

# HOUSE BILL No. 6456

September 16, 2010, Introduced by Rep. Segal and referred to the Committee on Families and Children's Services.

A bill to amend 1974 PA 258, entitled  
"Mental health code,"  
by amending sections 100d, 232a, 752, 754, 756, 757, 758, 772, 774,  
776, 780, 784, and 786 (MCL 330.1100d, 330.1232a, 330.1752,  
330.1754, 330.1756, 330.1757, 330.1758, 330.1772, 330.1774,  
330.1776, 330.1780, 330.1784, and 330.1786), sections 100d, 232a,  
756, 757, 758, 772, 774, 776, 780, 784, and 786 as added and  
section 752 as amended by 1995 PA 290 and section 754 as amended by  
2006 PA 604; and to repeal acts and parts of acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 100d. (1) "Service" means a mental health service.  
2       (2) "Serious emotional disturbance" means a diagnosable  
3       mental, behavioral, or emotional disorder affecting a minor that

exists or has existed during the past year for a period of time sufficient to meet diagnostic criteria specified in the most recent diagnostic and statistical manual of mental disorders published by the American psychiatric association and approved by the department and that has resulted in functional impairment that substantially interferes with or limits the minor's role or functioning in family, school, or community activities. The following disorders are included only if they occur in conjunction with another diagnosable serious emotional disturbance:

(a) A substance abuse disorder.

(b) A developmental disorder.

(c) "V" codes in the diagnostic and statistical manual of mental disorders.

(3) "Serious mental illness" means a diagnosable mental, behavioral, or emotional disorder affecting an adult that exists or has existed within the past year for a period of time sufficient to meet diagnostic criteria specified in the most recent diagnostic and statistical manual of mental disorders published by the American psychiatric association and approved by the department and that has resulted in functional impairment that substantially interferes with or limits 1 or more major life activities. Serious mental illness includes dementia with delusions, dementia with depressed mood, and dementia with behavioral disturbance but does not include any other dementia unless the dementia occurs in conjunction with another diagnosable serious mental illness. The following disorders also are included only if they occur in conjunction with another diagnosable serious mental illness:

1 (a) A substance abuse disorder.

2 (b) A developmental disorder.

3 (c) A "V" code in the diagnostic and statistical manual of  
4 mental disorders.

5 (4) "Special compensation" means payment to an adult foster  
6 care facility to ensure the provision of a specialized program in  
7 addition to the basic payment for adult foster care. Special  
8 compensation does not include payment received directly from the  
9 medicaid program for personal care services for a resident, or  
10 payment received under the supplemental security income program.

11 (5) "Specialized program" means a program of services,  
12 supports, or treatment that are provided in an adult foster care  
13 facility to meet the unique programmatic needs of individuals with  
14 serious mental illness or developmental disability as set forth in  
15 the resident's individual plan of services and for which the adult  
16 foster care facility receives special compensation.

17 (6) "Specialized residential service" means a combination of  
18 residential care and mental health services that are expressly  
19 designed to provide rehabilitation and therapy to a recipient, that  
20 are provided in the residence of the recipient, and that are part  
21 of a comprehensive individual plan of services.

22 (7) "State facility" means a center or a hospital operated by  
23 the department.

24 (8) "State recipient rights advisory committee" means a  
25 committee appointed by the director **OF THE STATE OFFICE OF**  
26 **RECIPIENT RIGHTS** under section 756 to advise ~~the director and the~~  
27 director of the ~~department's~~ **STATE** office of recipient rights.

1 (9) "Substance abuse" means that term as defined in section  
2 6107 of the public health code, ~~Act No. 368 of the Public Acts of~~  
3 ~~1978, being section 333.6107 of the Michigan Compiled Laws. 1978 PA~~  
4 **368, MCL 333.6107.**

5 (10) "Supplemental security income" means the program  
6 authorized under title XVI of the social security act, ~~chapter 531,~~  
7 ~~49 Stat. 620, U.S.C. 1381 to 1382j and 1383 to 1383d. 42 USC 1381~~  
8 **TO 1383F.**

9 (11) "Transition services" means a coordinated set of  
10 activities for a special education student designed within an  
11 outcome-oriented process that promotes movement from school to  
12 postschool activities, including postsecondary education,  
13 vocational training, integrated employment including supported  
14 employment, continuing and adult education, adult services,  
15 independent living, or community participation.

16 (12) "Treatment" means care, diagnostic, and therapeutic  
17 services, including the administration of drugs, and any other  
18 service for the treatment of an individual's serious mental illness  
19 or serious emotional disturbance.

20 (13) "Treatment position" means a unit of measure of the  
21 client capacity of a psychiatric partial hospitalization program.  
22 Each treatment position represents a minimum of 6 hours per day and  
23 5 days per calendar week.

24 (14) "Urgent situation" means a situation in which an  
25 individual is determined to be at risk of experiencing an emergency  
26 situation in the near future if he or she does not receive care,  
27 treatment, or support services.

1           (15) "Wraparound services" means an individually designed set  
2 of services provided to minors with serious emotional disturbance  
3 or serious mental illness and their families that includes  
4 treatment services and personal support services or any other  
5 supports necessary to maintain the child in the family home.  
6 Wraparound services are to be developed through an interagency  
7 collaborative approach and a minor's parent or guardian and a minor  
8 age 14 or older are to participate in planning the services.

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

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

16           (b) Promotion and protection of recipient rights.

17           (2) After reviewing a community mental health services  
18 program, the department shall notify a program that substantially  
19 complies with the standards established under this section that it  
20 is certified by the department.

21           (3) The department may waive the certification review process  
22 in whole or in part and consider the community mental health  
23 services program to be in substantial compliance with the standards  
24 established under this section if the program has received  
25 accreditation from a national accrediting organization recognized  
26 by the department that includes review of matters described in  
27 subsection ~~(1)(a)~~ (1).

1           (4) If the department certifies a community mental health  
2 services program despite some items of noncompliance with the  
3 standards established under this section, the notice of  
4 certification shall identify the items of noncompliance and the  
5 program shall correct the items of noncompliance. The department  
6 shall require the community mental health board to submit a plan to  
7 correct items of noncompliance before recertification or sooner at  
8 the discretion of the department.

9           (5) Certification is effective for 3 years and is not  
10 transferable. Requests for recertification shall be submitted to  
11 the department at least 6 months before the expiration of  
12 certification. Certification remains in effect after the submission  
13 of a renewal request until the department conducts a review and  
14 makes a redetermination.

15 ~~(6) The department shall conduct an annual review of each~~  
16 ~~community mental health services program's recipient rights system~~  
17 ~~to ensure compliance with standards established under subsection~~  
18 ~~(1)(b). An on-site review shall be conducted once every 3 years.~~

19           (6) ~~(7)~~ The community mental health services program shall  
20 promptly notify the department of any changes that may affect  
21 continued certification.

22           (7) ~~(8)~~ The department may deny certification if the community  
23 mental health services program cannot demonstrate substantial  
24 compliance with the standards established under this section.

25           (8) ~~(9)~~ In lieu of denying certification, the department may  
26 issue a provisional certification for a period of up to 6 months  
27 upon receiving a plan of correction submitted by the community

1 mental health services board. The department shall provide a copy  
2 of the review and the approved plan of correction to the board of  
3 commissioners of each county that established the county community  
4 mental health agency or created the community mental health  
5 organization or community mental health authority. A provisional  
6 certification may be extended, but the entire provisional period  
7 shall not exceed 1 year. The department shall conduct an on-site  
8 review to determine the community mental health services program's  
9 compliance with the plan of correction at least 30 days before the  
10 expiration of the provisional certification. A provisional  
11 certification automatically expires either on its original  
12 expiration date or the expiration date of the extension granted.

13       (9) ~~(10)~~—If a community mental health services program is  
14 denied certification, fails to comply with an approved plan of  
15 correction before the expiration of a provisional certification, or  
16 fails to comply substantially with the standards established under  
17 this section, the department shall notify the community mental  
18 health services board and the board of commissioners of each county  
19 that established the agency or created the organization or  
20 authority of the department's intention to suspend, deny, or revoke  
21 certification. The notice shall be sent by certified mail and shall  
22 set forth the particular reasons for the proposed action and offer  
23 an opportunity for a hearing with the director of the department's  
24 division that manages contracts with community mental health  
25 services programs. If it desires a hearing, the community mental  
26 health services board shall request it in writing within 60 days  
27 after receipt of the notice. The department shall hold the hearing

1 not less than 30 days or more than 60 days from the date it  
2 receives the request for a hearing.

3 (10) ~~(11)~~—The director of the department's division that  
4 manages contracts with community mental health services programs  
5 shall make a decision regarding suspension, denial, or revocation  
6 of certification based on evidence presented at the hearing or on  
7 the default of the community mental health services board. A copy  
8 of the decision shall be sent by certified mail within 45 days  
9 after the close of the hearing to the community mental health  
10 services board and to the board of commissioners of each county  
11 that established the agency or created the organization or  
12 authority.

13 (11) ~~(12)~~—A community mental health services board may appeal  
14 a decision made under subsection ~~(11)~~ (10) as provided in chapter 4  
15 of the administrative procedures act of 1969, ~~Act No. 306 of the~~  
16 ~~Public Acts of 1969, being sections 24.271 to 24.287 of the~~  
17 ~~Michigan Compiled Laws. 1969 PA 306, MCL 24.271 TO 24.287.~~

18 (12) ~~(13)~~—During the period of certification, the department  
19 may conduct an unannounced review of a certified community mental  
20 health services program. The department shall conduct an  
21 unannounced review of a certified community mental health services  
22 program in response to information that raises questions regarding  
23 recipient health or safety. If the department finds based on its  
24 review that the community mental health services program does not  
25 substantially comply with the standards established under this  
26 section, the department shall provide notice and a hearing under  
27 subsections (9) **AND** (10). ~~and (11).~~



1       (13) ~~(14)~~—If a community mental health services program fails  
2 to obtain or retain certification as a result of the department's  
3 review, has exhausted the time period for provisional  
4 certification, is not engaged in the process of appeal or appeal  
5 has been unsuccessful, and if no agreement has been reached by the  
6 department with the community mental health services program to  
7 assure certification compliance within a specified time period, the  
8 department shall within 90 days do both of the following:

9       (a) Cancel the state funding commitment to the community  
10 mental health services board.

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

13       (i) Secure services from other providers of mental health  
14 services that the department has determined can operate in  
15 substantial compliance with the standards established under this  
16 section and continue the delivery of services within the county or  
17 counties.

18       (ii) Provide the service.

19       (14) ~~(15)~~—If state funding is canceled under subsection ~~(14)~~  
20 (13) and the community mental health services program is an  
21 authority created under section 205, the county or counties that  
22 created the authority are financially liable only for the local  
23 match formula established for the authority under chapter 3. If  
24 state funding is canceled under subsection ~~(14)~~—(13) and the  
25 community mental health services program is a county community  
26 mental health agency or a community mental health organization, the  
27 county or counties that established the agency are financially

1 liable for local match for all services contractually or directly  
 2 provided by the department to residents of the county or counties  
 3 in accordance with chapter 3.

4 (15) ~~(16)~~ The department shall not utilize the certification  
 5 process under this section to require a community mental health  
 6 services program to become a community mental health authority.  
 7 Community mental health authority status is voluntary as provided  
 8 in section 205.

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

13 Sec. 752. ~~(1) The department, each community mental health~~  
 14 ~~services program, each licensed hospital, and each service provider~~  
 15 ~~under contract with the department, a community mental health~~  
 16 ~~services program, or a licensed hospital~~ **THE STATE OFFICE OF**  
 17 **RECIPIENT RIGHTS** shall establish written policies and procedures  
 18 concerning recipient rights and the operation of an office of  
 19 recipient rights. The policies and procedures shall provide a  
 20 mechanism for prompt reporting, review, investigation, and  
 21 resolution of apparent or suspected violations of the rights  
 22 guaranteed by this chapter, shall be consistent with this chapter  
 23 and chapter 7a, and shall be designed to protect recipients from,  
 24 and prevent repetition of, violations of rights guaranteed by this  
 25 chapter and chapter 7a. The policies and procedures shall include,  
 26 at a minimum, all of the following:

27 (a) Complaint and appeal processes.

1 (b) Consent to treatment and services.

2 (c) Sterilization, contraception, and abortion.

3 (d) Fingerprinting, photographing, audiotaping, and use of 1-  
4 way glass.

5 (e) Abuse and neglect, including detailed categories of type  
6 and severity.

7 (f) Confidentiality and disclosure.

8 (g) Treatment by spiritual means.

9 (h) Qualifications and training for recipient rights staff.

10 (i) Change in type of treatment.

11 (j) Medication procedures.

12 (k) Use of psychotropic drugs.

13 (l) Use of restraint.

14 (m) Right to be treated with dignity and respect.

15 (n) Least restrictive setting.

16 (o) Services suited to condition.

17 (p) Policies and procedures that address all of the following  
18 matters with respect to residents:

19 (i) Right to entertainment material, information, and news.

20 (ii) Comprehensive examinations.

21 (iii) Property and funds.

22 (iv) Freedom of movement.

23 (v) Resident labor.

24 (vi) Communication and visits.

25 (vii) Use of seclusion.

26 ~~—— (2) All policies and procedures required by this section shall~~  
27 ~~be established within 12 months after the effective date of the~~

1 ~~amendatory act that added section 753.~~

2       Sec. 754. (1) The department shall establish a state office of  
3 recipient rights subordinate only to the director.

4       (2) The department shall ensure all of the following:

5       (a) The process for funding the state office of recipient  
6 rights includes a review of the funding by the state recipient  
7 rights advisory committee.

8       (b) The state office of recipient rights will be protected  
9 from pressures that could interfere with the impartial, even-  
10 handed, and thorough performance of its duties.

11       (c) The state office of recipient rights will have unimpeded  
12 access to all of the following:

13       (i) All programs and services operated by or under contract  
14 with the department except where other recipient rights systems  
15 authorized by this act exist.

16       (ii) All staff employed by or under contract with the  
17 department.

18       (iii) All evidence necessary to conduct a thorough investigation  
19 or to fulfill its monitoring function.

20       (d) Staff of the state office of recipient rights receive  
21 training each year in recipient rights protection.

22       (e) Each contract between the department and a provider  
23 requires both of the following:

24       (i) That the provider and his or her employees receive annual  
25 training in recipient rights protection.

26       (ii) That recipients will be protected from rights violations  
27 while they are receiving services under the contract.

1 (f) Technical assistance and training in recipient rights  
2 protection are available to all community mental health services  
3 programs and other mental health service providers subject to this  
4 act.

5 (3) The department shall endeavor to ensure all of the  
6 following:

7 (a) The state office of recipient rights has sufficient staff  
8 and other resources necessary to perform the duties described in  
9 this section.

10 (b) Complainants, staff of the state office of recipient  
11 rights, and any staff acting on behalf of a recipient will be  
12 protected from harassment or retaliation resulting from recipient  
13 rights activities.

14 (c) Appropriate remedial action is taken to resolve violations  
15 of rights and notify the complainants of substantiated violations  
16 in a manner that does not violate employee rights.

17 (4) After consulting with the state recipient rights advisory  
18 committee, the department director shall select a director of the  
19 state office of recipient rights who has the education, training,  
20 and experience to fulfill the responsibilities of the office. The  
21 department director shall not replace or dismiss the director of  
22 the state office of recipient rights without first consulting the  
23 state recipient rights advisory committee. The director of the  
24 state office of recipient rights shall have no direct service  
25 responsibility. The director of the state office of recipient  
26 rights shall report directly and solely to the department director.  
27 The department director shall not delegate his or her

1 responsibility under this subsection.

2 (5) The state office of recipient rights ~~may~~**SHALL** do all of  
3 the following:

4 (a) Investigate apparent or suspected violations of the rights  
5 guaranteed by this chapter.

6 (b) Resolve disputes relating to violations.

7 (c) Act on behalf of recipients to obtain appropriate remedies  
8 for any apparent violations.

9 (d) Apply for and receive grants, gifts, and bequests to  
10 effectuate any purpose of this chapter.

11 (6) The state office of recipient rights shall do all of the  
12 following:

13 (a) Ensure that recipients, parents of minor recipients, and  
14 guardians or other legal representatives have access to summaries  
15 of the rights guaranteed by this chapter and chapter 7a and are  
16 notified of those rights in an understandable manner, both at the  
17 time services are requested and periodically during the time  
18 services are provided to the recipient.

19 (b) Ensure that the telephone number and address of the office  
20 of recipient rights and the names of rights officers are  
21 conspicuously posted in all service sites.

22 (c) Maintain a record system for all reports of apparent or  
23 suspected rights violations received, including a mechanism for  
24 logging in all complaints and a mechanism for secure storage of all  
25 investigative documents and evidence.

26 (d) Initiate actions that are appropriate and necessary to  
27 safeguard and protect rights guaranteed by this chapter to

1 recipients of services provided directly by the department or by  
2 its contract providers ~~other than~~ **INCLUDING** community mental health  
3 services programs, **HOSPITALS, AND LICENSED FACILITIES.**

4 (e) Receive reports of apparent or suspected violations of  
5 rights guaranteed by this chapter. The state office of recipient  
6 rights shall refer reports of apparent or suspected rights  
7 violations to the **APPROPRIATE LOCAL** recipient rights office. ~~of the~~  
8 ~~appropriate provider to be addressed by the provider's internal~~  
9 ~~rights protection mechanisms.~~ The state office **OF RECIPIENT RIGHTS**  
10 shall intervene as necessary to act on behalf of recipients in  
11 situations in which the director of the ~~department~~ **STATE OFFICE OF**  
12 **RECIPIENT RIGHTS** considers **THE PROVIDER'S IMPLEMENTATION OF AND**  
13 **ADHERENCE TO** the rights protection system ~~of the provider to be out~~  
14 of compliance with this act and rules promulgated under this act.

15 (f) Upon request, advise recipients of the process by which a  
16 rights complaint or appeal may be made and assist recipients in  
17 preparing written rights complaints and appeals.

18 (g) Advise recipients that there are advocacy organizations  
19 available to assist recipients in preparing written rights  
20 complaints and appeals and offer to refer recipients to those  
21 organizations.

22 (h) Upon receipt of a complaint, advise the complainant of the  
23 complaint process, appeal process, and mediation option.

24 ~~— (i) Ensure that each service site operated by the department~~  
25 ~~or by a provider under contract with the department, other than a~~  
26 ~~community mental health services program, is visited by recipient~~  
27 ~~rights staff with the frequency necessary for protection of rights~~

1 ~~but in no case less than annually.~~

2 ~~—— (j) Ensure that all individuals employed by the department~~  
3 ~~receive department approved training related to recipient rights~~  
4 ~~protection before or within 30 days after being employed.~~

5 (I) ENSURE THAT ALL INDIVIDUALS EMPLOYED BY THE STATE OFFICE  
6 OF RECIPIENT RIGHTS RECEIVE APPROVED TRAINING RELATED TO RIGHTS  
7 PROTECTION BEFORE OR WITHIN 30 DAYS AFTER BEING EMPLOYED.

8 (J) PROMULGATE RULES TO ESTABLISH STANDARDS FOR CERTIFICATION  
9 AND THE CERTIFICATION REVIEW PROCESS FOR THE DEPARTMENT, COMMUNITY  
10 MENTAL HEALTH SERVICES PROGRAMS, HOSPITALS, AND LICENSED  
11 FACILITIES.

12 (K) CONDUCT AN ANNUAL REVIEW OF EACH PROVIDER OF MENTAL HEALTH  
13 SERVICES TO ENSURE COMPLIANCE WITH STANDARDS ESTABLISHED UNDER  
14 RULES PROMULGATED IN ACCORDANCE WITH SUBDIVISION (J) AND CONDUCT AN  
15 ON-SITE REVIEW EVERY 2 YEARS. IF THE PROVIDER OF MENTAL HEALTH  
16 SERVICES IS FOUND TO BE NOT IN COMPLIANCE WITH THE STANDARDS  
17 ESTABLISHED UNDER RULES PROMULGATED IN ACCORDANCE WITH SUBDIVISION  
18 (J), THE OFFICE OF RECIPIENT RIGHTS SHALL ISSUE A PROVISIONAL  
19 CERTIFICATE FOR A PERIOD NOT TO EXCEED 6 MONTHS. UPON RECEIVING THE  
20 PLAN OF CORRECTION SUBMITTED BY THE PROVIDER OF MENTAL HEALTH  
21 SERVICES, THE OFFICE OF RECIPIENT RIGHTS SHALL CONDUCT AN ON-SITE  
22 REVIEW TO DETERMINE COMPLIANCE BEFORE THE EXPIRATION OF THE  
23 PROVISIONAL CERTIFICATE. IF AFTER 6 MONTHS, THE PROVIDER OF MENTAL  
24 HEALTH SERVICES IS FOUND TO NOT BE IN COMPLIANCE WITH THE STANDARDS  
25 ESTABLISHED UNDER RULES PROMULGATED IN ACCORDANCE WITH SUBDIVISION  
26 (J), THE PROVIDER OF MENTAL HEALTH SERVICES SHALL PAY A FINE OF 10%  
27 OF ITS ADMINISTRATIVE BUDGET TO A FUND TO BE CREATED BY THE



1 DEPARTMENT DIRECTOR TO ASSIST RECIPIENTS WITH COMMUNITY PLACEMENT  
2 AND INDEPENDENT LIVING.

3 (I) ~~(k)~~—Ensure that all reports of apparent or suspected  
4 violations of rights within state facilities or programs operated  
5 by providers under contract with the department ~~other than~~  
6 **INCLUDING** community mental health services programs **AND HOSPITALS**  
7 **AND LICENSED FACILITIES** are investigated in accordance with section  
8 778 and that those reports that do not warrant investigation are  
9 recorded in accordance with subdivision (c).

10 (M) ~~(l)~~—Review semiannual statistical rights data submitted by  
11 community mental health services programs and licensed hospitals to  
12 determine trends and patterns in the protection of recipient rights  
13 in the public mental health system and provide a summary of the  
14 data to community mental health services programs, **HOSPITALS AND**  
15 **LICENSED FACILITIES, THE GOVERNOR,** and ~~to the~~ **DEPARTMENT** director.  
16 ~~of the department.~~

17 (N) ~~(m)~~—Serve as consultant to the director in matters related  
18 to recipient rights.

19 (O) ~~(n)~~—At least quarterly, provide summary complaint data  
20 consistent with the annual report required in subdivision ~~(e)~~ **(P)**,  
21 together with a summary of remedial action taken on substantiated  
22 complaints, to the department and the state recipient rights  
23 advisory committee.

24 (P) ~~(o)~~—Submit to the department director and to the  
25 committees and subcommittees of the legislature with legislative  
26 oversight of mental health matters, for availability to the public,  
27 an annual report on the current status of recipient rights for the

1 state. The report shall be submitted not later than March 31 of  
 2 each year for the preceding fiscal year. The annual report shall  
 3 include, at a minimum, all of the following:

4 (i) Summary data by type or category regarding the rights of  
 5 recipients receiving services from the department including the  
 6 number of complaints received, ~~by each state facility and other~~  
 7 ~~state-operated placement agency,~~ the number of reports filed, and  
 8 the number of reports investigated.

9 (ii) The number of substantiated rights violations by category,  
 10 ~~and by state facility,~~ **COMMUNITY MENTAL HEALTH SERVICES PROGRAM,**  
 11 **AND HOSPITALS AND LICENSED FACILITIES.**

12 (iii) The remedial actions taken on substantiated rights  
 13 violations by category, ~~and by state facility,~~ **COMMUNITY MENTAL**  
 14 **HEALTH SERVICES PROGRAM, AND HOSPITALS AND LICENSED FACILITIES.**

15 (iv) Training received by staff of the state office of  
 16 recipient rights.

17 (v) Training provided by the state office of recipient rights  
 18 to staff of contract providers.

19 ~~—— (vi) Outcomes of assessments of the recipient rights system of~~  
 20 ~~each community mental health services program.~~

21 (vi) ~~(vii)~~ Identification of patterns and trends in rights  
 22 protection in the public mental health system in this state.

23 (vii) ~~(viii)~~ Review of budgetary issues including staffing and  
 24 financial resources.

25 (viii) ~~(ix)~~ Summary of the results of any consumer satisfaction  
 26 surveys conducted.

27 (ix) ~~(x)~~ Recommendations to the department.

1           (Q) ~~(p)~~ Provide education and training to its recipient rights  
2 advisory committee and its recipient rights appeals committee.

3           Sec. 756. (1) The director **OF THE STATE OFFICE OF RECIPIENT**  
4 **RIGHTS** shall appoint a 12-member state recipient rights advisory  
5 committee. The membership of the committee shall be broadly based  
6 so as to best represent the varied perspectives of department  
7 staff, government officials, attorneys, community mental health  
8 services program staff, private providers, recipients, and  
9 recipient interest groups. At least 1/3 of the membership of the  
10 state recipient rights advisory committee shall be primary  
11 consumers or family members, and of that 1/3, at least 2 shall be  
12 primary consumers. In appointing members to the advisory committee,  
13 the director shall consider the recommendations of the director of  
14 the state office of recipient rights and individuals who are  
15 members of the recipient rights advisory committee.

16           (2) The state recipient rights advisory committee shall do all  
17 of the following:

18           (a) Meet at least quarterly, or more frequently as necessary,  
19 to carry out its responsibilities.

20           (b) Maintain a current list of members' names to be made  
21 available to individuals upon request.

22           (c) Maintain a current list of categories represented, to be  
23 made available to individuals upon request.

24           (d) Protect the state office of recipient rights from  
25 pressures that could interfere with the impartial, even-handed, and  
26 thorough performance of its functions.

27           (e) Recommend to the ~~director of the department~~ **GOVERNOR**

1 candidates for the position of director of the state office of  
2 recipient rights and consult with the ~~director~~ **GOVERNOR** regarding  
3 any proposed dismissal of the director of the state office of  
4 recipient rights.

5 (f) Serve in an advisory capacity to ~~the director of the~~  
6 ~~department and~~ the director of the state office of recipient  
7 rights.

8 (g) Review and provide comments on the report submitted by the  
9 state office of recipient rights to the department under section  
10 754.

11 (3) Meetings of the state recipient rights advisory committee  
12 are subject to the open meetings act, ~~Act No. 267 of the Public~~  
13 ~~Acts of 1976, being sections 15.261 to 15.275 of the Michigan~~  
14 ~~Compiled Laws 1976 PA 267, MCL 15.261 TO 15.275~~. Minutes shall be  
15 maintained and made available to individuals upon request.

16 Sec. 757. (1) The board of each community mental health  
17 services program shall appoint a recipient rights advisory  
18 committee consisting of at least 6 members. The membership of the  
19 committee shall be broadly based so as to best represent the varied  
20 perspectives of the community mental health services program's  
21 geographic area. At least 1/3 of the membership shall be primary  
22 consumers or family members, and of that 1/3, at least 1/2 shall be  
23 primary consumers.

24 (2) The recipient rights advisory committee shall do all of  
25 the following:

26 (a) Meet at least semiannually or as necessary to carry out  
27 its responsibilities.

1 (b) Maintain a current list of members' names to be made  
2 available to individuals upon request.

3 (c) Maintain a current list of categories represented to be  
4 made available to individuals upon request.

5 (d) Protect the office of recipient rights from pressures that  
6 could interfere with the impartial, even-handed, and thorough  
7 performance of its functions.

8 ~~—— (e) Recommend candidates for director of the office of~~  
9 ~~recipient rights to the executive director, and consult with the~~  
10 ~~executive director regarding any proposed dismissal of the director~~  
11 ~~of the office of recipient rights.~~

12 (E) ~~(f)~~ Serve in an advisory capacity to the executive  
13 director and the director of the office of recipient rights.

14 ~~—— (g) Review and provide comments on the report submitted by the~~  
15 ~~executive director to the community mental health services program~~  
16 ~~board under section 755.~~

17 (F) ~~(h)~~ If designated by the board of the community mental  
18 health services program, serve **SERVE** as the appeals committee for a  
19 recipient's appeal under section 784.

20 (G) ~~(i)~~ Meetings of the recipient rights advisory committee  
21 are subject to the open meetings act, ~~Act No. 267 of the Public~~  
22 ~~Acts of 1976, being sections 15.261 to 15.275 of the Michigan~~  
23 ~~Compiled Laws. 1976 PA 267, MCL 15.261 TO 15.275.~~ Minutes shall be  
24 maintained and made available to individuals upon request.

25 Sec. 758. ~~Unless otherwise provided by contract with the local~~  
26 ~~community mental health services program, each~~ **EACH** licensed  
27 hospital shall appoint a recipient rights advisory committee. At

1 least 1/3 of the membership shall be primary consumers or family  
2 members and, of that 1/3, at least 1/2 shall be primary consumers.  
3 The recipient rights advisory committee shall do all of the  
4 following:

5 (a) Meet at least semiannually or as necessary to carry out  
6 its responsibilities.

7 (b) Maintain a current list of members' names and a separate  
8 list of categories represented, to be made available to individuals  
9 upon request.

10 (c) Protect the office of recipient rights from pressures that  
11 could interfere with the impartial, even-handed, and thorough  
12 performance of its functions.

13 ~~—— (d) Review and provide comments on the report submitted by the~~  
14 ~~hospital director to the governing board of the licensed hospital~~  
15 ~~under section 755.~~

16 (D) ~~(e) Serve in an advisory capacity to the hospital director~~  
17 ~~and the director of the office of recipient rights.~~

18 Sec. 772. As used in this chapter:

19 (a) "Allegation" means an assertion of fact made by an  
20 individual that has not yet been proved or supported with evidence.

21 (b) "Appeals committee" means a committee appointed ~~by the~~  
22 ~~director or by the board of a community mental health services~~  
23 ~~program or licensed hospital~~ under section 774.

24 (c) "Appellant" means the recipient, complainant, parent, or  
25 guardian who appeals a recipient rights finding or a respondent's  
26 action to an appeals committee.

27 (d) "Complainant" means an individual who files a rights

1 complaint.

2 (e) "Investigation" means a detailed inquiry into and  
3 systematic examination of an allegation raised in a rights  
4 complaint.

5 (f) "Mediation" means a private, informal dispute resolution  
6 process in which an impartial, neutral individual, in a  
7 confidential setting, assists parties in reaching their own  
8 settlement of issues in a dispute and has no authoritative  
9 decision-making power.

10 (g) "Office" means **THE STATE OFFICE OF RECIPIENT RIGHTS**  
11 **CREATED UNDER SECTION 754.** ~~all of the following:~~

12 ~~—— (i) With respect to a rights complaint involving services~~  
13 ~~provided directly by or under contract with the department, unless~~  
14 ~~the provider is a community mental health services program, the~~  
15 ~~state office of recipient rights created under section 754.~~

16 ~~—— (ii) With respect to a rights complaint involving services~~  
17 ~~provided directly by or under contract with a community mental~~  
18 ~~health services program, the office of recipient rights created by~~  
19 ~~a community mental health services program under section 755.~~

20 ~~—— (iii) With respect to a rights complaint involving services~~  
21 ~~provided by a licensed hospital, the office of recipient rights~~  
22 ~~created by a licensed hospital under section 755.~~

23 (h) "Rights complaint" means a written or oral statement that  
24 meets the requirements of section 776.

25 (i) "Respondent" means the service provider that had  
26 responsibility at the time of an alleged rights violation for the  
27 services with respect to which a rights complaint has been filed.

1           Sec. 774. (1) The director **OF THE OFFICE OF RECIPIENT RIGHTS**  
2 shall appoint an appeals committee consisting of 7 individuals,  
3 none of whom shall be employed by the department or a community  
4 mental health services program, to hear appeals of recipient rights  
5 matters. The committee shall include at least 3 members of the  
6 state recipient rights advisory committee and 2 primary consumers.

7           (2) The board of a community mental health services program  
8 shall ~~do 1 of the following:~~

9       ~~—— (a) Appoint an appeals committee consisting of 7 individuals,~~  
10 ~~none of whom shall be employed by the department or a community~~  
11 ~~mental health services program, to hear appeals of recipients'~~  
12 ~~rights matters. The appeals committee shall include at least 3~~  
13 ~~members of the recipient rights advisory committee, 2 board~~  
14 ~~members, and 2 primary consumers. A member of the appeals committee~~  
15 ~~may represent more than 1 of these categories.~~

16       ~~—— (b) Designate~~ **DESIGNATE** the recipient rights advisory  
17 committee as the appeals committee.

18           (3) The governing body of a licensed hospital shall designate  
19 the appeals committee of the local community mental health services  
20 program to hear an appeal of a decision on a recipient rights  
21 matter brought by or on behalf of a recipient of that community  
22 mental health services program.

23           (4) The governing body of a licensed hospital shall, ~~do 1 of~~  
24 ~~the following with respect to an appeal of a decision on a~~  
25 ~~recipient rights matter brought by or on behalf of an individual~~  
26 ~~who is not a recipient of a community mental health services~~  
27 ~~program:~~



1 ~~—— (a) Appoint an appeals committee consisting of 7 members, none~~  
2 ~~of whom shall be employed by the department or a community mental~~  
3 ~~health services program, 2 of whom shall be primary consumers and 2~~  
4 ~~of whom shall be community members.~~

5 ~~—— (b) By~~ **BY** agreement with the ~~department~~ **STATE OFFICE OF**  
6 **RECIPIENT RIGHTS**, designate the appeals committee appointed by the  
7 department to hear appeals of rights complaints brought against the  
8 licensed hospital **ON BEHALF OF AN INDIVIDUAL WHO IS NOT A RECIPIENT**  
9 **OF MENTAL HEALTH SERVICES PROVIDED BY A COMMUNITY MENTAL HEALTH**  
10 **SERVICES PROGRAM.**

11 (5) An appeals committee appointed under this section may  
12 request consultation and technical assistance from the ~~department~~  
13 **STATE OFFICE OF RECIPIENT RIGHTS.**

14 (6) A member of an appeals committee who has a personal or  
15 professional relationship with an individual involved in an appeal  
16 shall abstain from participating in that appeal as a member of the  
17 committee.

18 Sec. 776. (1) A recipient, or another individual on behalf of  
19 a recipient, may file a rights complaint with the office alleging a  
20 violation of this act or rules promulgated under this act.

21 (2) A rights complaint shall contain all of the following  
22 information:

23 (a) A statement of the allegations that give rise to the  
24 dispute.

25 (b) A statement of the right or rights that may have been  
26 violated.

27 (c) The outcome that the complainant is seeking as a

1 resolution to the complaint.

2 (3) Each rights complaint shall be recorded upon receipt by  
3 the office, and acknowledgment of the recording shall be sent along  
4 with a copy of the complaint to the complainant within 5 business  
5 days.

6 (4) Within 5 business days after the office receives a  
7 complaint, it shall notify the complainant if it determines that no  
8 investigation of the rights complaint is warranted.

9 (5) The office shall assist the recipient or other individual  
10 with the complaint process. The office shall advise the recipient  
11 or other individual that there are advocacy organizations available  
12 to assist in preparation of a written rights complaint and shall  
13 offer to refer the recipient or other individual to those  
14 organizations. In the absence of assistance from an advocacy  
15 organization, the office shall assist in preparing a written rights  
16 complaint. The office shall inform the recipient or other  
17 individual of the option of mediation under section 786.

18 ~~—— (6) If a rights complaint has been filed regarding the conduct~~  
19 ~~of the executive director, the rights investigation shall be~~  
20 ~~conducted by the office of another community mental health services~~  
21 ~~program or by the state office of recipient rights as decided by~~  
22 ~~the board.~~

23 Sec. 780. (1) If it has been determined through investigation  
24 that a right has been violated, the respondent shall take  
25 appropriate remedial action that meets all of the following  
26 requirements:

27 (a) Corrects or provides a remedy for the rights violations.

1 (b) Is implemented in a timely manner.

2 (c) Attempts to prevent a recurrence of the rights violation.

3 (2) The action shall be documented and made part of the record  
4 maintained by the office.

5 (3) IF THE APPROPRIATE REMEDIAL ACTION IS NOT IMPLEMENTED, THE  
6 RESPONDENT SHALL PAY A FINE THAT IS EQUAL TO 10% OF ITS  
7 ADMINISTRATIVE BUDGET TO A FUND TO BE CREATED BY THE DEPARTMENT  
8 DIRECTOR TO ASSIST RECIPIENTS WITH COMMUNITY PLACEMENT AND  
9 INDEPENDENT LIVING.

10 Sec. 784. (1) Not later than 45 days after receipt of the  
11 summary report under section 782, the complainant may file a  
12 written appeal with the appeals committee with jurisdiction over  
13 the office of recipient rights that issued the summary report.

14 (2) An appeal under subsection (1) shall be based on 1 of the  
15 following grounds:

16 (a) The investigative findings of the office are not  
17 consistent with the facts or with law, rules, policies, or  
18 guidelines.

19 (b) The action taken or plan of action proposed by the  
20 respondent does not provide an adequate remedy.

21 (c) An investigation was not initiated or completed on a  
22 timely basis.

23 (3) The office shall advise the complainant that there are  
24 advocacy organizations available to assist the complainant in  
25 preparing the written appeal and shall offer to refer the  
26 complainant to those organizations. In the absence of assistance  
27 from an advocacy organization, the office shall assist the

1 complainant in meeting the procedural requirements of a written  
 2 appeal. The office shall also inform the complainant of the option  
 3 of mediation under section 786.

4 (4) Within 5 business days after receipt of the written  
 5 appeal, members of the appeals committee shall review the appeal to  
 6 determine whether it meets the criteria set forth in subsection  
 7 (2). If the appeal is denied because the criteria in subsection (2)  
 8 were not met, the complainant shall be notified in writing. If the  
 9 appeal is accepted, written notice shall be provided to the  
 10 complainant and a copy of the appeal shall be provided to the  
 11 respondent and the responsible mental health agency.

12 (5) Within 30 days after receipt of a written appeal, the  
 13 appeals committee shall meet and review the facts as stated in all  
 14 complaint investigation documents and shall do 1 of the following:

15 (a) Uphold the investigative findings of the **LOCAL** office **OF**  
 16 **RECIPIENT RIGHTS** and the action taken or plan of action proposed by  
 17 the respondent.

18 (b) Return the investigation to ~~the~~ **ANOTHER** office **OF**  
 19 **RECIPIENT RIGHTS** and request that ~~it be reopened or~~  
 20 ~~reinvestigated.~~ **THE INVESTIGATION BE INVESTIGATED BY ANOTHER RIGHTS**  
 21 **ADVISOR OUTSIDE OF THE SERVICE AREA OF THE COMPLAINANT.**

22 (c) Uphold the investigative findings of the **LOCAL** office **OF**  
 23 **RECIPIENT RIGHTS** but recommend that the respondent take additional  
 24 or different action to remedy the violation.

25 ~~—— (d) If the responsible mental health agency is a community~~  
 26 ~~mental health services program or a licensed hospital, recommend~~  
 27 ~~that the board of the community mental health services program or~~

~~the governing board of the licensed hospital request an external investigation by the state office of recipient rights.~~

~~(6) The appeals committee shall document its decision in writing. Within 10 working days after reaching its decision, it shall provide copies of the decision to the respondent, appellant, recipient if different than the appellant, the recipient's guardian if a guardian has been appointed, the responsible mental health agency, and the office.~~

Sec. 786. (1) Within ~~45~~ 30 days after receiving written notice of the decision of an appeals committee under section 784(5), **THE SUMMARY REPORT CONDUCTED BY AN OUTSIDE RIGHTS ADVISOR UNDER SECTION 784(5)(B)**, the appellant may file a written appeal with the ~~department~~ **STATE APPEALS COMMITTEE**. The appeal shall be based on the record established in the previous **RELATED** appeal **WITH THE LOCAL OFFICE OF RECIPIENT RIGHTS**, and on the allegation that the ~~investigative~~ **REINVESTIGATIVE** findings of the local office of recipient rights are not consistent with the facts or with law, rules, policies, or guidelines.

(2) Upon receipt of an appeal under subsection (1), the ~~department~~ **STATE APPEALS COMMITTEE** shall give written notice of receipt of the appeal to the appellant, respondent, local ~~office~~ **AND OUTSIDE OFFICES** of recipient rights holding the record of the complaint, and the responsible mental health agency. The respondent, local ~~office~~ **OFFICES** of recipient rights holding the record of the complaint, and the responsible mental health agency shall ensure that the ~~department~~ **STATE APPEALS COMMITTEE** has access to all necessary documentation and other evidence cited in the

1 complaint.

2 (3) The ~~department~~ **STATE APPEALS COMMITTEE** shall review the  
3 record based on the allegation described in subsection (1). The  
4 ~~department~~ **STATE APPEALS COMMITTEE** shall not consider additional  
5 evidence or information that was not available during the appeal  
6 under section 784. ~~, although the department may return the matter~~  
7 ~~to the board or the governing body of the licensed hospital~~  
8 ~~requesting an additional investigation.~~

9 (4) Within ~~30~~ **14** days after receiving the appeal, the  
10 ~~department~~ **STATE APPEALS COMMITTEE** shall review the appeal and do 1  
11 of the following:

12 (a) Affirm the ~~decision of the appeals committee.~~ **FINDINGS OF**  
13 **THE REINVESTIGATION.**

14 (b) ~~Return the matter to the board or the governing body of~~  
15 ~~the licensed hospital with instruction for additional investigation~~  
16 ~~and consideration.~~ **RECOMMEND MEDIATION AS DESCRIBED IN SECTION 788.**

17 (5) The ~~department~~ **STATE APPEALS COMMITTEE** shall provide  
18 copies of its action to the respondent, appellant, recipient if  
19 different than the appellant, the recipient's guardian if a  
20 guardian has been appointed, the board of the community mental  
21 health services program or the governing body of the licensed  
22 hospital, and the local office of recipient rights holding the  
23 record.

24 (6) **WITHIN 14 DAYS OF RECEIVING THE STATE APPEALS COMMITTEE'S**  
25 **DECISION, THE APPELLANT MAY REQUEST MEDIATION BY SUBMITTING A**  
26 **REQUEST TO THE OFFICE OF THE STATE EMPLOYER. WITHIN 30 DAYS OF**  
27 **RECEIVING THE REQUEST, THE OFFICE OF THE STATE EMPLOYER SHALL**

1 COORDINATE A MEETING WITH THE APPELLANT AND THE RESPONSIBLE MENTAL  
2 HEALTH AGENCY, HOSPITAL, OR LICENSED FACILITY AND ISSUE A REPORT OF  
3 THE OUTCOME OF THE MEETING.

4 Enacting section 1. Sections 753 and 755 of the mental health  
5 code, 1974 PA 258, MCL 330.1753 and 330.1755, are repealed.