

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5298

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending sections 100b and 100c (MCL 330.1100b and 330.1100c),
section 100b as amended by 2020 PA 55 and section 100c as amended
by 2020 PA 99, and by adding section 137a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 100b. (1) ~~"Facility"~~**Except as otherwise provided in this**
2 **subsection, "facility"** means a residential facility for the care or
3 treatment of individuals with serious mental illness, serious
4 emotional disturbance, or developmental disability that is either a
5 state facility or a licensed facility. **Facility includes a**
6 **preadmission screening unit established under section 409 that is**
7 **operating a crisis stabilization unit.**

1 (2) "Family" as used in sections 156 to 161 means an eligible
2 minor and his or her parent or legal guardian.

3 (3) "Family member" means a parent, stepparent, spouse,
4 sibling, child, or grandparent of a primary consumer, or an
5 individual ~~upon~~ whom a primary consumer is dependent **on** for at
6 least 50% of his or her financial support.

7 (4) "Federal funds" means funds received from the federal
8 government under a categorical grant or similar program and does
9 not include federal funds received under a revenue sharing
10 arrangement.

11 (5) "Functional impairment" means both of the following:

12 (a) With regard to serious emotional disturbance, substantial
13 interference with or limitation of a minor's achievement or
14 maintenance of 1 or more developmentally appropriate social,
15 behavioral, cognitive, communicative, or adaptive skills.

16 (b) With regard to serious mental illness, substantial
17 interference or limitation of role functioning in 1 or more major
18 life activities including basic living skills such as eating,
19 bathing, and dressing; instrumental living skills such as
20 maintaining a household, managing money, getting around the
21 community, and taking prescribed medication; and functioning in
22 social, vocational, and educational contexts.

23 (6) "Guardian" means a person appointed by the court to
24 exercise specific powers over an individual who is a minor, legally
25 incapacitated, or developmentally disabled.

26 (7) "Hospital" or "psychiatric hospital" means an inpatient
27 program operated by the department for the treatment of individuals
28 with serious mental illness or serious emotional disturbance or a
29 psychiatric hospital or psychiatric unit licensed under section

1 137.

2 (8) "Hospital director" means the chief administrative officer
3 of a hospital or his or her designee.

4 (9) "Hospitalization" or "hospitalize" means to provide
5 treatment for an individual as an inpatient in a hospital.

6 (10) "Incapacitated" means that an individual, as a result of
7 the use of alcohol or other drugs, is unconscious or has his or her
8 mental or physical functioning so impaired that he or she either
9 poses an immediate and substantial danger to his or her own health
10 and safety or is endangering the health and safety of the public.

11 (11) "Individual plan of services" or "plan of services" means
12 a written individual plan of services developed with a recipient as
13 required by section 712.

14 (12) "Individual representative" means a recipient's legal
15 guardian, minor recipient's parent, or other person authorized by
16 law to represent the recipient in decision-making related to the
17 recipient's services and supports.

18 (13) "Intellectual disability" means a condition manifesting
19 before the age of 18 years that is characterized by significantly
20 subaverage intellectual functioning and related limitations in 2 or
21 more adaptive skills and that is diagnosed based on the following
22 assumptions:

23 (a) Valid assessment considers cultural and linguistic
24 diversity, as well as differences in communication and behavioral
25 factors.

26 (b) The existence of limitation in adaptive skills occurs
27 within the context of community environments typical of the
28 individual's age peers and is indexed to the individual's
29 particular needs for support.

1 (c) Specific adaptive skill limitations often coexist with
2 strengths in other adaptive skills or other personal capabilities.

3 (d) With appropriate supports over a sustained period, the
4 life functioning of the individual with an intellectual disability
5 will generally improve.

6 (14) "Licensed facility" means a facility licensed by the
7 department under section 137 or an adult foster care facility.

8 (15) "Licensed psychologist" means a doctoral level
9 psychologist licensed under section 18223(1) of the public health
10 code, 1978 PA 368, MCL 333.18223.

11 (16) "Mediation" means a confidential process in which a
12 neutral third party facilitates communication between parties,
13 assists in identifying issues, and helps explore solutions to
14 promote a mutually acceptable resolution. A mediator does not have
15 authoritative decision-making power.

16 **(17) "Medicaid" means the program of medical assistance**
17 **established under section 105 of the social welfare act, 1939 PA**
18 **280, MCL 400.105.**

19 **(18) ~~(17)~~**"Medical director" means a psychiatrist appointed
20 under section 231 to advise the executive director of a community
21 mental health services program.

22 **(19) ~~(18)~~**"Mental health professional" means an individual who
23 is trained and experienced in the area of mental illness or
24 developmental disabilities and who is 1 of the following:

25 (a) A physician.

26 (b) A psychologist.

27 (c) A registered professional nurse licensed or otherwise
28 authorized to engage in the practice of nursing under part 172 of
29 the public health code, 1978 PA 368, MCL 333.17201 to 333.17242.

(d) A licensed master's social worker licensed or otherwise authorized to engage in the practice of social work at the master's level under part 185 of the public health code, 1978 PA 368, MCL 333.18501 to 333.18518.

(e) A licensed professional counselor licensed or otherwise authorized to engage in the practice of counseling under part 181 of the public health code, 1978 PA 368, MCL 333.18101 to 333.18117.

(f) A marriage and family therapist licensed or otherwise authorized to engage in the practice of marriage and family therapy under part 169 of the public health code, 1978 PA 368, MCL 333.16901 to 333.16915.

(20) ~~(19)~~—"Minor" means an individual under the age of 18 years.

(21) ~~(20)~~—"Multicultural services" means specialized mental health services for multicultural populations such as African-Americans, Hispanics, Native Americans, Asian and Pacific Islanders, and Arab/Chaldean-Americans.

(22) ~~(21)~~—"Neglect" means an act or failure to act committed by an employee or volunteer of the department, a community mental health services program, or a licensed hospital; a service provider under contract with the department, a community mental health services program, or a licensed hospital; or an employee or volunteer of a service provider under contract with the department, a community mental health services program, or a licensed hospital, that denies a recipient the standard of care or treatment to which he or she is entitled under this act.

Sec. 100c. (1) "Peace officer" means an officer of the department of state police or of a law enforcement agency of a county, township, city, or village who is responsible for ~~the~~

~~prevention and detection of~~ **preventing and detecting** crime and
~~enforcement of~~ **enforcing** the criminal laws of this state. For the
purposes of sections 408, 426, 427a, and 427b, peace officer also
includes an officer of the United States Secret Service with the
officer's consent and a police officer of the Veterans'
Administration Medical Center Reservation.

(2) "Peer review" means a process, including the review
process required under section 143a, in which mental health
professionals of a state facility, licensed hospital, or community
mental health services program evaluate the clinical competence of
staff and the quality and appropriateness of care provided to
recipients. Peer review evaluations are confidential in accordance
with section 748(9) and are based on criteria established by the
facility or community mental health services program itself, the
accepted standards of the mental health professions, and the
department.

(3) "Person requiring treatment" means an individual who meets
the criteria described in section 401.

(4) "Physician" means an individual licensed or otherwise
authorized to engage in the practice of medicine under part 170 of
the public health code, 1978 PA 368, MCL 333.17001 to 333.17097, or
to engage in the practice of osteopathic medicine and surgery under
part 175 of the public health code, 1978 PA 368, MCL 333.17501 to
333.17556.

(5) "Primary consumer" means an individual who has received or
is receiving services from the department or a community mental
health services program or services from the private sector
equivalent to those offered by the department or a community mental
health services program.

1 (6) "Priority" means preference for and dedication of a major
2 proportion of resources to specified populations or services.
3 Priority does not mean serving or funding the specified populations
4 or services to the exclusion of other populations or services.

5 (7) "Protective custody" means the temporary custody of an
6 individual by a peace officer with or without the individual's
7 consent for the purpose of protecting that individual's health and
8 safety, or the health and safety of the public, and for the purpose
9 of transporting the individual under section 276, 408, or 427 if
10 the individual appears, in the judgment of the peace officer, to be
11 a person requiring treatment or is a person requiring treatment.
12 Protective custody is civil in nature and is not an arrest.

13 (8) **"Psychiatric residential treatment facility" or "PRTF"**
14 **means a facility other than a hospital that provides psychiatric**
15 **services, as described in 42 CFR 441.151 to 441.182, in an**
16 **inpatient setting to individuals under age 21.**

17 (9) ~~(8)~~—"Psychiatric unit" means a unit of a general hospital
18 that provides inpatient services for individuals with serious
19 mental illness or serious emotional disturbance. As used in this
20 subsection, "general hospital" means a hospital as defined in
21 section 20106 of the public health code, 1978 PA 368, MCL
22 333.20106.

23 (10) ~~(9)~~—"Psychiatrist" means 1 or more of the following:

24 (a) A physician who has completed a residency program in
25 psychiatry approved by the Accreditation Council for Graduate
26 Medical Education or the American Osteopathic Association, or who
27 has completed 12 months of psychiatric rotation and is enrolled in
28 an approved residency program as described in this subdivision.

29 (b) A psychiatrist employed by or under contract with the

1 department or a community mental health services program on March
2 28, 1996.

3 (c) A physician who devotes a substantial portion of his or
4 her time to the practice of psychiatry and is approved by the
5 director.

6 **(11)** ~~(10)~~—"Psychologist" means an individual who is licensed
7 or otherwise authorized to engage in the practice of psychology
8 under part 182 of the public health code, 1978 PA 368, MCL
9 333.18201 to 333.18237, and who devotes a substantial portion of
10 his or her time to the diagnosis and treatment of individuals with
11 serious mental illness, serious emotional disturbance, substance
12 use disorder, or developmental disability.

13 **(12) "Public patient" means an individual approved for mental**
14 **health services by a community mental health services program.**
15 **Public patient includes an individual who is admitted as a patient**
16 **under section 423, 429, or 438.**

17 **(13)** ~~(11)~~—"Recipient" means an individual who receives mental
18 health services, either in person or through telemedicine, from the
19 department, a community mental health services program, or a
20 facility or from a provider that is under contract with the
21 department or a community mental health services program. For the
22 purposes of this act, recipient does not include an individual
23 receiving substance use disorder services under chapter 2A unless
24 that individual is also receiving mental health services under this
25 act in conjunction with substance use disorder services.

26 **(14)** ~~(12)~~—"Recipient rights advisory committee" means a
27 committee of a community mental health services program board
28 appointed under section 757 or a recipient rights advisory
29 committee appointed by a licensed hospital under section 758.

1 (15) ~~(13)~~ "Recovery" means a highly individualized process of
 2 healing and transformation by which the individual gains control
 3 over his or her life. Related services include recovery management,
 4 recovery support services, recovery houses or transitional living
 5 programs, and relapse prevention. Recovery involves the development
 6 of a new meaning, purpose, and growing beyond the impact of
 7 addiction or a diagnosis. Recovery may include the pursuit of
 8 spiritual, emotional, mental, or physical well-being.

9 (16) ~~(14)~~ "Regional entity" means an entity established under
 10 section 204b to provide specialty services and supports.

11 (17) ~~(15)~~ "Rehabilitation" means the act of restoring an
 12 individual to a state of mental and physical health or useful
 13 activity through vocational or educational training, therapy, and
 14 counseling.

15 (18) ~~(16)~~ "Resident" means an individual who receives services
 16 in a facility.

17 (19) ~~(17)~~ "Responsible mental health agency" means the
 18 hospital, center, or community mental health services program that
 19 has primary responsibility for the recipient's care or for the
 20 delivery of services or supports to that recipient.

21 (20) ~~(18)~~ "Rule" means a rule promulgated under the
 22 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
 23 24.328.

24 **Sec. 137a. (1) The department shall, subject to appropriation**
 25 **of sufficient funding, establish PRTFs for Medicaid recipients**
 26 **under age 21 as described under 42 CFR 441.151 to 441.184.**

27 **(2) The department shall select PRTF providers through a**
 28 **request for proposals process. Public or private providers,**
 29 **including, but not limited to, those providing state-operated**

1 services, may respond to the request for proposals.

2 (3) To be eligible for reimbursement from the department, a
3 PRTF must meet all of the following requirements:

4 (a) Be certified by the department.

5 (b) Be accredited by the Joint Commission, Commission on
6 Accreditation of Rehabilitation Facilities, or Council on
7 Accreditation.

8 (c) Be enrolled in the Medicaid Management Information System.

9 (d) Any other requirement the department considers appropriate
10 and necessary to provide PRTF services and comply with 42 CFR
11 441.151 to 441.182.

12 (4) The department may establish a Medicaid policy and
13 promulgate administrative rules necessary to implement this
14 section. When promulgating administrative rules or developing the
15 criteria by which a PRTF will be selected or certified under this
16 section, the department shall consider both of the following:

17 (a) The geographic need and appropriateness for PRTF services,
18 including, but not limited to, all of the following:

19 (i) Prioritizing the selection and certification of PRTFs in
20 areas of this state lacking inpatient psychiatric services for
21 individuals under age 21.

22 (ii) Avoiding concentration of PRTFs in any particular
23 community or area of this state to ensure the easiest possible
24 access for families or guardians to visit patients when
25 appropriate.

26 (iii) Consideration of the availability of community resources
27 sufficient to support a PRTF and its patients, including, but not
28 limited to, the capacity of public safety and emergency medical
29 response services and proximity to ancillary medical providers.

1 (b) The capacity of a PRTF to provide care that results in the
2 successful integration of patients back into the community within
3 60 to 120 days after admission to the PRTF, including a
4 reintegration with family whenever possible and appropriate.

5 (5) The department shall evaluate each selected PRTF no less
6 than every 2 years based on the criteria developed by the
7 department, including the criteria described in subsection (4) (a)
8 and (b). The department may revoke the selection and certification
9 of, or take corrective action considered necessary against, any
10 PRTF that is determined to no longer be needed or appropriate under
11 the criteria described in subsection (4) (a) or found not to be in
12 compliance with the criteria described in subsection (4) (b). This
13 subsection does not limit the ability of the department to take
14 corrective action or to revoke the selection or certification of a
15 PRTF for other good cause at any time.