

HOUSE BILL No. 5928

March 30, 2006, Introduced by Reps. Byrnes, Tobocman, Accavitti, Meisner, Leland, Kolb, Anderson, Mortimer, Sheltroun, Alma Smith, Vagnozzi, Donigan, Plakas, Farrah, Gleason, Cushingberry and Zelenko and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending sections 754 and 755 (MCL 330.1754 and 330.1755),
section 754 as amended and section 755 as added by 1995 PA 290.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

8 (b) The state office of recipient rights will be protected

1 from pressures that could interfere with the impartial, even-
2 handed, and thorough performance of its duties.

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

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

8 (ii) All staff employed by or under contract with the
9 department.

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

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

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

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

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

20 (f) Technical assistance and training in recipient rights
21 protection are available to all community mental health services
22 programs and other mental health service providers subject to this
23 act.

24 (3) The department shall endeavor to ensure all of the
25 following:

26 (a) The state office of recipient rights has sufficient staff
27 and other resources necessary to perform the duties described in

1 this section.

2 (b) Complainants, staff of the state office of recipient
3 rights, and any staff acting on behalf of a recipient will be
4 protected from harassment or retaliation resulting from recipient
5 rights activities.

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

9 (4) After consulting with the state recipient rights advisory
10 committee, the director of the department shall select a director
11 of the state office of recipient rights who has the education,
12 training, and experience to fulfill the responsibilities of the
13 office. The director of the department shall not replace or dismiss
14 the director of the state office of recipient rights without first
15 consulting the state recipient rights advisory committee. The
16 director of the state office of recipient rights shall have no
17 direct service responsibility.

18 (5) The state office of recipient rights may do all of the
19 following:

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

22 (b) Resolve disputes relating to violations.

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

25 (d) Apply for and receive grants, gifts, and bequests ~~in~~
26 ~~order~~ to effectuate any purpose of this chapter.

27 (6) The state office of recipient rights shall do all of the

1 following:

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

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

11 (c) Maintain a record system for all reports of apparent or
12 suspected rights violations received, including a mechanism for
13 logging in all complaints and a mechanism for secure storage of all
14 investigative documents and evidence.

15 (d) Initiate actions that are appropriate and necessary to
16 safeguard and protect rights guaranteed by this chapter to
17 recipients of services provided directly by the department or by
18 its contract providers other than community mental health services
19 programs.

20 (e) Receive reports of apparent or suspected violations of
21 rights guaranteed by this chapter. The state office of recipient
22 rights shall refer reports of apparent or suspected rights
23 violations to the recipient rights office of the appropriate
24 provider to be addressed by the provider's internal rights
25 protection mechanisms. The state office shall intervene as
26 necessary to act on behalf of recipients in situations in which the
27 director of the department considers the rights protection system

1 of the provider to be out of compliance with this act and rules
2 promulgated under this act.

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

6 (g) Advise recipients that there are advocacy organizations
7 available to assist recipients in preparing written rights
8 complaints and appeals and offer to refer recipients to those
9 organizations.

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

12 (i) Ensure that each service site operated by the department
13 or by a provider under contract with the department, other than a
14 community mental health services program, is visited by recipient
15 rights staff with the frequency necessary for protection of rights
16 but in no case less than annually.

17 (j) Ensure that all individuals employed by the department
18 receive department-approved training related to recipient rights
19 protection before or within 30 days after being employed.

20 (k) Ensure that all reports of apparent or suspected
21 violations of rights within state facilities or programs operated
22 by providers under contract with the department other than
23 community mental health services programs are investigated in
24 accordance with section 778 and that those reports that do not
25 warrant investigation are recorded in accordance with subdivision
26 (c).

27 (l) Review semiannual statistical rights data submitted by

1 community mental health services programs and licensed hospitals to
2 determine trends and patterns in the protection of recipient rights
3 in the public mental health system and provide a summary of the
4 data to community mental health services programs and to the
5 director of the department.

6 (m) Serve as consultant to the director in matters related to
7 recipient rights.

8 (n) At least quarterly, provide summary complaint data
9 consistent with the annual report required in subdivision (o),
10 together with a summary of remedial action taken on substantiated
11 complaints, to the department and the state recipient rights
12 advisory committee.

13 (o) Submit to the director of the department and to the
14 committees and subcommittees of the legislature with legislative
15 oversight of mental health matters, for availability to the public,
16 an annual report on the current status of recipient rights for the
17 state. The report shall be submitted not later than March 31 of
18 each year for the preceding fiscal year. The annual report shall
19 include, at a minimum, all of the following:

20 (i) Summary data by type or category regarding the rights of
21 recipients receiving services from the department including the
22 number of complaints received by **EACH** state facility and other
23 state-operated placement agency, the number of reports filed, and
24 the number of reports investigated.

25 (ii) The number of substantiated rights violations by category
26 and by state facility.

27 (iii) The remedial actions taken on substantiated rights

1 violations by category and by state facility.

2 (iv) Training received by staff of the state office of
3 recipient rights.

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

6 (vi) Outcomes of assessments of the recipient rights system of
7 each community mental health services program.

8 (vii) Identification of patterns and trends in rights
9 protection in the public mental health system in this state.

10 (viii) Review of budgetary issues including staffing and
11 financial resources.

12 (ix) Summary of the results of any consumer satisfaction
13 surveys conducted.

14 (x) Recommendations to the department.

15 **(P) ANNUALLY SURVEY A RANDOMLY SELECTED SAMPLE OF APPLICANTS**
16 **WHOSE NAMES AND CONTACT INFORMATION HAVE BEEN PROVIDED UNDER**
17 **SECTION 755(7). THE OFFICE SHALL USE THE SURVEY TO DO ALL OF THE**
18 **FOLLOWING:**

19 **(i) DEVELOP STATEWIDE BASELINE DATA ON APPLICANTS DENIED MENTAL**
20 **HEALTH SERVICE.**

21 **(ii) DETERMINE TRENDS AND PATTERNS RELATED TO MENTAL HEALTH**
22 **SERVICE DENIALS.**

23 **(iii) IDENTIFY SPECIFIC CIRCUMSTANCES THAT MAY WARRANT**
24 **INVESTIGATION OF POSSIBLE RIGHTS VIOLATIONS.**

25 **(Q) ~~(p)~~ Provide education and training to its recipient**
26 **rights advisory committee and its recipient rights appeals**
27 **committee.**

1 Sec. 755. (1) Each community mental health services program
2 and each licensed hospital shall establish an office of recipient
3 rights subordinate only to the executive director or hospital
4 director.

5 (2) Each community mental health services program and each
6 licensed hospital shall ensure all of the following:

7 (a) Education and training in recipient rights policies and
8 procedures are provided to its recipient rights advisory committee
9 and its recipient rights appeals committee.

10 (b) The process for funding the office of recipient rights
11 includes a review of the funding by the recipient rights advisory
12 committee.

13 (c) The office of recipient rights will be protected from
14 pressures that could interfere with the impartial, even-handed, and
15 thorough performance of its duties.

16 (d) The office of recipient rights will have unimpeded access
17 to all of the following:

18 (i) All programs and services operated by or under contract
19 with the community mental health services program or licensed
20 hospital.

21 (ii) All staff employed by or under contract with the community
22 mental health services program or licensed hospital.

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

25 (e) Staff of the office of recipient rights receive training
26 each year in recipient rights protection.

27 (f) Each contract between the community mental health services

1 program or licensed hospital and a provider requires both of the
2 following:

3 (i) That the provider and his or her employees receive
4 recipient rights training.

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

7 (3) Each community mental health services program and each
8 licensed hospital shall endeavor to ensure all of the following:

9 (a) Complainants, staff of the office of recipient rights, and
10 any staff acting on behalf of a recipient will be protected from
11 harassment or retaliation resulting from recipient rights
12 activities and that appropriate disciplinary action will be taken
13 if there is evidence of harassment or retaliation.

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

18 (4) The executive director or hospital director shall select a
19 director of the office of recipient rights who has the education,
20 training, and experience to fulfill the responsibilities of the
21 office. The executive director shall not select, replace, or
22 dismiss the director of the office of recipient rights without
23 first consulting the recipient rights advisory committee. The
24 director of the office of recipient rights shall have no direct
25 clinical service responsibility.

26 (5) Each office of recipient rights established under this
27 section shall do all of the following:

1 (a) Provide or coordinate the protection of recipient rights
2 for all directly operated or contracted services.

3 (b) Ensure that recipients, parents of minor recipients, and
4 guardians or other legal representatives have access to summaries
5 of the rights guaranteed by this chapter and chapter 7a and are
6 notified of those rights in an understandable manner, both at the
7 time services are initiated and periodically during the time
8 services are provided to the recipient.

9 (c) Ensure that the telephone number and address of the office
10 of recipient rights and the names of rights officers are
11 conspicuously posted in all service sites.

12 (d) Maintain a record system for all reports of apparent or
13 suspected rights violations received within the community mental
14 health services program system or the licensed hospital system,
15 including a mechanism for logging in all complaints and a mechanism
16 for secure storage of all investigative documents and evidence.

17 (e) Ensure that each service site is visited with the
18 frequency necessary for protection of rights but in no case less
19 than annually.

20 (f) Ensure that all individuals employed by the community
21 mental health services program, contract agency, or licensed
22 hospital receive training related to recipient rights protection
23 before or within 30 days after being employed.

24 (g) Review the recipient rights policies and the rights system
25 of each provider of mental health services under contract with the
26 community mental health services program or licensed hospital to
27 ensure that the rights protection system of each provider is in

1 compliance with this act and is of a uniformly high standard.

2 (h) Serve as consultant to the executive director or hospital
3 director and to staff of the community mental health services
4 program or licensed hospital in matters related to recipient
5 rights.

6 (i) Ensure that all reports of apparent or suspected
7 violations of rights within the community mental health services
8 program system or licensed hospital system are investigated in
9 accordance with section 778 and that those reports that do not
10 warrant investigation are recorded in accordance with subdivision
11 (d).

12 (j) Semiannually provide summary complaint data consistent
13 with the annual report required in subsection (6), together with a
14 summary of remedial action taken on substantiated complaints by
15 category, to the department and to the recipient rights advisory
16 committee of the community mental health services program or
17 licensed hospital.

18 (6) The executive director or hospital director shall submit
19 to the board of the community mental health services program or the
20 governing board of the licensed hospital and the department an
21 annual report prepared by the office of recipient rights on the
22 current status of recipient rights in the community mental health
23 services program system or licensed hospital system and a review of
24 the operations of the office of recipient rights. The report shall
25 be submitted not later than December 30 of each year for the
26 preceding fiscal year or period specified in contract. The annual
27 report shall include, at a minimum, all of the following:

1 (a) Summary data by category regarding the rights of
2 recipients receiving services from the community mental health
3 services program or licensed hospital including complaints
4 received, the number of reports filed, and the number of reports
5 investigated by provider.

6 (b) The number of substantiated rights violations by category
7 and provider.

8 (c) The remedial actions taken on substantiated rights
9 violations by category and provider.

10 (d) Training received by staff of the office of recipient
11 rights.

12 (e) Training provided by the office of recipient rights to
13 contract providers.

14 (f) Desired outcomes established for the office of recipient
15 rights and progress toward these outcomes.

16 (g) Recommendations to the community mental health services
17 program board or licensed hospital governing board.

18 **(7) EACH COMMUNITY MENTAL HEALTH SERVICES PROGRAM AND EACH**
19 **LICENSED HOSPITAL SHALL ENDEAVOR TO OBTAIN NAMES OF AND CONTACT**
20 **INFORMATION FOR ALL MENTAL HEALTH SERVICE APPLICANTS. EACH**
21 **COMMUNITY MENTAL HEALTH SERVICES PROGRAM AND EACH LICENSED HOSPITAL**
22 **SHALL SUBMIT TO THE STATE OFFICE OF RECIPIENT RIGHTS THE NAMES OF,**
23 **AND CONTACT INFORMATION FOR, APPLICANTS WHO HAVE BEEN DENIED MENTAL**
24 **HEALTH SERVICE. FOR PURPOSES OF THIS SUBSECTION, AN "APPLICANT"**
25 **INCLUDES, BUT IS NOT LIMITED TO, A LEGALLY COMPETENT ADULT WHO HAS**
26 **NO MEDICAL GUARDIAN, A PARENT SEEKING SERVICE FOR HIS OR HER MINOR**
27 **CHILD, OR A GUARDIAN WITH AUTHORITY TO MAKE MEDICAL DECISIONS ON**

1 BEHALF OF HIS OR HER WARD.