

# SENATE BILL No. 836

October 21, 1999, Introduced by Senators HAMMERSTROM, JOHNSON and GOUGEON and referred to the Committee on Families, Mental Health and Human Services.

A bill to amend 1974 PA 258, entitled "Mental health code," by amending sections 100b and 705 (MCL 330.1100b and 330.1705), as added by 1995 PA 290.

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

1       Sec. 100b. (1) "Facility" means a residential facility for  
2 the care or treatment of individuals with serious mental illness,  
3 serious emotional disturbance, or developmental disability that  
4 is either a state facility or a licensed facility.

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

7       (3) "Family member" means a parent, stepparent, spouse, sib-  
8 ling, child, or grandparent of a primary consumer, or an  
9 individual upon whom a primary consumer is dependent for at least  
10 50% of his or her financial support.

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1 (4) "Federal funds" means funds received from the federal  
2 government under a categorical grant or similar program and does  
3 not include federal funds received under a revenue sharing  
4 arrangement.

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

6 (a) With regard to serious emotional disturbance, substan-  
7 tial interference with or limitation of a minor's achievement or  
8 maintenance of 1 or more developmentally appropriate social,  
9 behavioral, cognitive, communicative, or adaptive skills.

10 (b) With regard to serious mental illness, substantial  
11 interference or limitation of role functioning in 1 or more major  
12 life activities including basic living skills such as eating,  
13 bathing, and dressing; instrumental living skills such as main-  
14 taining a household, managing money, getting around the communi-  
15 ty, and taking prescribed medication; and functioning in social,  
16 vocational, and educational contexts.

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

20 (7) "Hospital" or "psychiatric hospital" means an inpatient  
21 program operated by the department for the treatment of individu-  
22 als with serious mental illness or serious emotional disturbance  
23 or a psychiatric hospital or psychiatric unit licensed under  
24 section 137.

25 (8) "Hospital director" means the chief administrative offi-  
26 cer of a hospital or his or her designee.

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

3 (10) "Individual plan of services" or "plan of services"  
4 means a written individualized plan of services developed with a  
5 recipient as required by section 712.

6 (11) "Licensed facility" means a facility licensed by the  
7 department under section 137 or an adult foster care facility.

8 (12) "LICENSED PROFESSIONAL COUNSELOR" MEANS AN INDIVIDUAL  
9 WHO IS LICENSED TO PRACTICE IN THIS STATE UNDER ARTICLE 15 OF THE  
10 PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16101 TO 333.18838.

11 (13) ~~(12)~~ "Licensed psychologist" means a doctoral level  
12 psychologist licensed under section 18223(1) of the public health  
13 code, ~~Act No. 368 of the Public Acts of 1978, being section~~  
14 ~~333.18223 of the Michigan Compiled Laws~~ 1978 PA 368,  
15 MCL 333.18223.

16 (14) ~~(13)~~ "Medical director" means a psychiatrist  
17 appointed under section 231 to advise the executive director of a  
18 community mental health services program.

19 (15) ~~(14)~~ "Mental health professional" means an individual  
20 who is trained and experienced in the area of mental illness or  
21 developmental disabilities and who is 1 of the following:

22 (a) A physician who is licensed to practice medicine or  
23 osteopathic medicine and surgery in this state under article 15  
24 of the public health code, ~~Act No. 368 of the Public Acts of~~  
25 ~~1978, being sections 333.16101 to 333.18838 of the Michigan~~  
26 ~~Compiled Laws~~ 1978 PA 368, MCL 333.16101 TO 333.18838.

1 (b) A psychologist licensed to practice in this state under  
2 article 15 of the public health code, ~~Act No. 368 of the Public~~  
3 ~~Acts of 1978~~ 1978 PA 368, MCL 333.16101 TO 333.18838.

4 (c) A registered professional nurse licensed to practice in  
5 this state under article 15 of the public health code, ~~Act~~  
6 ~~No. 368 of the Public Acts of 1978~~ 1978 PA 368, MCL 333.16101 TO  
7 333.18838.

8 (d) A certified social worker, a social worker, or a social  
9 worker technician registered in this state under article 16 of  
10 the occupational code, ~~Act No. 299 of the Public Acts of 1980,~~  
11 ~~being sections 339.1601 to 339.1610 of the Michigan Compiled~~  
12 ~~Laws~~ 1980 PA 299, MCL 339.1601 TO 339.1610.

13 (e) A licensed professional counselor. ~~licensed to practice~~  
14 ~~in this state under article 15 of the public health code, Act~~  
15 ~~No. 368 of the Public Acts of 1978.~~

16 (f) A marriage and family therapist licensed under article  
17 15 of the ~~occupational code, Act No. 299 of the Public Acts of~~  
18 ~~1980, being sections 339.1501 to 339.1511 of the Michigan~~  
19 ~~Compiled Laws~~ PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16101 TO  
20 333.18838.

21 (16) ~~(15)~~ "Mental retardation" means a condition manifest-  
22 ing before the age of 18 years that is characterized by signifi-  
23 cantly subaverage intellectual functioning and related limita-  
24 tions in 2 or more adaptive skills and that is diagnosed based on  
25 the following assumptions:

1 (a) Valid assessment considers cultural and linguistic  
2 diversity, as well as differences in communication and behavioral  
3 factors.

4 (b) The existence of limitation in adaptive skills occurs  
5 within the context of community environments typical of the  
6 individual's age peers and is indexed to the individual's partic-  
7 ular needs for support.

8 (c) Specific adaptive skill limitations often coexist with  
9 strengths in other adaptive skills or other personal  
10 capabilities.

11 (d) With appropriate supports over a sustained period, the  
12 life functioning of the individual with mental retardation will  
13 generally improve.

14 (17) ~~(16)~~ "Minor" means an individual under the age of 18  
15 years.

16 (18) ~~(17)~~ "Multicultural services" means specialized  
17 mental health services for multicultural populations such as  
18 African-Americans, Hispanics, Native Americans, Asian and Pacific  
19 Islanders, and Arab/Chaldean-Americans.

20 (19) ~~(18)~~ "Neglect" means an act or failure to act commit-  
21 ted by an employee or volunteer of the department, a community  
22 mental health services program, or a licensed hospital; a service  
23 provider under contract with the department, community mental  
24 health services program, or licensed hospital; or an employee or  
25 volunteer of a service provider under contract with the depart-  
26 ment, community mental health services program, or licensed

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

3       Sec. 705. (1) If an applicant for community mental health  
4 services has been denied mental health services, the applicant,  
5 his or her guardian if one has been appointed, or the applicant's  
6 parent or parents if the applicant is a minor may request a  
7 second opinion of the executive director. The executive director  
8 shall secure the second opinion from a physician, licensed psy-  
9 chologist, LICENSED PROFESSIONAL COUNSELOR, registered profes-  
10 sional nurse, ~~or~~ master's level social worker, or master's  
11 level psychologist.

12       (2) If the individual providing the second opinion deter-  
13 mines that the applicant has a serious mental illness, serious  
14 emotional disturbance, or ~~a~~ developmental disability, or is  
15 experiencing an emergency situation or urgent situation, the com-  
16 munity mental health services program shall direct services to  
17 the applicant.