currently ongoing and notify the process administrator of the request for mediation. The parties may agree to voluntarily suspend other dispute resolution processes, unless prohibited by law or precluded by a report of an apparent or suspected violation of rights delineated in chapter 7.

(7) Mediation must be completed within 30 days after the date the mediation was recorded unless the parties agree in writing to extend the mediation period for up to an additional 30 days. The mediation process must not exceed 60 days.

(8) If the dispute is resolved through the mediation process, the mediator shall prepare a legally binding document that includes the terms of the agreement. The document must be signed by the recipient or individual representative and a party with the authority to bind the service provider according to the terms of the agreement. The mediator must provide a copy of the signed document to all parties within 10 business days after the end of the mediation process. The signed document is enforceable in any court of competent jurisdiction in this state.

(9) If the dispute is not resolved through the mediation process, the mediator must prepare a document that indicates the dispute could not be resolved. The mediator shall provide a copy of the document to all parties within 10 business days after the end of the mediation process.

(10) A contracted mediation organization must provide a report with aggregate data and a summary of outcomes to the department every 6 months, or as the department considers appropriate, to review and evaluate the effectiveness and efficiency of mediation in resolving disputes relating to planning and providing services and supports by the community mental health services program and its service providers.

(11) As used in this section, "recording" means a file that has been created after a request for mediation has been made by a recipient or his or her individual representative or received by a community mental health services program or other service provider under contract with the community mental health services program.

History: Add. 2020, Act 55, Imd. Eff. Mar. 3, 2020.

330.1206b Uniform community mental health services credentialing program; department responsibilities; requirements; definitions.

Sec. 206b. (1) The department shall do all of the following:

(a) Establish, maintain, and revise, as necessary, a uniform community mental health services credentialing

program for state department or agency use as required in this section. The state department's or agency's credentialing and recredentialing process must be compliant with national standards. The department may consult with other state departments and agencies that are required to comply with the program established under this section.

(b) Ensure that the uniform credentialing program does all of the following:

(*i*) Creates uniformity in this state to streamline providing community mental health services by state departments and agencies and to enhance workforce development, training education, and service delivery.

(*ii*) Eliminates hardship surrounding the functioning and operating of community mental health services provided by state departments and agencies to residents of this state.

(*iii*) Establishes a uniform credentialing requirement for individuals who provide community mental health services through a state department or agency, by requiring providers of community mental health services to establish, maintain, revise, and make available, as necessary, a profile as maintained by the department that contains information necessary for the community mental health services credentialing process, which must adhere to national standards from accrediting bodies such as the Joint Commission, Commission on Accreditation of Rehabilitation Facilities, Council on Accreditation, National Committee for Quality Assurance, or other credible body as approved by the department.

(*iv*) Promotes policies that support adequate staffing and evidence-based skills or training to meet the needs of the residents of this state and the state departments and agencies that provide community mental health services.

(*v*) Complies with the national certification standards for community mental health counselors and professionals.

(*vi*) Meets the needs of the populations served by each state department or agency that provides, either directly or through a contract, community mental health services to residents of this state.

(c) By 6 months after the effective date of the amendatory act that added this section and annually after that date, submit a report to the legislature that describes its activities under this section, including the establishment of and any revisions to the uniform credentialing program.

(2) A state department or agency that provides, either directly or through a contract, community mental health services to residents of this state must comply with the uniform credentialing program and utilize the provider information profile maintained by the department as provided in subsection (1). On and after the date the uniform credentialing program is certified by the director of the department as in full force and effect, the state department or agency subject to this subsection must ensure that all of the forms, processes, and contracts it uses that relate to providing community mental health services comply with the uniform credentialing program. This section does not apply to health plans under contract with this state to provide services under the Medicaid program or health plans or insurers regulated by the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302. Health plans under contract with this state to provide services under the Medicaid program or health plans regulated by the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, may use plan-specific processes and are not required to use the uniform community mental health services credentialing process established by the department.

(3) The credentialing and recredentialing process must be conducted and documented for at least the following health care professionals:

(a) Physicians.

(b) Physician's assistants.

(c) Psychologists.

(d) Licensed master's social workers, licensed bachelor's social workers, and social service technicians as those terms are defined in section 18501 of the public health code, 1978 PA 368, MCL 333.18501.

(e) A social worker granted a limited license under section 18509 of the public health code, 1978 PA 368, MCL 333.18509.

(f) Licensed professional counselors.

(g) Nurse practitioners, registered nurses, and licensed practical nurses.

(h) Occupational therapists and occupational therapist assistants as those terms are defined in section 18301 of the public health code, 1978 PA 368, MCL 333.18301.

(i) Physical therapists and physical therapist assistants as those terms are defined in section 17801 of the public health code, 1978 PA 368, MCL 333.17801.

(j) Speech language pathologists as that term is defined in section 17601 of the public health code, 1978 PA 368, MCL 333.17601.

(4) The department may establish policy and promulgate rules to implement this section according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(5) As used in this section:

(a) "Community mental health services" means services provided under a community mental health services program, including mental health treatment and substance use disorder treatment.

(b) "Uniform credentialing program" or "program" means the uniform community mental health services credentialing program established, maintained, and revised as required in subsection (1)(a) and includes recredentialing.

History: Add. 2020, Act 282, Eff. Mar. 24, 2021.

330.1207 Diversion from jail incarceration.

Sec. 207. Each community mental health services program shall provide services designed to divert persons with serious mental illness, serious emotional disturbance, or developmental disability from possible jail incarceration when appropriate. These services shall be consistent with policy established by the department.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1207a Persons entering criminal justice system; collaborative program to provide mental health treatment and assistance; interagency agreement; rules; funds.

Sec. 207a. (1) Not later than October 1, 2014, each county shall have a written interagency agreement in place for a collaborative program to provide mental health treatment and assistance, if permitted by law and considered appropriate, to persons with serious mental illness who are considered at risk for 1 or more of the following:

(a) Entering the criminal justice system.

(b) Not receiving needed mental health treatment services during a period of incarceration in a county jail.

(c) Not receiving needed mental health treatment services upon release or discharge from incarceration in a county jail.

(d) Being committed to the jurisdiction of the department of corrections.

(2) Parties to the interagency agreement referenced in subsection (1) shall include, at a minimum, all of the following:

(a) The county sheriff's department.

(b) The county prosecutor's office.

(c) The community mental health services program that provides services in that county.

(d) The county board of commissioners.

(e) A district court judge who serves in that county or, if there is more than 1 district in the county, a district court judge who serves in the county who is designated either by the chief judge of a district court within that county or a chief judge with authority over a district court in that county.

(f) A circuit court judge who serves in that county who is designated either by the chief judge of the circuit court or by a chief judge with authority over the circuit court in that county.

(3) The interagency agreement referenced in subsection (1) shall, at a minimum, cover all of the following areas:

(a) Guidelines for program eligibility.

(b) Interparty communication and coordination.

(c) Day-to-day program administration.

(d) Involvement of service consumers, family members, and other stakeholders.

(e) How the program shall work with local courts.

(f) How the program shall address potential participants before and after criminal charges have been filed.

(g) Resource sharing between the parties to the interagency agreement.

(h) Screening and assessment procedures.

(i) Guidelines for case management.

(j) How the program described in subsection (1) will work with county jails.

(k) Criteria for completing the program described in subsection (1).

(*l*) Mental health treatment services that are available through the program described in subsection (1).

(m) Procedures for first response to potential cases, including response to crises.

(n) How the administrators of the program described in subsection (1) will report the program's actions and outcomes to the public.

(4) A county that has a written interagency agreement referenced in subsection (1) in place on the effective date of the amendatory act that added this section may maintain that interagency agreement, but must ensure that its interagency agreement contains all of the provisions described in subsection (3).

(5) The department, the state court administrative office, and parties to the interagency agreement may establish additional policies and procedures to be included in the county interagency agreement required

under this section.

(6) The department may promulgate rules to implement this section according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(7) A county is not required to provide funds for the program described in subsection (1). In implementing the provisions of this section, a county is required to expend funds for the program described in subsection (1) only to the extent appropriated annually by the legislature for the program.

History: Add. 2014, Act 28, Imd. Eff. Mar. 6, 2014.

330.1207b Provision of mental health services to county jail inmates; use of state general fund/general purpose dollars by community mental health services program.

Sec. 207b. If a community mental health services program has entered into an agreement with a county or county sheriff to provide mental health services to the inmates of the county jail, the department shall not prohibit the use of state general fund/general purpose dollars by community mental health services programs to provide mental health services to inmates of the county jail.

History: Add. 2014, Act 29, Imd. Eff. Mar. 6, 2014.

330.1207c Jail diversion fund.

Sec. 207c. (1) The jail diversion fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year must remain in the fund and must not lapse to the general fund.

(4) The department of treasury is the administrator of the fund for auditing purposes.

(5) The department shall expend money from the fund, upon appropriation, for the following purposes:

(a) Making grant distributions as provided in sections 207d and 207f.

(b) Contracting with an independent organization to evaluate grant recipients.

(c) Paying the reasonable expenses of staff services to administer and enforce the statutory requirements of the grant fund.

History: Add. 2021, Act 163, Imd. Eff. Dec. 27, 2021.

330.1207d Behavioral health jail diversion grant program; annual report; definitions.

Sec. 207d. (1) Subject to appropriation to the jail diversion fund under section 207c, the department shall create a behavioral health jail diversion grant program, using half of appropriated funds, to provide competitive grants to assist local units of government that apply according to the criteria outlined in this section.

(2) The department shall distribute grants to local units of government to establish or expand behavioral health jail diversion programs in coordination between community agencies and law enforcement agencies.

(3) The department must give priority to local units of government in counties without an urbanized area of at least 50,000 people and to programs that adhere to best practices as identified by the council.

(4) Grant applications may be made by any applicable local unit of government and must be distributed to local units of government using a prospective payment methodology.

(5) Each local unit of government receiving a grant under this section must provide to the department a copy of a memorandum of understanding between the involved community agencies and law enforcement agencies that delineates how the agencies will be coordinated.

(6) The department must create an application process with selection criteria for grants under subsection (3) and a grant dispersal process under subsection (4). The department must post the application process, selection criteria, and grant dispersal process on the department's website.

(7) The department must seek federal authority as outlined under section 9813 of the American rescue plan act of 2021, Public Law 117-2, to utilize enhanced federal Medicaid matching funds for the operation of eligible programs receiving grants under this section as long as that funding is available.

(8) Each year, a local unit of government that receives a grant under this section must cooperate with an organization, selected by the department, to describe and evaluate the activities and results of the local unit of government related to grant dollars disbursed under this section. The department may utilize a portion of funding appropriated to the jail diversion fund to contract with an independent organization to fulfill this requirement.

(9) The department or evaluating organization must determine the specific metrics required in the report and notify the local units of government at the time of the first grant disbursement.

(10) Not later than September 30, 2023 and annually after that, the department must compile and submit an annual report to the senate and house appropriations subcommittees on the department budget, the senate and house fiscal agencies, the senate and house policy offices, and the state budget office, and publish a copy of the report on its internet website. The report must contain all of the following for the immediately preceding fiscal year:

(a) The name of each local unit of government that received a grant and the total amount of the grant.

(b) Details about any subgrant disbursed by each local unit of government that received a grant under this section.

(c) An analysis of the activities undertaken by grant recipients as part of their project.

(d) An appropriate summary of metrics reported by grant recipients as required under subsection (8).

(11) The responsibilities of the department under this section include all of the following:

(a) Create the behavioral health jail diversion grant program, review grant applications, and distribute grants.

(b) Determine appropriate staffing and resource allocation for grant review, administration, and other duties.

(c) Coordinate with the council to determine appropriate staffing and resource allocation for grant review, administration, and other duties.

(d) Manage external evaluation and ensure that metrics are collected by grant recipients in order to determine program results and inform best practices.

(e) Provide technical assistance and coordination, and facilitate sharing of best practices among grant recipients.

(12) As used in this section:

(a) "Behavioral health disorder" means a mental illness or substance use disorder, whether or not the mental illness or substance use disorder has been formally diagnosed, a developmental disability, or an intellectual disability.

(b) "Behavioral health jail diversion program" means a program under which an individual with a behavioral health disorder who otherwise would have been arrested or processed through the traditional criminal justice system is instead rerouted away from the criminal justice system, pre-arrest or post-arrest and before jail incarceration or conviction.

(c) "Community agency" means a public or private agency or organization that provides services toward preventing, improving, or resolving health, mental health, social, or environmental problems that affect individuals, families, specific groups, or communities, including a community mental health agency.

(d) "Council" means the mental health diversion council established under the department or another council or body as determined appropriate by the department.

(e) "Local unit of government" means a city, village, township, or county or a delegate of a city, village, township, or county for the purpose of grant application and implementation.

History: Add. 2021, Act 163, Imd. Eff. Dec. 27, 2021.

330.1207e Community crisis response grant program; definitions.

Sec. 207e. As used in this section and section 207f:

(a) "Behavioral health practitioner" means either a mental health professional or a professional trained in substance use disorder treatment and rehabilitation services.

(b) "Community agency" means a public or private agency or organization that provides services toward preventing, improving, or resolving health, mental health, social, or environmental problems that affect individuals, families, specific groups, or communities, including a community mental health agency.

(c) "Community crisis responder clinician" means a behavioral health practitioner specifically trained in community crisis response.

(d) "Community crisis responder peer" means an individual with experience related to mental illness or substance use disorder who is specifically trained in community crisis response.

(e) "Community crisis response" means a program in which appropriate calls to existing 9-1-1 dispatch centers and other existing crisis lines, including the Michigan crisis and access line and 9-8-8 systems as those systems are implemented in this state, are responded to by 1 or more community crisis responder clinicians or community crisis responder peers, alone or, when public safety needs require, with law enforcement for the purposes of stabilization, de-escalation, harm reduction, screening and assessment, and connection to mental health, substance use disorder, social, health, or other services and supports as needed.

(f) "Council" means the mental health diversion council established under the department or another council or body as determined appropriate by the department.

(g) "Local unit of government" means a city, village, township, or county or a delegate of a city, village,

township, or county, for the purpose of grant application and implementation.

(h) "Telehealth" means that term as defined in section 16283 of the public health code, 1978 PA 368, MCL 333.16283.

History: Add. 2021, Act 162, Imd. Eff. Dec. 27, 2021.

330.1207f Community crisis response grant program; annual report.

Sec. 207f. (1) Subject to appropriation to the jail diversion fund created under section 207c, the department shall create a community crisis response grant program, in accordance with the recommendations of the council, using half of appropriated funds, to provide competitive grants to assist local units of government that apply according to the criteria outlined in this section.

(2) The department shall distribute grants to local units of government in accordance with recommendations of the council for the purpose of establishing or expanding community-based mobile crisis intervention services. The department must give priority to grant applications that demonstrate a commitment to best practices as identified by the department in coordination with the council.

(3) A grant application may be made by any applicable local unit of government and must be distributed to a local unit of government using a prospective payment methodology.

(4) Each local unit of government receiving a grant under this section must provide to the department a copy of a memorandum of understanding between the involved community agencies and law enforcement agencies that delineates how behavioral health professionals and law enforcement officers shall be coordinated.

(5) The department must create an application process with selection criteria for grants under subsection (2) and a grant dispersal process under subsection (3), and must post the application process, selection criteria, and grant dispersal process on the department's website.

(6) The department must seek federal authority as outlined under section 9813 of the American rescue plan act of 2021, Public Law 117-2, to utilize enhanced federal Medicaid matching funds for operating the programs described in this section as long as that funding is available.

(7) Each year, a local unit of government that receives a grant under this section shall cooperate with an organization, selected by the department, to describe and evaluate the activities and results of the local unit of government related to the grant. The department may use a portion of grant funding appropriated to the jail diversion fund to contract with an independent organization to fulfill this requirement.

(8) The department or evaluating organization must determine the specific metrics required in the report and notify the local units of government at the time of the first grant disbursement. Metrics may include, but are not limited to, the following:

(a) Total number of behavioral health crisis calls in the target jurisdiction.

(b) Number of calls to which a community crisis responder clinician or community crisis responder peer is dispatched according to the requirements of the local unit of government's grant application.

(c) Number of calls transferred to telehealth with physical response follow-up and the number of calls transferred to telehealth without physical response follow-up.

(d) Community crisis responder clinician and community crisis responder peer call time per call.

(e) A survey of clients served by community crisis response.

(f) Number of calls with community crisis response that result in the following:

(*i*) Jail admission.

(*ii*) On-location de-escalation.

(*iii*) Access to crisis stabilization services and other community-based supports and service.

(*iv*) Inpatient admission to a behavioral health facility.

(*v*) Referral for behavioral or mental health services without residential or inpatient admission.

(*vi*) Referral to community or social services, including, but not limited to, homeless shelters, women's shelters, food pantries, or other similar services.

(g) Number of individuals served by community crisis response broken down by age, gender, race, and ethnicity.

(h) Reduction in frequency of law enforcement interaction with known frequently served individuals.

(i) Number of follow-up visits, including method and location.

(j) Overall program costs broken down by administration, training, community crisis responder clinician and community crisis responder peer, and per call costs.

(9) Not later than September 30, 2023, and annually after that, the department must compile and submit an annual report to the senate and house appropriations subcommittees on the department budget, the senate and house fiscal agencies, the senate and house policy offices, and the state budget office, and publish a copy of the report on its internet website. The report must contain all of the following for the immediately preceding

fiscal year:

(a) The name of each local unit of government that received a grant and the total amount of the grant.

(b) Details about any subgrants disbursed by each local unit of government that received a grant under this section.

(c) An analysis of the activities undertaken by grant recipients as part of their project, including alignment with best practices.

(d) An appropriate summary of metrics reported by grant recipients as required under subsection (8).

(e) Recommendations for improvements to grant criteria described in subsection (2).

(10) The responsibilities of the department under this section include all of the following:

(a) Create the community crisis response grant program, review grant applications, and distribute grants.

(b) Coordinate with the council to determine appropriate staffing and resource allocation for grant review, administration, and other duties.

(c) Develop a model memorandum of understanding between community agencies and law enforcement.

(d) Manage external evaluation and ensure that metrics are collected by grant recipients in order to determine future best practices and criteria for future grants.

(e) Provide technical assistance and coordination and facilitate sharing of best practices among grant recipients.

(f) Assist with cross-training resources between law enforcement and community crisis responder clinicians and community crisis responder peers.

History: Add. 2021, Act 162, Imd. Eff. Dec. 27, 2021.

330.1208 Individuals to which service directed; priorities; denial of service prohibited.

Sec. 208. (1) Services provided by a community mental health services program shall be directed to individuals who have a serious mental illness, serious emotional disturbance, or developmental disability.

(2) Services may be directed to individuals who have other mental disorders that meet criteria specified in the most recent diagnostic and statistical manual of mental health disorders published by the American psychiatric association and may also be directed to the prevention of mental disability and the promotion of mental health. Resources that have been specifically designated to community mental health services programs for services to individuals with dementia, alcoholism, or substance use disorder or for the prevention of mental disability and the promotion of mental health shall be utilized for those specific purposes.

(3) Priority shall be given to the provision of services to individuals with the most severe forms of serious mental illness, serious emotional disturbance, and developmental disability. Priority shall also be given to the provision of services to individuals with a serious mental illness, serious emotional disturbance, or developmental disability in urgent or emergency situations.

(4) An individual shall not be denied a service because an individual who is financially liable is unable to pay for the service.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1978, Act 166, Imd. Eff. May 26, 1978;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

330.1209 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to notifying county program of admittance of individual to state facility.

330.1209a Prerelease plan for community placement and aftercare services; development; contracting for services; advance notice of patient release; release plan; postrelease plan; disclosure of information.

Sec. 209a. (1) The appropriate community mental health services program, with the assistance of the state facility or licensed hospital under contract with a community mental health services program, or the state facility shall develop an individualized prerelease plan for appropriate community placement and a prerelease plan for aftercare services appropriate for each resident. If possible, the resident shall participate in the development of a prerelease plan. In developing a prerelease plan for a minor, the community mental health services program shall include all of the following in the planning process if possible:

(a) The minor, if the minor is 14 years of age or older.

(b) The parent or guardian of the minor.

(c) Personnel from the school and other agencies.

(2) If the responsible community mental health services program cannot locate suitable aftercare service with a residential component or an alternative to hospitalization in its service area, but the service is available from another service provider, the responsible community mental health service program may contract for the

provision of services. The service shall be located as close to the individual's place of residence as possible.

(3) If a recipient of inpatient services provided through a community mental health services program is to be released, the licensed hospital under contract with a community mental health services program or a state facility shall provide the responsible community mental health services program with advance notice of an individual's anticipated release from patient care. The community mental health services program shall offer prerelease planning services and develop a release plan in cooperation with the individual unless the individual refuses this service.

(4) If a recipient of inpatient services provided through a community mental health services program is released before a prerelease plan can be completed, the community mental health services program shall offer to assist the recipient in the development of a postrelease plan within 10 days after release.

(5) Unless covered by contractual agreement, disclosure of information about the individual by the state facility or licensed hospital shall be made to those individuals involved in the development of the prerelease or postrelease plan or current individual plan of services, but shall be limited to the following:

(a) Home address, gender, date of discharge or planned date of discharge, any transfer, and medication record.

(b) Other information necessary to determine financial and social service needs, program needs, residential needs, and medication needs.

History: Add. 1980, Act 409, Imd. Eff. Jan. 8, 1981;—Am. 1984, Act 186, Imd. Eff. July 3, 1984;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1209b Placement of individual in supervised community living arrangement; prerelease and postrelease planning; plan for community placement and aftercare services; sending department aggregate data upon request; list of services not provided.

Sec. 209b. (1) Before an individual is placed in a supervised community living arrangement, such as a foster home, group care home, nursing home, or other community-based setting, the prerelease or postrelease planning for the individual shall involve the individual, the individual's legal guardian if a guardian has been appointed; any family member, friend, advocate, and professional the recipient chooses; the parents of a minor individual; the state facility or licensed hospital; the residential care provider, if such a provider has been selected; and, with the consent of the individual, the appropriate local and intermediate school systems and the department of social services, if appropriate. In each case, the community mental health services program shall produce in writing a plan for community placement and aftercare services that is sufficient to meet the needs of the individual and shall document any lack of available community services necessary to implement the plan.

(2) Each community mental health services program, as requested, shall send to the department aggregate data, which includes a list of services that were indicated on prerelease or postrelease plans, but which could not be provided.

History: Add. 1980, Act 409, Imd. Eff. Jan. 8, 1981;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1209d Review of outcomes, programs, treatment, and community services rendered in community settings; standards.

Sec. 209d. Each community mental health services program regularly shall review the outcomes for recipients as a result of programs, treatment, and community services rendered to individuals in community settings and shall ensure that services are provided consistently with the standards of the department.

History: Add. 1980, Act 409, Imd. Eff. Jan. 8, 1981;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1210 Community mental health services program; election to establish; coordination of services.

Sec. 210. (1) Any single county or any combination of adjoining counties may elect to establish a community mental health services program by a majority vote of each county board of commissioners.

(2) A department-designated community mental health entity shall coordinate the provision of substance use disorder services in its region and shall ensure services are available for individuals with substance use disorder.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

330.1212 Board; establishment; appointment of members; county with city having population of at least 500,000; vacancy; board member as governmental employee or contractor.

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.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1986, Act 265, Imd. Eff. Dec. 9, 1986;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2012, Act 376, Eff. Mar. 28, 2013.

330.1214 Board; county representation.

Sec. 214. When a single county establishes a board, all board members shall be representatives of that county. When a combination of counties establishes a board, unless otherwise agreed to by each of the participating counties, the board memberships shall be divided among the counties in proportion to each county's population, except that each county is entitled to at least 1 board membership.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 2000, Act 21, Imd. Eff. Mar. 13, 2000.

330.1216 Repealed. 2012, Act 376, Mar. 28, 2013.

Compiler's note: The repealed section pertained to appointment of board members in county with city having population of at least 500,000.

330.1218 Joining established services program.

Sec. 218. Any county that adjoins a county having an established community mental health services program may elect, by a majority vote of its board of commissioners, to join that established community mental health services program. The joining must be approved by the board of commissioners of each county already participating in the established community mental health services program, and the joining shall become effective on January 1 following the date of final approval. Upon the joining, the board of the established community mental health services program shall be dissolved, and a new board shall be appointed in the manner provided in sections 212 and 214.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1219 Merger of services programs; appointment of members to new board; compliance with MCL 330.1212, 330.1214, and 330.1222.

Sec. 219. (1) A county having an established community mental health services program may elect to merge with an established community mental health services program in an adjoining county. A merger shall be approved by a majority vote of the board of commissioners of each participating county, and becomes effective on the first day of January, April, July, or October immediately following the date of final approval. The merger and creation of a community mental health authority shall be in accordance with this section and section 205.

(2) The board of commissioners of each participating county may elect by a majority vote to appoint 1 or more of the community mental health services board members to the new board, even if that action would result in a size or composition of the board that is different than that provided for in sections 212, 214, and 222.

(3) If the board of commissioners of 1 or more participating counties does not agree to permit appointment of members to the new board in the manner provided in subsection (2), the new board shall be appointed in the manner provided in sections 212, 214, and 222.

(4) A new board that is different in size or composition than that provided for in section 212, 214, or 222 shall be brought into compliance with those sections not later than 3 years after the date of merger.

History: Add. 1986, Act 265, Imd. Eff. Dec. 9, 1986;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

330.1220 Services program; termination of participation; notice.

Sec. 220. Termination of a county's participation in a community mental health services program, whether that participation is singular or joint, may be accomplished by an official notification from the county's board of commissioners to the department and the other concerned county boards of commissioners or, in a charter county, by an official notification from the county's board of commissioners upon a request from the county executive. The date of termination shall be 1 year following the receipt of notification by the department, unless the director of the department consents to an earlier termination. In the interim between notification and official termination, the county's participation in the community mental health services program shall be maintained in good faith.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1221 Repealed. 1990, Act 263, Eff. Jan. 1, 1993.

Compiler's note: The repealed section pertained to powers and duties of governing board of county human services or human resources department and repeal of section.

330.1222 Board; composition; residence of members; exclusions; approval of contract; exception; size of board in excess of MCL 330.1212; compliance.

Sec. 222. (1) The composition of a community mental health services board shall be representative of providers of mental health services, recipients or primary consumers of mental health services, agencies and occupations having a working involvement with mental health services, and the general public. At least 1/3 of the membership shall be primary consumers or family members, and of that 1/3 at least 1/2 of those members shall be primary consumers. All board members shall be 18 years of age or older.

(2) Not more than 4 members of a board may be county commissioners, except that if a board represents 5 or more counties, the number of county commissioners who may serve on the board may equal the number of counties represented on the board, and the total of 12 board memberships shall be increased by the number of county commissioners serving on the board that exceeds 4. In addition to an increase in board memberships related to the number of county commissioners serving on a board that represents 5 or more counties, board memberships may also be expanded to more than the total of 12 to ensure that each county is entitled to at least 2 board memberships, which may include county commissioners from that county who are members of the board if the board represents 5 or more counties. Not more than 1/2 of the total board members may be state, county, or local public officials. For purposes of this section, public officials are defined as individuals serving in an elected or appointed public office or employed more than 20 hours per week by an agency of federal, state, city, or local government.

(3) A board member shall have his or her primary place of residence in the county he or she represents.

(4) An individual shall not be appointed to and shall not serve on a board if he or she is 1 or more of the following:

(a) Employed by the department or the community mental health services program.

(b) A party to a contract with the community mental health services program or administering or benefiting financially from a contract with the community mental health services program, except for a party to a contract between a community mental health services program and a regional entity or a separate legal or an

administrative entity created by 2 or more community mental health services programs under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, or under 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536.

(c) Serving in a policy-making position with an agency under contract with the community mental health services program, except for an individual serving in a policy-making position with a joint board or commission established under 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536, or a regional entity to provide community mental health services.

(5) If a board member is an employee or independent contractor in other than a policy-making position with an agency with which the board is considering entering into a contract, the contract shall not be approved unless all of the following requirements are met:

(a) The board member shall promptly disclose his or her interest in the contract to the board.

(b) The contract shall be approved by a vote of not less than 2/3 of the membership of the board in an open meeting without the vote of the board member in question.

(c) The official minutes of the meeting at which the contract is approved contains the details of the contract including, but not limited to, names of all parties and the terms of the contract and the nature of the board member's interest in the contract.

(6) Subsection (5) does not apply to a board member who is an employee or independent contractor in other than a policy-making position with a joint board or commission established under 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536, a separate legal or administrative entity established under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, a combination of municipal corporations joined under 1951 PA 35, MCL 124.1 to 124.13, or a regional entity to provide community mental health services.

(7) In order to meet the requirement under subsection (1) related to the appointment of primary consumers and family members without terminating the appointment of a board member serving on March 28, 1996, the size of a board may exceed the size prescribed in section 212. A board that is different in size than that prescribed in section 212 shall be brought into compliance within 3 years after the appointment of the additional board members.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2002, Act 596, Imd. Eff. Dec. 3, 2002;—Am. 2003, Act 278, Imd. Eff. Jan. 8, 2004.

330.1224 Board; terms of members; vacancy; removal from office; compensation; expenses.

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.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1976, Act 348, Imd. Eff. Dec. 21, 1976;—Am. 1977, Act 88, Imd. Eff. Aug. 2, 1977;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2012, Act 376, Eff. Mar. 28, 2013.

330.1226 Board; powers and duties; appointment of executive director; reimbursement to program providing assisted outpatient treatment services.

Sec. 226. (1) The board of a community mental health services program shall do all of the following:

(a) Annually conduct a needs assessment to determine the mental health needs of the residents of the county or counties it represents and identify public and nonpublic services necessary to meet those needs. Information and data concerning the mental health needs of individuals with developmental disability, serious mental illness, and serious emotional disturbance shall be reported to the department in accordance with procedures and at a time established by the department, along with plans to meet identified needs. It is the responsibility of the community mental health services program to involve the public and private providers of mental health services located in the county or counties served by the community mental health program in this assessment and service identification process. The needs assessment shall include information gathered from all appropriate sources, including community mental health waiting list data and school districts providing special education services.

(b) Annually review and submit to the department a needs assessment report, annual plan, and request for

new funds for the community mental health services program. The standard format and documentation of the needs assessment, annual plan, and request for new funds shall be specified by the department.

(c) In the case of a county community mental health agency, obtain approval of its needs assessment, annual plan and budget, and request for new funds from the board of commissioners of each participating county before submission of the plan to the department. In the case of a community mental health organization, provide a copy of its needs assessment, annual plan, request for new funds, and any other document specified in accordance with the terms and conditions of the organization's inter-local agreement to the board of commissioners of each county creating the organization. In the case of a community mental health authority, provide a copy of its needs assessment, annual plan, and request for new funds to the board of commissioners of each county creating the authority.

(d) Submit the needs assessment, annual plan, and request for new funds to the department by the date specified by the department. The submission constitutes the community mental health services program's official application for new state funds.

(e) Provide and advertise a public hearing on the needs assessment, annual plan, and request for new funds before providing them to the county board of commissioners.

(f) Submit to each board of commissioners for their approval an annual request for county funds to support the program. The request shall be in the form and at the time determined by the board or boards of commissioners.

(g) Annually approve the community mental health services program's operating budget for the year.

(h) Take those actions it considers necessary and appropriate to secure private, federal, and other public funds to help support the community mental health services program.

(i) Approve and authorize all contracts for the provision of services.

(j) Review and evaluate the quality, effectiveness, and efficiency of services being provided by the community mental health services program. The board shall identify specific performance criteria and standards to be used in the review and evaluation. These shall be in writing and available for public inspection upon request.

(k) Subject to subsection (3), appoint an executive director of the community mental health services program who meets the standards of training and experience established by the department.

(*l*) Establish general policy guidelines within which the executive director shall execute the community mental health services program.

(m) Require the executive director to select a physician, a registered professional nurse with a specialty certification issued under section 17210 of the public health code, 1978 PA 368, MCL 333.17210, or a licensed psychologist to advise the executive director on treatment issues.

(2) A community mental health services program may do all of the following:

(a) Establish demonstration projects allowing the executive director to do 1 or both of the following:

(*i*) Issue a voucher to a recipient in accordance with the recipient's plan of services developed by the community mental health services program.

(*ii*) Provide funding for the purpose of establishing revolving loans to assist recipients of public mental health services to acquire or maintain affordable housing. Funding under this subparagraph shall only be provided through an agreement with a nonprofit fiduciary.

(b) Carry forward any surplus of revenue over expenditures under a capitated managed care system. Capitated payments under a managed care system are not subject to cost settlement provisions of section 236.

(c) Carry forward the operating margin up to 5% of the community mental health services program's state share of the operating budget for the fiscal years ending September 30, 2009, 2010, and 2011. As used in this subdivision, "operating margin" means the excess of state revenue over state expenditures for a single fiscal year exclusive of capitated payments under a managed care system. In the case of a community mental health authority, this carryforward is in addition to the reserve accounts described in section 205(4)(h).

(d) Pursue, develop, and establish partnerships with private individuals or organizations to provide mental health services.

(e) Share the costs or risks, or both, of managing and providing publicly funded mental health services with other community mental health services programs through participation in risk pooling arrangements, reinsurance agreements, and other joint or cooperative arrangements as permitted by law.

(f) Enter into agreements with other providers or managers of health care or rehabilitative services to foster interagency communication, cooperation, coordination, and consultation. A community mental health services program's activities under an agreement under this subdivision shall be consistent with the provisions of section 206.

(3) In the case of a county community mental health agency, the initial appointment by the board of an individual as executive director is effective unless rejected by a 2/3 vote of the county board of

commissioners within 15 calendar days.

(4) A community mental health services program that has provided assisted outpatient treatment services during a fiscal year may be eligible for reimbursement if an appropriation is made for assisted outpatient treatment services for that fiscal year. The reimbursement described in this subsection is in addition to any funds that the community mental health services program is otherwise eligible to receive for providing assisted outpatient treatment services.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1986, Act 149, Imd. Eff. July 2, 1986;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 1998, Act 417, Imd. Eff. Dec. 22, 1998;—Am. 2000, Act 273, Imd. Eff. July 7, 2000;—Am. 2002, Act 595, Imd. Eff. Oct. 17, 2002;—Am. 2004, Act 497, Eff. Mar. 30, 2005;—Am. 2009, Act 103, Imd. Eff. Sept. 30, 2009;—Am. 2014, Act 266, Eff. Sept. 29, 2014.

330.1226a Board; special fund account.

Sec. 226a. A community mental health services program board may create a special fund account to receive recipient fees and third-party reimbursements for services rendered. In the case of a county community mental health agency, approval of the board of commissioners of each participating county is necessary before creation of the special fund account. Receipts into the fund shall be recorded by source of payment and by type of service rendered, and a report regarding this information shall be submitted on a quarterly basis to the department. Money in the special fund account shall be used only for matching state funds or for the provision of community mental health services.

History: Add. 1980, Act 423, Eff. Mar. 31, 1981;—Am. 1984, Act 107, Imd. Eff. May 24, 1984;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1227 School-to-community transition services.

Sec. 227. Each community mental health services program shall participate in the development of school-to-community transition services for individuals with serious mental illness, serious emotional disturbance, or developmental disability. This planning and development shall be done in conjunction with the individual's local school district or intermediate school district as appropriate and shall begin not later than the school year in which the individual student reaches 16 years of age. These services shall be individualized. This section is not intended to increase or decrease the fiscal responsibility of school districts, community mental health services programs, or any other agency or organization with respect to individuals described in this section.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1228 Board; contracts.

Sec. 228. Subject to the provisions of this chapter, a board is authorized to enter into contracts for the purchase of mental health services and property lease arrangements with private or public agencies or individuals. A board may enter into a contract with any facility or entity of the department with the approval of the director of the department.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1230 Services program; executive director as chief executive and administrative officer; terms and conditions of employment.

Sec. 230. The executive director of a community mental health services program shall function as the chief executive and administrative officer of the program and shall execute and administer the program in accordance with the approved annual plan and operating budget, the general policy guidelines established by the board, the applicable governmental procedures and policies, and the provisions of this act. The executive director has the authority and responsibility for supervising all employees. The terms and conditions of an executive director's employment, including tenure of service, shall be as mutually agreed to by the board and the executive director and shall be specified in a written contract.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1231 Medical director; appointment; duties.

Sec. 231. The executive director shall appoint a medical director who is a psychiatrist. The medical director shall advise the executive director on medical policy and treatment issues.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1232 Services program; review of annual plan, needs assessment, request for funds, annual contract, and budget; eligibility for state support; allocation of funds.

Sec. 232. The department shall review each community mental health services program's annual plan,

needs assessment, request for funds, annual contract, and operating budget and approve or disapprove state funding in whole or in part. Eligibility for state financial support shall be contingent upon an approved contract and operating budget and certification in accordance with section 232a. Prior to the beginning of each state fiscal year, the department shall allocate state appropriated funds to the community mental health service programs in accordance with the approved contracts and budgets.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1232a Certification and review process standards; rules; compliance; waiver; plan to correct items of noncompliance; duration of certification; review of recipient rights system; notification of changes affecting certification; denial of certification; provisional certification; suspension, denial, or revocation of certification; appeal; review; actions by department; financial liability; community mental health authority status as voluntary.

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.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2012, Act 376, Eff. Mar. 28, 2013.

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

330.1232b Specialty prepaid health plans.

Sec. 232b. (1) The department shall establish standards for community mental health services programs designated as specialty prepaid health plans under the medicaid managed care program described in section 109f of the social welfare act, 1939 PA 280, MCL 400.109f. The standards established under this section shall reference applicable federal regulations related to medicaid managed care programs and specify additional state requirements for specialty prepaid health plans. The standards established under this section shall be published in a departmental bulletin or by an updating insert to a departmental manual.

(2) As a condition for contracting and for receiving payment under the medicaid managed care program, a community mental health services program designated as a specialty prepaid health plan shall certify both of the following:

(a) That the program is in substantial compliance with the standards promulgated by the department and with applicable federal regulations.

(b) That the program has established policies and procedures to monitor compliance with the standards promulgated by the department and with applicable federal regulations and to ensure program integrity.

(3) The department shall conduct an annual review of all community mental health services programs designated as specialty prepaid health plans to verify the declarations made by the community mental health

services program and to monitor compliance with the standards promulgated for specialty prepaid health plans and with applicable federal regulations. The annual review process established under this section shall be published in a departmental bulletin or by an updating insert to a departmental manual.

(4) The department may conduct separate reviews of a specialty prepaid health plan in response to beneficiary complaints, financial status considerations, or health and safety concerns.

(5) Contracts with specialty prepaid health plans shall indicate the sanctions that the department may invoke if it makes a determination that a specialty prepaid health plan is not in substantial compliance with promulgated standards and with established federal regulations, that the specialty prepaid health plan has misrepresented or falsified information reported to the state or to the federal government, or that the specialty prepaid health plan has failed substantially to provide necessary covered services to recipients under the terms of the contract. Sanctions may include intermediate actions including, but not limited to, a monetary penalty imposed on the administrative and management operation of the specialty prepaid health plan, imposition of temporary state management of a community mental health services program operating as a specialty prepaid health plan, or termination of the department's medicaid managed care contract with the community mental health services program.

(6) Before imposing a sanction on a community mental health services program that is operating as a specialty prepaid health plan, the department shall provide that specialty prepaid health plan with timely written notice that explains both of the following:

(a) The basis and nature of the sanction.

(b) The opportunity for a hearing to contest or dispute the department's findings and intended sanction, prior to the imposition of the sanction. A hearing under this section is subject to the provisions governing a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, unless otherwise agreed to in the specialty prepaid health plan contract.

History: Add. 2002, Act 597, Imd. Eff. Dec. 3, 2002.

330.1234 Services program; review of proposed contract and operating budget; criteria.

Sec. 234. In reviewing a community mental health services program's proposed contract and operating budget for the purpose of approval or disapproval, in whole or in part, or in making an allocation of state appropriated funds to a community mental health services program, the department shall consider:

(a) The state's mental health needs.

(b) The annual plan and needs assessment of the community mental health services program.

(c) The state's need for a reasonable degree of statewide standardization and control of services.

(d) The community mental health services program's need for a reasonable degree of flexibility and freedom to design, staff, and administer services in a manner that the program considers appropriate to its situation.

(e) The community mental health services program's need for a reasonable expectation that services meeting an essential mental health need and that are appropriately designed and executed will receive continuing state financial support within the constraint of state funds actually appropriated by the legislature.

(f) The demonstrated relevancy, quality, effectiveness, and efficiency of the community mental health services program's services.

(g) The adequacy of the community mental health services program's accounting for the expenditure of state funds.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1236 Services program; review of expenditures; withdrawal of funds.

Sec. 236. At intervals during the year, the department shall review the expenditures of each community mental health services program, and if the department determines that funds that have been allocated to a program are not needed by that program, the department may, with the concurrence of the board, withdraw the funds. Funds so withdrawn may be reallocated by the department to other community mental health services programs. The department may withdraw funds that have been allocated to a community mental health services program when the funds are being expended in a manner not provided for in the approved contract and operating budget. The department shall establish standards related to the frequency and timing of expenditure reviews described in this section.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1238 Review of actions involving disapproval of proposed contract and operating budget, allocation of funds, or withdrawal of funds; consultation.

Sec. 238. If an executive director or a board specifically so requests, any action by the department

involving a disapproval of a community mental health services program's proposed contract and operating budget, in whole or in part, or involving an allocation of funds to a community mental health services program or a withdrawal of funds from a community mental health services program, shall be reviewed in consultation with the affected executive director or board before the action is considered a final action. In any consultation, the representative of the community mental health services program shall be afforded a full opportunity to present his or her position.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1240 Expenditures eligible for state financial support.

Sec. 240. All expenditures by a community mental health services program necessary to execute the program shall be eligible for state financial support, except those excluded under section 242. Expenditures necessary to carry out the responsibilities and duties of a community mental health services program include expenditures for staff training and staff education and for mental health research when those expenditures are necessary or appropriate to the execution of the program.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1241 Adult foster care facilities; expenses eligible for state financial support.

Sec. 241. Expenditures for the maintenance and repair of adult foster care facilities owned or leased by a community mental health services program are eligible for state financial support. Expenses incurred in renovating an adult foster care facility that is leased or owned by a community mental health services program are also eligible for state financial support if the expenses are incurred for 1 or more of the following purposes:

(a) To correct physical plant deficiencies cited by the department of social services under state licensing rules.

(b) To purchase and install fire safety equipment or make physical plant changes that measurably assure a reasonable level of fire protection for all of the residents who live in the facility.

(c) To correct physical plant deficiencies in accordance with state and federal certification standards.

(d) To restore the facility to its prelease condition, if the facility's lease contains a clause stipulating that renovation is the lessee's responsibility at the time the lease expires or is terminated.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1242 Expenditures ineligible for state financial support.

Sec. 242. The following expenditures by a community mental health services program are not eligible for state financial support except as permitted under section 241 or by the department:

(a) The construction, purchase, remodeling, or any similar capital cost of a building or facility, except that such cost is eligible for state financial support on an annual expense basis in an amount equal to a fair rental value of the space or building being utilized.

(b) The capital cost of equipment or similar items in an amount greater than that established by the department.

(c) Any cost item that does not represent or constitute a real or actual expenditure by the community mental health services program except to expend from a reserve account established by the board, as provided in section 205.

(d) That part of any expenditure that is obviously and manifestly extravagant in relation to its specific objective and context.

(e) Any category of expenditure or any portion of any category of expenditure, the ineligibility of which the department determines is necessary and appropriate to assure the reasonable use of state funds or to assure a legitimate interest of the state, and which determination is in accord with the intent and provisions of this chapter. Subject to section 114a, this subdivision shall be effectuated by rules promulgated by the department.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

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

330.1244 Additional powers and duties of department.

Sec. 244. In addition to the duties and powers elsewhere provided in this chapter, the department shall do all of the following:

(a) Seek to develop and establish arrangements and procedures for the effective coordination and integration of state services and community mental health services programs.

(b) Review and evaluate, at times and in a manner the department considers appropriate, the relevancy, quality, effectiveness, and efficiency of community mental health services programs. In developing or

operating its community mental health services program information system, the department shall not collect any information that would make it possible to identify by name any individual who receives a service from a community mental health services program. Any such information in the possession of the department before August 6, 1974 shall not be disclosed by the department.

(c) Provide technical consultative services to counties seeking to establish or improve a community mental health services program, and provide other technical consultative services to community mental health services programs as the department considers feasible and appropriate.

(d) Audit, or cause to be audited, the expenditure of state funds by community mental health services programs. Copies of audit reports shall be forwarded to the auditor general.

(e) Subject to section 114a, promulgate rules it considers necessary or appropriate to implement the objectives and provisions of this chapter.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1980, Act 423, Eff. Mar. 31, 1981;—Am. 1986, Act 289, Imd. Eff. Dec. 22, 1986;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

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

330.1245 Granting staff privileges to psychiatrists.

Sec. 245. The directors of psychiatric hospitals operated by the department may grant staff privileges to psychiatrists employed by or under contract with a community mental health services program under guidelines established by the hospital's governing body if requested by the executive director of the program. Staff privileges authorized under this section include the admission, treatment, and discharge of patients admitted from that program's service area. The credentials committee of the medical staff of the hospital shall review the credentials of all applicants for staff privileges and recommend to the hospital director the approval or disapproval of the granting of staff privileges to the applicant. Denial of a request for staff privileges may be appealed by the executive director to the hospital's governing board.

History: Add. 1986, Act 289, Imd. Eff. Dec. 22, 1986;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1246 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to Michigan conference of county community mental health programs.

CHAPTER 2A
SUBSTANCE USE DISORDER SERVICES

330.1260 Definitions; implementation and completion of changes.

Sec. 260. (1) As used in this chapter:

(a) "Child" means an individual less than 14 years of age.

(b) "Court" means the probate court for the county in which an individual, for whom a request for substance use disorder treatment and rehabilitation services has been made or a petition for involuntary treatment has been filed, either resides or is found.

(c) "Health professional" means an individual licensed or otherwise authorized to engage in a health profession under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, and whose scope of practice includes the diagnosis and treatment of individuals with a substance use disorder.

(d) "Hospital" means a hospital licensed under part 215 of the public health code, 1978 PA 368, MCL 333.21501 to 333.21571.

(e) "Minor" means an individual 14 or more years of age and less than 18 years of age.

(f) "Person in loco parentis" means an individual who is not the parent or guardian of a child or minor but who has legal custody of the child or minor and is providing support and care for the child or minor.

(g) "Petitioner" means a person that institutes a proceeding under section 281a.

(h) "Physiological dependency" means addiction to alcohol or drugs that alters the body's physical or psychological status, or both.

(i) "Program" means a hospital, clinic, organization, or health professional licensed under part 62 of the public health code, 1978 PA 368, MCL 333.6230 to 333.6251, to provide substance use disorder services.

(j) "Respondent" means an individual alleged in a petition filed under section 281a to be an individual who has a substance use disorder and who may be ordered under section 281b or 281c to undergo involuntary treatment.

(2) The department shall begin implementation of the changes made to this chapter by 2012 PA 500 not later than October 1, 2013 and shall have the changes completed by not later than October 1, 2014.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012;—Am. 2014, Act 200, Imd. Eff. June 24, 2014.

330.1261 Records; confidentiality; disclosure.

Sec. 261. Records of the identity, diagnosis, prognosis, and treatment of an individual maintained in connection with the performance of a program, an approved service program, or an emergency medical service authorized or provided or assisted under this chapter are confidential and may be disclosed only for the purposes and under the circumstances authorized by section 262 or 263.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

330.1262 Person subject of record; consent to disclose content; revocation; form of authorization or revocation.

Sec. 262. (1) An individual who is the subject of a record maintained under section 261 may consent in writing to the disclosure of the content of the record to:

(a) Health professionals for the purpose of diagnosis or treatment of the individual.

(b) Governmental personnel for the purpose of obtaining benefits to which the individual is entitled.

(c) Any other person specifically authorized by the individual.

(2) The individual consenting under subsection (1) may revoke the authorization for the disclosure at any time, unless expressly prohibited by federal legislation on confidentiality of alcohol and drug abuse patient records, by giving written notice to the program.

(3) The authorization or revocation shall be in a form specified by the department in accordance with regulations specifying the form of the written consent issued by the United States department of health, education, and welfare and the special action office for drug abuse prevention.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

330.1263 Consent to disclose not given; limitations.

Sec. 263. If an individual who is the subject of a record maintained under section 261 does not give written consent, the content of the record may be disclosed only as follows:

(a) To medical personnel to the extent necessary to meet a bona fide medical emergency.

(b) To qualified personnel for the purpose of conducting scientific statistical research, financial audits, or program evaluation, but the personnel shall not directly or indirectly identify an individual in a report of the research audit or evaluation or otherwise disclose an identity in any manner.

(c) Upon application, a court of competent jurisdiction may order disclosure of whether a specific individual is under treatment by a program. In all other respects, the confidentiality shall be the same as the physician-patient relationship provided by law.

(d) Upon application, a court may order disclosure of a record for the purpose of a hearing under section 266 or 268.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

330.1264 Authorization of services; consent by minor; informing spouse, parent, guardian, or person in loco parentis; legal responsibility for services.

Sec. 264. (1) The consent to the provision of substance use disorder related medical or surgical care, treatment, or services by a hospital, clinic, or health professional authorized by law executed by a minor who is or professes to be an individual with a substance use disorder is valid and binding as if the minor had achieved the age of majority. The consent is not subject to later disaffirmance by reason of minority. The consent of any other person, including a spouse, parent, guardian, or person in loco parentis, is not necessary to authorize these services to be provided to a minor.

(2) For medical reasons, the treating physician, and, on the advice and direction of the treating physician, a member of the medical staff of a hospital or clinic or other health professional, may, but is not obligated to, inform the spouse, parent, guardian, or person in loco parentis as to the treatment given or needed. The information may be given to or withheld from these persons without consent of the minor and notwithstanding the express refusal of the minor to the providing of the information.

(3) A spouse, parent, guardian, or person in loco parentis of a minor is not legally responsible for services provided under this section.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

330.1265 Request for services for minor by parents or person in loco parentis; diagnostic evaluation; detoxification services; performance of services without minor's consent; use of psychotropic drugs.

Sec. 265. (1) A program that is requested by a minor's parent or a person in loco parentis to a minor to perform substance use disorder treatment and rehabilitation services for the minor may perform those services

for the minor without the minor's consent if the minor is less than 14 years of age, as verified by the minor's parents or person acting in loco parentis, and if the request is made in writing.

(2) A minor's parent or a person in loco parentis to a minor may request that substance use disorder treatment and rehabilitation services be provided to the minor by a program.

(3) If substance use disorder treatment and rehabilitation services are requested under subsection (2) and the minor does not consent to the substance use disorder treatment and rehabilitation services, the program shall cause to have conducted a diagnostic evaluation to determine whether the minor is physiologically dependent. Except as otherwise provided in subsection (4), a diagnostic evaluation shall be conducted within 48 hours of the request for substance use disorder treatment and rehabilitation services.

(4) If it is determined during a diagnostic evaluation conducted under subsection (3) that the minor is in need of detoxification, the program may arrange for detoxification services and those services may be performed, with the consent of the minor's parent or person in loco parentis to the minor and without the minor's consent, for a period that shall not exceed 5 days. After the minor's detoxification, the program shall cause to have the minor's diagnostic evaluation completed within 48 hours.

(5) Except as otherwise provided in subsection (6), after a diagnostic evaluation has been completed under this section, substance use disorder treatment and rehabilitation services shall not be performed unless 1 of the following occurs:

(a) The minor consents to substance use disorder treatment and rehabilitation services.

(b) It is determined under section 266 that substance use disorder treatment and rehabilitation services are necessary for the minor.

(6) If it is determined as a result of a diagnostic evaluation conducted under this section that the minor is physiologically dependent, substance use disorder treatment and rehabilitation services may be performed without the minor's consent pending a hearing under section 266 and for a period that shall not exceed 7 business days.

(7) Psychotropic drugs shall not be used under this section by a program on a minor unless the minor consents or the court orders the use of the drugs at a hearing under section 266.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

330.1266 Petition requesting court determination whether services necessary for minor; appointment of guardian ad litem; notice of hearing; right to independent diagnostic evaluation; hearing; determinations; confidentiality of court records.

Sec. 266. (1) A minor's parent or person in loco parentis to a minor may petition the court requesting the court's determination as to whether treatment and rehabilitation services are necessary for the minor.

(2) Upon receipt of a petition under subsection (1), the court shall appoint a guardian ad litem to represent the minor for the purposes of this section and sections 267 and 268 and shall notify all of the following persons of the time and place for the hearing:

(a) The minor's parents or person in loco parentis to the minor.

(b) The minor.

(c) The program director.

(d) The guardian ad litem for the minor.

(3) A minor has the right to an independent diagnostic evaluation by a program.

(4) A hearing on a petition under subsection (1) shall be held within 7 days of the court's receipt of the petition.

(5) At a hearing under this section, the court shall determine whether substance use disorder treatment and rehabilitation services are necessary. If the court determines that substance use disorder treatment and rehabilitation services are necessary, the court shall determine a suitable placement for the minor in the least restrictive setting available.

(6) In making the determinations under subsection (5), the court shall obtain and examine the diagnostic evaluation prepared for the minor under section 265. If an independent diagnostic evaluation was prepared, the court shall examine that evaluation. Information obtained under this section shall not be used to authorize a petition under section 2(a) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(7) The court shall not order substance use disorder treatment and rehabilitation services under this section on the grounds that the minor's parent or person in loco parentis to the minor is unwilling or unable to provide or arrange for the minor's management, care, or residence.

(8) Court records maintained under this section are confidential and open only by order of the court to persons having a legitimate interest.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

330.1267 Treatment plan; review; transmission of review results; objection by minor; discharge of minor from program.

Sec. 267. (1) Not more than 30 days after the court orders the admission of a minor to a program under section 266, and at 60-day intervals after that, the director of the program shall perform or arrange to have performed a review of the minor's treatment plan.

(2) The results of the reviews shall be transmitted in writing within 72 hours after completion of the review to all of the following:

(a) The minor.

(b) The minor's parent or person in loco parentis to the minor.

(c) The minor's guardian ad litem.

(d) The court.

(3) A minor may object to his or her treatment plan within 30 days after receipt of the periodic review under subsection (1). The objection shall be in writing and shall state the basis on which it is being raised. At the minor's request, the minor's guardian ad litem shall assist the minor in properly submitting the objection.

(4) If it is determined that substance use disorder treatment and rehabilitation services are no longer necessary, the minor shall be discharged from the program. If the minor is discharged, the court shall be notified of the discharge.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

330.1268 Receipt of objection; hearing; notice of hearing; actions by court.

Sec. 268. (1) Upon receipt of an objection filed under section 267, the court shall schedule a hearing to be held within 7 business days. After receipt of the objection, the court shall notify all of the following persons of the time and place for the hearing:

(a) The minor.

(b) The minor's parent or person in loco parentis to the minor.

(c) The minor's guardian.

(d) The program director.

(2) The court shall sustain the objection and order the discharge of the minor unless the court finds by clear and convincing evidence that substance use disorder treatment and rehabilitation services are necessary. If the court does not sustain the objection, an order shall not be entered, the objection shall be dismissed, and substance use disorder treatment and rehabilitation services shall continue.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

330.1269 Department-designated community mental health entity and community mental health services program provider network; ability to contract for and spend funds; purposes.

Sec. 269. The department-designated community mental health entity and its community mental health services program provider network may contract for and spend funds for the prevention of substance use disorder and for the counseling and treatment of individuals with substance use disorder. A department-designated community mental health entity and other community mental health services program may make contracts with the governing bodies of other department-designated community mental health entities and other community mental health services programs and other persons for these purposes.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

330.1270 Duties of department.

Sec. 270. The department shall do all of the following:

(a) Administer and coordinate state administered funds for substance use disorder treatment and rehabilitation services and substance use disorder prevention services.

(b) Use appropriations of revenues from taxes imposed by the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, exclusively for the purposes provided in that act.

(c) Recommend directly to the governor, after review and comment, budget and grant requests for public funds to be allocated for substance use disorder services including education, research, treatment, rehabilitation, and prevention activities.

(d) Provide technical assistance to department-designated community mental health entities and community mental health services programs and to treatment, rehabilitation, and prevention agencies for the purposes of program development, administration, and evaluation.

(e) Develop annually a comprehensive state plan through the use of federal, state, local, and private

resources of adequate services and facilities for the prevention and control of substance use disorder and the diagnosis, treatment, and rehabilitation of individuals with substance use disorder.

(f) Evaluate, in cooperation with appropriate state departments and agencies, the effectiveness of substance use disorder services in the state funded by federal, state, local, and private resources, and annually during the month of November, report a summary of the detailed evaluation to the governor and the legislature.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

330.1271 Additional duties of department.

Sec. 271. The department shall do both of the following:

(a) Cooperate with agencies of the federal government and receive and use federal funds for purposes authorized by the legislature.

(b) Prior to the expenditure of funds appropriated to other state agencies receiving appropriations for substance use disorder treatment and rehabilitation services and substance use disorder prevention services, have a contract signed with the receiving department-designated community mental health entity. The department shall submit a copy of each agreement to the governor and the appropriations committees of the senate and house of representatives.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

330.1272 Additional duties of department.

Sec. 272. The department shall do all of the following:

(a) Establish a statewide information system for the collection of statistics, management data, and other information required for the implementation of this chapter.

(b) Collect, analyze, and disseminate data concerning substance use disorder treatment and rehabilitation services and substance use disorder prevention services.

(c) Prepare, publish, evaluate, and disseminate educational material as to the nature and effect of alcohol and drugs.

(d) Organize, sponsor, and fund training programs for persons directly or indirectly engaged in the treatment, rehabilitation, and prevention of substance use disorder.

(e) Conduct and provide grant-in-aid funds to conduct research on the incidence, prevalence, causes, and treatment of substance use disorder and disseminate this information to the public and to substance use disorder services professionals.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

330.1273 Additional duties and powers of department; duty of department-designated community mental health entities and community mental health services program provider networks to ensure applicants are licensed.

Sec. 273. (1) The department shall do all of the following:

(a) Annually establish program priority for funding for the next fiscal year.

(b) Establish guidelines for project applications.

(c) Promulgate rules concerning matching requirements for state alcoholism and drug abuse treatment grants. The rules shall be reviewed every 2 years.

(2) The department-designated community mental health entities and community mental health services program provider networks shall ensure that applicants for state administered funds are licensed, unless exempt, as substance use disorder service programs under part 62 of the public health code, 1978 PA 368, MCL 333.6230 to 333.6251.

(3) The department may issue licenses; require reports; establish standards and procedures; and make inspections necessary to enforce this chapter and rules promulgated under this chapter; and provide technical assistance for the guidance of substance use disorder service programs in complying with the requirements and rules promulgated under this chapter.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

330.1273a Grant program for high schools designated for students recovering from substance abuse disorder.

Sec. 273a. Subject to appropriation, the department shall create and operate a grant program to provide grants to high schools that are specifically designated for students recovering from a substance use disorder. Each year from available funds, the department shall award grants under this section to support the costs of counselors, therapeutic staff, and recovery coaching staff at high schools described in this section. In granting an application, the department shall place a priority based on the applicant's cost of providing substance use

disorder counselors. Each grant that the department awards under this section shall not exceed $150,000.00 per applicant.

History: Add. 2020, Act 402, Eff. Mar. 24, 2021.

330.1273b Competitive grant program for recovery community organizations.

Sec. 273b. Subject to appropriation, the department shall create and operate a competitive grant program to provide grants to recovery community organizations. Each year from available funds, the department shall award grants under this section to recovery community organizations to offer or expand recovery support center services or recovery community center services to individuals seeking long-term recovery from substance use disorders. Each grant that the department awards under this section shall not exceed $150,000.00 per applicant. In awarding a grant, the department shall place priority on recovery community organizations that do all of the following:

(a) Provide recovery support navigation that includes the following:

(*i*) Multiple recovery pathways.

(*ii*) Assistance for individuals navigating recovery resources such as detoxification, treatment, recovery housing, support groups, peer support, and family support.

(*iii*) The promotion of community wellness and engagement.

(*iv*) Recovery advocacy that provides hope and encourages recovery.

(*v*) A peer-led, peer-driven organization that offers recovery to any individual seeking recovery from addiction.

(b) Provide recovery outreach education that includes the following:

(*i*) On-site recovery education in the workplace.

(*ii*) All-staff employee meetings.

(*iii*) On-site support for employees and family members.

(*iv*) Connections for employees and family members of employees suffering from addiction to local recovery resources such as treatment, recovery housing, and support groups.

(*v*) Connections with employers to provide recovery advocacy.

(c) Provide recovery activities and events that include the following:

(*i*) Safe, ongoing recovery activities and events.

(*ii*) Opportunities to volunteer and participate in activities and events.

(*iii*) Opportunities for family members and supporters of recovery to be involved.

(*iv*) Meetings and activities on nutrition, health, and wellness.

(*v*) Meetings and activities on mindfulness, meditation, and yoga.

History: Add. 2020, Act 402, Eff. Mar. 24, 2021.

330.1274 Duty of department-designated community mental health entity to assume responsibility for providing services for county or multicounty region.

Sec. 274. A department-designated community mental health entity designated by the director to assume responsibility for providing substance use disorder services for a county or multicounty region, with assistance from its community mental health services program provider network, shall do all of the following:

(a) Develop comprehensive plans for substance use disorder treatment and rehabilitation services and substance use disorder prevention services consistent with guidelines established by the department.

(b) Review and comment to the department of licensing and regulatory affairs on applications for licenses submitted by local treatment, rehabilitation, and prevention organizations.

(c) Provide technical assistance for local substance use disorder service programs.

(d) Collect and transfer data and financial information from local programs to the department of licensing and regulatory affairs.

(e) Submit an annual budget request to the department for use of state administered funds for its substance use disorder treatment and rehabilitation services and substance use disorder prevention services in accordance with guidelines established by the department.

(f) Make contracts necessary and incidental to the performance of the department-designated community mental health entity's and community mental health services program's functions. The contracts may be made with public or private agencies, organizations, associations, and individuals to provide for substance use disorder treatment and rehabilitation services and substance use disorder prevention services.

(g) Annually evaluate and assess substance use disorder services in the department-designated community mental health entity in accordance with guidelines established by the department.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

330.1274a Uniform substance use disorder credentialing program; duties of department; compliance; definitions.

Sec. 274a. (1) The department shall do all of the following:

(a) Establish, maintain, and revise, as necessary, a uniform substance use disorder credentialing program for state department or agency use as required in this section. In complying with this subsection, the department may consult with other state departments and agencies that are required to comply with the program under this section.

(b) Ensure that the uniform credentialing program does all of the following:

(*i*) Creates uniformity in this state to streamline the provision of substance use disorder services by state departments and agencies and to enhance workforce development, training education, and service delivery.

(*ii*) Eliminates any hardship surrounding the functioning and operation of substance use disorder services provided by state departments and agencies to residents of this state.

(*iii*) Establishes a uniform credentialing requirement for individuals who provide substance use disorder services through a state department or agency.

(*iv*) Promotes policies that support adequate staffing and evidence-based skills or training to meet the needs of the residents of this state and the state departments and agencies that provide substance use disorder services.

(*v*) Complies with the national certification standards for substance use disorder counselors and prevention professionals.

(*vi*) Meets the needs of the populations served by each state department or agency that provides, either directly or through a contract, substance use disorder services to residents of this state.

(c) By 6 months after the effective date of this section and annually after that date, submit a report to the legislature that describes its activities under this section, including the establishment of and any revisions to the uniform credentialing program.

(2) A state department or agency that provides, either directly or through a contract, substance use disorder services to residents of this state shall comply with the uniform credentialing program. On and after the date the uniform credentialing program is certified by the director of the department as in full force and effect, the state department or agency subject to this subsection shall ensure that all of its forms, processes, and contracts it uses and that relate to its provision of substance use disorder services comply with the uniform credentialing program.

(3) As used in this section:

(a) "Substance use disorder services" means substance use disorder prevention services or substance use disorder treatment and rehabilitation services.

(b) "Uniform credentialing program" or "program" means the uniform substance use disorder credentialing program established, maintained, and revised as required in subsection (1)(a).

History: Add. 2014, Act 249, Eff. Mar. 31, 2015.

330.1275 Waiting list for services; priority position.

Sec. 275. (1) Subject to subsection (2), if a department-designated community mental health entity under this chapter maintains a waiting list for services, the department-designated community mental health entity shall place a parent whose child has been removed from the home under the child protection laws of this state or is in danger of being removed from the home under the child protection laws of this state because of the parent's substance use disorder in a priority position on the waiting list above all other applicants with substantially similar clinical conditions.

(2) If a department-designated community mental health entity receives federal substance abuse prevention and treatment block grant funds, the priority position of the parent on the waiting list granted under subsection (1) will come after a priority position on the waiting list granted under the conditions of the federal block grant. If the parent qualifies for priority status on the waiting list under the conditions of the federal block grant, the department-designated community mental health entity shall place the parent in that priority position on the waiting list.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

330.1276 Individual taken into protective custody by peace officer; transporting individual to approved service program or emergency medical service; lawful force; arrest record prohibited; inability to complete transfer to program or service; commission of misdemeanor; emergency treatment.

Sec. 276. (1) An individual who appears to be incapacitated in a public place shall be taken into protective custody by a peace officer and taken to an approved service program or to an emergency medical service, or

to a transfer facility according to subsection (4) for subsequent transportation to an approved service program or emergency medical service. Except as otherwise provided in this subsection, if requested by a peace officer, an emergency service unit or staff shall provide transportation for the individual to an approved service program or an emergency medical service. This subsection does not apply to the transportation of an individual by an emergency service unit or staff if the peace officer reasonably believes that the individual will attempt escape or will be unreasonably difficult for staff to control.

(2) A peace officer may take an individual into protective custody with that kind and degree of force that is lawful for the officer to arrest that individual for a misdemeanor without a warrant. In taking the individual, a peace officer may take reasonable steps to protect himself or herself. The protective steps may include a pat-down search of the individual in his or her immediate surroundings, but only to the extent necessary to discover and seize any dangerous weapon that may on that occasion be used against the officer or other individuals present. The peace officer shall take these protective steps before an emergency service unit or staff provides transportation of an individual to an approved service program or emergency medical service.

(3) The taking of an individual to an approved service program, emergency medical service, or transfer facility under subsection (1) is not an arrest, but is a taking into protective custody with or without consent of the individual. The peace officer shall inform the individual that he or she is being held in protective custody and is not under arrest. An entry or other record shall not be made to indicate that the individual was arrested or charged with either a crime or being incapacitated. An entry shall be made indicating the date, time, and place of the taking, but the entry shall not be treated for any purpose as an arrest or criminal record.

(4) An individual taken into protective custody under subsection (1) may be taken to a transfer facility for not more than 8 hours, if an approved service program or an emergency medical service is not located in that county and if, due to distance or other circumstances, a peace officer is unable to complete transport of the individual to an approved service program or emergency medical service. The peace officer or agency shall immediately notify and request the nearest approved service program or emergency medical service to provide an emergency service unit or staff as soon as possible to transport the individual to that approved service program or emergency medical service. If an emergency service unit or staff is not available for transportation, a peace officer may transport the individual to an approved service program or emergency medical service. If an emergency service unit or staff is to provide transportation, the designated representative of the transfer facility shall assume custody of the individual and shall take all reasonable steps to ensure the individual's health and safety until custody is transferred to the emergency service unit or staff of an approved service program or emergency medical service.

(5) An individual arrested by a peace officer for the commission of a misdemeanor punishable by imprisonment for not more than 3 months, or by a fine of not more than $500.00, or both, may be taken to an approved service program or an emergency medical service for emergency treatment if the individual appears to be incapacitated at the time of arrest. This treatment is not in lieu of criminal prosecution of the individual for the offense with which the individual is charged and it does not preclude the administration of any tests as provided for by law.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012;—Am. 2014, Act 200, Imd. Eff. June 24, 2014.

330.1277 Protective custody; examination by health professional; chemical test; individual found to be incapacitated; treatment from approved program or service.

Sec. 277. (1) An individual who is taken to an approved service program or emergency medical service under section 276(1) shall continue to be in protective custody and shall be examined by a health professional as soon as possible, but not longer than 8 hours. The health professional may conduct a chemical test to determine the amount of alcohol or other drugs in the bloodstream of the individual. The health professional shall inform the individual of his or her right to that test and shall conduct a test at the request of the individual.

(2) An individual who, by medical examination, is found to be incapacitated shall then receive treatment from an approved service program or emergency medical service. An individual shall not be denied treatment solely because the individual has withdrawn from treatment against medical advice on a prior occasion or because the individual has relapsed after earlier treatment. An approved service program or the emergency medical service may arrange for necessary transportation.

(3) Approved service programs are not expected to provide treatment other than that for which they are licensed, nor is an emergency medical service required to provide treatment other than that routinely provided for other patients treated.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012;—Am. 2014, Act 200, Imd. Eff. June 24, 2014.

330.1278 Detention of incapacitated individual; discharge to peace officer.

Sec. 278. (1) An individual who is taken to an approved service program or emergency medical service under section 276(1) continues to be in protective custody. Except as otherwise provided in section 281a, 281b, or 281c, the individual shall not be detained once the individual is medically examined and found not to be incapacitated. An individual found by medical examination to be incapacitated shall be detained, except as otherwise provided in section 281a, 281b, or 281c, until the individual is no longer incapacitated or for not more than 72 hours after the individual is taken to the approved service program or emergency medical service. An individual may consent to remain in the program for as long as the health professional in charge believes appropriate.

(2) An individual who is taken to an approved service program or emergency medical service under section 276(5) shall be discharged to a peace officer after the individual is no longer incapacitated. An individual who remains incapacitated at the expiration of 72 hours after the individual has been taken to the approved service program or emergency medical service shall be discharged to a peace officer unless 1 of the following circumstances applies:

(a) The individual agrees to remain in the program longer than 72 hours and the health professional in charge of the program believes it appropriate that the individual remain in the program longer than 72 hours.

(b) An order for involuntary treatment of the individual has been issued under section 281b or 281c.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012;—Am. 2014, Act 200, Imd. Eff. June 24, 2014.

330.1279 Release of individual found not to be incapacitated.

Sec. 279. (1) Except as otherwise provided in section 281a, 281b, or 281c, an individual who is brought to an approved service program or emergency medical service under section 276(1) and is found by medical examination not to be incapacitated shall be immediately released and transportation may be arranged by the approved service program or emergency medical service.

(2) Except as otherwise provided in section 281a, 281b, or 281c, an individual who is brought to an approved service program or emergency medical service under section 276(5) and is found by medical examination not to be incapacitated shall be released to a peace officer representing the agency that made the arrest.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012;—Am. 2014, Act 200, Imd. Eff. June 24, 2014.

330.1280 Admission of individual held in protective custody; notification of family or designated individual.

Sec. 280. If an individual held in protective custody is admitted to an approved service program or emergency medical service, the individual's family, next of kin, or someone whom the individual designates shall be notified as promptly as possible.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

330.1281 Voluntary admission.

Sec. 281. (1) An individual may voluntarily seek admission at an approved service program or emergency medical service.

(2) The individual shall be examined by a health professional. At the request of the individual, the health professional may order a chemical test to determine the amount of alcohol or other drugs in the bloodstream of the individual.

(3) An individual who, by medical examination, is found to be incapacitated shall then be admitted or referred for treatment. Transportation may be provided to an individual admitted or referred for treatment through the approved service program or the emergency medical service.

(4) The voluntarily admitted individual may leave at any time or may consent to remain as long as the health professional believes appropriate.

(5) If a voluntarily admitted individual is admitted to an approved service program or emergency medical service, the family, next of kin, or someone whom the individual designates, shall be notified as promptly as possible. If an adult requests that there be no notification, the request shall be respected.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012;—Am. 2014, Act 200, Imd. Eff. June 24, 2014.

330.1281a Involuntary treatment.

Sec. 281a. (1) A court may order involuntary treatment for an individual who is an adult as provided in this section and sections 281b and 281c. This section and sections 281b and 281c do not apply and sections 264 to 268 apply for an individual who is a minor. A court shall not order involuntary treatment for an individual unless all of the following apply to that individual:

(a) The individual has a substance use disorder as verified by a health professional under section 281b.

(b) The individual presents an imminent danger or imminent threat of danger to self, family, or others as a result of the substance use disorder, or a substantial likelihood of the threat of danger in the near future exists.

(c) The individual can reasonably benefit from treatment.

(2) An individual described in this subsection may initiate proceedings for the involuntary treatment of an individual by filing a verified petition in the court and paying a filing fee in the same amount, if any, that is charged for a filing under section 434. A petition and all subsequent documents filed in the court under this subsection must be entitled: "In the interest of (name of respondent)". Any of the following individuals may file a petition under this subsection:

(a) The spouse of the respondent.

(b) A family member of the respondent.

(c) The guardian of the respondent.

(d) A health professional.

(3) A petitioner shall include all of the following in a petition filed under this section:

(a) The petitioner's name and residence address or, if the petitioner is a health professional, his or her business address.

(b) The petitioner's source of authority under subsection (2) to file the petition, including the petitioner's relationship to the respondent.

(c) The respondent's name, residence address, and current location, if known.

(d) The name and residence address of the respondent's parents, if living and if known.

(e) The name and residence address of the respondent's guardian, if any and if known.

(f) The name and residence address of the respondent's spouse, if any and if known.

(g) The name and residence address of the respondent's adult children, if any and if known.

(h) The name and residence address of the individual who has custody of the respondent, if any and if known. If no individual is known under this subdivision, the name and residence address of any other close relative or friend of the respondent, if known.

(i) A description of the facts that lead the petitioner to believe that the respondent has a substance use disorder and presents an imminent danger or imminent threat of danger to self, family, or others as a result of the substance use disorder, or that a substantial likelihood of the threat of danger in the near future exists if the respondent does not receive treatment.

(j) Except as otherwise provided in subdivision (k), a certified statement of a health professional who has examined the respondent within 2 days before the day the petition is filed under this section. A certified statement under this subdivision must include all of the following:

(*i*) The health professional's findings in support of the need for involuntary treatment.

(*ii*) The health professional's statement regarding whether the respondent presents an imminent danger or imminent threat of danger to self, family, or others as a result of the substance use disorder, or a substantial likelihood of the threat of danger in the near future exists if the respondent does not receive treatment.

(*iii*) The health professional's statement regarding whether the respondent can reasonably benefit from treatment.

(*iv*) The health professional's indication of the type and length of treatment required.

(*v*) If treatment is indicated under subparagraph (*iv*), the treatment facilities known to the health professional that are able and willing to provide the recommended treatment. The health professional shall include a disclosure of any ownership interest in or other relationship or affiliation with a facility identified under this subparagraph, if any.

(k) In lieu of a certified statement of a health professional under subdivision (j), a statement that the respondent refused to undergo an examination by a health professional concerning the respondent's possible need for treatment.

(4) A petitioner shall submit with a petition filed under this section the name and address of the person or public or private facility with which the petitioner has arranged for the treatment of the respondent. The petitioner shall include a verification from the person or public or private facility that it has agreed to provide the treatment and the estimated cost of the treatment. Unless waived by the court for good cause, the petitioner shall submit with the petition a guarantee, signed by the petitioner or another individual authorized to submit a petition for the respondent under this section, obligating the guarantor to pay the costs of the examinations under section 281b(2)(e), the costs of the respondent that are associated with a hearing conducted under section 281b and that are determined appropriate by the court, and the costs of any treatment ordered by the court.

(5) An individual who does any of the following is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $5,000.00, or both:

(a) Furnishes false information for the purpose of obtaining an order of involuntary treatment.

(b) Causes or otherwise secures, or conspires with or assists another to cause or secure, without a reason to believe the respondent has a substance use disorder, an order of involuntary treatment.

(c) Causes, or conspires with or assists another to cause, the denial to any individual a right accorded that individual under this chapter.

History: Add. 2014, Act 200, Imd. Eff. June 24, 2014.

330.1281b Involuntary treatment; petition; examination of petitioner under oath; probable cause; duties of court; certification of findings by physician, health professional, or individual conducting independent expert evaluation; hearing; court order; failure of respondent to undergo and complete treatment; contempt of court; finding of no probable cause or withdrawal of petition; dismissal of proceedings; "substance use disorder assessment and diagnosis" defined.

Sec. 281b. (1) Upon receipt of a petition filed under section 281a and the payment of the filing fee, if any, the court shall examine the petitioner under oath as to the contents of the petition.

(2) If, after reviewing the contents of the petition and examining the petitioner under oath, it appears to the court that there is probable cause to believe the respondent may reasonably benefit from treatment, the court shall do all of the following:

(a) Schedule a hearing to be held within 7 days to determine if there is clear and convincing evidence that the respondent may reasonably benefit from treatment.

(b) Notify the respondent and all other individuals named in the petition under section 281a(3)(d) to (h) concerning the allegations and contents of the petition and of the date and the purpose of the hearing.

(c) Notify the respondent that the respondent may retain counsel and, if the respondent is unable to retain counsel, that the respondent may be represented by court-appointed counsel at public expense if the respondent is indigent. Upon the appointment of court-appointed counsel for an indigent respondent, the court shall notify the respondent of the name, address, and telephone number of the court-appointed counsel.

(d) Notify the respondent that the court will cause the respondent to be examined not later than 24 hours before the hearing date by a physician for the purpose of a physical examination and by an independent health professional for the purpose of a substance use disorder assessment and diagnosis. In addition, the court shall notify the respondent that the respondent may have an independent expert evaluation of his or her physical and mental condition conducted at the respondent's own expense.

(e) Cause the respondent to be examined not later than 24 hours before the hearing date by a physician for the purpose of a physical examination and by an independent health professional for the purpose of a substance use disorder assessment and diagnosis.

(f) Conduct the hearing.

(3) The physician who examined the respondent for the purpose of a physical examination, the health professional who examined the respondent for the purpose of the substance use disorder assessment and diagnosis, and, if applicable, the individual who conducted the independent expert evaluation of the respondent's physical and mental condition at the respondent's expense shall certify his or her findings to the court within 24 hours after the examination. The findings must include a recommendation for treatment if the physician, health professional, or individual determines that treatment is necessary.

(4) If, upon completion of the hearing held under this section, the court finds by clear and convincing evidence that the requirements of section 281a(1) are met, the court may order the involuntary treatment of the respondent after considering the recommendations for treatment that were submitted to the court under subsection (3). If ordered, the court shall order the involuntary treatment to be provided by an approved service program or by a health professional qualified by education and training to provide the treatment.

(5) A respondent who fails to undergo and complete the treatment ordered under subsection (4) is in contempt of court. An approved service program to which or health professional to whom a respondent is ordered for treatment under subsection (4) shall notify the court of a respondent's failure to undergo or complete treatment ordered under subsection (4).

(6) If at any time after a petition is filed under section 281a the court finds that there is not probable cause to order or continue treatment or the petitioner withdraws the petition, the court shall dismiss the proceedings against the respondent.

(7) As used in this section, "substance use disorder assessment and diagnosis" includes an evaluation of all of the following:

(a) Whether the individual has a substance use disorder.

(b) Whether the individual presents an imminent danger or imminent threat of danger to self, family, or others as a result of the substance use disorder, or whether a substantial likelihood of the threat of danger in

the near future exists.

(c) Whether the individual can reasonably benefit from treatment.

History: Add. 2014, Act 200, Imd. Eff. June 24, 2014.

330.1281c Holding respondent for treatment; court order; period of time; release from program; transfer to less-restrictive program; holding respondent in jail pending transportation to program or evaluation; summons; submission of list of programs and health professionals.

Sec. 281c. (1) Following an examination by a health professional under section 281b and a certification by that health professional that the requirements of section 281a(1) are met, a court may order the respondent held for treatment for a period not to exceed 72 hours if the court finds by clear and convincing evidence that the person presents an imminent danger or imminent threat of danger to self, family, or others as a result of a substance use disorder. If the hearing to be held under section 281b will not be held within that 72-hour period, the court may order the respondent held for treatment until the hearing. In making its order, the court must inform the respondent that the respondent may immediately make a reasonable number of telephone calls or use other reasonable means to contact an attorney, a physician, or a health professional; to contact any other person to secure representation by counsel; or to obtain medical or psychological assistance and that the respondent will be provided assistance in making calls if the assistance is needed and requested.

(2) A program in which a respondent is being held under subsection (1) must release the respondent from the program immediately upon the expiration of the time period established by the court for the treatment under subsection (1). If determined appropriate by the court with the assistance of health professionals, a respondent may be transferred from a more-restrictive program setting to a less-restrictive program setting for the treatment ordered under this section.

(3) A respondent ordered held under this section shall not be held in jail pending transportation to the program or evaluation unless the court previously has found the respondent to be in contempt of court for either failure to undergo treatment or failure to appear at the examination ordered under section 281b.

(4) If a court is authorized to issue an order that the respondent be transported to a program, the court may issue a summons. If the respondent fails to attend an examination scheduled before the hearing under section 281b, the court shall issue a summons. The court shall direct a summons issued to the respondent and shall command the respondent to appear at a time and place specified in the summons. If the respondent who has been summoned fails to appear at the program or the examination, the court may order a peace officer to take the respondent into protective custody. After the respondent is taken into protective custody, a peace officer or security transport officer shall transport the respondent to a program on the list provided under subsection (5) for treatment. The transportation costs of the peace officer or security transport officer must be included in the costs of treatment for substance use disorder to be paid as provided in section 281a(4).

(5) A department-designated community mental health entity on at least an annual basis must submit each of the following lists to the clerk of the court in each county served by the department-designated community mental health entity:

(a) A list of all programs in the counties served by the department-designated community mental health entity that are able and willing to take respondents ordered held for treatment under subsection (1).

(b) A list of programs and health professionals in the counties served by the department-designated community mental health entity that are able and willing to provide treatment for a substance use disorder that is ordered under section 281b.

History: Add. 2014, Act 200, Imd. Eff. June 24, 2014;—Am. 2022, Act 146, Eff. (sine die);—Am. 2022, Act 214, Imd. Eff. Oct. 14, 2022.

330.1282 Criminal or civil liability of peace officer, security transport officer, or medical staff.

Sec. 282. (1) A peace officer, security transport officer, member of the emergency service unit, or staff member of an approved service program or an emergency medical service who acts in compliance with sections 276 to 286 is acting in the course of their official duty and is not criminally or civilly liable as a result.

(2) Subsection (1) does not apply to a peace officer, security transport officer, member of the emergency service unit, or staff member of an approved service program or an emergency medical service who, while acting in compliance with sections 276 to 286, engages in behavior involving gross negligence or willful or wanton misconduct.

(3) Approved service programs, staff of approved service programs, emergency medical services, staff of emergency medical services, peace officers, security transport officers, and emergency service units are not criminally or civilly liable for the subsequent actions of the apparently incapacitated individual who leaves the

approved service program or emergency medical service.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012;—Am. 2014, Act 200, Imd. Eff. June 24, 2014;—Am. 2022, Act 146, Eff. (sine die);—Am. 2022, Act 214, Imd. Eff. Oct. 14, 2022.

330.1283 Inventory and return of possessions.

Sec. 283. An individual taken to or seeking voluntary admission under section 281 to an emergency medical service or a transfer facility or a respondent under an order that is issued under section 281b or 281c shall have his or her possessions inventoried and held in a secure place. These possessions shall be returned to the individual when the individual is released. Contraband discovered in the inventory shall not be returned to the individual.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012;—Am. 2014, Act 200, Imd. Eff. June 24, 2014.

330.1284 Payment for treatment or transportation costs.

Sec. 284. (1) If treatment or transportation, or both, is provided by an approved service program, emergency service unit, or emergency medical service, and the individual has not paid the charge for that treatment or transportation, or both, the approved service program, emergency service unit, or emergency medical service is entitled to any payment received by the individual or to which the individual may be entitled because of the services rendered, or entitled to any payment from any public or private source available to the approved service program, emergency service unit, or emergency medical service because of the treatment or transportation, or both, provided to the individual.

(2) If an individual receives treatment or transportation, or both, from an approved service program, emergency service unit, or emergency medical service, the estate of the individual or an individual obligated to provide for the cost of treatment, or transportation, or both, is liable to the approved service program, emergency service unit, or emergency medical service for the cost of the treatment or transportation, or both, of that individual.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

330.1285 Confidentiality of records.

Sec. 285. Records of the diagnostic evaluation, psychiatric, psychological, social service care, and referral of an individual that are maintained in connection with the performance of an approved service program or emergency medical service authorized or provided under sections 276 to 286 are confidential and may only be disclosed in either of the following circumstances:

(a) For the purposes and under the circumstances expressly authorized under section 262 or 263.

(b) At the specific written request of a parole or probation officer seeking the information with regard to a parolee or probationer in the officer's charge who agrees to release this information.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

330.1286 Adoption of local law, ordinance, resolution, or rule.

Sec. 286. (1) A city, county, township, or village shall not adopt or enforce a local law, ordinance, resolution, rule, or portion of a local law, ordinance, resolution, or rule that has the force of law and that imposes a civil or criminal penalty for public intoxication or being incapacitated, except as provided in subsection (3) or (4).

(2) A local unit of government shall not interpret or apply any law of general application to circumvent subsection (1).

(3) This section and sections 276 to 285 do not affect a law, ordinance, resolution, or rule against drunken driving, driving under the influence of alcohol or other drugs, or other similar offense involving the operation of a vehicle, snowmobile, aircraft, vessel, machinery, or other equipment, or motorized conveyance, or regarding the sale, purchase, dispensing, possession, transportation, consumption, or use of alcoholic beverages or other drugs at stated times and places, or by a particular class of individuals.

(4) This section and sections 276 to 285 do not prohibit a local unit of government from adopting an ordinance consistent with section 167 of the Michigan penal code, 1931 PA 328, MCL 750.167.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012;—Am. 2014, Act 200, Imd. Eff. June 24, 2014.

330.1287 Department-designated community mental health entity; composition of board; use of funds; contracts; allocation formula; establishment of substance use disorder oversight policy board; report on redistricting of regions; administrative and reporting requirements; entities as coordinating agencies.

Sec. 287. (1) The composition of the department-designated community mental health entity board shall

consist of representatives of mental health, developmental or intellectual disabilities, and substance use disorder services.

(2) The department-designated community mental health entity shall ensure that funding dedicated to substance use disorder services shall be retained for substance use disorder services and not diverted to fund services that are not for substance use disorders.

(3) A department-designated community mental health entity designated by the director to assume the responsibilities of providing substance use disorder services for a county or region shall retain the existing providers who are under contract to provide substance use disorder treatment and prevention services for a period of 2 years after the effective date of the amendatory act that added this section. Unless another plan is approved by the county board of commissioners, counties or regions that have local public health departments that contract with substance use disorder providers on the effective date of the amendatory act that added this section shall continue to allow the local public health department to carry out that function for 2 years after the effective date of the amendatory act that added this section.

(4) The department and the department-designated community mental health entity shall continue to use the allocation formula based on federal and state data sources to allocate and distribute nonmedical assistance substance use disorder services funds.

(5) A department-designated community mental health entity shall establish a substance use disorder oversight policy board through a contractual agreement between the department-designated community mental health entity and each of the counties served by the community mental health services program under 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536, or other appropriate state law. The substance use disorder oversight policy board shall include the members called for in the establishing agreement, but shall have at least 1 board member appointed by the county board of commissioners for each county served by the department-designated community mental health entity. The substance use disorder oversight policy board shall perform the functions and responsibilities assigned to it through the establishing agreement, which shall include at least the following responsibilities:

(a) Approval of any department-designated community mental health entity budget containing local funds for treatment or prevention of substance use disorders.

(b) Advice and recommendations regarding department-designated community mental health entities' budgets for substance use disorder treatment or prevention using other nonlocal funding sources.

(c) Advice and recommendations regarding contracts with substance use disorder treatment or prevention providers.

(d) Any other terms as agreed to by the participating parties consistent with the authorizing legislation.

(6) The department shall report to the house of representatives and the senate appropriations subcommittee on community health on the redistricting of regions not later than 30 days before implementation of the plan.

(7) The department shall work with department-designated community mental health entities and community mental health services programs to simplify the administrative and reporting requirements for mental health services and substance use disorder services.

(8) Beginning not later than October 1, 2014, or at the time the implementation of the changes in this chapter are complete, whichever is sooner, department-designated community mental health entities are coordinating agencies for purposes of receiving any funds statutorily required to be distributed to coordinating agencies.

History: Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

CHAPTER 3
STATE AND COUNTY FINANCIAL RESPONSIBILITY

330.1300 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to definitions.

330.1302 Financial liability of county.

Sec. 302. (1) Except as otherwise provided in this chapter and in subsection (2), a county is financially liable for 10% of the net cost of any service that is provided by the department, directly or by contract, to a resident of that county.

(2) This section does not apply to the following:

(a) Family support subsidies established under section 156.

(b) A service provided to any of the following:

(*i*) An individual under a criminal sentence to a state prison.

(*ii*) A criminal defendant determined incompetent to stand trial under section 1032.

(*iii*) An individual acquitted of a criminal charge by reason of insanity, during the initial 60-day period of evaluation provided for in section 1050.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1983, Act 249, Imd. Eff. Dec. 15, 1983;—Am. 1985, Act 77, Imd. Eff. July 5, 1985 ;—Am. 1986, Act 265, Imd. Eff. Dec. 9, 1986;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

Compiler's note: Section 2 of Act 249 of 1983 provides: "This amendatory act shall take effect January l, 1984, for the purpose of promulgating rules pursuant to section 157, and July l, 1984, for the purpose of accepting written application."

330.1304 Meaning of "net cost" in MCL 330.1302.

Sec. 304. For the purpose of section 302, net cost means: the operating cost of providing the service to the individual minus that part of operating cost paid for by federal and private funds and minus that amount received by the state as reimbursement from those persons and insurers who are financially liable for the cost of such service.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.1306 Determining individual's county of residence; denial or delay of services prohibited.

Sec. 306. (1) For the purpose of section 302, an individual's county of residence is the county in which the individual maintained his or her primary place of residence at the time he or she entered 1 of the following:

(a) A dependent living setting.

(b) A boarding school.

(c) A facility.

(2) A community mental health services program shall not deny or delay requested services to an individual for the reason that the individual's county of residence, as determined by this section, is in the service area of another community mental health services program.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1307 Financial responsibility for services to individual; transfer from one county to another.

Sec. 307. Financial responsibility for services to an individual whose county of residence has been determined under section 306 may be transferred from 1 county to another if both community mental health services programs, the individual or his or her plenary guardian, if applicable, and the department agree to the transfer. If a transfer is made pursuant to this section, the department shall transfer from the original county of residence to the new county of residence 100% of the cost of the services agreed upon by both community mental health services programs. County matching funds are not required for services to an individual whose county of residence has been transferred under this section.

History: Add. 1993, Act 253, Imd. Eff. Nov. 29, 1993;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1308 Financial liability of state.

Sec. 308. (1) Except as otherwise provided in this chapter and subsections (2) and (3), and subject to the constraint of funds actually appropriated by the legislature for such purpose, the state shall pay 90% of the annual net cost of a community mental health services program that is established and administered in accordance with chapter 2.

(2) Beginning in the fiscal year after a community mental health services program becomes a community mental health authority under section 205, if the department increases the amount of state funds provided to community mental health services programs for the fiscal year, all of the following apply:

(a) The amount of local match required of a community mental health authority for that fiscal year shall not exceed the amount of funds provided by the community mental health services program as local match in the year in which the program became a community mental health authority.

(b) Subject to the constraint of funds actually appropriated by the county or county board of commissioners, the amount of county match required of a county or counties that have created a community mental health authority shall not exceed the amount of funds provided by the county or counties as county match in fiscal year 1994-1995 or the year the authority is created, whichever is greater.

(c) If the local match provided by the community mental health services program is less than the level of local match provided in the year in which the community mental health services program became a community mental health authority, subdivision (a) does not apply.

(d) The state is not obligated to provide additional state funds because of the limitation on local funding levels provided for in subdivisions (a) and (b).

(3) The state shall pay the family support subsidies established under section 156.

(4) If 2 or more existing community mental health services programs merge pursuant to section 219, the state shall pay 100% of administrative costs approved by the department for the newly created community mental health services program for 3 years after the date of merger.

(5) If a county demonstrates an inability to meet its local match obligation due to financial hardship, the department may do either of the following:

(a) Accept a joint plan of correction from the county and its community mental health services program that ensures full payment over an extended period of time.

(b) Waive a portion of the county's obligation based on hardship criteria established by the department.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1983, Act 249, Imd. Eff. Dec. 15, 1983;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: Section 2 of Act 249 of 1983 provides: "This amendatory act shall take effect January 1, 1984, for the purpose of promulgating rules pursuant to section 157, and July 1, 1984, for the purpose of accepting written application."

330.1309 Specialized residential service; payment of costs by state; conditions.

Sec. 309. Except as otherwise provided in this chapter, and subject to the constraint of funds actually appropriated by the legislature, the state shall pay all of the costs of a specialized residential service that are eligible for state financial support and approved by the department and that are not otherwise paid for by federal funds, state funds, or reimbursements from persons and insurers who are financially liable for the cost of services, and that meet all of the following conditions:

(a) The service is established and administered under the authority of the board of the community mental health services program and in accordance with chapter 2.

(b) The service did not exist as part of the community mental health services program before March 31, 1981.

(c) The service is approved by the department and operated in conformance with departmental policies and guidelines governing specialized residential programs.

History: Add. 1980, Act 423, Eff. Mar. 31, 1981;—Am. 1984, Act 107, Imd. Eff. May 24, 1984;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1310 "Net cost" defined for purpose of MCL 330.1308.

Sec. 310. For the purpose of section 308, "net cost" means:

(a) For a community mental health services program expenditures eligible for state financial support and approved by the department that are not otherwise paid for by federal funds, state funds, or reimbursements from persons and insurers who are financially liable for the cost of services.

(b) Except as provided in subdivision (a), the total of all community mental health services program expenditures eligible for state financial support and approved by the department that are not otherwise paid for by federal funds or state funds.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1980, Act 423, Eff. Mar. 31, 1981;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1311 Approval of budget for boards creating special fund account; county funding.

Sec. 311. For those county community mental health boards that choose to create a special fund account pursuant to section 226a, the department shall not approve a budget under section 232 unless county funding for community mental health programs is provided at a dollar level at least equal to that made available to the county community mental health board by the county board of commissioners in the fiscal year ending September 30, 1980.

History: Add. 1980, Act 423, Eff. Mar. 31, 1981.

330.1312 Method of county cost sharing.

Sec. 312. If a community mental health services program represents 2 or more counties, the amount of county funds necessary to support the program shall be paid by each county in proportion to its population, except that, with the consent of each county's board of commissioners, a different method of county cost sharing may be utilized.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1313 Rental payments for property to be used as residential setting for specialized community residential care.

Sec. 313. The department shall establish a procedure to assure that rental payments for all property which is to be used as a residential setting for specialized community residential care, be based upon an independent appraisal of fair market rental value. In cases where the department or a community mental health board desires to enter into a lease or rental arrangement for a community residential facility at a rate above the

independently appraised fair market rental value, an approval process involving the department of management and budget shall determine the contracted rental payment amount.

History: Add. 1980, Act 423, Eff. Mar. 31, 1981.

330.1314 County's annual appropriation; method of making.

Sec. 314. In each county having a community mental health services program, the county's annual appropriation for the cost of services provided by the state and for the county's cost of supporting the community mental health services program shall be made as a single appropriation to the board of the community mental health services program. The county's annual single appropriation may be made by line item.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1316 Expenditure of county's tax funds.

Sec. 316. The expenditure of a county's tax funds to pay for services provided by the state or to pay the county's cost of supporting a community mental health services program may be made from the county's general tax fund or from the proceeds of a special tax established for such purpose.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1318 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to transition of financial responsibility.

330.1320 Allocation of available local funds.

Sec. 320. Nothing in this chapter prevents a community mental health services program from allocating available local funds in excess of the required local match.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

CHAPTER 4

CIVIL ADMISSION AND DISCHARGE PROCEDURES: MENTAL ILLNESS

GENERAL PROVISIONS

330.1400 Definitions.

Sec. 400. As used in this chapter, unless the context requires otherwise:

(a) "Clinical certificate" means the written conclusion and statements of a physician or a licensed psychologist that an individual is a person requiring treatment, together with the information and opinions, in reasonable detail, that underlie the conclusion, on the form prescribed by the department or on a substantially similar form.

(b) "Competent clinical opinion" means the clinical judgment of a physician, psychiatrist, or licensed psychologist.

(c) "Court" means the probate court or the court with responsibility with regard to mental health services for the county of residence of the subject of a petition, or for the county in which the subject of a petition was found.

(d) "Formal voluntary hospitalization" means hospitalization of an individual based on both of the following:

(*i*) The execution of an application for voluntary hospitalization by the individual or by a patient advocate designated under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, to make mental health treatment decisions for the individual.

(*ii*) The hospital director's determination that the individual is clinically suitable for voluntary hospitalization.

(e) "Informal voluntary hospitalization" means hospitalization of an individual based on all of the following:

(*i*) The individual's request for hospitalization.

(*ii*) The hospital director's determination that the individual is clinically suitable for voluntary hospitalization.

(*iii*) The individual's agreement to accept treatment.

(f) "Involuntary mental health treatment" means court-ordered hospitalization, assisted outpatient treatment, or combined hospitalization and assisted outpatient treatment as described in section 468. For the purpose of this chapter, involuntary mental health treatment does not include a full or limited guardian authorized under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, with

the authority to consent to mental health treatment for an individual found to be a legally incapacitated individual under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206.

(g) "Mental illness" means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(h) "Preadmission screening unit" means a service component of a community mental health services program established under section 409.

(i) "Private-pay patient" means a patient whose services and care are paid for from funding sources other than the community mental health services program, the department, or other state or county funding.

(j) "Release" means the transfer of an individual who is subject to an order of combined hospitalization and assisted outpatient treatment from 1 treatment program to another in accordance with his or her individual plan of services.

(k) "Subject of a petition" means an individual regarding whom a petition has been filed with the court asserting that the individual is or is not a person requiring treatment or for whom an objection to involuntary mental health treatment has been made under section 484.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1978, Act 598, Imd. Eff. Jan. 4, 1979;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1986, Act 45, Imd. Eff. Mar. 17, 1986;—Am. 1986, Act 117, Eff. Mar. 31, 1987;—Am. 1986, Act 297, Imd. Eff. Dec. 22, 1986;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2004, Act 553, Imd. Eff. Jan. 3, 2005;—Am. 2018, Act 593, Eff. Mar. 28, 2019;—Am. 2018, Act 595, Eff. Mar. 28, 2019.

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

330.1400a Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to “mental illness” defined.

330.1400b Time frame; Sundays and legal holidays excluded.

Sec. 400b. A reference to a time frame under this chapter of 12 hours to 168 hours or an equivalent amount of days excludes Sundays and legal holidays.

History: Add. 2016, Act 320, Eff. Feb. 14, 2017.

330.1401 "Person requiring treatment" defined; exception.

Sec. 401. (1) As used in this chapter, "person requiring treatment" means (a), (b), or (c):

(a) An individual who has mental illness, and who as a result of that mental illness can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure himself, herself, or another individual, and who has engaged in an act or acts or made significant threats that are substantially supportive of the expectation.

(b) An individual who has mental illness, and who as a result of that mental illness is unable to attend to those of his or her basic physical needs such as food, clothing, or shelter that must be attended to in order for the individual to avoid serious harm in the near future, and who has demonstrated that inability by failing to attend to those basic physical needs.

(c) An individual who has mental illness, whose judgment is so impaired by that mental illness, and whose lack of understanding of the need for treatment has caused him or her to demonstrate an unwillingness to voluntarily participate in or adhere to treatment that is necessary, on the basis of competent clinical opinion, to prevent a relapse or harmful deterioration of his or her condition, and presents a substantial risk of significant physical or mental harm to the individual or others.

(2) An individual whose mental processes have been weakened or impaired by a dementia, an individual with a primary diagnosis of epilepsy, or an individual with alcoholism or other drug dependence is not a person requiring treatment under this chapter unless the individual also meets the criteria specified in subsection (1). An individual described in this subsection may be hospitalized under the informal or formal voluntary hospitalization provisions of this chapter if he or she is considered clinically suitable for hospitalization by the hospital director.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1975, Act 179, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2004, Act 496, Eff. Mar. 30, 2005;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

330.1402 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to “person requiring treatment” defined.

330.1402a Treatment of private-pay patients by licensed hospital.

Sec. 402a. A licensed hospital may admit and treat voluntary or involuntary private-pay patients without complying with the preadmission screening requirements of section 410 or consulting with the community mental health services program before release or discharge of the patient, if no state, county, or community

mental health services program funds are obligated for the services provided by the licensed hospital, including aftercare services. All other provisions of this code regarding involuntary admission and recipient rights apply to the provision of services by licensed hospitals.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1403 Involuntary mental health treatment; applicable provisions of law.

Sec. 403. Individuals shall receive involuntary mental health treatment only pursuant to the provisions of this act.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1404 Forms.

Sec. 404. Except as provided in this section, the department shall prescribe the forms to be used under this chapter, and all hospitals shall use department forms. At the direction of the supreme court, the state court administrative office shall prescribe the forms used for court proceedings under this chapter.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1405 Veterans administration facilities; agreement to accept patient; rights of patient.

Sec. 405. (1) Any medical or psychiatric facility operated by the United States veterans administration may if it agrees accept patients under any applicable provision of this chapter and may at its discretion avail itself of any other provision of this chapter.

(2) Any patient hospitalized pursuant to subsection (1) shall be entitled to invoke the provisions of this chapter.

History: 1974, Act 258, Eff. Nov. 6, 1974.

330.1406 Voluntary hospitalization; notice to court; dismissal.

Sec. 406. If an individual asserted to be a person requiring treatment is considered by a hospital to be suitable for informal or formal voluntary hospitalization, the hospital shall offer the individual the opportunity to request or make application for hospitalization as an informal or formal voluntary patient. If the individual is voluntarily hospitalized, the hospital director shall inform the court, and the court shall dismiss any pending proceeding for admission unless it finds that dismissal would not be in the best interest of the individual or the public.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1407 Transfer of patient; notice; appeal.

Sec. 407. A patient in a department hospital may be transferred to any other hospital, or to any facility of the department that is not a hospital, if the transfer would not be detrimental to the patient and if both the community mental health services program and the department approve the transfer. The patient, a patient advocate designated to make mental health treatment decisions for the patient under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, if any, and the patient's guardian or nearest relative shall be notified at least 7 days prior to any transfer, except that a transfer may be effected earlier if it is necessitated by an emergency. In addition, the patient may designate up to 2 other persons to receive the notice. If a transfer is effected due to an emergency, the required notices shall be given as soon as possible, but not later than 24 hours after the transfer. If the patient, the patient advocate, or the patient's guardian or nearest relative objects to the transfer, the department shall provide an opportunity to appeal the transfer.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2004, Act 554, Imd. Eff. Jan. 3, 2005.

330.1408 Return of patient to hospital; conditions; notification of peace officers or security transport officers; protective custody; notice of opportunity to appeal.

Sec. 408. (1) An individual is subject to being returned to a hospital if both of the following circumstances exist:

(a) The individual was admitted to the hospital by judicial order.

(b) The individual has left the hospital without authorization, or has refused a lawful request to return to the hospital while on an authorized leave or other authorized absence from the hospital.

(2) The hospital director may notify a peace officer or a security transport officer that an individual is subject to being returned to the hospital. Upon notification by the hospital director, a peace officer must take the individual into protective custody. After the individual is taken into protective custody, a police officer or security transport officer must transport the individual to a hospital.

(3) An opportunity for appeal, and notice of that opportunity, must be provided to an individual who

objects to being returned from any authorized leave in excess of 10 days.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1986, Act 301, Imd. Eff. Dec. 22, 1986;—Am. 1988, Act 155, Imd. Eff. June 14, 1988;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2022, Act 146, Eff. (sine die);—Am. 2022, Act 214, Imd. Eff. Oct. 14, 2022.

330.1409 Preadmission screening unit.

Sec. 409. (1) Each community mental health services program must establish 1 or more preadmission screening units with 24-hour availability to provide assessment and screening services for individuals being considered for admission into hospitals, assisted outpatient treatment programs, or crisis services on a voluntary basis. The community mental health services program shall employ mental health professionals or licensed bachelor's social workers licensed under part 185 of the public health code, 1978 PA 368, MCL 333.18501 to 333.18518, to provide the preadmission screening services or contract with another agency that meets the requirements of this section. Preadmission screening unit staff shall be supervised by a registered professional nurse or other mental health professional possessing at least a master's degree.

(2) Each community mental health services program shall provide the address and telephone number of its preadmission screening unit or units to law enforcement agencies, the department, the court, hospital emergency rooms, and private security companies under contract with a county under section 170.

(3) A preadmission screening unit shall assess an individual being considered for admission into a hospital operated by the department or under contract with the community mental health services program. If the individual is clinically suitable for hospitalization, the preadmission screening unit shall authorize voluntary admission to the hospital.

(4) If the preadmission screening unit of the community mental health services program denies hospitalization, the individual or the person making the application may request a second opinion from the executive director. The executive director shall arrange for an additional evaluation by a psychiatrist, other physician, or licensed psychologist to be performed within 3 days, excluding Sundays and legal holidays, after the executive director receives the request. If the conclusion of the second opinion is different from the conclusion of the preadmission screening unit, the executive director, in conjunction with the medical director, shall make a decision based on all clinical information available. The executive director's decision shall be confirmed in writing to the individual who requested the second opinion, and the confirming document shall include the signatures of the executive director and medical director or verification that the decision was made in conjunction with the medical director. If an individual is assessed and found not to be clinically suitable for hospitalization, the preadmission screening unit shall provide appropriate referral services.

(5) If an individual is assessed and found not to be clinically suitable for hospitalization, the preadmission screening unit shall provide information regarding alternative services and the availability of those services, and make appropriate referrals.

(6) A preadmission screening unit shall assess and examine, or refer to a hospital for examination, an individual who is brought to the preadmission screening unit by a peace officer or security transport officer or ordered by a court to be examined. If the individual meets the requirements for hospitalization, the preadmission screening unit shall designate the hospital to which the individual shall be admitted. The preadmission screening unit shall consult with the individual and, if the individual agrees, the preadmission screening unit must consult with the individual's family member of choice, if available, as to the preferred hospital for admission of the individual.

(7) A preadmission screening unit may operate a crisis stabilization unit under chapter 9A. A preadmission screening unit may provide crisis services to an individual, who by assessment and screening, is found to be a person requiring treatment. Crisis services at a crisis stabilization unit must entail an initial psychosocial assessment by a master's level mental health professional and a psychiatric evaluation within 24 hours to stabilize the individual. In this event, crisis services may be provided for a period of up to 72 hours, after which the individual must be provided with the clinically appropriate level of care, resulting in 1 of the following:

(a) The individual is no longer a person requiring treatment.

(b) A referral to outpatient services for aftercare treatment.

(c) A referral to a partial hospitalization program.

(d) A referral to a residential treatment center, including crisis residential services.

(e) A referral to an inpatient bed.

(f) An order for involuntary treatment of the individual has been issued under section 281b, 281c, former 433, or 434.

(8) A preadmission screening unit operating a crisis stabilization unit under chapter 9A may also offer crisis services to an individual who is not a person requiring treatment, but who is seeking crisis services on a

voluntary basis.

(9) If the individual chooses a hospital not under contract with a community mental health services program, and the hospital agrees to the admission, the preadmission screening unit shall refer the individual to the hospital that is requested by the individual. Any financial obligation for the services provided by the hospital shall be satisfied from funding sources other than the community mental health services program, the department, or other state or county funding.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2004, Act 555, Imd. Eff. Jan. 3, 2005;—Am. 2006, Act 306, Imd. Eff. July 20, 2006;—Am. 2018, Act 593, Eff. Mar. 28, 2019;—Am. 2020, Act 402, Eff. Mar. 24, 2021;—Am. 2022, Act 146, Eff. (sine die);—Am. 2022, Act 214, Imd. Eff. Oct. 14, 2022.

330.1410 Informal or formal voluntary admission; authorization by preadmission screening unit.

Sec. 410. Except as otherwise provided in section 402a, an individual who requests, applies for, or assents to either informal or formal voluntary admission to a hospital or outpatient treatment program operated by the department or a hospital or outpatient treatment program under contract with a community mental health services program may be considered for admission by the hospital or outpatient treatment program only after authorization by a community mental health services preadmission screening unit.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2004, Act 556, Imd. Eff. Jan. 3, 2005;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

INFORMAL VOLUNTARY ADMISSION

330.1411 Informal voluntary hospitalization; request.

Sec. 411. Subject to section 410, an individual 18 years of age or over may be hospitalized as an informal voluntary patient if he or she requests hospitalization as an informal voluntary patient and if the hospital director considers the individual to be clinically suitable for that form of hospitalization. Unless the hospital requires that the request be made in writing, the individual may make the request orally.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1412 Informal voluntary hospitalization; termination; notice.

Sec. 412. An informal voluntary patient shall be allowed to terminate his hospitalization and leave the hospital at any time during the normal day shift hours of the hospital, and the hospital shall so inform the patient at the time he is hospitalized. The patient shall inform the person in charge of his ward or other appropriate person of his decision to terminate his hospitalization and leave the hospital.

History: 1974, Act 258, Eff. Nov. 6, 1974.

FORMAL VOLUNTARY ADMISSION (INCLUDES ADMISSION OF MINORS THROUGH APPLICATION OF PARENT OR GUARDIAN)

330.1415 Formal voluntary hospitalization; written consent to mental health treatment.

Sec. 415. Subject to section 410, an individual 18 years of age or over may be hospitalized or otherwise treated as a formal voluntary patient if either of the following applies:

(a) The individual executes a written consent with the mental health facility for mental health treatment as a formal voluntary patient.

(b) The full or limited guardian with authority to execute a written consent to mental health treatment, or a patient advocate authorized by the individual to make mental health treatment decisions under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, executes a written consent to provide mental health treatment.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1984, Act 186, Imd. Eff. July 3, 1984;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2004, Act 557, Imd. Eff. Jan. 3, 2005;—Am. 2018, Act 595, Eff. Mar. 28, 2019.

330.1416 Mental health treatment; communication of patient rights; copies of written consent.

Sec. 416. Upon commencement of mental health treatment, the rights that the patient has during the mental health treatment, including the right to object to the mental health treatment, must be orally communicated to the patient and to the individual who executed the written consent. In addition, a copy of the written consent must be given to the patient and the individual who executed the written consent and to 1 other individual designated by the patient.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 595, Eff. Mar. 28, 2019.

330.1417, 330.1418 Repealed. 1984, Act 186, Imd. Eff. July 3, 1984.

Compiler's note: The repealed sections pertained to objections to formal voluntary hospitalization of minor.

330.1419 Termination of formal voluntary hospitalization or mental health treatment; written notice; time limitation; written form.

Sec. 419. (1) Except as is provided in section 420, a formal voluntary patient 18 years of age or over shall not be hospitalized or provided mental health treatment for more than 3 days, excluding Sundays and holidays, after the patient, the full or limited guardian with authority to consent to mental health treatment, or a patient advocate authorized by the individual to make mental health treatment decisions under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, gives written notice of an intention to terminate the patient's mental health treatment.

(2) When the hospital or provider of mental health treatment is told of an intention to terminate mental health treatment under subsection (1), it shall promptly supply the written form that is required.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1984, Act 186, Imd. Eff. July 3, 1984;—Am. 2018, Act 595, Eff. Mar. 28, 2019.

330.1420 Continuing hospitalization or mental health treatment where notice of termination not withdrawn; filing petition with court; clinical certificates; hearings.

Sec. 420. If a written notice of termination of mental health treatment is given to a hospital or provider of mental health treatment under section 419, if the notice is not withdrawn, and if the hospital director or provider of mental health treatment determines that the patient is a person requiring treatment and should remain in the hospital or continue to receive mental health treatment, the hospital director, provider of mental health treatment, or other suitable person shall within 3 days after receipt of the notice file a petition with the court that complies with section 434. The petition shall be accompanied by 1 clinical certificate executed by a psychiatrist and 1 clinical certificate executed by either a physician or a licensed psychologist. If a petition is filed, the hospital or provider of mental health may continue hospitalization or mental health treatment of the patient pending hearings convened under sections 451 to 465.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2018, Act 595, Eff. Mar. 28, 2019.

330.1422 Receipt and detention of individuals under MCL 330.1426, 330.1427 or 330.1435, 330.1436, or 330.1438; designation of hospitals.

Sec. 422. (1) Each community mental health services program shall designate the hospitals with which it has a contract to receive and detain individuals under section 426, 427, 435, 436, or 438.

(2) Each community mental health services program shall give notice of the hospitals designated under subsection (1) to the department and to the probate court of each county in the program's service area.

(3) The department shall designate any additional hospitals that are required to receive and detain individuals presented for examination under section 426, 427, 435, 436, or 438.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2004, Act 317, Imd. Eff. Aug. 27, 2004;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

ADMISSION BY MEDICAL CERTIFICATION

330.1423 Hospitalization pending certification by psychiatrist; petition, execution of physician's or psychologist's clinical certificate, and authorization by preadmission screening unit.

Sec. 423. A hospital designated by the department or by a community mental health services program shall hospitalize an individual presented to the hospital, pending receipt of a clinical certificate by a psychiatrist stating that the individual is a person requiring treatment, if a petition, a physician's or a licensed psychologist's clinical certificate, and an authorization by a preadmission screening unit have been executed. For an individual hospitalized under this section, a petition shall have been executed not more than 10 days before the presentation of the individual to the hospital, and the petition must meet the conditions set forth in section 434(1) and (2).

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1424 Repealed. 2016, Act 320, Eff. Feb. 14, 2017.

Compiler's note: The repealed section pertained to application for hospitalization under MCL 330.1423.

330.1425 Execution of physician's or psychologist's clinical certificate.

Sec. 425. A physician's or a licensed psychologist's clinical certificate required for hospitalization of an individual under section 423 shall have been executed after personal examination of the individual named in the clinical certificate, and within 72 hours before the time the clinical certificate is received by the hospital. The clinical certificate may be executed by any physician or licensed psychologist, including a physician or licensed psychologist who is a staff member or employee of the hospital that received the clinical certificate.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1426 Protective custody; receipt of petition and physician's or psychologist's clinical certificate by peace officer; transportation.

Sec. 426. Upon delivery to a peace officer of a petition and a physician's or licensed psychologist's clinical certificate, the peace officer must take the individual named in the petition into protective custody and transport the individual immediately to the preadmission screening unit or hospital designated by the community mental health services program for hospitalization under section 423. If the individual taken to a preadmission screening unit meets the requirements for hospitalization, then unless the community mental health services program makes other transportation arrangements, the peace officer must take the individual to a hospital designated by the community mental health services program. The community mental health services program may arrange for a security transport officer to transport the individual to the hospital. Transportation to another hospital due to a transfer is the responsibility of the community mental health services program.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2022, Act 146, Eff. (sine die);—Am. 2022, Act 214, Imd. Eff. Oct. 14, 2022.

330.1427 Protective custody; observation and belief of peace officer; transportation to preadmission screening unit; services; petition; notice to family; advice and consultation; release; follow-up counseling; diagnostic and referral services; financial responsibility; notice of examination results.

Sec. 427. (1) If a peace officer observes an individual conducting himself or herself in a manner that causes the peace officer to reasonably believe that the individual is a person requiring treatment, the peace officer may take the individual into protective custody and transport the individual to a preadmission screening unit designated by a community mental health services program for examination under section 429 or for mental health intervention services. The preadmission screening unit shall provide those mental health intervention services that it considers appropriate or shall provide an examination under section 429. The preadmission screening services may be provided at the site of the preadmission screening unit or at a site designated by the preadmission screening unit. Upon arrival at the preadmission screening unit or site designated by the preadmission screening unit, the peace officer shall execute a petition for hospitalization of the individual. As soon as practical, the preadmission screening unit shall offer to contact an immediate family member of the recipient to let the family know that the recipient has been taken into protective custody and where he or she is located. The preadmission screening unit shall honor the recipient's decision as to whether an immediate family member is to be contacted and shall document that decision in the recipient's record. In the course of providing services, the preadmission screening unit may provide advice and consultation to the peace officer, which may include a recommendation to release the individual from protective custody. In all cases where a peace officer has executed a petition, the preadmission screening unit shall ensure that an examination is conducted by a physician or licensed psychologist. The preadmission screening unit shall ensure provision of follow-up counseling and diagnostic and referral services if needed if it is determined under section 429 that the person does not meet the requirements for hospitalization.

(2) A peace officer is not financially responsible for the cost of care of an individual for whom a peace officer has executed a petition under subsection (1).

(3) A hospital receiving an individual under subsection (1) who has been referred by a community mental health services program's preadmission screening unit shall notify that unit of the results of an examination of that individual conducted by the hospital.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1978, Act 598, Imd. Eff. Jan. 4, 1979;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1427a Protective custody; use of force; protective steps; individual not under arrest; entry.

Sec. 427a. (1) If a peace officer is taking an individual into protective custody, the peace officer may use

that kind and degree of force that would be lawful if the peace officer were effecting an arrest for a misdemeanor without a warrant. In taking an individual into custody, a peace officer may take reasonable steps for self-protection. In transporting an individual, a security transport officer may take reasonable steps for self-protection. The protective steps may include a pat down search of the individual in the individual's immediate surroundings, but only to the extent necessary to discover and seize a dangerous weapon that may be used against the peace officer, security transport officer, or other individual present. These protective steps must be taken by the peace officer or security transport officer before the individual is transported to a preadmission screening unit or a hospital designated by the community mental health services program.

(2) Taking an individual to a community mental health services program's preadmission screening unit or a hospital under section 427 by a peace officer is not an arrest, but is a taking into protective custody. The peace officer must inform the individual that he or she is being held in protective custody and is not under arrest. An entry must be made indicating the date, time, and place of the taking, but the entry must not be treated for any purpose as an arrest or criminal record.

History: Add. 1978, Act 598, Imd. Eff. Jan. 4, 1979;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2022, Act 146, Eff. (sine die);—Am. 2022, Act 214, Imd. Eff. Oct. 14, 2022.

330.1427b Liability of peace officer or security transport officer.

Sec. 427b. (1) A peace officer or security transport officer acting under this act has the same immunity provided for a governmental employee under section 7 of 1964 PA 170, MCL 691.1407.

(2) Neither a county nor a county mental health transportation panel is civilly liable for an act or omission of a security transport officer or a private security company contracted with a county under section 170.

History: Add. 1978, Act 598, Imd. Eff. Jan. 4, 1979;—Am. 2022, Act 146, Eff. (sine die);—Am. 2022, Act 214, Imd. Eff. Oct. 14, 2022.

330.1428 Repealed. 2016, Act 320, Eff. Feb. 14, 2017.

Compiler's note: The repealed section pertained to inability of applicant for hospitalization to secure examination.

330.1429 Examination; detention period.

Sec. 429. (1) A hospital designated under section 422 shall receive and detain an individual presented for examination under section 426, 427, 435, 436, or 438, for not more than 24 hours. During that time the individual must be examined by a physician or a licensed psychologist unless a clinical certificate has already been presented to the hospital. If the examining physician or psychologist does not certify that the individual is a person requiring treatment, the individual shall be released immediately. If the examining physician or psychologist executes a clinical certificate, the individual may be hospitalized under section 423.

(2) If a preadmission screening unit provides an examination under section 409, 410, or 427, the examination shall be conducted as soon as possible after the individual arrives at the preadmission screening site, and the examination must be completed within 2 hours, unless there are documented medical reasons why the examination cannot be completed within that time frame or other arrangements are agreed upon by the peace officer or security transport officer and the preadmission screening unit.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2022, Act 146, Eff. (sine die);—Am. 2022, Act 214, Imd. Eff. Oct. 14, 2022.

330.1430 Examination; time; certification.

Sec. 430. If a patient is hospitalized under section 423, the patient shall be examined by a psychiatrist as soon after hospitalization as is practicable, but not later than 24 hours, excluding legal holidays, after hospitalization. The examining psychiatrist shall not be the same physician upon whose clinical certificate the patient was hospitalized. If the psychiatrist does not certify that the patient is a person requiring treatment, the patient shall be released immediately. If the psychiatrist does certify that the patient is a person requiring treatment, the patient's hospitalization may continue pending hearings convened pursuant to sections 451 to 465.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1431 Notices; documents.

Sec. 431. (1) Within 24 hours after receipt of a clinical certificate by a psychiatrist according to section 430, the hospital director shall transmit a notice to the court that the patient has been hospitalized. The notice shall be accompanied by the petition and the 2 clinical certificates that were executed.

(2) A copy of the petition, a copy of the 2 clinical certificates, and a statement of the right of the patient to court hearings under sections 451 to 465 shall also be given or mailed to the patient's nearest relative, his or her guardian, if any, and his or her attorney.

(3) The patient shall be asked if he or she desires that the documents listed in subsection (2) be sent to any other persons, and at least 2 of any persons the patient designates shall be sent the documents.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

ADMISSION BY PETITION

330.1433 Repealed. 2016, Act 320, Eff. Feb. 14, 2017.

Compiler's note: The repealed section pertained to petition for assisted outpatient treatment.

330.1434 Petition; filing; contents; clinical certificate; confidentiality; assisted outpatient treatment; petition not seeking hospitalization.

Sec. 434. (1) Any individual 18 years of age or over may file with the court a petition that asserts that an individual is a person requiring treatment.

(2) The petition shall contain the facts that are the basis for the assertion, the names and addresses, if known, of any witnesses to the facts, and, if known, the name and address of the nearest relative or guardian, or, if none, a friend, if known, of the individual.

(3) Except as provided in subsection (7), the petition shall be accompanied by the clinical certificate of a physician or a licensed psychologist, unless after reasonable effort the petitioner could not secure an examination. If a clinical certificate does not accompany the petition, the petitioner shall set forth the reasons an examination could not be secured within the petition. The petition may also be accompanied by a second clinical certificate. If 2 clinical certificates accompany the petition, at least 1 clinical certificate must have been executed by a psychiatrist.

(4) Except as otherwise provided in subsection (7) and section 455, a clinical certificate that accompanies a petition must have been executed within 72 hours before the filing of the petition, and after personal examination of the individual.

(5) If the individual is found not to be a person requiring treatment under this section, the petition and any clinical certificate shall be maintained by the court as a confidential record to prevent disclosure to any person who is not specifically authorized under this chapter to receive notice of the petition or clinical certificate.

(6) The petition described in this section may assert that the subject of the petition should receive assisted outpatient treatment in accordance with section 468(2)(d).

(7) A petition that does not seek hospitalization but only requests that the subject of the petition receive assisted outpatient treatment is not subject to subsection (3) or (4).

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1986, Act 118, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 113, Eff. Aug. 8, 2016;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

330.1435 Examination; order; detention period; transmitting clinical certificate or report to court; third examination report; dismissal of petition; section inapplicable to petition under MCL 330.1434(7).

Sec. 435. (1) If the petition is accompanied by 1 clinical certificate, the court shall order the individual to be examined by a psychiatrist.

(2) If the petition is not accompanied by a clinical certificate, and if the court is satisfied a reasonable effort was made to secure an examination, the court shall order the individual to be examined by a psychiatrist and either a physician or a licensed psychologist.

(3) The individual may be received and detained at the place of examination as long as necessary to complete the examination or examinations, but not more than 24 hours.

(4) After an examination ordered under subsection (1), the examining psychiatrist shall either transmit a clinical certificate to the court or report to the court that execution of a clinical certificate is not warranted. After each examination ordered under subsection (2), the examining psychiatrist, or the examining physician or licensed psychologist, as applicable, shall either transmit a clinical certificate to the court or report to the court that execution of a clinical certificate is not warranted.

(5) If 1 examination was ordered and the examining psychiatrist reports that execution of a clinical certificate is not warranted, or if 2 examinations were ordered and 1 of the examining physicians or the licensed psychologist reports that execution of a clinical certificate is not warranted, the court shall dismiss the petition or order the individual to be examined by a psychiatrist, or if a psychiatrist is not available, by a physician or licensed psychologist. If a third examination report states that execution of a clinical certificate is not warranted, the court shall dismiss the petition.

(6) This section does not apply to a petition filed under section 434(7).

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

330.1436 Noncompliance with order of examination or evaluation; protective custody; petition for involuntary hospitalization; hearing.

Sec. 436. (1) If it appears to the court that the individual will not comply with an order of examination under section 435, the court may order a peace officer to take the individual into protective custody. After the individual is taken into protective custody, a peace officer or security transport officer must transport the individual to a preadmission screening unit or hospital designated by the community mental health services program or to another suitable place for the ordered examination or examinations.

(2) A court order for a peace officer to take an individual into protective custody and transport the individual as described in subsection (1) must be executed within 10 days after the court enters the order. If the order is not executed within 10 days after the court enters the order, the law enforcement agency must report to the court the reason the order was not executed within the prescribed time period.

(3) Following the filing of a petition for assisted outpatient treatment, if it comes to the court's attention that the individual will not make themself available for an evaluation, the court may order a peace officer to take the individual into protective custody. After the individual is taken into protective custody, a peace officer or security transport officer shall transport the individual to the designated preadmission screening unit or hospital. The court must be satisfied that reasonable effort was made to secure an examination before the court orders an individual to be taken into protective custody and transported for an evaluation. At the time the individual arrives at the preadmission screening unit or hospital, the preadmission screening unit or hospital must complete an assessment that includes an examination upon the arrival of the individual and release the individual following the conclusion of the examination unless the medical professional who examines the individual finds the need for immediate hospitalization. If immediate hospitalization is necessary, the director must file a petition, accompanied by 2 clinical certificates, with the probate court within 24 hours after the medical professional's finding. The petition must request involuntary hospitalization and may request a combination of hospitalization and assisted outpatient treatment. The court must set a hearing in accordance with section 452(1).

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 593, Eff. Mar. 28, 2019;—Am. 2022, Act 146, Eff. (sine die);—Am. 2022, Act 214, Imd. Eff. Oct. 14, 2022.

330.1437 Right to remain in home pending examination; right to return to home; accompaniment by relatives or friends.

Sec. 437. Unless the individual has been ordered hospitalized pursuant to section 438, he shall be allowed to remain in his home or other place of residence pending an ordered examination or examinations and to return to his home or other place of residence upon completion of the examination or examinations. The individual may be accompanied by one or more of his relatives or friends to the place of examination.

History: 1974, Act 258, Eff. Nov. 6, 1974.

330.1438 Order of hospitalization; protective custody; transportation; conditions to release after 24 hours.

Sec. 438. If it appears to the court that the individual requires immediate assessment because the individual presents a substantial risk of significant physical or mental harm to themself in the near future or presents a substantial risk of significant physical harm to others in the near future, the court may order the individual hospitalized and may order a peace officer to take the individual into protective custody and transport the individual to a preadmission screening unit designated by the community mental health services program. After the individual is taken into protective custody by a peace officer, the court may, also, order a security transport officer to transport the individual to a preadmission screening unit designated by the community mental health services program. If the preadmission screening unit authorizes hospitalization, the peace officer or security transport officer must transport the individual to a hospital designated by the community mental health services program, unless other arrangements are provided by the preadmission screening unit. If the examinations and clinical certificates of the psychiatrist, and the physician or the licensed psychologist, are not completed within 24 hours after hospitalization, the individual must be released.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2018, Act 593, Eff. Mar. 28, 2019;—Am. 2022, Act 146, Eff. (sine die);—Am. 2022, Act 214, Imd. Eff. Oct. 14, 2022.

Compiler's note: Act 593 of 2018 did not amend this section and evidently should not have been cited as amended.

330.1439 Cause of action against person filing petition.

Sec. 439. (1) A cause of action is not cognizable against a person who in good faith files a petition under this chapter alleging that an individual is a person requiring treatment, unless the petition is filed as the result of an act or omission amounting to gross negligence or willful and wanton misconduct.

(2) A cause of action is not cognizable against a preadmission screening unit or its employees or contractors or a crisis stabilization unit or its employees or contractors, who in good faith makes a determination as to whether an individual is a person requiring treatment or not, unless the determination is the result of an act or omission amounting to gross negligence or willful and wanton misconduct.

History: Add. 1986, Act 118, Eff. Mar. 31, 1987;—Am. 2020, Act 402, Eff. Mar. 24, 2021.

PERSONS 65 AND OLDER

330.1441-330.1444 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

TELEPHONE AND NOTICE RIGHTS

330.1447 Telephone calls.

Sec. 447. Immediately after an individual is received at a hospital for hospitalization under section 423 or 438, or for examination under any provision of this chapter, he or she shall be allowed to complete a reasonable number of telephone calls to persons of his or her own choice. In no event shall the calls be limited to less than 2. If the individual has insufficient funds on his or her person, at least 2 calls shall be allowed at the expense of the hospital.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1448 Right to copy of certain documents; explanation in individual's language; consent to treatment by person awaiting hearing; form.

Sec. 448. (1) Not later than 12 hours after an individual is hospitalized under section 423 or 438, the hospital director shall ensure that the individual receives all of the following:

(a) A copy of the petition that asserted that the individual is a person requiring treatment.

(b) A written statement explaining that the individual will be examined by a psychiatrist within 24 hours after his or her hospitalization.

(c) A written statement in simple terms explaining the rights of the individual to a full court hearing according to sections 451 to 465, to be present at the hearing, to be represented by legal counsel, to a jury trial, and to an independent clinical evaluation.

(2) If the individual is unable to read or understand the written materials, every effort shall be made to explain them to him or her in a language he or she understands, and a note of the explanation and by whom made shall be entered into his or her patient record.

(3) An individual awaiting a court hearing mandated under section 452 may sign a form provided by the department accepting psychotropic drugs and other treatment without having to consent to the hospitalization, unless the hospital director has reason to believe the individual is not capable of giving informed consent to treatment.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 178, Imd. Eff. June 14, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1449 Right to copy of clinical certificate.

Sec. 449. The hospital director shall ensure that an individual who is hospitalized under section 423 or 438 receives a copy of each clinical certificate executed in connection with the individual's hospitalization. Each clinical certificate shall be delivered to the individual within 24 hours of either the clinical certificate's completion or receipt of the clinical certificate by the hospital.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

PRELIMINARY HEARING

330.1450 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

COURT HEARINGS

330.1451 Court hearings; applicable provisions.

Sec. 451. Court hearings convened under authority of this chapter are governed by sections 452 to 465, except that sections 453(2), 453a, and 455(3) to (11) do not apply to a petition seeking only assisted

outpatient treatment.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1452 Court hearing; date; receipt of certain documents.

Sec. 452. (1) The court shall fix a date for every hearing convened under this chapter. Except as provided in subsection (2), the hearing shall be convened promptly, but not more than 7 days after the court's receipt of any of the following:

(a) A petition for a determination that an individual is a person requiring treatment, a clinical certificate executed by a physician or a licensed psychologist, and a clinical certificate executed by a psychiatrist.

(b) A petition for a determination that an individual continues to be a person requiring treatment and a clinical certificate executed by a psychiatrist.

(c) A petition for discharge filed under section 484.

(d) A demand or notification that a hearing that has been temporarily deferred under section 455(6) be convened.

(2) A hearing for a petition under section 434(7) shall be convened not more than 28 days after the filing of the petition, unless the petition was filed while the subject of the petition was an inpatient at a psychiatric hospital, in which case the hearing shall be convened within 7 days of the filing of the petition.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1976, Act 346, Imd. Eff. Dec. 21, 1976;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1986, Act 118, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

330.1453 Court hearing; notice.

Sec. 453. (1) The court shall cause notice of a petition and of the time and place of any hearing to be given to the subject of the petition, his or her attorney, the petitioner, the prosecuting or other attorney provided for in section 457, the hospital director of any hospital in which the subject of a petition is hospitalized, the spouse of the subject of the petition if his or her whereabouts are known, the guardian, if any, of the subject of the petition, and other relatives or persons as the court may determine. Notice shall be given at the earliest practicable time and sufficiently in advance of the hearing date to permit preparation for the hearing.

(2) Within 4 days of the court's receipt of the documents described in section 452(1)(a), the court shall cause the subject of the petition to be given a copy of the petition, a copy of each clinical certificate executed in connection with the proceeding, notice of the right to a full court hearing, notice of the right to be present at the hearing, notice of the right to be represented by legal counsel, notice of the right to demand a jury trial, and notice of the right to an independent clinical evaluation.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1453a Alternatives to hospitalization; preparation of assessment report.

Sec. 453a. Upon receipt of documents described in section 452, the court shall order a report assessing the current availability and appropriateness for the individual of alternatives to hospitalization, including alternatives available following an initial period of court-ordered hospitalization. The report shall be prepared by the community mental health services program, a public or private agency, or another individual found suitable by the court. In deciding which individual or agency should be ordered to prepare the report, the court shall give preference to an agency or individual familiar with the treatment resources in the individual's home community.

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

330.1454 Legal counsel; appointment; waiver; preferred counsel; compensation; system for providing representation; consultation with subject of petition before court hearing; certificate.

Sec. 454. (1) Every individual who is the subject of a petition is entitled to be represented by legal counsel.

(2) Unless an appearance has been entered on behalf of the subject of a petition, the court shall, within 48 hours after its receipt of any petition together with the other documents required by section 452, appoint counsel to represent the subject of the petition, except that if an individual has been hospitalized, counsel shall be appointed within 24 hours after the hospitalization.

(3) If, after consultation with appointed counsel, the subject of a petition desires to waive his or her right to counsel, he or she may do so by notifying the court in writing.

(4) If the subject of a petition prefers counsel other than the initially appointed counsel, the preferred counsel agrees to accept the appointment, and the court is notified of the preference by the subject of the petition or the preferred counsel, the court shall replace the initially appointed counsel with the preferred

counsel.

(5) If the subject of a petition is indigent, the court shall compensate appointed counsel from court funds in an amount that is reasonable and based upon time and expenses.

(6) The supreme court may, by court rule, establish the compensation to be paid for counsel of indigents and may require that counsel be appointed from a system or organization established for the purpose of providing representation in proceedings governed by this chapter.

(7) Legal counsel shall consult in person with the subject of a petition at least 24 hours before the time set for a court hearing.

(8) Legal counsel for the subject of a petition under section 452(1)(a) who is hospitalized pending the court hearing shall consult in person with the individual for the first time not more than 72 hours after the petition and 2 clinical certificates have been filed with the court.

(9) After the consultation required in subsection (7) or (8), counsel promptly shall file with the court a certificate stating that he or she personally has seen and has consulted with the subject of a petition as required by this section.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 178, Imd. Eff. June 14, 1982;—Am. 1986, Act 118, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1455 Right to be present at all hearings; waiver; exclusion of subject by court; stipulation to entry of treatment order; meeting; request to defer hearing; continuing jurisdiction during deferral period; treatment as formal voluntary patient; effect of refusing treatment or requesting hearing; participation in outpatient treatment; notice to convene hearing.

Sec. 455. (1) The subject of a petition has the right to be present at all hearings. This right may be waived by a waiver of attendance signed by the subject of a petition, witnessed by his or her legal counsel, and filed with the court or it may be waived in open court at a scheduled hearing. The subject's right to be present at a hearing is considered waived by the subject's failure to attend the hearing after receiving notice required by section 453 and any applicable court rule, providing the subject has had an opportunity to consult with counsel as required under section 454. The court may exclude the subject from a hearing if the subject's behavior at the hearing makes it impossible to conduct the hearing. The court shall enter on the record its reasons for excluding the subject of a petition from the hearing. The subject's presence may be waived by the court if there is testimony by a physician or licensed psychologist who has recently observed the subject that the subject's attendance would expose him or her to serious risk of physical harm.

(2) The subject of the petition under section 434, after consultation with counsel, may stipulate to the entry of any order for treatment.

(3) The subject of a petition under section 434 who is hospitalized pending the court hearing, within 72 hours after the petition and clinical certificates have been filed with the court, shall meet with legal counsel, a treatment team member assigned by the hospital director, a person assigned by the executive director of the responsible community mental health services program or other program as designated by the department, and, if possible, a person designated by the subject of the petition, in order to be informed of all of the following:

(a) The proposed plan of treatment in the hospital.

(b) The nature and possible consequences of commitment procedures.

(c) The proposed plan of treatment in the community consisting of either an alternative to hospitalization or a combination of hospitalization and assisted outpatient treatment with hospitalization not to exceed 60 days.

(d) The right to request that the hearing be temporarily deferred, with a continuing right to demand a hearing during the deferral period. The deferral period shall be 60 days if the individual chooses to remain hospitalized, or 180 days if the individual chooses outpatient treatment or a combination of hospitalization and outpatient treatment.

(4) The person designated by the subject of the petition under subsection (3) may be any person who is willing and able to attend the meeting, including a representative of an advocacy group or the recipient rights adviser of the hospital.

(5) The hospital in which the subject of a petition under section 434 is hospitalized shall notify the participants of the meeting required by subsection (3).

(6) The subject of a petition under section 434 may file with the court a request to temporarily defer the hearing for not longer than 60 days if the individual chooses to remain hospitalized, or 180 days if the individual chooses outpatient treatment or a combination of hospitalization and outpatient treatment. The

request shall include a stipulation that the individual agrees to remain hospitalized and to accept treatment as may be prescribed for the deferral period, to accept and follow the proposed plan of treatment as described in subsection (3)(c) for the deferral period, or to accept and follow the proposed plan for outpatient treatment, and further agrees that at any time the individual may refuse treatment and demand a hearing under section 452. The request to temporarily defer the hearing shall be on a form provided by the department and signed by the individual in the presence of his or her legal counsel and shall be filed with the court by legal counsel.

(7) Upon receipt of the request and stipulation under subsection (6), the court shall temporarily defer the hearing. During the deferral period, both the original petition and the clinical certificates remain valid. If the hearing is convened, the court may require additional clinical certificates and information from the provider. The court shall retain continuing jurisdiction during the deferral period.

(8) Upon receipt of a copy of the request to temporarily defer the hearing under subsection (6), if the individual has agreed to remain hospitalized, the hospital director shall treat the individual as a formal voluntary patient without requiring the individual to sign formal voluntary admission forms. If the individual, at any time during the period in which the hearing is being deferred, refuses the prescribed treatment or requests a hearing, either in writing or orally, treatment shall cease, the hospitalized individual shall remain hospitalized with the status of the subject of a petition under section 434, and the court shall be notified to convene a hearing under section 452(1)(d).

(9) Upon receipt of a copy of the request to temporarily defer the hearing under subsection (6), if the individual has agreed to participate in an alternative to hospitalization in the community, the hospital director shall release the individual from the hospital to the outpatient treatment provider. If the individual, at any time during the deferral period, refuses the prescribed treatment or requests a hearing, either in writing or orally, treatment shall cease and the court shall be notified to convene a hearing under section 452(1)(d). Upon notification, the court shall, if necessary, order a peace officer to transport the individual to the hospital where the individual shall remain until the hearing is convened. The individual shall be given the status of the subject of a petition under section 434.

(10) If the individual has remained hospitalized and if, not earlier than 14 days nor later than 7 days before the expiration of the deferral period, the hospital director believes that the condition of the individual is such that he or she continues to require treatment, and believes that the individual will not agree to sign a formal voluntary admission request or is considered by the hospital not to be suitable for voluntary admission, the hospital director shall notify the court to convene a hearing under section 452(1)(d).

(11) If the individual is participating in an alternative to hospitalization in the community as described in subsection (3)(c) and if, not earlier than 14 days nor later than 7 days before the expiration of the deferral period, the executive director of the community mental health services program responsible for the treatment that is an alternative to hospitalization believes that the condition of the individual is such that he or she continues to require treatment, and believes that the individual will not agree to accept treatment voluntarily or is considered by the outpatient treatment program provider not suitable for voluntary treatment, the executive director shall notify the court to convene a hearing under section 452(1)(d).

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 178, Imd. Eff. June 14, 1982;—Am. 1986, Act 118, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

330.1456 Place of hearing; change of venue.

Sec. 456. (1) Hearings may be held in such quarters as the court directs; either within or without the county in which the court has its principal office, in a hospital or other convenient place. Whenever practicable, the court shall convene hearings in a hospital.

(2) The subject of a petition, any interested person, or the court on its own motion may request a change of venue because of residence, convenience to parties, witnesses, or the court, or the individual's mental or physical condition.

History: 1974, Act 258, Eff. Nov. 6, 1974.

330.1457 Participation of prosecuting attorney; exception.

Sec. 457. The prosecuting attorney of the county in which a court has its principal office shall participate, in person or by assistant, in hearings convened by the court of his or her county under this chapter, or he or she may permit the prosecuting attorney or assistant prosecuting attorney from another county to participate on his or her behalf, except that a prosecutor need not participate in or be present at a hearing whenever a petitioner or some other appropriate person has retained private counsel who will be present in court and will present to the court the case for requiring treatment or for a finding of incompetence.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1996, Act 395, Imd. Eff. Oct. 8, 1996.

330.1458 Jury.

Sec. 458. The subject of a petition may demand that the question of whether he requires treatment or is legally incompetent be heard by a jury. A jury shall consist of 6 persons to be chosen in the same manner as jurors in civil proceedings.

History: 1974, Act 258, Eff. Nov. 6, 1974.

330.1459 Documents, witnesses, and cross-examination; rules of evidence.

Sec. 459. (1) The parties in a proceeding under this chapter have the right to present documents and witnesses and to cross-examine witnesses.

(2) The court shall receive all relevant, competent, and material evidence which may be offered. The rules of evidence in civil actions are applicable, except to the extent that specific exceptions have been provided for in this chapter or elsewhere by statute or court rule.

History: 1974, Act 258, Eff. Nov. 6, 1974.

330.1460 Investigation by counsel; evidence.

Sec. 460. Counsel for the subject of a petition shall be allowed adequate time for investigation of the matters at issue and for preparation, and shall be permitted to present the evidence that counsel believes necessary to a proper disposition of the proceedings, including evidence as to alternatives to hospitalization.

History: 1974, Act 258, Eff. Nov. 6, 1974.

330.1461 Testimony or deposition of physician or psychologist required; waiver; examinations; presence of attorney during deposition; cross-examination of deponent; waiver.

Sec. 461. (1) An individual may not be found to require treatment unless at least 1 physician or licensed psychologist who has personally examined that individual testifies in person or by written deposition at the hearing.

(2) For a petition filed under section 434(7), that does not seek hospitalization before the hearing, an individual may not be found to require treatment unless a psychiatrist who has personally examined that individual testifies. A psychiatrist's testimony is not necessary if a psychiatrist signs the petition. If a psychiatrist signs the petition, at least 1 physician or licensed psychologist who has personally examined that individual must testify. The requirement for testimony may be waived by the subject of the petition. If the testimony given in person is waived, a clinical certificate completed by a physician, licensed psychologist, or psychiatrist must be presented to the court before or at the initial hearing.

(3) The examinations required under this section for a petition filed under section 434(7) shall be arranged by the court and the local community mental health services program or other entity as designated by the department.

(4) A written deposition may be introduced as evidence at the hearing only if the attorney for the subject of the petition was given the opportunity to be present during the taking of the deposition and to cross-examine the deponent. This testimony or deposition may be waived by the subject of a petition. An individual may be found to require treatment even if the petitioner does not testify, as long as there is competent evidence from which the relevant criteria in section 401 can be established.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1976, Act 346, Imd. Eff. Dec. 21, 1976;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

330.1462 Continuance or adjournment; grounds.

Sec. 462. (1) Requests for continuances for any reasonable time shall be granted for good cause.

(2) Unless the subject of a petition or his or her attorney objects, the failure to timely notify a spouse, guardian, relative, or other person determined by the court to be entitled to notice shall not be cause to adjourn or continue a hearing.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1463 Independent clinical evaluation by physician, psychiatrist or psychologist; compensation; use by subject of petition.

Sec. 463. (1) If requested before the first scheduled hearing or at the first scheduled hearing before the first witness has been sworn on a petition, the subject of a petition in a hearing under this chapter has the right at his or her own expense, or if indigent, at public expense, to secure an independent clinical evaluation by a physician, psychiatrist, or licensed psychologist of his or her choice relevant to whether he or she requires treatment, whether he or she should be hospitalized or receive treatment other than hospitalization, and

whether he or she is of legal capacity.

(2) Compensation for an evaluation performed by a physician or a licensed psychologist shall be in an amount that is reasonable and based upon time and expenses.

(3) The independent clinical evaluation described in this section is for the sole use of the subject of the petition. The independent clinical evaluation or the testimony of the individual performing the evaluation shall not be introduced into evidence without the consent of the subject of the petition.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1982, Act 402, Imd. Eff. Dec. 28, 1982;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

330.1464 Persons entitled to copies of court orders.

Sec. 464. Copies of court orders issued pursuant to this chapter shall be given to the individual who is the subject of the order; to the individual's guardian, if a guardian has been appointed; to the individual's attorney; to the executive director of the community mental health services program; and to the hospital director of any hospital in which the individual is or will be a patient.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1464a Order of involuntary hospitalization or combination of hospitalization and assisted outpatient treatment; entering or removing order from law enforcement information network; applicability of section to order of involuntary treatment for substance use disorder.

Sec. 464a. (1) Upon entry of a court order directing that an individual be involuntarily hospitalized under this chapter or that an individual involuntarily undergo a program of combined hospitalization and assisted outpatient treatment under this chapter, the court shall immediately order the department of state police to enter the court order into the law enforcement information network. The department of state police shall remove the court order from the law enforcement information network only upon receipt of a subsequent court order for that removal.

(2) The department of state police shall immediately enter an order described in subsection (1) into the law enforcement information network or shall immediately remove an order from the law enforcement information network as ordered by the court under this section.

(3) This section does not apply to an order of involuntary treatment for substance use disorder under chapter 2A.

History: Add. 1994, Act 339, Eff. Apr. 1, 1996;—Am. 2014, Act 200, Imd. Eff. June 24, 2014;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

330.1465 Clear and convincing evidence required.

Sec. 465. A judge or jury shall not find that an individual is a person requiring treatment unless that fact has been established by clear and convincing evidence.

History: 1974, Act 258, Eff. Nov. 6, 1974.

FINDINGS AND DISPOSITIONS

330.1468 Treatment; disposition; order of assisted outpatient treatment; assisted outpatient treatment plan.

Sec. 468. (1) For a petition filed under section 434, if the court finds that an individual is not a person requiring treatment, the court shall enter a finding to that effect and, if the person has been hospitalized before the hearing, shall order that the person be discharged immediately.

(2) For a petition filed under section 434, if an individual is found to be a person requiring treatment, the court shall do 1 of the following:

(a) Order the individual hospitalized in a hospital recommended by the community mental health services program or other entity as designated by the department.

(b) Order the individual hospitalized in a private or veterans administration hospital at the request of the individual or his or her family, if private or federal funds are to be utilized and if the hospital agrees. If the individual is hospitalized in a private or Veterans Administration hospital under this subdivision, any financial obligation for the hospitalization shall be satisfied from funding sources other than the community mental health services program, the department, or other state or county funding.

(c) Order the individual to undergo a program of combined hospitalization and assisted outpatient treatment, as recommended by the community mental health services program or other entity as designated by the department.

(d) Order the individual to receive assisted outpatient treatment through a community mental health services program, or other entity as designated by the department, capable of providing the necessary treatment and services to assist the individual to live and function in the community as specified in the order. The court may include a case management plan and case management services and 1 or more of the following:

(*i*) Medication.

(*ii*) Blood or urinalysis tests to determine compliance with or effectiveness of prescribed medication.

(*iii*) Individual or group therapy, or both.

(*iv*) Day or partial day programs.

(*v*) Educational or vocational training.

(*vi*) Supervised living.

(*vii*) Assertive community treatment team services.

(*viii*) Substance use disorder treatment.

(*ix*) Substance use disorder testing for individuals with a history of alcohol or substance use and for whom that testing is necessary to assist the court in ordering treatment designed to prevent deterioration. A court order for substance use testing is subject to review hearing once every 180 days.

(*x*) Any other services prescribed to treat the individual's mental illness and either to assist the individual in living and functioning in the community or to help prevent a relapse or deterioration that may reasonably be predicted to result in suicide or the need for hospitalization.

(3) In developing an assisted outpatient treatment plan, a psychiatrist shall supervise the preparation and implementation of the assisted outpatient treatment plan. The assisted outpatient treatment plan shall be completed within 30 days after entry of the court's order of assisted outpatient treatment and a copy shall be forwarded to the probate court for filing within 3 days after completion of the plan to be maintained in the court file.

(4) In developing an assisted outpatient treatment order, the court shall consider any preference or medication experience reported by the individual or his or her designated representative, whether or not the individual has an existing individual plan of services under section 712, and any direction included in a durable power of attorney or advance directive that exists.

(5) Before an order of assisted outpatient treatment expires, if the individual has not previously designated a patient advocate or executed a durable power of attorney or an advance directive, the responsible community mental health services program or other entity as designated by the department shall ascertain whether the individual desires to establish a durable power of attorney or an advance directive. If so, the community mental health services program or other entity as designated by the department shall direct the individual to the appropriate community resource for assistance in developing a durable power of attorney or an advance directive.

(6) If an order for assisted outpatient treatment conflicts with the provisions of an existing durable power of attorney, advance directive, or individual plan of services developed under section 712, the assisted outpatient treatment order shall be reviewed for possible adjustment by a psychiatrist not previously involved with developing the assisted outpatient treatment order. If an order for assisted outpatient treatment conflicts with the provisions of an existing advance directive, durable power of attorney, or individual plan of services developed under section 712, the court shall state the court's findings on the record or in writing if the court takes the matter under advisement, including the reason for the conflict.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1980, Act 138, Imd. Eff. May 29, 1980;—Am. 1982, Act 178, Imd. Eff. June 14, 1982;—Am. 1986, Act 117, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

330.1469 Repealed. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

Compiler's note: The repealed section pertained to alternatives to hospitalization, report, notice, petition, review, powers of court, and hearing.

330.1469a Treatment program as alternative to hospitalization; assisted outpatient treatment; court order.

Sec. 469a. (1) Except for a petition filed as described under section 434(7), before ordering a course of treatment for an individual found to be a person requiring treatment, the court must review a report on alternatives to hospitalization that was prepared under section 453a not more than 15 days before the court issues the order. After reviewing the report, the court shall do all of the following:

(a) Determine whether a treatment program that is an alternative to hospitalization or that follows an initial period of hospitalization is adequate to meet the individual's treatment needs and is sufficient to prevent harm

that the individual may inflict upon himself or herself or upon others within the near future.

(b) Determine whether there is an agency or mental health professional available to supervise the individual's treatment program.

(c) Inquire as to the individual's desires regarding alternatives to hospitalization.

(2) If the court determines that there is a treatment program that is an alternative to hospitalization that is adequate to meet the individual's treatment needs and prevent harm that the individual may inflict upon himself or herself or upon others within the near future and that an agency or mental health professional is available to supervise the program, the court shall issue an order for assisted outpatient treatment or combined hospitalization and assisted outpatient treatment in accordance with section 472a. The order shall state the community mental health services program or, if private arrangements have been made for the reimbursement of mental health treatment services in an alternative setting, the name of the mental health agency or professional that is directed to supervise the individual's assisted outpatient treatment program. The order may provide that if an individual refuses to comply with a psychiatrist's order to return to the hospital, a peace officer must take the individual into protective custody. After the individual is taken into protective custody by a peace officer, a peace officer or a security transport officer shall transport the individual to the hospital selected.

(3) If the court orders assisted outpatient treatment as the alternative to hospitalization, the order must be consistent with the provisions of section 468(2)(d).

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2004, Act 497, Eff. Mar. 30, 2005;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2018, Act 593, Eff. Mar. 28, 2019;—Am. 2022, Act 146, Eff. (sine die);—Am. 2022, Act 214, Imd. Eff. Oct. 14, 2022.

330.1470 Adequate and appropriate treatment required; inquiry.

Sec. 470. Prior to ordering the hospitalization of an individual, the court shall inquire into the adequacy of treatment to be provided to the individual by the hospital. Hospitalization shall not be ordered unless the hospital in which the individual is to be hospitalized can provide him with treatment which is adequate and appropriate to his condition.

History: 1974, Act 258, Eff. Nov. 6, 1974.

330.1471 Preference as to hospitals.

Sec. 471. Preference between the department designated hospital and other available hospitals shall be given to the hospital which is located nearest to the individual's residence except when the individual requests otherwise or there are other compelling reasons for an order reversing the preference.

History: 1974, Act 258, Eff. Nov. 6, 1974.

330.1472 Repealed. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

Compiler's note: The repealed section pertained to duration of hospitalization.

330.1472a Initial, second, or continuing order for involuntary mental health treatment; duration of order.

Sec. 472a. (1) Upon the filing of a petition under section 434 and a finding that an individual is a person requiring treatment, the court shall issue an initial order of involuntary mental health treatment that shall be limited in duration as follows:

(a) An initial order of hospitalization shall not exceed 60 days.

(b) An initial order of assisted outpatient treatment shall not exceed 180 days.

(c) An initial order of combined hospitalization and assisted outpatient treatment shall not exceed 180 days. The hospitalization portion of the initial order shall not exceed 60 days.

(2) Upon the receipt of a petition under section 473 before the expiration of an initial order under subsection (1) and a finding that the individual continues to be a person requiring treatment, the court shall issue a second order for involuntary mental health treatment that shall not exceed 90 days.

(3) Upon the receipt of a petition under section 473 before the expiration of a second order under subsection (2) and a finding that the individual continues to be a person requiring treatment, the court shall issue a continuing order for involuntary mental health treatment that shall not exceed 1 year.

(4) Upon the receipt of a petition under section 473 before the expiration of a continuing order of involuntary mental health treatment, including a continuing order issued under section 485a or a 1-year order of hospitalization issued under former section 472, and a finding that the individual continues to be a person requiring treatment, the court shall issue another continuing order for involuntary mental health treatment as provided in subsection (3) for a period not to exceed 1 year. The court shall continue to issue consecutive 1-year continuing orders for involuntary mental health treatment under this section until a continuing order

expires without a petition having been filed under section 473 or the court finds that the individual is not a person requiring treatment.

(5) If a petition for an order of involuntary mental health treatment is not brought under section 473 at least 14 days before the expiration of an order of involuntary mental health treatment as described in subsections (2) to (4), a person who believes that an individual continues to be a person requiring treatment may file a petition under section 434 for an initial order of involuntary mental health treatment as described in subsection (1).

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2004, Act 498, Eff. Mar. 30, 2005;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

330.1473 Petition for second or continuing order of involuntary mental health treatment; contents; clinical certificate.

Sec. 473. Not less than 14 days before the expiration of an initial, second, or continuing order of involuntary mental health treatment issued under section 472a or section 485a, a hospital director or an agency or mental health professional supervising an individual's assisted outpatient treatment shall file a petition for a second or continuing order of involuntary mental health treatment if the hospital director or supervisor believes the individual continues to be a person requiring treatment and that the individual is likely to refuse treatment on a voluntary basis when the order expires. The petition shall contain a statement setting forth the reasons for the hospital director's or supervisor's or their joint determination that the individual continues to be a person requiring treatment, a statement describing the treatment program provided to the individual, the results of that course of treatment, and a clinical estimate as to the time further treatment will be required. The petition shall be accompanied by a clinical certificate executed by a psychiatrist.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2004, Act 498, Eff. Mar. 30, 2005;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

330.1474 Release of individual from hospital to assisted outpatient treatment; clinical decision; notice; appeal; court petition; information to be considered by court.

Sec. 474. (1) If an individual is subject to a combined order of hospitalization and assisted outpatient treatment, the decision to release the individual from the hospital to the assisted outpatient treatment program shall be a clinical decision made by a psychiatrist designated by the hospital director in consultation with the director of the assisted outpatient treatment program. If an individual is subject to an order of assisted outpatient treatment, the decision to release the individual from the assisted outpatient treatment program shall be a clinical decision made by a psychiatrist designated by the director of the assisted outpatient treatment program. Notice of the return of the individual to the assisted outpatient treatment program shall be provided to the court with a statement from a psychiatrist explaining the belief that the individual is clinically appropriate for assisted outpatient treatment. At least 5 days before releasing an individual from the hospital to the assisted outpatient treatment program, the hospital director shall notify the agency or mental health professional that is responsible to supervise the individual's assisted outpatient treatment program that the individual is about to be released. The hospital shall share relevant information about the individual with the supervising agency or professional for the purpose of providing continuity of treatment.

(2) If there is a disagreement between the hospital and the executive director regarding the decision to release the individual to the assisted outpatient treatment program, either party may appeal in writing to the department director within 24 hours of the decision. The department director shall designate the psychiatrist responsible for clinical affairs in the department, or his or her designee, who shall also be a psychiatrist, to consider the appropriateness of the release and make a decision within 48 hours after receipt of the written appeal. Either party may appeal the decision of the department to the court in writing within 24 hours after the department's decision.

(3) If private arrangements have been made for the reimbursement of mental health treatment services in an alternative setting and there is a disagreement between the hospital and the director of the assisted outpatient treatment program regarding the decision to release the individual, either party may petition the court for a determination of whether the individual should be released from the hospital to the assisted outpatient treatment program.

(4) The court shall make a decision within 48 hours after receipt of a written appeal under subsection (2) or a petition under subsection (3). The court shall consider information provided by both parties and may appoint a psychiatrist to provide an independent clinical examination.

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

330.1474a Order of combined hospitalization and assisted outpatient treatment; order of hospitalization; decision; notice to court.

Sec. 474a. During the period of an order of combined hospitalization and assisted outpatient treatment or combined hospitalization and assisted outpatient treatment, hospitalization may be used as clinically appropriate and when ordered by a psychiatrist, for up to the maximum period for hospitalization specified in the order. Subject to section 475, the decision to hospitalize the individual shall be made by the director of the assisted outpatient treatment program, who shall notify the court when the individual is hospitalized. The notice to the court shall include a statement from a psychiatrist explaining the need for hospitalization.

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

330.1475 Noncompliance with court order or determination that assisted outpatient treatment not appropriate; permissible actions by court without hearing; notice of noncompliance; actions by court; transport and return to facility or unit; objection to hospitalization.

Sec. 475. (1) During the period of an order for assisted outpatient treatment or combined hospitalization and assisted outpatient treatment, if the agency or mental health professional who is supervising an individual's assisted outpatient treatment program determines that the individual is not complying with the court order or that the assisted outpatient treatment has not been or will not be sufficient to prevent harm that the individual may inflict on himself or herself or upon others, then the supervising agency or mental health professional shall notify the court immediately. If the individual believes that the assisted outpatient treatment program is not appropriate, the individual may notify the court of that fact.

(2) If it comes to the attention of the court that an individual subject to an order of assisted outpatient treatment or combined hospitalization and assisted outpatient treatment is not complying with the order, that the assisted outpatient treatment has not been or will not be sufficient to prevent harm to the individual or to others, or that the individual believes that the assisted outpatient treatment program is not appropriate, the court may do either of the following without a hearing and based upon the record and other available information:

(a) Consider other alternatives to hospitalization and modify the order to direct the individual to undergo another program of assisted outpatient treatment for the duration of the order.

(b) Modify the order to direct the individual to undergo hospitalization or combined hospitalization and assisted outpatient treatment. The duration of the hospitalization, including the number of days the individual has already been hospitalized if the order being modified is a combined order, shall not exceed 60 days for an initial order or 90 days for a second or continuing order. The modified order may provide that if the individual refuses to comply with the psychiatrist's order to return to the hospital, a peace officer shall take the individual into protective custody and transport the individual to the hospital selected.

(3) During the period of an order for assisted outpatient treatment or a combination of hospitalization and assisted outpatient treatment, if the agency or mental health professional who is supervising an individual's assisted outpatient treatment determines that the individual is not complying with the court order, the supervising agency or mental health professional shall notify the court immediately.

(4) If it comes to the attention of the court that an individual subject to an order of assisted outpatient treatment or a combination of hospitalization and assisted outpatient treatment is not complying with the order, the court may require 1 or more of the following, without a hearing:

(a) That the individual be taken to the preadmission screening unit established by the community mental health services program serving the community in which the individual resides.

(b) That the individual be hospitalized for a period of not more than 10 days.

(c) Upon recommendation by the community mental health services program serving the community in which the individual resides, that the individual be hospitalized for a period of more than 10 days, but not longer than the duration of the order for assisted outpatient treatment or a combination of hospitalization and assisted outpatient treatment, or not longer than 90 days, whichever is less.

(5) The court may direct peace officers to transport the individual to a designated facility or a preadmission screening unit, as applicable, and the court may specify conditions under which the individual may return to assisted outpatient treatment before the order expires.

(6) An individual hospitalized without a hearing as provided in subsection (4) may object to the hospitalization according to the provisions of section 475a.

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2004, Act 498, Eff. Mar. 30, 2005;—Am. 2016, Act 320, Eff. Feb. 14, 2017;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

330.1475a Hospitalization without hearing; objection.

Sec. 475a. (1) If an individual is hospitalized without a hearing after placement in an assisted outpatient treatment program, the individual has a right to object to the hospitalization. Upon transfer of the individual to the hospital, the hospital shall notify the individual of his or her right to object under this section.

(2) Upon receipt of an objection to a hospitalization under subsection (1), the court shall schedule a hearing for a determination that the individual requires hospitalization.

History: Add. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

DISCHARGE AND LEAVES

330.1476 Discretionary discharge; mandatory discharge; notice; statements.

Sec. 476. (1) The hospital director may at any time discharge a voluntarily or judicially hospitalized patient whom the hospital director considers clinically suitable for discharge.

(2) The hospital director shall discharge a patient hospitalized by court order when the patient's mental condition is such that he or she no longer meets the criteria of a person requiring treatment.

(3) If a patient discharged under subsection (1) or (2) has been hospitalized by court order, or if court proceedings are pending, the court shall be notified of the discharge by the hospital.

(4) If the court orders a person to be hospitalized under an initial or continuing order for hospitalization subsequent to dismissal of felony charges under section 1044(1)(b), the court shall include both of the following statements in the initial or continuing order unless the time for petitioning to refile charges under section 1044 has elapsed:

(a) A requirement that not less than 30 days before the patient's scheduled release or discharge, the director of the treating facility shall notify the prosecutor's office in the county in which charges against the person were originally brought that the patient's release or discharge is pending.

(b) A requirement that not less than 30 days before the scheduled release or discharge, the patient to be released or discharged undergo a competency examination as described in section 1026. A copy of the written report of the examination along with the notice required in subdivision (a) shall be submitted to the prosecutor's office in the county in which the charges against the patient were originally brought. The written report is admissible as provided in section 1030(3).

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1998, Act 382, Imd. Eff. Oct. 23, 1998.

330.1477 Termination of treatment; notice.

Sec. 477. (1) A person responsible for providing treatment to an individual ordered to undergo a program of assisted outpatient treatment or a program of combined hospitalization and assisted outpatient treatment may terminate the treatment to the individual if the provider of the treatment considers the individual clinically suitable for termination of treatment, and shall terminate the treatment when the individual's mental condition is such that he or she no longer meets the criteria of a person requiring treatment.

(2) Upon termination of assisted outpatient treatment or combined hospitalization and assisted outpatient treatment, the court shall be notified by the provider of the treatment.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1980, Act 138, Imd. Eff. May 29, 1980;—Am. 1986, Act 117, Eff. Mar. 31, 1987;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

330.1478 Treatment on voluntary basis; aid in obtaining other treatment.

Sec. 478. If, upon the discharge of a patient hospitalized by court order or the termination of assisted outpatient treatment to an individual receiving assisted outpatient treatment under this chapter, it is determined that the individual would benefit from the receipt of further treatment, the hospital or provider of assisted outpatient treatment shall offer him or her appropriate treatment on a voluntary basis, or shall aid him or her to obtain treatment from another source.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

330.1479 Leaves or absence from hospital; rules; procedures; mandatory discharge; notice.

Sec. 479. All leaves or absences from a hospital, other than release or discharge, and all revocations of leaves and absences under section 408, shall be governed in accordance with rules or procedures established by the department or the hospital; except that a hospital director shall discharge any patient who has been hospitalized subject to an order of continuing hospitalization and who has been on an authorized leave or absence from the hospital for a continuous period of 1 year. Upon such discharge, the hospital director shall notify the court.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

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

PERIODIC REVIEW

330.1482 Review of status; frequency; assignment of physician or psychologist.

Sec. 482. Each individual subject to a 1-year order of involuntary mental health treatment has the right to adequate and prompt review of his or her current status as a person requiring treatment. Six months from the date of a 1-year order of involuntary mental health treatment, the executive director of the community mental health services program responsible for treatment or, if private arrangements for the reimbursement of mental health treatment services have been made, the hospital director or director of the assisted outpatient treatment program shall assign a physician or licensed psychologist to review the individual's clinical status as a person requiring treatment.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1986, Act 117, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

330.1483 Review of status; disposition and notice of results; complaint.

Sec. 483. (1) The results of each periodic review shall be made part of the individual's record, and shall be filed within 5 days of the review in the form of a written report with the court that last ordered the individual's treatment, and within those 5 days, the executive director or director of the hospital or treatment program with which private reimbursement arrangements have been made shall give notice of the results of the review and information on the individual's right to petition for discharge to the individual, the individual's attorney, the individual's guardian, and the individual's nearest relative or a person designated by the individual.

(2) An individual under a 1-year order of involuntary mental health treatment or a person designated by the individual may submit a complaint to the provider of services at any time regarding the quality and appropriateness of the treatment provided. A copy of each complaint and the provider's response to each complaint shall be submitted to the executive director or director of the private program and the court along with the written report required by subsection (1).

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1986, Act 117, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

330.1484 Review of status; report; objections; hearing; petition for discharge.

Sec. 484. If the report required under section 483 concludes that the individual requires continuing involuntary mental health treatment and the individual or the executive director objects to the conclusions, the individual or the executive director has the right to a hearing and may petition the court for discharge of the individual from the treatment program. This petition shall be presented to the court within 7 days, excluding Sundays and holidays, after the report is received.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1986, Act 117, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1485 Repealed. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

Compiler's note: The repealed section pertained to annual hearing and petition for discharge.

330.1485a Individual no longer requiring treatment; individual continuing to require treatment; finding; order.

Sec. 485a. (1) Upon a hearing under section 484, if the court finds that an individual under an order of involuntary mental health treatment is no longer a person requiring treatment, the court shall enter a finding to that effect and shall order that the individual be discharged.

(2) Upon a hearing under section 484, if the court finds that an individual under a 1-year order of involuntary mental health treatment continues to be a person requiring treatment, and after consideration of complaints submitted under section 483(2), the court shall do 1 of the following:

(a) Continue the order.

(b) Issue a new continuing order for involuntary mental health treatment under section 472a(3) or (4).

History: Add. 1980, Act 138, Imd. Eff. May 29, 1980;—Am. 1986, Act 117, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

330.1486 Writ of habeas corpus.

Sec. 486. Nothing in this chapter shall prevent the filing or deprive any individual of the benefits of a writ of habeas corpus.

History: 1974, Act 258, Eff. Nov. 6, 1974.

LEGAL COMPETENCE

330.1489 Legal competence; presumption; effect of prior commitment.

Sec. 489. (1) No determination that a person requires treatment, no order of court authorizing hospitalization or assisted outpatient treatment, nor any form of admission to a hospital gives rise to a presumption of, constitutes a finding of, or operates as an adjudication of legal incompetence.

(2) No order of commitment under any previous statute of this state, in the absence of a concomitant appointment of a guardian, constitutes a finding of or operates as an adjudication of legal incompetence.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 2018, Act 593, Eff. Mar. 28, 2019.

330.1490 Persons entitled to copies of MCL 330.1489.

Sec. 490. Individuals receiving involuntary mental health treatment under this chapter shall receive a copy of section 489 upon the commencement of involuntary mental health treatment. An individual discharged from a hospital shall receive a copy of section 489 upon request.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1491-330.1497 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed sections pertained to legal competency.

CHAPTER 4A

CIVIL ADMISSION AND DISCHARGE PROCEDURES FOR EMOTIONALLY DISTURBED MINORS

330.1498a Hospitalization of minors.

Sec. 498a. A minor shall be hospitalized only pursuant to the provisions of this chapter.

History: Add. 1984, Act 186, Imd. Eff. July 3, 1984;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1498b Definitions; C to M.

Sec. 498b. As used in this chapter, unless the context requires otherwise:

(a) "Court" means the probate court or the court with responsibility with regard to mental health services for the county in which a minor who has requested hospitalization, for whom a request for hospitalization has been made, or who has been hospitalized pursuant to this chapter either resides or was found.

(b) "Minor requiring treatment" means either of the following:

(*i*) A minor with a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(*ii*) A minor having a severe or persistent emotional condition characterized by seriously impaired personality development, individual adjustment, social adjustment, or emotional growth, which is demonstrated in behavior symptomatic of that impairment.

History: Add. 1984, Act 186, Imd. Eff. July 3, 1984;—Am. 1988, Act 155, Imd. Eff. June 14, 1988;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1498c Definitions; P to S.

Sec. 498c. As used in this chapter, unless the context requires otherwise:

(a) "Person in loco parentis" means a person who is not the parent or guardian of a minor, but who has either legal custody of a minor or physical custody of a minor and is providing support and care for the minor.

(b) "Suitable for hospitalization" means a determination concerning a minor that all of the following criteria are met:

(*i*) The minor is a minor requiring treatment.

(*ii*) The minor is in need of hospitalization and is expected to benefit from hospitalization.

(*iii*) An appropriate, less restrictive alternative to hospitalization is not available.

History: Add. 1984, Act 186, Imd. Eff. July 3, 1984;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1998, Act 524, Imd. Eff. Jan. 12, 1999.

330.1498d Hospitalization of minor; conditions; request by department of human services or county juvenile agency; suitability for hospitalization; determination; "county juvenile agency" defined.

Sec. 498d. (1) Subject to section 498e and except as otherwise provided in this chapter, section 1074, and section 18s of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18s, a minor of any age may be hospitalized if both of the following conditions are met:

(a) The minor's parent, guardian, or a person acting in loco parentis for the minor or, in compliance with subsection (2) or (3), the department of human services or county juvenile agency, as applicable, requests

hospitalization of the minor under this chapter.

(b) The minor is found to be suitable for hospitalization.

(2) The department of human services may request hospitalization of a minor who is committed to the department of human services under 1935 PA 220, MCL 400.201 to 400.214.

(3) As applicable, the department of human services may request hospitalization of, or the county juvenile agency may request an evaluation for hospitalization of, a minor who is 1 of the following:

(a) A ward of the court under chapter X or XIIA of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70 and 712A.1 to 712A.32, if the department of human services or county juvenile agency is specifically empowered to do so by court order.

(b) Committed to the department of human services or county juvenile agency under the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, except that if the minor is residing with his or her custodial parent, the consent of the custodial parent is required.

(4) Subject to sections 498e, 498f, and 498j, and except as provided in section 1074 and section 18s of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18s, a minor 14 years of age or older may be hospitalized if both of the following conditions are met:

(a) The minor requests hospitalization under this chapter.

(b) The minor is found to be suitable for hospitalization.

(5) In making the determination of suitability for hospitalization, a minor shall not be determined to be a minor requiring treatment solely on the basis of 1 or more of the following conditions:

(a) Epilepsy.

(b) Developmental disability.

(c) Brief periods of intoxication caused by substances such as alcohol or drugs or by dependence upon or addiction to those substances.

(d) Juvenile offenses, including school truancy, home truancy, or incorrigibility.

(e) Sexual activity.

(f) Religious activity or beliefs.

(g) Political activity or beliefs.

(6) As used in this section, "county juvenile agency" means that term as defined in section 2 of the county juvenile agency act, 1998 PA 518, MCL 45.622.

History: Add. 1984, Act 186, Imd. Eff. July 3, 1984;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1998, Act 524, Imd. Eff. Jan. 12, 1999;—Am. 2012, Act 540, Eff. Mar. 28, 2013.

330.1498e Evaluation; second opinion; transfer; alternative program; applicability of section.

Sec. 498e. (1) Except as provided in section 1074 and section 18s of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18s, a minor requesting hospitalization or for whom a request for hospitalization was made shall be evaluated to determine suitability for hospitalization according to this section as soon as possible after the request is made.

(2) The executive director of the community mental health services program that is responsible for providing services in the county of residence of a minor requesting hospitalization or for whom a request for hospitalization was made shall evaluate the minor to determine his or her suitability for hospitalization according to this section. In making a determination of a minor's suitability for hospitalization, the executive director shall utilize the community mental health services program's children's diagnostic and treatment service. If a children's diagnostic and treatment service does not exist in the community mental health services program, the executive director shall, through written agreement, arrange to have a determination made by the children's diagnostic and treatment service of another community mental health services program, or by the appropriate hospital.

(3) In evaluating a minor's suitability for hospitalization, the executive director shall do all of the following:

(a) Determine both of the following:

(*i*) Whether the minor is a minor requiring treatment.

(*ii*) Whether the minor requires hospitalization and is expected to benefit from hospitalization.

(b) Determine whether there is an appropriate, available alternative to hospitalization, and if there is, refer the minor to that program.

(c) Consult with the appropriate school, hospital, and other public or private agencies.

(d) If the minor is determined to be suitable for hospitalization under subdivision (a), refer the minor to the appropriate hospital.

(e) If the minor is determined not to be suitable for hospitalization under subdivision (a), determine if the minor needs mental health services. If it is determined that the minor needs mental health services, the

executive director shall offer an appropriate treatment program for the minor, if the program is available, or refer the minor to any other appropriate agency for services.

(f) If a minor is assessed and found not to be clinically suitable for hospitalization, the executive director shall inform the individual or individuals requesting hospitalization of the minor of appropriate available alternative services to which a referral should be made and of the process for a request of a second opinion under subsection (4).

(4) If the children's diagnostic and treatment service of the community mental health services program denies hospitalization, the parent or guardian of the minor may request a second opinion from the executive director. The executive director shall arrange for an additional evaluation by a psychiatrist, other physician, or licensed psychologist to be performed within 3 days, excluding Sundays and legal holidays, after the executive director receives the request. If the conclusion of the second opinion is different from the conclusion of the children's diagnostic and treatment service, the executive director, in conjunction with the medical director, shall make a decision based on all clinical information available. The executive director's decision shall be confirmed in writing to the individual who requested the second opinion, and the confirming document shall include the signatures of the executive director and medical director or verification that the decision was made in conjunction with the medical director.

(5) If a minor has been admitted to a hospital not operated by or under contract with the department or a community mental health services program and the hospital considers it necessary to transfer the minor to a hospital under contract with a community mental health services program, the hospital shall submit an application for transfer to the appropriate community mental health services program. The executive director shall determine if there is an appropriate, available alternative to hospitalization of the minor. If the executive director determines that there is an appropriate, available alternative program, the minor shall be referred to that program. If the executive director determines that there is not an appropriate, alternative program, the minor shall be referred to a hospital under contract with the community mental health services program.

(6) Except as provided in subsections (1) and (5), this section only applies to hospitals operated under contract with a community mental health services program.

History: Add. 1984, Act 186, Imd. Eff. July 3, 1984;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2012, Act 540, Eff. Mar. 28, 2013.

330.1498f Admission; examination; waiting list; interim services; referral.

Sec. 498f. If a minor is referred to a hospital by an executive director pursuant to section 498e, the hospital director may accept the referral and admit the minor, or the hospital director may order an examination of the minor to confirm the minor's suitability for hospitalization. The examination shall begin immediately. If the hospital director confirms the minor's suitability for hospitalization, the minor shall be scheduled for admission to the hospital. If the minor cannot be admitted immediately because of insufficient space in the hospital, the minor shall be placed on a waiting list and the executive director shall provide necessary interim services, including periodic reassessment of the suitability for hospitalization. The minor may be referred to another hospital. If the hospital director does not confirm the minor's suitability for hospitalization, the minor shall be referred to the executive director, who shall offer an appropriate treatment plan for the minor or refer the minor to any other agency for services.

History: Add. 1984, Act 186, Imd. Eff. July 3, 1984;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1498g Examination, tests, and evaluations.

Sec. 498g. If a minor is admitted to a hospital pursuant to this chapter, the director of the hospital shall cause the minor to be examined by a child psychiatrist within 48 hours after the admission of the minor and shall immediately initiate any of the following tests and evaluations of the minor pursuant to section 498j which, in the hospital director's opinion may aid in the preparation of a treatment plan for the minor:

(a) A comprehensive social and family history including family relationships.

(b) A comprehensive educational test and an assessment of educational development.

(c) Psychological testing.

(d) An evaluation by the staff participating in the treatment of the minor.

(e) Any relevant test, assessment, or study of, or related to, the minor.

History: Add. 1984, Act 186, Imd. Eff. July 3, 1984.

330.1498h Emergency admission of minor.

Sec. 498h. (1) Except as provided in section 1074 and section 18s of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18s, a minor's parent, guardian, or person in loco parentis may request emergency admission of the minor to a hospital, if the person making the request has reason to believe that

the minor is a minor requiring treatment and that the minor presents a serious danger to self or others.

(2) If the hospital to which the request for emergency admission is made is not under contract to the community mental health services program, the request for emergency hospitalization shall be made directly to the hospital. If the hospital director agrees that the minor needs emergency admission, the minor shall be hospitalized. If the hospital director does not agree, the person making the request may request hospitalization of the minor under section 498d.

(3) If the hospital to which the request for emergency admission is made is under contract to the community mental health services program, the request shall be made to the preadmission screening unit of the community mental health services program serving in the county where the minor resides. If the community mental health services program has a children's diagnostic and treatment service, the preadmission screening unit shall refer the person making the request to that service. In counties where there is no children's diagnostic and treatment service, the preadmission screening unit shall refer the person making the request to the appropriate hospital. If it is determined that emergency admission is not necessary, the person may request hospitalization of the minor under section 498d. If it is determined that emergency admission is necessary, the minor shall be hospitalized or placed in an appropriate alternative program.

(4) If a minor is assessed by the preadmission screening unit and found not to be clinically suitable for hospitalization, the preadmission screening unit shall inform the individual or individuals requesting hospitalization of the minor of appropriate available alternative services to which a referral should be made and of the process for a request of a second opinion under subsection (5).

(5) If the preadmission screening unit of the community mental health services program denies hospitalization, a minor's parent or guardian may request a second opinion from the executive director. The executive director shall arrange for an additional evaluation by a psychiatrist, other physician, or licensed psychologist to be performed within 3 days, excluding Sundays and legal holidays, after the executive director receives the request. If the conclusion of the second opinion is different from the conclusion of the preadmission screening unit, the executive director, in conjunction with the medical director, shall make a decision based on all clinical information available. The executive director's decision shall be confirmed in writing to the individual who requested the second opinion, and the confirming document shall include the signatures of the executive director and medical director or verification that the decision was made in conjunction with the medical director.

(6) If a person in loco parentis makes a request for emergency admission and the minor is admitted to a hospital under this section, the hospital director or the executive director of the community mental health services program immediately shall notify the minor's parent or parents or guardian.

(7) If a minor is hospitalized in a hospital that is operated under contract with a community mental health services program, the hospital director shall notify the appropriate executive director within 24 hours after the hospitalization occurs.

(8) If a peace officer, as a result of personal observation, has reasonable grounds to believe that a minor is a minor requiring treatment and that the minor presents a serious danger to self or others and if after a reasonable effort to locate the minor's parent, guardian, or person in loco parentis, the minor's parent, guardian, or person in loco parentis cannot be located, the peace officer may take the minor into protective custody and transport the minor to the appropriate community mental health preadmission screening unit, if the community mental health services program has a children's diagnostic and treatment service, or to a hospital if it does not have a children's diagnostic and treatment service. After transporting the minor, the peace officer shall execute a written request for emergency hospitalization of the minor stating the reasons, based upon personal observation, that the peace officer believes that emergency hospitalization is necessary. The written request shall include a statement that a reasonable effort was made by the peace officer to locate the minor's parent, guardian, or person in loco parentis. If it is determined that emergency hospitalization of the minor is not necessary, the minor shall be returned to his or her parent, guardian, or person in loco parentis if an additional attempt to locate the parent, guardian, or person in loco parentis is successful. If the minor's parent, guardian, or person in loco parentis cannot be located, the minor shall be turned over to the protective services program of the family independence agency. If it is determined that emergency admission of the minor is necessary, the minor shall be admitted to the appropriate hospital or to an appropriate alternative program. The executive director immediately shall notify the minor's parent, guardian, or person in loco parentis. If the hospital is under contract with the community mental health services program, the hospital director shall notify the appropriate executive director within 24 hours after the hospitalization occurs.

(9) An evaluation of a minor admitted to a hospital under this section shall begin immediately after the minor is admitted. The evaluation shall be conducted in the same manner as provided in section 498e. If the minor is not found to be suitable for hospitalization, the minor shall be released into the custody of his or her parent, guardian, or person in loco parentis, and the minor shall be referred to the executive director who shall

determine if the minor needs mental health services. If it is determined that the minor needs mental health services, the executive director shall offer an appropriate treatment program for the minor, if the program is available, or refer the minor to another agency for services.

(10) A hospital director shall proceed under either the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, or chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, as warranted by the situation and the best interests of the minor, under any of the following circumstances:

(a) The hospital director cannot locate a parent, guardian, or person in loco parentis of a minor admitted to a hospital under subsection (8).

(b) The hospital director cannot locate the parent or guardian of a minor admitted to a hospital by a person in loco parentis under this section.

History: Add. 1984, Act 186, Imd. Eff. July 3, 1984;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2000, Act 57, Eff. Apr. 1, 2000;—Am. 2012, Act 540, Eff. Mar. 28, 2013.

330.1498i Notice.

Sec. 498i. The parent or guardian of a minor shall be notified immediately of the admission of a minor to a hospital in any case where the parent or guardian of the minor did not execute the application for hospitalization. The notice shall be in the form most likely to reach the person being notified in an expeditious manner, and shall inform the person of the right to participate in any proceedings under this act.

History: Add. 1984, Act 186, Imd. Eff. July 3, 1984.

330.1498j Consent.

Sec. 498j. A hospital shall request a parent or guardian of a minor admitted to a hospital under this chapter to give written consent for the minor's treatment and for the release of information from agencies or individuals involved in treating the minor before the hospitalization considered necessary by the hospital for the minor's treatment. If the hospital cannot obtain consent for treatment, the director of the hospital may proceed under either the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, or chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, as warranted by the situation and the best interests of the minor.

History: Add. 1984, Act 186, Imd. Eff. July 3, 1984;—Am. 2000, Act 57, Eff. Apr. 1, 2000.

330.1498k Leaving hospital without knowledge and permission of staff; notice; transporting minor to hospital; protective custody; appeal.

Sec. 498k. (1) If a minor who has been admitted to a hospital under this chapter leaves the hospital without the knowledge and permission of the appropriate hospital staff, the hospital must immediately notify the minor's parent, guardian, or person in loco parentis, the executive director if appropriate, and the appropriate police agency.

(2) If a minor has left a hospital without the knowledge and permission of the appropriate hospital staff or has refused a request to return to the hospital while on an authorized absence from the hospital, and the hospital director believes that the minor should be returned to the hospital, the hospital director must request that the minor's parent, guardian, or person in loco parentis transport the minor to the hospital. If the parent, guardian, or person in loco parentis is unable, after reasonable effort, to transport the minor, a request may be submitted to the court for an order to transport the minor. If the court is satisfied that a reasonable effort was made to transport the minor, the court must order a peace officer to take the minor into protective custody. After the minor is taken into protective custody, a peace officer or a security transport officer shall transport the minor to the hospital.

(3) An opportunity for appeal, and notice of that opportunity, shall be provided to any minor and to the parent or guardian of any minor who is returned over the minor's objection from any authorized leave in excess of 10 days. In the case of a minor less than 14 years of age, the appeal shall be made by the parent or guardian of the minor or person in loco parentis.

History: Add. 1984, Act 186, Imd. Eff. July 3, 1984;—Am. 1988, Act 155, Imd. Eff. June 14, 1988;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2022, Act 146, Eff. (sine die);—Am. 2022, Act 214, Imd. Eff. Oct. 14, 2022.

330.1498*l* Review.

Sec. 498*l*. (1) Not more than 90 days after the admission of a minor to a hospital pursuant to this chapter, and at 60-day intervals after the expiration of the 90-day period, the director of the hospital shall perform or arrange to have performed a review of the minor's suitability for hospitalization. If the minor is in a hospital under contract with a community mental health services program, the executive director shall participate in

the reviews.

(2) Subject to section 114a, the reviews of the minor's suitability for continued hospitalization shall be conducted under rules promulgated by the department. Results of the reviews shall be transmitted promptly to all of the following:

(a) The minor, if the minor is 14 years of age or older.

(b) The parent, guardian, or person in loco parentis of the minor.

(c) The executive director.

(d) The court, if there was a court hearing on the admission of the minor.

History: Add. 1984, Act 186, Imd. Eff. July 3, 1984;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

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

330.1498m Objection to hospitalization; violation as misdemeanor.

Sec. 498m. (1) An objection to the hospitalization of a minor may be made to the court by any of the following persons:

(a) A person found suitable by the court.

(b) The minor's parent, guardian, or person in loco parentis if the request for hospitalization was made by the minor pursuant to section 498d(3) or by a peace officer pursuant to section 498h(6).

(c) The minor who has been hospitalized, if the minor is 14 years of age or older.

(2) An objection made to the court pursuant to subsection (1) shall be made in writing not more than 30 days after the admission of a minor to a hospital, and may be made subsequently within not more than 30 days after the receipt of the periodic review of the minor's suitability for continued hospitalization as provided for in section 498*l*. The objection shall state the basis on which it is being raised.

(3) If a minor who has been hospitalized for not less than 7 days pursuant to this chapter informs a hospital employee of the minor's desire to object to hospitalization, the hospital employee or a person designated by the hospital shall assist the minor in properly submitting an objection to hospitalization pursuant to this section. An employee of the hospital shall not interfere with or fail to act upon a minor's objection to hospitalization. A person who violates this subsection is guilty of a misdemeanor.

History: Add. 1984, Act 186, Imd. Eff. July 3, 1984.

330.1498n Judicial hearing.

Sec. 498n. (1) Upon receipt of an objection to hospitalization filed under section 498m, the court shall schedule a hearing to be held within 7 days, excluding Sundays and holidays. After receipt of the objection, the court shall notify all of the following persons of the time and place for the hearing:

(a) The parents or guardian of the minor to whom the objection refers.

(b) The person filing the objection.

(c) The minor to whom the objection refers.

(d) The person who executed the application for hospitalization of the minor.

(e) The hospital director.

(f) The executive director.

(2) The court shall sustain an objection to hospitalization and order the discharge of the minor unless the court finds by clear and convincing evidence that the minor is suitable for hospitalization. If the court does not sustain the objection, an order shall not be entered, the objection shall be dismissed, and the hospital shall continue to hospitalize the minor.

(3) The hearing required by subsection (1) shall be governed by sections 451 to 465.

(4) The court shall not dismiss the objection and refuse to order a discharge of a hospitalized minor on the grounds that the minor's parent or guardian is unwilling or unable to provide or arrange for the management, care, or residence of the minor. If an objection is sustained and the minor's parent or guardian is unwilling or unable to provide or arrange for the management, care, or residence of the minor, the objecting person may, or a person authorized by the court shall, file promptly a petition under section 2(b) of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.2 of the Michigan Compiled Laws, to ensure that the minor is provided with appropriate management, care, or residence.

(5) If a hospital has officially agreed to admit a minor, but admission has been deferred until a subsequent date, an objection to hospitalization of the minor may be made to the court under section 498m before the minor is admitted to the hospital. Subject to section 114a, a minor 14 years of age or older shall be notified of the right to object in accordance with rules promulgated by the department. If the objection is sustained by the court, the minor shall not be hospitalized.

History: Add. 1984, Act 186, Imd. Eff. July 3, 1984;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

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

330.1498o Notice of intent or oral request to terminate hospitalization; petition to continue hospitalization; hearing.

Sec. 498o. (1) Except as provided in subsection (4), a minor hospitalized under this chapter shall not be kept in the hospital more than 3 days, excluding Sundays and holidays, after receipt by the hospital of a written notice of intent to terminate the hospitalization of the minor executed by the minor's parent, guardian, or person in loco parentis or by the minor if the minor is 14 years of age or older and was admitted to the hospital upon his or her own request.

(2) Upon receipt of an oral request to terminate hospitalization of a minor pursuant to subsection (1), the hospital promptly shall supply the necessary form for termination of hospitalization to the person giving notice.

(3) Upon receipt of notice or an oral request under subsection (1) or (2) by a hospital under contract with the community mental health services program, the hospital director immediately shall notify the executive director.

(4) If notice of intent to terminate hospitalization is received by a hospital under subsection (1) or (2), and the director of the hospital determines that the minor to whom the notice applies should remain in the hospital, the director of the hospital or a person designated by the director of the hospital shall file, within 3 days, excluding Sundays and holidays, after receipt of the notice, a petition with the court requesting an order to continue hospitalization of the minor. The petition shall be accompanied by 1 certificate executed by a child and adolescent psychiatrist and 1 certificate executed by either a physician or a licensed psychologist. If a petition is filed with the court under this subsection, the hospital shall continue to hospitalize the minor pending a court hearing on the petition.

(5) Upon receipt of a petition to continue hospitalization of a minor under subsection (4), the court shall schedule a hearing to be held within 7 days, excluding Sundays and holidays, after receipt of the petition. The hearing shall be convened in accordance with sections 451 to 465.

(6) If the court finds the minor to be suitable for hospitalization by clear and convincing evidence, the court shall order the minor to continue hospitalization for not more than 60 days. If the court does not find by clear and convincing evidence that the minor is suitable for hospitalization, the court shall order the minor discharged from the hospital.

History: Add. 1984, Act 186, Imd. Eff. July 3, 1984;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1498p Discharge; notice; prerelease plan; refusal of parent or guardian to assume custody; petition.

Sec. 498p. (1) Upon periodic review of a hospitalized minor under section 498 *l*, or at any other time, if it is determined that the minor is no longer suitable for hospitalization, the director of the hospital shall discharge the minor from the hospital.

(2) If a minor discharged under subsection (1) has been hospitalized under a court order, or if court proceedings are pending, the court shall be notified of the minor's discharge from the hospital.

(3) The director of a hospital shall notify the appropriate executive director of the pending discharge of a minor not less than 7 days before the minor is discharged from the hospital.

(4) Before a minor is discharged from a hospital under subsection (1), the executive director, with the assistance of the hospital, shall develop an individualized prerelease plan for the minor in accordance with section 209a.

(5) If the parent or guardian of a minor admitted to a hospital under this chapter refuses to assume custody of the minor upon discharge of the minor from the hospital, the hospital director shall file or cause to be filed a petition in the juvenile division of the probate court alleging that the minor is within the provisions of section 2(b) of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.2 of the Michigan Compiled Laws, to ensure that the minor is provided with appropriate management, care, and residence. Arrangements considered suitable by the hospital director and agreed to by the parent or guardian for care of the minor outside the home of the parent or guardian do not constitute refusal to assume custody of the minor.

History: Add. 1984, Act 186, Imd. Eff. July 3, 1984;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1498q Governing provisions.

Sec. 498q. Notwithstanding the provisions of chapter 4, the civil admission and discharge procedures for emotionally disturbed minors shall be governed by this chapter.

History: Add. 1984, Act 186, Imd. Eff. July 3, 1984.

330.1498r, 330.1498s Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed sections pertained to specialized units.

330.1498t Transporting minor for evaluation.

Sec. 498t. If a person who requests hospitalization of a minor under section 498d or 498h is unable, after reasonable efforts, to transport the minor for the evaluation required by section 498e, a request may be submitted to the court for an order to transport the minor. If the court is satisfied that a reasonable effort was made by the person requesting hospitalization to transport the minor for evaluation, the court must order a peace officer to take the minor into protective custody. After the minor is taken into protective custody, a peace officer or a security transport officer must transport the minor immediately to the evaluation site, and if necessary, from the evaluation site to the hospital for admission. The person requesting the transport order must meet the minor at the evaluation site and remain with the minor for the duration of the evaluation.

History: Add. 1988, Act 155, Imd. Eff. June 14, 1988;—Am. 2022, Act 146, Eff. (sine die);—Am. 2022, Act 214, Imd. Eff. Oct. 14, 2022.

CHAPTER 5

CIVIL ADMISSION AND DISCHARGE PROCEDURES: DEVELOPMENTAL DISABILITIES

GENERAL PROVISIONS

330.1500 Definitions.

Sec. 500. As used in this chapter, unless the context requires otherwise:

(a) "Administrative admission" means the admission of an individual with a developmental disability to a facility under section 509.

(b) "Alternative program of care and treatment" means an outpatient program of care and treatment suitable to the individual's needs under the supervision of a psychiatrist that is developed in accordance with person-centered planning under section 712.

(c) "Court" means the probate court or the court with responsibility with regard to mental health matters for the county in which an individual with a developmental disability resides or was found.

(d) "Criteria for treatment" means the criteria specified in section 515 for admission of an adult with an intellectual disability to a facility, private facility, or alternative program of care and treatment under section 518.

(e) "Private facility" means an adult foster care facility operated under contract with a community mental health services program or on a private pay basis that agrees to do both of the following:

(*i*) Accept the admission of an individual with developmental disability.

(*ii*) Fulfill the duties of a facility as described in this chapter.

(f) "Treatment" means admission into an appropriate treatment facility or an outpatient program of care and treatment suitable to the individual's needs under the supervision of a psychiatrist that is developed in accordance with person-centered planning under section 712.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1978, Act 166, Imd. Eff. May 26, 1978;—Am. 1986, Act 264, Imd. Eff. Dec. 9, 1986;—Am. 1987, Act 76, Imd. Eff. June 29, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

330.1501 Forms.

Sec. 501. The department shall prescribe the forms to be used under this chapter, and all facilities shall use department forms. At the direction of the supreme court, the state court administrative office shall prescribe the forms used for court proceedings under this chapter.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

330.1502 Admission to facility; applicable law.

Sec. 502. An individual shall be admitted to a facility only according to the provisions of this act.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

330.1503 Judicial admission of minors prohibited; preferred form of admission for adults.

Sec. 503. (1) An individual under 18 years of age shall not be judicially admitted to a facility, private facility, or other residential program.

(2) Administrative admission under section 509 is the preferred form of admission for individuals 18 years of age or older.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

330.1504 Developmentally disabled persons; admission.

Sec. 504. An individual with a developmental disability other than an intellectual disability is eligible for temporary and administrative admission under sections 508 and 509.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 2014, Act 72, Imd. Eff. Mar. 28, 2014;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

330.1505 Evaluation of competency to execute application for administrative admission; notice; petition for appointment of plenary or partial guardian.

Sec. 505. (1) Six months before the eighteenth birthday of each resident in a facility, the resident shall be evaluated by the center for the purpose of determining whether he or she is competent to execute an application for administrative admission.

(2) If it is determined by the facility that the resident is not competent to execute an application for administrative admission, or otherwise requires the protective services of a guardian, a parent, or if none, another interested person or entity, the parent, guardian, or interested party shall be notified and requested to file a petition for the appointment of a plenary or partial guardian. If a petition is not filed, the facility may, but need not, file a petition.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

TEMPORARY AND ADMINISTRATIVE ADMISSION

330.1508 Individual with developmental disability; temporary admission; execution and contents of application; services; time limitation.

Sec. 508. (1) An individual with a developmental disability referred by a community mental health services program may be temporarily admitted to a facility for appropriate clinical services if an application for temporary admission is executed by a person legally empowered to make the application and if it is determined that the individual is suitable for admission. The services to be provided to the individual shall be determined by mutual agreement between the community mental health services program, the facility, and the person making the application, except that no individual may be temporarily admitted for more than 30 days.

(2) An application for temporary admission shall contain the substance of subsection (1).

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

330.1509 Administrative admission; execution and contents of application; explanation of rights; persons entitled to copy of application.

Sec. 509. (1) An individual with a developmental disability under 18 years of age shall be referred by a community mental health services program before being considered for administrative admission to a facility. An application for the individual's admission shall be executed by a parent, guardian, or, in the absence of a parent or guardian, a person in loco parentis if it is determined that the minor is suitable for admission.

(2) An individual with a developmental disability who is 18 years of age or older and is referred by a community mental health services program may be admitted to a facility on an administrative admission basis if an application for the individual's admission is executed by the individual if competent to do so, or by a guardian if the individual is not competent to do so, and if it is determined that the individual is suitable for admission.

(3) An application for administrative admission shall contain in large type and simple language the substance of sections 510, 511, and 512. At the time of admission, the rights set forth in the application shall be explained to the resident and to the person who executed the application for admission. In addition, a copy of the application shall be given to the resident, the person who executed the application, and to 1 other person designated by the resident.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

330.1510 Administrative admission; preadmission examination; report; reexamination.

Sec. 510. (1) Before the administrative admission of any individual, the individual may be received by the facility designated and approved by the community mental health services program for up to 10 days in order for a preadmission examination to be conducted. No individual may be administratively admitted unless the individual was referred by the community mental health services program and was given a preadmission examination by the facility for the purpose of determining the individual's suitability for admission.

(2) The preadmission examination shall include mental, physical, social, and educational evaluations, and shall be conducted under the supervision of a registered nurse or other mental health professional possessing at least a master's degree. The results of the examination shall be contained in a report to be made part of the individual's record, and the report shall also contain a statement indicating the most appropriate living

arrangement that is necessary to meet the individual's treatment needs.

(3) At least once annually each administratively admitted resident shall be reexamined for the purpose of determining whether he or she continues to be suitable for admission.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

330.1511 Administrative admission; objection.

Sec. 511. (1) Objection may be made to the admission of any administratively admitted resident. An objection may be filed with the court by a person found suitable by the court or by the resident himself or herself if he or she is at least 13 years of age. An objection may be made not more than 30 days after admission of the resident, and may be made subsequently at any 6-month interval following the date of the original objection or, if an original objection was not made, at any 6-month interval following the date of admission.

(2) An objection shall be made in writing, except that if made by the resident, an objection to admission may be communicated to the court or judge of probate and the executive director of the community mental health services program by any means, including but not limited to oral communication or informal letter. If the resident informs the facility that he or she desires to object to the admission, the facility shall assist the resident in submitting his or her objection to the court.

(3) Upon receiving notice of an objection, the court shall schedule a hearing to be held within 7 days, excluding Sundays and holidays. The court shall notify the person who objected, the resident, the person who executed the application, the executive director, and the director of the facility of the time and place of the hearing.

(4) The hearing is governed by sections 517 to 522, including the appointment of counsel and an independent medical or psychological evaluation, that the court considers necessary to ensure that all relevant information is brought to the court's attention, and by this section.

(5) The court shall sustain the objection and order the discharge of the resident if the resident is not in need of the care and treatment that is available at the facility or if an alternative to the care and treatment provided in a facility is available and adequate to meet the resident's needs.

(6) Unless the court sustains the objection and orders the discharge of the resident, the facility may continue to provide residential and other services to the resident.

(7) Unwillingness or inability of the parent, guardian, or person in loco parentis to provide for the resident's management, care, or residence is not grounds for refusing to sustain the objection and order discharge, but in that event the objecting person may, or a person authorized by the court shall, promptly file a petition under section 637 or, if the resident is a juvenile, under section 2 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, to ensure that suitable management, care, or residence is provided.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

330.1512 Administrative admission; detention period; notice of intention to leave facility; form.

Sec. 512. (1) A facility may detain an administratively admitted resident for a period not exceeding 3 days from the time that the person who executed the application for the resident's admission gives written notice to the facility of his or her intention that the resident leave the facility.

(2) When a facility is notified of a resident's intention to leave the facility, it shall promptly supply an appropriate form to the person who made the notification and notify the appropriate community mental health services program.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

INTELLECTUAL DISABILITY TREATMENT

330.1515 Individual with intellectual disability; court order; criteria for admission.

Sec. 515. A court may order appropriate outpatient treatment or admission into an appropriate treatment facility of an individual 18 years of age or older if the individual has been diagnosed as an individual with an intellectual disability and either of the following applies:

(a) The individual can be reasonably expected within the near future to intentionally or unintentionally seriously physically injure himself, herself, or another person, and has overtly acted in a manner substantially supportive of that expectation.

(b) The individual has been arrested and charged with an offense that was a result of the intellectual disability.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2014, Act 72, Imd. Eff. Mar. 28, 2014;—

Am. 2018, Act 596, Eff. Mar. 28, 2019.

330.1516 Petition for treatment; contents; examination; report; noncompliance; protective custody; right to return home; order of admission; rights of individual; copy of report sent to court; dismissal of petition; hearing.

Sec. 516. (1) Any person found suitable by the court may file with the court a petition that asserts that an individual meets the criteria for treatment specified in section 515.

(2) The petition must contain the alleged facts that are the basis for the assertion, the names and addresses, if known, of any witnesses to alleged and relevant facts, and if known the name and address of the nearest relative or guardian of the individual.

(3) If the petition appears on its face to be sufficient, the court shall order that the individual be examined and a report be prepared. To this end, the court shall appoint a qualified person who may but need not be an employee of the community mental health services program or the court to arrange for the examination, to prepare the report, and to file it with the court.

(4) If it appears to the court that the individual will not comply with an order of examination under subsection (3), the court may order a peace officer to take the individual into protective custody. After the individual is taken into protective custody, a peace officer or a security transport officer shall transport him or her immediately to a facility recommended by the community mental health services program or other suitable place designated by the community mental health services program for up to 48 hours for the ordered examination.

(5) After examination, the individual shall be allowed to return home unless it appears to the court that he or she requires immediate admission to the community mental health services program's recommended facility in order to prevent physical harm to himself, herself, or others pending a hearing, in which case the court shall enter an order to that effect. If an individual is ordered admitted under this subsection, not later than 12 hours after he or she is admitted the facility shall provide him or her with a copy of the petition, a copy of the report, and a written statement in simple terms explaining the individual's rights to a hearing under section 517, to be present at the hearing and to be represented by legal counsel, if 1 physician and 1 licensed psychologist or 2 physicians conclude that the individual meets the criteria for treatment.

(6) The report required by subsection (3) shall contain all of the following:

(a) Evaluations of the individual's mental, physical, social, and educational condition.

(b) A conclusion as to whether the individual meets the criteria for treatment specified in section 515.

(c) A list of available forms of care and treatment that may serve as an alternative to admission to a facility.

(d) A recommendation as to the most appropriate living arrangement for the individual in terms of type and location of living arrangement and the availability of requisite support services.

(e) The signatures of 1 physician and 1 licensed psychologist or 2 physicians who performed examinations serving in part as the basis of the report.

(7) A copy of the report required under subsection (3) shall be sent to the court immediately upon completion.

(8) The petition shall be dismissed by the court unless 1 physician and 1 licensed psychologist or 2 physicians conclude, and that conclusion is stated in the report, that the individual meets the criteria for treatment.

(9) An individual whose admission was ordered under subsection (5) is entitled to a hearing in accordance with section 517.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019;—Am. 2022, Act 146, Eff. (sine die);—Am. 2022, Act 214, Imd. Eff. Oct. 14, 2022.

330.1517 Hearings; applicable law; duties of court; rights of individual; participation of prosecuting attorney; failure to give notice as ground for adjournment or continuance; change of venue.

Sec. 517. (1) A hearing convened to determine whether an individual meets the criteria for treatment is governed by sections 517 to 522. Sections 517 to 522 do not apply to a hearing provided for in section 511 concerning an objection to an administrative admission.

(2) Upon receipt of a petition and a report as provided for in section 516 or 532, or receipt of a petition as provided for in section 531, the court shall do all of the following:

(a) Fix a date for a hearing to be held within 7 days, excluding Sundays or holidays, after the court's receipt of the documents or document.

(b) Fix a place for a hearing, either at a facility or other convenient place, within or outside of the county.

(c) Cause notice of a petition and of the time and place of any hearing to be given to the individual asserted to meet the criteria for treatment, his or her attorney, the petitioner, the prosecuting or other attorney specified in subsection (4), the community mental health services program, the director of a facility to which the individual is admitted, the individual's spouse if his or her whereabouts are known, the guardian, if any, of the individual, and other relatives or persons as the court may determine. The notice shall be given at the earliest practicable time and sufficiently in advance of the hearing date to permit preparation for the hearing.

(d) Cause the individual to be given within 4 days of the court's receipt of the documents described in section 516 a copy of the petition, a copy of the report, unless the individual has previously been given a copy of the petition and the report, notice of the right to a full court hearing, notice of the right to be present at the hearing, notice of the right to be represented by legal counsel, notice of the right to demand a jury trial, and notice of the right to an independent clinical or psychological evaluation.

(e) Subsequently give copies of all orders to the persons identified in subdivision (c).

(3) The individual asserted to meet the criteria for treatment is entitled to be represented by legal counsel in the same manner as counsel is provided under section 454, and is entitled to all of the following:

(a) To be present at the hearing.

(b) To have upon demand a trial by jury of 6.

(c) To obtain a continuance for any reasonable time for good cause.

(d) To present documents and witnesses.

(e) To cross-examine witnesses.

(f) To require testimony in court in person from 1 physician or 1 licensed psychologist who has personally examined the individual.

(g) To receive an independent examination by a physician or licensed psychologist of his or her choice on the issue of whether he or she meets the criteria for treatment.

(4) The prosecuting attorney of the county in which a court has its principal office shall participate, either in person or by assistant, in hearings convened by the court of his or her county under this chapter, except that a prosecutor need not participate in or be present at a hearing whenever a petitioner or some other appropriate person has retained private counsel who will be present in court and will present to the court the case for a finding that the individual meets the criteria for treatment.

(5) Unless the individual or his or her attorney objects, the failure to timely notify a spouse, guardian, or other person determined by the court to be entitled to notice is not cause to adjourn or continue any hearing.

(6) The individual, any interested person, or the court on its own motion may request a change of venue because of residence; convenience to parties, witnesses, or the court; or the individual's mental or physical condition.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

330.1518 Findings; disposition.

Sec. 518. (1) If the court finds that an individual does not meet the criteria for treatment, the court shall enter a finding to that effect, shall dismiss the petition, and shall direct that the individual be discharged if he or she has been admitted to a facility prior to the hearing.

(2) If the individual is found to meet the criteria for treatment, the court shall do 1 or a combination of the following:

(a) Order the individual to be admitted to a facility designated by the department and recommended by the community mental health services program.

(b) Order the individual to be admitted to a licensed hospital at the request of the individual or his or her family member, if private funds are to be utilized and the private facility complies with all of the admission, continuing care, and discharge duties and requirements described in this chapter for facilities.

(c) Order the individual to undergo an outpatient program for 1 year of care and treatment recommended by the community mental health services program as an alternative to being admitted to a facility.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

330.1519 Alternative care and treatment.

Sec. 519. (1) Before making an order of disposition under section 518(2), the court must consider ordering a course of care and treatment that is an alternative to admission to a facility. To that end, the court shall review the report submitted to the court under section 516(3), specifically reviewing alternatives and recommendations as provided under section 516(6)(c) and (d).

(2) If the court finds that a program of care and treatment other than admission to a facility is adequate to meet the individual's care and treatment needs and is sufficient to prevent harm or injury that the individual may inflict upon himself, herself, or others, the court shall order the individual to receive whatever care and

treatment is appropriate under section 518(2)(c).

(3) If at the end of 1 year it is believed that the individual continues to meet the criteria for treatment, a new petition may be filed under section 516.

(4) If at any time during the 1-year period it comes to the attention of the court either that an individual ordered to undergo a program of alternative care and treatment is not complying with the order or that the alternative care and treatment has not been sufficient to prevent harm or injuries that the individual may be inflicting upon himself, herself, or others, the court may without a hearing and based upon the record and other available information do either of the following:

(a) Consider other alternatives to admission to a facility, modify its original order, and direct the individual to undergo another outpatient program of alternative care and treatment for the remainder of the 1-year period.

(b) Enter a new order under section 518(2)(a) or (b) directing that the individual be admitted to a facility recommended by the community mental health services program. If the individual refuses to comply with this order, the court may direct a peace officer to take the individual into protective custody. After the individual is taken into protective custody, a peace officer or a security transport officer shall transport him or her to the facility recommended by the community mental health services program.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019;—Am. 2022, Act 146, Eff. (sine die);—Am. 2022, Act 214, Imd. Eff. Oct. 14, 2022.

330.1520 Adequate and appropriate treatment required; inquiry.

Sec. 520. Before ordering the admission of an individual, the court shall inquire into the adequacy of care and treatment to be provided to the individual by the designated facility. Admission shall not be ordered unless the recommended facility to which the individual is to be admitted can provide the individual with care and treatment that is adequate and appropriate to his or her condition.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

330.1521 Preference as to facilities.

Sec. 521. Preference between the facility recommended by the community mental health services program and other available facilities under contract with the community mental health services program shall be given to the facility that can appropriately meet the individual's needs in the least restrictive environment and that is located nearest to the individual's residence. If the individual requests it or there are other compelling reasons for an order reversing the preference, the community mental health services program may place the individual in a facility that is not the nearest to the individual's residence.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

330.1522 Compensation for independent medical or psychological examiner.

Sec. 522. An independent medical or licensed psychological examiner appointed for an individual under this chapter shall, if the individual is indigent, be compensated by the county's community mental health services program in an amount that is reasonable and based upon time and expenses.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

DISCHARGES AND LEAVES

330.1525 Discretionary discharge; mandatory discharge; notice; statements.

Sec. 525. (1) The director of a facility may at any time discharge an administratively admitted resident or a resident admitted by court order whom the director considers suitable for discharge.

(2) The director of a facility shall discharge a resident admitted by court order when the resident no longer meets the criteria for treatment.

(3) If a resident discharged under subsection (1) or (2) has been admitted to a facility by court order, or if court proceedings are pending, both the court and the community mental health services program shall be notified of the discharge by the facility. If a resident met the criteria for treatment under section 515(b), the prosecuting attorney must also be notified of the discharge by a facility.

(4) If the court orders a person to be admitted under section 515 subsequent to dismissal of felony charges under section 1044(1)(b), the court shall include both of the following statements in the order unless the time for petitioning to refile charges under section 1044 has elapsed:

(a) A requirement that not less than 30 days before the resident's scheduled release or discharge, the director of the treating facility shall notify the prosecutor's office in the county in which charges against the resident were originally brought that the resident's release or discharge is pending.

(b) A requirement that not less than 30 days before the resident's scheduled release or discharge, the resident undergo a competency examination as described in section 1026. A copy of the written report of the examination along with the notice required in subdivision (a) shall be submitted to the prosecutor's office in the county in which the charges against the resident were originally brought. The written report is admissible as provided in section 1030(3).

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1998, Act 382, Imd. Eff. Oct. 23, 1998;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

330.1526 Termination of alternative care and treatment; notice.

Sec. 526. (1) A person providing alternative care and treatment to an individual under section 518(2)(c) may terminate the alternative care and treatment to an individual whom the provider of alternative care and treatment considers suitable for termination of care and treatment and shall terminate the alternative care and treatment when the individual no longer meets the criteria for admission.

(2) Upon termination of alternative care and treatment, the provider of the alternative care and treatment shall notify the court.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

330.1527 Care and treatment on administrative basis; aid in obtaining other care and treatment.

Sec. 527. If, upon the discharge of an individual admitted by court order or upon termination of alternative care and treatment to an individual receiving care and treatment under section 518(2), the community mental health services program determines that the individual would benefit from the receipt of further care and treatment, the community mental health services program shall make arrangements with the facility or provider of alternative care and treatment to continue to provide appropriate care and treatment to the individual on an administrative basis, or the community mental health services program shall assist the individual to obtain appropriate care and treatment from another source.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

330.1528 Leaves or absences from center; rules; procedures; mandatory discharge; notice.

Sec. 528. (1) Except as provided in subsection (2), all leaves or absences from a facility other than release or discharge and all revocations of leaves and absences under section 537 are governed in accordance with rules or procedures established by the department or, in the case of a private facility, in accordance with procedures of its governing board.

(2) A resident who has been admitted subject to a court order and who has been on an authorized leave or absence from the facility for a continuous period of 1 year shall be discharged. Upon the discharge, the court shall be notified by the facility.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

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

PERIODIC REVIEW

330.1531 Review of status; frequency; disposition and notice of results; objection; hearing; petition for discharge.

Sec. 531. (1) Every resident admitted by court order has the right to regular, adequate, and prompt review of his or her current status as an individual meeting the criteria for treatment. Six months after the date of an order of treatment, and every 6 months after that, the director of a facility to which a resident was admitted shall review the resident's status as an individual meeting the criteria for treatment.

(2) The results of each periodic review shall be made part of the resident's record, and shall be filed within 5 days of the review in the form of a written report with the court that ordered the resident's admission, and within the 5 days, notice of the results of the review shall be given by the facility to the resident, his or her attorney, and his or her nearest relative or guardian.

(3) If the report concludes that the resident continues to meet the criteria for treatment, and the resident or someone on his or her behalf objects to that conclusion, the resident has the right to a hearing and all other rights expressed or implied in sections 517 to 522 and may petition the court for discharge. The petition shall be presented to the court or a representative of the facility within 7 days, excluding Sundays and holidays, after the report is received. If the petition is presented to a representative of the facility, the representative shall transmit it to the court immediately.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

330.1532 Annual hearing; petition for discharge; physician's or psychologist's report; dismissal of petition.

Sec. 532. In addition to the right to a hearing under section 531, a resident admitted by court order has the right to a hearing and may petition the court for discharge without leave of court once within each 12-month period from the date of the original order of admission. The petition shall be accompanied by a physician's or a licensed psychologist's report setting forth the reasons for the physician's or licensed psychologist's conclusion that the resident no longer meets the criteria for judicial treatment. If no report accompanies the petition because the resident is indigent or is unable for reasons satisfactory to the court to procure a report, the court shall appoint a physician or a licensed psychologist to examine the resident, and the physician or licensed psychologist shall furnish a report to the court. If the report concludes that the resident continues to meet the criteria for treatment, the court shall so notify the resident and shall dismiss the petition for discharge. If the report concludes otherwise, a hearing shall be held according to sections 517 to 522.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

330.1533 Writ of habeas corpus.

Sec. 533. Nothing in this chapter shall prevent the filing of or deprive any individual of the benefits of a writ of habeas corpus.

History: 1974, Act 258, Eff. Nov. 6, 1974.

TRANSFER AND RETURN

330.1536 Transfer of resident; notice; appeal.

Sec. 536. (1) A resident in a facility may be transferred to any other facility, or to a hospital operated by the department, if the transfer would not be detrimental to the resident and the responsible community mental health services program approves the transfer.

(2) The resident and his or her nearest relative or guardian shall be notified at least 7 days before any transfer, except that a transfer may be effected earlier if necessitated by an emergency. In addition, the resident may designate 2 other persons to receive the notice. If the resident, his or her nearest relative, or guardian objects to the transfer, the department shall provide an opportunity to appeal the transfer.

(3) If a transfer is effected due to an emergency, the required notices shall be given as soon as possible, but not later than 24 hours after the transfer.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

330.1537 Return of individual to facility; conditions; protective custody; notice; appeal.

Sec. 537. (1) An individual is subject to being returned to a facility if both of the following are true:

(a) The individual was admitted to a facility on an application executed by someone other than themself or by judicial order.

(b) The individual has left the facility without authorization, or has refused a lawful request to return to the facility while on an authorized leave or other authorized absence from the facility.

(2) The facility may notify a peace officer that an individual is subject to being returned to the facility. Upon notification, a peace officer must take the individual into protective custody. After the individual is taken into protective custody, a peace officer or a security transport officer must return him or her to the facility unless contrary directions have been given by the facility or the responsible community mental health services program.

(3) An opportunity for appeal must be provided to any individual returned over their objection from any authorized leave in excess of 10 days, and the individual must be notified of the right to appeal. In the case of a child less than 13 years of age, the appeal must be made by the child's parent or guardian.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019;—Am. 2022, Act 146, Eff. (sine die);—Am. 2022, Act 214, Imd. Eff. Oct. 14, 2022.

LEGAL COMPETENCE

330.1540 Legal competence; presumption; effect of prior commitment.

Sec. 540. (1) A determination that an individual meets the criteria for treatment, a court order directing that an individual be admitted to a facility or receive alternative care and treatment, or any form of admission to a private facility does not give rise to a presumption of, constitute a finding of, or operate as an adjudication of legal incompetence.

(2) An order of commitment under any previous statute of this state does not, in the absence of a

concomitant appointment of a guardian, constitute a finding of or operate as an adjudication of legal incompetence.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

330.1541 Individuals entitled to copies of MCL 330.1540.

Sec. 541. An individual admitted to a facility shall at the time of admission receive a copy of section 540. An individual discharged from a facility shall receive a copy of section 540 upon request.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2018, Act 596, Eff. Mar. 28, 2019.

CHAPTER 6
GUARDIANSHIP FOR THE DEVELOPMENTALLY DISABLED

330.1600 Definitions.

Sec. 600. As used in this chapter, unless the context requires otherwise:

(a) "Facility" means all of the following that regularly admit individuals with developmental disability and provide residential and other services:

(*i*) A facility as defined in section 100b.

(*ii*) A child caring institution, a boarding school, a convalescent home, a nursing home or home for the aged, or a community residential program.

(b) "Court" means the probate court or the court with responsibility with regard to mental health services for the county of residence of an individual with developmental disability, or for the county in which the individual was found if a county of residence cannot be determined.

(c) "Interested person or entity" means an adult relative or friend of the respondent, an official or representative of a public or private agency, corporation, or association concerned with the individual's welfare, or any other person found suitable by the court.

(d) "Plenary guardian" means a guardian who possesses the legal rights and powers of a full guardian of the person, or of the estate, or both.

(e) "Partial guardian" means a guardian who possesses fewer than all of the legal rights and powers of a plenary guardian, and whose rights, powers, and duties have been specifically enumerated by court order.

(f) "Respondent" means the individual who is the subject of a petition for guardianship filed under this chapter.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1978, Act 527, Imd. Eff. Dec. 21, 1978;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1602 Guardianship; use; design; limitation; partial guardianship.

Sec. 602. (1) Guardianship for individuals with developmental disability shall be utilized only as is necessary to promote and protect the well-being of the individual, including protection from neglect, exploitation, and abuse; shall take into account the individual's abilities; shall be designed to encourage the development of maximum self-reliance and independence in the individual; and shall be ordered only to the extent necessitated by the individual's actual mental and adaptive limitations.

(2) If the court determines that some form of guardianship is necessary, partial guardianship is the preferred form of guardianship for an individual with a developmental disability.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1978, Act 527, Imd. Eff. Dec. 21, 1978;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1604 Jurisdiction; provisions applicable to appointment of guardian.

Sec. 604. (1) The court has jurisdiction over guardianship proceedings for developmentally disabled persons.

(2) An appointment of a guardian for a developmentally disabled person shall be made only under this chapter, except that a guardian may be appointed for a minor where appropriate under sections 5201 to 5219 of the estates and protected individuals code, 1998 PA 386, MCL 700.5201 to 700.5219.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1978, Act 527, Imd. Eff. Dec. 21, 1978;—Am. 2000, Act 57, Eff. Apr. 1, 2000.

330.1606 Repealed. 1978, Act 527, Imd. Eff. Dec. 21, 1978.

Compiler's note: The repealed section pertained to court as guardian.

330.1607 Court as guardian; appointment of temporary guardian; hearing; rights and privileges of respondent.

Sec. 607. (1) A court, upon filing of a petition for guardianship under this chapter and before the appointment of a plenary or partial guardian, or pending an appeal or action in relation to the appointment,

under emergency circumstances and if necessary for the welfare or protection of an individual with a developmental disability, may temporarily exercise the powers of a guardian over an individual with a developmental disability, or may appoint a temporary guardian whose powers and duties shall be specifically enumerated by court order.

(2) If the court, under subsection (1), exercises the powers of a guardian or appoints a temporary guardian before the appointment of a plenary or partial guardian, a hearing on the petition for guardianship shall be held within 14 days, or at a time fixed under section 614, whichever is earlier.

(3) If the court, under subsection (1), exercises the powers of a guardian or appoints a temporary guardian pending an appeal or action in relation to the appointment of a guardian under this chapter, a hearing shall be held within 14 days to determine whether the individual is in need of the services of a guardian for the individual's welfare or protection during the pendency of the appeal or action. If the court determines by clear and convincing evidence that a need exists, the court may appoint a temporary guardian whose powers and duties shall be specifically enumerated by court order and whose authority shall expire upon resolution of the appeal or action.

(4) At a hearing held under either subsection (2) or (3), a respondent shall have all the rights and privileges otherwise available to an individual subject to proceedings under this chapter.

History: Add. 1978, Act 527, Imd. Eff. Dec. 21, 1978;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1608 Repealed. 1978, Act 527, Imd. Eff. Dec. 21, 1978.

Compiler's note: The repealed section pertained to temporary guardians.

330.1609 Petition for appointment of guardian; filing; contents.

Sec. 609. (1) A petition for the appointment of a guardian for an individual who is developmentally disabled may be filed by an interested person or entity or by the individual. The petition shall set forth the following:

(a) The relationship and interest of the petitioner.

(b) The name, date of birth, and place of residence of the respondent.

(c) The facts and reasons for the need for guardianship.

(d) The names and addresses of the individual's current guardian, and the respondent's presumptive heirs.

(e) The name and address of the person with whom, or the facility in which, the respondent is residing.

(f) A description and approximation of the value of the respondent's estate including an estimate of the individual's anticipated yearly income and the source of the income.

(g) The name, address, and age of the proposed guardian and if the proposed guardian is a current provider of services to the developmentally disabled.

(h) A factual description of the nature and extent of the respondent's developmental disability.

History: Add. 1978, Act 527, Imd. Eff. Dec. 21, 1978.

330.1610 Repealed. 1978, Act 527, Imd. Eff. Dec. 21, 1978.

Compiler's note: The repealed section pertained to filing petition for appointment of guardian.

330.1612 Petition for appointment of guardian; accompanying report; psychological tests; evaluations; availability of report.

Sec. 612. (1) The petition for the appointment of a guardian for an individual who has a developmental disability shall be accompanied by a report that contains all of the following:

(a) A description of the nature and type of the respondent's developmental disability.

(b) Current evaluations of the respondent's mental, physical, social, and educational condition, adaptive behavior, and social skills. These evaluations shall take into account the individual's abilities.

(c) An opinion as to whether guardianship is needed, the type and scope of the guardianship needed, and a specific statement of the reasons for the guardianship.

(d) A recommendation as to the most appropriate rehabilitation plan and living arrangement for the individual and the reasons for the recommendation.

(e) The signatures of all individuals who performed the evaluations upon which the report is based. One of the individuals shall be a physician or psychologist who, by training or experience, is competent in evaluating individuals with developmental disabilities.

(f) A listing of all psychotropic medications, plus all other medications the respondent is receiving on a continuous basis, the dosage of the medications, and a description of the impact upon the respondent's mental, physical and educational conditions, adaptive behavior, and social skills.

(2) Psychological tests upon which an evaluation of the respondent's mental condition have been based

may be performed up to 1 year before the filing of the petition.

(3) If a report does not accompany the petition, the court shall order appropriate evaluations to be performed by qualified individuals who may be employees of the state, the county, the community mental health services program, or the court. The court may order payment for evaluations of respondents by a public agency that treats or serves the developmentally disabled. State compensation for evaluations paid for by public mental health agencies shall be determined under sections 302 to 310, and sections 800 to 842. Compensation for an evaluation shall be in an amount that is reasonable and based upon time and expenses. The report shall be prepared and filed with the court not less than 10 days before the hearing.

(4) A report prepared under this section shall not be made part of the public record of the proceedings but shall be available to the court or an appellate court to which the proceedings may be appealed, to the respondent, the petitioner, their attorneys, and to other individuals the court directs.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1978, Act 527, Imd. Eff. Dec. 21, 1978;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1614 Hearings; date and place; notice.

Sec. 614. (1) Upon the filing of a petition, the court shall fix a date and a place for a hearing to be held within 30 days after the filing date of the petition.

(2) Hearings may be held either within or without the county in which the court has its principal office, and in quarters as the court directs, including a facility or other convenient place.

(3) Notice of the time and place of the hearing shall be given to the petitioner, to the respondent, to the respondent's presumptive heirs, to the preparer of the report or another appropriate person who performed an evaluation, to the director of any facility in which the respondent may be residing, to the respondent's guardian ad litem if one has been appointed, and to the respondent's legal counsel.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1978, Act 527, Imd. Eff. Dec. 21, 1978.

330.1615 Right to legal counsel; appointment of counsel; preferred counsel; compensation of appointed counsel.

Sec. 615. (1) A respondent is entitled to be represented by legal counsel.

(2) Unless an appearance has been entered on behalf of the respondent, the court, within 48 hours of its receipt of a petition together with the other documents required by section 612, shall appoint counsel to represent the respondent. Counsel may be appointed from a system or organization that provides legal counsel to indigents, or that has been established for the purpose of providing representation in the proceedings governed by this chapter.

(3) If the respondent prefers counsel other than the counsel appointed, if preferred counsel agrees to accept the appointment, and the court is notified of the preference by the respondent or preferred counsel, the court shall replace the initially appointed counsel with preferred counsel.

(4) If the respondent is indigent, the court shall compensate appointed counsel from court funds in an amount which is reasonable and based upon time and expenses.

(5) The supreme court by court rule may establish the compensation to be paid for counsel of indigents and may require that counsel be appointed from a system or organization that serves developmentally disabled or indigent people.

History: Add. 1978, Act 527, Imd. Eff. Dec. 21, 1978.

330.1616 Guardian ad litem.

Sec. 616. If, after a petition has been filed, the court determines that the respondent requires a person to represent his or her best interests and to assist legal counsel, the court shall appoint an interested person or entity to act as guardian ad litem for the respondent.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1978, Act 527, Imd. Eff. Dec. 21, 1978.

330.1617 Right to jury; evidence; witnesses; closing hearing to public; presence of respondent; testimony of person who prepared report or performed evaluation; independent evaluation.

Sec. 617. (1) A respondent in a guardianship proceeding conducted pursuant to this chapter may demand that a jury decide any issue or issues of fact. A jury shall consist of 6 persons to be chosen in the same manner as provided in the probate court rules.

(2) A respondent in a guardianship proceeding conducted pursuant to this chapter shall have the right to present evidence, and to confront and cross-examine all witnesses.

(3) The hearing may be closed to the public on the request of the respondent or the respondent's legal counsel.

(4) The respondent shall be present at all proceedings conducted pursuant to this chapter. However, the respondent's presence may be excused by the court only on a showing, supported by an affidavit signed by a physician or psychologist who has recently examined the respondent, that the respondent's attendance would subject him or her to serious risk of physical or emotional harm.

(5) A guardian shall not be appointed under this section unless the person who prepared the report or at least 1 of the persons who performed an evaluation serving in part as basis for the report testifies in person in court.

(6) The respondent has the right, at his or her own expense, or if the respondent is indigent, at the expense of the state, to secure an independent evaluation. Compensation for an independent evaluation at public expense shall be in an amount which is reasonable and based upon time and expenses and approved by the court.

History: Add. 1978, Act 527, Imd. Eff. Dec. 21, 1978.

330.1618 Hearing; powers and duties of court.

Sec. 618. (1) The court, at a hearing convened under this chapter for the appointment of a guardian, shall do all of the following:

(a) Inquire into the nature and extent of the general intellectual functioning of the respondent asserted to need a guardian.

(b) Determine the extent of the impairment in the respondent's adaptive behavior.

(c) Determine the respondent's capacity to care for himself or herself by making and communicating responsible decisions concerning his or her person.

(d) Determine the capacity of the respondent to manage his or her estate and financial affairs.

(e) Determine the appropriateness of the proposed living arrangements of the respondent and determine whether or not it is the least restrictive setting suited to the respondent's condition.

(f) If the respondent is residing in a facility, the court shall specifically determine the appropriateness of the living arrangement and determine whether or not it is the least restrictive suited to the respondent's condition.

(2) The court shall make findings of fact on the record regarding the matters specified in subsection (1).

(3) If it is determined that the respondent possesses the capacity to care for himself or herself and the respondent's estate, the court shall dismiss the petition.

(4) If it is found by clear and convincing evidence that the respondent is developmentally disabled and lacks the capacity to do some, but not all, of the tasks necessary to care for himself or herself or the respondent's estate, the court may appoint a partial guardian to provide guardianship services to the respondent, but the court shall not appoint a plenary guardian.

(5) If it is found by clear and convincing evidence that the respondent is developmentally disabled and is totally without capacity to care for himself or herself or the respondent's estate, the court shall specify that finding of fact in any order and may appoint a plenary guardian of the person or of the estate or both for the respondent.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1978, Act 527, Imd. Eff. Dec. 21, 1978.

330.1620 Contents of court order establishing partial guardianship; legal and civil rights; effect of appointment of partial guardian.

Sec. 620. (1) A court order establishing partial guardianship shall contain findings of fact, shall define the powers and duties of the partial guardian so as to permit the individual with a developmental disability to care for himself or herself and his or her property commensurate with his or her ability to do so, and shall specify all legal disabilities to which the individual is subject.

(2) An individual with a developmental disability for whom a partial guardian has been appointed retains all legal and civil rights except those that have by court order been designated as legal disabilities or that have been specifically granted to the partial guardian by the court.

(3) The appointment of a partial guardian under this chapter does not constitute a finding of legal incompetence or incapacity except in those areas specified by the court.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1978, Act 527, Imd. Eff. Dec. 21, 1978;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1622 Repealed. 1978, Act 527, Imd. Eff. Dec. 21, 1978.

Compiler's note: The repealed section pertained to examination by court of proposed and alternative living arrangements.

330.1623 Placement of individual with developmental disability in facility; appropriateness of placement; appropriate treatment and residential programs; reports from public agencies.

Sec. 623. (1) A guardian, whether plenary or partial, appointed under this chapter shall not have the power, unless specified by court order, to place an individual with a developmental disability in a facility.

(2) Before authorizing the placement of a respondent in a facility, the court shall inquire into and determine the appropriateness of the placement.

(3) Before authorizing a guardian to make application to place an individual with a developmental disability in a facility, the court shall determine, in conjunction with the appropriate community mental health services program, whether the placement offers appropriate treatment and residential programs to meet the needs of the respondent and whether there is a less restrictive treatment and residential program available. In ordering a placement, the court shall give preference to an available less restrictive treatment and residential program provided that it is adequate and appropriate to meet the respondent's needs. The court or counsel may request reports from public agencies on the suitability of a particular placement for a respondent.

History: Add. 1978, Act 527, Imd. Eff. Dec. 21, 1978;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1624 Repealed. 1978, Act 527, Imd. Eff. Dec. 21, 1978.

Compiler's note: The repealed section pertained to testimony as condition to appointment of guardian.

330.1626 Duration of term of guardianship; new petition for guardianship.

Sec. 626. (1) Before the appointment of a guardian, the court shall consider the duration of the term of guardianship. The duration of the term shall be indicated in a court order.

(2) A partial guardian shall not be appointed for a term greater than 5 years.

(3) At the expiration of the term of guardianship a new petition for guardianship may be filed pursuant to this chapter.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1978, Act 527, Imd. Eff. Dec. 21, 1978.

330.1628 Qualifications of guardian; preference.

Sec. 628. (1) The court may appoint as guardian of an individual with a developmental disability any suitable individual or agency, public or private, including a private association capable of conducting an active guardianship program for an individual with a developmental disability. The court shall not appoint the department of mental health as guardian or any other agency, public or private, that is directly providing services to the individual, unless no other suitable individual or agency can be identified. In such instances, guardianship by the provider shall only continue until such time as a more suitable individual or agency can be appointed.

(2) Before the appointment, the court shall make a reasonable effort to question the individual concerning his or her preference regarding the person to be appointed guardian, and any preference indicated shall be given due consideration.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1978, Act 527, Imd. Eff. Dec. 21, 1978;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1629 Routine or emergency medical treatment or surgery or extraordinary procedures; liability of guardian.

Sec. 629. (1) A guardian, temporary guardian, plenary, partial, or standby guardian shall not be liable for civil damages by reason of authorizing routine or emergency medical treatment or surgery or extraordinary procedures when previously ordered by the court for his or her ward if the guardian acted after medical consultation with the ward's physician, acted in good faith, was not negligent, and acted within the limits established for the guardian by the court.

(2) A guardian, temporary guardian, plenary, partial, or standby guardian who has been authorized by the court to give medical consent, shall not be liable by reason of his or her authorization for injury to the ward resulting from the negligence or other acts of a third person.

(3) Routine medical services do not include extraordinary procedures. Extraordinary procedures includes, but is not limited to, sterilization, including vasectomy, abortion, organ transplants from the ward to another person, and experimental treatment.

History: Add. 1977, Act 73, Imd. Eff. July 27, 1977;—Am. 1978, Act 527, Imd. Eff. Dec. 21, 1978.

330.1630 Repealed. 1978, Act 527, Imd. Eff. Dec. 21, 1978.

Compiler's note: The repealed section pertained to report of guardian.

330.1631 Guardian; duties; filing, contents, and review of report.

Sec. 631. (1) To the extent ordered by the court, the plenary guardian of the person shall have and a partial guardian of the person may have among others the following duties:

(a) Custody of the ward.

(b) The duty to make provision from the ward's estate or other sources, for the ward's care, comfort, and maintenance.

(c) The duty to make a reasonable effort to secure for the ward training, education, medical, and psychological services, and social and vocational opportunity as are appropriate and as will assist the ward in the development of maximum self-reliance and independence.

(2) The guardian of the person, plenary or partial, shall file with the court at intervals indicated by the court, but not less often than annually, a report which shall contain statements indicating:

(a) The individual's current mental, physical, and social condition.

(b) The individual's present living arrangement and a description and the address of every residence where the individual lived during the reporting period and the length of stay at each residence.

(c) An assessment of the adequacy and appropriateness for the ward of treatment and residential programs in the ward's current residence and a statement on whether the ward will continue to live at the current residence or whether the guardian recommends a more suitable alternative residence.

(d) A summary of the medical, educational, vocational, and other professional services given to the individual.

(e) A resume of the guardian's visits with and activities on behalf of the individual.

(f) A recommendation as to the need for continued guardianship.

(g) A statement signed by the standby guardian, if any have been appointed, that the standby guardian continues to be willing to serve in the event of the death, incapacity, or resignation of the guardian.

(h) An accounting of all financial transactions made by the guardian involving the ward's estate.

(i) Other information requested by the court or useful in the opinion of the guardian.

(3) For the purpose of filing this report pursuant to subsection (2), the guardian shall be given access to information, reports and records from facilities, a community mental health board or agency, court staff, a public or private entity or agency, or a suitable person that are necessary for the guardian to perform his or her duties.

(4) The court shall review the report required in subsection (2) and take whatever action it considers necessary.

History: Add. 1978, Act 527, Imd. Eff. Dec. 21, 1978.

330.1632 Guardian as fiduciary.

Sec. 632. Whenever the court appoints a plenary guardian of the estate or a partial guardian with powers or duties respecting real or personal property, that guardian shall be considered a fiduciary for the purposes of the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 2000, Act 57, Eff. Apr. 1, 2000.

330.1634 Notice of right to dismiss guardian or modify guardianship order; procedures.

Sec. 634. At the time of the appointment of a guardian, the court shall make a reasonable effort to verbally inform the individual of the individual's right pursuant to section 637 to request at a later date his or her guardian's dismissal or a modification of the guardianship order, and a written statement shall be served upon the ward indicating his or her rights pursuant to section 637 and specifying the procedures to be followed in petitioning the court.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1978, Act 527, Imd. Eff. Dec. 21, 1978.

330.1636 Repealed. 1978, Act 527, Imd. Eff. Dec. 21, 1978.

Compiler's note: The repealed section pertained to petition for order dismissing guardian or modifying guardianship order.

330.1637 Discharge or modification order; petition; hearing; order.

Sec. 637. (1) A guardian for an individual with a developmental disability or the individual's estate who was appointed before the effective date of this act under former chapter 3 of Act No. 288 of the Public Acts of 1939 or a guardian appointed under this chapter may be discharged, or have his or her duties modified, when the individual's capacity to perform the tasks necessary for the care of his or her person or the management of his or her estate have changed so as to warrant modification or discharge. The individual with a developmental disability, the individual's guardian, or any interested person on his or her behalf may petition the court for a discharge or modification order under this section.

(2) A request under subsection (1), if made by the individual with a developmental disability, may be communicated to the court by any means, including oral communication or informal letter. Upon receipt of the communication the court shall appoint a suitable person who may, but need not be, an employee of the

state, county, community mental health services program, or court, to prepare and file with the court a petition reflecting the communication.

(3) The court, upon receipt of a petition filed under this section, shall conduct a hearing. At the hearing, the individual shall have all of the rights indicated in sections 615 and 617.

(4) Upon conclusion of the hearing, the court shall enter a written order setting forth the factual basis for its findings and may do any of the following:

(a) Dismiss the petition.

(b) Remove the guardian and dissolve the guardianship order.

(c) Remove the guardian and appoint a successor.

(d) Modify the original guardianship order.

(e) Make any other order that the court considers appropriate and in the interests of the individual with a developmental disability.

History: Add. 1978, Act 527, Imd. Eff. Dec. 21, 1978;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: Act 288 of 1939, referred to in this section, was repealed by Act 125 of 1949 and Act 642 of 1978.

330.1638 Repealed. 1978, Act 527, Imd. Eff. Dec. 21, 1978.

Compiler's note: The repealed section pertained to proceedings by court upon receipt of petition.

330.1640 Standby guardian.

Sec. 640. (1) At a hearing convened pursuant to this chapter the court may designate 1 or more standby guardians whose appointment shall become effective without further proceedings immediately upon the death, incapacity, or resignation of the initially appointed guardian. The powers and duties of the standby guardian shall be the same as those of the initially appointed guardian.

(2) The standby guardian shall receive a copy of the court order establishing or modifying the initial guardianship, and the order designating the standby guardian. Upon assuming office, the standby guardian shall notify the court.

(3) In an emergency situation and in the absence and unavailability of the initially appointed guardian, the standby guardian may temporarily assume the powers and duties of the initially appointed guardian.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1978, Act 527, Imd. Eff. Dec. 21, 1978.

330.1642 Testamentary guardian.

Sec. 642. (1) The surviving parent of a minor with a developmental disability for whom a guardian has not been appointed may by will appoint a testamentary guardian. The testamentary appointment becomes effective without, but subject to, probate immediately upon the death of the parent. A testamentary guardian possesses the powers of a parent, and shall serve subject to the court's power to reduce the scope of guardianship authority or to dismiss a guardian. The appointment shall terminate when the minor attains 18 years of age, or the guardian is dismissed, whichever occurs first. Upon assuming office, the testamentary guardian shall notify the court in which the decedent's will is to be probated.

(2) A parent who has been appointed guardian of his or her minor or adult child with a developmental disability may by will, except in the event that a standby guardian has been designated, appoint a testamentary guardian. The testamentary appointment becomes effective without, but subject to, probate immediately upon the death of the initially appointed guardian. The testamentary guardian possesses the powers of the initially appointed guardian, shall be entitled to receive upon request a copy of a court order creating or modifying the initial guardianship, and shall serve subject to the power of the court that appointed the initial guardian to reduce the scope of guardianship authority or to dismiss a guardian. In the event that the court probating decedent's will does not have jurisdiction over the testamentary guardian except if the court finds the will to be invalid, the appointment shall be nullified. Upon assuming office, the testamentary guardian shall notify the probate court that appointed the initial guardian and the probate court in which the will is subject to probate.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1978, Act 527, Imd. Eff. Dec. 21, 1978;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1644 Termination of guardianship; legal and civil rights; applicability of section to termination by term expiration and court order.

Sec. 644. Upon termination of a guardianship, the developmentally disabled person regains all legal and civil rights that had been designated as legal disabilities or specifically granted to the guardian. This section applies to termination by expiration of the term of a guardianship and termination by court order under section 637(4)(b).

History: Add. 1994, Act 182, Imd. Eff. June 20, 1994.

CHAPTER 7
RIGHTS OF RECIPIENTS OF MENTAL HEALTH SERVICES

330.1700 Definitions.

Sec. 700. As used in this chapter, unless the context requires otherwise:

(a) "Criminal abuse" means 1 or more of the following:

(*i*) An assault that is a violation or an attempt or conspiracy to commit a violation of sections 81 to 90 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.81 to 750.90 of the Michigan Compiled Laws. Criminal abuse does not include an assault or an assault and battery that is a violation of section 81 of Act No. 328 of the Public Acts of 1939, being section 750.81 of the Michigan Compiled Laws, and that is committed by a recipient against another recipient.

(*ii*) A criminal homicide that is a violation or an attempt or conspiracy to commit a violation of section 316, 317, or 321 of Act No. 328 of the Public Acts of 1931, being sections 750.316, 750.317, and 750.321 of the Michigan Compiled Laws.

(*iii*) Criminal sexual conduct that is a violation or an attempt or conspiracy to commit a violation of sections 520b to 520e or 520g of Act No. 328 of the Public Acts of 1931, being sections 750.520b to 750.520e and 750.520g of the Michigan Compiled Laws.

(*iv*) Vulnerable adult abuse that is a violation or an attempt or conspiracy to commit a violation of section 145n of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.145n of the Michigan Compiled Laws.

(*v*) Child abuse that is a violation or an attempt or conspiracy to commit a violation of section 136b of Act No. 328 of the Public Acts of 1931, being section 750.136b of the Michigan Compiled Laws.

(b) "Health care corporation" means a nonprofit health care corporation operating under the nonprofit health care corporation reform act, Act No. 350 of the Public Acts of 1980, being sections 550.1101 to 550.1704 of the Michigan Compiled Laws.

(c) "Health care insurer" means an insurer authorized to provide health insurance in this state or a legal entity that is self-insured and provides health care benefits to its employees.

(d) "Health maintenance organization" means an organization licensed under part 210 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.21001 to 333.21098 of the Michigan Compiled Laws.

(e) "Money" means any legal tender, note, draft, certificate of deposit, stock, bond, check, or credit card.

(f) "Nonprofit dental care corporation" means a dental care corporation incorporated under Act No. 125 of the Public Acts of 1963, being sections 550.351 to 550.373 of the Michigan Compiled Laws.

(g) "Person-centered planning" means a process for planning and supporting the individual receiving services that builds upon the individual's capacity to engage in activities that promote community life and that honors the individual's preferences, choices, and abilities. The person-centered planning process involves families, friends, and professionals as the individual desires or requires.

(h) "Privileged communication" means a communication made to a psychiatrist or psychologist in connection with the examination, diagnosis, or treatment of a patient, or to another person while the other person is participating in the examination, diagnosis, or treatment or a communication made privileged under other applicable state or federal law.

(i) "Restraint" means the use of a physical device to restrict an individual's movement. Restraint does not include the use of a device primarily intended to provide anatomical support.

(j) "Seclusion" means the temporary placement of a recipient in a room, alone, where egress is prevented by any means.

(k) "Support plan" means a written plan that specifies the personal support services or any other supports that are to be developed with and provided for a recipient.

(*l*) "Treatment plan" means a written plan that specifies the goal-oriented treatment or training services, including rehabilitation or habilitation services, that are to be developed with and provided for a recipient.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1702 Receipt of mental health services; rights, benefits, privileges, and competency not affected.

Sec. 702. (1) The receipt of mental health services, a determination that an individual meets the criteria of a person requiring treatment or for judicial admission, or any form of admission to a facility including by judicial order shall not be used to deprive an individual of his or her rights, benefits, or privileges.

(2) The receipt of mental health services, a determination that an individual meets the criteria of a person

requiring treatment or for judicial admission, or any form of admission to a facility including by judicial order does not constitute a determination or adjudication that the individual is incompetent as that term is used in other statutes.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1704 Rights of recipient.

Sec. 704. (1) In addition to the rights, benefits, and privileges guaranteed by other provisions of law, the state constitution of 1963, and the constitution of the United States, a recipient of mental health services shall have the rights guaranteed by this chapter unless otherwise restricted by law.

(2) The rights enumerated in this chapter shall not be construed to replace or limit any other rights, benefits, or privileges of a recipient of services including the right to treatment by spiritual means if requested by the recipient, parent, or guardian.

(3) The provisions of this chapter shall be construed to protect and promote the dignity and respect to which a recipient of services is entitled.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1705 Second opinion.

Sec. 705. (1) If an applicant for community mental health services has been denied mental health services, the applicant, his or her guardian if one has been appointed, or the applicant's parent or parents if the applicant is a minor may request a second opinion of the executive director. The executive director shall secure the second opinion from a physician, licensed psychologist, registered professional nurse, or master's level social worker, or master's level psychologist.

(2) If the individual providing the second opinion determines that the applicant has a serious mental illness, serious emotional disturbance, or a developmental disability, or is experiencing an emergency situation or urgent situation, the community mental health services program shall direct services to the applicant.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1706 Notice of rights.

Sec. 706. Except as provided in section 707, applicants for and recipients of mental health services and in the case of minors, the applicant's or recipient's parent or guardian, shall be notified by the providers of those services of the rights guaranteed by this chapter. Notice shall be accomplished by providing an accurate summary of this chapter and chapter 7a to the applicant or recipient at the time services are first requested and by having a complete copy of this chapter and chapter 7a readily available for review by applicants and recipients.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1706a Pamphlet; preparation; distribution; contents.

Sec. 706a. (1) The department shall prepare and distribute to each community mental health services program copies of a pamphlet containing information regarding resources available to individuals with serious mental illness and their families. The information shall include a description of advocacy and support groups, and other information of interest to recipients and their families. The pamphlet shall include the name, address, and telephone number of the organization designated by the governor under section 931 to provide protection and advocacy for individuals with developmental disability or mental illness.

(2) A community mental health services program shall distribute the pamphlet described in subsection (1) to each recipient receiving services through the community mental health services program and, if applicable, to the recipient's guardian or the parent of a minor recipient.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1707 Rights of minor.

Sec. 707. (1) A minor 14 years of age or older may request and receive mental health services and a mental health professional may provide mental health services, on an outpatient basis, excluding pregnancy termination referral services and the use of psychotropic drugs, without the consent or knowledge of the minor's parent, guardian, or person in loco parentis. Except as otherwise provided in this section, the minor's parent, guardian, or person in loco parentis shall not be informed of the services without the consent of the minor unless the mental health professional treating the minor determines that there is a compelling need for disclosure based on a substantial probability of harm to the minor or to another individual, and if the minor is notified of the mental health professional's intent to inform the minor's parent, guardian, or person in loco parentis.

(2) Services provided to a minor under this section shall, to the extent possible, promote the minor's relationship to the parent, guardian, or person in loco parentis, and shall not undermine the values that the parent, guardian, or person in loco parentis has sought to instill in the minor.

(3) Services provided to a minor under this section shall be limited to not more than 12 sessions or 4 months per request for services. After the twelfth session or fourth month of services the mental health professional shall terminate the services or, with the consent of the minor, notify the parent, guardian, or person in loco parentis to obtain consent to provide further outpatient services.

(4) The minor's parent, guardian, or person in loco parentis is not liable for the costs of services that are received by a minor under subsection (1).

(5) This section does not relieve a mental health professional from his or her duty to report suspected child abuse or neglect under section 3 of the child protection law, Act No. 238 of the Public Acts of 1975, being section 722.623 of the Michigan Compiled Laws.

History: Add. 1984, Act 186, Imd. Eff. July 3, 1984;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1708 Suitable services; treatment environment; setting; rights.

Sec. 708. (1) A recipient shall receive mental health services suited to his or her condition.

(2) Mental health services shall be provided in a safe, sanitary, and humane treatment environment.

(3) Mental health services shall be offered in the least restrictive setting that is appropriate and available.

(4) A recipient has the right to be treated with dignity and respect.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1710 Physical and mental examination; reexamination.

Sec. 710. Within 24 hours after admission, each resident of a hospital or center shall receive a comprehensive physical and mental examination. Each resident shall be periodically reexamined not less often than annually.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1711 Rights of family members.

Sec. 711. Family members of recipients shall be treated with dignity and respect. They shall be given an opportunity to provide information to the treating professionals. They shall also be provided an opportunity to request and receive educational information about the nature of disorders, medications and their side effects, available support services, advocacy and support groups, financial assistance and coping strategies.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1712 Individualized written plan of services.

Sec. 712. (1) The responsible mental health agency for each recipient shall ensure that a person-centered planning process is used to develop a written individual plan of services in partnership with the recipient. A preliminary plan shall be developed within 7 days of the commencement of services or, if an individual is hospitalized for less than 7 days, before discharge or release. The individual plan of services shall consist of a treatment plan, a support plan, or both. A treatment plan shall establish meaningful and measurable goals with the recipient. The individual plan of services shall address, as either desired or required by the recipient, the recipient's need for food, shelter, clothing, health care, employment opportunities, educational opportunities, legal services, transportation, and recreation. The plan shall be kept current and shall be modified when indicated. The individual in charge of implementing the plan of services shall be designated in the plan.

(2) If a recipient is not satisfied with his or her individual plan of services, the recipient, the person authorized by the recipient to make decisions regarding the individual plan of services, the guardian of the recipient, or the parent of a minor recipient may make a request for review to the designated individual in charge of implementing the plan. The review shall be completed within 30 days and shall be carried out in a manner approved by the appropriate governing body.

(3) An individual chosen or required by the recipient may be excluded from participation in the planning process only if inclusion of that individual would constitute a substantial risk of physical or emotional harm to the recipient or substantial disruption of the planning process. Justification for an individual's exclusion shall be documented in the case record.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

330.1713 Choice of physician or mental health professional.

Sec. 713. A recipient shall be given a choice of physician or other mental health professional in accordance with the policies of the community mental health services program, licensed hospital, or service provider

under contract with the community mental health services program, or licensed hospital providing services and within the limits of available staff in the community mental health services program, licensed hospital, or service provider under contract with the community mental health services program, or licensed hospital.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1714 Informing resident of clinical status and progress.

Sec. 714. A recipient shall be informed orally and in writing of his or her clinical status and progress at reasonable intervals established in the individual plan of services in a manner appropriate to his or her clinical condition.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1715 Services of mental health professional.

Sec. 715. If a resident is able to secure the services of a mental health professional, he or she shall be allowed to see the professional at any reasonable time.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1716 Surgery; consent.

Sec. 716. (1) Except as provided in subsections (2) and (3), a recipient of mental health services shall not have surgery performed upon him or her unless consent is obtained from 1 of the following:

(a) The recipient if he or she is 18 years of age or over and does not have a guardian for medical purposes.

(b) The guardian of the recipient if the guardian is legally empowered to execute a consent to surgery.

(c) The parent of the recipient who has legal and physical custody of the recipient, if the recipient is less than 18 years of age.

(d) The representative authorized to consent under a durable power of attorney or other advance directive.

(2) If the life of a recipient is threatened and there is not time to obtain consent, surgery may be performed without consent after the medical necessity for the procedure has been documented and the documentation has been entered into the record of the recipient.

(3) If surgery is considered advisable for a recipient, and if no one eligible under subsection (1) to give consent can be found after diligent effort, a probate court may, upon petition and after hearing, consent to performance of the surgery in lieu of the individual eligible to give consent.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1717 Electroconvulsive therapy or other procedure; consent.

Sec. 717. (1) A recipient shall not be the subject of electroconvulsive therapy or a procedure intended to produce convulsions or coma unless consent is obtained from the following:

(a) The recipient, if he or she is 18 years of age or older and does not have a guardian for medical purposes.

(b) The recipient's parent who has legal and physical custody of the recipient, if the recipient is less than 18 years of age.

(c) The recipient's guardian, if the guardian has power to execute a consent to procedures described in this section.

(d) The recipient's designated representative, if a durable power of attorney or other advance directive grants the representative authority to consent to procedures described in this section.

(2) If a guardian consents to a procedure described in this section, the procedure shall not be initiated until 2 psychiatrists have examined the recipient and documented in the recipient's medical record their concurrence with the decision to administer the procedure.

(3) If a parent or guardian of a minor consents to a procedure described in this section, the procedure shall not be initiated until 2 child and adolescent psychiatrists, neither of whom may be the treating psychiatrist, have examined the minor and documented in the minor's medical record their concurrence with the decision to administer the procedure.

(4) A minor or an advocate designated by the minor may object to the administration of a procedure described in this section. The objection shall be made either orally or in writing to the probate court. The procedure shall not be initiated before a court hearing on the minor's or advocate's objection.

(5) At least 72 hours, excluding Sundays or holidays, before the initiation of a procedure described in this section, a minor shall be informed that he or she has a right to object to the procedure.

(6) If a procedure described in this section is considered advisable for a recipient and an individual eligible to give consent for the procedure is not located after diligent effort, a probate court may, upon petition and after a hearing, consent to administration of the procedure in lieu of the individual eligible to give consent.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1718 Psychotropic drugs.

Sec. 718. Psychotropic drugs shall not be administered to an individual who has been hospitalized by medical certification or by petition under chapter 4 or 5 on the day preceding and on the day of his or her court hearing unless the individual consents or unless the administration of the psychotropic drugs is necessary to prevent physical injury to the individual or others.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1719 Psychotropic drug treatment; duties of prescriber or licensed health professional.

Sec. 719. Before initiating a course of psychotropic drug treatment for a recipient, the prescriber or a licensed health professional acting under the delegated authority of the prescriber shall do both of the following:

(a) Explain the specific risks and the most common adverse effects that have been associated with that drug.

(b) Provide the individual with a written summary of the most common adverse effects associated with that drug.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

330.1720 Statistical report of deaths; investigation.

Sec. 720. (1) The department shall provide an annual statistical report to the members of the house and senate standing committees and appropriations subcommittees with legislative oversight of mental health issues summarizing all deaths and causes of deaths, if known, of mental health care recipients that have been reported to the department, including deaths that occurred within 48 hours after discharge, and all deaths that have occurred in state facilities.

(2) In the report described in subsection (1), the department must include information indicating whether or not it has initiated an investigation or is in the process of an investigation as required under section 721 regarding the recipient's death and, if known, the findings of the investigation.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2020, Act 318, Eff. Mar. 24, 2021.

Compiler's note: Former MCL 330.1720, which pertained to facility standards report, was repealed by Act 302 of 1986, Imd. Eff. Dec. 22, 1986.

330.1721 Investigation of certain deaths reported by psychiatric hospital or psychiatric unit.

Sec. 721. The department must investigate all deaths reported by a psychiatric hospital or psychiatric unit that are the result of a suicide or where the cause of death is reported as unknown.

History: Add. 2020, Act 318, Eff. Mar. 24, 2021.

330.1722 Protection of recipient from abuse or neglect.

Sec. 722. (1) A recipient of mental health services shall not be subjected to abuse or neglect.

(2) The department, each community mental health services program, each licensed hospital, and each service provider under contract with the department, community mental health services program, or licensed hospital shall ensure that appropriate disciplinary action is taken against those who have engaged in abuse or neglect.

(3) A recipient of mental health services who is abused or neglected has a right to pursue injunctive and other appropriate civil relief.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1723 Suspected abuse of recipient or resident; report to law enforcement agency.

Sec. 723. (1) A mental health professional, a person employed by or under contract to the department, a licensed facility, or a community mental health services program, or a person employed by a provider under contract to the department, a licensed facility, or a community mental health services program who has reasonable cause to suspect the criminal abuse of a recipient immediately shall make or cause to be made, by telephone or otherwise, an oral report of the suspected criminal abuse to the law enforcement agency for the county or city in which the criminal abuse is suspected to have occurred or to the state police.

(2) Within 72 hours after making the oral report, the reporting individual shall file a written report with the law enforcement agency to which the oral report was made, and with the chief administrator of the facility or agency responsible for the recipient.

(3) The written report required by subsection (2) shall contain the name of the recipient and a description of the criminal abuse and other information available to the reporting individual that might establish the cause

of the criminal abuse and the manner in which it occurred. The report shall become a part of the recipient's clinical record. Before the report becomes part of the recipient's clinical record, the names of the reporting individual and the individual accused of committing the criminal abuse, if contained in the report, shall be deleted.

(4) The identity of an individual who makes a report under this section is confidential and is not subject to disclosure without the consent of that individual or by order or subpoena of a court of record. An individual acting in good faith who makes a report of criminal abuse against a recipient is immune from civil or criminal liability that might otherwise be incurred. The immunity from civil or criminal liability granted by this subsection extends only to acts done under this section and does not extend to a negligent act that causes personal injury or death.

(5) An individual who makes a report under this section in good faith shall not be dismissed or otherwise penalized by an employer or contractor for making the report.

(6) This section does not relieve an individual from the duty to report criminal abuse under other applicable law.

(7) The department, a community mental health services program, a licensed facility, and a service provider under contract with the department, community mental health services program, or licensed facility shall cooperate in the prosecution of appropriate criminal charges against those who have engaged in criminal abuse.

(8) Except as otherwise provided in subsection (5), this section does not preclude nor hinder the department, a licensed facility, a community mental health services program, or a service provider under contract to the department, a licensed facility, or a community mental health services program from investigating reported claims of criminal abuse of a recipient by its employees, and from taking appropriate disciplinary action against its employees based upon that investigation.

(9) This section does not require a person to report suspected criminal abuse if either of the following applies:

(a) The individual has knowledge that the incident of suspected criminal abuse has been reported to the appropriate law enforcement agency as provided in this section.

(b) The suspected criminal abuse occurred more than 1 year before the date on which it first became known to an individual who would otherwise be required to make a report.

(10) This section does not require an individual required to report suspected criminal abuse under subsection (1) to disclose confidential information or a privileged communication except under 1 or both of the following circumstances:

(a) If the suspected criminal abuse is alleged to have been committed or caused by a mental health professional, an individual employed by or under contract to the department, a licensed facility, or a community mental health services program, or an individual employed by a service provider under contract to the department, a licensed facility, or a community mental health services program.

(b) If the suspected criminal abuse is alleged to have been committed in 1 of the following:

(*i*) A state facility or a licensed facility.

(*ii*) A county community mental health services program site.

(*iii*) The work site of an individual employed by or under contract to the department, a licensed facility, or a community mental health services program or a provider under contract to the department, a licensed facility, or a community mental health services program.

(*iv*) A place where a recipient is under the supervision of an individual employed by or under contract to the department, a licensed facility, a community mental health services program, or a provider under contract to the department, a licensed facility, or a community mental health services program.

History: Add. 1986, Act 224, Eff. Mar. 31, 1987;—Am. 1988, Act 32, Imd. Eff. Feb. 25, 1988;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1723a Appointment of guardian ad litem.

Sec. 723a. The court with jurisdiction in each case resulting from a report made under section 723 shall appoint a guardian ad litem for the recipient.

History: Add. 1986, Act 224, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1723b Report by person not employed by or under contract to department, facility, or community mental health services program.

Sec. 723b. Section 723 does not prohibit an individual who is not employed by or under contract to the department, a licensed facility, or a community mental health services program and who has reasonable cause to suspect the criminal abuse of a recipient from making a report to the appropriate law enforcement agency

or to the department or community mental health services program.

History: Add. 1986, Act 224, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1723c Violation of MCL 330.1723 or making of false report as misdemeanor; civil liability.

Sec. 723c. (1) An individual who intentionally violates section 723 or who knowingly makes a false report pursuant to section 723 is guilty of a misdemeanor.

(2) An individual who violates section 723 is civilly liable for the damages proximately caused by the violation.

History: Add. 1986, Act 224, Eff. Mar. 31, 1987;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1724 Fingerprints, photographs, audiorecording, or use of 1-way glass.

Sec. 724. (1) A recipient of mental health services shall not be fingerprinted, photographed, audiorecorded, or viewed through a 1-way glass except in the circumstances and under the conditions set forth in this section. As used in this section, photographs include still pictures, motion pictures, and recordings.

(2) Fingerprints, photographs, or audiorecordings may be taken and used and 1-way glass may be used in order to provide services, including research, to a recipient or in order to determine the name of the recipient only when prior written consent is obtained from 1 of the following:

(a) The recipient if 18 years of age or over and competent to consent.

(b) The guardian of the recipient if the guardian is legally empowered to execute such a consent.

(c) The parent with legal and physical custody of the recipient if the recipient is less than 18 years of age.

(3) Fingerprints, photographs, or audiorecordings taken in order to provide services to a recipient, and any copies of them, shall be kept as part of the record of the recipient.

(4) Fingerprints, photographs, or audiorecordings taken in order to determine the name of a recipient shall be kept as part of the record of the recipient, except that when necessary the fingerprints, photographs, or audiorecordings may be delivered to others for assistance in determining the name of the recipient. Fingerprints, photographs, or audiorecordings so delivered shall be returned together with copies that were made. An individual receiving fingerprints, photographs, or audiorecordings shall be informed of the requirement that return be made. Upon return, the fingerprints, photographs, or audiorecordings, together with copies, shall be kept as part of the record of the recipient.

(5) Fingerprints, photographs, or audiorecordings in the record of a recipient, and any copies of them, shall be given to the recipient or destroyed when they are no longer essential in order to achieve 1 of the objectives set forth in subsection (2), or upon discharge of the resident, whichever occurs first.

(6) Photographs of a recipient may be taken for purely personal or social purposes and shall be maintained as the recipient's personal property. A photograph of a recipient shall not be taken or used under this subsection if the recipient has indicated his or her objection.

(7) Photographs or audiorecordings may be taken and 1-way glass may be used for educational or training purposes only when express written consent is obtained from 1 of the following:

(a) The recipient if 18 years of age or over and competent to consent.

(b) The guardian of the recipient if the guardian is legally empowered to execute such a consent.

(c) The parent with legal and physical custody of the recipient if the recipient is less than 18 years of age.

(8) This section does not apply to recipients of mental health services referred under chapter 10.

(9) Video surveillance may be conducted in a psychiatric hospital for purposes of safety, security, and quality improvement. Video surveillance may only be conducted in common areas such as hallways, nursing station areas, and social activity areas within the psychiatric unit. Video surveillance recordings taken in common areas shall not be used for treatment or therapeutic purposes. Before implementation of video surveillance, the psychiatric hospital shall establish written policies and procedures that address, at a minimum, all of the following:

(a) Identification of locations where video surveillance images will be recorded and saved.

(b) Mechanisms by which recipients and visitors will be advised of the video surveillance.

(c) Security provisions that assure that only authorized staff members have access to view recorded surveillance video. The security provisions shall include all of the following:

(*i*) Who may authorize viewing of recorded surveillance video.

(*ii*) Circumstances under which recorded surveillance video may be viewed.

(*iii*) Who may view recorded surveillance video with proper authorization.

(*iv*) Safeguards to prevent and detect unauthorized viewing of recorded surveillance video.

(*v*) Circumstances under which recorded surveillance video may be duplicated and what steps will be taken to prevent unauthorized distribution of the duplicate.

(d) Documentation required to be maintained for each instance of authorized access, viewing duplication,

or distribution of any recorded surveillance videos.

(e) Process to assure retrieval of distributed recorded surveillance video when the purpose for which the video was distributed no longer exists.

(f) Archived footage of video surveillance recordings for up to 30 days unless notice is received that an incident requires investigation by the department's office of recipient rights, the licensing division of the bureau of health systems, law enforcement, licensed psychiatric hospital or unit office of recipient rights, and the United States department of health and human services centers for medicaid and medicare services. In that case, archived footage of video surveillance recordings may be retained for the duration of the investigation.

(g) Recorded video surveillance images shall not be maintained as part of a recipient's clinical record.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1975, Act 208, Imd. Eff. Aug. 21, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2012, Act 508, Eff. Mar. 28, 2013.

330.1726 Communication by mail and telephone; visits.

Sec. 726. (1) A resident is entitled to unimpeded, private, and uncensored communication with others by mail and telephone and to visit with persons of his or her choice, except in the circumstances and under the conditions set forth in this section.

(2) Each facility shall endeavor to implement the rights guaranteed by subsection (1) by making telephones reasonably accessible, by ensuring that correspondence can be conveniently and confidentially received and mailed, and by making space for visits available. Writing materials, telephone usage funds, and postage shall be provided in reasonable amounts to residents who are unable to procure such items.

(3) Reasonable times and places for the use of telephones and for visits may be established and, if established, shall be in writing and posted in each living unit of a residential program.

(4) The right of a resident to communicate by mail or telephone or receive visitors shall not be further limited except as authorized in the resident's individual plan of services.

(5) A limitation upon the rights guaranteed by subsection (1) shall not apply between a resident and an attorney or a court, or between a resident and other individuals if the communication involves matters that are or may be the subject of legal inquiry.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1728 Personal property.

Sec. 728. (1) A resident is entitled to receive, possess, and use all personal property, including clothing, except in the circumstances and under the conditions set forth in this section.

(2) Each facility shall provide a reasonable amount of storage space to each resident for his or her clothing and other personal property. The resident shall be permitted to inspect personal property at reasonable times.

(3) A facility may exclude particular kinds of personal property from the facility. Any exclusions shall be officially adopted and shall be in writing and posted in each residential unit.

(4) The individual in charge of the plan of services for a resident may limit the rights guaranteed by subsection (1) if each limitation is essential for 1 of the following purposes:

(a) In order to prevent theft, loss, or destruction of the property, unless a waiver is signed by the resident.

(b) In order to prevent the resident from physically harming himself, herself, or others.

(5) A limitation adopted under the authority of subsection (4), the date it expires, and justification for its adoption shall be promptly noted in the record of the resident.

(6) A limitation adopted under the authority of subsection (4) shall be removed when the circumstance that justified its adoption ceases to exist.

(7) A receipt shall be given to a resident and an individual designated by the resident for any of his or her personal property taken into the possession of the facility. Any personal property in the possession of a facility at the time the resident to whom the property belongs is released from the facility shall be returned to the resident.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1730 Money.

Sec. 730. (1) The department shall establish policies and procedures designed to ensure that money in the accounts of residents of a state facility are safeguarded against theft, loss, or misappropriation.

(2) A state facility may require that all money that is on the person of a resident, that comes to a resident, or that the facility receives on behalf of the resident under a benefit arrangement or otherwise, be turned over to the facility for safekeeping. The money shall be accounted for in the name of the resident and recorded periodically in the records of the resident. Upon request, money accounted for in the name of a resident shall be turned over to a legal guardian of the resident if the guardian has such authority.

(3) A resident of a state facility is entitled to easy access to the money in his or her account and to spend or otherwise use the money as he or she chooses, except as provided in policies and procedures of the department established under subsection (1). Policies and procedures shall be established in writing for each state facility giving residents easy access to the money in their accounts and enabling residents to spend or otherwise use their money as they choose.

(4) Money accounted for in the name of a resident of a state facility may be deposited with a financial institution. Any earnings attributable to money in an account of a resident shall be credited to that account.

(5) All money, including any earnings, in an account of a resident of a state facility shall be delivered to the resident upon his or her release from the facility.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1732 Accepting funds for use of resident.

Sec. 732. A state facility may accept funds that a parent, guardian, or other individual wishes to provide for the use or benefit of a resident of the facility. Unless otherwise restricted by law, the possession and use of funds so provided are governed by section 730, the individual plan of services, and any additional directions given by the provider of the funds.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1734 Facility as representative payee or fiduciary.

Sec. 734. In the absence of any other responsible party, a state facility may accept an appointment to serve as a representative payee, fiduciary, or in a similar capacity for payments to a resident under a public or private benefit arrangement unless otherwise restricted by law. Funds received under that arrangement are subject to section 730 except to the extent laws or regulations governing payment of the benefits provide otherwise.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1736 Performance of labor by resident.

Sec. 736. (1) A resident may perform labor that contributes to the operation and maintenance of the facility for which the facility would otherwise employ someone only if the resident voluntarily agrees to perform the labor, engaging in the labor would not be inconsistent with the individual plan of services for the resident, and the amount of time or effort necessary to perform the labor would not be excessive. In no event shall discharge or privileges be conditioned upon the performance of such labor.

(2) A resident who performs labor that contributes to the operation and maintenance of the facility for which the facility would otherwise employ someone shall be compensated appropriately and in accordance with applicable federal and state labor laws, including minimum wage and minimum wage reduction provisions.

(3) A resident who performs labor other than that described in subsection (2) shall be compensated an appropriate amount if an economic benefit to another individual or agency results from his or her labor.

(4) The governing body of the facility may provide for compensation of a resident when he or she performs labor not governed by subsection (2) or (3).

(5) Subsections (1), (2), and (3) do not apply to labor of a personal housekeeping nature or labor performed as a condition of residence in a small group living arrangement.

(6) One-half of any compensation paid to a resident under this section is exempt from collection under this act as payment for services rendered.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1738 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to right to education.

330.1740 Physical restraint.

Sec. 740. (1) A resident shall not be placed in physical restraint except in the circumstances and under the conditions set forth in this section or in other law.

(2) A resident may be restrained only as provided in subsection (3), (4), or (5) after less restrictive interventions have been considered, and only if restraint is essential in order to prevent the resident from physically harming himself, herself, or others, or in order to prevent him or her from causing substantial property damage. Consideration of less restrictive measures shall be documented in the medical record. If restraint is essential in order to prevent the resident from physically harming himself, herself, or others, the resident may be physically held with no more force than is necessary to limit the resident's movement, until a

restraint may be applied.

(3) A resident may be temporarily restrained for a maximum of 30 minutes without an order or authorization in an emergency. Immediately after imposition of the temporary restraint, a physician shall be contacted. If, after being contacted, the physician does not order or authorize the restraint, the restraint shall be removed.

(4) A resident may be restrained prior to examination pursuant to an authorization by a physician. An authorized restraint may continue only until a physician can personally examine the resident or for 2 hours, whichever is less. If it is not possible for the physician to examine the resident within 2 hours, a physician may reauthorize the restraint for another 2 hours. Authorized restraint may not continue for more than 4 hours.

(5) A resident may be restrained pursuant to an order by a physician made after personal examination of the resident. An ordered restraint shall continue only for that period of time specified in the order or for 8 hours, whichever is less.

(6) A restrained resident shall continue to receive food, shall be kept in sanitary conditions, shall be clothed or otherwise covered, shall be given access to toilet facilities, and shall be given the opportunity to sit or lie down.

(7) Restraints shall be removed every 2 hours for not less than 15 minutes unless medically contraindicated or whenever they are no longer essential in order to achieve the objective which justified their initial application.

(8) Each instance of restraint requires full justification for its application, and the results of each periodic examination shall be placed promptly in the record of the resident.

(9) If a resident is restrained repeatedly, the resident's individual plan of services shall be reviewed and modified to facilitate the reduction of the use of restraints.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1742 Seclusion.

Sec. 742. (1) Seclusion shall be used only in a hospital, a center, or a child caring institution licensed under 1973 PA 116, MCL 722.111 to 722.128. A resident placed in a hospital or center shall not be kept in seclusion except in the circumstances and under the conditions set forth in this section.

(2) A minor placed in a child caring institution shall not be placed or kept in seclusion except as provided in 1973 PA 116, MCL 722.111 to 722.128, or rules promulgated under that act.

(3) A resident may be placed in seclusion only as provided under subsection (4), (5), or (6) and only if it is essential in order to prevent the resident from physically harming others, or in order to prevent the resident from causing substantial property damage.

(4) Seclusion may be temporarily employed for a maximum of 30 minutes in an emergency without an authorization or an order. Immediately after the resident is placed in temporary seclusion, a physician shall be contacted. If, after being contacted, the physician does not authorize or order the seclusion, the resident shall be removed from seclusion.

(5) A resident may be placed in seclusion under an authorization by a physician. Authorized seclusion shall continue only until a physician can personally examine the resident or for 1 hour, whichever is less.

(6) A resident may be placed in seclusion under an order of a physician made after personal examination of the resident to determine if the ordered seclusion poses an undue health risk to the resident. Ordered seclusion shall continue only for that period of time specified in the order or for 8 hours, whichever is less. An order for a minor shall continue for a maximum of 4 hours.

(7) A secluded resident shall continue to receive food, shall remain clothed unless his or her actions make it impractical or inadvisable, shall be kept in sanitary conditions, and shall be provided a bed or similar piece of furniture unless his or her actions make it impractical or inadvisable.

(8) A secluded resident shall be released from seclusion whenever the circumstance that justified its use ceases to exist.

(9) Each instance of seclusion requires full justification for its use, and the results of each periodic examination shall be placed promptly in the record of the resident.

(10) If a resident is secluded repeatedly, the resident's individual plan of services shall be reviewed and modified to facilitate the reduced use of seclusion.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2004, Act 527, Imd. Eff. Jan. 3, 2005.

330.1744 Freedom of movement.

Sec. 744. (1) The freedom of movement of a recipient shall not be restricted more than is necessary to

provide mental health services to him or her, to prevent injury to him or her or to others, or to prevent substantial property damage, except that security precautions appropriate to the condition and circumstances of an individual admitted by order of a criminal court or transferred as a sentence-serving convict from a penal institution may be taken.

(2) A restriction adopted under the authority of subsection (1), the date it expires, and justification for its adoption shall be promptly noted in the record of the recipient.

(3) A restriction adopted under the authority of subsection (1) shall be removed when the circumstance that justified its adoption ceases to exist.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1746 Record.

Sec. 746. (1) A complete record shall be kept current for each recipient of mental health services. The record shall at least include information pertinent to the services provided to the recipient, pertinent to the legal status of the recipient, required by this chapter or other provision of law, and required by rules or policies.

(2) The material in the record shall be confidential to the extent it is made confidential by section 748.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.1748 Confidentiality.

Sec. 748. (1) Information in the record of a recipient, and other information acquired in the course of providing mental health services to a recipient, shall be kept confidential and is not open to public inspection. The information may be disclosed outside the department, community mental health services program, licensed facility, or contract provider, whichever is the holder of the record, only in the circumstances and under the conditions set forth in this section or section 748a.

(2) If information made confidential by this section is disclosed, the identity of the individual to whom it pertains shall be protected and shall not be disclosed unless it is germane to the authorized purpose for which disclosure was sought. When practicable, no other information shall be disclosed unless it is germane to the authorized purpose for which disclosure was sought.

(3) An individual receiving information made confidential by this section shall disclose the information to others only to the extent consistent with the authorized purpose for which the information was obtained.

(4) For case record entries made subsequent to March 28, 1996, information made confidential by this section shall be disclosed to an adult recipient, upon the recipient's request, if the recipient does not have a guardian and has not been adjudicated legally incompetent. The holder of the record shall comply with the adult recipient's request for disclosure as expeditiously as possible but in no event later than the earlier of 30 days after receipt of the request or, if the recipient is receiving treatment from the holder of the record, before the recipient is released from treatment.

(5) Except as otherwise provided in this section or section 748a, when requested, information made confidential by this section shall be disclosed only under 1 or more of the following circumstances:

(a) Under an order or a subpoena of a court of record or a subpoena of the legislature, unless the information is privileged by law.

(b) To a prosecuting attorney as necessary for the prosecuting attorney to participate in a proceeding governed by this act.

(c) To an attorney for the recipient, with the consent of the recipient, the recipient's guardian with authority to consent, or the parent with legal and physical custody of a minor recipient.

(d) If necessary in order to comply with another provision of law.

(e) To the department if the information is necessary in order for the department to discharge a responsibility placed upon it by law.

(f) To the office of the auditor general if the information is necessary for that office to discharge its constitutional responsibility.

(g) To a surviving spouse of the recipient or, if there is no surviving spouse, to the individual or individuals most closely related to the deceased recipient within the third degree of consanguinity as defined in civil law, for the purpose of applying for and receiving benefits.

(6) Except as otherwise provided in subsection (4), if consent is obtained from the recipient, the recipient's guardian with authority to consent, the parent with legal custody of a minor recipient, or the court-appointed personal representative or executor of the estate of a deceased recipient, information made confidential by this section may be disclosed to all of the following:

(a) A provider of mental health services to the recipient.

(b) The recipient or his or her guardian or the parent of a minor recipient or another individual or agency

unless in the written judgment of the holder the disclosure would be detrimental to the recipient or others.

(7) Information may be disclosed by the holder of the record under 1 or more of the following circumstances:

(a) As necessary in order for the recipient to apply for or receive benefits.

(b) As necessary for treatment, coordination of care, or payment for the delivery of mental health services, in accordance with the health insurance portability and accountability act of 1996, Public Law 104-191.

(c) As necessary for the purpose of outside research, evaluation, accreditation, or statistical compilation. The individual who is the subject of the information shall not be identified in the disclosed information unless the identification is essential in order to achieve the purpose for which the information is sought or if preventing the identification would clearly be impractical, but not if the subject of the information is likely to be harmed by the identification.

(d) To a provider of mental or other health services or a public agency, if there is a compelling need for disclosure based upon a substantial probability of harm to the recipient or other individuals.

(8) If required by federal law, the department or a community mental health services program or licensed facility shall grant a representative of the protection and advocacy system designated by the governor in compliance with section 931 access to the records of all of the following:

(a) A recipient, if the recipient, the recipient's guardian with authority to consent, or a minor recipient's parent with legal and physical custody of the recipient has consented to the access.

(b) A recipient, including a recipient who has died or whose location is unknown, if all of the following apply:

(*i*) Because of mental or physical condition, the recipient is unable to consent to the access.

(*ii*) The recipient does not have a guardian or other legal representative, or the recipient's guardian is the state.

(*iii*) The protection and advocacy system has received a complaint on behalf of the recipient or has probable cause to believe based on monitoring or other evidence that the recipient has been subject to abuse or neglect.

(c) A recipient who has a guardian or other legal representative if all of the following apply:

(*i*) A complaint has been received by the protection and advocacy system or there is probable cause to believe the health or safety of the recipient is in serious and immediate jeopardy.

(*ii*) Upon receipt of the name and address of the recipient's legal representative, the protection and advocacy system has contacted the representative and offered assistance in resolving the situation.

(*iii*) The representative has failed or refused to act on behalf of the recipient.

(9) The records, data, and knowledge collected for or by individuals or committees assigned a peer review function, including the review function under section 143a(1), are confidential, shall be used only for the purposes of peer review, are not public records, and are not subject to court subpoena. This subsection does not prevent disclosure of individual case records under this section.

(10) The holder of an individual's record, if authorized to release information for clinical purposes by the individual or the individual's guardian or a parent of a minor, shall release a copy of the entire medical and clinical record to the provider of mental health services.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1982, Act 236, Imd. Eff. Sept. 22, 1982;—Am. 1986, Act 50, Imd. Eff. Mar. 17, 1986;—Am. 1987, Act 192, Imd. Eff. Dec. 2, 1987;—Am. 1990, Act 167, Imd. Eff. July 2, 1990;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 1998, Act 497, Eff. Mar. 1, 1999;—Am. 2016, Act 559, Eff. Apr. 10, 2017.

330.1748a Child abuse or neglect investigation; request for mental health records and information; immunity from civil or administrative liability; imposition of duties under another statute.

Sec. 748a. (1) If there is a compelling need for mental health records or information to determine whether child abuse or child neglect has occurred or to take action to protect a minor where there may be a substantial risk of harm, a family independence agency caseworker or administrator directly involved in the child abuse or neglect investigation shall notify a mental health professional that a child abuse or neglect investigation has been initiated involving a person who has received services from the mental health professional and shall request in writing mental health records and information that are pertinent to that investigation. Upon receipt of this notification and request, the mental health professional shall review all mental health records and information in the mental health professional's possession to determine if there are mental health records or information that is pertinent to that investigation. Within 14 days after receipt of a request made under this subsection, the mental health professional shall release those pertinent mental health records and information to the caseworker or administrator directly involved in the child abuse or neglect investigation.

(2) The following privileges do not apply to mental health records or information to which access is given

under this section:

(a) The physician-patient privilege created in section 2157 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2157.

(b) The dentist-patient privilege created in section 16648 of the public health code, 1978 PA 368, MCL 333.16648.

(c) The licensed professional counselor-client and limited licensed counselor-client privilege created in section 18117 of the public health code, 1978 PA 368, MCL 333.18117.

(d) The psychologist-patient privilege created in section 18237 of the public health code, 1978 PA 368, MCL 333.18237.

(e) Any other health professional-patient privilege created or recognized by law.

(3) To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1415, an individual who in good faith gives access to mental health records or information under this section is immune from civil or administrative liability arising from that conduct, unless the conduct was gross negligence or willful and wanton misconduct.

(4) A duty under this act relating to child abuse and neglect does not alter a duty imposed under another statute, including the child protection law, 1975 PA 238, MCL 722.621 to 722.638, regarding the reporting or investigation of child abuse or neglect.

History: Add. 1998, Act 497, Eff. Mar. 1, 1999.

330.1749 Statement correcting or amending information.

Sec. 749. A recipient, guardian, or parent of a minor recipient, after having gained access to treatment records, may challenge the accuracy, completeness, timeliness, or relevance of factual information in the recipient's record. The recipient, guardian, or parent of a minor recipient shall be allowed to insert into the record a statement correcting or amending the information at issue. The statement shall become part of the record.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1750 Privileged communications.

Sec. 750. (1) Privileged communications shall not be disclosed in civil, criminal, legislative, or administrative cases or proceedings, or in proceedings preliminary to such cases or proceedings, unless the patient has waived the privilege, except in the circumstances set forth in this section.

(2) Privileged communications shall be disclosed upon request under 1 or more of the following circumstances:

(a) If the privileged communication is relevant to a physical or mental condition of the patient that the patient has introduced as an element of the patient's claim or defense in a civil or administrative case or proceeding or that, after the death of the patient, has been introduced as an element of the patient's claim or defense by a party to a civil or administrative case or proceeding.

(b) If the privileged communication is relevant to a matter under consideration in a proceeding governed by this act, but only if the patient was informed that any communications could be used in the proceeding.

(c) If the privileged communication is relevant to a matter under consideration in a proceeding to determine the legal competence of the patient or the patient's need for a guardian but only if the patient was informed that any communications made could be used in such a proceeding.

(d) In a civil action by or on behalf of the patient or a criminal action arising from the treatment of the patient against the mental health professional for malpractice.

(e) If the privileged communication was made during an examination ordered by a court, prior to which the patient was informed that a communication made would not be privileged, but only with respect to the particular purpose for which the examination was ordered.

(f) If the privileged communication was made during treatment that the patient was ordered to undergo to render the patient competent to stand trial on a criminal charge, but only with respect to issues to be determined in proceedings concerned with the competence of the patient to stand trial.

(3) In a proceeding in which subsections (1) and (2) prohibit disclosure of a communication made to a psychiatrist or psychologist in connection with the examination, diagnosis, or treatment of a patient, the fact that the patient has been examined or treated or undergone a diagnosis also shall not be disclosed unless that fact is relevant to a determination by a health care insurer, health care corporation, nonprofit dental care corporation, or health maintenance organization of its rights and liabilities under a policy, contract, or certificate of insurance or health care benefits.

(4) Privileged communications may be disclosed under section 946 to comply with the duty set forth in that section.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1984, Act 362, Eff. Mar. 29, 1985;—Am. 1989, Act 123, Eff. Sept. 1, 1989;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1752 Policies and procedures.

Sec. 752. (1) The department, each community mental health services program, each licensed hospital, and each service provider under contract with the department, a community mental health services program, or a licensed hospital shall establish written policies and procedures concerning recipient rights and the operation of an office of recipient rights. The policies and procedures shall provide a mechanism for prompt reporting, review, investigation, and resolution of apparent or suspected violations of the rights guaranteed by this chapter, shall be consistent with this chapter and chapter 7a, and shall be designed to protect recipients from, and prevent repetition of, violations of rights guaranteed by this chapter and chapter 7a. The policies and procedures shall include, at a minimum, all of the following:

(a) Complaint and appeal processes.

(b) Consent to treatment and services.

(c) Sterilization, contraception, and abortion.

(d) Fingerprinting, photographing, audiotaping, and use of 1-way glass.

(e) Abuse and neglect, including detailed categories of type and severity.

(f) Confidentiality and disclosure.

(g) Treatment by spiritual means.

(h) Qualifications and training for recipient rights staff.

(i) Change in type of treatment.

(j) Medication procedures.

(k) Use of psychotropic drugs.

(*l*) Use of restraint.

(m) Right to be treated with dignity and respect.

(n) Least restrictive setting.

(o) Services suited to condition.

(p) Policies and procedures that address all of the following matters with respect to residents:

(*i*) Right to entertainment material, information, and news.

(*ii*) Comprehensive examinations.

(*iii*) Property and funds.

(*iv*) Freedom of movement.

(*v*) Resident labor.

(*vi*) Communication and visits.

(*vii*) Use of seclusion.

(2) All policies and procedures required by this section shall be established within 12 months after the effective date of the amendatory act that added section 753.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1753 Recipient rights system; review by department.

Sec. 753. The department shall review the recipient rights system of each community mental health services program in accordance with standards established under section 232a, to ensure a uniformly high standard of recipient rights protection throughout the state. For purposes of certification review, the department shall have access to all information pertaining to the rights protections system of the community mental health services program.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

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.

330.1755 Office of recipient rights; establishment by community mental health services program and hospital.

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

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

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

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

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

(d) The 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 community mental health services program or licensed hospital.

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

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

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

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

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

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

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

(a) Complainants, staff of the 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 and that appropriate disciplinary action will be taken if there is evidence of harassment or retaliation.

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

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

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

(b) 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 initiated and periodically during the time services are provided to the recipient.

(c) 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.

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

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

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

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

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

(i) Ensure that all reports of apparent or suspected violations of rights within the community mental health services program system or licensed hospital system are investigated in accordance with section 778 and that those reports that do not warrant investigation are recorded in accordance with subdivision (d).

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

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

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

(b) The number of substantiated rights violations by category and provider.

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

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

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

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

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

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1756 State recipient rights advisory committee; appointment by director.

Sec. 756. (1) The director shall appoint a 12-member state recipient rights advisory committee. The membership of the committee shall be broadly based so as to best represent the varied perspectives of department staff, government officials, attorneys, community mental health services program staff, private providers, recipients, and recipient interest groups. At least 1/3 of the membership of the state recipient rights advisory committee shall be primary consumers or family members, and of that 1/3, at least 2 shall be primary consumers. In appointing members to the advisory committee, the director shall consider the recommendations of the director of the state office of recipient rights and individuals who are members of the recipient rights advisory committee.

(2) The state recipient rights advisory committee shall do all of the following:

(a) Meet at least quarterly, or more frequently as necessary, to carry out its responsibilities.

(b) Maintain a current list of members' names to be made available to individuals upon request.

(c) Maintain a current list of categories represented, to be made available to individuals upon request.

(d) Protect the state office of recipient rights from pressures that could interfere with the impartial, even-handed, and thorough performance of its functions.

(e) Recommend to the director of the department candidates for the position of director of the state office of recipient rights and consult with the director regarding any proposed dismissal of the director of the state office of recipient rights.

(f) Serve in an advisory capacity to the director of the department and the director of the state office of recipient rights.

(g) Review and provide comments on the report submitted by the state office of recipient rights to the department under section 754.

(3) Meetings of the state recipient rights advisory committee are subject to the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Minutes shall be maintained and made available to individuals upon request.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1757 Recipient rights advisory committee; appointment by community mental health services program board.

Sec. 757. (1) The board of each community mental health services program shall appoint a recipient rights advisory committee consisting of at least 6 members. The membership of the committee shall be broadly based so as to best represent the varied perspectives of the community mental health services program's geographic area. At least 1/3 of the membership shall be primary consumers or family members, and of that 1/3, at least 1/2 shall be primary consumers.

(2) The recipient rights advisory committee shall do all of the following:

(a) Meet at least semiannually or as necessary to carry out its responsibilities.

(b) Maintain a current list of members' names to be made available to individuals upon request.

(c) Maintain a current list of categories represented to be made available to individuals upon request.

(d) Protect the office of recipient rights from pressures that could interfere with the impartial, even-handed, and thorough performance of its functions.

(e) Recommend candidates for director of the office of recipient rights to the executive director, and consult with the executive director regarding any proposed dismissal of the director of the office of recipient rights.

(f) Serve in an advisory capacity to the executive director and the director of the office of recipient rights.

(g) Review and provide comments on the report submitted by the executive director to the community mental health services program board under section 755.

(h) If designated by the board of the community mental health services program, serve as the appeals committee for a recipient's appeal under section 784.

(i) Meetings of the recipient rights advisory committee are subject to the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Minutes shall be maintained and made available to individuals upon request.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1758 Recipient rights advisory committee; appointment by licensed hospital.

Sec. 758. Unless otherwise provided by contract with the local community mental health services program, each licensed hospital shall appoint a recipient rights advisory committee. At least 1/3 of the membership

shall be primary consumers or family members and, of that 1/3, at least 1/2 shall be primary consumers. The recipient rights advisory committee shall do all of the following:

(a) Meet at least semiannually or as necessary to carry out its responsibilities.

(b) Maintain a current list of members' names and a separate list of categories represented, to be made available to individuals upon request.

(c) Protect the office of recipient rights from pressures that could interfere with the impartial, even-handed, and thorough performance of its functions.

(d) Review and provide comments on the report submitted by the hospital director to the governing board of the licensed hospital under section 755.

(e) Serve in an advisory capacity to the hospital director and the director of the office of recipient rights.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

CHAPTER 7A
DISPUTE RESOLUTION

330.1772 Definitions.

Sec. 772. As used in this chapter:

(a) "Allegation" means an assertion of fact made by an individual that has not yet been proved or supported with evidence.

(b) "Appeals committee" means a committee appointed by the director or by the board of a community mental health services program or licensed hospital under section 774.

(c) "Appellant" means the recipient, complainant, parent, or guardian who appeals a recipient rights finding or a respondent's action to an appeals committee.

(d) "Complainant" means an individual who files a rights complaint.

(e) "Investigation" means a detailed inquiry into and systematic examination of an allegation raised in a rights complaint.

(f) "Office" means all of the following:

(*i*) With respect to a rights complaint involving services provided directly by or under contract with the department, unless the provider is a community mental health services program, the state office of recipient rights created under section 754.

(*ii*) With respect to a rights complaint involving services provided directly by or under contract with a community mental health services program, the office of recipient rights created by a community mental health services program under section 755.

(*iii*) With respect to a rights complaint involving services provided by a licensed hospital, the office of recipient rights created by a licensed hospital under section 755.

(g) "Rights complaint" means a written or oral statement that meets the requirements of section 776.

(h) "Respondent" means the service provider that had responsibility at the time of an alleged rights violation for the services with respect to which a rights complaint has been filed.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2020, Act 55, Imd. Eff. Mar. 3, 2020.

330.1774 Appeals committee.

Sec. 774. (1) The director shall appoint an appeals committee consisting of 7 individuals, none of whom shall be employed by the department or a community mental health services program, to hear appeals of recipient rights matters. The committee shall include at least 3 members of the state recipient rights advisory committee and 2 primary consumers.

(2) The board of a community mental health services program shall do 1 of the following:

(a) Appoint an appeals committee consisting of 7 individuals, none of whom shall be employed by the department or a community mental health services program, to hear appeals of recipients' rights matters. The appeals committee shall include at least 3 members of the recipient rights advisory committee, 2 board members, and 2 primary consumers. A member of the appeals committee may represent more than 1 of these categories.

(b) Designate the recipient rights advisory committee as the appeals committee.

(3) The governing body of a licensed hospital shall designate the appeals committee of the local community mental health services program to hear an appeal of a decision on a recipient rights matter brought by or on behalf of a recipient of that community mental health services program.

(4) The governing body of a licensed hospital shall do 1 of the following with respect to an appeal of a decision on a recipient rights matter brought by or on behalf of an individual who is not a recipient of a community mental health services program:

(a) Appoint an appeals committee consisting of 7 members, none of whom shall be employed by the department or a community mental health services program, 2 of whom shall be primary consumers and 2 of whom shall be community members.

(b) By agreement with the department, designate the appeals committee appointed by the department to hear appeals of rights complaints brought against the licensed hospital.

(5) An appeals committee appointed under this section may request consultation and technical assistance from the department.

(6) A member of an appeals committee who has a personal or professional relationship with an individual involved in an appeal shall abstain from participating in that appeal as a member of the committee.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1776 Rights complaint; filing; contents; recording; acknowledgment; notice; assistance; conduct of investigation.

Sec. 776. (1) A recipient, or another individual on behalf of a recipient, may file a rights complaint with the office alleging a violation of this act or rules promulgated under this act.

(2) A rights complaint shall contain all of the following information:

(a) A statement of the allegations that give rise to the dispute.

(b) A statement of the right or rights that may have been violated.

(c) The outcome that the complainant is seeking as a resolution to the complaint.

(3) Each rights complaint shall be recorded upon receipt by the office, and acknowledgment of the recording shall be sent along with a copy of the complaint to the complainant within 5 business days.

(4) Within 5 business days after the office receives a complaint, it shall notify the complainant if it determines that no investigation of the rights complaint is warranted.

(5) The office shall assist the recipient or other individual with the complaint process. The office shall advise the recipient or other individual that there are advocacy organizations available to assist in preparation of a written rights complaint and shall offer to refer the recipient or other individual to those organizations. In the absence of assistance from an advocacy organization, the office shall assist in preparing a written rights complaint. The office shall inform the recipient or other individual of the option of mediation under section 786.

(6) If a rights complaint has been filed regarding the conduct of the executive director, the rights investigation shall be conducted by the office of another community mental health services program or by the state office of recipient rights as decided by the board.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1778 Investigation; initiation; recording; standard of proof; written status report; written investigative report; new evidence.

Sec. 778. (1) The office shall initiate investigation of apparent or suspected rights violations in a timely and efficient manner. Subject to delays involving pending action by external agencies as described in subsection (5), the office shall complete the investigation not later than 90 days after it receives the rights complaint. Investigation shall be initiated immediately in cases involving alleged abuse, neglect, serious injury, or death of a recipient involving an apparent or suspected rights violation.

(2) Investigation activities for each rights complaint shall be accurately recorded by the office.

(3) The office shall determine whether a right was violated by using the preponderance of the evidence as its standard of proof.

(4) The office shall issue a written status report every 30 calendar days during the course of the investigation. The report shall be submitted to the complainant, the respondent, and the responsible mental health agency. A status report shall include all of the following:

(a) Statement of the allegations.

(b) Statement of the issues involved.

(c) Citations to relevant provisions of this act, rules, policies, and guidelines.

(d) Investigative progress to date.

(e) Expected date for completion of the investigation.

(5) Upon completion of the investigation, the office shall submit a written investigative report to the respondent and to the responsible mental health agency. Issuance of the written investigative report may be delayed pending completion of investigations that involve external agencies, including law enforcement agencies and the department of social services. The report shall include all of the following:

(a) Statement of the allegations.

(b) Statement of the issues involved.

(c) Citations to relevant provisions of this act, rules, policies, and guidelines.

(d) Investigative findings.

(e) Conclusions.

(f) Recommendations, if any.

(6) A rights investigation may be reopened or reinvestigated by the office if there is new evidence that was not presented at the time of the investigation.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1780 Remedial action.

Sec. 780. (1) If it has been determined through investigation that a right has been violated, the respondent shall take appropriate remedial action that meets all of the following requirements:

(a) Corrects or provides a remedy for the rights violations.

(b) Is implemented in a timely manner.

(c) Attempts to prevent a recurrence of the rights violation.

(2) The action shall be documented and made part of the record maintained by the office.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1782 Summary report.

Sec. 782. (1) The executive director, hospital director, or director of a state facility shall submit a written summary report to the complainant and recipient, if different than the complainant, within 10 business days after the executive director, hospital director, or director of the state facility receives a copy of the investigative report under section 778(5). The summary report shall include all of the following:

(a) Statement of the allegations.

(b) Statement of issues involved.

(c) Citations to relevant provisions of this act, rules, policies, and guidelines.

(d) Summary of investigative findings.

(e) Conclusions.

(f) Recommendations made by the office.

(g) Action taken, or plan of action proposed, by the respondent.

(h) A statement describing the complainant's right to appeal and the grounds for an appeal.

(2) Information in the summary report shall be provided within the constraints of sections 748 and 750 and shall not violate the rights of any employee.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1784 Summary report; appeal.

Sec. 784. (1) Not later than 45 days after receipt of the summary report under section 782, the complainant may file a written appeal with the appeals committee with jurisdiction over the office of recipient rights that issued the summary report.

(2) An appeal under subsection (1) shall be based on 1 of the following grounds:

(a) The investigative findings of the office are not consistent with the facts or with law, rules, policies, or guidelines.

(b) The action taken or plan of action proposed by the respondent does not provide an adequate remedy.

(c) An investigation was not initiated or completed on a timely basis.

(3) The office shall advise the complainant that there are advocacy organizations available to assist the complainant in preparing the written appeal and shall offer to refer the complainant to those organizations. In the absence of assistance from an advocacy organization, the office shall assist the complainant in meeting the procedural requirements of a written appeal. The office shall also inform the complainant of the option of mediation under section 786.

(4) Within 5 business days after receipt of the written appeal, members of the appeals committee shall review the appeal to determine whether it meets the criteria set forth in subsection (2). If the appeal is denied because the criteria in subsection (2) were not met, the complainant shall be notified in writing. If the appeal is accepted, written notice shall be provided to the complainant and a copy of the appeal shall be provided to the respondent and the responsible mental health agency.

(5) Within 30 days after receipt of a written appeal, the appeals committee shall meet and review the facts as stated in all complaint investigation documents and shall do 1 of the following:

(a) Uphold the investigative findings of the office and the action taken or plan of action proposed by the respondent.

(b) Return the investigation to the office and request that it be reopened or reinvestigated.

(c) Uphold the investigative findings of the office but recommend that the respondent take additional or different action to remedy the violation.

(d) If the responsible mental health agency is a community mental health services program or a licensed hospital, recommend that the board of the community mental health services program or the governing board of the licensed hospital request an external investigation by the state office of recipient rights.

(6) The appeals committee shall document its decision in writing. Within 10 working days after reaching its decision, it shall provide copies of the decision to the respondent, appellant, recipient if different than the appellant, the recipient's guardian if a guardian has been appointed, the responsible mental health agency, and the office.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1786 Notice of decision; appeal.

Sec. 786. (1) Within 45 days after receiving written notice of the decision of an appeals committee under section 784(5), the appellant may file a written appeal with the department. The appeal shall be based on the record established in the previous appeal, and on the allegation that the investigative findings of the local office of recipient rights are not consistent with the facts or with law, rules, policies, or guidelines.

(2) Upon receipt of an appeal under subsection (1), the department shall give written notice of receipt of the appeal to the appellant, respondent, local office of recipient rights holding the record of the complaint, and the responsible mental health agency. The respondent, local office of recipient rights holding the record of the complaint, and the responsible mental health agency shall ensure that the department has access to all necessary documentation and other evidence cited in the complaint.

(3) The department shall review the record based on the allegation described in subsection (1). The department shall not consider additional evidence or information that was not available during the appeal under section 784, although the department may return the matter to the board or the governing body of the licensed hospital requesting an additional investigation.

(4) Within 30 days after receiving the appeal, the department shall review the appeal and do 1 of the following:

(a) Affirm the decision of the appeals committee.

(b) Return the matter to the board or the governing body of the licensed hospital with instruction for additional investigation and consideration.

(5) The department shall provide copies of its action to the respondent, appellant, recipient if different than the appellant, the recipient's guardian if a guardian has been appointed, the board of the community mental health services program or the governing body of the licensed hospital, and the local office of recipient rights holding the record.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1788 Repealed. 2020, Act 55, Imd. Eff. Mar. 3, 2020.

Compiler's note: The repealed section pertained to mediation after an investigative report.

CHAPTER 8
FINANCIAL LIABILITY FOR MENTAL HEALTH SERVICES

330.1800 Definitions.

Sec. 800. As used in this chapter, unless the context requires otherwise:

(a) "Ability to pay" means the ability of a responsible party to pay for the cost of services, as determined by the department under sections 818 and 819.

(b) "Cost of services" means the total operating and capital costs incurred by the department or a community mental health services program with respect to, or on behalf of, an individual. Cost of services does not include the cost of research programs or expenses of state or county government unrelated to the provision of mental health services.

(c) "Individual" means the individual, minor or adult, who receives services from the department or a community mental health services program or from a provider under contract with the department or a community mental health services program.

(d) "Inpatient services" means 24-hour care and treatment services provided by a state facility or a licensed hospital.

(e) "Insurance benefits" means payments made in accordance with insurance coverage for the cost of health care services provided to an individual.

(f) "Insurance coverage" means any policy, plan, program, or fund established or maintained for the

purpose of providing for its participants or their dependents medical, surgical, or hospital benefits. Insurance coverage includes, but is not limited to, medicaid or medicare; policies, plans, programs, or funds maintained by nonprofit hospital service and medical care corporations, health maintenance organizations, and prudent purchaser organizations; and commercial, union, association, self-funded, and administrative service policies, plans, programs, and funds.

(g) "Nonresidential services" means care or treatment services that are not inpatient or residential services.

(h) "Parents" means the legal father and mother of an unmarried individual who is less than 18 years of age.

(i) "Residential services" means 24-hour dependent care and treatment services provided by adult foster care facilities under contract to the department or a community mental health services program or provided directly by a community mental health services program.

(j) "Responsible party" means a person who is financially liable for services furnished to the individual. Responsible party includes the individual and, as applicable, the individual's spouse and parent or parents of a minor.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1802 Establishment of financial liability.

Sec. 802. Financial liability for services provided to an individual by the department or by community mental health services programs is hereby established as provided in this chapter.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1804 Financial liability of responsible party.

Sec. 804. (1) A responsible party is financially liable for the cost of services provided to the individual directly by or by contract with the department or a community mental health services program.

(2) The department or a community mental health services program shall charge responsible parties for that portion of the financial liability that is not met by insurance coverage. Subject to section 814, the amount of the charge shall be whichever of the following is the least amount:

(a) Ability to pay determined under section 818 or 819.

(b) Cost of services as defined in section 800.

(c) The amount of coinsurance and deductible in accordance with the terms of participation with a payer or payer group.

(3) The department or community mental health services program shall waive payment of that part of a charge determined under subsection (2) that exceeds financial liability. The department or community mental health services program shall not impose charges in excess of ability to pay.

(4) Subject to section 114a, the department may promulgate rules to establish therapeutic nominal charges for certain services. The charges shall not exceed $3.00 and shall be authorized in the recipient's individual plan of services.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

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

330.1806 Single or married individual; determining insurance coverage and ability to pay.

Sec. 806. (1) If the individual is single, insurance coverage and ability to pay shall first be determined for the individual. If the individual is an unmarried minor and the individual's insurance coverage and ability to pay are less than the cost of the services, insurance coverage and ability to pay shall be determined for the parents.

(2) If the individual is married, insurance coverage and ability to pay shall be determined jointly for the individual and the spouse.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1808 Limitation on financial liability.

Sec. 808. The total combined financial liability of the responsible parties shall not exceed the cost of the services.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1810 Denial of services prohibited.

Sec. 810. An individual shall not be denied services because of the inability of responsible parties to pay for the services.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1812 Insurance coverage as part of ability to pay.

Sec. 812. (1) If an individual is covered, in part or in whole, under any type of insurance coverage, private or public, for services provided directly by or by contract with the department or a community mental health services program, the benefits from that insurance coverage are considered to be available to pay the individual's financial liability, notwithstanding that the insurance contract was entered into by a person other than the individual or notwithstanding that the insurance coverage was paid for by a person other than the individual.

(2) Insurance coverage is considered available to pay for the individual's financial liability for services provided by the department or a community mental health services program or its contractee in the amount and to the same extent that coverage would be available to cover the cost of services if the individual had received the services from a health care provider other than the department or a community mental health services program or its contractee.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1813 Subrogation.

Sec. 813. The department or a community mental health services program shall be subrogated to a responsible party's right of recovery for insurance benefits for the cost of services to the individual.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1814 Willful refusal to apply for insurance benefits or provide information.

Sec. 814. Notwithstanding any other provision of this chapter, if a responsible party willfully fails to provide relevant insurance coverage information to the department or the community mental health services program, or if a responsible party willfully fails to apply to have insurance benefits that cover the cost of services provided to the individual paid to the department or community mental health services program, the responsible party's ability to pay shall be determined to include the amount of insurance benefits that would be available. If the amount of insurance benefits is not known in a case described in this section, the responsible party's ability to pay shall be determined to be the full cost of services.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1816 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to cost of services.

330.1817 Insurance coverage and ability to pay; determination to be made after admittance or start of services.

Sec. 817. (1) For an individual who receives inpatient or residential services on a voluntary or involuntary basis, the department or community mental health services program shall determine the responsible parties' insurance coverage and ability to pay as soon as practical after the individual is admitted.

(2) For an individual who receives nonresidential services, the department or community mental health services program shall determine the responsible parties' insurance coverage and ability to pay before, or as soon as practical after, the start of services.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1818 Adult inpatient psychiatric services less than 61 days, nonresidential services, and services to minors; provisions applicable to ability to pay; rules.

Sec. 818. (1) The department and community mental health services programs shall determine an adult responsible party's ability to pay for adult inpatient psychiatric services of less than 61 days, all nonresidential services, and all services to minors, in accordance with the requirements of the federal sliding fee discount program under 42 USC 254g and related guidance. Eligibility for the sliding fee discount program must be based solely on family size and income in accordance with the most current federal poverty guidelines published annually in the Federal Register by the United States Department of Health and Human Services under its authority to revise the poverty line under 42 USC 9902.

(2) The amendatory act that added this sentence is effective immediately. Beginning on the effective date of the amendatory act that added this sentence, any administrative rules promulgated under this section before that date are unenforceable. The department shall rescind any administrative rule promulgated under this section before the effective date of the amendatory act that added this sentence. The department may promulgate new administrative rules or establish policy, contract requirements, or guidance to carry out the provisions of this section.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1981, Act 91, Imd. Eff. July 2, 1981;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2022, Act 91, Imd. Eff. June 6, 2022.

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

330.1819 Residential services and inpatient services other than psychiatric services less than 61 days; provisions applicable to ability to pay; minor's ability to pay.

Sec. 819. (1) The department or a community mental health services program shall determine an adult responsible party's ability to pay for residential services and inpatient services other than psychiatric inpatient services of less than 61 days by taking into consideration the adult responsible party's total financial circumstances, including, but not limited to, income, expenses, number and condition of dependents, assets, and liabilities.

(2) The department and community mental health services programs shall determine a minor's ability to pay for the cost of services by considering the minor's total financial circumstances, including, but not limited to, income, expenses, number and condition of dependents, assets, and liabilities.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1820 Spouse's ability to pay.

Sec. 820. Except with respect to inpatient psychiatric services of less than 61 days, the department or a community mental health services program shall determine a spouse's ability to pay for the first 730 days of inpatient or residential services during the individual's lifetime. After the first 730 days, the department or community mental health services program shall determine ability to pay solely for the individual.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1822 Financial information.

Sec. 822. All responsible parties shall make available to the department or community mental health services program any relevant financial information that the department or community mental health services program is not prohibited by law from seeking and obtaining, and that the department or community mental health services program considers essential for the purpose of determining ability to pay. Willful failure to provide the relevant financial information may result in a determination of ability to pay up to the full cost of services received by the individual.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1824 Undue financial burden prohibited.

Sec. 824. (1) No determination of ability to pay that is made by the department or community mental health services program shall impose an undue financial burden on the individual or the individual's family members.

(2) In an instance where through no fault of the individual or the individual's family members the department or community mental health services program has not billed for services in a timely manner, an undue financial burden has been created. The department or community mental health services program shall only obligate an individual or the individual's family to pay for services based on their ability to pay when the initial bill for services is presented within 2 years from the date the services were provided.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1826 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to limitation on exhaustion of net worth.

330.1828 Annual determination of insurance coverage and ability to pay; new determination.

Sec. 828. The department or community mental health services program shall annually determine the insurance coverage and ability to pay of each individual who continues to receive services and of each additional responsible party, if applicable. The department or community mental health services program shall also complete a new determination of insurance coverage and ability to pay if informed of a significant change in a responsible party's ability to pay.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1830 Change in ability to pay; notice of right to request new determination.

Sec. 830. The department and community mental health services programs shall inform responsible parties that if their ability to pay has undergone a change, they may request the department or community mental health services program to make a new determination of ability to pay, and the department or community mental health services program shall be required to do so. The new determination of ability to pay shall be

made in accordance with this chapter.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1832 Ability to pay; utilization of inappropriate income figure; notice of right to request new determination; basis of determination.

Sec. 832. The department and community mental health services programs shall inform responsible parties whose ability to pay was determined under section 818 that if they believe that the income figure being utilized to determine their ability to pay is not appropriate to their current income status or does not appropriately reflect their ability to pay, they may request the department or community mental health services program to make a new determination of ability to pay, and the department or community mental health services program shall be required to do so. If a responsible party has stated that the income figure being utilized is not appropriate to his or her current income status, the department or community mental health services program shall make a new determination of ability to pay based on the responsible party's current annualized Michigan taxable income. If this is not available, other documentation of income as described in section 818(1)(b) shall be used. If a responsible party has stated that the income figure being utilized does not appropriately reflect his or her ability to pay, the department or community mental health services program shall make a new determination of ability to pay based on a consideration of the responsible party's total financial situation as described in section 819. In neither instance, however, shall the new determination of ability to pay be for an amount greater than the original determination.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1834 Administrative hearing to contest ability to pay determination.

Sec. 834. The department or community mental health services program shall inform the responsible parties that they have a right, by means of an administrative hearing, to contest an ability to pay determination that has been made by the department or community mental health services program. If the responsible party desires an administrative hearing, the following procedures apply:

(a) The responsible party shall notify the department or community mental health services program in writing or on a form provided by the department or community mental health services program.

(b) An administrative hearing shall be held and the department or community mental health services program shall make a redetermination of ability to pay.

(c) A redetermination of ability to pay pursuant to subdivision (b) shall be made in accordance with this chapter.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1836 Appeal of redetermination of ability to pay.

Sec. 836. A responsible party may appeal a redetermination of ability to pay made under section 834(b) to the probate court of the county in which he or she resides.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1838 Redetermination of ability to pay; charge for higher amount.

Sec. 838. If the department or a community mental health services program redetermines a responsible party's ability to pay and the amount the responsible party is determined to be able to pay is higher than the amount under previous determinations, the department or community mental health services program shall charge the higher amount only for financial liability that is incurred after the date of the redetermination.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1840 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to liability for services provided under criminal statute.

330.1842 Rules; procedures for determining ability to pay.

Sec. 842. The department shall develop and promulgate rules, pursuant to Act No. 306 of the Public Acts of 1969, as amended, which shall implement the provisions of this chapter. Such rules shall include particularized procedures for determining ability to pay, and such procedures shall be applied uniformly throughout the state.

History: 1974, Act 258, Eff. Nov. 6, 1974.

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

330.1844 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to rules.

CHAPTER 9
MISCELLANEOUS PROVISIONS

330.1900 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to maintenance of Lafayette clinic.

330.1901 Acts or functions conducted by mental health professional; prohibition.

Sec. 901. A mental health professional shall not perform an act, task, or function within the field of mental illness or developmental disability unless he or she has been trained to perform the act, task, or function, or is acting under the direct supervision of an individual who has been trained to perform the act, task, or function.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

330.1901a Conversion therapy with minor by mental health professional; prohibition.

Sec. 901a. A mental health professional shall not engage in conversion therapy with a minor. A mental health professional who violates this section is subject to disciplinary action and licensing sanctions as provided under sections 16221(a) and 16226 of the public health code, 1978 PA 368, MCL 333.16221 and 333.16226.

History: Add. 2023, Act 117, Eff. Feb. 13, 2024.

330.1902-330.1918 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed sections pertained to Lafayette clinic and neuropsychiatric institute.

330.1919 Contracts for services of agencies located in bordering states.

Sec. 919. (1) As used in this section:

(a) "County program" means a county community mental health program.

(b) "Department" means the department of mental health.

(c) "Individual" means an individual requiring mental health treatment services.

(d) "Receiving agency" means a public or private agency or county program that, under this section, provides treatment to individuals from a state other than the state in which the agency or county program is located.

(e) "Receiving state" means the state in which a receiving agency is located.

(f) "Sending agency" means a public or private agency located in a state that sends an individual to another state for treatment under this section.

(g) "Sending state" means the state in which a sending agency is located.

(2) A county program may contract as provided under this section with a public or private agency located in a state bordering Michigan to secure services under this act for an individual who receives services through the county program.

(3) A county program may contract as provided under this section with a public or private agency located in a state bordering Michigan to provide services under this act in an approved treatment facility in this state for an individual who is a resident of the bordering state, except that such services may not be provided for an individual who is involved in criminal proceedings.

(4) A contract entered into under this section may not be validly executed until the department has reviewed and approved the provisions of the contract and determined that the receiving agency provides services in accordance with the standards of this state and the attorney general has certified that the receiving state's laws governing patient rights are substantially similar to those of this state.

(5) An individual does not establish legal residence in the state where the receiving agency is located while the individual is receiving services pursuant to a contract executed under this section.

(6) Section 748 applies to treatment records of an individual receiving services pursuant to a contract executed under this section through a receiving agency in this state, except that the sending agency has the same right of access to the treatment records of the individual as provided for the department under section 748(4)(e).

(7) An individual who is detained, committed, or placed on an involuntary basis under this act may be admitted and treated in another state pursuant to a contract executed under this section. An individual who is detained, committed, or placed under the civil law of a state bordering Michigan may be admitted and treated in this state pursuant to a contract executed under this section. Court orders valid under the law of the sending state are granted recognition and reciprocity in the receiving state for individuals covered by a contract executed under this section to the extent that the court orders relate to admission for the treatment or care of a

mental disability. The court orders are not subject to legal challenge in the courts of the receiving state. An individual who is detained, committed, or placed under the law of a sending state and who is transferred to a receiving state under this section continues to be in the legal custody of the authority responsible for the individual under the law of the sending state. Except in an emergency, such an individual may not be transferred, removed, or furloughed from a facility of the receiving agency without the specific approval of the authority responsible for the individual under the law of the sending state.

(8) While in the receiving state pursuant to a contract executed under this section, an individual is subject to all of the laws and regulations applicable to an individual detained, committed, or placed pursuant to the corresponding laws of the receiving state, except those laws and regulations of the receiving state pertaining to length of involuntary inpatient treatment, reexaminations, and extensions of involuntary inpatient treatment and except as otherwise provided by this section. The laws and regulations of the sending state relating to length of involuntary inpatient treatment, reexaminations, and extensions of involuntary inpatient treatment apply. An individual shall not be sent to another state pursuant to a contract executed under this section until the receiving state has enacted a law recognizing the validity and applicability of this state's laws as provided in this section.

(9) If an individual receiving treatment on a voluntary basis pursuant to a contract executed under this section requests discharge, the receiving agency shall immediately notify the sending agency and shall return the individual to the sending state as directed by the sending agency within 48 hours after the request, excluding Saturdays, Sundays, and legal holidays, unless other arrangements are made with the sending agency. The sending agency shall immediately upon return of the individual either arrange for the discharge of the individual or detain the individual pursuant to the emergency detention laws of the sending state.

(10) If an individual receiving services pursuant to a contract executed under this section leaves the receiving agency without authorization and the individual at the time of the unauthorized leave is subject to involuntary inpatient treatment under the laws of the sending state, the receiving agency shall use all reasonable means to locate and return the individual. The receiving agency shall immediately report the unauthorized leave of absence to the sending agency. The receiving state has the primary responsibility for, and the authority to direct, the return of individuals within its borders and is liable for the cost of such action to the extent that it would be liable for costs if an individual who is a resident of the receiving state left without authorization.

(11) An individual may be transferred between facilities of the receiving state if transfers are permitted by the contract executed under this section providing for the individual's care.

(12) Each contract executed under this section shall do all of the following:

(a) Establish the responsibility for payment for each service to be provided under the contract. Charges to the sending state shall not be more or less than the actual cost of providing the service.

(b) Establish the responsibility for the transportation of individuals to and from receiving agencies.

(c) Provide for reports by the receiving agency to the sending agency on the condition of each individual covered by the contract.

(d) Provide for arbitration of disputes arising out of the contract that cannot be settled through discussion between the contracting parties and specify how the arbitrators will be chosen.

(e) Include provisions ensuring the nondiscriminatory treatment, as required by law, of employees, individuals receiving services, and applicants for employment and services.

(f) Establish the responsibility for providing legal representation for an individual receiving services in a legal proceeding involving the legality of admission and the conditions of involuntary inpatient treatment.

(g) Establish the responsibility for providing legal representation for an employee of a contracting party in legal proceedings initiated by an individual receiving treatment pursuant to the contract.

(h) Include provisions concerning the length of the contract and the means by which the contract can be terminated.

(i) Establish the right of 1 or more qualified employees or representatives of the sending agency and sending state to inspect, at all reasonable times, the records of the receiving agency and its treatment facilities to determine if appropriate standards of care are met for individuals receiving services under the contract.

(j) Require the sending agency to provide the receiving agency with copies of all relevant legal documents authorizing involuntary inpatient treatment of an individual who is admitted pursuant to the laws of the sending state and is receiving services pursuant to a contract executed under this section.

(k) Require each individual who seeks treatment on a voluntary basis to agree in writing to be returned to the sending state upon making a request for discharge as provided in subsection (9) and require an agent or employee of the sending agency to certify that the individual understands that agreement.

(*l*) Establish the responsibility for securing a reexamination for an individual and for extending an individual's period of involuntary inpatient treatment.

(m) Include provisions specifying when a receiving facility can refuse to admit or retain an individual.

(n) Specify the circumstances under which an individual will be permitted a home visit or granted a pass to leave the facility, or both.

History: Add. 1995, Act 17, Imd. Eff. Apr. 12, 1995.

330.1919[1] Training, studies, and research; rules.

Sec. 919. (1) The department shall support training, studies, and research as part of its overall responsibility with regard to the prevention of mental disorders and the care, treatment, and support of individuals with mental and emotional disorders and disturbances.

(2) Subject to section 114a, the department shall promulgate rules to set standards for the protection of human subjects in mental health research. The standards shall at a minimum comply with the federal standards for the protection of human subjects in research administered or funded by the United States department of health and human services. All research conducted, sponsored, or funded by the department or a community mental health services program shall comply with the rules promulgated under this subsection.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: Section 919, as added by Act 290 of 1995, was compiled as MCL 330.1919[1] to distinguish it from another section 919, deriving from Act 17 of 1995 and pertaining to contracts for services of agencies located in bordering states.

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

330.1920 Interstate compact on mental health.

Sec. 920. The interstate compact on mental health is hereby enacted into law and entered into by this state with all other states legally joining therein in the form substantially as follows:

INTERSTATE COMPACT ON MENTAL HEALTH

The contracting states solemnly agree that:

Article I

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

Article II

As used in this compact:

(a) "Sending state" shall mean a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent.

(b) "Receiving state" shall mean a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent.

(c) "Institution" shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency.

(d) "Patient" shall mean any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact.

(e) "After-care" shall mean care, treatment and services provided a patient, as defined herein, on convalescent status or conditional release.

(f) "Mental illness" shall mean mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community.

(g) "Mental deficiency" shall mean mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

(h) "State" shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Article III

(a) Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship qualifications.

(b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any patient may be

transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this paragraph shall include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

(c) No state shall be obliged to receive any patient pursuant to the provisions of paragraph (b) of this article unless the sending state has given advance notice of its intention to send the patient; furnished all available medical and other pertinent records concerning the patient; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish; and unless the receiving state shall agree to accept the patient.

(d) In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

(e) Pursuant to this compact, the determination as to the suitable place of institutionalization for the patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

Article IV

(a) Whenever, pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient shall receive after-care or supervision such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such after-care in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive after-care or supervision in the receiving state.

(c) In supervising, treating, or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

Article V

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be detained in the state where found pending disposition in accordance with law.

Article VI

The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

Article VII

(a) No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

(b) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

(c) No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

(e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a non-party state relating to institutionalization, care or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

Article VIII

(a) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or in respect of any patient for whom he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances: Provided, however, that in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

(b) The term "guardian" as used in paragraph (a) of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

Article IX

(a) No provision of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

(b) To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

Article X

(a) Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general coordinator of activities under the compact in his state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving state. The compact adminstrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

(b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

Article XI

The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

Article XII

This compact shall enter into full force and effect as to any state when enacted by it into law and such state shall thereafter be a party thereto with any and all states legally joining therein.

Article XIII

(a) A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

(b) Withdrawal from any agreement permitted by Article VII (b) as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

Article XIV

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be

contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

History: 1974, Act 258, Eff. Aug. 6, 1975.

Compiler's note: In the second sentence of subsection (a) of Article X, the word "adminstrator" evidently should read "administrator."

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

330.1922 Director or agent as compact administrator; rules and procedures.

Sec. 922. The director of the department of mental health, or a duly authorized agent designated by him in writing to the governor, shall perform the duties of the compact administrator who, acting jointly with like officers of other states, shall promulgate rules and adopt procedures to carry out more effectively the terms of the compact. All rules promulgated by the compact administrator shall be pursuant to Act No. 306 of the Public Acts of 1969, as amended.

History: 1974, Act 258, Eff. Aug. 6, 1975.

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

330.1924 Supplementary agreements; administration; arbitration of disputed questions of residence.

Sec. 924. (1) The compact administrator may enter into supplementary agreements with appropriate officials of other states pursuant to Articles VII and XI of the compact.

(2) The compact administrator shall cooperate with all departments, agencies, and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement entered into by this state.

(3) The department of mental health may enter into agreements with authorities of other states for the arbitration of disputed questions between those states and this state respecting the residence of mentally ill and mentally deficient persons and their return to their place of legal settlement.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.1926 Payments to discharge financial obligations; expense of transfer to another state.

Sec. 926. (1) The compact administrator, subject to the approval of the department of administration, may arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into thereunder from funds appropriated for that purpose.

(2) The actual and necessary expenses of transfer to another state shall be audited by the department of administration and paid from the general fund in the state treasury upon vouchers certifying to the circumstances of the transfer and showing in detail the expenses thereof.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.1927 Repealed. 1987, Act 192, Imd. Eff. Dec. 2, 1987.

Compiler's note: The repealed section pertained to protection of developmentally disabled persons.

330.1928 Copies of compact; distribution.

Sec. 928. Duly authenticated copies of the compact shall, upon its approval, be transmitted by the secretary of state to the governor of each state, the attorney general and the administrator of general services of the United States, and the council of state governments.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.1930 Consent to transfer.

Sec. 930. In the administration of the compact, the compact administrator shall not transfer any patient to an institution in another state without the prior written consent of the patient's parents, nearest relative, or guardian. A copy of the consent shall be placed on file in the probate court of the county issuing the order of judicial admission or in the case of a nonjudicial admission, in the probate court of the county where the patient resides.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.1931 Programs for protection and advocacy of rights of developmentally disabled and of mentally ill persons; implementation; authority; liaison.

Sec. 931. (1) The governor shall designate an agency to implement a program for the protection and advocacy of the rights of persons with developmental disabilities pursuant to the developmentally disabled assistance and bill of rights act, Public Law 94-103, 89 Stat. 486. The designated agency shall have the authority to pursue legal, administrative, and other appropriate remedies to protect the rights of the developmentally disabled and to investigate allegations of abuse and neglect. The designated agency shall be independent of any state agency that provides treatment or services other than advocacy services to persons with developmental disabilities.

(2) The agency designated under subsection (1) shall implement a program for the protection and advocacy of the rights of mentally ill persons pursuant to the protection and advocacy for mentally ill individuals act of 1986, Public Law 99-319, 100 Stat. 478. The designated agency shall have the authority to pursue legal, administrative, and other appropriate remedies to protect the rights of mentally ill persons and to investigate allegations of abuse or neglect of mentally ill persons. The designated agency shall be independent of any state agency that provides treatment or services other than advocacy services to mentally ill persons.

(3) The governor shall designate an appropriate state official to serve as liaison between the agency designated to implement the protection and advocacy programs and the state departments and agencies that provide services to persons with developmental disabilities and mentally ill persons.

History: Add. 1987, Act 192, Imd. Eff. Dec. 2, 1987.

330.1932 Taxation, loans, and bonds.

Sec. 932. The several counties of the state have power and authority, by resolution of the county board of commissioners, to provide for the care, custody, and maintenance of developmentally disabled persons within the counties and for this purpose counties may raise money by tax or by loan and issue bonds of the county to secure the repayment of the loan in the manner and within the limits provided by law for the erection of buildings and for the purchase of equipment. Counties may raise by tax, in the manner and within the limits provided by law, the sum needed from year to year, for the support, maintenance, and care of developmentally disabled persons admitted to the care of any facility maintained by the counties under and by authority of law.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 2014, Act 72, Imd. Eff. Mar. 28, 2014.

330.1934-330.1936 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed sections pertained to employees and lease of state-owned surplus farmland.

330.1938 Family planning services.

Sec. 938. The department of mental health may provide to any individual receiving mental health services from the department written or oral notice of the availability of family planning services and upon request of the individual offer education and information on family planning. The notice shall state that receipt of mental health services is in no way dependent upon a request or nonrequest for family planning services.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.1939 State mental health advisory council on deafness; creation; appointment, qualifications, and terms of members; vacancy; duties; report; expenses; meetings; election of chairperson.

Sec. 939. (1) The state mental health advisory council on deafness is created in the department as a successor to the mental health advisory council on the deaf, deafblind, and hard of hearing. The council shall consist of 12 members appointed by the governor. At least 4 members shall be deaf persons as defined in section 2 of the deaf persons' interpreters act, 1982 PA 204, MCL 393.502. The remaining members shall be persons knowledgeable in the area of deafness, mental health, or both. The members shall be appointed for 2-year terms beginning on April 1, except that in the first year, 6 members shall be appointed for a 1-year term, and 6 members shall be appointed for a 2-year term. A vacancy on the council shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(2) The state mental health advisory council on deafness shall advise and assist the director of the department on mental health services, policies, and programs for the deaf, deafblind, and hard of hearing. The council is responsible for all of the following:

(a) Identifying and assessing current needs of deaf, deafblind, and hard of hearing persons with mental health problems.

(b) Monitoring mental health program delivery to deaf, deafblind, and hard of hearing persons.

(c) Recommending programs, policy development, and training that shall ensure quality service delivery of specialized mental health services to meet the needs of deaf, deafblind, and hard of hearing persons.

(3) The state mental health advisory council on deafness shall report its findings and recommendations at least annually to the department, citizens mental health advisory council, the governor, and the house and senate appropriations committees.

(4) The members of the state mental health advisory council on deafness shall serve without compensation, but shall be reimbursed for actual and necessary expenses by the department.

(5) The first meeting each year of the state mental health advisory council on deafness shall be called by a majority of the members at which time a chairperson shall be elected. The council shall meet at least 4 times a year and at the call of the chairperson.

History: Add. 1984, Act 354, Imd. Eff. Dec. 27, 1984;—Am. 1990, Act 263, Imd. Eff. Oct. 15, 1990;—Am. 2016, Act 239, Eff. Sept. 22, 2016.

Compiler's note: For transfer of powers and duties of the state mental health advisory council on deafness to the director of the department of community health and abolishment of the council, see E.R.O. No. 1997-4, compiled at MCL 333.26324 of the Michigan Compiled Laws.

330.1940 Aiding or causing certain persons to leave or not return to facility; penalty.

Sec. 940. Any person who aids, attempts to aid, or causes a person admitted to a mental health facility by judicial order to leave the facility without authorization, or who aids, attempts to aid, or causes such a person to fail to return to the facility while on an authorized absence after a lawful request for his return has been made shall be guilty of a crime punishable by a sentence of not more than 2 years.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.1941 State advisory council on mental health and aging; establishment; administration and operation; composition; appointment, qualifications, and terms of members; duties; expenses; appointment of chairperson; meetings.

Sec. 941. (1) The state advisory council on mental health and aging is jointly established in the department and the office of services to the aging. The state advisory council on mental health and aging shall be administered and operated jointly by the department and the office of services to the aging. The state advisory council on mental health and aging shall consist of the director or his or her designee, the director of public health or his or her designee, the director of social services or his or her designee, the director of the office of services to the aging or his or her designee, the director of the office of health and medical affairs or his or her designee, the insurance commissioner or his or her designee, and the following 16 members appointed jointly by the directors of mental health and the office of services to the aging:

(a) Two family caregivers.

(b) One member who is a licensed physician and who has experience in the diagnosis and treatment of Alzheimer's disease and related disorders.

(c) One member who is an attorney and who has knowledge and experience in mental health and aging law.

(d) One member representing a provider of services to persons identified as having Alzheimer's disease or a related disorder.

(e) One member from the Alzheimer's disease and related disorders association.

(f) One member from an area agency on aging.

(g) One member representing an agency that provides statewide dissemination of information and education on mental health and aging issues.

(h) One member from the commission on services to the aging.

(i) One member from a community mental health services provider.

(j) One member from an area agency on aging services provider.

(k) One member representing a state psychiatric hospital.

(*l*) One member who is a community mental health board director or the designee of a community mental health board director.

(m) One member who is a psychiatrist with experience treating older adults.

(n) Two members representing older adults.

(2) The composition of the state advisory council on mental health and aging as described in subsection (1) shall reflect a wide range of professionals, consumers, and ethnic minority citizens.

(3) Members shall be appointed for 2-year terms beginning on April 1, except that of the members first appointed, 1/2 of the members shall be appointed for a 1-year term, and 1/2 of the members shall be appointed for a 2-year term. A vacancy on the council shall be filled for the balance of the unexpired term in the same

manner as the original appointment.

(4) The state advisory council on mental health and aging shall do all of the following:

(a) Provide advice and guidance and make recommendations to the directors of mental health and the office of services to the aging on mental health and aging issues, including, but not limited to, Alzheimer's disease and related disorders.

(b) Monitor programs funded or coordinated by the department, the office of services to the aging, or both, for older adults with mental health needs and persons with Alzheimer's disease or a related disorder.

(c) Identify key issues of concern that require intervention by 1 or more state agencies.

(d) Recommend specific innovative service delivery models that address the unique needs of multi-cultural populations, including, but not limited to, ethnic sensitive practices and culturally relevant programming.

(e) Submit annually to the director, the director of the office of services to the aging, the legislature, and the governor a report summarizing the activities of the state advisory council on mental health and aging for the past year and making recommendations for the coming year.

(5) The members of the state advisory council on mental health and aging shall serve without compensation, but shall be reimbursed for actual and necessary expenses by the department, the office of services to the aging, or both.

(6) The chairperson of the state advisory council on mental health and aging shall be appointed jointly by the director and the director of the office of services to the aging by April 1 of each year. The council shall meet at least quarterly and at the call of the chairperson.

History: Add. 1988, Act 436, Imd. Eff. Dec. 27, 1988.

Compiler's note: For transfer of powers and duties of the state advisory council on mental health and aging to the director of the department of community health and abolishment of the council, see E.R.O. No. 1997-4, compiled at MCL 333.26324 of the Michigan Compiled Laws.

For transfer of position of commissioner of office of financial and insurance regulation as member or chairperson of board or commission to director of department of insurance and financial services, see E.R.O. No. 2013-1, compiled at MCL 550.991.

For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the aging and adult services agency to the department of health and human services, and abolishment of the aging and adult services agency, see E.R.O. No. 2021-2, compiled at MCL 400.562.

330.1942 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to criminal sexual psychopaths.

330.1944 Criminal sexual psychopath; leaving state without permission; penalty.

Sec. 944. Any criminal sexual psychopathic person under lawful commitment pursuant to the provisions of Act No. 165 of the Public Acts of 1939, as amended, who leaves the state without permission is guilty of a felony.

History: 1974, Act 258, Eff. Aug. 6, 1975.

Compiler's note: Act 165 of 1939, referred to in this section, was repealed by Act 267 of 1966 and Act 143 of 1968.

330.1946 Threat of physical violence against third person; duties.

Sec. 946. (1) If a patient communicates to a mental health professional who is treating the patient a threat of physical violence against a reasonably identifiable third person and the recipient has the apparent intent and ability to carry out that threat in the foreseeable future, the mental health professional has a duty to take action as prescribed in subsection (2). Except as provided in this section, a mental health professional does not have a duty to warn a third person of a threat as described in this subsection or to protect the third person.

(2) A mental health professional has discharged the duty created under subsection (1) if the mental health professional, subsequent to the threat, does 1 or more of the following in a timely manner:

(a) Hospitalizes the patient or initiates proceedings to hospitalize the patient under chapter 4 or 4a.

(b) Makes a reasonable attempt to communicate the threat to the third person and communicates the threat to the local police department or county sheriff for the area where the third person resides or for the area where the patient resides, or to the state police.

(c) If the mental health professional has reason to believe that the third person who is threatened is a minor or is incompetent by other than age, takes the steps set forth in subdivision (b) and communicates the threat to the department of social services in the county where the minor resides and to the third person's custodial parent, noncustodial parent, or legal guardian, whoever is appropriate in the best interests of the third person.

(3) If a patient described in subsection (1) is being treated through team treatment in a hospital, and if the individual in charge of the patient's treatment decides to discharge the duty created in subsection (1) by a

means described in subsection (2)(b) or (c), the hospital shall designate an individual to communicate the threat to the necessary persons.

(4) A mental health professional who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 750. A psychiatrist who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate the physician-patient privilege established under section 2157 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2157 of the Michigan Compiled Laws. A psychologist who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 18237 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.18237 of the Michigan Compiled Laws. A certified social worker, social worker, or social worker technician who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 1610 of the occupational code, Act No. 299 of the Public Acts of 1980, being section 339.1610 of the Michigan Compiled Laws. A licensed professional counselor who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 18117 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.18117 of the Michigan Compiled Laws. A marriage and family therapist who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 1509 of the occupational code, Act No. 299 of the Public Acts of 1980, being section 339.1509 of the Michigan Compiled Laws. A music therapist who determines in good faith that a particular situation presents a duty under this section and who complies with this duty does not violate section 4.11 of the professional code of ethics of the national association for music therapy, inc., or the clinical relationships section of the code of ethics of the certification board for music therapists.

(5) This section does not affect a duty a mental health professional may have under any other section of law.

History: Add. 1989, Act 123, Eff. Sept. 1, 1989;—Am. 1994, Act 259, Imd. Eff. July 5, 1994;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

330.1950-330.1953 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.

Compiler's note: The repealed sections pertained to definitions, special projects grant program, and annual report.

CHAPTER 9A
CRISIS STABILIZATION UNITS

330.1971 Certification of crisis stabilization units.

Sec. 971. (1) The department shall provide for certification of crisis stabilization units under this chapter to provide crisis services in a community-based setting. An individual receiving services in a crisis stabilization unit is a recipient of mental health services under chapter 7 and is afforded all rights afforded to a recipient of mental health services.

(2) Crisis services include clinical services as a short-term alternative to inpatient psychiatric hospitalization provided by a mental health professional under the supervision of a psychiatrist in the least restrictive environment as determined by the mental health professional. The primary objective of crisis services is prompt assessment, stabilization, and determination of the appropriate level of care. The main desired outcome of crisis services is to avoid unnecessary hospitalization for an individual whose crisis may resolve with time, observation, and treatment.

(3) A psychiatric hospital or general hospital may establish and operate a crisis stabilization unit under this chapter. As used in this subsection, "general hospital" means hospital as that term is defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

History: Add. 2020, Act 402, Eff. Mar. 24, 2021.

330.1972 Minimum standards and requirements for certification.

Sec. 972. The department shall establish minimum standards and requirements for certifying a crisis stabilization unit. Standards and requirements include, but are not limited to, the following:

(a) A standard requiring the capacity to carry out emergency receiving and evaluating functions but not to the extent that brings the crisis stabilization unit under the provisions of section 1867 of the social security act, 42 USC 1395dd.

(b) Standards requiring implementation of voluntary and involuntary admission consistent with section 409.

(c) A prohibition from holding itself out as a hospital or from billing for hospital or inpatient services.

(d) Standards to prevent inappropriate referral between entities of common ownership.

(e) Standards regarding maximum length of stay at a crisis stabilization unit with discharge planning upon intake to a clinically appropriate level of care consistent with section 409(7).

(f) Standards of billing for services rendered at a crisis stabilization unit.

(g) Standards for reimbursement of services for uninsured individuals, underinsured individuals, or both, and Medicaid beneficiaries, including, but not limited to, formal agreements with community mental health services programs or regional entities for services provided to individuals utilizing public behavioral health funds, outreach and enrollment for eligible health coverage, annual rate setting, proper communication with payers, and methods for resolving billing disputes between providers and payers.

(h) Physician oversight requirements.

(i) Nursing services.

(j) Staff to client ratios.

(k) Standards requiring a minimum amount of psychiatric supervision of an individual receiving services in the crisis stabilization unit that are consistent with the supervision requirements applicable in a psychiatric hospital or psychiatric unit setting.

(*l*) Standards requiring implementation and posting of recipients' rights under chapter 7.

(m) Safety and emergency protocols.

(n) Pharmacy services.

(o) Standards addressing administration of medication.

(p) Standards for reporting to the department.

(q) Standards regarding a departmental complaint process and procedure affording patients the right to file complaints for failure to provide services in accordance with required certification standards. The complaint process and procedure must be established and maintained by the department, must remain separate and distinct from providers delivering services under this chapter, and must not be a function delegated to a community mental health services program or an entity under contract with a community mental health services program. The complaint process must provide for a system of appeals and administrative finality.

History: Add. 2020, Act 402, Eff. Mar. 24, 2021.

330.1973 Provision of substance use disorder services; license required.

Sec. 973. Unless licensed under part 62 of the public health code, 1978 PA 368, MCL 333.6230 to 333.6251, a crisis stabilization unit that is not also a preadmission screening unit shall not provide substance use disorder services described in chapter 2A under this certification without first obtaining the required license. If substance use disorder prevention services or substance use disorder treatment and rehabilitation services, or both, are provided, the crisis stabilization unit must obtain a license as required under section 6233 of the public health code, 1978 PA 368, MCL 333.6233.

History: Add. 2020, Act 402, Eff. Mar. 24, 2021.

330.1974 Operation of crisis stabilization unit; application and license required.

Sec. 974. (1) An entity must not operate as a crisis stabilization unit without having a certification issued under this chapter.

(2) An application for certification to operate a crisis stabilization unit must be submitted to the department in the manner prescribed by the department.

History: Add. 2020, Act 402, Eff. Mar. 24, 2021.

330.1975 Issuance of certification; nontransferable.

Sec. 975. (1) The department must issue a certification to an applicant who meets all the standards and requirements set forth by the department for certifying a crisis stabilization unit.

(2) A certification issued under this chapter is not transferable to another crisis stabilization unit for the purpose of facilitating a change in location or a change in the governing body.

History: Add. 2020, Act 402, Eff. Mar. 24, 2021.

330.1976 Inspection of premises.

Sec. 976. Each certified crisis stabilization unit must allow an authorized department representative to enter upon and inspect all of the premises for which a certification has been granted or applied for under this chapter.

History: Add. 2020, Act 402, Eff. Mar. 24, 2021.

330.1977 Denial, suspension, or revocation of certification; hearing required.

Sec. 977. (1) The department may deny an application for certification under this chapter that does not meet all the standards and requirements set forth by the department for a crisis stabilization unit. The department may suspend or revoke a certification that has been issued under this chapter if an applicant or a certified crisis stabilization unit violates a provision of this chapter or a standard or requirement set forth by the department under this chapter.

(2) Before an order is entered denying a certification application or suspending or revoking a certification previously granted, the applicant or party with a certification must have an opportunity for a hearing. A hearing under this section is subject to the provisions governing a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: Add. 2020, Act 402, Eff. Mar. 24, 2021.

330.1978 Certificate of need exemption.

Sec. 978. A crisis stabilization unit certified under this chapter is exempt from the requirement of obtaining a certificate of need.

History: Add. 2020, Act 402, Eff. Mar. 24, 2021.

330.1979 Accreditation requirements.

Sec. 979. A crisis stabilization unit must obtain and maintain accreditation from 1 of the following within 3 years after initial certification or within 3 years after the effective date of the amendatory act that added this chapter:

(a) Behavioral health care accreditation for crisis stabilization from the Joint Commission on Accreditation of Healthcare Organizations.

(b) Behavioral health accreditation for crisis stabilization by the Commission on Accreditation of Rehabilitation Facilities, CARF International.

(c) Accreditation from an organization with similar standards as the organizations described in subdivisions (a) and (b) that is approved by the director.

History: Add. 2020, Act 402, Eff. Mar. 24, 2021.

CHAPTER 10
CRIMINAL PROVISIONS

TRANSFER OF PRISONERS

330.2000 Repealed. 1978, Act 636, Imd. Eff. Jan. 10, 1979.

Compiler's note: The repealed section pertained to admission of prisoner to facility.

330.2001 Meanings of words and phrases.

Sec. 1001. For the purposes of sections 1001a to 1006, the words and phrases defined in sections 1001a and 1001b have the meanings ascribed to them in those sections.

History: Add. 1978, Act 636, Imd. Eff. Jan. 10, 1979.

330.2001a Definitions; C to M.

Sec. 1001a. (1) "Center for forensic psychiatry program" means that program established by the center for forensic psychiatry to provide services related to all of the following:

(a) Persons who are alleged to be incompetent to stand trial.

(b) Persons who are acquitted of criminal charges by reason of insanity.

(c) Persons who are transferred to the center from places of detention or from other state psychiatric hospitals.

(2) "Corrections mental health program" means that program of the department of corrections that is responsible for the provision of mental health services to certain prisoners under this chapter.

(3) "Hearing committee" means a committee appointed by the corrections mental health program under section 1003c.

(4) "Mental health services" means the provision of mental health care in a protective environment to prisoners with mental illness or developmental disability, including, but not limited to, chemotherapy and individual and group therapies.

(5) "Mental illness" means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

History: Add. 1978, Act 636, Imd. Eff. Jan. 10, 1979;—Am. 1993, Act 252, Imd. Eff. Nov. 29, 1993;—Am. 2014, Act 72, Imd. Eff. Mar. 28, 2014.

330.2001b Definitions; P to S.

Sec. 1001b. (1) "Place of detention" means a detention facility operated by a political subdivision of the state.

(2) "Prisoner" means a person confined in a state correctional facility, but does not include any of the following:

(a) A person confined pursuant to an order of a juvenile division of the probate court or the family division of circuit court.

(b) A person confined in a place of detention.

(c) A person who is on parole from a state correctional facility.

(3) "Protective environment" means an environment that supports mental health services in accordance with a prisoner's individual plan of services.

(4) "State correctional facility" means a facility that houses prisoners and is operated by the department of corrections, and also includes a youth correctional facility operated by the department of corrections or a private vendor under section 20g of 1953 PA 232, MCL 791.220g.

History: Add. 1978, Act 636, Imd. Eff. Jan. 10, 1979;—Am. 1993, Act 252, Imd. Eff. Nov. 29, 1993;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1998, Act 508, Imd. Eff. Jan. 8, 1999.

330.2002 Repealed. 1975, Act 154, Imd. Eff. July 9, 1975.

Compiler's note: The repealed section pertained to admission of prisoner as formal voluntary patient or administrative admittee.

330.2002a Mental health services for person confined in place of detention; rules for voluntary admission into state mental health facility; involuntary admission.

Sec. 1002a. (1) For a person confined in a place of detention operated by a political subdivision of the state and who requests mental health services, mental health services shall be provided by the appropriate community mental health program pursuant to the responsibilities described in section 206.

(2) The department of mental health shall promulgate rules pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, establishing a procedure for the voluntary admission into a state mental health facility of a person confined in a place of detention operated by a political subdivision of the state.

(3) The involuntary admission into a state mental health facility of a person confined in a place of detention operated by a political subdivision of the state shall be governed by sections 423 to 444.

History: Add. 1978, Act 636, Imd. Eff. Jan. 10, 1979.

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

330.2003 Corrections mental health program; establishment and operation; appointment and qualifications of program director.

Sec. 1003. The department of corrections shall establish and operate the corrections mental health program to provide mental health services for prisoners who are developmentally disabled or mentally ill and need those services. The director of the department shall review the program's structure, content, quality standards, and implementation. The department of corrections may contract with the department or third-party providers to operate the corrections mental health program. The director of the department of corrections shall appoint the director of the corrections mental health program. The director of the corrections mental health program shall be an individual with an advanced degree in a mental health field and a minimum of 5 years' experience in a mental health field.

History: Add. 1978, Act 636, Imd. Eff. Jan. 10, 1979;—Am. 1993, Act 252, Imd. Eff. Nov. 29, 1993;—Am. 2007, Act 112, Imd. Eff. Oct. 1, 2007;—Am. 2014, Act 72, Imd. Eff. Mar. 28, 2014.

330.2003a Involuntary admission; procedures.

Sec. 1003a. The following procedures apply to involuntary admission to the corrections mental health program:

(a) A person may file with the officer in charge of a state correctional facility a written notice alleging that a particular prisoner is mentally ill or developmentally disabled and requires treatment. Upon receipt of the written notice, the officer in charge of the facility shall contact the corrections mental health program, which shall initiate an evaluation by a mental health professional. If the officer in charge of a state correctional facility receives a report from a mental health professional that a prisoner may be mentally ill, the officer shall ensure that the prisoner is examined by a psychiatrist as soon as administratively possible. If the report from the mental health professional states that the prisoner may be developmentally disabled, the officer shall

ensure that the prisoner is examined by a psychologist as soon as administratively possible. Unless the prisoner can be examined within the facility where he or she is housed, the prisoner shall be transferred to an appropriate facility for examination.

(b) Upon completion of the examination described in subdivision (a), the psychiatrist or psychologist shall execute a certificate of findings that specifies whether, in the psychiatrist's or psychologist's opinion, the prisoner is mentally ill or developmentally disabled. If a finding of mental illness or developmental disability is made, the psychiatrist or psychologist shall recommend suitable treatment available within the corrections mental health program.

(c) Upon completion of the examination described in subdivision (a), if the psychiatrist or psychologist determines that the prisoner is mentally ill or developmentally disabled and is a present danger to himself or herself or to others, and if the prisoner refuses treatment, the psychiatrist may order involuntary administration of psychotropic medication pending a hearing under section 1003c.

(d) Upon completion of the certificate required under subdivision (b), the officer in charge of the state correctional facility shall provide to the prisoner and the guardian of the person, if applicable, a copy of the certificate, a copy of the psychiatrist's or psychologist's report of the examination, and a notice of hearing explaining hearing procedures and rights set forth in section 1003c. The documents shall be provided at least 24 hours before the hearing.

(e) If the prisoner agrees with the treatment recommended under subdivision (b), the prisoner may execute a waiver of hearing and consent to treatment.

(f) If the prisoner refuses the treatment recommended under subdivision (b), a hearing shall be held under section 1003c.

(g) The prisoner shall not be medicated for 24 hours before a hearing held under section 1003c.

(h) If, following a hearing held under section 1003c, the hearing committee finds that the prisoner is not mentally ill or developmentally disabled, the prisoner shall be placed according to normal procedures of the department of corrections. If the hearing committee finds that the prisoner is mentally ill or developmentally disabled and that the proposed services are suitable to the prisoner's condition, the corrections mental health program shall provide the mental health services designated by the hearing committee. If the hearing committee finds that the prisoner is mentally ill or developmentally disabled but that the proposed services are not suitable to the prisoner's condition, the corrections mental health program shall provide services that are available within the corrections mental health program that are suitable to the prisoner's condition as ordered by the hearing committee.

History: Add. 1978, Act 636, Imd. Eff. Jan. 10, 1979;—Am. 1993, Act 252, Imd. Eff. Nov. 29, 1993;—Am. 2014, Act 72, Imd. Eff. Mar. 28, 2014.

330.2003b Voluntary admission; procedures.

Sec. 1003b. The following procedures apply to voluntary admission to the corrections mental health program:

(a) If a prisoner desires to be voluntarily admitted to the corrections mental health program, the officer in charge of the state correctional facility in which the prisoner is housed shall transfer the prisoner, if necessary, to the appropriate location designated by the corrections mental health program for an examination by a psychiatrist or a psychologist, as applicable. If the examining psychiatrist or psychologist certifies to the corrections mental health program that the prisoner is mentally ill or developmentally disabled and is clinically suited for admission, the corrections mental health program shall provide the prisoner with a written individual plan of services according to section 712. Upon the prisoner's consent to the individual plan of services, the corrections mental health program shall admit the prisoner to the program.

(b) Except as otherwise provided in subdivision (c), a prisoner who is voluntarily transferred under this section shall not be admitted to the corrections mental health program for more than 3 days, excluding Sundays and legal holidays, after the prisoner gives written notice of his or her intention to terminate the admission and return to the general population of the state correctional facility. If the corrections mental health program is advised by a prisoner of an intention to terminate admission, the program shall promptly provide the written form required for termination of admission and return the prisoner to the general population of the state correctional facility.

(c) If written notice of termination of admission has been given according to subdivision (b) and has not been withdrawn, and if the director of the corrections mental health program determines that the prisoner continues to require mental health services, the director, or a person designated by the director, within 3 days, excluding Sundays and holidays, after the receipt by the corrections mental health program of the notice, shall provide the prisoner and the guardian of the person, if applicable, with a notice of hearing explaining hearing rights set forth in section 1003c. The prisoner shall not be medicated for 24 hours prior to the hearing. If,

following the hearing, the hearing committee finds that the prisoner does not require mental health services, the prisoner shall be placed according to normal procedures of the department of corrections. If the hearing committee finds that the prisoner continues to require mental health services, the corrections mental health program shall continue to provide those services.

History: Add. 1978, Act 636, Imd. Eff. Jan. 10, 1979;—Am. 1993, Act 252, Imd. Eff. Nov. 29, 1993;—Am. 2014, Act 72, Imd. Eff. Mar. 28, 2014.

330.2003c Hearing committee.

Sec. 1003c. (1) If a prisoner refuses treatment or services recommended under section 1003a or if the corrections mental health program determines that a voluntary admittee to the program who wishes to terminate admission continues to require mental health services, the corrections mental health program shall appoint a hearing committee to hear the matter. The hearing committee shall consist of a psychiatrist, a psychologist, and another mental health professional, whose licensure or registration requirements include a minimum of a baccalaureate degree from an accredited college or university, none of whom is, at the time of hearing, involved in the prisoner's treatment or diagnosis.

(2) A hearing under this section shall be held not less than 24 hours after the prisoner and the guardian of the person, if applicable, are provided the documents required under section 1003a(d) or section 1003b(c), but not more than 7 business days after the documents have been provided to the prisoner.

(3) A prisoner has the following rights with respect to the hearing under this section:

(a) Attendance at the hearing, and if the prisoner has a guardian of the person, the guardian's attendance at the hearing.

(b) Presentation of evidence, including witnesses, who may be family members, and cross-examination of witnesses, unless the hearing committee finds that the presentation, confrontation, or cross-examination would present a serious threat to the order and security of the facility or the safety of the prisoner or others.

(c) Assistance of 1 of the following persons designated by the director of the corrections mental health program:

(*i*) A recipient rights advisor from the office of recipient rights.

(*ii*) A mental health professional who is not involved in the prisoner's treatment or diagnosis and whose licensure or registration requirements include a minimum of a baccalaureate degree from an accredited college or university.

(4) The hearing committee appointed under subsection (1) shall consider the report of the mental health professional who has alleged that the prisoner is mentally ill or developmentally disabled, the certificate described in section 1003a(b), proof of service of the notice of hearing, proof of nonmedication for 24 hours prior to the hearing, and any other admissible evidence presented at the hearing. To be admissible, evidence shall be relevant, nonrepetitious, and of a type relied upon by a person in the conduct of everyday affairs.

(5) The hearing committee appointed under subsection (1) shall prepare an official record of the hearing including all evidence described in subsection (4). The hearing shall be recorded, but need not be transcribed unless requested by a party. A party who requests transcription shall pay for the transcription of the portion requested.

(6) After a hearing under this section, the hearing committee shall decide by a majority vote that includes an affirmative vote by the psychiatrist whether the prisoner is mentally ill or developmentally disabled and whether the proposed mental health services are suitable to the prisoner's condition. If the hearing committee finds that the prisoner is mentally ill or developmentally disabled but that the proposed services are not suitable to the prisoner's condition, the hearing committee shall order services available within the corrections mental health program that are suitable to the prisoner's condition.

(7) Upon reaching a decision, the hearing committee shall prepare a report and order expressing the findings of the hearing committee and the basis for those findings. Each member shall indicate his or her agreement or disagreement with the hearing committee findings. Within 24 hours after the hearing, the hearing committee shall provide a copy of the hearing committee report and order to the prisoner.

(8) A prisoner may appeal the decision of the hearing committee under this section to the director of the corrections mental health program if the appeal is filed within 48 hours of the prisoner's receipt of the hearing committee's report and order under subsection (7). The director of the corrections mental health program shall render a decision within 2 business days after receipt of the appeal.

(9) A prisoner may appeal the decision of the director of the corrections mental health program under subsection (8) according to section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631, except that no oral argument shall be permitted. If the director of the corrections mental health program upholds the hearing committee's findings of mental illness or developmental disability and the hearing committee's proposed services, the prisoner's treatment shall not be stayed pending the appeal.

History: Add. 1993, Act 252, Imd. Eff. Nov. 29, 1993;—Am. 2014, Act 72, Imd. Eff. Mar. 28, 2014.

330.2004 Crediting good time credits and other statutory reductions; notice and record of expiration or reduction of sentence.

Sec. 1004. (1) A prisoner shall continue to be credited with those good time credits and other statutory reductions of his or her penal sentence to which he or she is entitled while in the corrections mental health program, subject to the terms and conditions that are applicable in a state correctional facility. The prisoner shall continue to be subject to all disciplinary sanctions that are not attributable to the prisoner's mental illness or developmental disability.

(2) At the time a prisoner is admitted to the corrections mental health program, the department of corrections shall notify the director of the corrections mental health program of the date on which the sentence of the prisoner is to expire and of any reductions of the sentence recorded to date. The corrections mental health program shall enter the sentence expiration date in the record it maintains for the prisoner.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1993, Act 252, Imd. Eff. Nov. 29, 1993;—Am. 2014, Act 72, Imd. Eff. Mar. 28, 2014.

330.2004a Rights of prisoners; confidentiality of information.

Sec. 1004a. (1) In addition to the rights, benefits, and privileges guaranteed to prisoners by other provisions of law, the state constitution of 1963, and the constitution of the United States, a prisoner receiving services from the corrections mental health program has the rights enumerated in this section. The rights enumerated in this section do not replace or limit any other rights, benefits, or privileges of a prisoner.

(2) The rights enumerated in this section pertain to the manner in which mental health services are provided to the prisoner. This section does not affect the regulations and policies of the department of corrections relating to the operation of a state correctional facility. In an instance in which a right enumerated in this section conflicts with a regulation or policy of the department of corrections affecting the security of a state correctional facility or the protection of prisoners, employees, or the public, the department of corrections regulation or policy shall control.

(3) A prisoner is entitled to receive mental health services suitable to his or her condition in a manner that protects and promotes the basic human dignity of the prisoner.

(4) Subject to subsection (2), a prisoner receiving services from the corrections mental health program is entitled to those rights enumerated in sections 706, 710, 712, 714, 716, 722, 740, 742, 744, and 746.

(5) Information in the medical record of a prisoner receiving services from the corrections mental health program and other information acquired in the course of the prisoner's treatment in the program is confidential and shall not be open to public inspection. The corrections mental health program is the holder of the record and may disclose the information only in the circumstances and under the conditions set forth in this subsection. If information made confidential by this subsection is disclosed, the identity of the individual to whom it pertains shall be protected and shall not be disclosed unless it is germane to the authorized purpose for which disclosure was sought; and, if practicable, other information shall not be disclosed unless it is germane to the authorized purpose for which disclosure was sought. A person receiving information made confidential by this subsection shall disclose the information to others only to the extent consistent with the authorized purpose for which the information was obtained. With the exception of records, data, and knowledge generated by individuals or committees performing a peer review function, which is not subject to disclosure, information pertaining to a prisoner receiving mental health services from the corrections mental health program may be disclosed under 1 or more of the following circumstances:

(a) Pursuant to orders or subpoenas of a court of record, or subpoenas of the legislature, unless the information is made privileged by law.

(b) To an attorney for the prisoner, with the prisoner's consent.

(c) If necessary to comply with another provision of law.

(d) To the department of corrections if the information is necessary to protect the safety of the prisoner, other prisoners, or the public, or to protect the prisoner's interactions with others in the state correctional facility.

(e) To the department of mental health if the information is necessary for the department to discharge a responsibility placed upon it by law.

(f) To the office of the auditor general if the information is necessary for that office to discharge its constitutional responsibility.

(g) As necessary to enable a prisoner or the prisoner's surviving spouse or other related person to apply for or receive benefits.

(h) As necessary for the purpose of outside research, evaluation, accreditation, or statistical compilation, if

the prisoner can be identified from the disclosure only if that identification is essential in order to achieve the purpose for which the information is sought or if preventing that identification would clearly be impractical, but in no event if the prisoner is likely to be harmed by the identification.

(i) To providers of mental health or other health services or a public agency, when there is a compelling need for disclosure based upon a substantial probability of harm to the prisoner or to other persons.

(j) To a representative of the protection and advocacy system designated by the governor in section 931 if both of the following apply:

(*i*) A complaint regarding the provision of mental health services by the corrections mental health program has been received by the protection and advocacy system from or on behalf of the prisoner.

(*ii*) The prisoner does not have a legal guardian, or the state or the designee of the state is the legal guardian of the prisoner.

History: Add. 1993, Act 252, Imd. Eff. Nov. 29, 1993.

330.2004b Notice of rights.

Sec. 1004b. (1) Not later than 7 days after a prisoner is admitted to the corrections mental health program, the corrections mental health program shall provide the prisoner with a notice of the rights guaranteed under section 1004a. The program shall also provide the prisoner with an opportunity to consult with 1 of the following persons designated by the director of the corrections mental health program:

(a) A recipient rights advisor from the office of recipient rights.

(b) A field investigator from the office of the legislative corrections ombudsman.

(c) A representative of the protection and advocacy agency designated by the governor pursuant to section 931.

(2) The corrections mental health program shall place in the record of each prisoner admitted to the program a document signed by the prisoner stating that the prisoner received the notice required under subsection (1) and was offered an opportunity to consult with a person described in subsection (1)(a) to (c).

History: Add. 1993, Act 252, Imd. Eff. Nov. 29, 1993.

330.2005-330.2005c Repealed. 1993, Act 252, Imd. Eff. Nov. 29, 1993.

Compiler's note: The repealed sections pertained to petitions for determination of mental illness or mental retardation; hearings; investigation, evidence and prosecuting petition; findings, testimony, and depositions.

330.2005d Treatment period; report requiring continued mental health services; initial order of admission; certificate; statement; placement according to normal procedures.

Sec. 1005d. (1) An initial order for treatment under section 1003c shall be for a period not to exceed 90 days.

(2) If, before the expiration of the initial 90-day order, the treating psychiatrist or psychologist believes that a prisoner continues to be mentally ill or developmentally disabled and requires mental health services, the treating psychiatrist or psychologist, not less than 14 days before the expiration of the order, shall file with the director of the corrections mental health program or the director's designee a report of the determination that the prisoner continues to require those services. Upon receipt of the report under this subsection and proof of notice to the prisoner of an opportunity for a hearing, and following a hearing, if requested by the prisoner, a hearing committee appointed under section 1003c may authorize continued care in the corrections mental health program for an additional period not to exceed 90 days.

(3) If, before the expiration of the second 90-day order, the treating psychiatrist or psychologist believes that the prisoner continues to be mentally ill or developmentally disabled and requires mental health services, the treating psychiatrist or psychologist, not less than 14 days before the expiration of the order, shall file with the director of the corrections mental health program or the director's designee a report of the determination that the prisoner continues to require those services. Upon receipt of the report under this subsection and proof of notice to the prisoner of an opportunity for a hearing, and following a hearing, if requested by the prisoner, the hearing committee may authorize continued care in the corrections mental health program for an additional period not to exceed 180 days. Upon completion of the order for continuing admission to the corrections mental health program, if the treating psychiatrist or psychologist believes that the prisoner continues to be mentally ill or developmentally disabled and requires mental health services, the treating psychiatrist or psychologist shall request an initial order of admission under section 1003c.

(4) A report of a determination under subsection (2) or (3) shall be accompanied by a certificate executed by the psychiatrist or psychologist and shall contain a statement setting forth all of the following:

(a) The reasons for the treating psychiatrist's or psychologist's determination that the prisoner continues to be mentally ill or developmentally disabled and requires mental health services.

(b) A statement describing the treatment program provided to the prisoner.

(c) The results of the course of treatment.

(d) A clinical estimate as to the time further treatment will be required.

(5) If at any hearing held under this section the hearing committee appointed under section 1003c finds that the prisoner is not mentally ill or developmentally disabled, the hearing committee shall enter a finding to that effect and the prisoner shall be placed according to normal procedures of the department of corrections.

History: Add. 1978, Act 636, Imd. Eff. Jan. 10, 1979;—Am. 1993, Act 252, Imd. Eff. Nov. 29, 1993;—Am. 2014, Act 72, Imd. Eff. Mar. 28, 2014.

330.2005e Repealed. 1993, Act 252, Imd. Eff. Nov. 29, 1993.

Compiler's note: The repealed section pertained to copies of court order and evidence required for findings.

330.2005f Transfer of prisoner between state mental health facilities; administrative hearing; emergency transfer; commingling with other recipients of mental health services; rights and privileges.

Sec. 1005f. (1) A person may be transferred to the center for forensic psychiatry program under this chapter and may be transferred between state mental health facilities upon authorization by the director of the center for forensic psychiatry program. The person is entitled to an administrative hearing pursuant to rules of the department of mental health regarding the need and appropriateness of a transfer to another state mental health facility upon receipt by the director of the center for forensic psychiatry program of the person's objection to the transfer. If an emergency transfer is required, and if objection is made to the transfer, the hearing will be held at the receiving facility.

(2) A person transferred to another state mental health facility under this section shall not be commingled with other recipients of mental health services except in cases in which it is determined by the director of the center for forensic psychiatry program, after consultation with the department of corrections, and pursuant to rules promulgated by the department of mental health, that the person and the other recipients of mental health services exhibit the same propensity for dangerous behavior and require similar treatment plans and modalities.

(3) A person transferred under this section is entitled to all the rights and privileges afforded to other mental health recipients pursuant to chapter 7, except those rights and privileges specifically excluded or modified by law.

History: Add. 1978, Act 636, Imd. Eff. Jan. 10, 1979;—Am. 1993, Act 252, Imd. Eff. Nov. 29, 1993.

330.2006 Discharge; conditions; procedure; aftercare reintegration and community-based mental health services.

Sec. 1006. (1) A prisoner admitted to the corrections mental health program according to section 1003a or section 1003b shall be discharged from the program when 1 or both of the following occur:

(a) The prisoner ceases to require mental health services.

(b) The prisoner is paroled or discharged from prison.

(2) If a prisoner is to be discharged from the corrections mental health program before the expiration of the prisoner's criminal sentence, the director of the corrections mental health program shall first notify the department of corrections of the pending discharge, and shall transmit a full report on the condition of the prisoner to the department of corrections.

(3) If the prisoner is paroled or discharged from prison, and the corrections mental health program considers the prisoner to be a person requiring treatment, as defined in section 401, or a person who meets the criteria for judicial admission, as prescribed in section 515, the director of the corrections mental health program at least 14 days before the parole date or the date of discharge shall file a petition under section 434 or section 516 asserting that the prisoner is a person requiring treatment or that the prisoner meets the criteria for judicial admission. The petition shall be filed with the probate court of the prisoner's county of residence.

(4) The department of community health is responsible for assuring that needed aftercare reintegration and community-based mental health services are offered to mentally ill and developmentally disabled persons who are leaving prison, upon referral by the department of corrections. Upon request from the department of corrections, community-based mental health services shall be provided by the department of community health throughout the parole period.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1975, Act 154, Imd. Eff. July 9, 1975;—Am. 1978, Act 636, Imd. Eff. Jan. 10, 1979;—Am. 1993, Act 252, Imd. Eff. Nov. 29, 1993;—Am. 2014, Act 72, Imd. Eff. Mar. 28, 2014.

330.2006a Report to legislature.

Sec. 1006a. (1) Not later than April 1, 1995, the department of corrections and the department of mental health shall submit a report to the legislature, based on a joint evaluation, that includes, but is not limited to, all of the following with respect to the 18-month period preceding the report:

(a) A description of the provision of mental health services to prisoners.

(b) The total number of prisoners served.

(c) The number of hearings held pursuant to section 1003c and the disposition of each hearing.

(d) The number of developmentally disabled prisoners in the corrections system and a description of the services those prisoners received.

(e) The characteristics of the prisoners served and a description of the services they received, including, but not limited to, the length of stay in the corrections mental health program and the type of treatment received.

(2) The report required under subsection (1) shall include recommendations for appropriate changes in mental health programs for prisoners.

History: Add. 1993, Act 252, Imd. Eff. Nov. 29, 1993.

INCOMPETENCE TO STAND TRIAL

330.2020 Defendant presumed competent to stand trial; determination of incompetency; effect of medication; statement by physician.

Sec. 1020. (1) A defendant to a criminal charge shall be presumed competent to stand trial. He shall be determined incompetent to stand trial only if he is incapable because of his mental condition of understanding the nature and object of the proceedings against him or of assisting in his defense in a rational manner. The court shall determine the capacity of a defendant to assist in his defense by his ability to perform the tasks reasonably necessary for him to perform in the preparation of his defense and during his trial.

(2) A defendant shall not be determined incompetent to stand trial because psychotropic drugs or other medication have been or are being administered under proper medical direction, and even though without such medication the defendant might be incompetent to stand trial. However, when the defendant is receiving such medication, the court may, prior to making its determination on the issue of incompetence to stand trial, require the filing of a statement by the treating physician that such medication will not adversely affect the defendant's understanding of the proceedings or his ability to assist in his defense.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.2022 Proceeding against incompetent defendant prohibited; pretrial motions; preservation and admissibility of evidence.

Sec. 1022. (1) A defendant who is determined incompetent to stand trial shall not be proceeded against while he is incompetent.

(2) Any pretrial motion may be made by either the defense or prosecution while a defendant is incompetent to stand trial, and the issues presented by the motion shall be heard and decided if the presence of the defendant is not essential for a fair hearing and decision on the motion.

(3) When it appears that evidence essential to the case the defense or prosecution plans to present might not be available at the time of trial, the court shall allow such evidence to be taken and preserved. Evidence so taken shall be admissible at the trial only if it is not otherwise available. Procedures for the taking and preserving of evidence under this subsection, and the conditions under which such evidence shall be admissible at trial, shall be provided by court rule.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.2024 Raising issue of incompetence to stand trial.

Sec. 1024. The issue of incompetence to stand trial may be raised by the defense, court, or prosecution. The time and form of the procedure for raising the issue shall be provided by court rule.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.2026 Examination of defendant.

Sec. 1026. (1) Upon a showing that the defendant may be incompetent to stand trial, the court shall order the defendant to undergo an examination by personnel of either the center for forensic psychiatry or other facility officially certified by the department of mental health to perform examinations relating to the issue of incompetence to stand trial. The defendant shall make himself available for the examination at the places and times established by the center or other certified facility. If the defendant, after being notified, fails to make himself available for the examination, the court may order his commitment to the center or other facility without a hearing.

(2) When the defendant is to be held in a jail or similar place of detention pending trial, the center or other

facility may perform the examination in the jail or may notify the sheriff to transport the defendant to the center or other facility for the examination, and the sheriff shall return the defendant to the jail upon completion of the examination.

(3) Except as provided in subsection (1), when the defendant is not to be held in a jail or similar place of detention pending trial, the court shall commit him to the center or other facility only when the commitment is necessary for the performance of the examination.

(4) The defendant shall be released by the center or other facility upon completion of the examination.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.2028 Consultations; report; admissibility of evidence.

Sec. 1028. (1) When the defendant is ordered to undergo an examination pursuant to section 1026, the center or other facility shall, for the purpose of gathering psychiatric and other information pertinent to the issue of the incompetence of the defendant to stand trial, examine the defendant and consult with defense counsel, and may consult with the prosecutor or other persons. Defense counsel shall make himself available for consultation with the center or other facility. The examination shall be performed, defense counsel consulted, and a written report submitted to the court, prosecuting attorney, and defense counsel within 60 days of the date of the order.

(2) The report shall contain:

(a) The clinical findings of the center or other facility.

(b) The facts, in reasonable detail, upon which the findings are based, and upon request of the court, defense, or prosecution additional facts germane to the findings.

(c) The opinion of the center or other facility on the issue of the incompetence of the defendant to stand trial.

(d) If the opinion is that the defendant is incompetent to stand trial, the opinion of the center or other facility on the likelihood of the defendant attaining competence to stand trial, if provided a course of treatment, within the time limit established by section 1034.

(3) The opinion concerning competency to stand trial derived from the examination may not be admitted as evidence for any purpose in the pending criminal proceedings, except on the issues to be determined in the hearings required or permitted by sections 1030 and 1040. The foregoing bar of testimony shall not be construed to prohibit the examining qualified clinician from presenting at other stages in the criminal proceedings opinions concerning criminal responsibility, disposition, or other issues if they were originally requested by the court and are available. Information gathered in the course of a prior examination that is of historical value to the examining qualified clinician may be utilized in the formulation of an opinion in any subsequent court ordered evaluation.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1975, Act 179, Eff. Aug. 6, 1975.

330.2030 Hearing; determination; admissibility of report; order for continued administration of medication.

Sec. 1030. (1) Upon receipt of the written report, the court shall cause the defendant to appear in court and shall hold a hearing within 5 days or upon the conclusion of the case, proceeding, or other matter then before it, whichever is sooner, unless the defense or prosecution for good cause requests a delay for a reasonable time.

(2) On the basis of the evidence admitted at the hearing, the court shall determine the issue of the incompetence of the defendant to stand trial. If the defendant is determined incompetent to stand trial, the court shall also determine whether there is a substantial probability that the defendant, if provided a course of treatment, will attain competence to stand trial within the time limit established by section 1034.

(3) The written report shall be admissible as competent evidence in the hearing, unless the defense or prosecution objects, but not for any other purpose in the pending criminal proceeding. The defense, prosecution, and the court on its own motion may present additional evidence relevant to the issues to be determined at the hearing.

(4) If the defendant is receiving medication and is not determined incompetent to stand trial, the court may, in order to maintain the competence of the defendant to stand trial, make such orders as it deems appropriate for the continued administration of such medication pending and during trial.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.2031 Filing of petition by prosecuting attorney.

Sec. 1031. If the defendant is determined incompetent to stand trial, and if the court determines that there is not a substantial probability that, if provided a course of treatment, he will attain competence to stand trial

within the time limit established by section 1034, the court may direct a prosecuting attorney to file a petition asserting that the defendant is a person requiring treatment as defined by section 401 or meets the criteria for judicial admission as defined by section 515 with the probate court of the defendant's county of residence.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.2032 Ordering treatment; medical supervisor; commitment; restriction of movements.

Sec. 1032. (1) If the defendant is determined incompetent to stand trial, and if the court determines that there is a substantial probability that, if provided a course of treatment, he will attain competence to stand trial within the time limit established by section 1034, the court shall order him to undergo treatment to render him competent to stand trial.

(2) The court shall appoint a medical supervisor of the course of treatment. The supervisor may be any person or agency willing to supervise the course of treatment, or the department of mental health.

(3) The court may commit the defendant to the custody of the department of mental health, or to the custody of any other inpatient mental health facility if it agrees, only if commitment is necessary for the effective administration of the course of treatment. If the defendant, absent commitment to the department of mental health or other inpatient facility, would otherwise be held in a jail or similar place of detention pending trial, the court may enter an order restricting the defendant in his movements to the buildings and grounds of the facility at which he is to be treated.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.2034 Effective duration of order; notice of dismissed charge or voided orders; filing petition prior to discharge or release.

Sec. 1034. (1) No order or combination of orders issued under section 1032 or 1040, or both, shall have force and effect for a total period in excess of 15 months or 1/3 of the maximum sentence the defendant could receive if convicted of the charges against him, whichever is lesser; nor after the charges against the defendant are dismissed.

(2) The court shall provide for notification of defense counsel, the prosecution, and the medical supervisor of treatment whenever the charges against the defendant are dismissed and whenever an order whose stated time period has not elapsed is voided by the court.

(3) If the defendant is to be discharged or released because of the expiration of an order or orders under section 1032 or 1040, the supervisor of treatment prior to the discharge or release may file a petition asserting that the defendant is a person requiring treatment as defined by section 401 or meets the criteria for judicial admission as defined by section 515 with the probate court of the defendant's county of residence.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.2036 Right to liberty pending trial.

Sec. 1036. The right of the defendant to be at liberty pending trial, on bail or otherwise, shall not be impaired because the issue of incompetence to stand trial has been raised, because the defendant has been determined incompetent to stand trial, or because the defendant has been ordered to undergo treatment to render him competent to stand trial, except to the extent authorized by section 1026 for the purpose of an examination or by section 1032 for the purpose of administering a course of treatment.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.2038 Reports; admissibility.

Sec. 1038. (1) The medical supervisor of treatment shall transmit a written report to the court, prosecuting attorney, defense counsel, and the center for forensic psychiatry:

(a) At least once every 90 days from the date of an order issued pursuant to section 1032.

(b) Whenever he is of the opinion that the defendant is no longer incompetent to stand trial.

(c) Whenever he is of the opinion that there is not a substantial probability that the defendant, with treatment, will attain competence to stand trial within the time limit established by section 1034.

(2) The reports shall be admissible pursuant to section 1030(3) and shall contain:

(a) The clinical findings of the supervisor of treatment.

(b) The facts, in reasonable detail, upon which the findings are based, and upon request of the court, defense, or prosecution additional facts germane to the findings.

(c) The opinion of the supervisor of treatment on the issue of the incompetence of the defendant to stand trial.

(d) If the opinion is that the defendant is incompetent to stand trial, the opinion of the supervisor of treatment on whether the defendant has made progress toward attaining competence to stand trial during the

course of treatment.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.2040 Redetermining issue of incompetence to stand trial; hearing; commencement of trial; modification or continuance of orders.

Sec. 1040. (1) The court shall forthwith hear and redetermine the issue of the incompetence of the defendant to stand trial and, if the defendant is redetermined incompetent to stand trial, shall hear and determine whether the defendant has made progress toward attaining competence to stand trial during his course of treatment, whenever the court receives a report from the supervisor of treatment, unless the defense waives the hearing, or whenever deemed appropriate by the court.

(2) Section 1030 shall govern hearings held pursuant to this section.

(3) If the defendant is not redetermined incompetent to stand trial at a hearing held pursuant to this section, trial shall commence as soon as practicable. If the defendant is redetermined incompetent to stand trial, and if the court determines that the defendant has made progress toward attaining competence to stand trial, the court may modify or continue any orders it previously issued under section 1032.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.2042 Crediting time spent in custody.

Sec. 1042. Time spent in custody because of orders issued pursuant to sections 1026, 1032, and 1040 shall be credited against any sentence imposed on the defendant in the pending criminal case or in any other case arising from the same transaction.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.2044 Dismissal of charge; filing same or other charges; examination of defendant as outpatient.

Sec. 1044. (1) The charges against a defendant determined incompetent to stand trial shall be dismissed:

(a) When the prosecutor notifies the court of his intention not to prosecute the case; or

(b) Fifteen months after the date on which the defendant was originally determined incompetent to stand trial.

(2) When charges are dismissed pursuant to subsection (1), the same charges, or other charges arising from the transaction which gave rise to the dismissed charges, shall not subsequently be filed against the defendant, except as provided in this section.

(3) If the charges were dismissed pursuant to subsection (1) (b) and if the crime charged was punishable by a sentence of life imprisonment, the prosecutor may at any time petition the court for permission to again file charges. In the case of other charges dismissed pursuant to subsection (1) (b), the prosecutor may, within that period of time after the charges were dismissed equal to 1/3 of the maximum sentence that the defendant could receive on the charges, petition the court for permission to again file charges.

(4) The court shall grant permission to again file charges if after a hearing it determines that the defendant is competent to stand trial. Prior to the hearing, the court may order the defendant to be examined by personnel of the center for forensic psychiatry or other qualified person as an outpatient, but may not commit the defendant to the center or any other facility for the examination.

History: 1974, Act 258, Eff. Aug. 6, 1975.

DISPOSITION OF PERSONS FOUND NOT GUILTY BY REASON OF INSANITY

330.2050 Person acquitted of criminal charge by reason of insanity; commitment to center for forensic psychiatry; record; examination and evaluation; report; opinion; certificates; petition; retention or discharge of person; applicability of release provisions; condition to being discharged or placed on leave; extension of leave.

Sec. 1050. (1) The court shall immediately commit any person who is acquitted of a criminal charge by reason of insanity to the custody of the center for forensic psychiatry, for a period not to exceed 60 days. The court shall forward to the center a full report, in the form of a settled record, of the facts concerning the crime which the patient was found to have committed but of which he was acquitted by reason of insanity. The center shall thoroughly examine and evaluate the present mental condition of the person in order to reach an opinion on whether the person meets the criteria of a person requiring treatment or for judicial admission set forth in section 401 or 515.

(2) Within the 60-day period the center shall file a report with the court, prosecuting attorney, and defense counsel. The report shall contain a summary of the crime which the patient committed but of which he was

acquitted by reason of insanity and an opinion as to whether the person meets the criteria of a person requiring treatment or for judicial admission as defined by section 401 or 515, and the facts upon which the opinion is based. If the opinion stated is that the person is a person requiring treatment, the report shall be accompanied by certificates from 2 physicians, at least 1 of whom shall be a psychiatrist, which conform to the requirements of section 400(j).

(3) After receipt of the report, the court may direct the prosecuting attorney to file a petition pursuant to section 434 or 516 for an order of hospitalization or an order of admission to a facility with the probate court of the person's county of residence or of the county in which the criminal trial was held. Any certificates that accompanied the report of the center may be filed with the petition, and shall be sufficient to cause a hearing to be held pursuant to section 451 even if they were not executed within 72 hours of the filing of the petition. The report from the court containing the facts concerning the crime for which he was acquitted by reason of insanity shall be admissible in the hearings.

(4) If the report states the opinion that the person meets the criteria of a person requiring treatment or for judicial admission, and if a petition is to be filed pursuant to subsection (3), the center may retain the person pending a hearing on the petition. If a petition is not to be filed, the prosecutor shall notify the center in writing. The center, upon receipt of the notification, shall cause the person to be discharged.

(5) The release provisions of sections 476 to 479 of this act shall apply to a person found to have committed a crime by a court or jury, but who is acquitted by reason of insanity, except that a person shall not be discharged or placed on leave without first being evaluated and recommended for discharge or leave by the department's program for forensic psychiatry, and authorized leave or absence from the hospital may be extended for a period of 5 years.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1975, Act 179, Eff. Aug. 6, 1975.

330.2060 Meanings of words and phrases.

Sec. 1060. For the purposes of sections 1060a to 1074, the words and phrases defined in sections 1060a to 1060c have the meanings ascribed to them in those sections.

History: Add. 2012, Act 540, Eff. Mar. 28, 2013.

330.2060a Definitions; C to J.

Sec. 1060a. (1) "Competency evaluation" means a court-ordered examination of a juvenile directed to developing information relevant to a determination of his or her competency to proceed at a particular stage of a court proceeding involving a juvenile who is the subject of a delinquency petition.

(2) "Competency hearing" means a hearing to determine whether a juvenile is competent to proceed.

(3) "Incompetent to proceed" means that a juvenile, based on age-appropriate norms, lacks a reasonable degree of rational and factual understanding of the proceeding or is unable to do 1 or more of the following:

(a) Consult with and assist his or her attorney in preparing his or her defense in a meaningful manner.

(b) Sufficiently understand the charges against him or her.

(4) "Juvenile" means a person who is less than 18 years of age who is the subject of a delinquency petition.

History: Add. 2012, Act 540, Eff. Mar. 28, 2013;—Am. 2019, Act 99, Eff. Oct. 1, 2021.

330.2060b Definitions; L to Q.

Sec. 1060b. (1) "Least restrictive environment" means a supervised community placement, preferably a placement with the juvenile's parent, guardian, relative, or a facility or conditions of treatment that is a residential or institutional placement only utilized as a last resort based on the best interest of the juvenile or for reasons of public safety.

(2) "Licensed child caring institution" means a child caring institution as defined and licensed under 1973 PA 116, MCL 722.111 to 722.128.

(3) "Qualified forensic mental health examiner" means 1 of the following who performs forensic mental health examinations for the purposes of sections 1062 to 1074 but does not exceed the scope of his or her practice as authorized by state law:

(a) A psychiatrist or psychologist who possesses experience or training in the following:

(*i*) Forensic evaluation procedures for juveniles.

(*ii*) Evaluation, diagnosis, and treatment of children and adolescents with emotional disturbance, mental illness, or developmental disabilities.

(*iii*) Clinical understanding of child and adolescent development.

(*iv*) Familiarity with competency standards in this state.

(b) Beginning 18 months after the effective date of the amendatory act that added this section, a mental health professional other than a psychiatrist or psychologist who has completed a juvenile competency

training program for forensic mental health examiners that is endorsed by the department under section 1072 and who possesses experience or training in all of the following:

(*i*) Forensic evaluation procedures for juveniles.

(*ii*) Evaluation, diagnosis, and treatment of children and adolescents with emotional disturbance, mental illness, or developmental disabilities.

(*iii*) Clinical understanding of child and adolescent development.

(*iv*) Familiarity with competency standards in this state.

(4) "Qualified restoration provider" means an individual, who the court determines as a result of the opinion provided by the qualified forensic mental health examiner, has the skills and training necessary to provide restoration services. The court shall take measures to avoid any conflict of interest among agencies or individuals who may provide evaluation and restoration.

History: Add. 2012, Act 540, Eff. Mar. 28, 2013.

330.2060c Definitions; R, S.

Sec. 1060c. (1) "Restoration" means the process by which education or treatment of a juvenile results in that juvenile becoming competent to proceed.

(2) "Serious misdemeanor" means that term as defined in section 61 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.811.

History: Add. 2012, Act 540, Eff. Mar. 28, 2013.

330.2062 Competency of juvenile; presumption; order to determine competency during proceeding.

Sec. 1062. (1) A juvenile 10 years of age or older is presumed competent to proceed unless the issue of competency is raised by a party. A juvenile less than 10 years of age is presumed incompetent to proceed.

(2) The court may order upon its own motion, or at the request of the juvenile, the juvenile's attorney, or the prosecuting attorney, a competency evaluation to determine whether the juvenile is incompetent to proceed if the juvenile is the subject of a delinquency petition in the court or if the juvenile is under the court's jurisdiction under section 2(a)(2) to (4) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2. The issue of the juvenile's competency may be raised by the court before which the proceedings are pending or being held, or by motion of a party, at any time during the proceeding.

(3) At the time an issue of the juvenile's competency is raised, the delinquency proceeding shall temporarily cease until determination is made on the competence of the juvenile according to this act.

History: Add. 2012, Act 540, Eff. Mar. 28, 2013.

330.2064 Competency evaluation; conduct by qualified forensic mental health examiner; expert witness; additional evaluations at party's expense; conduct in least restrictive environment.

Sec. 1064. (1) A competency evaluation ordered under section 1062 shall be conducted by a qualified forensic mental health examiner. The qualified forensic mental health examiner shall provide the court with an opinion as to whether the juvenile is competent to proceed. The court has the final determination of an expert witness serving as a qualified forensic mental health examiner.

(2) This section does not prohibit any party from retaining the party's own qualified forensic mental health examiner to conduct additional evaluations at the party's own expense.

(3) The competency evaluation shall be conducted in the least restrictive environment. There is a presumption in favor of conducting a competency evaluation while the juvenile remains in the custody of a parent or legal guardian, unless removal from the home is necessary for the best interests of the juvenile, for reasons of public safety, or because the parent or guardian has refused to cooperate in the competency evaluation process.

History: Add. 2012, Act 540, Eff. Mar. 28, 2013.

330.2066 Providing information relating to competency; submission of report and comment to court by qualified forensic mental health examiner; extension; copies of report to be provided to certain individuals.

Sec. 1066. (1) The court shall order the prosecuting attorney to provide to the juvenile's attorney all information related to competency and shall order the prosecuting attorney and juvenile's attorney to submit to the qualified forensic mental health examiner any information considered relevant to the competency evaluation, including, but not limited to:

(a) The names and addresses of all attorneys involved.

(b) Information about the alleged offense.

(c) Any information about the juvenile's background in the prosecuting attorney's possession.

(2) Except as prohibited by federal law, the court shall require the juvenile's attorney to provide any available records of the juvenile or other information relevant to the evaluation, including, but not limited to, any of the following:

(a) Psychiatric records.

(b) School records.

(c) Medical records.

(d) Child protective services records.

(3) The requirement to provide records or information under subsection (1) or (2) does not limit, waive, or abrogate the work product doctrine or the attorney-client privilege, and release of records and information under subsection (1) or (2) is subject to the work product doctrine and the attorney-client privilege.

(4) All information required under subsections (1) and (2) must be provided to the qualified forensic mental health examiner within 10 days after the court issues the order for the competency evaluation. If possible, the information required under this section shall be received before the juvenile's competency evaluation or the commencement of the competency evaluation in an outpatient setting.

(5) A qualified forensic mental health examiner who conducts a competency evaluation shall submit a written report to the court not later than 30 days from receipt of the court order requiring the competency evaluation. The evaluation shall be based on a juvenile adjudicative competence interview (JACI) or another interview method approved by the court. The report shall contain, but not be limited to, the following:

(a) A description of the nature, content, and extent of the examination, including, but not limited to, all of the following:

(*i*) A description of assessment procedures, techniques, and tests used.

(*ii*) Available medical, educational, and court records reviewed.

(*iii*) Social, clinical, developmental, and legal history as available.

(b) A clinical assessment that includes, but is not limited to, the following:

(*i*) A mental status examination.

(*ii*) The diagnosis and functional impact of mental illness, developmental disability, or cognitive impairment. If the juvenile is taking medication, the impact of the medication on the juvenile's mental state and behavior.

(*iii*) An assessment of the juvenile's intelligence.

(*iv*) The juvenile's age, maturity level, developmental stage, and decision-making abilities.

(*v*) Whether the juvenile has any other factor that affects competence.

(c) A description of abilities and deficits in the following mental competency functions related to the juvenile's competence to proceed:

(*i*) The ability to factually as well as rationally understand and appreciate the nature and object of the proceedings, including, but not limited to, all of the following:

(A) An ability to understand the role of the participants in the court process, including, the roles of the judge, the juvenile's attorney, the prosecuting attorney, the probation officer, witnesses, and the jury, and to understand the adversarial nature of the process.

(B) An ability to appreciate the charges and understand the seriousness of the charges.

(C) An ability to understand and realistically appraise the likely outcomes.

(D) An ability to extend thinking into the future.

(*ii*) The ability to render meaningful assistance to the juvenile's attorney in the preparation of the case, including, but not limited to, all of the following:

(A) An ability to disclose to an attorney a reasonably coherent description of facts and events pertaining to the charge, as perceived by the juvenile.

(B) An ability to consider the impact of his or her action on others.

(C) Verbal articulation abilities or the ability to express himself or herself in a reasonable and coherent manner.

(D) Logical decision-making abilities, particularly multifactored problem-solving or the ability to take several factors into consideration in making a decision.

(E) An ability to reason about available options by weighing the consequences, including weighing pleas, waivers, and strategies.

(F) An ability to display appropriate courtroom behavior.

(6) The qualified forensic mental health examiner shall provide the court with an opinion about the juvenile's competency to proceed. If the qualified forensic mental health examiner determines that the juvenile is incompetent to proceed, the qualified forensic mental health examiner shall comment on the nature of any

psychiatric or psychological disorder or cognitive impairment, the prognosis, and the services needed and expertise required to restore the juvenile to competency, if possible, within a projected time frame.

(7) The court in its discretion may, for good cause, grant the qualified forensic mental health examiner a 30-day extension in filing the competency evaluation report.

(8) Copies of the written report shall be provided by the court to the juvenile's attorney, the prosecuting attorney, and any guardian ad litem for the juvenile not later than 5 working days after receipt of the report by the court.

History: Add. 2012, Act 540, Eff. Mar. 28, 2013.

330.2068 Competency hearing.

Sec. 1068. (1) Not later than 30 days after a report is filed under section 1066, the court shall hold a hearing to determine if a juvenile is competent to proceed. At the hearing, the parties may introduce other evidence regarding the juvenile's mental condition or may submit the matter by written stipulation based on the filed report.

(2) Upon a finding by the court that a juvenile is incompetent to proceed and a finding that there is a substantial probability that the juvenile will remain incompetent to proceed for the foreseeable future or within the period of the restoration order, the court shall dismiss with prejudice the charges against the juvenile and may determine custody of the juvenile.

(3) The qualified forensic mental health examiner appointed by the court to determine the juvenile's mental condition shall be allowed reasonable fees for services rendered.

History: Add. 2012, Act 540, Eff. Mar. 28, 2013.

330.2070 Competency evaluations; self-incrimination; evidence or statements inadmissible in proceeding determining responsibility; sealing reports; order to open reports; purposes; confidentiality; disclosure.

Sec. 1070. (1) The constitutional protections against self-incrimination apply to all competency evaluations.

(2) Any evidence or statement obtained during a competency evaluation is not admissible in any proceeding to determine the juvenile's responsibility.

(3) A statement that a juvenile makes during a competency evaluation or evidence resulting from the statement concerning any other event or transaction is not admissible in any proceeding to determine the juvenile's responsibility for any other charges that are based on those events or transactions.

(4) A statement that the juvenile makes during a competency evaluation may not be used for any purpose other than assessment of his or her competency without the written consent of the juvenile or the juvenile's guardian. The juvenile or the juvenile's guardian must have an opportunity to consult with his or her attorney before giving consent.

(5) After the case proceeds to adjudication or the juvenile is found to be unable to regain competence, the court shall order all of the reports that are submitted according to sections 1062 to 1068 to be sealed. The court may order that the reports be opened only as follows:

(a) For further competency or criminal responsibility evaluations.

(b) For statistical analysis.

(c) If the records are considered to be necessary to assist in mental health treatment ordered under this act.

(d) For data gathering.

(e) For scientific study or other legitimate research.

(6) If the court orders reports to be open for the purposes of statistical analysis, data gathering, or scientific study according to subsection (5), the reports shall remain confidential.

(7) Any statement that a juvenile makes during a competency evaluation, or any evidence resulting from that statement, is not subject to disclosure.

History: Add. 2012, Act 540, Eff. Mar. 28, 2013.

330.2072 Training program for juvenile forensic mental health examiners.

Sec. 1072. (1) Not later than 18 months after the effective date of the amendatory act that added this section, the department shall review and endorse a training program for juvenile forensic mental health examiners who provide juvenile competency exams. A psychiatrist or psychologist may, but is not required to, seek certification under the program established under this section.

(2) The department may make adaptations or adjustments to the endorsed training program described under subsection (1) based on research and best practices.

History: Add. 2012, Act 540, Eff. Mar. 28, 2013.

330.2074 Court finding that juvenile may be restored to competency in foreseeable future; restoration order; renewal; report that substantial probability that juvenile will remain incompetent; actions of court; order to provide treatment; report from entity providing services; duties of court.

Sec. 1074. (1) If the juvenile is incompetent to proceed, but the court finds that the juvenile may be restored to competency in the foreseeable future, 1 of the following applies:

(a) If the offense is a traffic offense or a misdemeanor other than a serious misdemeanor, the matter shall be dismissed.

(b) If the offense is a serious misdemeanor, the court may dismiss the matter or suspend the proceedings against the juvenile.

(c) If the offense is a felony, the proceedings against the juvenile shall be further suspended.

(2) If proceedings are suspended because the juvenile is incompetent to proceed but the court finds that the juvenile may be restored to competency in the foreseeable future, all of the following apply:

(a) Before issuing a restoration order, the court shall hold a hearing to determine the least restrictive environment for completion of the restoration.

(b) The court may issue a restoration order that is valid for 60 days from the date of the initial finding of incompetency or until 1 of the following occurs, whichever occurs first:

(*i*) The qualified forensic mental health examiner, based on information provided by the qualified restoration provider, submits a report that the juvenile has regained competency or that there is no substantial probability that the juvenile will regain competency within the period of the order.

(*ii*) The charges are dismissed.

(*iii*) The juvenile reaches 18 years of age.

(c) Following issuance of the restoration order, the qualified restoration provider shall submit a report to the court and the qualified forensic mental health examiner that includes the information required under section 1066. The report shall be submitted to the court and the qualified forensic mental health examiner every 30 days, or sooner if and at the time either of the following occurs:

(*i*) The qualified restoration provider determines that the juvenile is no longer incompetent to proceed.

(*ii*) The qualified restoration provider determines that there is no substantial probability that the juvenile will be competent to proceed within the period of the order.

(3) Not later than 14 days before the expiration of the initial 60-day order, the qualified restoration provider may recommend to the court and the qualified forensic mental health examiner that the restoration order be renewed by the court for another 60 days, if there is a substantial probability that the juvenile will not be incompetent to proceed within the period of that renewed restoration order. The restoration order and any renewed restoration order shall not exceed a total of 120 days.

(4) Except as otherwise provided in this section, upon receipt of a report that there is a substantial probability that the juvenile will remain incompetent to proceed for the foreseeable future or within the period of the restoration order, the court shall do both of the following:

(a) Determine custody of the juvenile as follows:

(*i*) The court may direct that civil commitment proceedings be initiated, as allowed under section 498d.

(*ii*) If the court determines that commitment proceedings are inappropriate, the juvenile shall be released to the juvenile's parent, legal guardian, or legal custodian under conditions considered appropriate to the court.

(b) Dismiss the charges against the juvenile.

(5) Upon receipt of a report from a qualified forensic mental health examiner that there is a substantial probability that the juvenile is unable to be restored due to serious emotional disturbance, the court may in its discretion, except as provided under the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, order that mental health services be provided to the juvenile by the department, subject to the availability of inpatient care, a community mental health services program, the department of human services, a county department of human services, or another appropriate mental health services provider for a period not to exceed 60 days. The court shall retain jurisdiction over the juvenile throughout the duration of the order. The entity ordered to provide services under this subsection shall continue to provide services for the duration of the period of treatment ordered by the court.

(6) Not later than 14 days before the expiration of an order for treatment under this subsection or subsection (5), the entity providing mental health services under that order shall submit a report to the court and the qualified forensic mental health examiner regarding the juvenile. Upon receipt of the report, the court shall review the report and do either of the following:

(a) Renew the order for another period of treatment not to exceed 60 days. The order for treatment and any renewed order shall not exceed a total of 120 days.

(b) Determine custody of the juvenile and dismiss the charges against the juvenile.

History: Add. 2012, Act 540, Eff. Mar. 28, 2013.

CHAPTER 11

330.2100 Saving clause.

Sec. 1100. The provisions of this act, except by their own terms, shall not affect or impair the validity of an act done, an order, judgment, or status established, a claim or right accrued, an offense committed, or a penalty incurred under a law in force prior to the date this act shall take effect.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.2102 Effective date and applicability of particular sections and chapters.

Sec. 1102. (1) This act shall take effect August 6, 1975, except that the provisions of chapters 4, 5, and 8 shall take effect November 6, 1974.

(2) The provisions of sections 1020 to 1042 shall apply to persons against whom criminal proceedings are commenced on or after the effective date of those sections. Proceedings to determine the competency of persons against whom criminal proceedings are commenced before the effective date of those sections shall continue to be governed by the law in effect at the time those proceedings are commenced.

(3) The provisions of section 1050 shall apply to persons who are found not guilty by reason of insanity on or after the effective date of that section.

History: 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1975, Act 179, Eff. Aug. 6, 1975.

330.2104 Redetermination of actions under repealed provisions.

Sec. 1104. As soon as practicable after this act shall take effect but no later than 2 years after this act shall take effect, all actions then having legal effect under any provision of the acts and parts of acts repealed by this act and which are inconsistent with any provision of this act shall be redetermined and made consistent with the provisions of this act.

History: 1974, Act 258, Eff. Aug. 6, 1975.

330.2106 Repeal.

Sec. 1106. The following acts and parts of acts, as amended, are repealed:

(a) Public Acts:

Public Act Number	Year of Act	Section Number	Compiled Law Number (1970)
380	1965	404	16.504
111	1961		325.175
271	1945		330.1 to 330.3
151	1923		330.11 to 330.71
270	1965		330.81 to 330.86
229	1956		330.91 to 330.94
7	1901		330.101
129	1945		330.161 to 330.166
223	1947		330.171 to 330.175
39	1935		330.181 to 330.183
48	1949		330.191 to 330.194
231	1923		330.201 to 330.202
392	1921		330.251 to 330.255
148	1957		330.261
148	1927		330.301 to 330.305
85	1937		330.401 to 330.407
217	1954		330.421 to 330.427
5	1951		330.451 to 330.453
12	1951		330.501 to 330.506
1	1955 (Second Extra Session)		330.557 to 330.558
21	1963		330.561 to 330.562

56	1969		330.571 to 330.572
54	1963		330.601 to 330.615
335	1965		330.651 to 330.666
107	1974		330.701 to 330.720
281	1929		720.301 to 720.310
328	1931	187, 197b, 198	750.187, 750.197b, 750.198
175	1927	27a to 27c	767.27a to 767.27c
232	1953	68	791.268

(b) Revised Statutes of 1846:

Chapter	Section Number	Compiled Law Number (1970)
171	14, 15	801.14, 801.15

History: 1974, Act 258, Eff. Aug. 6, 1975.

***** *Act 177 of 2019 THIS ACT DOES NOT APPLY BEGINNING DECEMBER 31, 2024: See 330.3011* *****

SUICIDE PREVENTION COMMISSION
Act 177 of 2019

AN ACT to create a suicide prevention commission within the department of health and human services and to prescribe its powers and duties; and to prescribe the powers and duties of certain state officers and entities.

History: 2019, Act 177, Eff. Mar. 19, 2020.

The People of the State of Michigan enact:

***** *330.3001 THIS SECTION DOES NOT APPLY BEGINNING DECEMBER 31, 2024: See 330.3011* *****

330.3001 Definitions.

Sec. 1. As used in this act:

(a) "Commission" means the suicide prevention commission created in section 3.

(b) "Department" means the department of health and human services.

(c) "Executive committee" means the executive committee described in section 5.

History: 2019, Act 177, Eff. Mar. 19, 2020.

***** *330.3003 THIS SECTION DOES NOT APPLY BEGINNING DECEMBER 31, 2024: See 330.3011* *****

330.3003 Suicide prevention commission; creation; members; term; meetings; compensation; expenses.

Sec. 3. (1) The suicide prevention commission is created within the department.

(2) The commission consists of the following members:

(a) Sixteen members appointed by the governor as follows:

(*i*) One member who is a researcher with an advanced degree from a university that is located in this state who is selected from a list of nominees submitted by the Michigan Association of State Universities.

(*ii*) An undergraduate or graduate student who is studying or working in the area of suicide prevention who is selected from a list of nominees submitted by the American Foundation for Suicide Prevention.

(*iii*) One member who is selected from a list of nominees submitted by the Michigan Association of Intermediate School Administrators and who is trained in the "Michigan Model for Health" curriculum.

(*iv*) One member who is selected from a list of nominees submitted by the School-Community Health Alliance of Michigan.

(*v*) One member who represents health plans who is selected from lists of nominees submitted by the Michigan Association of Health Plans and Blue Cross Blue Shield of Michigan.

(*vi*) One member who has knowledge or expertise in retiree or vulnerable adult mental health issues who is selected from a list of nominees submitted by the Fraternal Order of Police.

(*vii*) One member who is a suicide loss survivor who is selected from a list of nominees submitted by the Michigan Sheriffs' Association.

(*viii*) One member who represents a national health care system whose work in this state focuses on providing comprehensive behavioral health services to children, adolescents, and adults throughout this state.

(*ix*) One member who is experienced in crisis intervention for suicide response who is selected from a list of nominees submitted by the Police Officers Association of Michigan.

(*x*) One member who is selected from a list of nominees submitted by the Michigan Association of Fire Chiefs.

(*xi*) One member who is selected from a list of nominees submitted by the Michigan Corrections Organization.

(*xii*) One member who has experience in suicide prevention who is selected from a list of nominees submitted by the Michigan Association of Chiefs of Police.

(*xiii*) Two members who are selected from a list of nominees submitted by the speaker of the house of representatives, 1 of whom represents a faith-based organization and 1 who is selected from a list of names provided to the speaker by the Michigan Professional Firefighters Union.

(*xiv*) Two members who are selected from a list of nominees submitted by the senate majority leader, at least 1 of whom has expertise in suicide prevention from a community mental health services program that holds a grant from the Substance Abuse and Mental Health Services Administration.

(b) The Michigan veterans' facility ombudsman or his or her designee.

(c) One member who is appointed by the director of the department of state police with expertise in substance use disorders.

(d) Eight members appointed by the director of the department, including 7 appointed as follows:

(*i*) One member who represents a substance use disorder treatment provider who is selected from a list of nominees submitted by the Community Mental Health Association of Michigan.

(*ii*) One member who is selected from a list of nominees submitted by the Michigan Psychological Association.

(*iii*) One member who is selected from a list of nominees submitted by the Michigan Psychiatric Society.

(*iv*) One member who is selected from a list of nominees submitted by the Michigan Primary Care Association.

(*v*) One member who is selected from a list of nominees submitted by the Michigan Health and Hospital Association and who meets both of the following requirements:

(A) Is a physician licensed to engage in the practice of medicine or the practice of osteopathic medicine and surgery.

(B) Has expertise in neurology.

(*vi*) One member who is in charge of a local health department or his or her designee.

(*vii*) One member who is a suicide attempt survivor.

(e) One member who is appointed by the director of the department of military and veterans affairs.

(3) The members first appointed to the commission must be appointed within 90 days after the effective date of this act.

(4) Members of the commission shall serve for 1 term of 4 years or until a successor is appointed, whichever is later.

(5) A vacancy on the commission must be filled in the same manner as the original appointment. A member appointed to fill a vacancy must be appointed for the balance of the unexpired term.

(6) The chairperson of the commission may remove a member of the commission for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause, on a motion that is approved by a majority of the members of the commission.

(7) The director of the department shall call the first meeting of the commission. At the first meeting, the commission shall elect from among its members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the commission shall meet at least quarterly, or more frequently at the call of the chairperson or if requested by 5 or more members.

(8) A majority of the members of the commission constitute a quorum for the transaction of business at a meeting of the commission. A majority of the members present and serving are required for official action of the commission.

(9) The business that the commission may perform must be conducted at a public meeting of the commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(10) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(11) Members of the commission shall serve without compensation. However, members of the commission may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the commission.

History: 2019, Act 177, Eff. Mar. 19, 2020.

***** *330.3005 THIS SECTION DOES NOT APPLY BEGINNING DECEMBER 31, 2024: See 330.3011* *****

330.3005 Duties of commission; executive committee.

Sec. 5. (1) The commission shall do all of the following:

(a) Work with state departments and agencies and nonprofit organizations on researching the causes and possible underlying factors of suicide in this state. The research must focus on demographics showing the highest suicide rates in this state in the decade immediately preceding the effective date of this act, and the highest growth in suicide rates during the time period described in this subdivision. In determining the demographics, the commission shall consider, at a minimum, all of the following:

(*i*) Urban and rural areas, including the Upper Peninsula.

(*ii*) Race.

(*iii*) Sex.

(*iv*) Occupation.

(*v*) Age.

(*vi*) Socioeconomic status.

(b) By 6 months after the effective date of this act, prepare and present a preliminary report of its research and findings to the legislature. The report must include identified causes for the increase in suicide rates among the demographics described in subdivision (a) and any other information the commission considers relevant.

(c) By 1 year after the effective date of this act, and each year thereafter, prepare and present to the legislature an updated version of the report described in subdivision (b). The updated version of the report must include recommendations for reducing risk factors among the demographics described in subdivision (a) and contain a list of evidence-based programs for suicide prevention in this state with successful outcomes.

(d) Annually review and update any recommendations made under this act and, if any of the commission's recommendations are implemented, provide a process for ongoing monitoring of the implementation of the recommendations.

(e) Provide recommendations for a process for continued state coordination on suicide data collection, suicide prevention programs, and a coordinated state approach to the prevention of suicide to continue after this act no longer applies.

(2) At the first meeting of the commission, the commission shall establish a 7-member executive committee that consists of all of the following:

(a) Two members elected by the commission from among its members.

(b) The member appointed to the commission by the governor under section 3(2)(a)(*i*).

(c) The Michigan veterans' facility ombudsman or his or her designee.

(d) The member appointed to the commission by the director of the department of state police under section 3(2)(c).

(e) One member selected by the director of the department from the commission members appointed under section 3(2)(d).

(f) One member selected by the governor from the commission members appointed under section 3(2)(a)(*xiv*).

(3) The executive committee shall do all of the following:

(a) Oversee the compilation of data and available resources in coordination with universities in this state.

(b) Set timelines and tasks for the completion of the commission's work by December 30, 2024.

(4) The commission shall also establish subcommittees that may consist of individuals who are not members of the commission, including, but not limited to, experts in matters of interest to the commission, including the demographics described in subsection (1)(a).

History: 2019, Act 177, Eff. Mar. 19, 2020.

***** *330.3007 THIS SECTION DOES NOT APPLY BEGINNING DECEMBER 31, 2024: See 330.3011* *****

330.3007 Research and recommendations of commission.

Sec. 7. The commission may, through its executive committee, research policy recommendations from relevant sources and policy initiatives from other states in order to make recommendations to the governor and to the chairpersons of the house and senate standing committees on health policy and the judiciary on initiatives to reduce suicide rates among the demographics described in section 5.

History: 2019, Act 177, Eff. Mar. 19, 2020.

***** *330.3009 THIS SECTION DOES NOT APPLY BEGINNING DECEMBER 31, 2024: See 330.3011* *****

330.3009 Clerking services for commission.

Sec. 9. The department shall furnish clerking services to the commission.

History: 2019, Act 177, Eff. Mar. 19, 2020.

***** *330.3011 THIS SECTION DOES NOT APPLY BEGINNING DECEMBER 31, 2024: See 330.3011* *****

330.3011 Applicability of act after December 31, 2024.

Sec. 11. This act does not apply beginning December 31, 2024.

History: 2019, Act 177, Eff. Mar. 19, 2020.

OVERDOSE FATALITY REVIEW ACT
Act 313 of 2023

AN ACT to provide for the review and prevention of deaths from drug overdose in this state; to allow for the creation of overdose fatality review teams; to provide for the powers and duties of the overdose fatality review teams; to regulate certain entities; to prescribe powers and duties of certain state and local governmental officers and entities; and to prescribe remedies for a violation of this act.

History: 2023, Act 313, Eff. Feb. 13, 2024.

The People of the State of Michigan enact:

330.3021 Short title.

Sec. 1. This act may be cited as the "overdose fatality review act".

History: 2023, Act 313, Eff. Feb. 13, 2024.

330.3023 Definitions.

Sec. 3. As used in this act:

(a) "Community overdose review" means performing a series of individual overdose reviews to identify systematic barriers to innovative overdose prevention and intervention strategies for that community.

(b) "County health officer" means a local health officer as that term is defined in section 1105 of the public health code, 1978 PA 368, MCL 333.1105.

(c) "Data sharing agreement" means an agreement that identifies the data that are shared and how the data are used.

(d) "Drug" means that term as defined in section 7105 of the public health code, 1978 PA 368, MCL 333.7105.

(e) "Drug overdose" means that term as defined in section 7403 of the public health code, 1978 PA 368, MCL 333.7403.

(f) "Hospital" means that term as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106, except that it also includes a hospital licensed under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(g) "Identifying information" means any representation of information that permits the identity of an individual to whom the information applies to be reasonably inferred by either direct or indirect means.

(h) "Individual overdose review" means the case review of an individual who has died as the result of a drug overdose, including, but not limited to, a review of both of the following:

(*i*) Consideration of the individual's points of contact, if any, with health care systems, social services, educational institutions, child and family services, the criminal justice system, including law enforcement, and any other system.

(*ii*) Identification of the specific factors and social determinants of health that put the individual at risk of a drug overdose.

(i) "Mental health provider" means any of the following individuals:

(*i*) A psychologist as that term is defined in section 18201 of the public health code, 1978 PA 368, MCL 333.18201.

(*ii*) A licensed professional counselor as that term is defined in section 18101 of the public health code, 1978 PA 368, MCL 333.18101.

(*iii*) A marriage and family therapist as that term is defined in section 16901 of the public health code, 1978 PA 368, MCL 333.16901.

(*iv*) A licensed bachelor's social worker as that term is defined in section 18501 of the public health code, 1978 PA 368, MCL 333.18501.

(*v*) A licensed master's social worker as that term is defined in section 18501 of the public health code, 1978 PA 368, MCL 333.18501.

(j) "Multidisciplinary team" means a group of professionals from a variety of fields of study or sectors who work together toward a shared purpose.

(k) "Overdose fatality review team" means the multidisciplinary team established under this act by a county, a group of counties, or a tribe to conduct individual overdose reviews and overdose fatality reviews.

(*l*) "Participating county" means a county that, by itself or with 1 or more other counties, establishes an overdose fatality review team under section 5(1).

(m) "Recovery coach" means a professional who provides assistance to support long-term recovery from a substance use disorder.

(n) "Substance use disorder" means a pattern of using alcohol or other drugs that leads to clinical or functional impairment.

(o) "Substance use disorder treatment provider" means an individual or entity that is licensed in this state to treat an individual with substance use disorder using medications that are approved by the United States Food and Drug Administration to treat substance use disorder.

History: 2023, Act 313, Eff. Feb. 13, 2024.

330.3025 Overdose fatality review team; membership; powers and duties; annual report.

Sec. 5. (1) A county may establish an overdose fatality review team. Two or more counties may establish a single overdose fatality review team for those counties.

(2) Any of the following individuals may be a member of an overdose fatality review team:

(a) The following officials of the participating county:

(*i*) The county health officer.

(*ii*) The prosecuting attorney, or the attorney's designee.

(*iii*) The director of the community mental health agency, or the director's designee.

(*iv*) The county medical examiner, or the medical examiner's designee.

(b) A law enforcement officer of the department of state police, the participating county, or a municipality within the participating county.

(c) A representative of a jail or detention center in the participating county.

(d) A health care provider who specializes in the prevention, diagnosis, and treatment of substance use disorders.

(e) A mental health provider who specializes in the treatment of substance use disorders.

(f) A substance use disorder treatment provider.

(g) A representative of an emergency medical services provider in the participating county.

(h) A representative from the department of corrections who has experience with parole, probation, or community corrections.

(i) An epidemiologist from a local health department or an organization in the participating county.

(j) A child protective services caseworker.

(k) A representative from the department of health and human services who is involved with issues regarding adult protective services.

(*l*) A representative of a hospital with a service area within the participating county.

(m) Any other individual whose membership is necessary for the overdose fatality review team to complete duties required under this act.

(3) At the first meeting of the overdose fatality review team, the overdose fatality review team shall elect a member as a chairperson and may elect other officers that it considers necessary or appropriate.

(4) The chairperson shall do all of the following for the overdose fatality review team:

(a) Solicit and recruit additional individuals listed under subsection (5) as provided under subsection (6)(e) to participate in individual overdose reviews and community overdose reviews.

(b) Call the meetings and implement the protocols and procedures.

(c) Oversee that confidentiality forms as described under section 7 are signed as needed.

(d) Request and collect the information needed to conduct individual overdose reviews and community overdose reviews.

(e) If a vacancy occurs, appoint an individual from the same or equivalent position or discipline under subsection (2).

(f) Make written requests for information under section 7 that are necessary to carry out the duties of the overdose fatality review team under this act.

(5) Any of the following individuals may be invited to participate in an individual overdose review or community overdose review:

(a) A prepaid inpatient health plan chief executive officer or that officer's designee, or the prepaid inpatient health plan substance use disorder director.

(b) A superintendent of a school in the participating county, or the superintendent's designee.

(c) A representative of a hospital in the participating county.

(d) A health care provider who specializes in emergency medicine.

(e) A health care provider who specializes in pain management.

(f) A pharmacist who has expertise in addressing prescription drug misuse and diversion.

(g) A representative from a poison control center.

(h) A mental health provider.

(i) A prescription drug monitoring program administrator.

(j) A representative from a harm reduction provider.

(k) A recovery coach, peer support worker, or other representative of the recovery community.

(*l*) A representative from a drug court in the participating county.

(m) A substance use disorder prevention specialist or representative.

(n) The director of the department of health and human services office in the participating county, or the director's designee.

(o) Any other individual necessary to complete the duties of the overdose fatality review team under this act.

(6) An overdose fatality review team shall do all of the following:

(a) Promote cooperation and coordination among agencies involved in the investigation of drug overdose fatalities.

(b) Identify potential causes and incidence of drug overdose fatalities in the participating county.

(c) Recommend and plan for changes within the agencies represented on the overdose fatality review team to prevent drug overdose fatalities.

(d) Propose potential changes to law, policy, funding, or practices to prevent drug overdoses.

(e) In consultation with the department of health and human services, establish and implement protocols and procedures to do all of the following:

(*i*) Recruit individuals listed under subsection (5) to participate in individual overdose reviews and community overdose reviews.

(*ii*) Plan and facilitate meetings.

(*iii*) Collect, analyze, interpret, and maintain data on drug overdose fatalities in the participating county.

(*iv*) Build a recommendation plan.

(f) Recommend prevention and intervention strategies, focusing on evidence-based strategies and promising practices, to improve the coordination of services and investigations among agencies represented by members of the overdose fatality review team to reduce drug overdose fatalities.

(7) Meetings of an overdose fatality review team may be conducted remotely through a secure platform.

(8) Subject to subsection (9), the overdose fatality review team shall submit an annual report to the public, the local health department of the participating county, and the department of health and human services that contains all of the following information:

(a) The total number of drug overdose fatalities that occurred within the participating county.

(b) The number of individual overdose reviews conducted by the overdose fatality review team.

(c) Any recommendations.

(9) The report under subsection (8) must not contain identifying information.

History: 2023, Act 313, Eff. Feb. 13, 2024.

330.3027 Confidentiality requirements; written request for information; fees.

Sec. 7. (1) Except as otherwise expressly prohibited by federal or state law and subject to subsection (2), overdose fatality review team members and individuals invited under section 5(5) may discuss confidential matters and share confidential information, as outlined in data sharing agreements, during an overdose fatality review team meeting. This act does not authorize the disclosure of confidential information described under this subsection outside of the meeting.

(2) If an individual has not signed a confidentiality form, that individual must not participate in or observe an overdose fatality review team meeting, individual overdose review, or community overdose review. A confidentiality form required under this subsection must summarize the purpose and goal of the meeting or review, the requirements for maintaining the confidentiality of any information disclosed during the meeting, and any consequences for the failure to maintain confidentiality.

(3) Except as otherwise expressly prohibited by federal or state law and subject to subsection (5), on written request of the chairperson, a health care provider, substance use disorder treatment provider, hospital, or health system shall, not more than 30 business days after receiving the request, provide the chairperson information and relevant records regarding the physical health, mental health, or treatment for substance use disorder of an individual who is the subject of an individual overdose review of the overdose fatality review team.

(4) Except as otherwise expressly prohibited by federal or state law and subject to subsection (5), on written request of the chairperson, a person shall, not more than 5 business days after receiving the request, provide the chairperson the following information and records:

(a) The following information or records regarding the individual who is the subject of an individual overdose review:

(*i*) Death investigative information.

(*ii*) Medical examiner investigative information.
(*iii*) Law enforcement investigative information.
(*iv*) Emergency medical services reports.
(*v*) Fire department records.
(*vi*) Prosecuting attorney records.
(*vii*) Parole and probation information and records.
(*viii*) Court records.
(*ix*) School records.
(*x*) Information and records regarding resources provided by a social services agency.

(b) Information and records regarding resources provided by a social services agency to a family member of the individual who is the subject of an individual overdose review.

(5) A person that provides the chairperson records or information under subsection (3) or (4) may charge the overdose fatality review team a fee in the same manner as a public body may charge a fee under section 4 of the freedom of information act, 1976 PA 442, MCL 15.234.

(6) If a family member or friend of the individual who is the subject of an individual overdose review submits a request to submit information to an overdose fatality review team, a member of that team may contact, interview, or obtain the information about the individual from that family member or friend.

(7) Except as provided in section 5(8), information obtained or created by or for an overdose fatality review team is confidential and not subject to discovery, subpoena, or the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Documents and records otherwise available from other sources are not exempt from discovery, subpoena, or introduction into evidence from other sources solely because they were presented to or reviewed by an overdose fatality review team.

(8) An overdose fatality review team shall comply with federal and state laws pertaining to confidentiality and to the disclosure of substance use disorder treatment records, including, but not limited to, 42 USC 290dd-2 and 42 CFR part 2.

History: 2023, Act 313, Eff. Feb. 13, 2024.

330.3031 Disclosure of confidential information; violation; civil action; remedies.

Sec. 11. If an overdose fatality review team member knowingly discloses confidential information in violation of this act, a person aggrieved by that violation may bring a civil action for damages and any costs and reasonable attorney fees allowed by the court.

History: 2023, Act 313, Eff. Feb. 13, 2024.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1996-1

330.3101 Renaming of department of mental health as department of community health; transfer of powers and duties among various departments and agencies; renaming of department of public health as community public health agency.

WHEREAS, Article V, Section 1, of the Constitution of the State of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963, empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, Article V, Section 8, of the Constitution of the State of Michigan of 1963 provides that each principal department shall be under the supervision of the Governor unless otherwise provided by the Constitution; and

WHEREAS, Article IV, Section 51, states that the public health and general welfare of the people of the state are matters of public concern; and

WHEREAS, Article VIII, Section 8, states that institutions, programs and services for the care, treatment, education or rehabilitation of those inhabitants who are physically, mentally, or otherwise seriously handicapped shall always be fostered and supported; and

WHEREAS, the State of Michigan plays a fundamental role in the protection of the health and safety of its citizens in guiding policy for improving the health status of Michigan citizens, improving access to health care services, and preventing disease; and

WHEREAS, the State of Michigan finances the purchase or provision of health care services for at least 1.5 million persons, including Medicaid recipients, individuals with unique health care needs, persons with acute substance abuse needs, persons who are mentally ill and/or developmentally disabled; and

WHEREAS, the future in state-funded and administered health and behavioral services lies in integrating administrative systems and pooling state purchasing power for more efficient use of resources; and

WHEREAS, the administration of health-related programs is fragmented throughout state government in at least eight state departments, causing duplication of services, and waste of resources; and

WHEREAS, these health services can and should be better coordinated for the basic protection of the health of Michigan citizens; and

WHEREAS, the state's role will increasingly focus on quality assurance and purchasing quality outcomes rather than on regulation; and

WHEREAS, the state will continue to move toward community-based systems for the delivery and administration of heath care services; and

WHEREAS, the protection of the health and safety of the citizens of Michigan can more effectively and efficiently be carried out by aligning health-related administrative functions in state government; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

I.DEPARTMENT OF COMMUNITY HEALTH

A.General

1. Consistent with Article V, Section 2, of the Constitution of the State of Michigan of 1963, which limits the number of principal departments to twenty (20), the Department of Mental Health is hereby renamed the Department of Community Health and will continue as a principal department within the Executive Branch.

2. Any authority, duties, powers, functions and responsibilities that are transferred in this section by this Order, that are not statutorily mandated, can in the future be reorganized by the Director of the Department of Community Health to promote efficient administration.

3. The Director of the Department of Community Health shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

4. The Director of the Department of Community Health shall provide executive direction and supervision for the implementation of the transfers to the Department of Community Health described in this Order. The functions transferred to the Department of Community Health by this Order, except the power to appoint the director, shall be administered under the direction and supervision of the Director of the Department of

Community Health, and all prescribed functions of rule making, licensing, and registration, including the prescription of rules, regulations, standards, and adjudications, shall be transferred to the Director of the Department of Community Health.

5. The Director of the Department of Community Health shall, in addition to the other duties and responsibilities given to the Director herein as assigned or transferred to the Director as head of the Department of Community Health by statute or executive order, be responsible for the oversight and supervision of employees of the Department of Community Health and for the operations of the Department of Community Health. The Director shall also perform such other duties and exercise such other powers as the Governor may prescribe.

6. The Director of the Department of Community Health may perform a duty or exercise a power conferred by law or this Order upon the Director of the Department of Community Health at the time and to the extent the duty or power is delegated to the Director of the Department of Community Health by law or by this Order.

7. The Director of the Department of Community Health may by written instrument delegate a duty or power conferred by law or this Order and the person to whom such duty or power is so delegated may perform such duty or exercise such power at the time and to the extent that such duty or power is delegated by the Director of the Department of Community Health.

8. All rules, orders, contracts, and agreements relating to the functions transferred to the Department of Community Health which were lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, or repealed.

9. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

10. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor or any entity affected by this Order.

B.Department of Social Services

Medical Services Administration

1. All the authority, powers, duties, functions and responsibilities of the Department of Social Services, or the Director of the Department of Social Services, currently housed in the Medical Services Administration, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in the relevant portions of Act No. 280 of 1939, as amended, being Section 400.1 et seq. of the Michigan Compiled Laws, and Title XIX of the Social Security Act, 42 U.S.C.A. Section 1396 et seq., are hereby transferred from the Department of Social Services to the Department of Community Health by a Type I transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All the statutory authority, powers, duties, functions and responsibilities of the Department of Social Services, or the Director of the Department of Social Services, currently performed by the Medical Assistance Program (commonly known as the Medicaid program), set forth in the relevant portions of Act No. 280 of 1939, as amended, being Section 400.1 et seq. of the Michigan Compiled Laws and Title XIX of the Social Security Act of 1965, 42 U.S.C.A. Section 1396 et seq., are hereby transferred from the Department of Social Services to the Director of the Department of Community Health by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

3. All the statutory authority, powers, duties, functions and responsibilities of the support functions for the Medical Assistance Program, commonly known as the Medicaid program, currently in the Department of Social Services, including but not limited to management information systems, accounting, procurement, internal audit, contract management, personnel, labor relations, provider hearings, provider support, facility support, and eligibility policy support are hereby transferred from the Department of Social Services to the Director of the Department of Community Health by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

4. All the authority, powers, duties, functions and responsibilities of the State Medical Program are hereby transferred from the Department of Social Services to the Director of the Department of Community Health by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

5. The Director of the Department of Community Health shall administer the budget, procurement and management-related functions in such ways as to promote efficient administration and shall make internal

organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

6. The Director of the Department of Community Health shall provide executive direction and supervision for the implementation of the transfer. The Chief Executive of the Medical Services Administration shall exercise the prescribed statutory powers, duties, and functions independently of the Director of the Department of Community Health. The budgeting, procurement, and related management functions of the Medical Services Administration shall be performed under the direction and supervision of the Director of the Department of Community Health.

7. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Social Services for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Department of Community Health.

8. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

9. The Directors of the Department of Community Health and the Department of Social Services shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Community Health.

C.Liquor Control Commission

1. All the authority, powers, duties, functions and responsibilities of alcohol prevention education are hereby transferred from the Liquor Control Commission in the Department of Commerce to the Director of the Department of Community Health by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All records, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Liquor Control Commission for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Department of Community Health.

3. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

4. The Directors of the Departments of Community Health and Commerce, and the Chairman of the Liquor Control Commission shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Community Health.

II.DEPARTMENT OF AGRICULTURE

1. All the authority, powers, duties, functions and responsibilities of the Food Service Sanitation program, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in the Public Health Code, Act No. 368 of the Public Acts of 1978, as amended, being Section 333.12901 et seq. of the Michigan Compiled Laws, are hereby transferred from the Department of Public Health to the Director of the Department of Agriculture by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. The Director of the Department of Agriculture shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

3. The Director of the Department of Agriculture, in cooperation with the Director of the Department of Public Health, shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Agriculture, and all prescribed functions of rule-making, licensing and registration, including the prescription of rules, regulations, standards and adjudications shall be transferred to the Director of the Department of Agriculture.

4. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Public Health for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Department of Agriculture.

5. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the

remainder of the fiscal year.

6. The Directors of the Department of Agriculture and the Department of Public Health shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Agriculture.

7. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

8. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

III.DEPARTMENT OF COMMERCE

A.Department of Community Health

1. All the authority, powers, duties, functions and responsibilities of Licensing, Monitoring and Accreditation, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in the relevant parts of Chapter 1 of the Mental Health Code, Act No. 258 of the Public Acts of 1974 as amended and Act No. 290 of the Public Acts of 1995, being Section 330.1100 et seq. of the Michigan Compiled Laws, with the exception of the Clinical Services Team, are hereby transferred from the Department of Community Health to the Director of the Michigan Department of Commerce by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. The Director of the Department of Commerce shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

3. The Director of the Department of Commerce, in cooperation with the Director of the Department of Community Health, shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Commerce and all prescribed functions of rule-making, licensing and registration, including the prescription of rules, regulations, standards and adjudications shall be transferred to the Director of the Michigan Department of Commerce.

4. Any authority, duties, powers, functions and responsibilities of the Director of the Department of Community Health that are transferred in this section by this Order and that are not statutorily mandated can in the future be reorganized by the Director the Department of Commerce to promote efficient administration.

5. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Community Health for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Department of Commerce.

6. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

7. The Directors of the Department of Commerce and the Department of Community Health shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Commerce.

8. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

9. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

B.Department of Public Health

1. All the authority, powers, duties, functions and responsibilities of the Licensing of Substance Abuse Programs and the Certification of Substance Abuse Workers in the Division of Program Standards, Evaluation and Data Services of the Center for Substance Abuse Services, including the authority, powers, duties, functions and responsibilities set forth in the relevant parts of Act No. 368 of the Public Acts of 1978, as amended, being Section 333.6231 to 333.6251 of the Michigan Compiled Laws, are hereby transferred from the Department of Public Health to the Director of the Department of Commerce by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All the authority, powers, duties, functions and responsibilities of the Bureau of Health Systems, including but not limited to the authority, powers, duties, functions and responsibilities:

a. Of the Division of Health Facility Licensing and Certification in the Bureau of Health Systems set forth in Article 17, Parts 201, 205, 208, 213, 214, 215 and 217 of Act No. 368 of the Public Acts of 1978, being Section 333.20101 et seq., Section 333.20501 et seq. , Section 333.20801 et seq., Section 333.21301 et seq., Section 333.21401 et seq., Section 333.21501 et seq., and Section 333.21701 et seq., of the Michigan Compiled Laws, Titles XVIII and XIX of the federal Social Security Act of 1965 and the federal Clinical Laboratory Improvement Act Amendments of 1988;

b. Of the Division of Federal Support Services;

c. Of the Division of Emergency Medical Services set forth in Part 209 of Act No. 332 of the Public Acts of 1988 as amended, being Section 333.20901 et seq. and of the Michigan Compiled Laws, with the exception of the Division of Managed Care and the Division of Health Facility Development, are hereby transferred from the Department of Public Health to the Director of the Department of Commerce by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

3. All the authority, powers, duties, functions and responsibilities of management support in the Bureau of Finance and Administration and the Office of Management Support Services for programs being transferred in the Bureau of Health Systems, are hereby transferred from the Department of Public Health to the Director of the Department of Commerce by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

4. All the authority, powers, duties, functions and responsibilities of the radiation machine licensing and registration program in the Division of Radiological Health in the Bureau of Environmental and Occupational Health, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in the relevant parts of Part 135 of the Public Health Code, Act No. 368 of the Public Acts of 1978 as amended, being Section 333.13501 et seq. of the Michigan Compiled Laws, are hereby transferred from the Department of Public Health to the Director of the Department of Commerce by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

5. The Directors of the Departments of Commerce and Public Health shall negotiate regarding the transfer of the support and personnel for the programs being transferred from the Bureau of Health Systems to the Department of Commerce such that the transfers occur in the most efficient manner possible.

6. All the authority, powers, duties, functions and responsibilities of management support for the Bureau of Health Systems programs being transferred to the Department of Commerce, are hereby transferred from the Department of Public Health to the Department of Commerce by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

7. The Director of the Michigan Department of Commerce shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

8. The Director of the Michigan Department of Commerce shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Michigan Department of Commerce and all prescribed functions of rule-making, licensing and registration, including the prescription of rules, regulations, standards and adjudications shall be transferred to the Director of the Michigan Department of Commerce.

9. Any authority, duties, powers, functions and responsibilities of the Director of the Department of Public Health that are transferred in this section by this Order and that are not statutorily mandated can in the future be reorganized by the Director the Department of Commerce to promote efficient administration.

10. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Michigan Department of Public Health for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Michigan Department of Commerce.

11. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

12. The Directors of the Michigan Department of Commerce and the Michigan Department of Public Health shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Michigan Department of Commerce.

13. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to

the effective date of this Order shall continue to be effective until revised, amended or repealed.

14. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

C.Department of Social Services

1. All the authority, powers, duties, functions and responsibilities of Adult Foster Care Licensing, including the authority, powers, duties, functions and responsibilities set forth in the relevant parts of Act No. 218 of the Public Acts of 1979, as amended, Act No. 280 of the Public Acts of 1939, Act No. 294 of the Public Acts of 1978, as amended, and Act No. 306 of the Public Acts of 1969, being Section 400.701 et seq., Section 400.1 et seq., Section 338.41 et seq., and Section 24.201 et seq. of the Michigan Compiled Laws, are hereby transferred from the Department of Social Services to the Director of the Department of Commerce by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All the authority, powers, duties, functions and responsibilities of the Adult Foster Care Licensing Advisory Council, including the authority, powers, duties, functions and responsibilities set forth in the relevant parts of Act No. 218 of the Public Acts of 1979, as amended, and Act No. 280 of the Public Acts of 1939 being Section 400.708, and Section 400.1 et seq. of the Michigan Compiled Laws, are hereby transferred from the Department of Social Services to the Director of the Department of Commerce by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

3. All the authority, powers, duties, functions and responsibilities of Child Welfare Licensing, including the authority, powers, duties, functions and responsibilities set forth in Act No. 116 of the Public Acts of 1973, as amended, Act No. 218 of the Public Acts of 1979 as amended, Act No. 223 of the Public Acts of 1995, Act No. 294 of the Public Acts of 1978 as amended, and Act No. 306 of the Public Acts of 1969, being Section 722.111 et seq., Section 400.701 et seq., Section 400.1 et seq., Section 722.115 and Section 24.201 et seq. of the Michigan Compiled Laws, are hereby transferred from the Department of Social Services to the Director of the Department of Commerce by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

4. All the authority, powers, duties, functions and responsibilities relating to the management support functions for the Bureau of Regulatory Services, including but not limited to management information systems, licensing hearings and facility support, are hereby transferred from the Department of Social Services to the Director of the Department of Commerce by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

5. The Director of the Department of Commerce shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

6. Any authority, duties, powers, functions and responsibilities of the Director of the Department of Social Services that are transferred in this section by this Order and that are not statutorily mandated can in the future be reorganized by the Director the Department of Commerce to promote efficient administration.

7. The Director of the Department of Commerce, in cooperation with the Director of the Department of Social Services, shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Commerce and all prescribed functions of rule-making, licensing and registration, including the prescription of rules, regulations, standards and adjudications shall be transferred to the Director of the Department of Commerce.

8. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Social Services for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Department of Commerce.

9. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

10. The Directors of the Department of Commerce and the Department of Social Services shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Commerce.

11. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

12. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

IV.DEPARTMENT OF LABOR

Bureau of Environmental and Occupational Health

1. All the authority, powers, duties, functions and responsibilities of the Division of Occupational Health in the Bureau of Environmental and Occupational Health, set forth in Act No. 154 of Public Acts of 1974 as amended, Parts 22 and 56 of Act No. 368 of the Public Acts of 1978, Act No. 135 of the Public Acts of 1986, as amended, and Act No. 440 of the Public Acts of 1988, being Section 408.1001 et seq., 333.2201 et seq., 333.5601 et seq., 338.3101 et. seq. and Section 338.3401 et seq. of the Michigan Compiled Laws, and Section 21 (c) and 7 (c) (1) of the federal Occupational Safety and Health Act of 1970, P.L. 91 - 596, with the exception of the Dry Cleaning Unit, are hereby transferred from the Department of Public Health to the Director of the Department of Labor by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All the authority, powers, duties, functions and responsibilities of the Occupational Health Standards Commission in the Bureau of Environmental and Occupational Health, set forth in Sections 9, 14, 23, and 24 of Act No. 154 of the Public Acts of 1974, as amended, being Section 408.1024 of the Michigan Compiled Laws, are hereby transferred from the Department of Public Health to the Director of the Department of Labor by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

3. The Director of the Michigan Department of Labor shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

4. The Director of the Michigan Department of Labor shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Michigan Department of Labor and all prescribed functions of rule-making, licensing and registration, including the prescription of rules, regulations, standards and adjudications shall be transferred to the Director of the Michigan Department of Labor.

5. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Michigan Department of Public Health for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Michigan Department of Labor.

6. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

7. The Directors of the Michigan Department of Labor and the Michigan Department of Public Health shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Michigan Department of Commerce.

8. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

9. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

V.DEPARTMENT OF ENVIRONMENTAL QUALITY

Environmental Health Programs

1. All the authority, powers, duties, functions and responsibilities of the Bureau of Environmental and Occupational Health, including but not limited to the authority, powers, duties, functions and responsibilities:

a. Of the Division of Upper Peninsula;

b. Of the Division of Environmental Health set forth in the relevant parts of Parts 121, 124, 125, and 127 of the Public Health Code, Act No. 368 of the Public Acts of 1978, and Act No. 96 of the Public Acts of 1987, being Section 333.12101 et seq., 333.12401 et seq., 333.12501 et seq., and 333.12701 et seq., and Section 125.2301 et seq. of Michigan Compiled Laws, with the exception of the Food Service Sanitation Program and the Shelter Environment program;

c. Of the Division of Water Supply set forth in Part 127 of Act No. 368 of the Public Acts of 1978, being Sections 333.12701 et seq.;

d. Of the Division of Radiological Health set forth in the relevant parts of Parts 135 and 137 of the Public

Health Code, Act No. 368 of the Public Acts of 1978, being Section 333.13501 et seq., Section 333.13702 et seq. of the Michigan Compiled Laws, with the exception of the radiation machine licensing and registration program;

e. Of the Dry Cleaning program in the Division of Occupational Health set forth in Part 133 of Act No. 368 of the Public Acts of 1978 being Section 333.13301 et seq. of the Michigan Compiled Laws;

with the exception of the Division of Health Risk Assessment and the Division of Occupational Health; are hereby transferred from the Director of the Department of Public Health to the Director of the Department of Environmental Quality by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All the authority, powers, duties, functions and responsibilities of management support in the Bureau of Finance and Administration and Office of Management Support Services for the Bureau of Environmental and Occupational Health programs being transferred to the Department of Environmental Quality, are hereby transferred from the Department of Public Health to the Department of Environmental Quality by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

3. The placement of laboratory support for the Division of Water Supply and the water supply and sewer systems programs, and any necessary contractual relationships related to these laboratory services will be negotiated by the Directors of the Departments of Public Health and Environmental Quality by the effective date of this Order.

4. The placement of the Site Assessment Program related to the Superfund Program in the Division of Health Risk Assessment in the Bureau of Occupational and Environmental Health will be negotiated by the Directors of the Departments of Public Health and Environmental Quality by the effective date of this Executive Order.

5. All authority to make decisions regarding administrative appeals associated with the transfers referred to in paragraphs V. A. 1 - 2 above are transferred to the Director of the Department of Environmental Quality. In the event the Director of the Department of Environmental Quality is directly involved in an initial decision which is subsequently appealed, the Director shall appoint an individual within or outside the Department of Environmental Quality to decide the appeal.

6. The Director of the Department of Environmental Quality shall administer the assigned functions transferred above in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

7. The Director of the Department of Environmental Quality, in cooperation with the Director of the Department of Public Health, shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Environmental Quality and all prescribed functions of rule-making, licensing and registration, including the prescription of rules, regulations, standards and adjudications shall be transferred to the Director of the Department of Environmental Quality.

8. The Director of the Michigan Department of Environmental Quality may perform a duty or exercise a power conferred by law or this Order upon the Director of the Michigan Department of Environmental Quality at the time and to the extent the duty or power is delegated to the Director of the Michigan Department of Environmental Quality by law or by this Order.

9. The Director of the Michigan Department of Environmental Quality may by written instrument delegate a duty or a power conferred by law or this Order, and the person to whom such duty or power is so delegated may perform such duty or exercise such power at the time and to the extent that such duty or power is delegated by the Director.

10. Decisions made by the Director of the Michigan Department of Environmental Quality or persons to whom the Director has lawfully delegated decision-making authority, pursuant to this Order relating to environmental health, shall be final when reduced to writing and delivered to all affected persons, unless otherwise provided by law.

11. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Public Health for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Department of Environmental Quality.

12. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

13. The Directors of the Department of Environmental Quality and the Department of Public Health shall

immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Environmental Quality.

14. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

15. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

VI.DEPARTMENT OF MANAGEMENT AND BUDGET

Physical Plant Management

1. All the authority, powers, duties, functions and responsibilities of the Physical Plant Section and other portions of the Division of General Services necessary for building security, maintenance, administration and operation of the public health facilities located on North Martin Luther King Boulevard, City of Lansing, are hereby transferred from the Department of Public Health to the Director of the Department of Management and Budget by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. The Director of the Department of Management and Budget shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

3. The Director of the Department of Management and Budget, in cooperation with the Director of the Department of Public Health, shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Management and Budget and all prescribed functions of rule making, licensing and registration, including the prescription of rules, regulations, standards and adjudications shall be transferred to the Director of the Department of Management and Budget.

4. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Public Health for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Department of Management and Budget.

5. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

6. The Directors of the Department of Management and Budget and the Department of Public Health shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Management and Budget.

7. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

8. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

VII.DEPARTMENT OF SOCIAL SERVICES

Special Supplemental Food Program for Women, Infants and Children

1. All the authority, powers, duties, functions and responsibilities of the Special Supplemental Food Program for Women, Infants and Children (WIC program) pursuant to the federal Child Nutrition Act of 1966, as amended, Public Law 92-433, are hereby transferred from the Department of Public Health to the Director of the Department of Social Services by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All the authority, powers, duties, functions and responsibilities of the management support functions in the Bureau of Finance and Administrative Services and the Office of Management Support Services for the Special Supplemental Food Program for Women, Infants and Children (WIC program), are hereby transferred from the Department of Public Health to the Director of the Department of Social Services by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

3. The Director of the Department of Social Services shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

4. The Director of the Department of Social Services, in cooperation with the Director of the Department of Public Health, shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Social Services and all prescribed functions of rule-making, licensing and registration, including the prescription of rules, regulations, standards and adjudications shall be transferred to the Director of the Department of Social Services.

5. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Public Health for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Department of Social Services.

6. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

7. The Directors of the Department of Social Services and the Department of Public Health shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Social Services.

8. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

9. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

VIII.DEPARTMENT OF PUBLIC HEALTH

General

1. All the statutory authority, duties, powers, functions and responsibilities of the Department of Public Health, that have not been previously transferred in prior sections of this Order, including but not limited to the statutory authority, duties, powers, functions and responsibilities:

a. Set forth in Act No. 368 of the Public Acts of 1978, as amended;

b. Of the Chief Medical Executive, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Act No. 368 of the Public Acts of 1978 as amended, being Section 333.2202 of the Michigan Compiled Law;

c. Of the Internal Auditor;

d. Of the Office of Management Support Services, including the Administrative Services Section, with the exception of the Division of General Services, with the exception of support functions being transferred with programs in the Bureau of Health Systems, with programs in the Bureau of Occupational and Environmental Health, and with the WIC program;

e. Of the Bureau of Finance and Administrative Services, with the exception of support functions being transferred with programs in the Bureau of Health Systems, with programs in the Bureau of Occupational and Environmental Health, and with the WIC program;

f. Of the Center for Health Promotion and Chronic Disease Prevention, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Parts 26, 54, 55, 59, 95 and 126 of Act No. 368 of the Public Acts of 1978 as amended, being Section 333.2601 et seq., 333.5401 et seq., 333.5501 et seq., 333.5901 et seq., 333.9501 et seq. and 333.12601 et seq. of the Michigan Compiled Laws;

g. Of the Office of Policy, Planning and Evaluation, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Parts 22, 26 and 28 of Act No. 368 of the Public Acts of 1978 as amended, being Section 333.2201 et seq., Section 333.2601 et seq. and Section 333.2801 et seq. of the Michigan Compiled Laws;

h. Of the Center for Substance Abuse Services, with the exception of Quality Assurance and Licensing in the Program Standards, Evaluation and Data Services Division, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Part 62 of Act No. 368 of the Public Acts of 1978, as amended, being Section 333.6201 et seq. of the Michigan Compiled Laws;

i. Of the Bureau of Child and Family Services, with the exception of the Women, Infants, and Children Division, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Parts 23, 27, 58, 91, 92, and 93 of Act No. 368 of the Public Acts of 1978, as amended, being Section 333.2301 et seq., Section 333.2701 et seq., Section 333.5801 et seq., Section 333.9101 et seq., Section 333.9201 et seq., and Section 333.9301 et seq. of the Michigan Compiled Laws;

j. All authority, powers, duties, functions and responsibilities not otherwise transferred from the Division

of Health Risk Assessment in the Bureau of Environmental and Occupational Health;

k. Of the Shelter Environment Program, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Part 124 of the Public Health Code, Act No. 368 of the Public Acts of 1978, as amended, being Section 333.12901 et seq. of the Michigan Compiled Laws;

l. Of the Division of Managed Care in the Bureau of Health Systems, including but not limited to the statutory authority, powers duties, functions and responsibilities set forth in Part 27 of Act No. 368 of the Public Acts of 1978, being Section 333.2701 et seq. of the Michigan Compiled Laws;

m. Of the Division of Health Facility Development in the Bureau of Health Systems, including but not limited to the authority, powers, duties, functions and responsibilities set forth in Part 222 of the Public Act Code, Act No. 332 of the Public Acts of 1988 as amended, being Section 333.22201 et seq. of the Michigan Compiled Laws;

n. Of the Bureau of Infectious Disease Control, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Parts 51 - 53, 59, 92, and 96 of Act No. 368 of the Public Acts of 1978, as amended, being Section 333.5101 et seq., 333.5201 et seq., 333.5301 et seq., 333.5901 et seq., 333.9201 et seq., and Section 333.9601 et seq. of the Michigan Compiled Laws;

o. Of the Governor's Council on Physical Fitness, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Executive Order 1992-5;

p. Of the Agent Orange Commission, including but not limited to the authority, powers, duties, functions and responsibilities set forth in Act No. 49 of the Public Acts of 1987 being Section 333.5731 - 333.5745 of the Michigan Compiled Laws;

q. Of the Michigan Public Health Institute, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Part 26 of Act No. 368 of the Public Acts of 1978, being Section 333.2611 of the Michigan Compiled Laws;

r. Of the Center for Rural Health, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Part 26 of Act No. 368 of the Public Acts of 1978, being Sections 333.2223 and 333.361 of the Michigan Compiled Laws; are hereby transferred to the Director of the Department of Community Health by a Type I transfer, as defined by Section 3 Act No. 380 of the Public Acts of 1965, Section 16.103

2. All authority, powers, duties, functions and responsibilities of the Risk Reduction and AIDS Policy Commission set forth in Act No. 368 of the Public Acts of 1978 as amended, being Sections 333.5903 - Section 222.5909 of the Michigan Compiled Laws, are hereby transferred to the Director of the Michigan Department of Community Health by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

3. All authority, powers, duties, functions and responsibilities of the Crippled Children's Advisory Committee of the Division of Children's Special Health Care Services (renamed the Children's Special Health Care Advisory Committee) of the Bureau of Child and Family Services, set forth in the relevant parts of Act No. 368 of the Public Acts of 1978, as amended, being Section 333.5811 of the Michigan Compiled Laws are hereby transferred to the Director of the Michigan Department of Community Health by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

4. The Department of Public Health is hereby renamed the Community Public Health Agency.

5. The Executive Director of the Public Health Agency shall exercise the prescribed statutory powers, duties, and functions of rule-making, licensing, and registration independently of the Director of the Department of Community Health. The budgeting, procurement, and related management functions of the Public Health Agency shall be performed under the direction and supervision of the Director of the Department of Community Health.

6. The Director of the Department of Community Health shall administer the budget, procurement and management related functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

7. Any authority, duties, powers, functions and responsibilities of the Director of the Department of Public Health that are transferred in this section by this Order and that are not statutorily mandated can in the future be reorganized by the Director the Department of Community Health to promote efficient administration.

8. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Public Health for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Department of Community Health.

9. The Department of Management and Budget shall determine and authorize the most efficient manner

possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

10. The Directors of the Department of Community Health and the Department of Public Health shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Community Health.

11. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective April 1, 1996.

History: 1996, E.R.O. No. 1996-1, Eff. Apr. 1, 1996.

Compiler's note: The phrase "states financial management system" that appears throughout this section should evidently read "state's financial management system."

The phrase "the Director the Department" that appears throughout this section should evidently read "the Director of the Department."

In subsection 1.m. of part VIII, entitled "VIII. Department of Public Health," the reference to "Part 222 of the Public Act Code, Act No. 332 of the Public Acts of 1988 as amended" should evidently read "Part 222 of the Public Health Code, Act No. 368 of the Public Acts of 1978, as amended."

In subparagraph 2. of part VIII, entitled "VIII. Department of Public Health," the reference to "Sections 333.5903 - Section 222.5909" evidently should read "Sections 333.5903 - 333.5909."

For transfer of office of drug control policy to department of community health, and abolishment of the office, see E.R.O. No. 2009-1, compiled at MCL 333.26327.

For transfer of powers and duties of department of environmental quality to department of natural resources and environment, and abolishment of the department of environmental quality, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

For creation of department of health and human services and abolishment of department of community health, see E.R.O. No. 2015-1, compiled at MCL 400.227.

For transfer of powers and duties of chief medical executive to the new chief medical executive in the office of chief medical executive created within the department of health and human services, and abolishment of the position of chief medical executive, see E.R.O. No. 2016-4, compiled at MCL 333.26369.

For transfer of powers and duties of the medical services administration to the health and aging services administration created within the department of health and human services; and abolishment of the medical services administration, see E.R.O. No. 2021-2, compiled at MCL 400.562.

Administrative rules: R 325.2401 et seq.; R 325.10102 et seq.; R 325.10308b; R 325.10401 et seq.; R 325.10604a et seq.; R 325.10702 et seq.; R 325.11002; R 325.11008; R 325.13101 et seq.; R 325.11502 et seq.; R 325.52501 et seq. R 325.70101 et seq. of the Michigan Administrative Code.