

HOUSE BILL NO. 5114

October 10, 2023, Introduced by Reps. Rheingans, McKinney, Bruck, Hope, Byrnes, Edwards, Hood, MacDonell, Conlin, Dievendorf, Hill, Brabec, Paiz, Meerman, Miller, Brixie, Schmaltz, Beson, Wilson, VanderWall and Whitsett and referred to the Committee on Health Policy.

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), sections 100a and 100b as amended by 2020 PA 402, section 100c as amended by 2020 PA 285, 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.

1 (f) Self-direction.

2 (g) Health and safety.

3 (h) Functional academics.

4 (i) Leisure.

5 (j) Work.

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

9 ~~(5) "Alcohol and drug abuse counseling" means the act of~~
10 ~~counseling, modification of substance use disorder related~~
11 ~~behavior, and prevention techniques for individuals with substance~~
12 ~~use disorder, their significant others, and individuals who could~~
13 ~~potentially develop a substance use disorder.~~

14 (5) ~~(6)~~ "Applicant" means an individual or his or her legal
15 representative who makes a request for mental health services.

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

23 (7) ~~(8)~~ "Assisted outpatient treatment" or "AOT" means the
24 categories of outpatient services ordered by the court under
25 section 468 or 469a. Assisted outpatient treatment may include a
26 case management plan and case management services to provide care
27 coordination under the supervision of a psychiatrist and developed
28 in accordance with person-centered planning under section 712.
29 Assisted outpatient treatment may also include 1 or more of the

1 following categories of services: medication; periodic blood tests
2 or urinalysis to determine compliance with prescribed medications;
3 individual or group therapy; day or partial day programming
4 activities; vocational, educational, or self-help training or
5 activities; assertive community treatment team services; alcohol or
6 substance use disorder treatment and counseling and periodic tests
7 for the presence of alcohol or illegal drugs for an individual with
8 a history of alcohol abuse or substance use disorder; supervision
9 of living arrangements; and any other services within a local or
10 unified services plan developed under this act that are prescribed
11 to treat the individual's mental illness and to assist the
12 individual in living and functioning in the community or to attempt
13 to prevent a relapse or deterioration that may reasonably be
14 predicted to result in suicide, the need for hospitalization, or
15 serious violent behavior. The medical review and direction included
16 in an assisted outpatient treatment plan shall be provided under
17 the supervision of a psychiatrist.

18 (8) ~~(9)~~—"Board" means the governing body of a community mental
19 health services program.

20 (9) ~~(10)~~—"Board of commissioners" means a county board of
21 commissioners.

22 (10) ~~(11)~~—"Center" means a facility operated by the department
23 to admit individuals with developmental disabilities and provide
24 habilitation and treatment services.

25 (11) ~~(12)~~—"Certification" means formal approval of a program
26 by the department in accordance with standards developed or
27 approved by the department.

28 (12) **"Certified nurse practitioner" means a registered**
29 **professional nurse who holds a specialty certification as a nurse**

1 **practitioner under part 172 of the public health code, 1978 PA 368,**
2 **MCL 333.17201 to 333.17242.**

3 (13) "Child abuse" and "child neglect" mean those terms as
4 defined in section 2 of the child protection law, 1975 PA 238, MCL
5 722.622.

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

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

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

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

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

28 (16) "Clinical nurse specialist-certified" means an individual
29 who is licensed as a registered professional nurse under part 172

1 of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242,
2 who has been granted a specialty certification as a clinical nurse
3 specialist by the Michigan board of nursing under section 17210 of
4 the public health code, 1978 PA 368, MCL 333.17210.

5 (17) ~~(16)~~—"Community mental health authority" means a separate
6 legal public governmental entity created under section 205 to
7 operate as a community mental health services program.

8 (18) ~~(17)~~—"Community mental health organization" means a
9 community mental health services program that is organized under
10 the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501
11 to 124.512.

12 (19) ~~(18)~~—"Community mental health services program" means a
13 program operated under chapter 2 as a county community mental
14 health agency, a community mental health authority, or a community
15 mental health organization.

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

24 (21) ~~(20)~~—"County community mental health agency" means an
25 official county or multicounty agency created under section 210
26 that operates as a community mental health services program and
27 that has not elected to become a community mental health authority
28 or a community mental health organization.

29 (22) ~~(21)~~—"Crisis stabilization unit" means a prescreening

1 unit established under section 409 or a facility certified under
2 chapter 9A that provides unscheduled clinical services designed to
3 prevent or ameliorate a behavioral health crisis or reduce acute
4 symptoms on an immediate, intensive, and time-limited basis in
5 response to a crisis situation.

6 **(23)** ~~(22)~~—"Department" means the department of health and
7 human services.

8 **(24)** ~~(23)~~—"Department-designated community mental health
9 entity" means the community mental health authority, community
10 mental health organization, community mental health services
11 program, county community mental health agency, or community mental
12 health regional entity designated by the department to represent a
13 region of community mental health authorities, community mental
14 health organizations, community mental health services programs, or
15 county community mental health agencies.

16 **(25)** ~~(24)~~—"Dependent living setting" means all of the
17 following:

18 (a) An adult foster care facility.

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

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

23 **(26)** ~~(25)~~—"Designated representative" means any of the
24 following:

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

28 (b) A paramedic licensed or otherwise authorized under part
29 209 of the public health code, 1978 PA 368, MCL 333.20901 to

1 333.20979.

2 (c) A ~~physician's~~**physician** assistant licensed or otherwise
3 authorized under part 170 or 175 of the public health code, 1978 PA
4 368, MCL 333.17001 to 333.17097 and 333.17501 to 333.17556.

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

8 **(27)** ~~(26)~~—"Developmental disability" means either of the
9 following:

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

13 (i) Is attributable to a mental or physical impairment or a
14 combination of mental and physical impairments.

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

16 (iii) Is likely to continue indefinitely.

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

19 (A) Self-care.

20 (B) Receptive and expressive language.

21 (C) Learning.

22 (D) Mobility.

23 (E) Self-direction.

24 (F) Capacity for independent living.

25 (G) Economic self-sufficiency.

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

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

6 (28) ~~(27)~~—"Director" means the director of the department or
7 his or her designee.

8 (29) ~~(28)~~—"Discharge" means an absolute, unconditional release
9 of an individual from a facility by action of the facility or a
10 court.

11 (30) ~~(29)~~—"Eligible minor" means an individual less than 18
12 years of age who is recommended in the written report of a
13 multidisciplinary team under rules promulgated by the department of
14 education to be classified as 1 of the following:

15 (a) Severely mentally impaired.

16 (b) Severely multiply impaired.

17 (c) Autistic impaired and receiving special education services
18 in a program designed for the autistic impaired under R 340.1758 of
19 the Michigan Administrative Code or in a program designed for the
20 severely mentally impaired or severely multiply impaired.

21 (31) ~~(30)~~—"Emergency situation" means a situation in which an
22 individual is experiencing a serious mental illness or a
23 developmental disability, or a minor is experiencing a serious
24 emotional disturbance, and 1 of the following applies:

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

28 (b) The individual is unable to provide himself or herself
29 food, clothing, or shelter or to attend to basic physical

1 activities such as eating, toileting, bathing, grooming, dressing,
2 or ambulating, and this inability may lead in the near future to
3 harm to the individual or to another individual.

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

7 **(32)** ~~(31)~~—"Executive director" means an individual appointed
8 under section 226 to direct a community mental health services
9 program or his or her designee.

10 Sec. 100b. (1) Except as otherwise provided in this
11 subsection, "facility" means a residential facility for the care or
12 treatment of individuals with serious mental illness, serious
13 emotional disturbance, or developmental disability that is either a
14 state facility or a licensed facility. Facility includes a
15 preadmission screening unit established under section 409 that is
16 operating a crisis stabilization unit.

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

19 (3) "Family member" means a parent, stepparent, spouse,
20 sibling, child, or grandparent of a primary consumer, or an
21 individual upon whom a primary consumer is dependent for at least
22 50% of his or her financial support.

23 (4) "Federal funds" means funds received from the federal
24 government under a categorical grant or similar program and does
25 not include federal funds received under a revenue sharing
26 arrangement.

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

28 (a) With regard to serious emotional disturbance, substantial
29 interference with or limitation of a minor's achievement or

1 maintenance of 1 or more developmentally appropriate social,
2 behavioral, cognitive, communicative, or adaptive skills.

3 (b) With regard to serious mental illness, substantial
4 interference or limitation of role functioning in 1 or more major
5 life activities including basic living skills such as eating,
6 bathing, and dressing; instrumental living skills such as
7 maintaining a household, managing money, getting around the
8 community, and taking prescribed medication; and functioning in
9 social, vocational, and educational contexts.

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

13 (7) "Hospital" or "psychiatric hospital" means an inpatient
14 program operated by the department for the treatment of individuals
15 with serious mental illness or serious emotional disturbance or a
16 psychiatric hospital or psychiatric unit licensed under section
17 137.

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

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

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

27 (11) "Individual plan of services" or "plan of services" means
28 a written individual plan of services developed with a recipient as
29 required by section 712.

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

5 (13) "Intellectual disability" means a condition manifesting
6 before the age of 18 years that is characterized by significantly
7 subaverage intellectual functioning and related limitations in 2 or
8 more adaptive skills and that is diagnosed based on the following
9 assumptions:

10 (a) Valid assessment considers cultural and linguistic
11 diversity, as well as differences in communication and behavioral
12 factors.

13 (b) The existence of limitation in adaptive skills occurs
14 within the context of community environments typical of the
15 individual's age peers and is indexed to the individual's
16 particular needs for support.

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

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

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

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

27 (16) "Mediation" means a confidential process in which a
28 neutral third party facilitates communication between parties,
29 assists in identifying issues, and helps explore solutions to

1 promote a mutually acceptable resolution. A mediator does not have
2 authoritative decision-making power.

3 (17) "Medicaid" means the program of medical assistance
4 established under section 105 of the social welfare act, 1939 PA
5 280, MCL 400.105.

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

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

12 (a) A physician.

13 (b) A psychologist.

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

17 (d) A licensed master's social worker licensed or otherwise
18 authorized to engage in the practice of social work at the master's
19 level under part 185 of the public health code, 1978 PA 368, MCL
20 333.18501 to 333.18518.

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

24 (f) A marriage and family therapist licensed or otherwise
25 authorized to engage in the practice of marriage and family therapy
26 under part 169 of the public health code, 1978 PA 368, MCL
27 333.16901 to 333.16915.

28 (g) **A physician assistant.**

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

1 **(i) A clinical nurse specialist-certified.**

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

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

7 (22) "Neglect" means an act or failure to act committed by an
8 employee or volunteer of the department, a community mental health
9 services program, or a licensed hospital; a service provider under
10 contract with the department, a community mental health services
11 program, or a licensed hospital; or an employee or volunteer of a
12 service provider under contract with the department, a community
13 mental health services program, or a licensed hospital, that denies
14 a recipient the standard of care or treatment to which he or she is
15 entitled under this act.

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

24 (2) "Peer review" means a process, including the review
25 process required under section 143a, in which mental health
26 professionals of a state facility, licensed hospital, or community
27 mental health services program evaluate the clinical competence of
28 staff and the quality and appropriateness of care provided to
29 recipients. Peer review evaluations are confidential in accordance

1 with section 748(9) and are based on criteria established by the
2 facility or community mental health services program itself, the
3 accepted standards of the mental health professions, and the
4 department.

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

7 (4) "Physician" means an individual licensed or otherwise
8 authorized to engage in the practice of medicine under part 170 of
9 the public health code, 1978 PA 368, MCL 333.17001 to 333.17097, or
10 to engage in the practice of osteopathic medicine and surgery under
11 part 175 of the public health code, 1978 PA 368, MCL 333.17501 to
12 333.17556.

13 (5) **"Physician assistant" means an individual practicing as a**
14 **physician's assistant as that term is defined in sections 17001 and**
15 **17501 of the public health code, 1978 PA 368, MCL 333.17001 and**
16 **333.17501.**

17 (6) ~~(5)~~—"Primary consumer" means an individual who has
18 received or is receiving services from the department or a
19 community mental health services program or services from the
20 private sector equivalent to those offered by the department or a
21 community mental health services program.

22 (7) ~~(6)~~—"Priority" means preference for and dedication of a
23 major proportion of resources to specified populations or services.
24 Priority does not mean serving or funding the specified populations
25 or services to the exclusion of other populations or services.

26 (8) ~~(7)~~—"Protective custody" means the temporary custody of an
27 individual by a peace officer with or without the individual's
28 consent for the purpose of protecting that individual's health and
29 safety, or the health and safety of the public, and for the purpose

1 of transporting the individual under section 276, 408, or 427 if
 2 the individual appears, in the judgment of the peace officer, to be
 3 a person requiring treatment or is a person requiring treatment.
 4 Protective custody is civil in nature and is not an arrest.

5 **(9)** ~~(8)~~—"Psychiatric residential treatment facility" or "PRTF"
 6 means a facility other than a hospital that provides psychiatric
 7 services, as described in 42 CFR 441.151 to 441.182, in an
 8 inpatient setting to individuals under age 21.

9 **(10)** ~~(9)~~—"Psychiatric unit" means a unit of a general hospital
 10 that provides inpatient services for individuals with serious
 11 mental illness or serious emotional disturbance. As used in this
 12 subsection, "general hospital" means a hospital as defined in
 13 section 20106 of the public health code, 1978 PA 368, MCL
 14 333.20106.

15 **(11)** ~~(10)~~—"Psychiatrist" means 1 or more of the following:

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

21 (b) A psychiatrist employed by or under contract with the
 22 department or a community mental health services program on March
 23 28, 1996.

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

27 **(12)** ~~(11)~~—"Psychologist" means an individual who is licensed
 28 or otherwise authorized to engage in the practice of psychology
 29 under part 182 of the public health code, 1978 PA 368, MCL

1 333.18201 to 333.18237, and who devotes a substantial portion of
2 his or her time to the diagnosis and treatment of individuals with
3 serious mental illness, serious emotional disturbance, substance
4 use disorder, or developmental disability.

5 (13) ~~(12)~~—"Public patient" means an individual approved for
6 mental health services by a community mental health services
7 program. Public patient includes an individual who is admitted as a
8 patient under section 423, 429, or 438.

9 (14) ~~(13)~~—"Recipient" means an individual who receives mental
10 health services, either in person or through telemedicine, from the
11 department, a community mental health services program, or a
12 facility or from a provider that is under contract with the
13 department or a community mental health services program. For the
14 purposes of this act, recipient does not include an individual
15 receiving substance use disorder services under chapter 2A unless
16 that individual is also receiving mental health services under this
17 act in conjunction with substance use disorder services.

18 (15) ~~(14)~~—"Recipient rights advisory committee" means a
19 committee of a community mental health services program board
20 appointed under section 757 or a recipient rights advisory
21 committee appointed by a licensed hospital under section 758.

22 (16) ~~(15)~~—"Recovery" means a highly individualized process of
23 healing and transformation by which the individual gains control
24 over his or her life. Related services include recovery management,
25 recovery support services, recovery houses or transitional living
26 programs, and relapse prevention. Recovery involves the development
27 of a new meaning, purpose, and growing beyond the impact of
28 addiction or a diagnosis. Recovery may include the pursuit of
29 spiritual, emotional, mental, or physical well-being.

1 (17) ~~(16)~~—"Regional entity" means an entity established under
2 section 204b to provide specialty services and supports.

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

6 (19) ~~(17)~~—"Rehabilitation" means the act of restoring an
7 individual to a state of mental and physical health or useful
8 activity through vocational or educational training, therapy, and
9 counseling.

10 (20) ~~(18)~~—"Resident" means an individual who receives services
11 in a facility.

12 (21) ~~(19)~~—"Responsible mental health agency" means the
13 hospital, center, or community mental health services program that
14 has primary responsibility for the recipient's care or for the
15 delivery of services or supports to that recipient.

16 (22) ~~(20)~~—"Rule" means a rule promulgated under the
17 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
18 24.328.

19 Sec. 281b. (1) Upon receipt of a petition filed under section
20 281a and the payment of the filing fee, if any, the court shall
21 examine the petitioner under oath as to the contents of the
22 petition.

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

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

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

5 (c) Notify the respondent that the respondent may retain
6 counsel and, if the respondent is unable to retain counsel, that
7 the respondent may be represented by court-appointed counsel at
8 public expense if the respondent is indigent. Upon the appointment
9 of court-appointed counsel for an indigent respondent, the court
10 shall notify the respondent of the name, address, and telephone
11 number of the court-appointed counsel.

12 (d) Notify the respondent that the court will cause the
13 respondent to be examined not later than 24 hours before the
14 hearing date by a physician, **physician assistant, certified nurse**
15 **practitioner, or clinical nurse specialist-certified** for the
16 purpose of a physical examination and by an independent health
17 professional for the purpose of a substance use disorder assessment
18 and diagnosis. In addition, the court shall notify the respondent
19 that the respondent may have an independent expert evaluation of
20 his or her physical and mental condition conducted at the
21 respondent's own expense.

22 (e) Cause the respondent to be examined not later than 24
23 hours before the hearing date by a physician, **physician assistant,**
24 **certified nurse practitioner, or clinical nurse specialist-**
25 **certified** for the purpose of a physical examination and by an
26 independent health professional for the purpose of a substance use
27 disorder assessment and diagnosis.

28 (f) Conduct the hearing.

29 (3) The physician, **physician assistant, certified nurse**

1 **practitioner, or clinical nurse specialist-certified** who examined
2 the respondent for the purpose of a physical examination, the
3 health professional who examined the respondent for the purpose of
4 the substance use disorder assessment and diagnosis, and, if
5 applicable, the individual who conducted the independent expert
6 evaluation of the respondent's physical and mental condition at the
7 respondent's expense shall certify his or her findings to the court
8 within 24 hours after the examination. The findings must include a
9 recommendation for treatment if the physician, **physician assistant,**
10 **certified nurse practitioner, clinical nurse specialist-certified,**
11 health professional, or individual determines that treatment is
12 necessary.

13 (4) If, upon completion of the hearing held under this
14 section, the court finds by clear and convincing evidence that the
15 requirements of section 281a(1) are met, the court may order the
16 involuntary treatment of the respondent after considering the
17 recommendations for treatment that were submitted to the court
18 under subsection (3). If ordered, the court shall order the
19 involuntary treatment to be provided by an approved service program
20 or by a health professional qualified by education and training to
21 provide the treatment.

22 (5) A respondent who fails to undergo and complete the
23 treatment ordered under subsection (4) is in contempt of court. An
24 approved service program to which or health professional to whom a
25 respondent is ordered for treatment under subsection (4) ~~shall~~**must**
26 notify the court of a respondent's failure to undergo or complete
27 treatment ordered under subsection (4).

28 (6) If at any time after a petition is filed under section
29 281a the court finds that there is not probable cause to order or

1 continue treatment or the petitioner withdraws the petition, the
2 court shall dismiss the proceedings against the respondent.

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

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

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

11 (c) Whether the individual can reasonably benefit from
12 treatment.

13 Sec. 400. As used in this chapter, unless the context requires
14 otherwise:

15 (a) "Clinical certificate" means the written conclusion and
16 statements of a physician, **physician assistant, certified nurse**
17 **practitioner, clinical nurse specialist-certified**, or a licensed
18 psychologist that an individual is a person requiring treatment,
19 together with the information and opinions, in reasonable detail,
20 that underlie the conclusion, on the form prescribed by the
21 department or on a substantially similar form.

22 (b) "Competent clinical opinion" means the clinical judgment
23 of a physician, psychiatrist, **physician assistant, certified nurse**
24 **practitioner, clinical nurse specialist-certified**, or licensed
25 psychologist.

26 (c) "Court" means the probate court or the court with
27 responsibility with regard to mental health services for the county
28 of residence of the subject of a petition, or for the county in
29 which the subject of a petition was found.

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

3 (i) The execution of an application for voluntary
4 hospitalization by the individual or by a patient advocate
5 designated under the estates and protected individuals code, 1998
6 PA 386, MCL 700.1101 to 700.8206, to make mental health treatment
7 decisions for the individual.

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

10 (e) "Informal voluntary hospitalization" means hospitalization
11 of an individual based on all of the following:

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

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

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

16 (f) "Involuntary mental health treatment" means court-ordered
17 hospitalization, assisted outpatient treatment, or combined
18 hospitalization and assisted outpatient treatment as described in
19 section 468. For the purpose of this chapter, involuntary mental
20 health treatment does not include a full or limited guardian
21 authorized under the estates and protected individuals code, 1998
22 PA 386, MCL 700.1101 to 700.8206, with the authority to consent to
23 mental health treatment for an individual found to be a legally
24 incapacitated individual under the estates and protected
25 individuals code, 1998 PA 386, MCL 700.1101 to 700.8206.

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

1 (h) "Preadmission screening unit" means a service component of
2 a community mental health services program established under
3 section 409.

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

8 (j) "Release" means the transfer of an individual who is
9 subject to an order of combined hospitalization and assisted
10 outpatient treatment from 1 treatment program to another in
11 accordance with his or her individual plan of services.

12 (k) "Subject of a petition" means an individual regarding whom
13 a petition has been filed with the court asserting that the
14 individual is or is not a person requiring treatment or for whom an
15 objection to involuntary mental health treatment has been made
16 under section 484.

17 Sec. 420. If a written notice of termination of mental health
18 treatment is given to a hospital or provider of mental health
19 treatment under section 419, if the notice is not withdrawn, and if
20 the hospital director or provider of mental health treatment
21 determines that the patient is a person requiring treatment and
22 should remain in the hospital or continue to receive mental health
23 treatment, the hospital director, provider of mental health
24 treatment, or other suitable person shall within 3 days after
25 receipt of the notice file a petition with the court that complies
26 with section 434. The petition ~~shall~~**must** be accompanied by 1
27 clinical certificate executed by a psychiatrist and 1 clinical
28 certificate executed by ~~either~~**physician assistant,**
29 **certified nurse practitioner, clinical nurse specialist-certified,**

1 or ~~a~~-licensed psychologist. If a petition is filed, the hospital or
2 provider of mental health may continue hospitalization or mental
3 health treatment of the patient pending hearings convened under
4 sections 451 to 465.

5 Sec. 423. A hospital designated by the department or by a
6 community mental health services program shall hospitalize an
7 individual presented to the hospital, pending receipt of a clinical
8 certificate by a psychiatrist stating that the individual is a
9 person requiring treatment, if a petition, a physician's, **physician**
10 **assistant's, certified nurse practitioner's, clinical nurse**
11 **specialist-certified's**, or ~~a~~-licensed psychologist's clinical
12 certificate, and an authorization by a preadmission screening unit
13 have been executed. For an individual hospitalized under this
14 section, a petition shall have been executed not more than 10 days
15 before the presentation of the individual to the hospital, and the
16 petition must meet the conditions set forth in section 434(1) and
17 (2).

18 Sec. 425. A physician's, **physician assistant's, certified**
19 **nurse practitioner's, clinical nurse specialist-certified's**, or a
20 licensed psychologist's clinical certificate required for
21 hospitalization of an individual under section 423 ~~shall~~**must** have
22 been executed after personal examination of the individual named in
23 the clinical certificate, and within 72 hours before the time the
24 clinical certificate is received by the hospital. The clinical
25 certificate may be executed by any physician, **physician assistant,**
26 **certified nurse practitioner, clinical nurse specialist-certified,**
27 or licensed psychologist, including a ~~physician or licensed~~
28 ~~psychologist who is a~~ staff member or employee of the hospital that
29 received the clinical certificate.

1 Sec. 426. Upon delivery to a peace officer of a petition and a
2 physician's, **physician assistant's, certified nurse practitioner's,**
3 **clinical nurse specialist-certified's,** or licensed psychologist's
4 clinical certificate, the peace officer must take the individual
5 named in the petition into protective custody and transport the
6 individual immediately to the preadmission screening unit or
7 hospital designated by the community mental health services program
8 for hospitalization under section 423. If the individual taken to a
9 preadmission screening unit meets the requirements for
10 hospitalization, then unless the community mental health services
11 program makes other transportation arrangements, the peace officer
12 must take the individual to a hospital designated by the community
13 mental health services program. The community mental health
14 services program may arrange for a security transport officer to
15 transport the individual to the hospital. Transportation to another
16 hospital due to a transfer is the responsibility of the community
17 mental health services program.

18 Sec. 427. (1) If a peace officer observes an individual
19 conducting himself or herself in a manner that causes the peace
20 officer to reasonably believe that the individual is a person
21 requiring treatment, the peace officer may take the individual into
22 protective custody and transport the individual to a preadmission
23 screening unit designated by a community mental health services
24 program for examination under section 429 or for mental health
25 intervention services. The preadmission screening unit shall
26 provide those mental health intervention services that it considers
27 appropriate or shall provide an examination under section 429. The
28 preadmission screening services may be provided at the site of the
29 preadmission screening unit or at a site designated by the

1 preadmission screening unit. Upon arrival at the preadmission
2 screening unit or site designated by the preadmission screening
3 unit, the peace officer shall execute a petition for
4 hospitalization of the individual. As soon as practical, the
5 preadmission screening unit shall offer to contact an immediate
6 family member of the recipient to let the family know that the
7 recipient has been taken into protective custody and where he or
8 she is located. The preadmission screening unit shall honor the
9 recipient's decision as to whether an immediate family member is to
10 be contacted and shall document that decision in the recipient's
11 record. In the course of providing services, the preadmission
12 screening unit may provide advice and consultation to the peace
13 officer ~~, which~~ **that** may include a recommendation to release the
14 individual from protective custody. In all cases where a peace
15 officer has executed a petition, the preadmission screening unit
16 shall ensure that an examination is conducted by a physician,
17 **physician assistant, certified nurse practitioner, clinical nurse**
18 **specialist-certified**, or licensed psychologist. The preadmission
19 screening unit shall ensure provision of follow-up counseling and
20 diagnostic and referral services if needed if it is determined
21 under section 429 that the person does not meet the requirements
22 for hospitalization.

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

26 (3) A hospital receiving an individual under subsection (1)
27 who has been referred by a community mental health services
28 program's preadmission screening unit shall notify that unit of the
29 results of an examination of that individual conducted by the

1 hospital.

2 Sec. 429. (1) A hospital designated under section 422 shall
3 receive and detain an individual presented for examination under
4 section 426, 427, 435, 436, or 438, for not more than 24 hours.
5 During that time the individual must be examined by a physician,
6 **physician assistant, certified nurse practitioner, clinical nurse**
7 **specialist-certified**, or a—licensed psychologist unless a clinical
8 certificate has already been presented to the hospital. If the
9 examining physician, **physician assistant, certified nurse**
10 **practitioner, clinical nurse specialist-certified**, or **licensed**
11 psychologist does not certify that the individual is a person
12 requiring treatment, the individual shall be released immediately.
13 If the examining physician, **physician assistant, certified nurse**
14 **practitioner, clinical nurse specialist-certified**, or **licensed**
15 psychologist executes a clinical certificate, the individual may be
16 hospitalized under section 423.

17 (2) If a preadmission screening unit provides an examination
18 under section 409, 410, or 427, the examination shall be conducted
19 as soon as possible after the individual arrives at the
20 preadmission screening site, and the examination must be completed
21 within 2 hours, unless there are documented medical reasons why the
22 examination cannot be completed within that time frame or other
23 arrangements are agreed upon by the peace officer or security
24 transport officer and the preadmission screening unit.

25 Sec. 430. If a patient is hospitalized under section 423, the
26 patient ~~shall~~**must** be examined by a psychiatrist as soon after
27 hospitalization as is practicable, but not later than 24 hours,
28 excluding legal holidays, after hospitalization. The examining
29 psychiatrist ~~shall~~**must** not be the same physician, **physician**

1 **assistant, certified nurse practitioner, or clinical nurse**
2 **specialist-certified** upon whose clinical certificate the patient
3 was hospitalized. If the psychiatrist does not certify that the
4 patient is a person requiring treatment, the patient ~~shall~~**must** be
5 released immediately. If the psychiatrist does certify that the
6 patient is a person requiring treatment, the patient's
7 hospitalization may continue pending hearings convened ~~pursuant to~~
8 **under** sections 451 to 465.

9 Sec. 434. (1) Any individual 18 years of age or over may file
10 with the court a petition that asserts that an individual is a
11 person requiring treatment.

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

17 (3) Except as provided in subsection (7), the petition shall
18 be accompanied by the clinical certificate of a physician,
19 **physician assistant, certified nurse practitioner, clinical nurse**
20 **specialist-certified**, or ~~a~~-licensed psychologist, unless after
21 reasonable effort the petitioner could not secure an examination.
22 If a clinical certificate does not accompany the petition, the
23 petitioner shall set forth the reasons an examination could not be
24 secured within the petition. The petition may also be accompanied
25 by a second clinical certificate. If 2 clinical certificates
26 accompany the petition, at least 1 clinical certificate must have
27 been executed by a psychiatrist.

28 (4) Except as otherwise provided in subsection (7) and section
29 455, a clinical certificate that accompanies a petition must have

1 been executed within 72 hours before ~~the filing of the~~ petition **is**
2 **filed**, and after personal examination of the individual.

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

9 (6) The petition described in this section may assert that the
10 subject of the petition should receive assisted outpatient
11 treatment in accordance with section 468(2)(d).

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

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

18 (2) If the petition is not accompanied by a clinical
19 certificate, and if the court is satisfied a reasonable effort was
20 made to secure an examination, the court shall order the individual
21 to be examined by a psychiatrist and ~~either~~**a physician, a**
22 **physician assistant, a certified nurse practitioner, a clinical**
23 **nurse specialist-certified**, or a licensed psychologist.

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

27 (4) After an examination ordered under subsection (1), the
28 examining psychiatrist shall either transmit a clinical certificate
29 to the court or report to the court that execution of a clinical

1 certificate is not warranted. After each examination ordered under
2 subsection (2), the examining psychiatrist, or the examining
3 physician, **physician assistant, certified nurse practitioner,**
4 **clinical nurse specialist-certified,** or licensed psychologist, as
5 applicable, shall either transmit a clinical certificate to the
6 court or report to the court that execution of a clinical
7 certificate is not warranted.

8 (5) If 1 examination was ordered and the examining
9 psychiatrist reports that execution of a clinical certificate is
10 not warranted, or if 2 examinations were ordered and 1 of the
11 examining physicians or the **physician assistant, certified nurse**
12 **practitioner, clinical nurse specialist-certified, or** licensed
13 psychologist reports that execution of a clinical certificate is
14 not warranted, the court shall dismiss the petition or order the
15 individual to be examined by a psychiatrist, or if a psychiatrist
16 is not available, by a physician, **physician assistant, certified**
17 **nurse practitioner, clinical nurse specialist-certified, or**
18 licensed psychologist. If a third examination report states that
19 execution of a clinical certificate is not warranted, the court
20 shall dismiss the petition.

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

23 Sec. 438. If it appears to the court that the individual
24 requires immediate assessment because the individual presents a
25 substantial risk of significant physical or mental harm to themselves
26 in the near future or presents a substantial risk of significant
27 physical harm to others in the near future, the court may order the
28 individual hospitalized and may order a peace officer to take the
29 individual into protective custody and transport the individual to

1 a preadmission screening unit designated by the community mental
2 health services program. After the individual is taken into
3 protective custody by a peace officer, the court may, also, order a
4 security transport officer to transport the individual to a
5 preadmission screening unit designated by the community mental
6 health services program. If the preadmission screening unit
7 authorizes hospitalization, the peace officer or security transport
8 officer must transport the individual to a hospital designated by
9 the community mental health services program, unless other
10 arrangements are provided by the preadmission screening unit. If
11 the examinations and clinical certificates of the psychiatrist, and
12 the physician, **the physician assistant, the certified nurse**
13 **practitioner, the clinical nurse specialist-certified,** or the
14 licensed psychologist, are not completed within 24 hours after
15 hospitalization, the individual must be released.

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

20 (a) A petition for a determination that an individual is a
21 person requiring treatment, a clinical certificate executed by a
22 physician, **a physician assistant, a certified nurse practitioner, a**
23 **clinical nurse specialist-certified,** or a licensed psychologist,
24 and a clinical certificate executed by a psychiatrist.

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

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

29 (d) A demand or notification that a hearing that has been

1 temporarily deferred under section 455(6) be convened.

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

8 Sec. 461. (1) An individual may not be found to require
9 treatment unless at least 1 physician, **physician assistant,**
10 **certified nurse practitioner, clinical nurse specialist-certified,**
11 or licensed psychologist who has personally examined that
12 individual testifies in person or by written deposition at the
13 hearing.

14 (2) For a petition filed under section 434(7), that does not
15 seek hospitalization before the hearing, an individual may not be
16 found to require treatment unless a psychiatrist who has personally
17 examined that individual testifies. A psychiatrist's testimony is
18 not necessary if a psychiatrist signs the petition. If a
19 psychiatrist signs the petition, at least 1 physician, **physician**
20 **assistant, certified nurse practitioner, clinical nurse specialist-**
21 **certified,** or licensed psychologist who has personally examined
22 that individual must testify. The requirement for testimony may be
23 waived by the subject of the petition. If the testimony given in
24 person is waived, a clinical certificate completed by a physician,
25 licensed psychologist, **physician assistant, certified nurse**
26 **practitioner, clinical nurse specialist-certified,** or psychiatrist
27 must be presented to the court before or at the initial hearing.

28 (3) The examinations required under this section for a
29 petition filed under section 434(7) shall be arranged by the court

1 and the local community mental health services program or other
2 entity as designated by the department.

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

11 Sec. 463. (1) If requested before the first scheduled hearing
12 or at the first scheduled hearing before the first witness has been
13 sworn on a petition, the subject of a petition in a hearing under
14 this chapter has the right at his or her own expense, or if
15 indigent, at public expense, to secure an independent clinical
16 evaluation by a physician, psychiatrist, **physician assistant,**
17 **certified nurse practitioner, clinical nurse specialist-certified,**
18 or licensed psychologist of his or her choice relevant to whether
19 he or she requires treatment, whether he or she should be
20 hospitalized or receive treatment other than hospitalization, and
21 whether he or she is of legal capacity.

22 (2) Compensation for an evaluation performed by a physician, **a**
23 **physician assistant, a certified nurse practitioner, a clinical**
24 **nurse specialist-certified,** or a licensed psychologist shall be in
25 an amount that is reasonable and based upon time and expenses.

26 (3) The independent clinical evaluation described in this
27 section is for the sole use of the subject of the petition. The
28 independent clinical evaluation or the testimony of the individual
29 performing the evaluation shall not be introduced into evidence

1 without the consent of the subject of the petition.

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

10 (2) Upon receipt of an oral request to terminate
11 hospitalization of a minor ~~pursuant to~~**under** subsection (1), the
12 hospital promptly shall supply the necessary form for termination
13 of hospitalization to the person giving notice.

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

18 (4) If notice of intent to terminate hospitalization is
19 received by a hospital under subsection (1) or (2), and the
20 director of the hospital determines that the minor to whom the
21 notice applies should remain in the hospital, the director of the
22 hospital or a person designated by the director of the hospital
23 shall file, within 3 days, excluding Sundays and holidays, after
24 receipt of the notice, a petition with the court requesting an
25 order to continue hospitalization of the minor. The petition ~~shall~~
26 **must** be accompanied by 1 certificate executed by a child and
27 adolescent psychiatrist and 1 certificate executed by ~~either~~
28 **physician, a physician assistant, a certified nurse practitioner, a**
29 **clinical nurse specialist-certified,** or a licensed psychologist. If

1 a petition is filed with the court under this subsection, the
2 hospital shall continue to hospitalize the minor pending a court
3 hearing on the petition.

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

9 (6) If the court finds the minor to be suitable for
10 hospitalization by clear and convincing evidence, the court shall
11 order the minor to continue hospitalization for not more than 60
12 days. If the court does not find by clear and convincing evidence
13 that the minor is suitable for hospitalization, the court shall
14 order the minor discharged from the hospital.

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

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

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

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

28 (c) Cause notice of a petition and of the time and place of
29 ~~any~~**a** hearing to be given to the individual asserted to meet the

1 criteria for treatment, his or her attorney, the petitioner, the
2 prosecuting or other attorney specified in subsection (4), the
3 community mental health services program, the director of a
4 facility to which the individual is admitted, the individual's
5 spouse if his or her whereabouts are known, the guardian, if any,
6 of the individual, and other relatives or persons as the court may
7 determine. The notice shall be given at the earliest practicable
8 time and sufficiently in advance of the hearing date to permit
9 preparation for the hearing.

10 (d) Cause the individual to be given within 4 days ~~of~~**after**
11 the court's receipt of the documents described in section 516 a
12 copy of the petition, a copy of the report, unless the individual
13 has previously been given a copy of the petition and the report,
14 notice of the right to a full court hearing, notice of the right to
15 be present at the hearing, notice of the right to be represented by
16 legal counsel, notice of the right to demand a jury trial, and
17 notice of the right to an independent clinical or psychological
18 evaluation.

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

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

25 (a) To be present at the hearing.

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

27 (c) To obtain a continuance for any reasonable time for good
28 cause.

29 (d) To present documents and witnesses.

1 (e) To cross-examine witnesses.

2 (f) To require testimony in court in person from 1 physician,
3 **1 physician assistant, 1 certified nurse practitioner, 1 clinical**
4 **nurse specialist-certified**, or 1 licensed psychologist who has
5 personally examined the individual.

6 (g) To receive an independent examination by a physician,
7 **physician assistant, certified nurse practitioner, clinical nurse**
8 **specialist-certified**, or licensed psychologist of his or her choice
9 on the issue of whether he or she meets the criteria for treatment.

10 (4) The prosecuting attorney of the county in which a court
11 has its principal office shall participate, either in person or by
12 assistant, in hearings convened by the court of his or her county
13 under this chapter, except that a prosecutor need not participate
14 in or be present at a hearing whenever a petitioner or some other
15 appropriate person has retained private counsel who will be present
16 in court and will present to the court the case for a finding that
17 the individual meets the criteria for treatment.

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

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

26 Sec. 532. In addition to the right to a hearing under section
27 531, a resident admitted by court order has the right to a hearing
28 and may petition the court for discharge without leave of court
29 once within each 12-month period from the date of the original

1 order of admission. The petition ~~shall~~**must** be accompanied by a
 2 physician's, **a physician assistant's, a certified nurse**
 3 **practitioner's, a clinical nurse specialist-certified's**, or a
 4 licensed psychologist's report setting forth the reasons for the
 5 physician's, **physician assistant's, certified nurse practitioner's,**
 6 **clinical nurse specialist-certified's**, or licensed psychologist's
 7 conclusion that the resident no longer meets the criteria for
 8 judicial treatment. If no report accompanies the petition because
 9 the resident is indigent or is unable for reasons satisfactory to
 10 the court to procure a report, the court shall appoint a physician,
 11 **a physician assistant, a certified nurse practitioner, a clinical**
 12 **nurse specialist-certified**, or a licensed psychologist to examine
 13 the resident, and the physician, **physician assistant, certified**
 14 **nurse practitioner, clinical nurse specialist-certified**, or
 15 licensed psychologist shall furnish a report to the court. If the
 16 report concludes that the resident continues to meet the criteria
 17 for treatment, the court shall so notify the resident and shall
 18 dismiss the petition for discharge. If the report concludes
 19 otherwise, a hearing shall be held according to sections 517 to
 20 522.

21 Sec. 700. As used in this chapter, unless the context requires
 22 otherwise:

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

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

28 Criminal abuse does not include an assault or an assault and
 29 battery that is a violation of section 81 of ~~Act No. 328 of the~~

1 ~~Public Acts of 1939, being section 750.81 of the Michigan Compiled~~
 2 ~~Laws, the Michigan penal code, MCL 750.81,~~ and that is committed by
 3 a recipient against another recipient.

4 (ii) A criminal homicide that is a violation or an attempt or
 5 conspiracy to commit a violation of section 316, 317, or 321 of ~~Act~~
 6 ~~No. 328 of the Public Acts of 1931, being sections 750.316,~~
 7 ~~750.317, and 750.321 of the Michigan Compiled Laws.~~ **the Michigan**
 8 **penal code, MCL 750.316, 750.317, and 750.321.**

9 (iii) Criminal sexual conduct that is a violation or an attempt
 10 or conspiracy to commit a violation of sections 520b to 520e or
 11 520g of ~~Act No. 328 of the Public Acts of 1931, being sections~~
 12 ~~750.520b to 750.520e and 750.520g of the Michigan Compiled Laws.~~ **the**
 13 **Michigan penal code, MCL 750.520b to 750.520e and 750.520g.**

14 (iv) Vulnerable adult abuse that is a violation or an attempt
 15 or conspiracy to commit a violation of section 145n of the Michigan
 16 penal code, ~~Act No. 328 of the Public Acts of 1931, being section~~
 17 ~~750.145n of the Michigan Compiled Laws.~~ **MCL 750.145n.**

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

22 (b) "Health care corporation" means a nonprofit health care
 23 corporation operating under the nonprofit health care corporation
 24 reform act, ~~Act No. 350 of the Public Acts of 1980, being sections~~
 25 ~~550.1101 to 550.1704 of the Michigan Compiled Laws.~~ **1980 PA 350, MCL**
 26 **550.1101 to 550.1704.**

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

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

6 (e) "Michigan penal code" means the Michigan penal code, 1931
 7 PA 328, MCL 750.1 to 750.568.

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

10 (g) ~~(f)~~ "Nonprofit dental care corporation" means a dental
 11 care corporation incorporated under ~~Act No. 125 of the Public Acts~~
 12 ~~of 1963, being sections 550.351 to 550.373 of the Michigan Compiled~~
 13 ~~Laws.~~ **1963 PA 125, MCL 550.351 to 550.373.**

14 (h) ~~(g)~~ "Person-centered planning" means a process for
 15 planning and supporting the individual receiving services that
 16 builds upon the individual's capacity to engage in activities that
 17 promote community life and that honors the individual's
 18 preferences, choices, and abilities. The person-centered planning
 19 process involves families, friends, and professionals as the
 20 individual desires or requires.

21 (i) ~~(h)~~ "Privileged communication" means a communication made
 22 to a psychiatrist, **physician assistant, certified nurse**
 23 **practitioner, clinical nurse specialist-certified, or licensed**
 24 psychologist in connection with the examination, diagnosis, or
 25 treatment of a patient, or to another person while the other person
 26 is participating in the examination, diagnosis, or treatment or a
 27 communication made privileged under other applicable state or
 28 federal law.

29 (j) ~~(i)~~ "Restraint" means the use of a physical device to

1 restrict an individual's movement. Restraint does not include the
2 use of a device primarily intended to provide anatomical support.

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

5 (l) ~~(k)~~—"Support plan" means a written plan that specifies the
6 personal support services or any other supports that are to be
7 developed with and provided for a recipient.

8 (m) ~~(l)~~—"Treatment plan" means a written plan that specifies
9 the goal-oriented treatment or training services, including
10 rehabilitation or habilitation services, that are to be developed
11 with and provided for a recipient.

12 Sec. 740. (1) A resident shall not be placed in physical
13 restraint except in the circumstances and under the conditions set
14 forth in this section or in other law.

15 (2) A resident may be restrained only as provided in
16 subsection (3), (4), or (5) after less restrictive interventions
17 have been considered, and only if restraint is essential in order
18 to prevent the resident from physically harming himself, herself,
19 or others, or in order to prevent him or her from causing
20 substantial property damage. Consideration of less restrictive
21 measures shall be documented in the medical record. If restraint is
22 essential in order to prevent the resident from physically harming
23 himself, herself, or others, the resident may be physically held
24 with no more force than is necessary to limit the resident's
25 movement, until a restraint may be applied.

26 (3) A resident may be temporarily restrained for a maximum of
27 30 minutes without an order or authorization in an emergency.

28 Immediately after imposition of the temporary restraint, a
29 physician, **physician assistant, certified nurse practitioner, or**

1 **clinical nurse specialist-certified** shall be contacted. If, after
2 being contacted, the physician, **physician assistant, certified**
3 **nurse practitioner, or clinical nurse specialist-certified** does not
4 order or authorize the restraint, the restraint shall be removed.

5 (4) A resident may be restrained ~~prior to~~**before** examination
6 ~~pursuant~~**according** to an authorization by a physician, **physician**
7 **assistant, certified nurse practitioner, or clinical nurse**
8 **specialist-certified**. An authorized restraint may continue only
9 until a physician, **a physician assistant, a certified nurse**
10 **practitioner, a clinical nurse specialist-certified, or a**
11 **registered professional nurse who has been trained in accordance**
12 **with the requirements under 42 CFR 482.13(f)** can personally examine
13 the resident or for 2 hours, whichever is less. If it is not
14 possible for the physician, **the physician assistant, the certified**
15 **nurse practitioner, the clinical nurse specialist-certified, or the**
16 **registered professional nurse who has been trained in accordance**
17 **with the requirements under 42 CFR 482.13(f)** to examine the
18 resident within 2 hours, a physician, **physician assistant,**
19 **certified nurse practitioner, or clinical nurse specialist-**
20 **certified** may reauthorize the restraint for another 2 hours.
21 Authorized restraint may not continue for more than 4 hours.

22 (5) A resident may be restrained ~~pursuant~~**according** to an
23 order by a physician, **physician assistant, certified nurse**
24 **practitioner, or clinical nurse specialist-certified** made after
25 personal examination of the resident. An ordered restraint shall
26 continue only for that period of time specified in the order or for
27 8 hours, whichever is less.

28 (6) A restrained resident shall continue to receive food,
29 shall be kept in sanitary conditions, shall be clothed or otherwise

1 covered, shall be given access to toilet facilities, and shall be
2 given the opportunity to sit or lie down.

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

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

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

13 Sec. 742. (1) Seclusion shall be used only in a hospital, a
14 center, or a child caring institution licensed under 1973 PA 116,
15 MCL 722.111 to 722.128. A resident placed in a hospital or center
16 shall not be kept in seclusion except in the circumstances and
17 under the conditions set forth in this section.

18 (2) A minor placed in a child caring institution shall not be
19 placed or kept in seclusion except as provided in 1973 PA 116, MCL
20 722.111 to 722.128, or rules promulgated under that act.

21 (3) A resident may be placed in seclusion only as provided
22 under subsection (4), (5), or (6) and only if it is essential in
23 order to prevent the resident from physically harming others, or in
24 order to prevent the resident from causing substantial property
25 damage.

26 (4) Seclusion may be temporarily employed for a maximum of 30
27 minutes in an emergency without an authorization or an order.
28 Immediately after the resident is placed in temporary seclusion, a
29 physician, **physician assistant, certified nurse practitioner, or**

1 **clinical nurse specialist-certified** shall be contacted. If, after
2 being contacted, the physician, **physician assistant, certified**
3 **nurse practitioner, or clinical nurse specialist-certified** does not
4 authorize or order the seclusion, the resident shall be removed
5 from seclusion.

6 (5) A resident may be placed in seclusion under an
7 authorization by a physician, **physician assistant, certified nurse**
8 **practitioner, or clinical nurse specialist-certified**. Authorized
9 seclusion shall continue only until a physician, **a physician**
10 **assistant, a certified nurse practitioner, a clinical nurse**
11 **specialist-certified, or a registered professional nurse who has**
12 **been trained in accordance with the requirements under 42 CFR**
13 **482.13(f)** can personally examine the resident or for 1 hour,
14 whichever is less.

15 (6) A resident may be placed in seclusion under an order of a
16 physician, **physician assistant, certified nurse practitioner, or**
17 **clinical nurse specialist-certified** made after personal examination
18 of the resident to determine if the ordered seclusion poses an
19 undue health risk to the resident. Ordered seclusion shall continue
20 only for that period of time specified in the order or for 8 hours,
21 whichever is less. An order for a minor shall continue for a
22 maximum of 4 hours.

23 (7) A secluded resident shall continue to receive food, shall
24 remain clothed unless his or her actions make it impractical or
25 inadvisable, shall be kept in sanitary conditions, and shall be
26 provided a bed or similar piece of furniture unless his or her
27 actions make it impractical or inadvisable.

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

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

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

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