

HOUSE BILL No. 6072

May 7, 2008, Introduced by Reps. Donigan, Meisner, Miller, Kathleen Law, Amos, Simpson, Leland, Robert Jones, Vagnozzi, Jackson, Young, Byrnes, Rick Jones, Green, Polidori, Gonzales, Garfield, Wenke, Meadows, Alma Smith and Clack and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending sections 720, 754, and 755 (MCL 330.1720, 330.1754, and 330.1755), sections 720 and 755 as added by 1995 PA 290 and section 754 as amended by 2006 PA 604, and by adding section 142a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

**SEC. 142A. A FACILITY LICENSED UNDER SECTIONS 134 TO 150 SHALL
MAKE AVAILABLE TO THE DEPARTMENT ALL REQUESTED INFORMATION
REGARDING THE FACILITY'S RECIPIENT RIGHTS PROGRAM AND POLICIES.**

Sec. 720. The department shall provide ~~an annual statistical
report to the members of the house and senate standing committees~~
and appropriations subcommittees with legislative oversight of
mental health issues **AN ANNUAL STATISTICAL AND ANALYTICAL REPORT**

1 summarizing all ~~BOTH OF THE FOLLOWING:~~

2 (A) ALL deaths and causes of deaths, if known, of mental
3 health care recipients **AND APPLICANTS** that have been reported to
4 the department and all deaths that have occurred in state
5 facilities.

6 (B) ALL KNOWN INSTANCES OF SERIOUS INJURY, SERIOUS PHYSICAL
7 ILLNESS, INCARCERATION, HOMELESSNESS, DELAY OR INTERRUPTION OF
8 EDUCATION OR EMPLOYMENT, AND SELF-HARM, HARM TO OTHERS, OR HARM
9 INFLICTED BY OTHERS, INCLUDING SUBSTANTIATED ALLEGATIONS OF ABUSE
10 OR NEGLECT, AMONG MENTAL HEALTH CARE RECIPIENTS AND APPLICANTS.

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

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

14 (a) The process for funding the state office of recipient
15 rights includes a review of the funding by the state recipient
16 rights advisory committee.

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

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

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

25 (ii) All staff employed by or under contract with the
26 department.

27 (iii) All evidence necessary to conduct a thorough investigation

1 or to fulfill its monitoring function.

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

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

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

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

10 (f) Technical assistance and training in recipient rights
11 protection are available to all community mental health services
12 programs and other mental health service providers subject to this
13 act.

14 (3) The department shall endeavor to ensure all of the
15 following:

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

19 (b) Complainants, staff of the state office of recipient
20 rights, and any staff acting on behalf of a recipient will be
21 protected from harassment or retaliation resulting from recipient
22 rights activities.

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

26 (4) After consulting with the state recipient rights advisory
27 committee, the department director shall select a director of the

1 state office of recipient rights who has the education, training,
2 and experience to fulfill the responsibilities of the office. The
3 department director shall not replace or dismiss the director of
4 the state office of recipient rights without first consulting the
5 state recipient rights advisory committee. The director of the
6 state office of recipient rights shall have no direct service
7 responsibility. The director of the state office of recipient
8 rights shall report directly and solely to the department director.
9 The department director shall not delegate his or her
10 responsibility under this subsection.

11 (5) The state office of recipient rights may do all of the
12 following:

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

15 (b) Resolve disputes relating to violations.

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

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

20 (6) The state office of recipient rights shall do all of the
21 following:

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

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

4 (c) Maintain a record system for all reports of apparent or
5 suspected rights violations received, including a mechanism for
6 logging in all complaints and a mechanism for secure storage of all
7 investigative documents and evidence.

8 (d) Initiate actions that are appropriate and necessary to
9 safeguard and protect rights guaranteed by this chapter to
10 recipients of services provided directly by the department or by
11 its contract providers other than community mental health services
12 programs.

13 (e) Receive reports of apparent or suspected violations of
14 rights guaranteed by this chapter. The state office of recipient
15 rights shall refer reports of apparent or suspected rights
16 violations to the recipient rights office of the appropriate
17 provider to be addressed by the provider's internal rights
18 protection mechanisms. The state office shall intervene as
19 necessary to act on behalf of recipients in situations in which the
20 **DEPARTMENT** director ~~of the department~~ considers the **PROVIDER'S**
21 rights protection system ~~of the provider~~ to be out of compliance
22 with this act and rules promulgated under this act.

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

26 (g) Advise recipients that there are advocacy organizations
27 available to assist recipients in preparing written rights

1 complaints and appeals and offer to refer recipients to those
2 organizations.

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

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

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

13 (k) Ensure that all reports of apparent or suspected
14 violations of rights within state facilities or programs operated
15 by providers under contract with the department other than
16 community mental health services programs are investigated in
17 accordance with section 778 and that those reports that do not
18 warrant investigation are recorded in accordance with subdivision

19 (c).

20 (l) Review semiannual statistical rights data submitted by
21 community mental health services programs and licensed hospitals to
22 determine trends and patterns in the protection of recipient rights
23 in the public mental health system and provide a summary of the
24 data to community mental health services programs and to the
25 **DEPARTMENT** director. ~~of the department.~~

26 **(M) REQUEST AND REVIEW ADDITIONAL INFORMATION AS NECESSARY**
27 **REGARDING RECIPIENT RIGHTS ISSUES IN LICENSED HOSPITALS AND**

1 TRANSMIT THE FINDINGS AND RECOMMENDATIONS REGARDING PROBLEM AREAS
2 TO THE DIRECTOR.

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

5 (O) ~~(n)~~—At least quarterly, provide summary complaint data
6 consistent with the annual report required in subdivision ~~(e)~~—(Q),
7 together with a summary of remedial action taken on substantiated
8 complaints, to the department and the state recipient rights
9 advisory committee.

10 (P) ANNUALLY REQUIRE THAT ALL COMMUNITY MENTAL HEALTH SERVICES
11 PROGRAMS, STATE FACILITIES, AND LICENSED HOSPITALS PROVIDE SUMMARY
12 INFORMATION AND ANALYSIS ON ALL KNOWN INSTANCES OF DEATH, SERIOUS
13 INJURY, SERIOUS PHYSICAL ILLNESS, INCARCERATION, HOMELESSNESS, AND
14 DELAY OR INTERRUPTION OF EDUCATION AMONG MENTAL HEALTH CARE
15 RECIPIENTS AND APPLICANTS. THE STATE OFFICE OF RECIPIENT RIGHTS
16 SHALL REVIEW AND INVESTIGATE, AS WARRANTED, RIGHTS ISSUES RELATED
17 TO THIS INFORMATION AND INFORMATION PROVIDED TO THE LEGISLATURE
18 UNDER SECTION 720.

19 (Q) ~~(e)~~—Submit to the department director and to the
20 committees and subcommittees of the legislature with legislative
21 oversight of mental health matters, for availability to the public,
22 an annual report on the current status of recipient rights for the
23 state. The report shall be submitted not later than March 31 of
24 each year for the preceding fiscal year. The annual report shall
25 include, at a minimum, all of the following:

26 (i) Summary data by type or category regarding the rights of
27 recipients receiving services from the department including the

1 number of complaints received by each state facility and other
2 state-operated placement agency, the number of reports filed, and
3 the number of reports investigated.

4 (ii) The number of substantiated rights violations by category
5 and by state facility.

6 (iii) The remedial actions taken on substantiated rights
7 violations by category and by state facility.

8 (iv) Training received by staff of the state office of
9 recipient rights.

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

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

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

16 (viii) Review of budgetary issues including staffing and
17 financial resources.

18 (ix) Summary of the results of any consumer satisfaction
19 surveys conducted.

20 (x) Recommendations to the department.

21 **(R)** ~~(p)~~—Provide education and training to its recipient rights
22 advisory committee and its recipient rights appeals committee.

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

27 (2) Each community mental health services program and each

1 licensed hospital shall ensure all of the following:

2 (a) Education and training in recipient rights policies and
3 procedures are provided to its recipient rights advisory committee
4 and its recipient rights appeals committee.

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

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

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

13 (i) All programs and services operated by or under contract
14 with the community mental health services program or licensed
15 hospital.

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

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

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

22 (f) Each contract between the community mental health services
23 program or licensed hospital and a provider requires both of the
24 following:

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

27 (ii) That recipients will be protected from rights violations

1 while they are receiving services under the contract.

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

4 (a) Complainants, staff of the office of recipient rights, and
5 any staff acting on behalf of a recipient will be protected from
6 harassment or retaliation resulting from recipient rights
7 activities and that appropriate disciplinary action will be taken
8 if there is evidence of harassment or retaliation.

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

12 (4) The executive director or hospital director shall select a
13 director of the office of recipient rights who has the education,
14 training, and experience to fulfill the responsibilities of the
15 office. The executive director shall not select, replace, or
16 dismiss the director of the office of recipient rights without
17 first consulting the recipient rights advisory committee. The
18 director of the office of recipient rights shall have no direct
19 clinical service responsibility.

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

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

24 (b) Ensure that recipients, parents of minor recipients, and
25 guardians or other legal representatives have access to summaries
26 of the rights guaranteed by this chapter and chapter 7a and are
27 notified of those rights in an understandable manner, both at the

1 time services are initiated and periodically during the time
2 services are provided to the recipient.

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

6 (d) Maintain a record system for all reports of apparent or
7 suspected rights violations received within the community mental
8 health services program system or the licensed hospital system,
9 including a mechanism for logging in all complaints and a mechanism
10 for secure storage of all investigative documents and evidence.

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

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

18 (g) Review the recipient rights policies and the rights system
19 of each provider of mental health services under contract with the
20 community mental health services program or licensed hospital to
21 ensure that the rights protection system of each provider is in
22 compliance with this act and is of a uniformly high standard.

23 (h) Serve as consultant to the executive director or hospital
24 director and to staff of the community mental health services
25 program or licensed hospital in matters related to recipient
26 rights.

27 (i) Ensure that all reports of apparent or suspected

1 violations of rights within the community mental health services
2 program system or licensed hospital system are investigated in
3 accordance with section 778 and that those reports that do not
4 warrant investigation are recorded in accordance with subdivision
5 (d) .

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

12 **(K) PROVIDE THE DEPARTMENT WITH ADDITIONAL RECIPIENT RIGHTS**
13 **INFORMATION AS NEEDED FOR DEPARTMENTAL REVIEWS RELATED TO COMMUNITY**
14 **MENTAL HEALTH CERTIFICATION OR HOSPITAL LICENSURE.**

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

25 (a) Summary data by category regarding the rights of
26 recipients receiving services from the community mental health
27 services program or licensed hospital including complaints

1 received, the number of reports filed, and the number of reports
2 investigated by provider.

3 (b) The number of substantiated rights violations by category
4 and provider.

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

7 (d) Training received by staff of the office of recipient
8 rights.

9 (e) Training provided by the office of recipient rights to
10 contract providers.

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

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