

HOUSE BILL No. 4809

April 21, 2009, Introduced by Rep. Rick Jones and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled "Mental health code," by amending sections 401 and 433 (MCL 330.1401 and 330.1433), section 401 as amended by 2004 PA 496 and section 433 as added by 2004 PA 497.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 401. (1) As used in this chapter, "person requiring
2 treatment" means ~~(a), (b), (c), or (d)~~ **A PERSON WHO IS EITHER OF**
3 **THE FOLLOWING:**

4 (a) An individual who has mental illness ~~and who~~ as a result
5 of that mental illness ~~can reasonably be expected within the near~~
6 ~~future to intentionally or unintentionally seriously physically~~
7 ~~injure himself, herself, or another individual, and who has engaged~~
8 ~~in an act or acts or made significant threats that are~~

1 ~~substantially supportive of the expectation.~~ REPRESENTS A DANGER TO
2 SELF OR OTHERS, OR AN INDIVIDUAL WHO HAS MENTAL ILLNESS AND WITHOUT
3 TREATMENT OF THE MENTAL ILLNESS CAN REASONABLY BE EXPECTED, BASED
4 ON COMPETENT CLINICAL OPINION, TO REPRESENT A THREAT TO SELF OR
5 OTHERS IN THE NEAR FUTURE BECAUSE OF INABILITY TO UNDERSTAND THE
6 NEED FOR TREATMENT OR ATTEND TO BASIC PHYSICAL NEEDS, INCLUDING,
7 BUT NOT LIMITED TO, FOOD, CLOTHING, OR SHELTER.

8 ~~—— (b) An individual who has mental illness, and who as a result~~
9 ~~of that mental illness is unable to attend to those of his or her~~
10 ~~basic physical needs such as food, clothing, or shelter that must~~
11 ~~be attended to in order for the individual to avoid serious harm in~~
12 ~~the near future, and who has demonstrated that inability by failing~~
13 ~~to attend to those basic physical needs.~~

14 ~~—— (c) An individual who has mental illness, whose judgment is so~~
15 ~~impaired that he or she is unable to understand his or her need for~~
16 ~~treatment and whose continued behavior as the result of this mental~~
17 ~~illness can reasonably be expected, on the basis of competent~~
18 ~~clinical opinion, to result in significant physical harm to~~
19 ~~himself, herself, or others. This individual shall receive~~
20 ~~involuntary mental health treatment initially only under the~~
21 ~~provisions of sections 434 through 438.~~

22 (B) ~~(d)~~ An individual who has mental illness, whose
23 understanding of the need for treatment is impaired to the point
24 that he or she is unlikely to participate in treatment voluntarily,
25 who is currently noncompliant with treatment that has been
26 recommended by a mental health ~~—~~professional and that has been
27 determined to be necessary to prevent a relapse or harmful

1 deterioration of his or her condition and whose noncompliance with
2 treatment has been a factor in the individual's placement in a
3 psychiatric hospital, prison, or jail at least 2 times within the
4 last 48 months or whose noncompliance with treatment has been a
5 factor in the individual's committing 1 or more acts, attempts, or
6 threats of serious violent behavior within the last 48 months. An
7 individual under this subdivision is only eligible to receive
8 assisted outpatient treatment under section 433 or 469a.

9 (2) An individual whose mental processes have been weakened or
10 impaired by a dementia, an individual with a primary diagnosis of
11 epilepsy, or an individual with alcoholism or other drug dependence
12 is not a person requiring treatment under this chapter unless the
13 individual also meets the criteria specified in subsection (1). An
14 individual described in this subsection may be hospitalized under
15 the informal or formal voluntary hospitalization provisions of this
16 chapter if he or she is considered clinically suitable for
17 hospitalization by the hospital director.

18 Sec. 433. (1) Any individual 18 years of age or over may file
19 a petition with the court that asserts that an individual meets the
20 criteria for assisted outpatient treatment specified in section
21 ~~401(d)~~**401(B)**. The petition shall contain the facts that are the
22 basis for the assertion, the names and addresses, if known, of any
23 witnesses to the facts, the name and address of the mental health
24 professional currently providing care to the individual who is the
25 subject of the petition, if known, and the name and address of the
26 nearest relative or guardian, if known, or, if none, a friend, if
27 known, of the individual who is the subject of the petition.

1 (2) Upon receipt of a petition, the court shall inform the
2 subject of the petition and the community mental health services
3 program serving the community in which the subject of the petition
4 resides that the court shall hold a hearing to determine whether
5 the subject of the petition meets the criteria for assisted
6 outpatient treatment. Notice shall be provided as set forth in
7 section 453. The hearing shall be governed by sections 454 and 458
8 to 465.

9 (3) If in the hearing, the court verifies that the subject of
10 the petition meets the criteria for assisted outpatient treatment
11 and he or she is not scheduled to begin a course of outpatient
12 mental health treatment that includes case management services or
13 assertive community treatment team services, the court shall order
14 the subject of the petition to receive assisted outpatient
15 treatment through his or her local community mental health services
16 program. The order shall include case management services. The
17 order may include 1 or more of the following:

18 (a) Medication.

19 (b) Blood or urinalysis tests to determine compliance with or
20 effectiveness of prescribed medications.

21 (c) Individual or group therapy.

22 (d) Day or partial day programs.

23 (e) Educational and vocational training.

24 (f) Supervised living.

25 (g) Assertive community treatment team services.

26 (h) Alcohol or substance abuse treatment, or both.

27 (i) Alcohol or substance abuse testing, or both, for

1 individuals with a history of alcohol or substance abuse and for
2 whom that testing is necessary to prevent a deterioration of their
3 condition. A court order for alcohol or substance abuse testing
4 shall be subject to review every 6 months.

5 (j) Any other services prescribed to treat the individual's
6 mental illness and to either assist the individual in living and
7 functioning in the community or to help prevent a relapse or
8 deterioration that may reasonably be predicted to result in suicide
9 or the need for hospitalization.

10 (4) To fulfill the requirements of an assisted outpatient
11 treatment plan, the court's order may specify the service role that
12 a publicly-funded entity other than the community mental health
13 services program shall take.

14 (5) In developing an order under this section, the court shall
15 consider any preferences and medication experiences reported by the
16 subject of the petition or his or her designated representative,
17 whether or not the subject of the petition has an existing
18 individual plan of services under section 712, and any directions
19 included in a durable power of attorney or advance directive that
20 exists. If the subject of the petition has not previously
21 designated a patient advocate or executed an advance directive, the
22 responsible community mental health services program shall, before
23 the expiration of the assisted outpatient treatment order,
24 ascertain whether the subject of the petition desires to establish
25 an advance directive. If so, the community mental health services
26 program shall direct the subject of the petition to the appropriate
27 community resources for assistance in developing an advance

1 directive.

2 (6) If an assisted outpatient treatment order conflicts with
3 the provisions of an existing advance directive, durable power of
4 attorney, or individual plan of services developed under section
5 712, the assisted outpatient treatment order shall be reviewed for
6 possible adjustment by a psychiatrist not previously involved with
7 developing the assisted outpatient treatment order. If an assisted
8 outpatient treatment order conflicts with the provisions of an
9 existing advance directive, durable power of attorney, or
10 individual plan of services developed under section 712, the court
11 shall state the court's findings on the record or in writing if the
12 court takes the matter under advisement, including the reason for
13 the conflict.

14 (7) Nothing in this section negates or interferes with an
15 individual's rights to appeal under any other state law or Michigan
16 court rule.