

SENATE BILL No. 836

October 21, 1999, Introduced by Senators HAMMERSTROM, JOHNSON
and GOUGEON and referred to the Committee on Families,
Mental Health and Human Services.

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending sections 100b and 705 (MCL 330.1100b and 330.1705),
as added by 1995 PA 290.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

5 (2) "Family" as used in sections 156 to 161 means an eligi-
6 ble minor and his or her parent or legal guardian.

7 (3) "Family member" means a parent, stepparent, spouse, sib-
8 ling, child, or grandparent of a primary consumer, or an
9 individual upon whom a primary consumer is dependent for at least
10 50% of his or her financial support.

1 (4) "Federal funds" means funds received from the federal
2 government under a categorical grant or similar program and does
3 not include federal funds received under a revenue sharing
4 arrangement.

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

6 (a) With regard to serious emotional disturbance, substan-
7 tial interference with or limitation of a minor's achievement or
8 maintenance of 1 or more developmentally appropriate social,
9 behavioral, cognitive, communicative, or adaptive skills.

10 (b) With regard to serious mental illness, substantial
11 interference or limitation of role functioning in 1 or more major
12 life activities including basic living skills such as eating,
13 bathing, and dressing; instrumental living skills such as main-
14 taining a household, managing money, getting around the communi-
15 ty, and taking prescribed medication; and functioning in social,
16 vocational, and educational contexts.

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

20 (7) "Hospital" or "psychiatric hospital" means an inpatient
21 program operated by the department for the treatment of individu-
22 als with serious mental illness or serious emotional disturbance
23 or a psychiatric hospital or psychiatric unit licensed under
24 section 137.

25 (8) "Hospital director" means the chief administrative offi-
26 cer of a hospital or his or her designee.

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

3 (10) "Individual plan of services" or "plan of services"
4 means a written individualized plan of services developed with a
5 recipient as required by section 712.

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

8 (12) "LICENSED PROFESSIONAL COUNSELOR" MEANS AN INDIVIDUAL
9 WHO IS LICENSED TO PRACTICE IN THIS STATE UNDER ARTICLE 15 OF THE
10 PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16101 TO 333.18838.

11 (13) ~~-(12)-~~ "Licensed psychologist" means a doctoral level
12 psychologist licensed under section 18223(1) of the public health
13 code, ~~Act No. 368 of the Public Acts of 1978, being section~~
14 ~~333.18223 of the Michigan Compiled Laws~~ 1978 PA 368,
15 MCL 333.18223.

16 (14) ~~-(13)-~~ "Medical director" means a psychiatrist
17 appointed under section 231 to advise the executive director of a
18 community mental health services program.

19 (15) ~~-(14)-~~ "Mental health professional" means an individual
20 who is trained and experienced in the area of mental illness or
21 developmental disabilities and who is 1 of the following:

22 (a) A physician who is licensed to practice medicine or
23 osteopathic medicine and surgery in this state under article 15
24 of the public health code, ~~Act No. 368 of the Public Acts of~~
25 ~~1978, being sections 333.16101 to 333.18838 of the Michigan~~
26 ~~Compiled Laws~~ 1978 PA 368, MCL 333.16101 TO 333.18838.

1 (b) A psychologist licensed to practice in this state under
2 article 15 of the public health code, ~~Act No. 368 of the Public~~
3 ~~Acts of 1978~~ 1978 PA 368, MCL 333.16101 TO 333.18838.

4 (c) A registered professional nurse licensed to practice in
5 this state under article 15 of the public health code, ~~Act~~
6 ~~No. 368 of the Public Acts of 1978~~ 1978 PA 368, MCL 333.16101 TO
7 333.18838.

8 (d) A certified social worker, a social worker, or a social
9 worker technician registered in this state under article 16 of
10 the occupational code, ~~Act No. 299 of the Public Acts of 1980,~~
11 ~~being sections 339.1601 to 339.1610 of the Michigan Compiled~~
12 ~~Laws~~ 1980 PA 299, MCL 339.1601 TO 339.1610.

13 (e) A licensed professional counselor. ~~licensed to practice~~
14 ~~in this state under article 15 of the public health code, Act~~
15 ~~No. 368 of the Public Acts of 1978.~~

16 (f) A marriage and family therapist licensed under article
17 15 of the ~~occupational code, Act No. 299 of the Public Acts of~~
18 ~~1980, being sections 339.1501 to 339.1511 of the Michigan~~
19 ~~Compiled Laws~~ PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16101 TO
20 333.18838.

21 (16) ~~(15)~~ "Mental retardation" means a condition manifest-
22 ing before the age of 18 years that is characterized by signifi-
23 cantly subaverage intellectual functioning and related limita-
24 tions in 2 or more adaptive skills and that is diagnosed based on
25 the following assumptions:

1 (a) Valid assessment considers cultural and linguistic
2 diversity, as well as differences in communication and behavioral
3 factors.

4 (b) The existence of limitation in adaptive skills occurs
5 within the context of community environments typical of the
6 individual's age peers and is indexed to the individual's partic-
7 ular needs for support.

8 (c) Specific adaptive skill limitations often coexist with
9 strengths in other adaptive skills or other personal
10 capabilities.

11 (d) With appropriate supports over a sustained period, the
12 life functioning of the individual with mental retardation will
13 generally improve.

14 (17) ~~-(16)-~~ "Minor" means an individual under the age of 18
15 years.

16 (18) ~~-(17)-~~ "Multicultural services" means specialized
17 mental health services for multicultural populations such as
18 African-Americans, Hispanics, Native Americans, Asian and Pacific
19 Islanders, and Arab/Chaldean-Americans.

20 (19) ~~-(18)-~~ "Neglect" means an act or failure to act commit-
21 ted by an employee or volunteer of the department, a community
22 mental health services program, or a licensed hospital; a service
23 provider under contract with the department, community mental
24 health services program, or licensed hospital; or an employee or
25 volunteer of a service provider under contract with the depart-
26 ment, community mental health services program, or licensed

1 hospital, that denies a recipient the standard of care or
2 treatment to which he or she is entitled under this act.

3 Sec. 705. (1) If an applicant for community mental health
4 services has been denied mental health services, the applicant,
5 his or her guardian if one has been appointed, or the applicant's
6 parent or parents if the applicant is a minor may request a
7 second opinion of the executive director. The executive director
8 shall secure the second opinion from a physician, licensed psy-
9 chologist, LICENSED PROFESSIONAL COUNSELOR, registered profes-
10 sional nurse, ~~or~~ master's level social worker, or master's
11 level psychologist.

12 (2) If the individual providing the second opinion deter-
13 mines that the applicant has a serious mental illness, serious
14 emotional disturbance, or ~~a~~ developmental disability, or is
15 experiencing an emergency situation or urgent situation, the com-
16 munity mental health services program shall direct services to
17 the applicant.