

SUBSTITUTE FOR
SENATE BILL NO. 1196

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending sections 204, 212, 224, and 232a (MCL 330.1204,
330.1212, 330.1224, and 330.1232a), sections 204, 212, and 224 as
amended and section 232a as added by 1995 PA 290; and to repeal
acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 204. (1) ~~A~~EXCEPT AS PROVIDED IN SUBSECTION (4), A
2 community mental health services program established under this
3 chapter shall be a county community mental health agency, a
4 community mental health organization, or a community mental health
5 authority. A county community mental health agency is an official
6 county agency. A community mental health organization or a
7 community mental health authority is a public governmental entity
8 separate from the county or counties that establish it.

1 (2) Procedures and policies for a community mental health
2 organization or a community mental health authority shall be set by
3 the board of the community mental health services program.

4 Procedures and policies for a county community mental health agency
5 shall be set by the board of commissioners or boards of
6 commissioners as prescribed in this subsection. If a county
7 community mental health services agency represents a single county,
8 the county's board of commissioners shall determine the procedures
9 and policies that shall be applicable to the agency. If a county
10 community mental health services agency represents 2 or more
11 counties, the boards of commissioners of the represented counties
12 shall by agreement determine the procedures and policies that shall
13 be applicable to the agency. In a charter county with an elected
14 county executive, the county executive shall determine the
15 procedures and policies that shall be applicable to the agency.

16 (3) The procedures and policies for multicounty community
17 mental health services programs shall not take effect until at
18 least 3 public hearings on the proposed procedures and policies
19 have been held.

20 (4) BEGINNING OCTOBER 1, 2012, IN ORDER TO QUALIFY FOR STATE
21 SUPPORT UNDER SECTION 202, IF A SINGLE COUNTY THAT HAS SITUATED
22 TOTALLY WITHIN THAT COUNTY A CITY HAVING A POPULATION OF AT LEAST
23 500,000 ESTABLISHES OR ADMINISTERS A COMMUNITY MENTAL HEALTH
24 SERVICES PROGRAM, THAT COMMUNITY MENTAL HEALTH SERVICES PROGRAM
25 MUST BE ESTABLISHED AND ADMINISTERED AS A COMMUNITY MENTAL HEALTH
26 AUTHORITY AS SPECIFIED UNDER SECTION 205.

27 Sec. 212. (1) Upon electing to establish a community mental

1 health services program, the county or combination of counties
2 shall establish a 12-member community mental health services board,
3 except as provided in section 214, 219, or 222(2) or (5). Each
4 **EXCEPT AS PROVIDED IN SUBSECTION (2), EACH** board of commissioners
5 shall by a majority vote appoint the board members from its county.
6 Recommended appointments to the board shall be made annually
7 following the organizational meeting of the board of commissioners.

8 (2) **WHEN A SINGLE COUNTY ESTABLISHES A COMMUNITY MENTAL HEALTH**
9 **SERVICES PROGRAM AND TOTALLY SITUATED WITHIN THAT COUNTY IS A CITY**
10 **HAVING A POPULATION OF AT LEAST 500,000, THE 12 BOARD MEMBERS SHALL**
11 **BE APPOINTED TO THE BOARD AS FOLLOWS:**

12 (A) **SIX BOARD MEMBERS APPOINTED BY A MAJORITY VOTE OF THE**
13 **COUNTY BOARD OF COMMISSIONERS. TWO BOARD MEMBERS APPOINTED UNDER**
14 **THIS SUBDIVISION MUST BE PRIMARY CONSUMERS OR FAMILY MEMBERS OF**
15 **PRIMARY CONSUMERS.**

16 (B) **SIX BOARD MEMBERS APPOINTED BY THE COUNTY BOARD OF**
17 **COMMISSIONERS FROM A LIST OF NOMINEES SUBMITTED BY THE MAYOR OF THE**
18 **CITY HAVING A POPULATION OF AT LEAST 500,000 THAT IS TOTALLY**
19 **SITUATED WITHIN THAT COUNTY. TWO BOARD MEMBERS APPOINTED UNDER THIS**
20 **SUBDIVISION MUST BE PRIMARY CONSUMERS OR FAMILY MEMBERS OF PRIMARY**
21 **CONSUMERS.**

22 (3) **WHEN A VACANCY OCCURS ON A BOARD THAT HAS MEMBERS**
23 **APPOINTED UNDER SUBSECTION (2), THE VACANCY SHALL BE FILLED IN THE**
24 **SAME MANNER AS THE BOARD MEMBER BEING REPLACED WAS APPOINTED.**

25 (4) **A BOARD MEMBER APPOINTED UNDER SUBSECTION (2) SHALL NOT BE**
26 **AN EMPLOYEE OR CONTRACTOR OF THE CITY OR COUNTY DESCRIBED IN**
27 **SUBSECTION (2) AND SHALL NOT BE AN EMPLOYEE OR CONTRACTOR OF THE**

1 **STATE.**

2 Sec. 224. The term of office of a board member shall be 3
3 years from April 1 of the year of appointment, except that of the
4 members first appointed, 4 shall be appointed for a term of 1 year,
5 4 for 2 years, and 4 for 3 years. A vacancy shall be filled for an
6 unexpired term in the same manner as an original appointment. A
7 board member may be removed from office by the appointing board of
8 commissioners ~~or, if the board member was appointed by the chief~~
9 ~~executive officer of a county or a city under section 216, by the~~
10 ~~chief executive officer who appointed the member~~ for neglect of
11 official duty or misconduct in office after being given a written
12 statement of reasons and an opportunity to be heard on the removal.
13 A board member shall be paid a per diem no larger than the highest
14 per diem for members of other county advisory boards set by the
15 county board of commissioners and be reimbursed for necessary
16 travel expenses for each meeting attended. The mileage expense
17 fixed by the county board of commissioners shall not exceed the
18 mileage reimbursement as determined by the state officers
19 compensation commission. A board member shall not receive more than
20 1 per diem payment per day regardless of the number of meetings
21 scheduled by the board for that day.

22 Sec. 232a. (1) Subject to section 114a, the department shall
23 promulgate rules to establish standards for certification and the
24 certification review process for community mental health services
25 programs. The standards shall include but not be limited to all of
26 the following:

27 (a) Matters of governance, resource management, quality

1 improvement, service delivery, and safety management.

2 (b) Promotion and protection of recipient rights.

3 (2) After reviewing a community mental health services
4 program, the department shall notify a program that substantially
5 complies with the standards established under this section that it
6 is certified by the department.

7 (3) The department may waive the certification review process
8 in whole or in part and consider the community mental health
9 services program to be in substantial compliance with the standards
10 established under this section if the program has received
11 accreditation from a national accrediting organization recognized
12 by the department that includes review of matters described in
13 subsection (1)(a).

14 (4) If the department certifies a community mental health
15 services program despite some items of noncompliance with the
16 standards established under this section, the notice of
17 certification shall identify the items of noncompliance and the
18 program shall correct the items of noncompliance. The department
19 shall require the community mental health board to submit a plan to
20 correct items of noncompliance before recertification or sooner at
21 the discretion of the department.

22 (5) Certification is effective for 3 years and is not
23 transferable. Requests for recertification shall be submitted to
24 the department at least 6 months before the expiration of
25 certification. Certification remains in effect after the submission
26 of a renewal request until the department conducts a review and
27 makes a redetermination.

1 (6) The department shall conduct an annual review of each
2 community mental health services program's recipient rights system
3 to ensure compliance with standards established under subsection
4 (1)(b). An on-site review shall be conducted once every 3 years.

5 (7) The community mental health services program shall
6 promptly notify the department of any changes that may affect
7 continued certification.

8 (8) The department may deny certification if the community
9 mental health services program cannot demonstrate substantial
10 compliance with the standards established under this section.

11 (9) In lieu of denying certification, the department may issue
12 a provisional certification for a period of up to 6 months upon
13 receiving a plan of correction submitted by the community mental
14 health services board. The department shall provide a copy of the
15 review and the approved plan of correction to the board of
16 commissioners of each county that established the county community
17 mental health agency or created the community mental health
18 organization or community mental health authority. A provisional
19 certification may be extended, but the entire provisional period
20 shall not exceed 1 year. The department shall conduct an on-site
21 review to determine the community mental health services program's
22 compliance with the plan of correction at least 30 days before the
23 expiration of the provisional certification. A provisional
24 certification automatically expires either on its original
25 expiration date or the expiration date of the extension granted.

26 (10) If a community mental health services program is denied
27 certification, fails to comply with an approved plan of correction

1 before the expiration of a provisional certification, or fails to
2 comply substantially with the standards established under this
3 section, the department shall notify the community mental health
4 services board and the board of commissioners of each county that
5 established the agency or created the organization or authority of
6 the department's intention to suspend, deny, or revoke
7 certification. The notice shall be sent by certified mail and shall
8 set forth the particular reasons for the proposed action and offer
9 an opportunity for a hearing with the director of the department's
10 division that manages contracts with community mental health
11 services programs. If it desires a hearing, the community mental
12 health services board shall request it in writing within 60 days
13 after receipt of the notice. The department shall hold the hearing
14 not less than 30 days or more than 60 days from the date it
15 receives the request for a hearing.

16 (11) The director of the department's division that manages
17 contracts with community mental health services programs shall make
18 a decision regarding suspension, denial, or revocation of
19 certification based on evidence presented at the hearing or on the
20 default of the community mental health services board. A copy of
21 the decision shall be sent by certified mail within 45 days after
22 the close of the hearing to the community mental health services
23 board and to the board of commissioners of each county that
24 established the agency or created the organization or authority.

25 (12) A community mental health services board may appeal a
26 decision made under subsection (11) as provided in chapter 4 of the
27 administrative procedures act of 1969, ~~Act No. 306 of the Public~~

~~Acts of 1969, being sections 24.271 to 24.287 of the Michigan
Compiled Laws. 1969 PA 306, MCL 24.271 TO 24.287.~~

(13) During the period of certification, the department may conduct an unannounced review of a certified community mental health services program. The department shall conduct an unannounced review of a certified community mental health services program in response to information that raises questions regarding recipient health or safety. If the department finds based on its review that the community mental health services program does not substantially comply with the standards established under this section, the department shall provide notice and a hearing under subsections (10) and (11).

(14) If a community mental health services program fails to obtain or retain certification as a result of the department's review, has exhausted the time period for provisional certification, is not engaged in the process of appeal or appeal has been unsuccessful, and if no agreement has been reached by the department with the community mental health services program to assure certification compliance within a specified time period, the department shall within 90 days do both of the following:

(a) Cancel the state funding commitment to the community mental health services board.

(b) Utilize the funds previously provided to the community mental health services board to do 1 or more of the following:

(i) Secure services from other providers of mental health services that the department has determined can operate in substantial compliance with the standards established under this

1 section and continue the delivery of services within the county or
2 counties.

3 (ii) Provide the service.

4 (15) If state funding is canceled under subsection (14) and
5 the community mental health services program is an authority
6 created under section 205, the county or counties that created the
7 authority are financially liable only for the local match formula
8 established for the authority under chapter 3. If state funding is
9 canceled under subsection (14) and the community mental health
10 services program is a county community mental health agency or a
11 community mental health organization, the county or counties that
12 established the agency are financially liable for local match for
13 all services contractually or directly provided by the department
14 to residents of the county or counties in accordance with chapter
15 3.

16 (16) The department shall not utilize the certification
17 process under this section to require a community mental health
18 services program to become a community mental health authority.
19 ~~Community~~ **EXCEPT AS PROVIDED IN SECTION 204(4), COMMUNITY** mental
20 health authority status is voluntary as provided in section 205.

21 ~~—— (17) Subject to section 114a, the department shall submit~~
22 ~~proposed rules for certification to public hearing within 6 months~~
23 ~~after the effective date of the amendatory act that added this~~
24 ~~section.~~

25 Enacting section 1. Section 216 of the mental health code,
26 1974 PA 258, MCL 330.1216, is repealed.