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BILL



ANALYSIS

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House Bill 4001 (Substitute H-1)  
Sponsor: Representative David Anthony  
Committee: Families, Mental Health, and Human Services

Date Completed: 3-15-95

**SUMMARY OF HOUSE BILL 4001 (Substitute H-1) as passed by the House:**

The bill would amend the Mental Health Code to allow for contracts for reciprocity in the delivery of services between county community mental health (CMH) programs in Michigan and public or private agencies in a state bordering Michigan, except that a service could not be provided by a Michigan CMH program for a resident of another state who was involved in criminal proceedings or who was a convicted felon. The bill would do all of the following:

- Authorize contracts between a CMH program and a public or private agency of another state and specify certain requirements for those contracts.
- Make special provisions regarding the out-of-state treatment of a person who was detained, committed, or placed on an involuntary basis.
- Provide for the legal jurisdiction over persons treated pursuant to a contract executed under the bill.
- Provide for the discharge of a person receiving treatment on a voluntary basis pursuant to a contract executed under the bill.

**Contracts**

A Michigan CMH program could contract with a public or private agency in a bordering state to secure services under the Mental Health Code for a person who received services through the CMH program. A CMH program also could contract with a bordering state's public or private agency to provide services under the Code for a resident of that state, unless he or she were involved in criminal proceedings or were a convicted felon. A contract could not be validly executed until the Department of Mental Health (DMH) reviewed and approved the contract's provisions and determined that the receiving agency provided services in accordance with Michigan standards and the Attorney General certified that the bordering state's laws governing patient rights were substantially similar to Michigan's. ("Receiving agency" would refer to an agency or program that provided treatment to individuals from a state other than the state in which the agency or program was located.)

A person could not establish legal residence in the state in which the receiving agency was located while he or she received services pursuant to a contract executed under the bill. An individual could be transferred between facilities of the receiving state if transfers were permitted by the contract providing for the individual's care.

The provisions of the Mental Health Code governing confidentiality of the records of a person's mental health treatment would apply to treatment records of a person who received services pursuant to a contract through a receiving agency in Michigan, except that the bordering state's

sending agency would have the same right of access to the treatment records as does the DMH under the Code.

Every contract executed under the bill would have to do all of the following:

- Establish the responsibility for payment for all services to be provided under the contract. Charges to the sending state could not be more or less than the actual costs of providing those services.
- Establish the responsibility for the transportation of clients to and from receiving agencies.
- Provide for reports by the receiving agency to the sending agency on the condition of each individual covered by the contract.
- Provide for arbitration of disputes arising out of the provisions of the contract that could not be settled through discussion between the contracting parties and specify how the arbitrators would be chosen.
- Include provisions that ensured the nondiscriminatory treatment, as required by law, of employees, individuals receiving treatment, and applicants for employment and services.
- Establish the responsibility for providing legal representation for individuals receiving treatment in legal proceedings that involved the legality of admission and the conditions of involuntary inpatient treatment.
- Establish the responsibility for providing legal representation for employees of the contracting parties in legal proceedings initiated by persons receiving treatment pursuant to the contract.
- Include provisions concerning the length of the contract and the means by which it could be terminated.
- Establish the right of one or more qualified employees or representatives of the sending agency and the 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 were met for individuals receiving services under the contract.
- Require the sending agency to provide the receiving agency with copies of all relevant legal documents that authorized involuntary inpatient treatment of an individual who was admitted pursuant to laws of the sending state and received services pursuant to a contract executed under the bill.
- Require each person who sought treatment on a voluntary basis to agree in writing to be returned to the sending state upon making a request for discharge and require an agent or employee of the sending agency to certify that the person understood that agreement.
- Establish the responsibility for securing a reexamination for a person and for extending a person's period of involuntary inpatient treatment.
- Include provisions specifying when a receiving facility could refuse to admit or retain an individual.
- Specify the circumstances under which an individual would be permitted a home visit or be granted a pass to leave the facility, or both.

### Involuntary Treatment

A person who was detained, committed, or placed on an involuntary basis under the Code could be admitted and treated in another state pursuant to a contract executed under the bill. A person who was detained, committed, or placed under the civil law of a bordering state could be admitted and treated in Michigan pursuant to a contract executed under the bill. Court orders that were valid under the sending state's laws would be granted recognition and reciprocity in the receiving state for persons covered by a contract to the extent that the court orders related to admission for treatment or care of a mental disability. The court orders would not be subject to legal challenge in the receiving state's courts.

A person who was detained, committed, or placed under the law of a sending state and was transferred to a receiving state would continue to be in the legal custody of the authority that was responsible for that person under the sending state's law. Except in an emergency situation, such a person could not be transferred, removed, or furloughed from a facility of the receiving state without the specific approval of the authority responsible for that person under the sending state's law.

If an individual who was receiving services pursuant to a contract executed under the bill left the receiving agency without authorization and he or she, at the time of the unauthorized leave, were subject to involuntary treatment under the sending state's laws, the receiving agency would have to use all reasonable means to locate and return the individual. The receiving state would have the primary responsibility for, and the authority to direct, the return of the individual within that state's borders and would be liable for the cost of those actions to the extent that it would be liable if a resident of the receiving state left without authorization.

### Legal Jurisdiction

While in the receiving state pursuant to a contract executed under the bill, a person would be subject to all of the provisions of law and regulations applicable to persons detained, committed, or placed pursuant to the corresponding laws of that state, except those laws and regulations pertaining to length of involuntary inpatient treatment, reexaminations, and extensions of involuntary treatment. The laws and regulations of the sending state relating to length of involuntary inpatient treatment, reexaminations, and extensions of involuntary inpatient treatment would apply. A person could not be sent to another state under the bill until the receiving state enacted a law recognizing the validity and applicability of Michigan laws pertaining to length of involuntary inpatient treatment, reexaminations, and extensions of involuntary treatment.

### Voluntary Treatment

If a person receiving treatment on a voluntary basis pursuant to a contract requested discharge, the receiving agency immediately would have to notify the sending agency. The receiving agency would have to return the person 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 were made with the sending agency. Immediately upon return of the individual, the sending agency would have to arrange for the discharge of the person or detain him or her pursuant to the sending state's emergency detention laws.

Proposed MCL 330.1919

Legislative Analyst: G. Towne

### **FISCAL IMPACT**

The bill would have a State funding impact, depending on how much states bordering Michigan spent for similar mental health services and whether billings to the sending state were for actual costs or some other amount. Subsection 12(a), "Charges...shall not be more or less than actual cost...", could result in contractual issues regarding service reimbursement: a conflict of actual costs versus payments based on days of service or the number of cases.

Fiscal Analyst: S. Angelotti

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.