

# SENATE BILL No. 105

January 27, 2005, Introduced by Senators JOHNSON, HAMMERSTROM, SIKKEMA, GEORGE, KUIPERS, STAMAS and VAN WOERKOM and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled  
"Mental health code,"  
by amending section 232a (MCL 330.1232a), as added by 1995 PA 290.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 232a. (1) Subject to section 114a, the department shall  
2       promulgate rules to establish standards for certification and the  
3       certification review process for community mental health services  
4       programs. The standards shall include but not be limited to all of  
5       the following:

6               (a) Matters of governance, resource management, quality  
7       improvement, service delivery, and safety management.

8               (b) Promotion and protection of recipient rights.

9       (2) After reviewing a community mental health services

1 program, the department shall notify a program that substantially  
2 complies with the standards established under this section that it  
3 is certified by the department.

4 (3) The department may waive the certification review process  
5 in whole or in part and consider the community mental health  
6 services program to be in substantial compliance with the standards  
7 established under this section if the program has received  
8 accreditation from a national accrediting organization recognized  
9 by the department that includes review of matters described in  
10 subsection (1)(a).

11 (4) If the department certifies a community mental health  
12 services program despite some items of noncompliance with the  
13 standards established under this section, the notice of  
14 certification shall identify the items of noncompliance and the  
15 program shall correct the items of noncompliance. The department  
16 shall require the community mental health board to submit a plan to  
17 correct items of noncompliance before recertification or sooner at  
18 the discretion of the department.

19 (5) Certification is effective for 3 years and is not  
20 transferable. Requests for recertification shall be submitted to  
21 the department at least 6 months before the expiration of  
22 certification. Certification remains in effect after the submission  
23 of a renewal request until the department conducts a review and  
24 makes a redetermination.

25 (6) The department shall conduct an annual review of each  
26 community mental health services program's recipient rights system  
27 to ensure compliance with standards established under subsection

1 (1)(b). An on-site review shall be conducted once every 3 years.

2 (7) The community mental health services program shall  
3 promptly notify the department of any changes that may affect  
4 continued certification.

5 (8) The department may deny certification if the community  
6 mental health services program cannot demonstrate substantial  
7 compliance with the standards established under this section.

8 (9) In lieu of denying certification, the department may issue  
9 a provisional certification for a period of up to 6 months upon  
10 receiving a plan of correction submitted by the community mental  
11 health services board. The department shall provide a copy of the  
12 review and the approved plan of correction to the board of  
13 commissioners of each county that established the county community  
14 mental health agency or created the community mental health  
15 organization or community mental health authority. A provisional  
16 certification may be extended, but the entire provisional period  
17 shall not exceed 1 year. The department shall conduct an on-site  
18 review to determine the community mental health services program's  
19 compliance with the plan of correction at least 30 days before the  
20 expiration of the provisional certification. A provisional  
21 certification automatically expires either on its original  
22 expiration date or the expiration date of the extension granted.

23 (10) If a community mental health services program is denied  
24 certification, fails to comply with an approved plan of correction  
25 before the expiration of a provisional certification, or fails to  
26 comply substantially with the standards established under this  
27 section, the department shall notify the community mental health

1 services board and the board of commissioners of each county that  
2 established the agency or created the organization or authority of  
3 the department's intention to suspend, deny, or revoke  
4 certification. The notice shall be sent by certified mail and shall  
5 set forth the particular reasons for the proposed action and offer  
6 an opportunity for a hearing with the director of the department's  
7 division that manages contracts with community mental health  
8 services programs. If it desires a hearing, the community mental  
9 health services board shall request it in writing within 60 days  
10 after receipt of the notice. The department shall hold the hearing  
11 not less than 30 days or more than 60 days from the date it  
12 receives the request for a hearing.

13 (11) The director of the department's division that manages  
14 contracts with community mental health services programs shall make  
15 a decision regarding suspension, denial, or revocation of  
16 certification based on evidence presented at the hearing or on the  
17 default of the community mental health services board. A copy of  
18 the decision shall be sent by certified mail within 45 days after  
19 the close of the hearing to the community mental health services  
20 board and to the board of commissioners of each county that  
21 established the agency or created the organization or authority.

22 (12) A community mental health services board may appeal a  
23 decision made under subsection (11) as provided in chapter 4 of the  
24 administrative procedures act of 1969, ~~Act No. 306 of the Public~~  
25 ~~Acts of 1969, being sections 24.271 to 24.287 of the Michigan~~  
26 ~~Compiled Laws~~ **1969 PA 306, MCL 24.271 TO 24.287.**

27 (13) During the period of certification, the department may

1 conduct an unannounced review of a certified community mental  
2 health services program. The department shall conduct an  
3 unannounced review of a certified community mental health services  
4 program in response to information that raises questions regarding  
5 recipient health or safety. If the department finds based on its  
6 review that the community mental health services program does not  
7 substantially comply with the standards established under this  
8 section, the department shall provide notice and a hearing under  
9 subsections (10) and (11).

10 (14) If a community mental health services program fails to  
11 obtain or retain certification as a result of the department's  
12 review, has exhausted the time period for provisional  
13 certification, is not engaged in the process of appeal or appeal  
14 has been unsuccessful, and if no agreement has been reached by the  
15 department with the community mental health services program to  
16 assure certification compliance within a specified time period, the  
17 department shall within 90 days do both of the following:

18 (a) Cancel the state funding commitment to the community  
19 mental health services board.

20 (b) Utilize the funds previously provided to the community  
21 mental health services board to do 1 or more of the following:

22 (i) Secure services from other providers of mental health  
23 services that the department has determined can operate in  
24 substantial compliance with the standards established under this  
25 section and continue the delivery of services within the county or  
26 counties.

27 (ii) Provide the service.

1           (15) If state funding is canceled under subsection (14) and  
2 the community mental health services program is an authority  
3 created under section 205, the county or counties that created the  
4 authority are financially liable only for the local match formula  
5 established for the authority under chapter 3. If state funding is  
6 canceled under subsection (14) and the community mental health  
7 services program is a county community mental health agency or a  
8 community mental health organization, the county or counties that  
9 established the agency are financially liable for local match for  
10 all services contractually or directly provided by the department  
11 to residents of the county or counties in accordance with chapter  
12 3.

13           (16) The department shall not utilize the certification  
14 process under this section to require a community mental health  
15 services program to become a community mental health authority.  
16 ~~Community~~ **EXCEPT AS PROVIDED IN SECTION 204(4), COMMUNITY** mental  
17 health authority status is voluntary as provided in section 205.

18 ~~——— (17) Subject to section 114a, the department shall submit~~  
19 ~~proposed rules for certification to public hearing within 6 months~~  
20 ~~after the effective date of the amendatory act that added this~~  
21 ~~section.~~