

**SUBSTITUTE FOR
HOUSE BILL NO. 5298**

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending sections 100b and 100c (MCL 330.1100b and 330.1100c),
section 100b as amended by 2020 PA 55 and section 100c as amended
by 2020 PA 99, and by adding section 137a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

29 (d) With appropriate supports over a sustained period, the



1 life functioning of the individual with an intellectual disability
2 will generally improve.

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

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

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

13 (17) **"Medicaid" means the program of medical assistance**
14 **established under section 105 of the social welfare act, 1939 PA**
15 **280, MCL 400.105.**

16 (18) ~~(17)~~—"Medical director" means a psychiatrist appointed
17 under section 231 to advise the executive director of a community
18 mental health services program.

19 (19) ~~(18)~~—"Mental health professional" means an individual who
20 is trained and experienced in the area of mental illness or
21 developmental disabilities and who is 1 of the following:

22 (a) A physician.

23 (b) A psychologist.

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

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



1 333.18501 to 333.18518.

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

5 (f) A marriage and family therapist licensed or otherwise
6 authorized to engage in the practice of marriage and family therapy
7 under part 169 of the public health code, 1978 PA 368, MCL
8 333.16901 to 333.16915.

9 (20) ~~(19)~~ "Minor" means an individual under the age of 18
10 years.

11 (21) ~~(20)~~ "Multicultural services" means specialized mental
12 health services for multicultural populations such as African-
13 Americans, Hispanics, Native Americans, Asian and Pacific
14 Islanders, and Arab/Chaldean-Americans.

15 (22) ~~(21)~~ "Neglect" means an act or failure to act committed
16 by an employee or volunteer of the department, a community mental
17 health services program, or a licensed hospital; a service provider
18 under contract with the department, a community mental health
19 services program, or a licensed hospital; or an employee or
20 volunteer of a service provider under contract with the department,
21 a community mental health services program, or a licensed hospital,
22 that denies a recipient the standard of care or treatment to which
23 he or she is entitled under this act.

24 Sec. 100c. (1) "Peace officer" means an officer of the
25 department of state police or of a law enforcement agency of a
26 county, township, city, or village who is responsible for the
27 prevention and detection of crime and enforcement of the criminal
28 laws of this state. For the purposes of sections 408, 426, 427a,
29 and 427b, peace officer also includes an officer of the United



1 States Secret Service with the officer's consent and a police
2 officer of the Veterans' Administration Medical Center Reservation.

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

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

15 (4) "Physician" means an individual licensed or otherwise
16 authorized to engage in the practice of medicine under part 170 of
17 the public health code, 1978 PA 368, MCL 333.17001 to 333.17097, or
18 to engage in the practice of osteopathic medicine and surgery under
19 part 175 of the public health code, 1978 PA 368, MCL 333.17501 to
20 333.17556.

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

26 (6) "Priority" means preference for and dedication of a major
27 proportion of resources to specified populations or services.
28 Priority does not mean serving or funding the specified populations
29 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 441.151 to 441.182, in an inpatient setting to individuals under age 21.**

(9) ~~(8)~~—"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) ~~(9)~~—"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



1 director.

2 (11) ~~(10)~~ "Psychologist" means an individual who is licensed
3 or otherwise authorized to engage in the practice of psychology
4 under part 182 of the public health code, 1978 PA 368, MCL
5 333.18201 to 333.18237, and who devotes a substantial portion of
6 his or her time to the diagnosis and treatment of individuals with
7 serious mental illness, serious emotional disturbance, substance
8 use disorder, or developmental disability.

9 (12) ~~(11)~~ "Recipient" means an individual who receives mental
10 health services, either in person or through telemedicine, from the
11 department, a community mental health services program, or a
12 facility or from a provider that is under contract with the
13 department or a community mental health services program. For the
14 purposes of this act, recipient does not include an individual
15 receiving substance use disorder services under chapter 2A unless
16 that individual is also receiving mental health services under this
17 act in conjunction with substance use disorder services.

18 (13) ~~(12)~~ "Recipient rights advisory committee" means a
19 committee of a community mental health services program board
20 appointed under section 757 or a recipient rights advisory
21 committee appointed by a licensed hospital under section 758.

22 (14) ~~(13)~~ "Recovery" means a highly individualized process of
23 healing and transformation by which the individual gains control
24 over his or her life. Related services include recovery management,
25 recovery support services, recovery houses or transitional living
26 programs, and relapse prevention. Recovery involves the development
27 of a new meaning, purpose, and growing beyond the impact of
28 addiction or a diagnosis. Recovery may include the pursuit of
29 spiritual, emotional, mental, or physical well-being.



1 (15) ~~(14)~~ "Regional entity" means an entity established under
2 section 204b to provide specialty services and supports.

3 (16) ~~(15)~~ "Rehabilitation" means the act of restoring an
4 individual to a state of mental and physical health or useful
5 activity through vocational or educational training, therapy, and
6 counseling.

7 (17) ~~(16)~~ "Resident" means an individual who receives services
8 in a facility.

9 (18) ~~(17)~~ "Responsible mental health agency" means the
10 hospital, center, or community mental health services program that
11 has primary responsibility for the recipient's care or for the
12 delivery of services or supports to that recipient.

13 (19) ~~(18)~~ "Rule" means a rule promulgated under the
14 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
15 24.328.

16 **Sec. 137a. (1) The department shall, subject to appropriation**
17 **of sufficient funding, establish PRTFs for Medicaid recipients**
18 **under age 21 as defined under 42 CFR 441.151 to 441.182.**

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

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

25 **(a) Be certified by the department.**

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

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



1 (d) Any other requirement the department considers appropriate
2 and necessary to provide PRTF services and comply with 42 CFR
3 441.151 to 441.182.

4 (4) The department may establish Medicaid policy and
5 promulgate administrative rules necessary to implement this
6 section.