

**STATE OF MICHIGAN  
100TH LEGISLATURE  
REGULAR SESSION OF 2020**

Introduced by Senator VanderWall

## **ENROLLED SENATE BILL No. 673**

AN ACT to amend 1974 PA 258, entitled “An act to codify, revise, consolidate, and classify the laws relating to mental health; to prescribe the powers and duties of certain state and local agencies and officials and certain private agencies and individuals; to regulate certain agencies and facilities providing mental health or substance use disorder services; to provide for certain charges and fees; to establish civil admission procedures for individuals with mental illness, substance use disorder, or developmental disability; to establish guardianship procedures for individuals with developmental disability; to establish procedures regarding individuals with mental illness, substance use disorder, or developmental disability who are in the criminal justice system; to provide for penalties and remedies; and to repeal acts and parts of acts,” by amending sections 100c and 137 (MCL 330.1100c and 330.1137), section 100c as amended by 2020 PA 99 and section 137 as amended by 2015 PA 59, and by adding section 137b.

*The People of the State of Michigan enact:*

Sec. 100c. (1) “Peace officer” means an officer of the department of state police or of a law enforcement agency of a county, township, city, or village who is responsible for preventing and detecting crime and enforcing the criminal laws of this state. For the purposes of sections 408, 426, 427a, and 427b, peace officer also includes an officer of the United States Secret Service with the officer’s consent and a police officer of the Veterans’ Administration Medical Center Reservation.

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

(3) “Person requiring treatment” means an individual who meets the criteria described in section 401.

(4) “Physician” means an individual licensed or otherwise authorized to engage in the practice of medicine under part 170 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17097, or to engage in the practice of osteopathic medicine and surgery under part 175 of the public health code, 1978 PA 368, MCL 333.17501 to 333.17556.

(5) “Primary consumer” means an individual who has received or is receiving services from the department or a community mental health services program or services from the private sector equivalent to those offered by the department or a community mental health services program.

(6) “Priority” means preference for and dedication of a major proportion of resources to specified populations or services. Priority does not mean serving or funding the specified populations or services to the exclusion of other populations or services.

(7) “Protective custody” means the temporary custody of an individual by a peace officer with or without the individual’s consent for the purpose of protecting that individual’s health and safety, or the health and safety of the public, and for the purpose of transporting the individual under section 276, 408, or 427 if the individual appears, in the judgment of the peace officer, to be a person requiring treatment or is a person requiring treatment. Protective custody is civil in nature and is not an arrest.

(8) “Psychiatric residential treatment facility” or “PRTF” means a facility other than a hospital that provides psychiatric services, as described in 42 CFR 441.151 to 441.182, in an inpatient setting to individuals under age 21.

(9) “Psychiatric unit” means a unit of a general hospital that provides inpatient services for individuals with serious mental illness or serious emotional disturbance. As used in this subsection, “general hospital” means a hospital as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(10) “Psychiatrist” means 1 or more of the following:

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

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

(c) A physician who devotes a substantial portion of his or her time to the practice of psychiatry and is approved by the director.

(11) “Psychologist” means an individual who is licensed or otherwise authorized to engage in the practice of psychology under part 182 of the public health code, 1978 PA 368, MCL 333.18201 to 333.18237, and who devotes a substantial portion of his or her time to the diagnosis and treatment of individuals with serious mental illness, serious emotional disturbance, substance use disorder, or developmental disability.

(12) “Public patient” means an individual approved for mental health services by a community mental health services program. Public patient includes an individual who is admitted as a patient under section 423, 429, or 438.

(13) “Recipient” means an individual who receives mental health services, either in person or through telemedicine, from the department, a community mental health services program, or a facility or from a provider that is under contract with the department or a community mental health services program. For the purposes of this act, recipient does not include an individual receiving substance use disorder services under chapter 2A unless that individual is also receiving mental health services under this act in conjunction with substance use disorder services.

(14) “Recipient rights advisory committee” means a committee of a community mental health services program board appointed under section 757 or a recipient rights advisory committee appointed by a licensed hospital under section 758.

(15) “Recovery” means a highly individualized process of healing and transformation by which the individual gains control over his or her life. Related services include recovery management, recovery support services, recovery houses or transitional living programs, and relapse prevention. Recovery involves the development of a new meaning, purpose, and growing beyond the impact of addiction or a diagnosis. Recovery may include the pursuit of spiritual, emotional, mental, or physical well-being.

(16) “Regional entity” means an entity established under section 204b to provide specialty services and supports.

(17) “Rehabilitation” means the act of restoring an individual to a state of mental and physical health or useful activity through vocational or educational training, therapy, and counseling.

(18) “Resident” means an individual who receives services in a facility.

(19) “Responsible mental health agency” means the hospital, center, or community mental health services program that has primary responsibility for the recipient’s care or for the delivery of services or supports to that recipient.

(20) “Rule” means a rule promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Sec. 137. (1) A person must not construct, establish, or maintain a psychiatric hospital or psychiatric unit or use the terms psychiatric hospital or psychiatric unit without first obtaining a license. The director shall require an applicant or a licensee to disclose the names, addresses, and official positions of all persons who have an ownership interest in a psychiatric hospital or psychiatric unit. If the psychiatric hospital or psychiatric unit is located on or in real estate that is leased, the applicant or licensee shall disclose the name of the lessor and any direct or indirect interest that the applicant or licensee has in the lease other than as lessee. A license shall be granted for no longer than 1 year after the date of issuance, unless otherwise provided in sections 134 to 150. The director may issue a provisional license for 1 year to provide a licensee or applicant time to undertake remedial action to correct programmatic or physical plant deficiencies. A provisional license may be renewed for not longer than 1 additional year. A violation of this section is a misdemeanor and is punishable by a fine of not more than \$1,000.00 for each violation.

(2) Renewal of a psychiatric hospital’s and a psychiatric unit’s license is required annually. Licensure is subject to section 137a. License fees shall be prorated according to the period of time that the license will be in force.

(3) The department shall issue an initial license under this section not later than 6 months after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of this state. If the application is considered incomplete by the department, the department shall notify the applicant in writing or make notice electronically available within 30 days after receipt of the incomplete application, describing the deficiency and requesting additional information. The 6-month period is tolled upon notification by the department of a deficiency until the date the requested information is received by the department. The determination of the completeness of an application is not an approval of the application for the license and does not confer eligibility on an applicant determined otherwise ineligible for issuance of a license.

(4) If the department fails to issue or deny a license or registration within the time required by this section, the department shall return the license fee and shall reduce the license fee for the applicant’s next renewal application, if any, by 15%. Failure to issue or deny a license within the time period required under this section does not allow the department to otherwise delay processing the application. A completed application must be placed in sequence with other completed applications received at that same time. The department must not discriminate against an applicant in processing the application based on the fact that the application fee was refunded or discounted under this subsection.

(5) The director of the department shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with issues relating to mental health. The director shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial applications the department received and completed within the 6-month time period described in subsection (3).

(b) The number of applications rejected.

(c) The number of applicants not issued a license within the 6-month time period and the amount of money returned to licensees under subsection (4).

(6) As used in this section, “completed application” means an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of this state.

Sec. 137b. (1) As a condition of licensing, a psychiatric hospital or psychiatric unit must accept public patients and maintain 50% of beds available to public patients.

(2) Beginning June 1, 2021, a psychiatric hospital and psychiatric unit must submit an annual report to the department as a part of the application for license renewal. The department may develop the annual report format. The annual report must include data on all of the following:

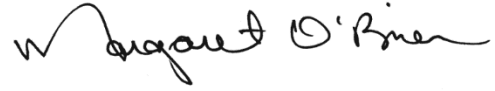
(a) Total patient days of care provided to public patients during the previous calendar year.

(b) Total beds available during the previous calendar year.

(c) Total patient days of care during the previous calendar year.

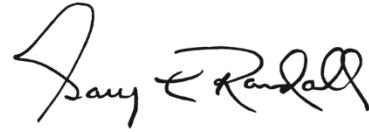
(3) The department may use the annual report data from subsection (2) or a department investigation to determine if a psychiatric hospital or psychiatric unit maintains 50% of beds available to public patients.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 672 of the 100th Legislature is enacted into law.



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Secretary of the Senate



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Clerk of the House of Representatives

Approved \_\_\_\_\_

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Governor