

Chapter 9

**CHAPTER 9
MISCELLANEOUS PROVISIONS**

330.1900 Repealed. 1995, Act 290, Eff. Mar. 28, 1996. Compiler's Notes: The repealed section pertained to maintenance of Lafayette clinic.

330.1901 Acts or functions conducted by mental health professional; prohibition.

Sec. 901. A mental health professional shall not perform an act, task, or function within the field of mental illness or developmental disability unless he or she has been trained to perform the act, task, or function, or is acting under the direct supervision of an individual who has been trained to perform the act, task, or function.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996

330.1902-330.1918 Repealed. 1995, Act 290, Eff. Mar. 28, 1996. Compiler's Notes: The repealed sections pertained to Lafayette clinic and neuropsychiatric institute.

330.1919 Contracts for services of agencies located in bordering states.

Sec. 919. (1) As used in this section:

- (a) "County program" means a county community mental health program.
- (b) "Department" means the department of mental health.
- (c) "Individual" means an individual requiring mental health treatment services.
- (d) "Receiving agency" means a public or private agency or county program that, under this section, provides treatment to individuals from a state other than the state in which the agency or county program is located.
- (e) "Receiving state" means the state in which a receiving agency is located.
- (f) "Sending agency" means a public or private agency located in a state that sends an individual to another state for treatment under this section.
- (g) "Sending state" means the state in which a sending agency is located.

(2) A county program may contract as provided under this section with a public or private agency located in a state bordering Michigan to secure services under this act for an individual who receives services through the county program.

(3) A county program may contract as provided under this section with a public or private agency located in a state bordering Michigan to provide services under this act in an approved treatment facility in this state for an individual who is a resident of the bordering state, except

that such services may not be provided for an individual who is involved in criminal proceedings.

(4) A contract entered into under this section may not be validly executed until the department has reviewed and approved the provisions of the contract and determined that the receiving agency provides services in accordance with the standards of this state and the attorney general has certified that the receiving state's laws governing patient rights are substantially similar to those of this state.

(5) An individual does not establish legal residence in the state where the receiving agency is located while the individual is receiving services pursuant to a contract executed under this section.

(6) Section 748 applies to treatment records of an individual receiving services pursuant to a contract executed under this section through a receiving agency in this state, except that the sending agency has the same right of access to the treatment records of the individual as provided for the department under section 748(4)(e).

(7) An individual who is detained, committed, or placed on an involuntary basis under this act may be admitted and treated in another state pursuant to a contract executed under this section. An individual who is detained, committed, or placed under the civil law of a state bordering Michigan may be admitted and treated in this state pursuant to a contract executed under this section. Court orders valid under the law of the sending state are granted recognition and reciprocity in the receiving state for individuals covered by a contract executed under this section to the extent that the court orders relate to admission for the treatment or care of a mental disability. The court orders are not subject to legal challenge in the courts of the receiving state. An individual who is detained, committed, or placed under the law of a sending state and who is transferred to a receiving state under this section continues to be in the legal custody of the authority responsible for the individual under the law of the sending state. Except in an emergency, such an individual may not be transferred, removed, or furloughed from a facility of the receiving agency without the specific approval of the authority responsible for the individual under the law of the sending state.

(8) While in the receiving state pursuant to a contract executed under this section, an individual is subject to all of the laws and regulations applicable to an individual detained, committed, or placed pursuant to the corresponding laws of the receiving state, except those laws and regulations of the receiving state pertaining to length of involuntary inpatient treatment, reexaminations, and extensions of involuntary inpatient treatment and except as otherwise provided by this section. The laws and regulations of the sending state relating to length of involuntary inpatient treatment, reexaminations, and extensions of involuntary inpatient treatment apply. An individual shall not be sent to another state pursuant to a contract executed under this section until the receiving state has enacted a law recognizing the validity and applicability of this state's laws as provided in this section.

(9) If an individual receiving treatment on a voluntary basis pursuant to a contract executed under this section requests discharge, the receiving agency shall immediately notify the sending

agency and shall return the individual to the sending state as directed by the sending agency within 48 hours after the request, excluding Saturdays, Sundays, and legal holidays, unless other arrangements are made with the sending agency. The sending agency shall immediately upon return of the individual either arrange for the discharge of the individual or detain the individual pursuant to the emergency detention laws of the sending state.

(10) If an individual receiving services pursuant to a contract executed under this section leaves the receiving agency without authorization and the individual at the time of the unauthorized leave is subject to involuntary inpatient treatment under the laws of the sending state, the receiving agency shall use all reasonable means to locate and return the individual. The receiving agency shall immediately report the unauthorized leave of absence to the sending agency. The receiving state has the primary responsibility for, and the authority to direct, the return of individuals within its borders and is liable for the cost of such action to the extent that it would be liable for costs if an individual who is a resident of the receiving state left without authorization.

(11) An individual may be transferred between facilities of the receiving state if transfers are permitted by the contract executed under this section providing for the individual's care.

(12) Each contract executed under this section shall do all of the following:

(a) Establish the responsibility for payment for each service to be provided under the contract. Charges to the sending state shall not be more or less than the actual cost of providing the service.

(b) Establish the responsibility for the transportation of individuals to and from receiving agencies.

(c) Provide for reports by the receiving agency to the sending agency on the condition of each individual covered by the contract.

(d) Provide for arbitration of disputes arising out of the contract that cannot be settled through discussion between the contracting parties and specify how the arbitrators will be chosen.

(e) Include provisions ensuring the nondiscriminatory treatment, as required by law, of employees, individuals receiving services, and applicants for employment and services.

(f) Establish the responsibility for providing legal representation for an individual receiving services in a legal proceeding involving the legality of admission and the conditions of involuntary inpatient treatment.

(g) Establish the responsibility for providing legal representation for an employee of a contracting party in legal proceedings initiated by an individual receiving treatment pursuant to the contract.

(h) Include provisions concerning the length of the contract and the means by which the contract can be terminated.

(i) Establish the right of 1 or more qualified employees or representatives of the sending agency and sending state to inspect, at all reasonable times, the records of the receiving agency and its treatment facilities to determine if appropriate standards of care are met for individuals receiving services under the contract.

(j) Require the sending agency to provide the receiving agency with copies of all relevant legal documents authorizing involuntary inpatient treatment of an individual who is admitted pursuant to the laws of the sending state and is receiving services pursuant to a contract executed under this section.

(k) Require each individual who seeks treatment on a voluntary basis to agree in writing to be returned to the sending state upon making a request for discharge as provided in subsection (9) and require an agent or employee of the sending agency to certify that the individual understands that agreement.

(l) Establish the responsibility for securing a reexamination for an individual and for extending an individual's period of involuntary inpatient treatment.

(m) Include provisions specifying when a receiving facility can refuse to admit or retain an individual.

(n) Specify the circumstances under which an individual will be permitted a home visit or granted a pass to leave the facility, or both.

History: Add. 1995, Act 17, Imd. Eff. Apr. 12, 1995

330.1919[1] Training, studies, and research; rules.

Sec. 919. (1) The department shall support training, studies, and research as part of its overall responsibility with regard to the prevention of mental disorders and the care, treatment, and support of individuals with mental and emotional disorders and disturbances.

(2) Subject to section 114a, the department shall promulgate rules to set standards for the protection of human subjects in mental health research. The standards shall at a minimum comply with the federal standards for the protection of human subjects in research administered or funded by the United States department of health and human services. All research conducted, sponsored, or funded by the department or a community mental health services program shall comply with the rules promulgated under this subsection.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996 **Compiler's Notes:** Section 919, as added by Act 290 of 1995, was compiled as MCL 330.1919[1] to distinguish it from another section 919, deriving from Act 17 of 1995 and pertaining to contracts for services of agencies located in bordering states.

330.1920 Interstate compact on mental health.

Sec. 920. The interstate compact on mental health is hereby enacted into law and entered into by this state with all other states legally joining therein in the form substantially as follows:

INTERSTATE COMPACT ON MENTAL HEALTH

The contracting states solemnly agree that:

Article I

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

Article II

As used in this compact:

- (a) "Sending state" shall mean a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent.
- (b) "Receiving state" shall mean a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent.
- (c) "Institution" shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency.
- (d) "Patient" shall mean any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact.
- (e) "After-care" shall mean care, treatment and services provided a patient, as defined herein, on convalescent status or conditional release.
- (f) "Mental illness" shall mean mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community.

(g) "Mental deficiency" shall mean mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

(h) "State" shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Article III

(a) Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship qualifications.

(b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this paragraph shall include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

(c) No state shall be obliged to receive any patient pursuant to the provisions of paragraph (b) of this article unless the sending state has given advance notice of its intention to send the patient; furnished all available medical and other pertinent records concerning the patient; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish; and unless the receiving state shall agree to accept the patient.

(d) In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

(e) Pursuant to this compact, the determination as to the suitable place of institutionalization for the patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

Article IV

(a) Whenever, pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient shall receive after-care or supervision such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not

jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such after-care in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive after-care or supervision in the receiving state.

(c) In supervising, treating, or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

Article V

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be detained in the state where found pending disposition in accordance with law.

Article VI

The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

Article VII

(a) No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

(b) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

(c) No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

(e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a non-party state relating to institutionalization, care or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

Article VIII

(a) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or in respect of any patient for whom he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances: Provided, however, that in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

(b) The term "guardian" as used in paragraph (a) of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

Article IX

(a) No provision of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

(b) To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

Article X

(a) Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general coordinator of activities under the compact in his state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

(b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

Article XI

The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

Article XII

This compact shall enter into full force and effect as to any state when enacted by it into law and such state shall thereafter be a party thereto with any and all states legally joining therein.

Article XIII

(a) A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

(b) Withdrawal from any agreement permitted by Article VII (b) as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

Article XIV

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or

the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

History: 1974, Act 258, Eff. Aug. 6, 1975

Compiler's Notes: In the second sentence of subsection (a) of Article X, the word "adminstrator" evidently should read "administrator."

330.1922 Director or agent as compact administrator; rules and procedures.

Sec. 922. The director of the department of mental health, or a duly authorized agent designated by him in writing to the governor, shall perform the duties of the compact administrator who, acting jointly with like officers of other states, shall promulgate rules and adopt procedures to carry out more effectively the terms of the compact. All rules promulgated by the compact administrator shall be pursuant to Act No. 306 of the Public Acts of 1969, as amended.

History: 1974, Act 258, Eff. Aug. 6, 1975

330.1924 Supplementary agreements; administration; arbitration of disputed questions of residence.

Sec. 924. (1) The compact administrator may enter into supplementary agreements with appropriate officials of other states pursuant to Articles VII and XI of the compact.

(2) The compact administrator shall cooperate with all departments, agencies, and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement entered into by this state.

(3) The department of mental health may enter into agreements with authorities of other states for the arbitration of disputed questions between those states and this state respecting the residence of mentally ill and mentally deficient persons and their return to their place of legal settlement.

History: 1974, Act 258, Eff. Aug. 6, 1975

330.1926 Payments to discharge financial obligations; expense of transfer to another state.

Sec. 926. (1) The compact administrator, subject to the approval of the department of administration, may arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into thereunder from funds appropriated for that purpose.

(2) The actual and necessary expenses of transfer to another state shall be audited by the department of administration and paid from the general fund in the state treasury upon vouchers certifying to the circumstances of the transfer and showing in detail the expenses thereof.

History: 1974, Act 258, Eff. Aug. 6, 1975

330.1927 Repealed. 1987, Act 192, Imd. Eff. Dec. 2, 1987. Compiler's Notes: The repealed section pertained to protection of developmentally disabled persons.

330.1928 Copies of compact; distribution.

Sec. 928. Duly authenticated copies of the compact shall, upon its approval, be transmitted by the secretary of state to the governor of each state, the attorney general and the administrator of general services of the United States, and the council of state governments.

History: 1974, Act 258, Eff. Aug. 6, 1975

330.1930 Consent to transfer.

Sec. 930. In the administration of the compact, the compact administrator shall not transfer any patient to an institution in another state without the prior written consent of the patient's parents, nearest relative, or guardian. A copy of the consent shall be placed on file in the probate court of the county issuing the order of judicial admission or in the case of a nonjudicial admission, in the probate court of the county where the patient resides.

History: 1974, Act 258, Eff. Aug. 6, 1975

330.1931 Programs for protection and advocacy of rights of developmentally disabled and of mentally ill persons; implementation; authority; liaison.

Sec. 931. (1) The governor shall designate an agency to implement a program for the protection and advocacy of the rights of persons with developmental disabilities pursuant to the developmentally disabled assistance and bill of rights act, Public Law 94-103, 89 Stat. 486. The designated agency shall have the authority to pursue legal, administrative, and other appropriate remedies to protect the rights of the developmentally disabled and to investigate allegations of abuse and neglect. The designated agency shall be independent of any state agency that provides treatment or services other than advocacy services to persons with developmental disabilities.

(2) The agency designated under subsection (1) shall implement a program for the protection and advocacy of the rights of mentally ill persons pursuant to the protection and advocacy for mentally ill individuals act of 1986, Public Law 99-319, 100 Stat. 478. The designated agency shall have the authority to pursue legal, administrative, and other appropriate remedies to protect the rights of mentally ill persons and to investigate allegations of abuse or neglect of mentally ill persons. The designated agency shall be independent of any state agency that provides treatment or services other than advocacy services to mentally ill persons.

(3) The governor shall designate an appropriate state official to serve as liaison between the agency designated to implement the protection and advocacy programs and the state departments and agencies that provide services to persons with developmental disabilities and mentally ill persons.

History: Add. 1987, Act 192, Imd. Eff. Dec. 2, 1987

330.1932 Taxation, loans, and bonds.

Sec. 932. The several counties of the state have power and authority, by resolution of the county board of commissioners, to provide for the care, custody, and maintenance of developmentally disabled persons within the counties and for this purpose counties may raise money by tax or by loan and issue bonds of the county to secure the repayment of the loan in the manner and within the limits provided by law for the erection of buildings and for the purchase of equipment. Counties may raise by tax, in the manner and within the limits provided by law, the sum needed from year to year, for the support, maintenance, and care of developmentally disabled persons admitted to the care of any facility maintained by the counties under and by authority of law.

History: 1974, Act 258, Eff. Aug. 6, 1975

330.1934-330.1936 Repealed. 1995, Act 290, Eff. Mar. 28, 1996. Compiler's Notes: The repealed sections pertained to employees and lease of state-owned surplus farmland.

330.1938 Family planning services.

Sec. 938. The department of mental health may provide to any individual receiving mental health services from the department written or oral notice of the availability of family planning services and upon request of the individual offer education and information on family planning. The notice shall state that receipt of mental health services is in no way dependent upon a request or nonrequest for family planning services.

History: 1974, Act 258, Eff. Aug. 6, 1975

330.1939 State mental health advisory council on deafness; creation; appointment, qualifications, and terms of members; vacancy; duties; report; expenses; meetings; election of chairperson.

Sec. 939. (1) The state mental health advisory council on deafness is created in the department as a successor to the mental health advisory council on the deaf, deafblind, and hard of hearing. The council shall consist of 12 members appointed by the governor. At least 4 members shall be deaf persons as defined in section 2 of the deaf persons' interpreters act, 1982 PA 204, MCL 393.502. The remaining members shall be persons knowledgeable in the area of deafness, mental health, or both. The members shall be appointed for 2-year terms beginning on April 1, except that in the first year, 6 members shall be appointed for a 1-year term, and 6 members shall be appointed for a 2-year term. A vacancy on the council shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(2) The state mental health advisory council on deafness shall advise and assist the director of the department on mental health services, policies, and programs for the deaf, deafblind, and hard of hearing. The council is responsible for all of the following:

(a) Identifying and assessing current needs of deaf, deafblind, and hard of hearing persons with mental health problems.

(b) Monitoring mental health program delivery to deaf, deafblind, and hard of hearing persons.

(c) Recommending programs, policy development, and training that shall ensure quality service delivery of specialized mental health services to meet the needs of deaf, deafblind, and hard of hearing persons.

(3) The state mental health advisory council on deafness shall report its findings and recommendations at least annually to the department, citizens mental health advisory council, the governor, and the house and senate appropriations committees.

(4) The members of the state mental health advisory council on deafness shall serve without compensation, but shall be reimbursed for actual and necessary expenses by the department.

(5) The first meeting each year of the state mental health advisory council on deafness shall be called by a majority of the members at which time a chairperson shall be elected. The council shall meet at least 4 times a year and at the call of the chairperson.

History: Add. 1984, Act 354, Imd. Eff. Dec. 27, 1984 ;-- Am. 1990, Act 263, Imd. Eff. Oct. 15, 1990 ;-- Am. 2016, Act 239, Eff. Sept. 22, 2016

Compiler's Notes: For transfer of powers and duties of the state mental health advisory council on deafness to the director of the department of community health and abolishment of the council, see E.R.O. No. 1997-4, compiled at MCL 333.26324 of the Michigan Compiled Laws.

330.1940 Aiding or causing certain persons to leave or not return to facility; penalty.

Sec. 940. Any person who aids, attempts to aid, or causes a person admitted to a mental health facility by judicial order to leave the facility without authorization, or who aids, attempts to aid, or causes such a person to fail to return to the facility while on an authorized absence after a lawful request for his return has been made shall be guilty of a crime punishable by a sentence of not more than 2 years.

History: 1974, Act 258, Eff. Aug. 6, 1975

330.1941 State advisory council on mental health and aging; establishment; administration and operation; composition; appointment, qualifications, and terms of members; duties; expenses; appointment of chairperson; meetings.

Sec. 941. (1) The state advisory council on mental health and aging is jointly established in the department and the office of services to the aging. The state advisory council on mental health and aging shall be administered and operated jointly by the department and the office of services

to the aging. The state advisory council on mental health and aging shall consist of the director or his or her designee, the director of public health or his or her designee, the director of social services or his or her designee, the director of the office of services to the aging or his or her designee, the director of the office of health and medical affairs or his or her designee, the insurance commissioner or his or her designee, and the following 16 members appointed jointly by the directors of mental health and the office of services to the aging:

- (a) Two family caregivers.
 - (b) One member who is a licensed physician and who has experience in the diagnosis and treatment of Alzheimer's disease and related disorders.
 - (c) One member who is an attorney and who has knowledge and experience in mental health and aging law.
 - (d) One member representing a provider of services to persons identified as having Alzheimer's disease or a related disorder.
 - (e) One member from the Alzheimer's disease and related disorders association.
 - (f) One member from an area agency on aging.
 - (g) One member representing an agency that provides statewide dissemination of information and education on mental health and aging issues.
 - (h) One member from the commission on services to the aging.
 - (i) One member from a community mental health services provider.
 - (j) One member from an area agency on aging services provider.
 - (k) One member representing a state psychiatric hospital.
 - (l) One member who is a community mental health board director or the designee of a community mental health board director.
 - (m) One member who is a psychiatrist with experience treating older adults.
 - (n) Two members representing older adults.
- (2) The composition of the state advisory council on mental health and aging as described in subsection (1) shall reflect a wide range of professionals, consumers, and ethnic minority citizens.
- (3) Members shall be appointed for 2-year terms beginning on April 1, except that of the members first appointed, 1/2 of the members shall be appointed for a 1-year term, and 1/2 of the

members shall be appointed for a 2-year term. A vacancy on the council shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(4) The state advisory council on mental health and aging shall do all of the following:

(a) Provide advice and guidance and make recommendations to the directors of mental health and the office of services to the aging on mental health and aging issues, including, but not limited to, Alzheimer's disease and related disorders.

(b) Monitor programs funded or coordinated by the department, the office of services to the aging, or both, for older adults with mental health needs and persons with Alzheimer's disease or a related disorder.

(c) Identify key issues of concern that require intervention by 1 or more state agencies.

(d) Recommend specific innovative service delivery models that address the unique needs of multi-cultural populations, including, but not limited to, ethnic sensitive practices and culturally relevant programming.

(e) Submit annually to the director, the director of the office of services to the aging, the legislature, and the governor a report summarizing the activities of the state advisory council on mental health and aging for the past year and making recommendations for the coming year.

(5) The members of the state advisory council on mental health and aging shall serve without compensation, but shall be reimbursed for actual and necessary expenses by the department, the office of services to the aging, or both.

(6) The chairperson of the state advisory council on mental health and aging shall be appointed jointly by the director and the director of the office of services to the aging by April 1 of each year. The council shall meet at least quarterly and at the call of the chairperson.

History: Add. 1988, Act 436, Imd. Eff. Dec. 27, 1988 **Compiler's Notes:** For transfer of powers and duties of the state advisory council on mental health and aging to the director of the department of community health and abolishment of the council, see E.R.O. No. 1997-4, compiled at MCL 333.26324 of the Michigan Compiled Laws. For transfer of position of commissioner of office of financial and insurance regulation as member or chairperson of board or commission to director of department of insurance and financial services, see E.R.O. No. 2013-1, compiled at MCL 550.991.

330.1942 Repealed. 1995, Act 290, Eff. Mar. 28, 1996. Compiler's Notes: The repealed section pertained to criminal sexual psychopaths.

330.1944 Criminal sexual psychopath; leaving state without permission; penalty.

Sec. 944. Any criminal sexual psychopathic person under lawful commitment pursuant to the provisions of Act No. 165 of the Public Acts of 1939, as amended, who leaves the state without permission is guilty of a felony.

History: 1974, Act 258, Eff. Aug. 6, 1975

Compiler's Notes: Act 165 of 1939, referred to in this section, was repealed by Act 267 of 1966 and Act 143 of 1968.

330.1946 Threat of physical violence against third person; duties.

Sec. 946. (1) If a patient communicates to a mental health professional who is treating the patient a threat of physical violence against a reasonably identifiable third person and the recipient has the apparent intent and ability to carry out that threat in the foreseeable future, the mental health professional has a duty to take action as prescribed in subsection (2). Except as provided in this section, a mental health professional does not have a duty to warn a third person of a threat as described in this subsection or to protect the third person.

(2) A mental health professional has discharged the duty created under subsection (1) if the mental health professional, subsequent to the threat, does 1 or more of the following in a timely manner:

(a) Hospitalizes the patient or initiates proceedings to hospitalize the patient under chapter 4 or 4a.

(b) Makes a reasonable attempt to communicate the threat to the third person and communicates the threat to the local police department or county sheriff for the area where the third person resides or for the area where the patient resides, or to the state police.

(c) If the mental health professional has reason to believe that the third person who is threatened is a minor or is incompetent by other than age, takes the steps set forth in subdivision (b) and communicates the threat to the department of social services in the county where the minor resides and to the third person's custodial parent, noncustodial parent, or legal guardian, whoever is appropriate in the best interests of the third person.

(3) If a patient described in subsection (1) is being treated through team treatment in a hospital, and if the individual in charge of the patient's treatment decides to discharge the duty created in subsection (1) by a means described in subsection (2)(b) or (c), the hospital shall designate an individual to communicate the threat to the necessary persons.

(4) A mental health professional who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 750. A psychiatrist who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate the physician-patient privilege established under section 2157 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2157 of the Michigan Compiled Laws. A psychologist who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 18237 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.18237 of the Michigan Compiled Laws. A certified social worker, social worker, or social worker technician who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 1610 of the occupational code, Act No. 299 of the Public Acts of 1980, being

section 339.1610 of the Michigan Compiled Laws. A licensed professional counselor who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 18117 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.18117 of the Michigan Compiled Laws. A marriage and family therapist who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 1509 of the occupational code, Act No. 299 of the Public Acts of 1980, being section 339.1509 of the Michigan Compiled Laws. A music therapist who determines in good faith that a particular situation presents a duty under this section and who complies with this duty does not violate section 4.11 of the professional code of ethics of the national association for music therapy, inc., or the clinical relationships section of the code of ethics of the certification board for music therapists.

(5) This section does not affect a duty a mental health professional may have under any other section of law.

History: Add. 1989, Act 123, Eff. Sept. 1, 1989 ;-- Am. 1994, Act 259, Imd. Eff. July 5, 1994 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1950-330.1953 Repealed. 1995, Act 290, Eff. Mar. 28, 1996. Compiler's Notes: The repealed sections pertained to definitions, special projects grant program, and annual report