



SENATE BILL No. 807

September 23, 1993, Introduced by Senators PRIDNIA, GOUGEON, KOIVISTO and MC MANUS and referred to the Committee on Family Law, Criminal Law, and Corrections.

A bill to amend sections 104, 134, 135, 136, 137, 139, 141, 143, 143a, 148, 149, 149b, and 600 of Act No. 258 of the Public Acts of 1974, entitled as amended

"Mental health code,"

section 104 as amended by Act No. 287 of the Public Acts of 1986, 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 330.1104, 330.1134, 330.1135, 330.1136, 330.1137, 330.1139, 330.1141, 330.1143, 330.1143a, 330.1148, 330.1149, 330.1149b, and 330.1600 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 104, 134, 135, 136, 137, 139, 141, 143,
2 143a, 148, 149, 149b, and 600 of Act No. 258 of the Public Acts
3 of 1974, section 104 as amended by Act No. 287 of the Public Acts

1 of 1986, section 134 as amended by Act No. 155 of the Public Acts
2 of 1988, section 143a as added by Act No. 167 of the Public Acts
3 of 1990, and section 149b as added by Act No. 13 of the Public
4 Acts of 1990, being sections 330.1104, 330.1134, 330.1135,
5 330.1136, 330.1137, 330.1139, 330.1141, 330.1143, 330.1143a,
6 330.1148, 330.1149, 330.1149b, and 330.1600 of the Michigan
7 Compiled Laws, are amended to read as follows:

8 Sec. 104. (1) The head of the department is the director
9 of mental health as provided in section 401 of the executive
10 organization act of 1965, Act No. 380 of the Public Acts of 1965,
11 being section 16.501 of the Michigan Compiled Laws.

12 (2) All executive authority of and within the department is
13 vested in the director who may delegate such authority as he or
14 she considers necessary or appropriate. Any authority that has
15 by law been vested in any entity owned or operated by the depart-
16 ment, or any employee of the department is exercisable by the
17 director at his or her option. The director shall delegate
18 authority for clinical decisions to appropriately trained clini-
19 cal professionals. This subsection ~~shall apply~~ APPLIES to each
20 chapter of the mental health code.

21 (3) Clinical psychiatric decisions regarding the admission,
22 treatment and discharge of psychiatric patients in state ~~mental~~
23 PSYCHIATRIC hospitals shall be made by qualified state hospital
24 physicians or appropriately credentialed psychiatrists granted
25 state hospital staff privileges pursuant to section 245.

26 Sec. 134. (1) The director shall establish a comprehensive
27 system of licensing for ~~mental hospitals,~~ psychiatric

1 hospitals, ~~or~~ psychiatric units, AND PSYCHIATRIC PARTIAL
2 HOSPITALIZATION PROGRAMS in the state to protect the public by
3 insuring that these hospitals, ~~and~~ units, AND PROGRAMS provide
4 the facilities and the ancillary supporting services necessary to
5 maintain a high quality of patient care. Separate criteria shall
6 be developed for the licensing of PARTIAL HOSPITALIZATION TREAT-
7 MENT POSITIONS AND hospital beds for minors.

8 (2) The director shall coordinate all functions within state
9 government affecting ~~mental~~ PSYCHIATRIC hospitals, and shall
10 cooperate with other state agencies ~~which~~ THAT establish stan-
11 dards or requirements for FACILITIES PROVIDING mental health care
12 ~~institutions~~ to assure necessary, equitable, and consistent
13 state regulation of these ~~institutions~~ FACILITIES without
14 duplication of inspections or services. The director may enter
15 into agreements with other state agencies to accomplish this
16 purpose.

17 Sec. 135. (1) ~~For the purposes of~~ AS USED IN sections
18 134 through 150: ~~, a mental hospital, psychiatric~~

19 (A) "FACILITY" MEANS A PSYCHIATRIC HOSPITAL, A PSYCHIATRIC
20 UNIT, OR A PSYCHIATRIC PARTIAL HOSPITALIZATION PROGRAM.

21 (B) "PSYCHIATRIC hospital ~~,~~ or psychiatric unit" ~~is~~
22 MEANS an establishment offering inpatient services for observa-
23 tion, diagnosis, active treatment, and overnight care of persons
24 with a mental disease, or with a chronic mental disease or condi-
25 tion requiring the daily direction or supervision of physicians
26 licensed to practice in the state.

1 (C) "PSYCHIATRIC PARTIAL HOSPITALIZATION PROGRAM" MEANS A
 2 NONRESIDENTIAL TREATMENT PROGRAM THAT PROVIDES PSYCHIATRIC,
 3 PSYCHOLOGICAL, SOCIAL, OCCUPATIONAL, AND THERAPEUTIC RECREATIONAL
 4 SERVICES UNDER THE SUPERVISION OF A PHYSICIAN TO PERSONS DIAG-
 5 NOSED AS MENTALLY ILL WHO DO NOT REQUIRE 24-HOUR CONTINUOUS
 6 MENTAL HEALTH CARE, AND THAT IS AFFILIATED WITH A PSYCHIATRIC
 7 HOSPITAL OR PSYCHIATRIC UNIT TO WHICH CLIENTS MAY BE TRANSFERRED
 8 IF THEY NEED INPATIENT PSYCHIATRIC CARE.

9 (D) "TREATMENT POSITION" MEANS A UNIT OF MEASURE OF THE
 10 CLIENT CAPACITY OF A PSYCHIATRIC PARTIAL HOSPITALIZATION
 11 PROGRAM. EACH TREATMENT POSITION REPRESENTS A MINIMUM OF 6 HOURS
 12 PER DAY AND 5 DAYS PER CALENDAR WEEK.

13 (2) The director, by rule, shall further define: ~~mental~~

14 (A) PSYCHIATRIC hospitals and ~~mental~~ PSYCHIATRIC hospital
 15 services to clearly differentiate between the active intensive
 16 care expected in ~~mental hospitals,~~ psychiatric hospitals — or
 17 psychiatric units and that care which is characteristically
 18 expected in general hospitals, long-term — ~~extended~~ care
 19 facilities, or ~~in~~ residential facilities. ~~These sections~~

20 (B) PSYCHIATRIC PARTIAL HOSPITALIZATION PROGRAM TO CLEARLY
 21 DIFFERENTIATE BETWEEN THE ACTIVE INTENSIVE CARE EXPECTED IN A
 22 PSYCHIATRIC PARTIAL HOSPITALIZATION PROGRAM AND THAT CARE WHICH
 23 IS CHARACTERISTICALLY PROVIDED IN A PSYCHIATRIC OUTPATIENT
 24 PROGRAM.

25 (C) THE RELATIONSHIP BETWEEN A PARTIAL HOSPITALIZATION PRO-
 26 GRAM AND ITS AFFILIATED INPATIENT HOSPITAL OR UNIT.

1 (3) SECTIONS 134 TO 150 do not cover adult foster care
2 facilities licensed under ~~Act No. 287 of the Public Acts of~~
3 ~~1972, being sections 331.681 to 331.694 of the Michigan Compiled~~
4 ~~Laws~~ THE ADULT FOSTER CARE FACILITY LICENSING ACT, ACT NO. 218
5 OF THE PUBLIC ACTS OF 1979, BEING SECTIONS 400.701 TO 400.737 OF
6 THE MICHIGAN COMPILED LAWS, OR CHILD CARE ORGANIZATIONS LICENSED
7 UNDER ACT NO. 116 OF THE PUBLIC ACTS OF 1973, BEING SECTIONS
8 722.111 TO 722.128 OF THE MICHIGAN COMPILED LAWS.

9 Sec. 136. The director shall administer sections 134
10 through 150 and promulgate rules to implement the purposes of
11 sections 134 through 150 ~~and~~ for the maintenance and operation
12 of ~~mental~~ PSYCHIATRIC hospitals, PSYCHIATRIC UNITS, AND PSYCHI-
13 ATRIC PARTIAL HOSPITALIZATION PROGRAMS as ~~are~~ necessary to
14 enable state or private ~~mental hospitals~~ FACILITIES, or both,
15 to qualify for federal funds available for patient care or for
16 construction or remodeling of facilities. The rules shall be
17 promulgated pursuant to THE ADMINISTRATIVE PROCEDURES ACT OF
18 1969, Act No. 306 of the Public Acts of 1969, as amended, BEING
19 SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS.

20 Sec. 137. A ~~mental hospital,~~ PERSON SHALL NOT CONSTRUCT,
21 ESTABLISH, OR MAINTAIN A psychiatric hospital, ~~or~~ psychiatric
22 unit, ~~shall not be constructed, established, or maintained in~~
23 ~~this state, nor shall~~ OR PSYCHIATRIC PARTIAL HOSPITALIZATION
24 PROGRAM OR USE the terms ~~mental hospital,~~ psychiatric hospital,
25 ~~or~~ psychiatric unit, ~~be used~~ OR PSYCHIATRIC PARTIAL HOSPITAL-
26 IZATION PROGRAM, without first obtaining a license. The director
27 shall require an applicant or a licensee to disclose the names,

1 addresses, and official positions of all persons who have an
2 ownership interest in a ~~mental hospital,~~ psychiatric hospital,
3 ~~or~~ psychiatric unit, OR PSYCHIATRIC PARTIAL HOSPITALIZATION
4 PROGRAM. If the ~~mental hospital,~~ psychiatric hospital, ~~or~~
5 psychiatric unit, OR PSYCHIATRIC PARTIAL HOSPITALIZATION PROGRAM
6 is located on or in real estate which is leased, the applicant or
7 licensee shall disclose the name of the lessor ~~thereof~~ and any
8 direct or indirect interest that the applicant or licensee has in
9 the lease other than as lessee. A nontransferable license shall
10 be granted for 1 year after the date of issuance, unless other-
11 wise provided in sections 134 to 150. The director may issue a
12 ~~nonrenewable temporary permit for not more than 6 months where~~
13 ~~additional time is needed to make the proper investigation or to~~
14 ~~undertake remedial action~~ PROVISIONAL LICENSE FOR 1 YEAR TO PRO-
15 VIDE A LICENSEE OR APPLICANT TIME TO UNDERTAKE REMEDIAL ACTION TO
16 CORRECT PROGRAMMATIC OR PHYSICAL PLANT DEFICIENCIES. ~~A tempo-~~
17 ~~rary permit shall not be issued to cover deficiencies in physical~~
18 ~~facility requirements. A provisional license for not more than 1~~
19 ~~year may be issued to an applicant whose services are needed in~~
20 ~~the community, but who is temporarily unable to comply with rules~~
21 ~~relating to physical facilities and shows concerted effort to~~
22 ~~comply with those rules.~~ A provisional license may be renewed
23 for no longer than ~~one~~ 1 additional year. A violation of this
24 section is a misdemeanor and shall be punishable by a fine of not
25 more than \$1,000.00 for each violation.

26 Sec. 139. ~~The director shall charge \$50.00 for temporary~~
27 ~~and construction permits, and for provisional, original, and~~

~~1 annual licenses shall charge \$2.00 per patient bed per hospital,~~
~~2 but in no event shall the charge exceed \$500.00 nor be less than~~
~~3 \$50.00.~~ (1) AN APPLICANT FOR A LICENSE UNDER THIS ACT SHALL
4 SUBMIT TO THE DEPARTMENT WITH THE APPLICATION FORM A LICENSE FEE
5 OF \$400.00 PLUS \$5.00 PER PATIENT BED OR TREATMENT POSITION. THE
6 TOTAL LICENSE FEE SHALL NOT EXCEED \$2,500.00.

7 (2) THE LICENSE FEE FOR A PROVISIONAL LICENSE IS THE SAME AS
8 THE FEE FOR A LICENSE. WHEN THE REQUIREMENTS FOR LICENSURE ARE
9 MET, THE PROVISIONAL LICENSE SHALL BE REPLACED BY A LICENSE WITH-
10 OUT AN ADDITIONAL FEE FOR THE BALANCE OF THE YEAR.

11 (3) AN APPLICANT FOR A CONSTRUCTION PERMIT SHALL SUBMIT TO
12 THE DEPARTMENT WITH THE APPLICATION FORM A PERMIT FEE OF
13 \$300.00.

14 (4) IF AN APPLICATION FOR A LICENSE OR PERMIT IS DENIED, OR
15 IF A LICENSE OR PERMIT IS REVOKED BEFORE ITS EXPIRATION DATE, THE
16 FEES PAID TO THE DEPARTMENT SHALL NOT BE REFUNDED.

17 Sec. 141. A licensee shall maintain a complete record for
18 each patient. The record shall contain at a minimum a written
19 ASSESSMENT AND plan of service for the patient, a statement of
20 the purpose of hospitalization OR TREATMENT, a description of any
21 tests and examinations performed, and a description of any obser-
22 vations made and treatments provided.

23 Sec. 143. (1) The governing body of a facility licensed
24 under sections 134 through 150 is responsible for the operation
25 of the facility, FOR the selection of the medical staff, and for
26 the quality of care rendered by the facility. IF A LICENSEE
27 CONTRACTS WITH ANOTHER ENTITY TO OPERATE A PSYCHIATRIC PARTIAL

1 HOSPITALIZATION PROGRAM, THE GOVERNING BODY OF THE LICENSEE IS
2 RESPONSIBLE FOR THE OPERATION OF THE FACILITY, THE SELECTION OF
3 THE MEDICAL STAFF, AND THE QUALITY OF CARE RENDERED BY THE
4 FACILITY. The governing body shall cooperate with the director of
5 mental health in the enforcement of sections 134 through 150, and
6 shall insure that physicians and other personnel for whom a state
7 license or registration is required are currently licensed or
8 registered.

9 (2) A PSYCHIATRIC PARTIAL HOSPITALIZATION PROGRAM SHALL
10 DEVELOP AND IMPLEMENT WRITTEN POLICIES, PROCEDURES, AND AGREE-
11 MENTS TO ENSURE THE DIRECT TRANSFER OR HOSPITALIZATION OF CLIENTS
12 BETWEEN THE PARTIAL HOSPITALIZATION PROGRAM AND A PSYCHIATRIC
13 HOSPITAL OR PSYCHIATRIC UNIT.

14 Sec. 143a. (1) The owner, operator, and governing body of a
15 ~~mental hospital,~~ psychiatric hospital, ~~or~~ psychiatric unit,
16 OR PSYCHIATRIC PARTIAL HOSPITALIZATION PROGRAM licensed under
17 this chapter or operated by the department shall assure that
18 licensed, registered, or certified mental health professionals
19 admitted to practice in the ~~mental hospital, psychiatric hospi-~~
20 ~~tal, or psychiatric unit~~ FACILITY are organized in order to
21 enable an effective review of the professional practices in the
22 ~~mental hospital,~~ psychiatric hospital, ~~or~~ psychiatric unit,
23 OR PSYCHIATRIC PARTIAL HOSPITALIZATION PROGRAM for the purpose of
24 improving the quality of patient care provided in the ~~mental~~
25 ~~hospital, psychiatric hospital, or psychiatric unit~~ FACILITY.
26 This review shall include the quality and appropriateness of the
27 care provided.

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

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

10 Sec. 148. The terms ~~mental hospital,~~ psychiatric hospi-
11 tal, ~~or~~ psychiatric unit, OR PSYCHIATRIC PARTIAL HOSPITALIZA-
12 TION PROGRAM shall not be used to describe or refer to an insti-
13 tution OR PROGRAM, unless the institution OR PROGRAM is licensed
14 by the director pursuant to sections 134 through 150.

15 Sec. 149. The director may maintain action in the name of
16 the people of the state to restrain or prevent the construction,
17 establishment, management, or operation of a ~~mental hospital,~~
18 psychiatric hospital, ~~or~~ psychiatric unit, OR PSYCHIATRIC PAR-
19 TIAL HOSPITALIZATION PROGRAM without a license.

20 Sec. 149b. ~~(1)~~ A ~~mental hospital,~~ psychiatric hospital,
21 psychiatric unit, or ~~hospital~~ PSYCHIATRIC PARTIAL HOSPITALIZA-
22 TION PROGRAM operated or licensed by the department shall comply
23 with the medical waste regulatory act, part 138 of the public
24 health code, Act No. 368 of the Public Acts of 1978, being sec-
25 tions 333.13801 to 333.13831 of the Michigan Compiled Laws.

26 Sec. 600. As used in this chapter, unless the context
27 requires otherwise:

1 (a) "Facility" means a child caring institution, a boarding
2 school, a convalescent home, an adult foster care facility for
3 more than 6 residents, a nursing home or home for the aged, a
4 ~~mental hospital,~~ psychiatric hospital or psychiatric unit and
5 an institution or community residential program which is licensed
6 by the state, and which regularly admits developmentally disabled
7 persons and provides residential and other services.

8 (b) "Physician" means a person licensed by the state to
9 practice medicine or osteopathic medicine, or the holder of a
10 temporary license as provided by law.

11 (c) "Psychologist" means a person who is knowledgeable in
12 the field of developmental disabilities by virtue of training or
13 experience, and who, pursuant to PART 182 OF THE PUBLIC HEALTH
14 CODE, Act No. 368 of the Public Acts of 1978, as amended, being
15 sections 333.18201 to 333.18237 of the Michigan Compiled Laws, is
16 licensed as a full or limited psychologist, ~~pursuant to section~~
17 ~~18223(1) and (3), is entitled to use the term psychologist~~ or
18 possesses training and experience equivalent to that necessary
19 for licensure as a psychologist.

20 (d) "Court" means the probate court for the county of resi-
21 dence of a developmentally disabled person, or for the county in
22 which a developmentally disabled person was found if a county of
23 residence cannot be determined.

24 (e) "Developmental disability" means an impairment of gen-
25 eral intellectual functioning or adaptive behavior which meets
26 the following criteria:

1 (i) It has continued since its origination or can be
2 expected to continue indefinitely.

3 (ii) It constitutes a substantial burden to the impaired
4 person's ability to perform normally in society.

5 (iii) It is attributable to 1 or more of the following:

6 (A) Mental retardation, cerebral palsy, epilepsy, or
7 autism.

8 (B) Any other condition of a person found to be closely
9 related to mental retardation because it produces a similar
10 impairment or requires treatment and services similar to those
11 required for a person who is mentally retarded.

12 (C) Dyslexia resulting from a condition described in sub-
13 paragraph (A) or (B).

14 (f) "Developmentally disabled person" means a person suffer-
15 ing a developmental disability.

16 (g) "Mentally retarded person" means an individual having
17 significantly subaverage general intellectual functioning.

18 (h) "Interested person or entity" means an adult relative or
19 friend of the respondent, an official or representative of a
20 public or private agency, corporation, or association concerned
21 with the person's welfare, or any other person found suitable by
22 the court.

23 (i) "Plenary guardian" means a guardian who possesses the
24 legal rights and powers of a full guardian of the person, or of
25 the estate, or both.

26 (j) "Partial guardian" means a guardian who possesses fewer
27 than all of the legal rights and powers of a plenary guardian,

1 and whose rights, powers, and duties have been specifically
2 enumerated by court order.