

# SENATE BILL NO. 826

March 10, 2020, Introduced by Senators VANDERWALL, BIZON, WOJNO, BULLOCK, STAMAS, POLEHANKI, HERTEL, OUTMAN, JOHNSON, MACDONALD, BRINKS, THEIS, LASATA, SANTANA and SCHMIDT and referred to the Committee on Health Policy and Human Services.

A bill to amend 1974 PA 258, entitled  
"Mental health code,"  
by amending sections 100a, 100b, 100c, 281b, 400, 420, 423, 425,  
426, 427, 429, 430, 434, 435, 438, 452, 461, 463, 498o, 517, 532,  
700, 740, and 742 (MCL 330.1100a, 330.1100b, 330.1100c, 330.1281b,  
330.1400, 330.1420, 330.1423, 330.1425, 330.1426, 330.1427,  
330.1429, 330.1430, 330.1434, 330.1435, 330.1438, 330.1452,

330.1461, 330.1463, 330.1498o, 330.1517, 330.1532, 330.1700, 330.1740, and 330.1742), sections 100a, 400, and 420 as amended by 2018 PA 595, section 100b as amended and section 281b as added by 2014 PA 200, sections 100c, 423, 425, 426, 427, 429, and 463 as amended by 2016 PA 320, sections 430, 498o, 700, and 740 as amended by 1995 PA 290, sections 434, 435, 438, 452, and 461 as amended by 2018 PA 593, sections 517 and 532 as amended by 2018 PA 596, and section 742 as amended by 2004 PA 527.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 100a. (1) "Abilities" means the qualities, skills, and  
2 competencies of an individual that reflect the individual's talents  
3 and acquired proficiencies.

4           (2) "Abuse" means nonaccidental physical or emotional harm to  
5 a recipient, or sexual contact with or sexual penetration of a  
6 recipient as those terms are defined in section 520a of the  
7 Michigan penal code, 1931 PA 328, MCL 750.520a, that is committed  
8 by an employee or volunteer of the department, a community mental  
9 health services program, or a licensed hospital or by an employee  
10 or volunteer of a service provider under contract with the  
11 department, community mental health services program, or licensed  
12 hospital.

13           (3) "Adaptive skills" means skills in 1 or more of the  
14 following areas:

- 15           (a) Communication.  
16           (b) Self-care.  
17           (c) Home living.  
18           (d) Social skills.  
19           (e) Community use.  
20           (f) Self-direction.

1 (g) Health and safety.

2 (h) Functional academics.

3 (i) Leisure.

4 (j) Work.

5 (4) "Adult foster care facility" means an adult foster care  
6 facility licensed under the adult foster care facility licensing  
7 act, 1979 PA 218, MCL 400.701 to 400.737.

8 ~~(5) "Alcohol and drug abuse counseling" means the act of~~  
9 ~~counseling, modification of substance use disorder related~~  
10 ~~behavior, and prevention techniques for individuals with substance~~  
11 ~~use disorder, their significant others, and individuals who could~~  
12 ~~potentially develop a substance use disorder.~~

13 (5) ~~(6)~~ "Applicant" means an individual or his or her legal  
14 representative who makes a request for mental health services.

15 (6) ~~(7)~~ "Approved service program" means a substance use  
16 disorder services program licensed under part 62 of the public  
17 health code, 1978 PA 368, MCL 333.6230 to 333.6251, to provide  
18 substance use disorder treatment and rehabilitation services by the  
19 department-designated community mental health entity and approved  
20 by the federal government to deliver a service or combination of  
21 services for the treatment of incapacitated individuals.

22 (7) ~~(8)~~ "Assisted outpatient treatment" or "AOT" means the  
23 categories of outpatient services ordered by the court under  
24 section 468 or 469a. Assisted outpatient treatment may include a  
25 case management plan and case management services to provide care  
26 coordination under the supervision of a psychiatrist and developed  
27 in accordance with person-centered planning under section 712.  
28 Assisted outpatient treatment may also include 1 or more of the  
29 following categories of services: medication; periodic blood tests

1 or urinalysis to determine compliance with prescribed medications;  
2 individual or group therapy; day or partial day programming  
3 activities; vocational, educational, or self-help training or  
4 activities; assertive community treatment team services; alcohol or  
5 substance use disorder treatment and counseling and periodic tests  
6 for the presence of alcohol or illegal drugs for an individual with  
7 a history of alcohol abuse or substance use disorder; supervision  
8 of living arrangements; and any other services within a local or  
9 unified services plan developed under this act that are prescribed  
10 to treat the individual's mental illness and to assist the  
11 individual in living and functioning in the community or to attempt  
12 to prevent a relapse or deterioration that may reasonably be  
13 predicted to result in suicide, the need for hospitalization, or  
14 serious violent behavior. The medical review and direction included  
15 in an assisted outpatient treatment plan shall be provided under  
16 the supervision of a psychiatrist.

17 (8) ~~(9)~~—"Board" means the governing body of a community mental  
18 health services program.

19 (9) ~~(10)~~—"Board of commissioners" means a county board of  
20 commissioners.

21 (10) ~~(11)~~—"Center" means a facility operated by the department  
22 to admit individuals with developmental disabilities and provide  
23 habilitation and treatment services.

24 (11) ~~(12)~~—"Certification" means formal approval of a program  
25 by the department in accordance with standards developed or  
26 approved by the department.

27 (12) **"Certified nurse practitioner" means a registered**  
28 **professional nurse who holds a specialty certification as a nurse**  
29 **practitioner under part 172 of the public health code, 1978 PA 368,**

1 **MCL 333.17201 to 333.17242.**

2 (13) "Child abuse" and "child neglect" mean those terms as  
3 defined in section 2 of the child protection law, 1975 PA 238, MCL  
4 722.622.

5 (14) "Child and adolescent psychiatrist" means 1 or more of  
6 the following:

7 (a) A physician who has completed a residency program in child  
8 and adolescent psychiatry approved by the Accreditation Council for  
9 Graduate Medical Education or the American Osteopathic Association,  
10 or who has completed 12 months of child and adolescent psychiatric  
11 rotation and is enrolled in an approved residency program as  
12 described in this subsection.

13 (b) A psychiatrist employed by or under contract as a child  
14 and adolescent psychiatrist with the department or a community  
15 mental health services program on March 28, 1996, who has education  
16 and clinical experience in the evaluation and treatment of children  
17 or adolescents with serious emotional disturbance.

18 (c) A psychiatrist who has education and clinical experience  
19 in the evaluation and treatment of children or adolescents with  
20 serious emotional disturbance who is approved by the director.

21 (15) "Children's diagnostic and treatment service" means a  
22 program operated by or under contract with a community mental  
23 health services program, that provides examination, evaluation, and  
24 referrals for minors, including emergency referrals, that provides  
25 or facilitates treatment for minors, and that has been certified by  
26 the department.

27 **(16) "Clinical nurse specialist-certified" means an individual**  
28 **who is licensed as a registered professional nurse under part 172**  
29 **of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242,**

1 who has been granted a specialty certification as a clinical nurse  
2 specialist by the Michigan board of nursing under section 17210 of  
3 the public health code, 1978 PA 368, MCL 333.17210.

4 (17) ~~(16)~~—"Community mental health authority" means a separate  
5 legal public governmental entity created under section 205 to  
6 operate as a community mental health services program.

7 (18) ~~(17)~~—"Community mental health organization" means a  
8 community mental health services program that is organized under  
9 the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501  
10 to 124.512.

11 (19) ~~(18)~~—"Community mental health services program" means a  
12 program operated under chapter 2 as a county community mental  
13 health agency, a community mental health authority, or a community  
14 mental health organization.

15 (20) ~~(19)~~—"Consent" means a written agreement executed by a  
16 recipient, a minor recipient's parent, a recipient's legal  
17 representative with authority to execute a consent, or a full or  
18 limited guardian authorized under the estates and protected  
19 individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, with the  
20 authority to consent, or a verbal agreement of a recipient that is  
21 witnessed and documented by an individual other than the individual  
22 providing treatment.

23 (21) ~~(20)~~—"County community mental health agency" means an  
24 official county or multicounty agency created under section 210  
25 that operates as a community mental health services program and  
26 that has not elected to become a community mental health authority  
27 or a community mental health organization.

28 (22) ~~(21)~~—"Department" means the department of health and  
29 human services.

1           (23) ~~(22)~~—"Department-designated community mental health  
2 entity" means the community mental health authority, community  
3 mental health organization, community mental health services  
4 program, county community mental health agency, or community mental  
5 health regional entity designated by the department to represent a  
6 region of community mental health authorities, community mental  
7 health organizations, community mental health services programs, or  
8 county community mental health agencies.

9           (24) ~~(23)~~—"Dependent living setting" means all of the  
10 following:

11           (a) An adult foster care facility.

12           (b) A nursing home licensed under part 217 of the public  
13 health code, 1978 PA 368, MCL 333.21701 to 333.21799e.

14           (c) A home for the aged licensed under part 213 of the public  
15 health code, 1978 PA 368, MCL 333.21301 to 333.21335.

16           (25) ~~(24)~~—"Designated representative" means any of the  
17 following:

18           (a) A registered nurse or licensed practical nurse licensed or  
19 otherwise authorized under part 172 of the public health code, 1978  
20 PA 368, MCL 333.17201 to 333.17242.

21           (b) A paramedic licensed or otherwise authorized under part  
22 209 of the public health code, 1978 PA 368, MCL 333.20901 to  
23 333.20979.

24           (c) A ~~physician's~~ **physician** assistant licensed or otherwise  
25 authorized under part 170 or 175 of the public health code, 1978 PA  
26 368, MCL 333.17001 to ~~333.17084~~ **333.17097** and 333.17501 to  
27 333.17556.

28           (d) An individual qualified by education, training, and  
29 experience who performs acts, tasks, or functions under the

1 supervision of a physician.

2       **(26)** ~~(25)~~—"Developmental disability" means either of the  
3 following:

4       (a) If applied to an individual older than 5 years of age, a  
5 severe, chronic condition that meets all of the following  
6 requirements:

7       (i) Is attributable to a mental or physical impairment or a  
8 combination of mental and physical impairments.

9       (ii) Is manifested before the individual is 22 years old.

10       (iii) Is likely to continue indefinitely.

11       (iv) Results in substantial functional limitations in 3 or more  
12 of the following areas of major life activity:

13       (A) Self-care.

14       (B) Receptive and expressive language.

15       (C) Learning.

16       (D) Mobility.

17       (E) Self-direction.

18       (F) Capacity for independent living.

19       (G) Economic self-sufficiency.

20       (v) Reflects the individual's need for a combination and  
21 sequence of special, interdisciplinary, or generic care, treatment,  
22 or other services that are of lifelong or extended duration and are  
23 individually planned and coordinated.

24       (b) If applied to a minor from birth to 5 years of age, a  
25 substantial developmental delay or a specific congenital or  
26 acquired condition with a high probability of resulting in  
27 developmental disability as defined in subdivision (a) if services  
28 are not provided.

29       **(27)** ~~(26)~~—"Director" means the director of the department or

1 his or her designee.

2 (28) ~~(27)~~—"Discharge" means an absolute, unconditional release  
3 of an individual from a facility by action of the facility or a  
4 court.

5 (29) ~~(28)~~—"Eligible minor" means an individual less than 18  
6 years of age who is recommended in the written report of a  
7 multidisciplinary team under rules promulgated by the department of  
8 education to be classified as 1 of the following:

9 (a) Severely mentally impaired.

10 (b) Severely multiply impaired.

11 (c) Autistic impaired and receiving special education services  
12 in a program designed for the autistic impaired under ~~subsection~~  
13 ~~(1)~~ **subdivision (a)** of R 340.1758 of the Michigan Administrative  
14 Code or in a program designed for the severely mentally impaired or  
15 severely multiply impaired.

16 (30) ~~(29)~~—"Emergency situation" means a situation in which an  
17 individual is experiencing a serious mental illness or a  
18 developmental disability, or a minor is experiencing a serious  
19 emotional disturbance, and 1 of the following applies:

20 (a) The individual can reasonably be expected within the near  
21 future to physically injure himself, herself, or another  
22 individual, either intentionally or unintentionally.

23 (b) The individual is unable to provide himself or herself  
24 food, clothing, or shelter or to attend to basic physical  
25 activities such as eating, toileting, bathing, grooming, dressing,  
26 or ambulating, and this inability may lead in the near future to  
27 harm to the individual or to another individual.

28 (c) The individual has mental illness that has impaired his or  
29 her judgment so that the individual is unable to understand his or

1 her need for treatment and presents a risk of harm.

2 (31) ~~(30)~~—"Executive director" means an individual appointed  
3 under section 226 to direct a community mental health services  
4 program or his or her designee.

5 Sec. 100b. (1) "Facility" means a residential facility for the  
6 care or treatment of individuals with serious mental illness,  
7 serious emotional disturbance, or developmental disability that is  
8 either a state facility or a licensed facility.

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

11 (3) "Family member" means a parent, stepparent, spouse,  
12 sibling, child, or grandparent of a primary consumer, or an  
13 individual upon whom a primary consumer is dependent for at least  
14 50% of his or her financial support.

15 (4) "Federal funds" means funds received from the federal  
16 government under a categorical grant or similar program and does  
17 not include federal funds received under a revenue sharing  
18 arrangement.

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

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

24 (b) With regard to serious mental illness, substantial  
25 interference or limitation of role functioning in 1 or more major  
26 life activities including basic living skills such as eating,  
27 bathing, and dressing; instrumental living skills such as  
28 maintaining a household, managing money, getting around the  
29 community, and taking prescribed medication; and functioning in

1 social, vocational, and educational contexts.

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

5 (7) "Hospital" or "psychiatric hospital" means an inpatient  
6 program operated by the department for the treatment of individuals  
7 with serious mental illness or serious emotional disturbance or a  
8 psychiatric hospital or psychiatric unit licensed under section  
9 137.

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

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

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

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

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

27 (a) Valid assessment considers cultural and linguistic  
28 diversity, as well as differences in communication and behavioral  
29 factors.

1 (b) The existence of limitation in adaptive skills occurs  
2 within the context of community environments typical of the  
3 individual's age peers and is indexed to the individual's  
4 particular needs for support.

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

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

10 (13) "Licensed facility" means a facility licensed by the  
11 department under section 137 or an adult foster care facility.

12 (14) "Licensed psychologist" means a doctoral level  
13 psychologist licensed under section 18223(1) of the public health  
14 code, 1978 PA 368, MCL 333.18223.

15 (15) "Medical director" means a psychiatrist appointed under  
16 section 231 to advise the executive director of a community mental  
17 health services program.

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

21 (a) A physician.

22 (b) A psychologist.

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

26 (d) A licensed master's social worker licensed or otherwise  
27 authorized to engage in the practice of social work at the master's  
28 level under part 185 of the public health code, 1978 PA 368, MCL  
29 333.18501 to 333.18518.

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

4 (f) A marriage and family therapist licensed or otherwise  
5 authorized to engage in the practice of marriage and family therapy  
6 under part 169 of the public health code, 1978 PA 368, MCL  
7 333.16901 to 333.16915.

8 **(g) A physician assistant.**

9 **(h) A certified nurse practitioner.**

10 **(i) A clinical nurse specialist-certified.**

11 (17) "Minor" means an individual under the age of 18 years.

12 (18) "Multicultural services" means specialized mental health  
13 services for multicultural populations such as African-Americans,  
14 Hispanics, Native Americans, Asian and Pacific Islanders, and  
15 Arab/Chaldean-Americans.

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

25 Sec. 100c. (1) "Peace officer" means an officer of the  
26 department of state police or of a law enforcement agency of a  
27 county, township, city, or village who is responsible for the  
28 prevention and detection of crime and enforcement of the criminal  
29 laws of this state. For the purposes of sections 408, 426, 427a,

1 and 427b, peace officer also includes an officer of the United  
2 States Secret Service with the officer's consent and a police  
3 officer of the Veterans' Administration Medical Center Reservation.

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

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

16 (4) "Physician" means an individual licensed or otherwise  
17 authorized to engage in the practice of medicine under part 170 of  
18 the public health code, 1978 PA 368, MCL 333.17001 to ~~333.17084,~~  
19 **333.17097**, or to engage in the practice of osteopathic medicine and  
20 surgery under part 175 of the public health code, 1978 PA 368, MCL  
21 333.17501 to 333.17556.

22 **(5) "Physician assistant" means an individual practicing as a**  
23 **physician's assistant as that term is defined in sections 17001 and**  
24 **17501 of the public health code, 1978 PA 368, MCL 333.17001 and**  
25 **333.17501.**

26 (6) ~~(5)~~—"Primary consumer" means an individual who has  
27 received or is receiving services from the department or a  
28 community mental health services program or services from the  
29 private sector equivalent to those offered by the department or a

1 community mental health services program.

2       **(7)** ~~(6)~~—"Priority" means preference for and dedication of a  
3 major proportion of resources to specified populations or services.  
4 Priority does not mean serving or funding the specified populations  
5 or services to the exclusion of other populations or services.

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

14       **(9)** ~~(8)~~—"Psychiatric unit" means a unit of a general hospital  
15 that provides inpatient services for individuals with serious  
16 mental illness or serious emotional disturbance. As used in this  
17 subsection, "general hospital" means a hospital as defined in  
18 section 20106 of the public health code, 1978 PA 368, MCL  
19 333.20106.

20       **(10)** ~~(9)~~—"Psychiatrist" means 1 or more of the following:

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

26       (b) A psychiatrist employed by or under contract with the  
27 department or a community mental health services program on March  
28 28, 1996.

29       (c) A physician who devotes a substantial portion of his or

1 her time to the practice of psychiatry and is approved by the  
2 director.

3       **(11)** ~~(10)~~—"Psychologist" or "**licensed psychologist**" means an  
4 individual who is licensed or otherwise authorized to engage in the  
5 practice of psychology under part 182 of the public health code,  
6 1978 PA 368, MCL 333.18201 to 333.18237, and who devotes a  
7 substantial portion of his or her time to the diagnosis and  
8 treatment of individuals with serious mental illness, serious  
9 emotional disturbance, substance use disorder, or developmental  
10 disability.

11       **(12)** ~~(11)~~—"Recipient" means an individual who receives mental  
12 health services from the department, a community mental health  
13 services program, or a facility or from a provider that is under  
14 contract with the department or a community mental health services  
15 program. For the purposes of this act, recipient does not include  
16 an individual receiving substance use disorder services under  
17 chapter 2A unless that individual is also receiving mental health  
18 services under this act in conjunction with substance use disorder  
19 services.

20       **(13)** ~~(12)~~—"Recipient rights advisory committee" means a  
21 committee of a community mental health services program board  
22 appointed under section 757 or a recipient rights advisory  
23 committee appointed by a licensed hospital under section 758.

24       **(14)** ~~(13)~~—"Recovery" means a highly individualized process of  
25 healing and transformation by which the individual gains control  
26 over his or her life. Related services include recovery management,  
27 recovery support services, recovery houses or transitional living  
28 programs, and relapse prevention. Recovery involves the development  
29 of a new meaning, purpose, and growing beyond the impact of

1 addiction or a diagnosis. Recovery may include the pursuit of  
2 spiritual, emotional, mental, or physical well-being.

3       **(15)** ~~(14)~~—"Regional entity" means an entity established under  
4 section 204b to provide specialty services and supports.

5       **(16)** **"Registered professional nurse" means that term as**  
6 **defined in section 17201 of the public health code, 1978 PA 368,**  
7 **MCL 333.17201.**

8       **(17)** ~~(15)~~—"Rehabilitation" means the act of restoring an  
9 individual to a state of mental and physical health or useful  
10 activity through vocational or educational training, therapy, and  
11 counseling.

12       **(18)** ~~(16)~~—"Resident" means an individual who receives services  
13 in a facility.

14       **(19)** ~~(17)~~—"Responsible mental health agency" means the  
15 hospital, center, or community mental health services program that  
16 has primary responsibility for the recipient's care or for the  
17 delivery of services or supports to that recipient.

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

21       Sec. 281b. (1) Upon receipt of a petition filed under section  
22 281a and the payment of the filing fee, if any, the court shall  
23 examine the petitioner under oath as to the contents of the  
24 petition.

25       (2) If, after reviewing the contents of the petition and  
26 examining the petitioner under oath, it appears to the court that  
27 there is probable cause to believe the respondent may reasonably  
28 benefit from treatment, the court shall do all of the following:

29       (a) Schedule a hearing to be held within 7 days to determine

1 if there is clear and convincing evidence that the respondent may  
2 reasonably benefit from treatment.

3 (b) Notify the respondent and all other individuals named in  
4 the petition under section 281a(3)(d) to (h) concerning the  
5 allegations and contents of the petition and of the date and the  
6 purpose of the hearing.

7 (c) Notify the respondent that the respondent may retain  
8 counsel and, if the respondent is unable to retain counsel, that  
9 the respondent may be represented by court-appointed counsel at  
10 public expense if the respondent is indigent. Upon the appointment  
11 of court-appointed counsel for an indigent respondent, the court  
12 shall notify the respondent of the name, address, and telephone  
13 number of the court-appointed counsel.

14 (d) Notify the respondent that the court will cause the  
15 respondent to be examined not later than 24 hours before the  
16 hearing date by a physician, **physician assistant, certified nurse**  
17 **practitioner, or clinical nurse specialist-certified** for the  
18 purpose of a physical examination and by an independent health  
19 professional for the purpose of a substance use disorder assessment  
20 and diagnosis. In addition, the court shall notify the respondent  
21 that the respondent may have an independent expert evaluation of  
22 his or her physical and mental condition conducted at the  
23 respondent's own expense.

24 (e) Cause the respondent to be examined not later than 24  
25 hours before the hearing date by a physician, **physician assistant,**  
26 **certified nurse practitioner, or clinical nurse specialist-**  
27 **certified** for the purpose of a physical examination and by an  
28 independent health professional for the purpose of a substance use  
29 disorder assessment and diagnosis.

1 (f) Conduct the hearing.

2 (3) The physician, **physician assistant, certified nurse**  
3 **practitioner, or clinical nurse specialist-certified** who examined  
4 the respondent for the purpose of a physical examination, the  
5 health professional who examined the respondent for the purpose of  
6 the substance use disorder assessment and diagnosis, and, if  
7 applicable, the individual who conducted the independent expert  
8 evaluation of the respondent's physical and mental condition at the  
9 respondent's expense shall certify his or her findings to the court  
10 within 24 hours after the examination. The findings must include a  
11 recommendation for treatment if the physician, **physician assistant,**  
12 **certified nurse practitioner, clinical nurse specialist-certified,**  
13 health professional, or individual determines that treatment is  
14 necessary.

15 (4) If, upon completion of the hearing held under this  
16 section, the court finds by clear and convincing evidence that the  
17 requirements of section 281a(1) are met, the court may order the  
18 involuntary treatment of the respondent after considering the  
19 recommendations for treatment that were submitted to the court  
20 under subsection (3). If ordered, the court shall order the  
21 involuntary treatment to be provided by an approved service program  
22 or by a health professional qualified by education and training to  
23 provide the treatment.

24 (5) A respondent who fails to undergo and complete the  
25 treatment ordered under subsection (4) is in contempt of court. An  
26 approved service program to which or health professional to whom a  
27 respondent is ordered for treatment under subsection (4) ~~shall~~**must**  
28 notify the court of a respondent's failure to undergo or complete  
29 treatment ordered under subsection (4).

1 (6) If at any time after a petition is filed under section  
2 281a the court finds that there is not probable cause to order or  
3 continue treatment or the petitioner withdraws the petition, the  
4 court shall dismiss the proceedings against the respondent.

5 (7) As used in this section, "substance use disorder  
6 assessment and diagnosis" includes an evaluation of all of the  
7 following:

8 (a) Whether the individual has a substance use disorder.

9 (b) Whether the individual presents an imminent danger or  
10 imminent threat of danger to self, family, or others as a result of  
11 the substance use disorder, or whether a substantial likelihood of  
12 the threat of danger in the near future exists.

13 (c) Whether the individual can reasonably benefit from  
14 treatment.

15 Sec. 400. As used in this chapter, unless the context requires  
16 otherwise:

17 (a) "Clinical certificate" means the written conclusion and  
18 statements of a physician, **physician assistant, certified nurse**  
19 **practitioner, clinical nurse specialist-certified,** or a licensed  
20 psychologist that an individual is a person requiring treatment,  
21 together with the information and opinions, in reasonable detail,  
22 that underlie the conclusion, on the form prescribed by the  
23 department or on a substantially similar form.

24 (b) "Competent clinical opinion" means the clinical judgment  
25 of a physician, psychiatrist, **physician assistant, certified nurse**  
26 **practitioner, clinical nurse specialist-certified,** or licensed  
27 psychologist.

28 (c) "Court" means the probate court or the court with  
29 responsibility with regard to mental health services for the county

1 of residence of the subject of a petition, or for the county in  
2 which the subject of a petition was found.

3 (d) "Formal voluntary hospitalization" means hospitalization  
4 of an individual based on both of the following:

5 (i) The execution of an application for voluntary  
6 hospitalization by the individual or by a patient advocate  
7 designated under the estates and protected individuals code, 1998  
8 PA 386, MCL 700.1101 to 700.8206, to make mental health treatment  
9 decisions for the individual.

10 (ii) The hospital director's determination that the individual  
11 is clinically suitable for voluntary hospitalization.

12 (e) "Informal voluntary hospitalization" means hospitalization  
13 of an individual based on all of the following:

14 (i) The individual's request for hospitalization.

15 (ii) The hospital director's determination that the individual  
16 is clinically suitable for voluntary hospitalization.

17 (iii) The individual's agreement to accept treatment.

18 (f) "Involuntary mental health treatment" means court-ordered  
19 hospitalization, assisted outpatient treatment, or combined  
20 hospitalization and assisted outpatient treatment as described in  
21 section 468. For the purpose of this chapter, involuntary mental  
22 health treatment does not include a full or limited guardian  
23 authorized under the estates and protected individuals code, 1998  
24 PA 386, MCL 700.1101 to 700.8206, with the authority to consent to  
25 mental health treatment for an individual found to be a legally  
26 incapacitated individual under the estates and protected  
27 individuals code, 1998 PA 386, MCL 700.1101 to 700.8206.

28 (g) "Mental illness" means a substantial disorder of thought  
29 or mood that significantly impairs judgment, behavior, capacity to

1 recognize reality, or ability to cope with the ordinary demands of  
2 life.

3 (h) "Preadmission screening unit" means a service component of  
4 a community mental health services program established under  
5 section 409.

6 (i) "Private-pay patient" means a patient whose services and  
7 care are paid for from funding sources other than the community  
8 mental health services program, the department, or other state or  
9 county funding.

10 (j) "Release" means the transfer of an individual who is  
11 subject to an order of combined hospitalization and assisted  
12 outpatient treatment from 1 treatment program to another in  
13 accordance with his or her individual plan of services.

14 (k) "Subject of a petition" means an individual regarding whom  
15 a petition has been filed with the court asserting that the  
16 individual is or is not a person requiring treatment or for whom an  
17 objection to involuntary mental health treatment has been made  
18 under section 484.

19 Sec. 420. If a written notice of termination of mental health  
20 treatment is given to a hospital or provider of mental health  
21 treatment under section 419, if the notice is not withdrawn, and if  
22 the hospital director or provider of mental health treatment  
23 determines that the patient is a person requiring treatment and  
24 should remain in the hospital or continue to receive mental health  
25 treatment, the hospital director, provider of mental health  
26 treatment, or other suitable person shall within 3 days after  
27 receipt of the notice file a petition with the court that complies  
28 with section 434. The petition ~~shall~~**must** be accompanied by 1  
29 clinical certificate executed by a psychiatrist and 1 clinical

1 certificate executed by either a physician, **physician assistant,**  
2 **certified nurse practitioner, clinical nurse specialist-certified,**  
3 or a licensed psychologist. If a petition is filed, the hospital or  
4 provider of mental health may continue hospitalization or mental  
5 health treatment of the patient pending hearings convened under  
6 sections 451 to 465.

7       Sec. 423. A hospital designated by the department or by a  
8 community mental health services program shall hospitalize an  
9 individual presented to the hospital, pending receipt of a clinical  
10 certificate by a psychiatrist stating that the individual is a  
11 person requiring treatment, if a petition, a physician's, **physician**  
12 **assistant's, certified nurse practitioner's, clinical nurse**  
13 **specialist-certified's,** or a licensed psychologist's clinical  
14 certificate, and an authorization by a preadmission screening unit  
15 have been executed. For an individual hospitalized under this  
16 section, a petition shall have been executed not more than 10 days  
17 before the presentation of the individual to the hospital, and the  
18 petition must meet the conditions set forth in section 434(1) and  
19 (2).

20       Sec. 425. A physician's, **physician assistant's, certified**  
21 **nurse practitioner's, clinical nurse specialist-certified's,** or a  
22 licensed psychologist's clinical certificate required for  
23 hospitalization of an individual under section 423 ~~shall~~**must** have  
24 been executed after personal examination of the individual named in  
25 the clinical certificate, and within 72 hours before the time the  
26 clinical certificate is received by the hospital. The clinical  
27 certificate may be executed by any physician, **physician assistant,**  
28 **certified nurse practitioner, clinical nurse specialist-certified,**  
29 or licensed psychologist, including a ~~physician or licensed~~

1 ~~psychologist who is a~~ staff member or employee of the hospital that  
2 received the clinical certificate.

3       Sec. 426. Upon delivery to a peace officer of a petition and a  
4 physician's, **physician assistant's, certified nurse practitioner's,**  
5 **clinical nurse specialist-certified's,** or licensed psychologist's  
6 clinical certificate, the peace officer shall take the individual  
7 named in the petition into protective custody and transport the  
8 individual immediately to the preadmission screening unit or  
9 hospital designated by the community mental health services program  
10 for hospitalization under section 423. If the individual taken to a  
11 preadmission screening unit meets the requirements for  
12 hospitalization, then unless the community mental health services  
13 program makes other transportation arrangements, the peace officer  
14 shall take the individual to a hospital designated by the community  
15 mental health services program. Transportation to another hospital  
16 due to a transfer is the responsibility of the community mental  
17 health services program.

18       Sec. 427. (1) If a peace officer observes an individual  
19 conducting himself or herself in a manner that causes the peace  
20 officer to reasonably believe that the individual is a person  
21 requiring treatment, the peace officer may take the individual into  
22 protective custody and transport the individual to a preadmission  
23 screening unit designated by a community mental health services  
24 program for examination under section 429 or for mental health  
25 intervention services. The preadmission screening unit shall  
26 provide those mental health intervention services that it considers  
27 appropriate or shall provide an examination under section 429. The  
28 preadmission screening services may be provided at the site of the  
29 preadmission screening unit or at a site designated by the

1 preadmission screening unit. Upon arrival at the preadmission  
2 screening unit or site designated by the preadmission screening  
3 unit, the peace officer shall execute a petition for  
4 hospitalization of the individual. As soon as practical, the  
5 preadmission screening unit shall offer to contact an immediate  
6 family member of the recipient to let the family know that the  
7 recipient has been taken into protective custody and where he or  
8 she is located. The preadmission screening unit shall honor the  
9 recipient's decision as to whether an immediate family member is to  
10 be contacted and shall document that decision in the recipient's  
11 record. In the course of providing services, the preadmission  
12 screening unit may provide advice and consultation to the peace  
13 officer ~~, which~~ **that** may include a recommendation to release the  
14 individual from protective custody. In all cases where a peace  
15 officer has executed a petition, the preadmission screening unit  
16 shall ensure that an examination is conducted by a physician,  
17 **physician assistant, certified nurse practitioner, clinical nurse**  
18 **specialist-certified,** or licensed psychologist. The preadmission  
19 screening unit shall ensure provision of follow-up counseling and  
20 diagnostic and referral services if needed if it is determined  
21 under section 429 that the person does not meet the requirements  
22 for hospitalization.

23 (2) A peace officer is not financially responsible for the  
24 cost of care of an individual for whom a peace officer has executed  
25 a petition under subsection (1).

26 (3) A hospital receiving an individual under subsection (1)  
27 who has been referred by a community mental health services  
28 program's preadmission screening unit shall notify that unit of the  
29 results of an examination of that individual conducted by the

1 hospital.

2       Sec. 429. (1) A hospital designated under section 422 shall  
3 receive and detain an individual presented for examination under  
4 section 426, 427, 435, 436, or 438, for not more than 24 hours.  
5 During that time the individual shall be examined by a physician,  
6 **physician assistant, certified nurse practitioner, clinical nurse**  
7 **specialist-certified**, or a—licensed psychologist unless a clinical  
8 certificate has already been presented to the hospital. If the  
9 examining physician, **physician assistant, certified nurse**  
10 **practitioner, clinical nurse specialist-certified**, or **licensed**  
11 psychologist does not certify that the individual is a person  
12 requiring treatment, the individual shall be released immediately.  
13 If the examining physician, **physician assistant, certified nurse**  
14 **practitioner, clinical nurse specialist-certified**, or **licensed**  
15 psychologist executes a clinical certificate, the individual may be  
16 hospitalized under section 423.

17       (2) If a preadmission screening unit provides an examination  
18 under section 409, 410, or 427, the examination ~~shall~~**must** be  
19 conducted as soon as possible after the individual arrives at the  
20 preadmission screening site, and the examination ~~shall~~**must** be  
21 completed within 2 hours, unless there are documented medical  
22 reasons why the examination cannot be completed within that time  
23 frame or other arrangements are agreed upon by the peace officer  
24 and the preadmission screening unit.

25       Sec. 430. If a patient is hospitalized under section 423, the  
26 patient ~~shall~~**must** be examined by a psychiatrist as soon after  
27 hospitalization as is practicable, but not later than 24 hours,  
28 excluding legal holidays, after hospitalization. The examining  
29 psychiatrist ~~shall~~**must** not be the same physician, **physician**

1 **assistant, certified nurse practitioner, or clinical nurse**  
 2 **specialist-certified** upon whose clinical certificate the patient  
 3 was hospitalized. If the psychiatrist does not certify that the  
 4 patient is a person requiring treatment, the patient ~~shall~~**must** be  
 5 released immediately. If the psychiatrist does certify that the  
 6 patient is a person requiring treatment, the patient's  
 7 hospitalization may continue pending hearings convened ~~pursuant to~~  
 8 **under** sections 451 to 465.

9       Sec. 434. (1) Any individual 18 years of age or over may file  
 10 with the court a petition that asserts that an individual is a  
 11 person requiring treatment.

12       (2) The petition ~~shall~~**must** contain the facts that are the  
 13 basis for the assertion, the names and addresses, if known, of any  
 14 witnesses to the facts, and, if known, the name and address of the  
 15 nearest relative or guardian, or, if none, a friend, if known, of  
 16 the individual.

17       (3) Except as provided in subsection (7), the petition shall  
 18 be accompanied by the clinical certificate of a physician,  
 19 **physician assistant, certified nurse practitioner, clinical nurse**  
 20 **specialist-certified**, or ~~a~~-licensed psychologist, unless after  
 21 reasonable effort the petitioner could not secure an examination.  
 22 If a clinical certificate does not accompany the petition, the  
 23 petitioner shall set forth the reasons an examination could not be  
 24 secured within the petition. The petition may also be accompanied  
 25 by a second clinical certificate. If 2 clinical certificates  
 26 accompany the petition, at least 1 clinical certificate must have  
 27 been executed by a psychiatrist.

28       (4) Except as otherwise provided in subsection (7) and section  
 29 455, a clinical certificate that accompanies a petition must have

1 been executed within 72 hours before ~~the filing of the~~ petition **is**  
2 **filed**, and after personal examination of the individual.

3 (5) If the individual is found not to be a person requiring  
4 treatment under this section, the petition and any clinical  
5 certificate shall be maintained by the court as a confidential  
6 record to prevent disclosure to ~~any~~**a** person who is not  
7 specifically authorized under this chapter to receive notice of the  
8 petition or clinical certificate.

9 (6) The petition described in this section may assert that the  
10 subject of the petition should receive assisted outpatient  
11 treatment in accordance with section 468(2)(d).

12 (7) A petition that does not seek hospitalization but only  
13 requests that the subject of the petition receive assisted  
14 outpatient treatment is not subject to subsection (3) or (4).

15 Sec. 435. (1) If the petition is accompanied by 1 clinical  
16 certificate, the court shall order the individual to be examined by  
17 a psychiatrist.

18 (2) If the petition is not accompanied by a clinical  
19 certificate, and if the court is satisfied a reasonable effort was  
20 made to secure an examination, the court shall order the individual  
21 to be examined by a psychiatrist and either a physician, **a**  
22 **physician assistant, a certified nurse practitioner, a clinical**  
23 **nurse specialist-certified**, or a licensed psychologist.

24 (3) The individual may be received and detained at the place  
25 of examination as long as necessary to complete the examination or  
26 examinations, but not more than 24 hours.

27 (4) After an examination ordered under subsection (1), the  
28 examining psychiatrist shall either transmit a clinical certificate  
29 to the court or report to the court that execution of a clinical

1 certificate is not warranted. After each examination ordered under  
2 subsection (2), the examining psychiatrist, or the examining  
3 physician, **physician assistant, certified nurse practitioner,**  
4 **clinical nurse specialist-certified,** or licensed psychologist, as  
5 applicable, shall either transmit a clinical certificate to the  
6 court or report to the court that execution of a clinical  
7 certificate is not warranted.

8 (5) If 1 examination was ordered and the examining  
9 psychiatrist reports that execution of a clinical certificate is  
10 not warranted, or if 2 examinations were ordered and 1 of the  
11 examining physicians or the **physician assistant, certified nurse**  
12 **practitioner, clinical nurse specialist-certified, or** licensed  
13 psychologist reports that execution of a clinical certificate is  
14 not warranted, the court shall dismiss the petition or order the  
15 individual to be examined by a psychiatrist, or if a psychiatrist  
16 is not available, by a physician, **physician assistant, certified**  
17 **nurse practitioner, clinical nurse specialist-certified, or**  
18 licensed psychologist. If a third examination report states that  
19 execution of a clinical certificate is not warranted, the court  
20 shall dismiss the petition.

21 (6) This section does not apply to a petition filed under  
22 section 434(7).

23 Sec. 438. If it appears to the court that the individual  
24 requires immediate assessment because the individual presents a  
25 substantial risk of significant physical or mental harm to himself  
26 or herself in the near future or presents a substantial risk of  
27 significant physical harm to others in the near future, the court  
28 may order the individual hospitalized and may order a peace officer  
29 to take the individual into protective custody and transport the

1 individual to a preadmission screening unit designated by the  
 2 community mental health services program. If the preadmission  
 3 screening unit authorizes hospitalization, the peace officer shall  
 4 transport the individual to a hospital designated by the community  
 5 mental health services program, unless other arrangements are  
 6 provided by the preadmission screening unit. If the examinations  
 7 and clinical certificates of the psychiatrist, and the physician,  
 8 **the physician assistant, the certified nurse practitioner, the**  
 9 **clinical nurse specialist-certified,** or the licensed psychologist,  
 10 are not completed within 24 hours after hospitalization, the  
 11 individual ~~shall~~**must** be released.

12 Sec. 452. (1) The court shall fix a date for every hearing  
 13 convened under this chapter. Except as provided in subsection (2),  
 14 the hearing ~~shall~~**must** be convened promptly, but not more than 7  
 15 days after the court's receipt of any of the following:

16 (a) A petition for a determination that an individual is a  
 17 person requiring treatment, a clinical certificate executed by a  
 18 physician, **a physician assistant, a certified nurse practitioner, a**  
 19 **clinical nurse specialist-certified,** or a licensed psychologist,  
 20 and a clinical certificate executed by a psychiatrist.

21 (b) A petition for a determination that an individual  
 22 continues to be a person requiring treatment and a clinical  
 23 certificate executed by a psychiatrist.

24 (c) A petition for discharge filed under section 484.

25 (d) A demand or notification that a hearing that has been  
 26 temporarily deferred under section 455(6) be convened.

27 (2) A hearing for a petition under section 434(7) shall be  
 28 convened not more than 28 days after the filing of the petition,  
 29 unless the petition was filed while the subject of the petition was

1 an inpatient at a psychiatric hospital, in which case the hearing  
2 shall be convened within 7 days ~~of the filing of~~ **after** the petition  
3 **is filed.**

4 Sec. 461. (1) An individual may not be found to require  
5 treatment unless at least 1 physician, **physician assistant,**  
6 **certified nurse practitioner, clinical nurse specialist-certified,**  
7 or licensed psychologist who has personally examined that  
8 individual testifies in person or by written deposition at the  
9 hearing.

10 (2) For a petition filed under section 434(7), that does not  
11 seek hospitalization before the hearing, an individual may not be  
12 found to require treatment unless a psychiatrist who has personally  
13 examined that individual testifies. A psychiatrist's testimony is  
14 not necessary if a psychiatrist signs the petition. If a  
15 psychiatrist signs the petition, at least 1 physician, **physician**  
16 **assistant, certified nurse practitioner, clinical nurse specialist-**  
17 **certified,** or licensed psychologist who has personally examined  
18 that individual must testify. The requirement for testimony may be  
19 waived by the subject of the petition. If the testimony given in  
20 person is waived, a clinical certificate completed by a physician,  
21 licensed psychologist, **physician assistant, certified nurse**  
22 **practitioner, clinical nurse specialist-certified,** or psychiatrist  
23 must be presented to the court before or at the initial hearing.

24 (3) The examinations required under this section for a  
25 petition filed under section 434(7) shall be arranged by the court  
26 and the local community mental health services program or other  
27 entity as designated by the department.

28 (4) A written deposition may be introduced as evidence at the  
29 hearing only if the attorney for the subject of the petition was

1 given the opportunity to be present during the taking of the  
2 deposition and to cross-examine the deponent. This testimony or  
3 deposition may be waived by the subject of a petition. An  
4 individual may be found to require treatment even if the petitioner  
5 does not testify, as long as there is competent evidence from which  
6 the relevant criteria in section 401 can be established.

7       Sec. 463. (1) If requested before the first scheduled hearing  
8 or at the first scheduled hearing before the first witness has been  
9 sworn on a petition, the subject of a petition in a hearing under  
10 this chapter has the right at his or her own expense, or if  
11 indigent, at public expense, to secure an independent clinical  
12 evaluation by a physician, psychiatrist, **physician assistant,**  
13 **certified nurse practitioner, clinical nurse specialist-certified,**  
14 or licensed psychologist of his or her choice relevant to whether  
15 he or she requires treatment, whether he or she should be  
16 hospitalized or receive treatment other than hospitalization, and  
17 whether he or she is of legal capacity.

18       (2) Compensation for an evaluation performed by a physician, **a**  
19 **physician assistant, a certified nurse practitioner, a clinical**  
20 **nurse specialist-certified,** or a licensed psychologist shall be in  
21 an amount that is reasonable and based upon time and expenses.

22       (3) The independent clinical evaluation described in this  
23 section is for the sole use of the subject of the petition. The  
24 independent clinical evaluation or the testimony of the individual  
25 performing the evaluation shall not be introduced into evidence  
26 without the consent of the subject of the petition.

27       Sec. 498o. (1) Except as provided in subsection (4), a minor  
28 hospitalized under this chapter shall not be kept in the hospital  
29 more than 3 days, excluding Sundays and holidays, after receipt by

1 the hospital of a written notice of intent to terminate the  
2 hospitalization of the minor executed by the minor's parent,  
3 guardian, or person in loco parentis or by the minor if the minor  
4 is 14 years of age or older and was admitted to the hospital upon  
5 his or her own request.

6 (2) Upon receipt of an oral request to terminate  
7 hospitalization of a minor ~~pursuant to~~ **under** subsection (1), the  
8 hospital promptly shall supply the necessary form for termination  
9 of hospitalization to the person giving notice.

10 (3) Upon receipt of notice or an oral request under subsection  
11 (1) or (2) by a hospital under contract with the community mental  
12 health services program, the hospital director immediately shall  
13 notify the executive director.

14 (4) If notice of intent to terminate hospitalization is  
15 received by a hospital under subsection (1) or (2), and the  
16 director of the hospital determines that the minor to whom the  
17 notice applies should remain in the hospital, the director of the  
18 hospital or a person designated by the director of the hospital  
19 shall file, within 3 days, excluding Sundays and holidays, after  
20 receipt of the notice, a petition with the court requesting an  
21 order to continue hospitalization of the minor. The petition ~~shall~~  
22 **must** be accompanied by 1 certificate executed by a child and  
23 adolescent psychiatrist and 1 certificate executed by either a  
24 physician, **a physician assistant, a certified nurse practitioner, a**  
25 **clinical nurse specialist-certified**, or a licensed psychologist. If  
26 a petition is filed with the court under this subsection, the  
27 hospital shall continue to hospitalize the minor pending a court  
28 hearing on the petition.

29 (5) Upon receipt of a petition to continue hospitalization of

1 a minor under subsection (4), the court shall schedule a hearing to  
2 be held within 7 days, excluding Sundays and holidays, after  
3 receipt of the petition. The hearing shall be convened in  
4 accordance with sections 451 to 465.

5 (6) If the court finds the minor to be suitable for  
6 hospitalization by clear and convincing evidence, the court shall  
7 order the minor to continue hospitalization for not more than 60  
8 days. If the court does not find by clear and convincing evidence  
9 that the minor is suitable for hospitalization, the court shall  
10 order the minor discharged from the hospital.

11 Sec. 517. (1) A hearing convened to determine whether an  
12 individual meets the criteria for treatment is governed by **this**  
13 **section and** sections ~~517-518~~ to 522. ~~Sections 517-~~**This section and**  
14 **sections 518** to 522 do not apply to a hearing provided for in  
15 section 511 concerning an objection to an administrative admission.

16 (2) Upon receipt of a petition and a report as provided for in  
17 section 516 or 532, or receipt of a petition as provided for in  
18 section 531, the court shall do all of the following:

19 (a) Fix a date for a hearing to be held within 7 days,  
20 excluding Sundays or holidays, after the court's receipt of the  
21 documents or document.

22 (b) Fix a place for a hearing, either at a facility or other  
23 convenient place, within or outside of the county.

24 (c) Cause notice of a petition and of the time and place of  
25 ~~any~~**a** hearing to be given to the individual asserted to meet the  
26 criteria for treatment, his or her attorney, the petitioner, the  
27 prosecuting or other attorney specified in subsection (4), the  
28 community mental health services program, the director of a  
29 facility to which the individual is admitted, the individual's

1 spouse if his or her whereabouts are known, the guardian, if any,  
2 of the individual, and other relatives or persons as the court may  
3 determine. The notice shall be given at the earliest practicable  
4 time and sufficiently in advance of the hearing date to permit  
5 preparation for the hearing.

6 (d) Cause the individual to be given within 4 days ~~of~~**after**  
7 the court's receipt of the documents described in section 516 a  
8 copy of the petition, a copy of the report, unless the individual  
9 has previously been given a copy of the petition and the report,  
10 notice of the right to a full court hearing, notice of the right to  
11 be present at the hearing, notice of the right to be represented by  
12 legal counsel, notice of the right to demand a jury trial, and  
13 notice of the right to an independent clinical or psychological  
14 evaluation.

15 (e) Subsequently give copies of all orders to the persons  
16 identified in subdivision (c).

17 (3) The individual asserted to meet the criteria for treatment  
18 is entitled to be represented by legal counsel in the same manner  
19 as counsel is provided under section 454, and is entitled to all of  
20 the following:

21 (a) To be present at the hearing.

22 (b) To have upon demand a trial by jury of 6.

23 (c) To obtain a continuance for any reasonable time for good  
24 cause.

25 (d) To present documents and witnesses.

26 (e) To cross-examine witnesses.

27 (f) To require testimony in court in person from 1 physician,  
28 **1 physician assistant, 1 certified nurse practitioner, 1 clinical**  
29 **nurse specialist-certified,** or 1 licensed psychologist who has

1 personally examined the individual.

2 (g) To receive an independent examination by a physician,  
3 **physician assistant, certified nurse practitioner, clinical nurse**  
4 **specialist-certified,** or licensed psychologist of his or her choice  
5 on the issue of whether he or she meets the criteria for treatment.

6 (4) The prosecuting attorney of the county in which a court  
7 has its principal office shall participate, either in person or by  
8 assistant, in hearings convened by the court of his or her county  
9 under this chapter, except that a prosecutor need not participate  
10 in or be present at a hearing whenever a petitioner or some other  
11 appropriate person has retained private counsel who will be present  
12 in court and will present to the court the case for a finding that  
13 the individual meets the criteria for treatment.

14 (5) Unless the individual or his or her attorney objects, the  
15 failure to timely notify a spouse, guardian, or other person  
16 determined by the court to be entitled to notice is not cause to  
17 adjourn or continue ~~any~~**a** hearing.

18 (6) The individual, ~~any~~**an** interested person, or the court on  
19 its own motion may request a change of venue because of residence;  
20 convenience to parties, witnesses, or the court; or the  
21 individual's mental or physical condition.

22 Sec. 532. In addition to the right to a hearing under section  
23 531, a resident admitted by court order has the right to a hearing  
24 and may petition the court for discharge without leave of court  
25 once within each 12-month period from the date of the original  
26 order of admission. The petition ~~shall~~**must** be accompanied by a  
27 physician's, **a physician assistant's, a certified nurse**  
28 **practitioner's, clinical nurse specialist-certified's,** or a  
29 licensed psychologist's report setting forth the reasons for the

1 physician's, **physician assistant's, certified nurse practitioner's,**  
 2 **clinical nurse specialist-certified's,** or licensed psychologist's  
 3 conclusion that the resident no longer meets the criteria for  
 4 judicial treatment. If no report accompanies the petition because  
 5 the resident is indigent or is unable for reasons satisfactory to  
 6 the court to procure a report, the court shall appoint a physician,  
 7 **a physician assistant, a certified nurse practitioner, a clinical**  
 8 **nurse specialist-certified,** or a licensed psychologist to examine  
 9 the resident, and the physician, **physician assistant, certified**  
 10 **nurse practitioner, clinical nurse specialist-certified,** or  
 11 licensed psychologist shall furnish a report to the court. If the  
 12 report concludes that the resident continues to meet the criteria  
 13 for treatment, the court shall so notify the resident and shall  
 14 dismiss the petition for discharge. If the report concludes  
 15 otherwise, a hearing shall be held according to sections 517 to  
 16 522.

17 Sec. 700. As used in this chapter, unless the context requires  
 18 otherwise:

19 (a) "Criminal abuse" means 1 or more of the following:

20 (i) An assault that is a violation or an attempt or conspiracy  
 21 to commit a violation of sections 81 to 90 of the Michigan penal  
 22 code, ~~Act No. 328 of the Public Acts of 1931, being sections 750.81~~  
 23 ~~to 750.90 of the Michigan Compiled Laws. MCL 750.81 to 750.90.~~

24 Criminal abuse does not include an assault or an assault and  
 25 battery that is a violation of section 81 of ~~Act No. 328 of the~~  
 26 ~~Public Acts of 1939, being section 750.81 of the Michigan Compiled~~  
 27 ~~Laws, the Michigan penal code, MCL 750.81,~~ and that is committed by  
 28 a recipient against another recipient.

29 (ii) A criminal homicide that is a violation or an attempt or

1 conspiracy to commit a violation of section 316, 317, or 321 of Act  
 2 No. 328 of the Public Acts of 1931, being sections 750.316,  
 3 750.317, and 750.321 of the Michigan Compiled Laws.**the Michigan**  
 4 **penal code, MCL 750.316, 750.317, and 750.321.**

5 (iii) Criminal sexual conduct that is a violation or an attempt  
 6 or conspiracy to commit a violation of sections 520b to 520e or  
 7 520g of Act No. 328 of the Public Acts of 1931, being sections  
 8 750.520b to 750.520e and 750.520g of the Michigan Compiled Laws.**the**  
 9 **Michigan penal code, MCL 750.520b to 750.520e and 750.520g.**

10 (iv) Vulnerable adult abuse that is a violation or an attempt  
 11 or conspiracy to commit a violation of section 145n of the Michigan  
 12 penal code, Act No. 328 of the Public Acts of 1931, being section  
 13 750.145n of the Michigan Compiled Laws.**MCL 750.145n.**

14 (v) Child abuse that is a violation or an attempt or  
 15 conspiracy to commit a violation of section 136b of Act No. 328 of  
 16 the Public Acts of 1931, being section 750.136b of the Michigan  
 17 Compiled Laws.**the Michigan penal code, MCL 750.136b.**

18 (b) "Health care corporation" means a nonprofit health care  
 19 corporation operating under the nonprofit health care corporation  
 20 reform act, Act No. 350 of the Public Acts of 1980, being sections  
 21 550.1101 to 550.1704 of the Michigan Compiled Laws.**1980 PA 350, MCL**  
 22 **550.1101 to 550.1704.**

23 (c) "Health care insurer" means an insurer authorized to  
 24 provide health insurance in this state or a legal entity that is  
 25 self-insured and provides health care benefits to its employees.

26 (d) "Health maintenance organization" means ~~an organization~~  
 27 ~~licensed under part 210 of the public health code, Act No. 368 of~~  
 28 ~~the Public Acts of 1978, being sections 333.21001 to 333.21098 of~~  
 29 ~~the Michigan Compiled Laws.~~**that term as defined in section 3501 of**

1 the insurance code of 1956, 1956 PA 218, MCL 500.3501.

2 (e) "Michigan penal code" means the Michigan penal code, 1931  
3 PA 328, MCL 750.1 to 750.568.

4 (f) ~~(e)~~ "Money" means any legal tender, note, draft,  
5 certificate of deposit, stock, bond, check, or credit card.

6 (g) ~~(f)~~ "Nonprofit dental care corporation" means a dental  
7 care corporation incorporated under ~~Act No. 125 of the Public Acts~~  
8 ~~of 1963, being sections 550.351 to 550.373 of the Michigan Compiled~~  
9 ~~Laws~~ **1963 PA 125, MCL 550.351 to 550.373.**

10 (h) ~~(g)~~ "Person-centered planning" means a process for  
11 planning and supporting the individual receiving services that  
12 builds upon the individual's capacity to engage in activities that  
13 promote community life and that honors the individual's  
14 preferences, choices, and abilities. The person-centered planning  
15 process involves families, friends, and professionals as the  
16 individual desires or requires.

17 (i) ~~(h)~~ "Privileged communication" means a communication made  
18 to a psychiatrist, **physician assistant, certified nurse**  
19 **practitioner, clinical nurse specialist-certified, or licensed**  
20 psychologist in connection with the examination, diagnosis, or  
21 treatment of a patient, or to another person while the other person  
22 is participating in the examination, diagnosis, or treatment or a  
23 communication made privileged under other applicable state or  
24 federal law.

25 (j) ~~(i)~~ "Restraint" means the use of a physical device to  
26 restrict an individual's movement. Restraint does not include the  
27 use of a device primarily intended to provide anatomical support.

28 (k) ~~(j)~~ "Seclusion" means the temporary placement of a  
29 recipient in a room, alone, where egress is prevented by any means.

1           (l) ~~(k)~~ "Support plan" means a written plan that specifies the  
2 personal support services or any other supports that are to be  
3 developed with and provided for a recipient.

4           (m) ~~(l)~~ "Treatment plan" means a written plan that specifies  
5 the goal-oriented treatment or training services, including  
6 rehabilitation or habilitation services, that are to be developed  
7 with and provided for a recipient.

8           Sec. 740. (1) A resident shall not be placed in physical  
9 restraint except in the circumstances and under the conditions set  
10 forth in this section or in other law.

11           (2) A resident may be restrained only as provided in  
12 subsection (3), (4), or (5) after less restrictive interventions  
13 have been considered, and only if restraint is essential in order  
14 to prevent the resident from physically harming himself, herself,  
15 or others, or in order to prevent him or her from causing  
16 substantial property damage. Consideration of less restrictive  
17 measures shall be documented in the medical record. If restraint is  
18 essential in order to prevent the resident from physically harming  
19 himself, herself, or others, the resident may be physically held  
20 with no more force than is necessary to limit the resident's  
21 movement, until a restraint may be applied.

22           (3) A resident may be temporarily restrained for a maximum of  
23 30 minutes without an order or authorization in an emergency.  
24 Immediately after imposition of the temporary restraint, a  
25 physician, **physician assistant, certified nurse practitioner, or**  
26 **clinical nurse specialist-certified** shall be contacted. If, after  
27 being contacted, the physician, **physician assistant, certified**  
28 **nurse practitioner, or clinical nurse specialist-certified** does not  
29 order or authorize the restraint, the restraint shall be removed.

1           (4) A resident may be restrained ~~prior to~~**before** examination  
2 ~~pursuant~~**according** to an authorization by a physician, **physician**  
3 **assistant, certified nurse practitioner, or clinical nurse**  
4 **specialist-certified**. An authorized restraint may continue only  
5 until a physician, **physician assistant, certified nurse**  
6 **practitioner, clinical nurse specialist-certified, or a registered**  
7 **professional nurse who has been trained in accordance with the**  
8 **requirements under 42 CFR 482.13(f)** can personally examine the  
9 resident or for 2 hours, whichever is less. If it is not possible  
10 for the physician, **physician assistant, certified nurse**  
11 **practitioner, clinical nurse specialist-certified, or a registered**  
12 **professional nurse who has been trained in accordance with the**  
13 **requirements under 42 CFR 482.13(f)** to examine the resident within  
14 2 hours, a physician, **physician assistant, certified nurse**  
15 **practitioner, or clinical nurse specialist-certified** may  
16 reauthorize the restraint for another 2 hours. Authorized restraint  
17 may not continue for more than 4 hours.

18           (5) A resident may be restrained ~~pursuant~~**according** to an  
19 order by a physician, **physician assistant, certified nurse**  
20 **practitioner, or clinical nurse specialist-certified** made after  
21 personal examination of the resident. An ordered restraint shall  
22 continue only for that period of time specified in the order or for  
23 8 hours, whichever is less.

24           (6) A restrained resident shall continue to receive food,  
25 shall be kept in sanitary conditions, shall be clothed or otherwise  
26 covered, shall be given access to toilet facilities, and shall be  
27 given the opportunity to sit or lie down.

28           (7) Restraints shall be removed every 2 hours for not less  
29 than 15 minutes unless medically contraindicated or whenever they

1 are no longer essential in order to achieve the objective ~~which~~  
2 **that** justified their initial application.

3 (8) Each instance of restraint requires full justification for  
4 its application, and the results of each periodic examination shall  
5 be placed promptly in the record of the resident.

6 (9) If a resident is restrained repeatedly, the resident's  
7 individual plan of services shall be reviewed and modified to  
8 facilitate the reduction of the use of restraints.

9 Sec. 742. (1) Seclusion shall be used only in a hospital, a  
10 center, or a child caring institution licensed under 1973 PA 116,  
11 MCL 722.111 to 722.128. A resident placed in a hospital or center  
12 shall not be kept in seclusion except in the circumstances and  
13 under the conditions set forth in this section.

14 (2) A minor placed in a child caring institution shall not be  
15 placed or kept in seclusion except as provided in 1973 PA 116, MCL  
16 722.111 to 722.128, or rules promulgated under that act.

17 (3) A resident may be placed in seclusion only as provided  
18 under subsection (4), (5), or (6) and only if it is essential in  
19 order to prevent the resident from physically harming others, or in  
20 order to prevent the resident from causing substantial property  
21 damage.

22 (4) Seclusion may be temporarily employed for a maximum of 30  
23 minutes in an emergency without an authorization or an order.  
24 Immediately after the resident is placed in temporary seclusion, a  
25 physician, **physician assistant, certified nurse practitioner, or**  
26 **clinical nurse specialist-certified** shall be contacted. If, after  
27 being contacted, the physician, **physician assistant, certified**  
28 **nurse practitioner, or clinical nurse specialist-certified** does not  
29 authorize or order the seclusion, the resident shall be removed

1 from seclusion.

2 (5) A resident may be placed in seclusion under an  
3 authorization by a physician, **physician assistant, certified nurse**  
4 **practitioner, or clinical nurse specialist-certified**. Authorized  
5 seclusion shall continue only until a physician, **physician**  
6 **assistant, certified nurse practitioner, clinical nurse specialist-**  
7 **certified, or a registered professional nurse who has been trained**  
8 **in accordance with the requirements under 42 CFR 482.13(f)** can  
9 personally examine the resident or for 1 hour, whichever is less.

10 (6) A resident may be placed in seclusion under an order of a  
11 physician, **physician assistant, certified nurse practitioner, or**  
12 **clinical nurse specialist-certified** made after personal examination  
13 of the resident to determine if the ordered seclusion poses an  
14 undue health risk to the resident. Ordered seclusion shall continue  
15 only for that period of time specified in the order or for 8 hours,  
16 whichever is less. An order for a minor shall continue for a  
17 maximum of 4 hours.

18 (7) A secluded resident shall continue to receive food, shall  
19 remain clothed unless his or her actions make it impractical or  
20 inadvisable, shall be kept in sanitary conditions, and shall be  
21 provided a bed or similar piece of furniture unless his or her  
22 actions make it impractical or inadvisable.

23 (8) A secluded resident shall be released from seclusion  
24 whenever the circumstance that justified its use ceases to exist.

25 (9) Each instance of seclusion requires full justification for  
26 its use, and the results of each periodic examination shall be  
27 placed promptly in the record of the resident.

28 (10) If a resident is secluded repeatedly, the resident's  
29 individual plan of services ~~shall~~**must** be reviewed and modified to

1 facilitate the reduced use of seclusion.

2 Enacting section 1. This amendatory act takes effect 90 days

3 after the date it is enacted into law.