

# SENATE BILL NO. 673

December 04, 2019, Introduced by Senator VANDERWALL and referred to the Committee on Health Policy and Human Services.

A bill to amend 1974 PA 258, entitled "Mental health code," by amending sections 100c and 137 (MCL 330.1100c and 330.1137), section 100c as amended by 2016 PA 320 and section 137 as amended by 2015 PA 59, and by adding section 137a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 100c. (1) "Peace officer" means an officer of the  
2 department of state police or of a law enforcement agency of a  
3 county, township, city, or village who is responsible for ~~the~~

1 ~~prevention~~**preventing** and ~~detection of~~**detecting** crime and  
2 ~~enforcement of~~**enforcing** the criminal laws of this state. For the  
3 purposes of sections 408, 426, 427a, and 427b, peace officer also  
4 includes an officer of the United States Secret Service with the  
5 officer's consent and a police officer of the Veterans'  
6 Administration Medical Center Reservation.

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

17 (3) "Person requiring treatment" means an individual who meets  
18 the criteria described in section 401.

19 (4) "Physician" means an individual licensed or otherwise  
20 authorized to engage in the practice of medicine under part 170 of  
21 the public health code, 1978 PA 368, MCL 333.17001 to ~~333.17084,~~  
22 **333.17097**, or to engage in the practice of osteopathic medicine and  
23 surgery under part 175 of the public health code, 1978 PA 368, MCL  
24 333.17501 to 333.17556.

25 (5) "Primary consumer" means an individual who has received or  
26 is receiving services from the department or a community mental  
27 health services program or services from the private sector  
28 equivalent to those offered by the department or a community mental  
29 health services program.

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

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

13           (8) "Psychiatric unit" means a unit of a general hospital that  
14 provides inpatient services for individuals with serious mental  
15 illness or serious emotional disturbance. As used in this  
16 subsection, "general hospital" means a hospital as defined in  
17 section 20106 of the public health code, 1978 PA 368, MCL  
18 333.20106.

19           (9) "Psychiatrist" means 1 or more of the following:

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

25           (b) A psychiatrist employed by or under contract with the  
26 department or a community mental health services program on March  
27 28, 1996.

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

1 director.

2 (10) "Psychologist" means an individual who is licensed or  
3 otherwise authorized to engage in the practice of psychology under  
4 part 182 of the public health code, 1978 PA 368, MCL 333.18201 to  
5 333.18237, and who devotes a substantial portion of his or her time  
6 to the diagnosis and treatment of individuals with serious mental  
7 illness, serious emotional disturbance, substance use disorder, or  
8 developmental disability.

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

13 (12) ~~(11)~~"Recipient" means an individual who receives mental  
14 health services from the department, a community mental health  
15 services program, or a facility or from a provider that is under  
16 contract with the department or a community mental health services  
17 program. For the purposes of this act, recipient does not include  
18 an individual receiving substance use disorder services under  
19 chapter 2A unless that individual is also receiving mental health  
20 services under this act in conjunction with substance use disorder  
21 services.

22 (13) ~~(12)~~"Recipient rights advisory committee" means a  
23 committee of a community mental health services program board  
24 appointed under section 757 or a recipient rights advisory  
25 committee appointed by a licensed hospital under section 758.

26 (14) ~~(13)~~"Recovery" means a highly individualized process of  
27 healing and transformation by which the individual gains control  
28 over his or her life. Related services include recovery management,  
29 recovery support services, recovery houses or transitional living

1 programs, and relapse prevention. Recovery involves the development  
 2 of a new meaning, purpose, and growing beyond the impact of  
 3 addiction or a diagnosis. Recovery may include the pursuit of  
 4 spiritual, emotional, mental, or physical well-being.

5 (15) ~~(14)~~—"Regional entity" means an entity established under  
 6 section 204b to provide specialty services and supports.

7 (16) ~~(15)~~—"Rehabilitation" means the act of restoring an  
 8 individual to a state of mental and physical health or useful  
 9 activity through vocational or educational training, therapy, and  
 10 counseling.

11 (17) ~~(16)~~—"Resident" means an individual who receives services  
 12 in a facility.

13 (18) ~~(17)~~—"Responsible mental health agency" means the  
 14 hospital, center, or community mental health services program that  
 15 has primary responsibility for the recipient's care or for the  
 16 delivery of services or supports to that recipient.

17 (19) ~~(18)~~—"Rule" means a rule promulgated under the  
 18 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
 19 24.328.

20 Sec. 137. (1) A person ~~shall~~**must** not construct, establish, or  
 21 maintain a psychiatric hospital or psychiatric unit or use the  
 22 terms psychiatric hospital or psychiatric unit without first  
 23 obtaining a license. The director shall require an applicant or a  
 24 licensee to disclose the names, addresses, and official positions  
 25 of all persons who have an ownership interest in a psychiatric  
 26 hospital or psychiatric unit. If the psychiatric hospital or  
 27 psychiatric unit is located on or in real estate that is leased,  
 28 the applicant or licensee shall disclose the name of the lessor and  
 29 any direct or indirect interest that the applicant or licensee has

1 in the lease other than as lessee. A license shall be granted for  
2 no longer than 1 year after the date of issuance, unless otherwise  
3 provided in sections 134 to 150. The director may issue a  
4 provisional license for 1 year to provide a licensee or applicant  
5 time to undertake remedial action to correct programmatic or  
6 physical plant deficiencies. A provisional license may be renewed  
7 for not longer than 1 additional year. A violation of this section  
8 is a misdemeanor and is punishable by a fine of not more than  
9 \$1,000.00 for each violation.

10 (2) ~~Annual licensure~~ **Renewal** of ~~a psychiatric hospitals~~  
11 **hospital's** and ~~a psychiatric units shall be implemented by March~~  
12 ~~28, 1997.~~ **unit's license is required annually. Licensure is subject**  
13 **to section 137a.** License fees shall be prorated according to the  
14 period of time that the license will be in force.

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

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

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

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

22           (b) The number of applications rejected.

23           (c) The number of applicants not issued a license within the  
24 6-month time period and the amount of money returned to licensees  
25 under subsection (4).

26           (6) As used in this section, "completed application" means an  
27 application complete on its face and submitted with any applicable  
28 licensing fees as well as any other information, records, approval,  
29 security, or similar item required by law or rule from a local unit

1 of government, a federal agency, or a private entity but not from  
2 another department or agency of this state.

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

6       **(2) Beginning June 1, 2020, a psychiatric hospital and**  
7 **psychiatric unit must submit an annual report to the department as**  
8 **a part of the application for license renewal. The department may**  
9 **develop the annual report format. The annual report must include**  
10 **data on all of the following:**

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

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

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

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

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