

**SUBSTITUTE FOR
HOUSE BILL NO. 5114**

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending sections 100a, 100b, 100c, 281b, 400, 420, 423, 425,
426, 427, 429, 430, 434, 435, 438, 452, 461, 463, 498o, 517, 532,
700, 740, and 742 (MCL 330.1100a, 330.1100b, 330.1100c, 330.1281b,
330.1400, 330.1420, 330.1423, 330.1425, 330.1426, 330.1427,
330.1429, 330.1430, 330.1434, 330.1435, 330.1438, 330.1452,
330.1461, 330.1463, 330.1498o, 330.1517, 330.1532, 330.1700,
330.1740, and 330.1742), section 100a as amended by 2023 PA 118,
section 100b as amended by 2020 PA 402, section 100c as amended by
2023 PA 56, section 281b as added by 2014 PA 200, sections 400 and
420 as amended by 2018 PA 595, sections 423, 425, 427, and 463 as
amended by 2016 PA 320, sections 426, 429, and 438 as amended by



2022 PA 214, sections 430, 498o, 700, and 740 as amended by 1995 PA 290, sections 434, 435, 452, and 461 as amended by 2018 PA 593, sections 517 and 532 as amended by 2018 PA 596, and section 742 as amended by 2004 PA 527.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 100a. (1) "Abilities" means the qualities, skills, and
2 competencies of an individual that reflect the individual's talents
3 and acquired proficiencies.

4 (2) "Abuse" means nonaccidental physical or emotional harm to
5 a recipient, or sexual contact with or sexual penetration of a
6 recipient as those terms are defined in section 520a of the
7 Michigan penal code, 1931 PA 328, MCL 750.520a, that is committed
8 by an employee or volunteer of the department, a community mental
9 health services program, or a licensed hospital or by an employee
10 or volunteer of a service provider under contract with the
11 department, community mental health services program, or licensed
12 hospital.

13 (3) "Adaptive skills" means skills in 1 or more of the
14 following areas:

- 15 (a) Communication.
16 (b) Self-care.
17 (c) Home living.
18 (d) Social skills.
19 (e) Community use.
20 (f) Self-direction.
21 (g) Health and safety.
22 (h) Functional academics.
23 (i) Leisure.
24 (j) Work.



1 (4) "Adult foster care facility" means an adult foster care
 2 facility licensed under the adult foster care facility licensing
 3 act, 1979 PA 218, MCL 400.701 to 400.737.

4 ~~(5) "Alcohol and drug abuse counseling" means the act of~~
 5 ~~counseling, modification of substance use disorder related~~
 6 ~~behavior, and prevention techniques for individuals with substance~~
 7 ~~use disorder, their significant others, and individuals who could~~
 8 ~~potentially develop a substance use disorder.~~

9 (5) ~~(6)~~ "Applicant" means an individual or his or her legal
 10 representative who makes a request for mental health services.

11 (6) ~~(7)~~ "Approved service program" means a substance use
 12 disorder services program licensed under part 62 of the public
 13 health code, 1978 PA 368, MCL 333.6230 to 333.6251, to provide
 14 substance use disorder treatment and rehabilitation services by the
 15 department-designated community mental health entity and approved
 16 by the federal government to deliver a service or combination of
 17 services for the treatment of incapacitated individuals.

18 (7) ~~(8)~~ "Assisted outpatient treatment" or "AOT" means the
 19 categories of outpatient services ordered by the court under
 20 section 468 or 469a. Assisted outpatient treatment may include a
 21 case management plan and case management services to provide care
 22 coordination under the supervision of a psychiatrist and developed
 23 in accordance with person-centered planning under section 712.
 24 Assisted outpatient treatment may also include 1 or more of the
 25 following categories of services: medication; periodic blood tests
 26 or urinalysis to determine compliance with prescribed medications;
 27 individual or group therapy; day or partial day programming
 28 activities; vocational, educational, or self-help training or
 29 activities; assertive community treatment team services; alcohol or



1 substance use disorder treatment and counseling and periodic tests
2 for the presence of alcohol or illegal drugs for an individual with
3 a history of alcohol abuse or substance use disorder; supervision
4 of living arrangements; and any other services within a local or
5 unified services plan developed under this act that are prescribed
6 to treat the individual's mental illness and to assist the
7 individual in living and functioning in the community or to attempt
8 to prevent a relapse or deterioration that may reasonably be
9 predicted to result in suicide, the need for hospitalization, or
10 serious violent behavior. The medical review and direction included
11 in an assisted outpatient treatment plan shall be provided under
12 the supervision of a psychiatrist.

13 (8) ~~(9)~~—"Board" means the governing body of a community mental
14 health services program.

15 (9) ~~(10)~~—"Board of commissioners" means a county board of
16 commissioners.

17 (10) ~~(11)~~—"Center" means a facility operated by the department
18 to admit individuals with developmental disabilities and provide
19 habilitation and treatment services.

20 (11) ~~(12)~~—"Certification" means formal approval of a program
21 by the department in accordance with standards developed or
22 approved by the department.

23 (12) **"Certified nurse practitioner" means a registered**
24 **professional nurse who holds a specialty certification as a nurse**
25 **practitioner under part 172 of the public health code, 1978 PA 368,**
26 **MCL 333.17201 to 333.17242.**

27 (13) "Child abuse" and "child neglect" mean those terms as
28 defined in section 2 of the child protection law, 1975 PA 238, MCL
29 722.622.



1 (14) "Child and adolescent psychiatrist" means 1 or more of
2 the following:

3 (a) A physician who has completed a residency program in child
4 and adolescent psychiatry approved by the Accreditation Council for
5 Graduate Medical Education or the American Osteopathic Association,
6 or who has completed 12 months of child and adolescent psychiatric
7 rotation and is enrolled in an approved residency program as
8 described in this subsection.

9 (b) A psychiatrist employed by or under contract as a child
10 and adolescent psychiatrist with the department or a community
11 mental health services program on March 28, 1996, who has education
12 and clinical experience in the evaluation and treatment of children
13 or adolescents with serious emotional disturbance.

14 (c) A psychiatrist who has education and clinical experience
15 in the evaluation and treatment of children or adolescents with
16 serious emotional disturbance who is approved by the director.

17 (15) "Children's diagnostic and treatment service" means a
18 program operated by or under contract with a community mental
19 health services program, that provides examination, evaluation, and
20 referrals for minors, including emergency referrals, that provides
21 or facilitates treatment for minors, and that has been certified by
22 the department.

23 **(16) "Clinical nurse specialist" means an individual who is**
24 **licensed as a registered professional nurse under part 172 of the**
25 **public health code, 1978 PA 368, MCL 333.17201 to 333.17242, who**
26 **has been granted a specialty certification as a clinical nurse**
27 **specialist by the Michigan board of nursing under section 17210 of**
28 **the public health code, 1978 PA 368, MCL 333.17210.**

29 (17) ~~(16)~~ "Community mental health authority" means a separate



1 legal public governmental entity created under section 205 to
 2 operate as a community mental health services program.

3 **(18)** ~~(17)~~—"Community mental health organization" means a
 4 community mental health services program that is organized under
 5 the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501
 6 to 124.512.

7 **(19)** ~~(18)~~—"Community mental health services program" means a
 8 program operated under chapter 2 as a county community mental
 9 health agency, a community mental health authority, or a community
 10 mental health organization.

11 **(20)** ~~(19)~~—"Consent" means a written agreement executed by a
 12 recipient, a minor recipient's parent, a recipient's legal
 13 representative with authority to execute a consent, or a full or
 14 limited guardian authorized under the estates and protected
 15 individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, with the
 16 authority to consent, or a verbal agreement of a recipient that is
 17 witnessed and documented by an individual other than the individual
 18 providing treatment.

19 **(21)** ~~(20)~~—"Conversion therapy" means any practice or treatment
 20 by a mental health professional that seeks to change an
 21 individual's sexual orientation or gender identity, including, but
 22 not limited to, efforts to change behavior or gender expression or
 23 to reduce or eliminate sexual or romantic attractions or feelings
 24 toward an individual of the same gender. Conversion therapy does
 25 not include counseling that provides assistance to an individual
 26 undergoing a gender transition, counseling that provides
 27 acceptance, support, or understanding of an individual or
 28 facilitates an individual's coping, social support, or identity
 29 exploration and development, including sexual orientation-neutral



1 intervention to prevent or address unlawful conduct or unsafe
2 sexual practices, as long as the counseling does not seek to change
3 an individual's sexual orientation or gender identity. As used in
4 this subsection:

5 (a) "Gender identity" means "gender identity or expression" as
6 that term is defined in section 103 of the Elliott-Larsen civil
7 rights act, 1976 PA 453, MCL 37.2103.

8 (b) "Sexual orientation" means that term as defined in section
9 103 of the Elliot-Larsen civil rights act, 1976 PA 453, MCL
10 37.2103.

11 **(22)** ~~(21)~~—"County community mental health agency" means an
12 official county or multicounty agency created under section 210
13 that operates as a community mental health services program and
14 that has not elected to become a community mental health authority
15 or a community mental health organization.

16 **(23)** ~~(22)~~—"Crisis stabilization unit" means a prescreening
17 unit established under section 409 or a facility certified under
18 chapter 9A that provides unscheduled clinical services designed to
19 prevent or ameliorate a behavioral health crisis or reduce acute
20 symptoms on an immediate, intensive, and time-limited basis in
21 response to a crisis situation.

22 **(24)** ~~(23)~~—"Department" means the department of health and
23 human services.

24 **(25)** ~~(24)~~—"Department-designated community mental health
25 entity" means the community mental health authority, community
26 mental health organization, community mental health services
27 program, county community mental health agency, or community mental
28 health regional entity designated by the department to represent a
29 region of community mental health authorities, community mental



1 health organizations, community mental health services programs, or
2 county community mental health agencies.

3 **(26)** ~~(25)~~—"Dependent living setting" means all of the
4 following:

5 (a) An adult foster care facility.

6 (b) A nursing home licensed under part 217 of the public
7 health code, 1978 PA 368, MCL 333.21701 to 333.21799e.

8 (c) A home for the aged licensed under part 213 of the public
9 health code, 1978 PA 368, MCL 333.21301 to 333.21335.

10 **(27)** ~~(26)~~—"Designated representative" means any of the
11 following:

12 (a) A registered nurse or licensed practical nurse licensed or
13 otherwise authorized under part 172 of the public health code, 1978
14 PA 368, MCL 333.17201 to 333.17242.

15 (b) A paramedic licensed or otherwise authorized under part
16 209 of the public health code, 1978 PA 368, MCL 333.20901 to
17 333.20979.

18 (c) A physician's assistant licensed or otherwise authorized
19 under part 170 or 175 of the public health code, 1978 PA 368, MCL
20 333.17001 to 333.17097 and 333.17501 to 333.17556.

21 (d) An individual qualified by education, training, and
22 experience who performs acts, tasks, or functions under the
23 supervision of a physician.

24 **(28)** ~~(27)~~—"Developmental disability" means either of the
25 following:

26 (a) If applied to an individual older than 5 years of age, a
27 severe, chronic condition that meets all of the following
28 requirements:

29 (i) Is attributable to a mental or physical impairment or a



1 combination of mental and physical impairments.

2 (ii) Is manifested before the individual is 22 years old.

3 (iii) Is likely to continue indefinitely.

4 (iv) Results in substantial functional limitations in 3 or more
5 of the following areas of major life activity:

6 (A) Self-care.

7 (B) Receptive and expressive language.

8 (C) Learning.

9 (D) Mobility.

10 (E) Self-direction.

11 (F) Capacity for independent living.

12 (G) Economic self-sufficiency.

13 (v) Reflects the individual's need for a combination and
14 sequence of special, interdisciplinary, or generic care, treatment,
15 or other services that are of lifelong or extended duration and are
16 individually planned and coordinated.

17 (b) If applied to a minor from birth to 5 years of age, a
18 substantial developmental delay or a specific congenital or
19 acquired condition with a high probability of resulting in
20 developmental disability as defined in subdivision (a) if services
21 are not provided.

22 (29) ~~(28)~~—"Director" means the director of the department or
23 his or her designee.

24 (30) ~~(29)~~—"Discharge" means an absolute, unconditional release
25 of an individual from a facility by action of the facility or a
26 court.

27 (31) ~~(30)~~—"Eligible minor" means an individual less than 18
28 years of age who is recommended in the written report of a
29 multidisciplinary team under rules promulgated by the department of



1 education to be classified as 1 of the following:

2 (a) Severely mentally impaired.

3 (b) Severely multiply impaired.

4 (c) Autistic impaired and receiving special education services
5 in a program designed for the autistic impaired under R 340.1758 of
6 the Michigan Administrative Code or in a program designed for the
7 severely mentally impaired or severely multiply impaired.

8 **(32)** ~~(31)~~—"Emergency situation" means a situation in which an
9 individual is experiencing a serious mental illness or a
10 developmental disability, or a minor is experiencing a serious
11 emotional disturbance, and 1 of the following applies:

12 (a) The individual can reasonably be expected within the near
13 future to physically injure himself, herself, or another
14 individual, either intentionally or unintentionally.

15 (b) The individual is unable to provide himself or herself
16 food, clothing, or shelter or to attend to basic physical
17 activities such as eating, toileting, bathing, grooming, dressing,
18 or ambulating, and this inability may lead in the near future to
19 harm to the individual or to another individual.

20 (c) The individual has mental illness that has impaired his or
21 her judgment so that the individual is unable to understand his or
22 her need for treatment and presents a risk of harm.

23 **(33)** ~~(32)~~—"Executive director" means an individual appointed
24 under section 226 to direct a community mental health services
25 program or his or her designee.

26 Sec. 100b. (1) Except as otherwise provided in this
27 subsection, "facility" means a residential facility for the care or
28 treatment of individuals with serious mental illness, serious
29 emotional disturbance, or developmental disability that is either a



1 state facility or a licensed facility. Facility includes a
2 preadmission screening unit established under section 409 that is
3 operating a crisis stabilization unit.

4 (2) "Family" as used in sections 156 to 161 means an eligible
5 minor and his or her parent or legal guardian.

6 (3) "Family member" means a parent, stepparent, spouse,
7 sibling, child, or grandparent of a primary consumer, or an
8 individual upon whom a primary consumer is dependent for at least
9 50% of his or her financial support.

10 (4) "Federal funds" means funds received from the federal
11 government under a categorical grant or similar program and does
12 not include federal funds received under a revenue sharing
13 arrangement.

14 (5) "Functional impairment" means both of the following:

15 (a) With regard to serious emotional disturbance, substantial
16 interference with or limitation of a minor's achievement or
17 maintenance of 1 or more developmentally appropriate social,
18 behavioral, cognitive, communicative, or adaptive skills.

19 (b) With regard to serious mental illness, substantial
20 interference or limitation of role functioning in 1 or more major
21 life activities including basic living skills such as eating,
22 bathing, and dressing; instrumental living skills such as
23 maintaining a household, managing money, getting around the
24 community, and taking prescribed medication; and functioning in
25 social, vocational, and educational contexts.

26 (6) "Guardian" means a person appointed by the court to
27 exercise specific powers over an individual who is a minor, legally
28 incapacitated, or developmentally disabled.

29 (7) "Hospital" or "psychiatric hospital" means an inpatient



1 program operated by the department for the treatment of individuals
2 with serious mental illness or serious emotional disturbance or a
3 psychiatric hospital or psychiatric unit licensed under section
4 137.

5 (8) "Hospital director" means the chief administrative officer
6 of a hospital or his or her designee.

7 (9) "Hospitalization" or "hospitalize" means to provide
8 treatment for an individual as an inpatient in a hospital.

9 (10) "Incapacitated" means that an individual, as a result of
10 the use of alcohol or other drugs, is unconscious or has his or her
11 mental or physical functioning so impaired that he or she either
12 poses an immediate and substantial danger to his or her own health
13 and safety or is endangering the health and safety of the public.

14 (11) "Individual plan of services" or "plan of services" means
15 a written individual plan of services developed with a recipient as
16 required by section 712.

17 (12) "Individual representative" means a recipient's legal
18 guardian, minor recipient's parent, or other person authorized by
19 law to represent the recipient in decision-making related to the
20 recipient's services and supports.

21 (13) "Intellectual disability" means a condition manifesting
22 before the age of 18 years that is characterized by significantly
23 subaverage intellectual functioning and related limitations in 2 or
24 more adaptive skills and that is diagnosed based on the following
25 assumptions:

26 (a) Valid assessment considers cultural and linguistic
27 diversity, as well as differences in communication and behavioral
28 factors.

29 (b) The existence of limitation in adaptive skills occurs



1 within the context of community environments typical of the
2 individual's age peers and is indexed to the individual's
3 particular needs for support.

4 (c) Specific adaptive skill limitations often coexist with
5 strengths in other adaptive skills or other personal capabilities.

6 (d) With appropriate supports over a sustained period, the
7 life functioning of the individual with an intellectual disability
8 will generally improve.

9 (14) "Licensed facility" means a facility licensed by the
10 department under section 137 or an adult foster care facility.

11 (15) "Licensed psychologist" means a doctoral level
12 psychologist licensed under section 18223(1) of the public health
13 code, 1978 PA 368, MCL 333.18223.

14 (16) "Mediation" means a confidential process in which a
15 neutral third party facilitates communication between parties,
16 assists in identifying issues, and helps explore solutions to
17 promote a mutually acceptable resolution. A mediator does not have
18 authoritative decision-making power.

19 (17) "Medicaid" means the program of medical assistance
20 established under section 105 of the social welfare act, 1939 PA
21 280, MCL 400.105.

22 (18) "Medical director" means a psychiatrist appointed under
23 section 231 to advise the executive director of a community mental
24 health services program.

25 (19) "Mental health professional" means an individual who is
26 trained and experienced in the area of mental illness or
27 developmental disabilities and who is 1 of the following:

28 (a) A physician.

29 (b) A psychologist.



1 (c) A registered professional nurse licensed or otherwise
 2 authorized to engage in the practice of nursing under part 172 of
 3 the public health code, 1978 PA 368, MCL 333.17201 to 333.17242.

4 (d) A licensed master's social worker licensed or otherwise
 5 authorized to engage in the practice of social work at the master's
 6 level under part 185 of the public health code, 1978 PA 368, MCL
 7 333.18501 to 333.18518.

8 (e) A licensed professional counselor licensed or otherwise
 9 authorized to engage in the practice of counseling under part 181
 10 of the public health code, 1978 PA 368, MCL 333.18101 to 333.18117.

11 (f) A marriage and family therapist licensed or otherwise
 12 authorized to engage in the practice of marriage and family therapy
 13 under part 169 of the public health code, 1978 PA 368, MCL
 14 333.16901 to 333.16915.

15 **(g) A physician's assistant.**

16 **(h) A certified nurse practitioner.**

17 **(i) A clinical nurse specialist.**

18 (20) "Minor" means an individual under the age of 18 years.

19 (21) "Multicultural services" means specialized mental health
 20 services for multicultural populations such as African-Americans,
 21 Hispanics, Native Americans, Asian and Pacific Islanders, and
 22 Arab/Chaldean-Americans.

23 (22) "Neglect" means an act or failure to act committed by an
 24 employee or volunteer of the department, a community mental health
 25 services program, or a licensed hospital; a service provider under
 26 contract with the department, a community mental health services
 27 program, or a licensed hospital; or an employee or volunteer of a
 28 service provider under contract with the department, a community
 29 mental health services program, or a licensed hospital, that denies



1 a recipient the standard of care or treatment to which he or she is
2 entitled under this act.

3 Sec. 100c. (1) "Peace officer" means an officer of the
4 department of state police, an officer of a law enforcement agency
5 of a county, township, city, or village who is responsible for
6 preventing and detecting crime and enforcing the criminal laws of
7 this state, or an officer of a law enforcement agency who is
8 licensed under the Michigan commission on law enforcement standards
9 act, 1965 PA 203, MCL 28.601 to 28.615. For the purposes of
10 sections 408, 426, 427a, and 427b, peace officer also includes an
11 officer of the United States Secret Service with the officer's
12 consent and a police officer of the Veterans' Administration
13 Medical Center Reservation.

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

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

26 (4) "Physician" means an individual licensed or otherwise
27 authorized to engage in the practice of medicine under part 170 of
28 the public health code, 1978 PA 368, MCL 333.17001 to 333.17097, or
29 to engage in the practice of osteopathic medicine and surgery under



1 part 175 of the public health code, 1978 PA 368, MCL 333.17501 to
2 333.17556.

3 **(5) "Physician's assistant" means an individual licensed to**
4 **engage in the practice as a physician's assistant as that term is**
5 **defined in sections 17001 and 17501 of the public health code, 1978**
6 **PA 368, MCL 333.17001 and 333.17501.**

7 **(6) ~~(5)~~**—"Primary consumer" means an individual who has
8 received or is receiving services from the department or a
9 community mental health services program or services from the
10 private sector equivalent to those offered by the department or a
11 community mental health services program.

12 **(7) ~~(6)~~**—"Priority" means preference for and dedication of a
13 major proportion of resources to specified populations or services.
14 Priority does not mean serving or funding the specified populations
15 or services to the exclusion of other populations or services.

16 **(8) ~~(7)~~**—"Protective custody" means the temporary custody of an
17 individual by a peace officer with or without the individual's
18 consent for the purpose of protecting that individual's health and
19 safety, or the health and safety of the public, and for the purpose
20 of transporting the individual under section 276, 408, or 427 if
21 the individual appears, in the judgment of the peace officer, to be
22 a person requiring treatment or is a person requiring treatment.
23 Protective custody is civil in nature and is not an arrest.

24 **(9) ~~(8)~~**—"Psychiatric residential treatment facility" or "PRTF"
25 means a facility other than a hospital that provides psychiatric
26 services, as described in 42 CFR 441.150 to 441.184, in an
27 inpatient setting to individuals under age 21.

28 **(10) ~~(9)~~**—"Psychiatric unit" means a unit of a general hospital
29 that provides inpatient services for individuals with serious



1 mental illness or serious emotional disturbance. As used in this
 2 subsection, "general hospital" means a hospital as defined in
 3 section 20106 of the public health code, 1978 PA 368, MCL
 4 333.20106.

5 **(11)** ~~(10)~~—"Psychiatrist" means 1 or more of the following:

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

11 (b) A psychiatrist employed by or under contract with the
 12 department or a community mental health services program on March
 13 28, 1996.

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

17 **(12)** ~~(11)~~—"Psychologist" means an individual who is licensed
 18 or otherwise authorized to engage in the practice of psychology
 19 under part 182 of the public health code, 1978 PA 368, MCL
 20 333.18201 to 333.18237, and who devotes a substantial portion of
 21 his or her time to the diagnosis and treatment of individuals with
 22 serious mental illness, serious emotional disturbance, substance
 23 use disorder, or developmental disability.

24 **(13)** ~~(12)~~—"Public patient" means an individual approved for
 25 mental health services by a community mental health services
 26 program. Public patient includes an individual who is admitted as a
 27 patient under section 423, 429, or 438.

28 **(14)** ~~(13)~~—"Recipient" means an individual who receives mental
 29 health services, either in person or through telemedicine, from the



1 department, a community mental health services program, or a
 2 facility or from a provider that is under contract with the
 3 department or a community mental health services program. For the
 4 purposes of this act, recipient does not include an individual
 5 receiving substance use disorder services under chapter 2A unless
 6 that individual is also receiving mental health services under this
 7 act in conjunction with substance use disorder services.

8 **(15)** ~~(14)~~—"Recipient rights advisory committee" means a
 9 committee of a community mental health services program board
 10 appointed under section 757 or a recipient rights advisory
 11 committee appointed by a licensed hospital under section 758.

12 **(16)** ~~(15)~~—"Recovery" means a highly individualized process of
 13 healing and transformation by which the individual gains control
 14 over his or her life. Related services include recovery management,
 15 recovery support services, recovery houses or transitional living
 16 programs, and relapse prevention. Recovery involves the development
 17 of a new meaning, purpose, and growing beyond the impact of
 18 addiction or a diagnosis. Recovery may include the pursuit of
 19 spiritual, emotional, mental, or physical well-being.

20 **(17)** ~~(16)~~—"Regional entity" means an entity established under
 21 section 204b to provide specialty services and supports.

22 **(18) "Registered professional nurse" means that term as**
 23 **defined in section 17201 of the public health code, 1978 PA 368,**
 24 **MCL 333.17201.**

25 **(19)** ~~(17)~~—"Rehabilitation" means the act of restoring an
 26 individual to a state of mental and physical health or useful
 27 activity through vocational or educational training, therapy, and
 28 counseling.

29 **(20)** ~~(18)~~—"Resident" means an individual who receives services



1 in a facility.

2 (21) ~~(19)~~—"Responsible mental health agency" means the
3 hospital, center, or community mental health services program that
4 has primary responsibility for the recipient's care or for
5 delivering services or supports to that recipient.

6 (22) ~~(20)~~—"Rule" means a rule promulgated under the
7 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
8 24.328.

9 Sec. 281b. (1) Upon receipt of a petition filed under section
10 281a and the payment of the filing fee, if any, the court shall
11 examine the petitioner under oath as to the contents of the
12 petition.

13 (2) If, after reviewing the contents of the petition and
14 examining the petitioner under oath, it appears to the court that
15 there is probable cause to believe the respondent may reasonably
16 benefit from treatment, the court shall do all of the following:

17 (a) Schedule a hearing to be held within 7 days to determine
18 if there is clear and convincing evidence that the respondent may
19 reasonably benefit from treatment.

20 (b) Notify the respondent and all other individuals named in
21 the petition under section 281a(3)(d) to (h) concerning the
22 allegations and contents of the petition and of the date and the
23 purpose of the hearing.

24 (c) Notify the respondent that the respondent may retain
25 counsel and, if the respondent is unable to retain counsel, that
26 the respondent may be represented by court-appointed counsel at
27 public expense if the respondent is indigent. Upon the appointment
28 of court-appointed counsel for an indigent respondent, the court
29 shall notify the respondent of the name, address, and telephone



1 number of the court-appointed counsel.

2 (d) Notify the respondent that the court will cause the
3 respondent to be examined not later than 24 hours before the
4 hearing date by a physician, **physician's assistant, certified nurse**
5 **practitioner, or clinical nurse specialist** for the purpose of a
6 physical examination and by an independent health professional for
7 the purpose of a substance use disorder assessment and diagnosis.
8 In addition, the court shall notify the respondent that the
9 respondent may have an independent expert evaluation of his or her
10 physical and mental condition conducted at the respondent's own
11 expense.

12 (e) Cause the respondent to be examined not later than 24
13 hours before the hearing date by a physician, **physician's**
14 **assistant, certified nurse practitioner, or clinical nurse**
15 **specialist** for the purpose of a physical examination and by an
16 independent health professional for the purpose of a substance use
17 disorder assessment and diagnosis.

18 (f) Conduct the hearing.

19 (3) The physician, **physician's assistant, certified nurse**
20 **practitioner, or clinical nurse specialist** who examined the
21 respondent for the purpose of a physical examination, the health
22 professional who examined the respondent for the purpose of the
23 substance use disorder assessment and diagnosis, and, if
24 applicable, the individual who conducted the independent expert
25 evaluation of the respondent's physical and mental condition at the
26 respondent's expense shall certify his or her findings to the court
27 within 24 hours after the examination. The findings must include a
28 recommendation for treatment if the physician, **physician's**
29 **assistant, certified nurse practitioner, clinical nurse specialist,**



1 health professional, or individual determines that treatment is
2 necessary.

3 (4) If, upon completion of the hearing held under this
4 section, the court finds by clear and convincing evidence that the
5 requirements of section 281a(1) are met, the court may order the
6 involuntary treatment of the respondent after considering the
7 recommendations for treatment that were submitted to the court
8 under subsection (3). If ordered, the court shall order the
9 involuntary treatment to be provided by an approved service program
10 or by a health professional qualified by education and training to
11 provide the treatment.

12 (5) A respondent who fails to undergo and complete the
13 treatment ordered under subsection (4) is in contempt of court. An
14 approved service program to which or health professional to whom a
15 respondent is ordered for treatment under subsection (4) ~~shall~~**must**
16 notify the court of a respondent's failure to undergo or complete
17 treatment ordered under subsection (4).

18 (6) If at any time after a petition is filed under section
19 281a the court finds that there is not probable cause to order or
20 continue treatment or the petitioner withdraws the petition, the
21 court shall dismiss the proceedings against the respondent.

22 (7) As used in this section, "substance use disorder
23 assessment and diagnosis" includes an evaluation of all of the
24 following:

25 (a) Whether the individual has a substance use disorder.

26 (b) Whether the individual presents an imminent danger or
27 imminent threat of danger to self, family, or others as a result of
28 the substance use disorder, or whether a substantial likelihood of
29 the threat of danger in the near future exists.



1 (c) Whether the individual can reasonably benefit from
2 treatment.

3 Sec. 400. As used in this chapter, unless the context requires
4 otherwise:

5 (a) "Clinical certificate" means the written conclusion and
6 statements of a physician, **physician's assistant, certified nurse**
7 **practitioner, clinical nurse specialist**, or a licensed psychologist
8 that an individual is a person requiring treatment, together with
9 the information and opinions, in reasonable detail, that underlie
10 the conclusion, on the form prescribed by the department or on a
11 substantially similar form.

12 (b) "Competent clinical opinion" means the clinical judgment
13 of a physician, psychiatrist, **physician's assistant, certified**
14 **nurse practitioner, clinical nurse specialist**, or licensed
15 psychologist.

16 (c) "Court" means the probate court or the court with
17 responsibility with regard to mental health services for the county
18 of residence of the subject of a petition, or for the county in
19 which the subject of a petition was found.

20 (d) "Formal voluntary hospitalization" means hospitalization
21 of an individual based on both of the following:

22 (i) The execution of an application for voluntary
23 hospitalization by the individual or by a patient advocate
24 designated under the estates and protected individuals code, 1998
25 PA 386, MCL 700.1101 to 700.8206, to make mental health treatment
26 decisions for the individual.

27 (ii) The hospital director's determination that the individual
28 is clinically suitable for voluntary hospitalization.

29 (e) "Informal voluntary hospitalization" means hospitalization



1 of an individual based on all of the following:

2 (i) The individual's request for hospitalization.

3 (ii) The hospital director's determination that the individual
4 is clinically suitable for voluntary hospitalization.

5 (iii) The individual's agreement to accept treatment.

6 (f) "Involuntary mental health treatment" means court-ordered
7 hospitalization, assisted outpatient treatment, or combined
8 hospitalization and assisted outpatient treatment as described in
9 section 468. For the purpose of this chapter, involuntary mental
10 health treatment does not include a full or limited guardian
11 authorized under the estates and protected individuals code, 1998
12 PA 386, MCL 700.1101 to 700.8206, with the authority to consent to
13 mental health treatment for an individual found to be a legally
14 incapacitated individual under the estates and protected
15 individuals code, 1998 PA 386, MCL 700.1101 to 700.8206.

16 (g) "Mental illness" means a substantial disorder of thought
17 or mood that significantly impairs judgment, behavior, capacity to
18 recognize reality, or ability to cope with the ordinary demands of
19 life.

20 (h) "Preadmission screening unit" means a service component of
21 a community mental health services program established under
22 section 409.

23 (i) "Private-pay patient" means a patient whose services and
24 care are paid for from funding sources other than the community
25 mental health services program, the department, or other state or
26 county funding.

27 (j) "Release" means the transfer of an individual who is
28 subject to an order of combined hospitalization and assisted
29 outpatient treatment from 1 treatment program to another in



1 accordance with his or her individual plan of services.

2 (k) "Subject of a petition" means an individual regarding whom
3 a petition has been filed with the court asserting that the
4 individual is or is not a person requiring treatment or for whom an
5 objection to involuntary mental health treatment has been made
6 under section 484.

7 Sec. 420. If a written notice of termination of mental health
8 treatment is given to a hospital or provider of mental health
9 treatment under section 419, if the notice is not withdrawn, and if
10 the hospital director or provider of mental health treatment
11 determines that the patient is a person requiring treatment and
12 should remain in the hospital or continue to receive mental health
13 treatment, the hospital director, provider of mental health
14 treatment, or other suitable person shall within 3 days after
15 receipt of the notice file a petition with the court that complies
16 with section 434. The petition ~~shall~~**must** be accompanied by 1
17 clinical certificate executed by a psychiatrist and 1 clinical
18 certificate executed by ~~either~~ a physician, **physician's assistant,**
19 **certified nurse practitioner, clinical nurse specialist,** or a
20 licensed psychologist. If a petition is filed, the hospital or
21 provider of mental health may continue hospitalization or mental
22 health treatment of the patient pending hearings convened under
23 sections 451 to 465.

24 Sec. 423. A hospital designated by the department or by a
25 community mental health services program shall hospitalize an
26 individual presented to the hospital, pending receipt of a clinical
27 certificate by a psychiatrist stating that the individual is a
28 person requiring treatment, if a petition, a physician's,
29 **physician's assistant's, certified nurse practitioner's, clinical**



1 **nurse specialist's**, or ~~a~~-licensed psychologist's clinical
 2 certificate, and an authorization by a preadmission screening unit
 3 have been executed. For an individual hospitalized under this
 4 section, a petition shall have been executed not more than 10 days
 5 before the presentation of the individual to the hospital, and the
 6 petition must meet the conditions set forth in section 434(1) and
 7 (2).

8 Sec. 425. A physician's, **physician's assistant's, certified**
 9 **nurse practitioner's, clinical nurse specialist's**, or ~~a~~-licensed
 10 psychologist's clinical certificate required for hospitalization of
 11 an individual under section 423 ~~shall~~**must** have been executed after
 12 personal examination of the individual named in the clinical
 13 certificate, and within 72 hours before the time the clinical
 14 certificate is received by the hospital. The clinical certificate
 15 may be executed by any physician, **physician's assistant, certified**
 16 **nurse practitioner, clinical nurse specialist**, or licensed
 17 psychologist, including a ~~physician or licensed psychologist who is~~
 18 ~~a~~-staff member or employee of the hospital that received the
 19 clinical certificate.

20 Sec. 426. Upon delivery to a peace officer of a petition and a
 21 physician's, **physician's assistant's, certified nurse**
 22 **practitioner's, clinical nurse specialist's**, or licensed
 23 psychologist's clinical certificate, the peace officer must take
 24 the individual named in the petition into protective custody and
 25 transport the individual immediately to the preadmission screening
 26 unit or hospital designated by the community mental health services
 27 program for hospitalization under section 423. If the individual
 28 taken to a preadmission screening unit meets the requirements for
 29 hospitalization, then unless the community mental health services



1 program makes other transportation arrangements, the peace officer
2 must take the individual to a hospital designated by the community
3 mental health services program. The community mental health
4 services program may arrange for a security transport officer to
5 transport the individual to the hospital. Transportation to another
6 hospital due to a transfer is the responsibility of the community
7 mental health services program.

8 Sec. 427. (1) If a peace officer observes an individual
9 conducting himself or herself in a manner that causes the peace
10 officer to reasonably believe that the individual is a person
11 requiring treatment, the peace officer may take the individual into
12 protective custody and transport the individual to a preadmission
13 screening unit designated by a community mental health services
14 program for examination under section 429 or for mental health
15 intervention services. The preadmission screening unit shall
16 provide those mental health intervention services that it considers
17 appropriate or shall provide an examination under section 429. The
18 preadmission screening services may be provided at the site of the
19 preadmission screening unit or at a site designated by the
20 preadmission screening unit. Upon arrival at the preadmission
21 screening unit or site designated by the preadmission screening
22 unit, the peace officer shall execute a petition for
23 hospitalization of the individual. As soon as practical, the
24 preadmission screening unit shall offer to contact an immediate
25 family member of the recipient to let the family know that the
26 recipient has been taken into protective custody and where he or
27 she is located. The preadmission screening unit shall honor the
28 recipient's decision as to whether an immediate family member is to
29 be contacted and shall document that decision in the recipient's



1 record. In the course of providing services, the preadmission
 2 screening unit may provide advice and consultation to the peace
 3 officer ~~, which~~**that** may include a recommendation to release the
 4 individual from protective custody. In all cases where a peace
 5 officer has executed a petition, the preadmission screening unit
 6 shall ensure that an examination is conducted by a physician,
 7 **physician's assistant, certified nurse practitioner, clinical nurse**
 8 **specialist**, or licensed psychologist. The preadmission screening
 9 unit shall ensure provision of follow-up counseling and diagnostic
 10 and referral services if needed if it is determined under section
 11 429 that the person does not meet the requirements for
 12 hospitalization.

13 (2) A peace officer is not financially responsible for the
 14 cost of care of an individual for whom a peace officer has executed
 15 a petition under subsection (1).

16 (3) A hospital receiving an individual under subsection (1)
 17 who has been referred by a community mental health services
 18 program's preadmission screening unit shall notify that unit of the
 19 results of an examination of that individual conducted by the
 20 hospital.

21 Sec. 429. (1) A hospital designated under section 422 shall
 22 receive and detain an individual presented for examination under
 23 section 426, 427, 435, 436, or 438, for not more than 24 hours.
 24 During that time the individual must be examined by a physician,
 25 **physician's assistant, certified nurse practitioner, clinical nurse**
 26 **specialist**, or a licensed psychologist unless a clinical
 27 certificate has already been presented to the hospital. If the
 28 examining physician, **physician's assistant, certified nurse**
 29 **practitioner, clinical nurse specialist, or licensed psychologist**



1 does not certify that the individual is a person requiring
2 treatment, the individual shall be released immediately. If the
3 examining physician, **physician's assistant, certified nurse**
4 **practitioner, clinical nurse specialist,** or **licensed** psychologist
5 executes a clinical certificate, the individual may be hospitalized
6 under section 423.

7 (2) If a preadmission screening unit provides an examination
8 under section 409, 410, or 427, the examination shall be conducted
9 as soon as possible after the individual arrives at the
10 preadmission screening site, and the examination must be completed
11 within 2 hours, unless there are documented medical reasons why the
12 examination cannot be completed within that time frame or other
13 arrangements are agreed upon by the peace officer or security
14 transport officer and the preadmission screening unit.

15 Sec. 430. If a patient is hospitalized under section 423, the
16 patient ~~shall~~**must** be examined by a psychiatrist as soon after
17 hospitalization as is practicable, but not later than 24 hours,
18 excluding legal holidays, after hospitalization. The examining
19 psychiatrist ~~shall~~**must** not be the same physician, **physician's**
20 **assistant, certified nurse practitioner, or clinical nurse**
21 **specialist** upon whose clinical certificate the patient was
22 hospitalized. If the psychiatrist does not certify that the patient
23 is a person requiring treatment, the patient ~~shall~~**must** be released
24 immediately. If the psychiatrist does certify that the patient is a
25 person requiring treatment, the patient's hospitalization may
26 continue pending hearings convened ~~pursuant to~~**under** sections 451
27 to 465.

28 Sec. 434. (1) Any individual 18 years of age or over may file
29 with the court a petition that asserts that an individual is a



1 person requiring treatment.

2 (2) The petition ~~shall~~**must** contain the facts that are the
3 basis for the assertion, the names and addresses, if known, of any
4 witnesses to the facts, and, if known, the name and address of the
5 nearest relative or guardian, or, if none, a friend, if known, of
6 the individual.

7 (3) Except as provided in subsection (7), the petition shall
8 be accompanied by the clinical certificate of a physician,
9 **physician's assistant, certified nurse practitioner, clinical nurse**
10 **specialist**, or a licensed psychologist, unless after reasonable
11 effort the petitioner could not secure an examination. If a
12 clinical certificate does not accompany the petition, the
13 petitioner shall set forth the reasons an examination could not be
14 secured within the petition. The petition may also be accompanied
15 by a second clinical certificate. If 2 clinical certificates
16 accompany the petition, at least 1 clinical certificate must have
17 been executed by a psychiatrist.

18 (4) Except as otherwise provided in subsection (7) and section
19 455, a clinical certificate that accompanies a petition must have
20 been executed within 72 hours before ~~the filing of the~~ petition **is**
21 **filed**, and after personal examination of the individual.

22 (5) If the individual is found not to be a person requiring
23 treatment under this section, the petition and any clinical
24 certificate shall be maintained by the court as a confidential
25 record to prevent disclosure to ~~any~~**a** person who is not
26 specifically authorized under this chapter to receive notice of the
27 petition or clinical certificate.

28 (6) The petition described in this section may assert that the
29 subject of the petition should receive assisted outpatient



1 treatment in accordance with section 468(2)(d).

2 (7) A petition that does not seek hospitalization but only
3 requests that the subject of the petition receive assisted
4 outpatient treatment is not subject to subsection (3) or (4).

5 Sec. 435. (1) If the petition is accompanied by 1 clinical
6 certificate, the court shall order the individual to be examined by
7 a psychiatrist.

8 (2) If the petition is not accompanied by a clinical
9 certificate, and if the court is satisfied a reasonable effort was
10 made to secure an examination, the court shall order the individual
11 to be examined by a psychiatrist and ~~either~~ a physician, a
12 **physician's assistant, a certified nurse practitioner, a clinical**
13 **nurse specialist**, or a licensed psychologist.

14 (3) The individual may be received and detained at the place
15 of examination as long as necessary to complete the examination or
16 examinations, but not more than 24 hours.

17 (4) After an examination ordered under subsection (1), the
18 examining psychiatrist shall either transmit a clinical certificate
19 to the court or report to the court that execution of a clinical
20 certificate is not warranted. After each examination ordered under
21 subsection (2), the examining psychiatrist, or the examining
22 physician, **physician's assistant, certified nurse practitioner,**
23 **clinical nurse specialist**, or licensed psychologist, as applicable,
24 shall either transmit a clinical certificate to the court or report
25 to the court that execution of a clinical certificate is not
26 warranted.

27 (5) If 1 examination was ordered and the examining
28 psychiatrist reports that execution of a clinical certificate is
29 not warranted, or if 2 examinations were ordered and 1 of the



1 examining physicians or the **physician's assistant, certified nurse**
2 **practitioner, clinical nurse specialist, or** licensed psychologist
3 reports that execution of a clinical certificate is not warranted,
4 the court shall dismiss the petition or order the individual to be
5 examined by a psychiatrist, or if a psychiatrist is not available,
6 by a physician, **physician's assistant, certified nurse**
7 **practitioner, clinical nurse specialist,** or licensed psychologist.
8 If a third examination report states that execution of a clinical
9 certificate is not warranted, the court shall dismiss the petition.

10 (6) This section does not apply to a petition filed under
11 section 434(7).

12 Sec. 438. If it appears to the court that the individual
13 requires immediate assessment because the individual presents a
14 substantial risk of significant physical or mental harm to themselves
15 in the near future or presents a substantial risk of significant
16 physical harm to others in the near future, the court may order the
17 individual hospitalized and may order a peace officer to take the
18 individual into protective custody and transport the individual to
19 a preadmission screening unit designated by the community mental
20 health services program. After the individual is taken into
21 protective custody by a peace officer, the court may, also, order a
22 security transport officer to transport the individual to a
23 preadmission screening unit designated by the community mental
24 health services program. If the preadmission screening unit
25 authorizes hospitalization, the peace officer or security transport
26 officer must transport the individual to a hospital designated by
27 the community mental health services program, unless other
28 arrangements are provided by the preadmission screening unit. If
29 the examinations and clinical certificates of the psychiatrist, and



1 the physician, **the physician's assistant, the certified nurse**
2 **practitioner, the clinical nurse specialist,** or the licensed
3 psychologist, are not completed within 24 hours after
4 hospitalization, the individual must be released.

5 Sec. 452. (1) The court shall fix a date for every hearing
6 convened under this chapter. Except as provided in subsection (2),
7 the hearing ~~shall~~**must** be convened promptly, but not more than 7
8 days after the court's receipt of any of the following:

9 (a) A petition for a determination that an individual is a
10 person requiring treatment, a clinical certificate executed by a
11 physician, **a physician's assistant, a certified nurse practitioner,**
12 **a clinical nurse specialist,** or a licensed psychologist, and a
13 clinical certificate executed by a psychiatrist.

14 (b) A petition for a determination that an individual
15 continues to be a person requiring treatment and a clinical
16 certificate executed by a psychiatrist.

17 (c) A petition for discharge filed under section 484.

18 (d) A demand or notification that a hearing that has been
19 temporarily deferred under section 455(6) be convened.

20 (2) A hearing for a petition under section 434(7) shall be
21 convened not more than 28 days after the filing of the petition,
22 unless the petition was filed while the subject of the petition was
23 an inpatient at a psychiatric hospital, in which case the hearing
24 shall be convened within 7 days ~~of the filing of~~**after** the petition
25 **is filed.**

26 Sec. 461. (1) An individual may not be found to require
27 treatment unless at least 1 physician, **physician's assistant,**
28 **certified nurse practitioner, clinical nurse specialist,** or
29 licensed psychologist who has personally examined that individual



1 testifies in person or by written deposition at the hearing.

2 (2) For a petition filed under section 434(7), that does not
3 seek hospitalization before the hearing, an individual may not be
4 found to require treatment unless a psychiatrist who has personally
5 examined that individual testifies. A psychiatrist's testimony is
6 not necessary if a psychiatrist signs the petition. If a
7 psychiatrist signs the petition, at least 1 physician, **physician's**
8 **assistant, certified nurse practitioner, clinical nurse specialist,**
9 or licensed psychologist who has personally examined that
10 individual must testify. The requirement for testimony may be
11 waived by the subject of the petition. If the testimony given in
12 person is waived, a clinical certificate completed by a physician,
13 licensed psychologist, **physician's assistant, certified nurse**
14 **practitioner, clinical nurse specialist,** or psychiatrist must be
15 presented to the court before or at the initial hearing.

16 (3) The examinations required under this section for a
17 petition filed under section 434(7) shall be arranged by the court
18 and the local community mental health services program or other
19 entity as designated by the department.

20 (4) A written deposition may be introduced as evidence at the
21 hearing only if the attorney for the subject of the petition was
22 given the opportunity to be present during the taking of the
23 deposition and to cross-examine the deponent. This testimony or
24 deposition may be waived by the subject of a petition. An
25 individual may be found to require treatment even if the petitioner
26 does not testify, as long as there is competent evidence from which
27 the relevant criteria in section 401 can be established.

28 Sec. 463. (1) If requested before the first scheduled hearing
29 or at the first scheduled hearing before the first witness has been



1 sworn on a petition, the subject of a petition in a hearing under
 2 this chapter has the right at his or her own expense, or if
 3 indigent, at public expense, to secure an independent clinical
 4 evaluation by a physician, psychiatrist, **physician's assistant,**
 5 **certified nurse practitioner, clinical nurse specialist,** or
 6 licensed psychologist of his or her choice relevant to whether he
 7 or she requires treatment, whether he or she should be hospitalized
 8 or receive treatment other than hospitalization, and whether he or
 9 she is of legal capacity.

10 (2) Compensation for an evaluation performed by a physician, **a**
 11 **physician's assistant, a certified nurse practitioner, a clinical**
 12 **nurse specialist,** or a licensed psychologist shall be in an amount
 13 that is reasonable and based upon time and expenses.

14 (3) The independent clinical evaluation described in this
 15 section is for the sole use of the subject of the petition. The
 16 independent clinical evaluation or the testimony of the individual
 17 performing the evaluation shall not be introduced into evidence
 18 without the consent of the subject of the petition.

19 Sec. 498o. (1) Except as provided in subsection (4), a minor
 20 hospitalized under this chapter shall not be kept in the hospital
 21 more than 3 days, excluding Sundays and holidays, after receipt by
 22 the hospital of a written notice of intent to terminate the
 23 hospitalization of the minor executed by the minor's parent,
 24 guardian, or person in loco parentis or by the minor if the minor
 25 is 14 years of age or older and was admitted to the hospital upon
 26 his or her own request.

27 (2) Upon receipt of an oral request to terminate
 28 hospitalization of a minor ~~pursuant to~~ **under** subsection (1), the
 29 hospital promptly shall supply the necessary form for termination



1 of hospitalization to the person giving notice.

2 (3) Upon receipt of notice or an oral request under subsection
3 (1) or (2) by a hospital under contract with the community mental
4 health services program, the hospital director immediately shall
5 notify the executive director.

6 (4) If notice of intent to terminate hospitalization is
7 received by a hospital under subsection (1) or (2), and the
8 director of the hospital determines that the minor to whom the
9 notice applies should remain in the hospital, the director of the
10 hospital or a person designated by the director of the hospital
11 shall file, within 3 days, excluding Sundays and holidays, after
12 receipt of the notice, a petition with the court requesting an
13 order to continue hospitalization of the minor. The petition ~~shall~~
14 **must** be accompanied by 1 certificate executed by a child and
15 adolescent psychiatrist and 1 certificate executed by ~~either a~~
16 **physician, a physician's assistant, a certified nurse practitioner,**
17 **a clinical nurse specialist,** or a licensed psychologist. If a
18 petition is filed with the court under this subsection, the
19 hospital shall continue to hospitalize the minor pending a court
20 hearing on the petition.

21 (5) Upon receipt of a petition to continue hospitalization of
22 a minor under subsection (4), the court shall schedule a hearing to
23 be held within 7 days, excluding Sundays and holidays, after
24 receipt of the petition. The hearing shall be convened in
25 accordance with sections 451 to 465.

26 (6) If the court finds the minor to be suitable for
27 hospitalization by clear and convincing evidence, the court shall
28 order the minor to continue hospitalization for not more than 60
29 days. If the court does not find by clear and convincing evidence



1 that the minor is suitable for hospitalization, the court shall
2 order the minor discharged from the hospital.

3 Sec. 517. (1) A hearing convened to determine whether an
4 individual meets the criteria for treatment is governed by **this**
5 **section and** sections ~~517-518~~ to 522. ~~Sections 517-~~**This section and**
6 **sections 518** to 522 do not apply to a hearing provided for in
7 section 511 concerning an objection to an administrative admission.

8 (2) Upon receipt of a petition and a report as provided for in
9 section 516 or 532, or receipt of a petition as provided for in
10 section 531, the court shall do all of the following:

11 (a) Fix a date for a hearing to be held within 7 days,
12 excluding Sundays or holidays, after the court's receipt of the
13 documents or document.

14 (b) Fix a place for a hearing, either at a facility or other
15 convenient place, within or outside of the county.

16 (c) Cause notice of a petition and of the time and place of
17 ~~any~~**a** hearing to be given to the individual asserted to meet the
18 criteria for treatment, his or her attorney, the petitioner, the
19 prosecuting or other attorney specified in subsection (4), the
20 community mental health services program, the director of a
21 facility to which the individual is admitted, the individual's
22 spouse if his or her whereabouts are known, the guardian, if any,
23 of the individual, and other relatives or persons as the court may
24 determine. The notice shall be given at the earliest practicable
25 time and sufficiently in advance of the hearing date to permit
26 preparation for the hearing.

27 (d) Cause the individual to be given within 4 days ~~of~~**after**
28 the court's receipt of the documents described in section 516 a
29 copy of the petition, a copy of the report, unless the individual



1 has previously been given a copy of the petition and the report,
2 notice of the right to a full court hearing, notice of the right to
3 be present at the hearing, notice of the right to be represented by
4 legal counsel, notice of the right to demand a jury trial, and
5 notice of the right to an independent clinical or psychological
6 evaluation.

7 (e) Subsequently give copies of all orders to the persons
8 identified in subdivision (c).

9 (3) The individual asserted to meet the criteria for treatment
10 is entitled to be represented by legal counsel in the same manner
11 as counsel is provided under section 454, and is entitled to all of
12 the following:

13 (a) To be present at the hearing.

14 (b) To have upon demand a trial by jury of 6.

15 (c) To obtain a continuance for any reasonable time for good
16 cause.

17 (d) To present documents and witnesses.

18 (e) To cross-examine witnesses.

19 (f) To require testimony in court in person from 1 physician,
20 **1 physician's assistant, 1 certified nurse practitioner, 1 clinical**
21 **nurse specialist**, or 1 licensed psychologist who has personally
22 examined the individual.

23 (g) To receive an independent examination by a physician,
24 **physician's assistant, certified nurse practitioner, clinical nurse**
25 **specialist**, or licensed psychologist of his or her choice on the
26 issue of whether he or she meets the criteria for treatment.

27 (4) The prosecuting attorney of the county in which a court
28 has its principal office shall participate, either in person or by
29 assistant, in hearings convened by the court of his or her county



1 under this chapter, except that a prosecutor need not participate
 2 in or be present at a hearing whenever a petitioner or some other
 3 appropriate person has retained private counsel who will be present
 4 in court and will present to the court the case for a finding that
 5 the individual meets the criteria for treatment.

6 (5) Unless the individual or his or her attorney objects, the
 7 failure to timely notify a spouse, guardian, or other person
 8 determined by the court to be entitled to notice is not cause to
 9 adjourn or continue ~~any~~**a** hearing.

10 (6) The individual, ~~any~~**an** interested person, or the court on
 11 its own motion may request a change of venue because of residence;
 12 convenience to parties, witnesses, or the court; or the
 13 individual's mental or physical condition.

14 Sec. 532. In addition to the right to a hearing under section
 15 531, a resident admitted by court order has the right to a hearing
 16 and may petition the court for discharge without leave of court
 17 once within each 12-month period from the date of the original
 18 order of admission. The petition ~~shall~~**must** be accompanied by a
 19 physician's, **a physician's assistant's, a certified nurse**
 20 **practitioner's, a clinical nurse specialist's,** or a licensed
 21 psychologist's report setting forth the reasons for the
 22 physician's, **physician's assistant's, certified nurse**
 23 **practitioner's, clinical nurse specialist's,** or licensed
 24 psychologist's conclusion that the resident no longer meets the
 25 criteria for judicial treatment. If no report accompanies the
 26 petition because the resident is indigent or is unable for reasons
 27 satisfactory to the court to procure a report, the court shall
 28 appoint a physician, **a physician's assistant, a certified nurse**
 29 **practitioner, a clinical nurse specialist,** or a licensed



1 psychologist to examine the resident, and the physician,
 2 **physician's assistant, certified nurse practitioner, clinical nurse**
 3 **specialist**, or licensed psychologist shall furnish a report to the
 4 court. If the report concludes that the resident continues to meet
 5 the criteria for treatment, the court shall so notify the resident
 6 and shall dismiss the petition for discharge. If the report
 7 concludes otherwise, a hearing shall be held according to sections
 8 517 to 522.

9 Sec. 700. As used in this chapter, unless the context requires
 10 otherwise:

11 (a) "Criminal abuse" means 1 or more of the following:

12 (i) An assault that is a violation or an attempt or conspiracy
 13 to commit a violation of sections 81 to 90 of the Michigan penal
 14 code, ~~Act No. 328 of the Public Acts of 1931, being sections 750.81~~
 15 ~~to 750.90 of the Michigan Compiled Laws.~~ **MCL 750.81 to 750.90.**

16 Criminal abuse does not include an assault or an assault and
 17 battery that is a violation of section 81 of ~~Act No. 328 of the~~
 18 ~~Public Acts of 1939, being section 750.81 of the Michigan Compiled~~
 19 ~~Laws,~~ **the Michigan penal code, MCL 750.81**, and that is committed by
 20 a recipient against another recipient.

21 (ii) A criminal homicide that is a violation or an attempt or
 22 conspiracy to commit a violation of section 316, 317, or 321 of ~~Act~~
 23 ~~No. 328 of the Public Acts of 1931, being sections 750.316,~~
 24 ~~750.317, and 750.321 of the Michigan Compiled Laws.~~ **the Michigan**
 25 **penal code, MCL 750.316, 750.317, and 750.321.**

26 (iii) Criminal sexual conduct that is a violation or an attempt
 27 or conspiracy to commit a violation of sections 520b to 520e or
 28 520g of ~~Act No. 328 of the Public Acts of 1931, being sections~~
 29 ~~750.520b to 750.520e and 750.520g of the Michigan Compiled Laws.~~ **the**



1 **Michigan penal code, MCL 750.520b to 750.520e and 750.520g.**

2 (iv) Vulnerable adult abuse that is a violation or an attempt
3 or conspiracy to commit a violation of section 145n of the Michigan
4 penal code, ~~Act No. 328 of the Public Acts of 1931, being section~~
5 ~~750.145n of the Michigan Compiled Laws.~~ **MCL 750.145n.**

6 (v) Child abuse that is a violation or an attempt or
7 conspiracy to commit a violation of section 136b of ~~Act No. 328 of~~
8 ~~the Public Acts of 1931, being section 750.136b of the Michigan~~
9 ~~Compiled Laws.~~ **the Michigan penal code, MCL 750.136b.**

10 (b) "Health care corporation" means a nonprofit health care
11 corporation operating under the nonprofit health care corporation
12 reform act, ~~Act No. 350 of the Public Acts of 1980, being sections~~
13 ~~550.1101 to 550.1704 of the Michigan Compiled Laws.~~ **1980 PA 350, MCL**
14 **550.1101 to 550.1704.**

15 (c) "Health care insurer" means an insurer authorized to
16 provide health insurance in this state or a legal entity that is
17 self-insured and provides health care benefits to its employees.

18 (d) "Health maintenance organization" means ~~an organization~~
19 ~~licensed under part 210 of the public health code, Act No. 368 of~~
20 ~~the Public Acts of 1978, being sections 333.21001 to 333.21098 of~~
21 ~~the Michigan Compiled Laws.~~ **that term as defined in section 3501 of**
22 **the insurance code of 1956, 1956 PA 218, MCL 500.3501.**

23 (e) "Michigan penal code" means **the Michigan penal code, 1931**
24 **PA 328, MCL 750.1 to 750.568.**

25 (f) ~~(e)~~—"Money" means any legal tender, note, draft,
26 certificate of deposit, stock, bond, check, or credit card.

27 (g) ~~(f)~~—"Nonprofit dental care corporation" means a dental
28 care corporation incorporated under ~~Act No. 125 of the Public Acts~~
29 ~~of 1963, being sections 550.351 to 550.373 of the Michigan Compiled~~



1 ~~Laws~~-1963 PA 125, MCL 550.351 to 550.373.

2 (h) ~~(g)~~-"Person-centered planning" means a process for
3 planning and supporting the individual receiving services that
4 builds upon the individual's capacity to engage in activities that
5 promote community life and that honors the individual's
6 preferences, choices, and abilities. The person-centered planning
7 process involves families, friends, and professionals as the
8 individual desires or requires.

9 (i) ~~(h)~~-"Privileged communication" means a communication made
10 to a psychiatrist, **physician's assistant, certified nurse**
11 **practitioner, clinical nurse specialist,** or **licensed** psychologist
12 in connection with the examination, diagnosis, or treatment of a
13 patient, or to another person while the other person is
14 participating in the examination, diagnosis, or treatment or a
15 communication made privileged under other applicable state or
16 federal law.

17 (j) ~~(i)~~-"Restraint" means the use of a physical device to
18 restrict an individual's movement. Restraint does not include the
19 use of a device primarily intended to provide anatomical support.

20 (k) ~~(j)~~-"Seclusion" means the temporary placement of a
21 recipient in a room, alone, where egress is prevented by any means.

22 (l) ~~(k)~~-"Support plan" means a written plan that specifies the
23 personal support services or any other supports that are to be
24 developed with and provided for a recipient.

25 (m) ~~(l)~~-"Treatment plan" means a written plan that specifies
26 the goal-oriented treatment or training services, including
27 rehabilitation or habilitation services, that are to be developed
28 with and provided for a recipient.

29 Sec. 740. (1) A resident shall not be placed in physical



1 restraint except in the circumstances and under the conditions set
2 forth in this section or in other law.

3 (2) A resident may be restrained only as provided in
4 subsection (3), (4), or (5) after less restrictive interventions
5 have been considered, and only if restraint is essential in order
6 to prevent the resident from physically harming himself, herself,
7 or others, or in order to prevent him or her from causing
8 substantial property damage. Consideration of less restrictive
9 measures shall be documented in the medical record. If restraint is
10 essential in order to prevent the resident from physically harming
11 himself, herself, or others, the resident may be physically held
12 with no more force than is necessary to limit the resident's
13 movement, until a restraint may be applied.

14 (3) A resident may be temporarily restrained for a maximum of
15 30 minutes without an order or authorization in an emergency.
16 Immediately after imposition of the temporary restraint, a
17 physician, **physician's assistant, certified nurse practitioner, or**
18 **clinical nurse specialist** shall be contacted. If, after being
19 contacted, the physician, **physician's assistant, certified nurse**
20 **practitioner, or clinical nurse specialist** does not order or
21 authorize the restraint, the restraint shall be removed.

22 (4) A resident may be restrained ~~prior to~~ **before** examination
23 ~~pursuant~~ **according** to an authorization by a physician, **physician's**
24 **assistant, certified nurse practitioner, or clinical nurse**
25 **specialist**. An authorized restraint may continue only until a
26 physician, **a physician's assistant, a certified nurse practitioner,**
27 **a clinical nurse specialist, or a registered professional nurse who**
28 **has been trained in accordance with the requirements under 42 CFR**
29 **482.13(f)** can personally examine the resident or for 2 hours,



1 whichever is less. If it is not possible for the physician, **the**
 2 **physician's assistant, the certified nurse practitioner, the**
 3 **clinical nurse specialist, or the registered professional nurse who**
 4 **has been trained in accordance with the requirements under 42 CFR**
 5 **482.13(f)** to examine the resident within 2 hours, a physician,
 6 **physician's assistant, certified nurse practitioner, or clinical**
 7 **nurse specialist** may reauthorize the restraint for another 2 hours.
 8 Authorized restraint may not continue for more than 4 hours.

9 (5) A resident may be restrained ~~pursuant~~**according** to an
 10 order by a physician, **physician's assistant, certified nurse**
 11 **practitioner, or clinical nurse specialist** made after personal
 12 examination of the resident. An ordered restraint shall continue
 13 only for that period of time specified in the order or for 8 hours,
 14 whichever is less.

15 (6) A restrained resident shall continue to receive food,
 16 shall be kept in sanitary conditions, shall be clothed or otherwise
 17 covered, shall be given access to toilet facilities, and shall be
 18 given the opportunity to sit or lie down.

19 (7) Restraints shall be removed every 2 hours for not less
 20 than 15 minutes unless medically contraindicated or whenever they
 21 are no longer essential in order to achieve the objective ~~which~~
 22 **that** justified their initial application.

23 (8) Each instance of restraint requires full justification for
 24 its application, and the results of each periodic examination shall
 25 be placed promptly in the record of the resident.

26 (9) If a resident is restrained repeatedly, the resident's
 27 individual plan of services shall be reviewed and modified to
 28 facilitate the reduction of the use of restraints.

29 Sec. 742. (1) Seclusion shall be used only in a hospital, a



1 center, or a child caring institution licensed under 1973 PA 116,
2 MCL 722.111 to 722.128. A resident placed in a hospital or center
3 shall not be kept in seclusion except in the circumstances and
4 under the conditions set forth in this section.

5 (2) A minor placed in a child caring institution shall not be
6 placed or kept in seclusion except as provided in 1973 PA 116, MCL
7 722.111 to 722.128, or rules promulgated under that act.

8 (3) A resident may be placed in seclusion only as provided
9 under subsection (4), (5), or (6) and only if it is essential in
10 order to prevent the resident from physically harming others, or in
11 order to prevent the resident from causing substantial property
12 damage.

13 (4) Seclusion may be temporarily employed for a maximum of 30
14 minutes in an emergency without an authorization or an order.
15 Immediately after the resident is placed in temporary seclusion, a
16 physician, **physician's assistant, certified nurse practitioner, or**
17 **clinical nurse specialist** shall be contacted. If, after being
18 contacted, the physician, **physician's assistant, certified nurse**
19 **practitioner, or clinical nurse specialist** does not authorize or
20 order the seclusion, the resident shall be removed from seclusion.

21 (5) A resident may be placed in seclusion under an
22 authorization by a physician, **physician's assistant, certified**
23 **nurse practitioner, or clinical nurse specialist**. Authorized
24 seclusion shall continue only until a physician, **a physician's**
25 **assistant, a certified nurse practitioner, a clinical nurse**
26 **specialist, or a registered professional nurse who has been trained**
27 **in accordance with the requirements under 42 CFR 482.13(f)** can
28 personally examine the resident or for 1 hour, whichever is less.

29 (6) A resident may be placed in seclusion under an order of a



1 physician, **physician's assistant, certified nurse practitioner, or**
2 **clinical nurse specialist** made after personal examination of the
3 resident to determine if the ordered seclusion poses an undue
4 health risk to the resident. Ordered seclusion shall continue only
5 for that period of time specified in the order or for 8 hours,
6 whichever is less. An order for a minor shall continue for a
7 maximum of 4 hours.

8 (7) A secluded resident shall continue to receive food, shall
9 remain clothed unless his or her actions make it impractical or
10 inadvisable, shall be kept in sanitary conditions, and shall be
11 provided a bed or similar piece of furniture unless his or her
12 actions make it impractical or inadvisable.

13 (8) A secluded resident shall be released from seclusion
14 whenever the circumstance that justified its use ceases to exist.

15 (9) Each instance of seclusion requires full justification for
16 its use, and the results of each periodic examination shall be
17 placed promptly in the record of the resident.

18 (10) If a resident is secluded repeatedly, the resident's
19 individual plan of services ~~shall~~**must** be reviewed and modified to
20 facilitate the reduced use of seclusion.

21 Enacting section 1. This amendatory act takes effect 90 days
22 after the date it is enacted into law.