

Act No. 137  
Public Acts of 1994  
Approved by the Governor  
May 24, 1994  
Filed with the Secretary of State  
May 24, 1994

**STATE OF MICHIGAN  
87TH LEGISLATURE  
REGULAR SESSION OF 1994**

**Introduced by Senators Pridnia Gougeon Koivisto and McManus**

**ENROLLED SENATE BILL No. 807**

AN ACT to amend sections 134 135 136 137 139 141 143 143a 148 149 and 149b of Act No 258 of the Public Acts of 1974 entitled as amended An act to modernize add to revise consolidate and codify the statutes relating to mental health to delineate the powers and duties of the department of mental health to establish county community mental health programs to delineate state and county financial responsibility for public mental health services to create certain funds to establish procedures for the civil admission and discharge of mentally ill persons to and from mental health facilities to establish procedures for the civil admission and discharge of persons with developmental disabilities to and from facilities to establish guardianship arrangements for persons with developmental disabilities to establish certain rights of persons who receive mental health services to establish financial liability for the receipt of public mental health services to establish certain miscellaneous provisions relating to mental health to establish procedures pertaining to persons with mental illness or developmental disabilities who are under criminal sentence to persons who are mentally incompetent to stand trial and to persons who have been found not guilty by reason of insanity to repeal certain acts and parts of acts and to repeal certain parts of this act on a specific date section 134 as amended by Act No 155 of the Public Acts of 1988 section 143a as added by Act No 167 of the Public Acts of 1990 and section 149b as added by Act No 13 of the Public Acts of 1990 being sections 330 1134 330 1135 330 1136 330 1137 330 1139 330 1141 330 1143 330 1143a 330 1148 330 1149 and 330 1149b of the Michigan Compiled Laws

*The People of the State of Michigan enact*

Section 1 Sections 134 135 136 137 139 141 143 143a 148 149 and 149b of Act No 258 of the Public Acts of 1974 section 134 as amended by A t No 155 of the Public Acts of 1988 section 143a as added by Act No 167 of the Public Acts of 1990 and section 149b as added by Act No 13 of the Public Acts of 1990 being sections 330 1134 330 1135 330 1136 330 1137 330 1139 330 1141 330 1143 330 1143a 330 1148 330 1149 and 330 1149b of the Michigan Compiled Laws are amended to read as follows

Sec 134 (1) The director shall establish a comprehensive system of licensing for psychiatric hospitals psychiatric units and psychiatric partial hospitalization programs in the state to protect the public by insuring that these hospitals units and programs provide the facilities and the ancillary supporting services necessary to maintain a high quality of patient care Separate criteria shall be developed for the licensing of partial hospitalization treatment positions and 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

Sec 135 (1) As used in sections 134 through 150

(a) Emotional disturbance means that term as defined in section 498b

(b) Facility means a psychiatric hospital a psychiatric unit or a psychiatric partial hospitalization program

(c) Mental illness means that term as defined in section 400a

(d) Psychiatric hospital or psychiatric unit means an establishment offering inpatient services for observation diagnosis active treatment and overnight care of persons with a mental disease or with a chronic mental disease or condition requiring the daily direction or supervision of physicians licensed to practice in the state

(e) Psychiatric partial hospitalization program means a nonresidential treatment program that provides psychiatric psychological social occupational and therapeutic recreational services under the supervision of a physician to persons diagnosed as having mental illness or minors diagnosed as having emotional disturbance who do not require 24 hour continuous mental health care and that is affiliated with a psychiatric hospital or psychiatric unit to which clients may be transferred if they need inpatient psychiatric care

(f) Treatment position means a unit of measure of the client capacity of a psychiatric partial hospitalization program Each treatment position represents a minimum of 6 hours per day and 5 days per calendar week

(2) The director by rule shall set standards that assure the provision of quality assurance review utilization review and the appropriate training and education of staff and that require documented policies and procedures for the administration of the services that are offered by a psychiatric partial hospitalization program The rules also shall further define

(a) 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

(b) Psychiatric partial hospitalization program to clearly differentiate between the active intensive care expected in a psychiatric partial hospitalization program and that care which is characteristically provided in a psychiatric outpatient program

(c) The relationship between a partial hospitalization program and its affiliated inpatient hospital or unit

(3) Sections 134 to 150 do not cover adult foster care facilities licensed under the adult foster care facility licensing act Act No 218 of the Public Acts of 1979 being sections 400 701 to 400 737 of the Michigan Compiled Laws or child care organizations licensed under Act No 116 of the Public Acts of 1973 being sections 722 111 to 722 128 of the Michigan Compiled Laws

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 psychiatric units and psychiatric partial hospitalization programs 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 pursuant to the administrative procedures act of 1969 Act No 306 of the Public Acts of 1969 as amended being sections 24 201 to 24 328 of the Michigan Compiled Laws

Sec 137 (1) A person shall not construct establish or maintain a psychiatric hospital psychiatric unit or psychiatric partial hospitalization program or use the terms psychiatric hospital psychiatric unit or psychiatric partial hospitalization program 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 psychiatric unit or psychiatric partial hospitalization program If the psychiatric hospital psychiatric unit or psychiatric partial hospitalization program is located on or in real estate which 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 nontransferable license shall be granted for 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 no longer than 1 additional year. A violation of this section is a misdemeanor and shall be punishable by a fine of not more than \$1 000 00 for each violation.

(2) The department shall issue a provisional license to a person who is operating a psychiatric partial hospitalization program under a certificate of need as of the effective date of the amendatory act that added this subsection.

Sec 139 (1) An applicant for a license under this act shall submit to the department with the application form a license fee of \$400 00 plus \$5 00 per patient bed or treatment position. The total license fee shall not exceed \$2 500 00.

(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 year.

(3) An applicant for a construction permit shall 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.

Sec 141 A licensee shall maintain a complete record for each patient. The record shall contain at a minimum a written assessment and plan of service 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.

Sec 143 (1) 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. If a licensee contracts with another entity to operate a psychiatric partial hospitalization program, the governing body of the licensee is responsible for the operation of the facility, the selection of the medical staff, and 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.

(2) A psychiatric partial hospitalization program shall develop and implement written policies, procedures, and agreements to ensure the direct transfer or hospitalization of clients between the partial hospitalization program and a psychiatric hospital or psychiatric unit.

Sec 143a (1) The owner, operator, and governing body of a psychiatric hospital, psychiatric unit, or psychiatric partial hospitalization program 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, psychiatric unit, or psychiatric partial hospitalization program 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 pursuant to section 748 or disclosure required by federal law to the agency designated by the governor to provide protection and advocacy pursuant to section 931.

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

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, psychiatric unit, or psychiatric partial hospitalization program without a license.

Sec 149b A psychiatric hospital, psychiatric unit, or psychiatric partial hospitalization program operated or licensed by the department shall comply with the medical waste regulatory act, part 138 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.13801 to 333.13831 of the Michigan Compiled Laws.

Section 2 This amendatory act shall take effect June 1, 1994.

This act is ordered to take immediate effect

Secretary of the Senate

Co Clerk of the House of Representatives

Approved

Governor