

SENATE BILL No. 616

October 18, 1989, Introduced by Senator FREDRICKS and referred to the Committee on Education and Mental Health.

A bill to amend section 748 of Act No. 258 of the Public Acts of 1974, entitled as amended "Mental health code," as amended by Act No. 192 of the Public Acts of 1987, being section 330.1748 of the Michigan Compiled Laws; and to add section 143a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 748 of Act No. 258 of the Public Acts of
2 1974, as amended by Act No. 192 of the Public Acts of 1987, being
3 section 330.1748 of the Michigan Compiled Laws, is amended and
4 section 143a is added to read as follows:

5 SEC. 143A. THE RECORDS, DATA, AND KNOWLEDGE COLLECTED FOR
6 OR BY INDIVIDUALS OR COMMITTEES ASSIGNED A PROFESSIONAL REVIEW
7 FUNCTION IN A PSYCHIATRIC OR MENTAL HOSPITAL ARE CONFIDENTIAL,

1 SHALL BE USED ONLY FOR THE PURPOSES OF PROFESSIONAL REVIEW, ARE
2 NOT PUBLIC RECORDS, AND ARE NOT SUBJECT TO COURT SUBPOENA.

3 Sec. 748. (1) Information in the record of a recipient, and
4 other information acquired in the course of providing mental
5 health services to a recipient, shall be kept confidential and
6 shall not be open to public inspection. The information may be
7 disclosed outside the department, county community mental health
8 program, or licensed private facility, whichever is the holder of
9 the record, only in the circumstances and under the conditions
10 set forth in this section.

11 (2) When information is disclosed, the identity of the indi-
12 vidual to whom it pertains shall be protected and shall not be
13 disclosed unless it is germane to the authorized purpose for
14 which disclosure was sought; and, when practicable, no other
15 information shall be disclosed unless it is germane to the autho-
16 rized purpose for which disclosure was sought.

17 (3) Any person receiving information made confidential by
18 this section shall disclose the information to others only to the
19 extent consistent with the authorized purpose for which the
20 information was obtained.

21 (4) ~~When~~ EXCEPT AS PROVIDED OTHERWISE IN SUBSECTION (8),
22 WHEN requested, information shall be disclosed ONLY UNDER 1 OR
23 MORE OF THE FOLLOWING CIRCUMSTANCES:

24 (a) Pursuant to orders or subpoenas of a court of record, or
25 subpoenas of the legislature, unless the information is made
26 privileged by ~~some provision of~~ law.

1 (b) To a prosecuting attorney as necessary for the
2 prosecuting attorney to participate in a proceeding governed by
3 this act.

4 (c) To an attorney for the recipient, with the recipient's
5 consent.

6 (d) When necessary in order to comply with another provision
7 of law.

8 (e) To the department when the information is necessary in
9 order for the department to discharge a responsibility placed
10 upon it by law.

11 (f) To the office of the auditor general when the informa-
12 tion is necessary for that office to discharge its constitutional
13 responsibility.

14 (g) To a surviving spouse of the recipient for purposes of
15 applying for and receiving benefits or, if there is no surviving
16 spouse, to the person or persons most closely related to the
17 deceased recipient within the third degree of consanguinity as
18 defined in civil law.

19 (5) Information may be disclosed if the holder of the record
20 and the recipient, the parents of the recipient if the recipient
21 is less than 18 years of age, or the recipient's legally
22 appointed guardian consent:

23 (a) To providers of mental health services to the
24 recipient.

25 (b) To the recipient or any other person or agency, provided
26 that in the judgment of the holder, the disclosure would not be
27 detrimental to the recipient or others.

1 (6) Information may be disclosed in the discretion of the
2 holder of the record:

3 (a) As necessary in order for the recipient to apply for or
4 receive benefits.

5 (b) As necessary for the purpose of outside research, evalu-
6 ation, accreditation, or statistical compilation, provided that
7 the person who is the subject of the information can be identi-
8 fied from the disclosed information only when such identification
9 is essential in order to achieve the purpose for which the infor-
10 mation is sought or when preventing such identification would
11 clearly be impractical, but in no event when the subject of the
12 information is likely to be harmed by such identification.

13 (c) To providers of mental or other health services or a
14 public agency, when there is a compelling need for disclosure
15 based upon a substantial probability of harm to the recipient or
16 other persons.

17 (7) The department or a county community mental health pro-
18 gram or licensed private facility shall grant a representative of
19 the protection and advocacy system designated by the governor in
20 compliance with section 931 access to the records of a person
21 with developmental disabilities who resides in a facility for
22 persons with developmental disabilities or a mentally ill person
23 who resides in a facility for mentally ill persons if both of the
24 following apply:

25 (a) A complaint has been received by the protection and
26 advocacy system from or on behalf of the resident.

1 (b) The resident does not have a legal guardian, or the
2 state or the designee of the state is the legal guardian of the
3 resident.

4 (8) PATIENT INFORMATION THAT IS PART OF THE RECORD OF A PRO-
5 FESSIONAL REVIEW COMMITTEE IS SUBJECT TO SECTION 143A.