

By Mrs. Parente of Milford, petition of Marie J. Parente relative to the management of mental health and retardation services. Human Services and Elderly Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Eight.

AN ACT RELATIVE TO THE MANAGEMENT OF MENTAL HEALTH AND RETARDATION SERVICES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 7 of chapter 19 of the General Laws, as
2 amended by section 8 of chapter 599 of the acts of 1986, is hereby
3 further amended by striking out, in lines 4, 5, and 6, the words
4 "including any facilities or portions thereof which the department
5 may, subject to appropriation, construct or develop for use as
6 homes or facilities for aging persons who are not mentally ill".

1 SECTION 2. Said section 7 of said chapter 19 is hereby further
2 amended by adding the following paragraph: —

3 All public and mental health facilities operated or licensed by
4 the department shall be in compliance with the standards set forth
5 for psychiatric facilities by the joint commission on accreditation
6 of hospitals.

1 SECTION 3. Section 9 of said chapter 19 is hereby further
2 amended by striking out the second sentence and inserting in place
3 thereof the following sentence: — Said board shall consist of
4 seven members four of whom shall be immediate family members
5 or guardians of the seriously mentally ill.

1 SECTION 4. Section 11 of said chapter 19 is hereby further
2 amended by striking out the first sentence and inserting in place

3 thereof the following sentence: — There shall be a mental health
4 advisory council consisting of fifteen persons to be appointed by
5 the governor, of whom at least eight shall be members of mental
6 health area boards and immediate family members of the seriously
7 mentally ill, and of the seven remaining at least two shall be
8 consumers and four shall be appointed to represent one of the
9 following professions and groups: state level medical, psycholog-
10 ical, nursing, educational, social work occupational therapy or bar
11 associations, associations for mental health, industrial and labor
12 groups, and the clergy.

1 SECTION 5. Section 14 of said chapter 19 is hereby further
2 amended by striking out the first two paragraphs and inserting
3 in place thereof the following two paragraphs: —

4 In each area established under section twelfth there shall be a
5 community mental health area board, hereinafter called the area
6 board,...The area board shall consist of fifteen members, who shall
7 be appointed by the commissioner. The members shall live within
8 the area for which they are appointed and they shall be
9 knowledgeable of the mental health services in that area. The
10 commissioner shall seek to provide proper geographical
11 representation in the membership of the board.

12 Eight of such members shall be immediate family members who
13 have mentally ill relatives. Consumers of mental health services
14 should also be represented. No members shall be an employee of
15 the department or contracted to provide services from DMH.

1 SECTION 6. Section 16 of said chapter 19 is hereby further
2 amended by striking out the second paragraph and inserting in
3 place thereof the following paragraph: —

4 In mental health services, major considerations shall be given
5 to the development of (a) inpatient services; (b) diagnostic
6 services, including a comprehensive physical, psycho-neurological
7 examination and blood screening; (c) emergency services,
8 including respite care and mobile services; (d) partial hospitali-
9 zation services for day care and night care; (e) outpatient services,
10 including case management, individual service plans, and
11 aftercare follow-up; (f) social rehabilitation; (g) employment

12 opportunities; (h) housing and residential services; and, (i) mental
13 health consultation and educational services to community
14 agencies and professional personnel practicing in the area.

1 SECTION 7. The third paragraph of said section 16 of said
2 chapter 19 is hereby further amended by striking out the third
3 sentence and inserting in place thereof the following sentence: —
4 Mental health services shall also include (a) educational programs
5 to educate the public that mental illness is a brain disease; (b)
6 educational programs to overcome stigma; and; (c) research
7 programs including evaluation of effectiveness and efficiency of the
8 various programs operating within the area.

1 SECTION 8. Chapter 123 of the General Laws is hereby
2 amended by striking out section 1, as amended by section 38 of
3 chapter 599 of the acts of 1986, and inserting in place thereof the
4 following section: —

5 Section 1. The following words as used in this section and
6 sections two to thirty-seven, inclusive, shall, unless the context
7 otherwise requires, have the following meanings:

8 “Commissioner”, the commissioner of mental health.

9 “Department”, the department of mental health.

10 “Dependent funds”, those funds which a resident is unable to
11 manage or spend himself as determined by the periodic review.

12 “District court”, the district court within the jurisdiction of
13 which a facility is located.

14 “Facility”, a public or private facility for the care and treatment
15 of mentally ill persons, except for the Bridgewater State Hospital.

16 “Fiduciary”, any guardian, conservator, trustee, representative
17 payee as appointed by a federal agency, or other person who
18 receives or maintains funds on behalf of another.

19 “Funds”, all cash, checks, negotiable instruments or other
20 income or liquid personal property, and governmental and private
21 pensions and payments, including payments pursuant to a Social
22 Security Administration program.

23 “Independent funds”, those funds which resident is able to
24 manage or spend himself as determined by the periodic review.

25 “Likelihood of serious harm”, (1) a substantial risk of physical
26 harm to the person himself as manifested by evidence of, threats

27 of, or attempts at, suicide or serious bodily harm; (2) a substantial
28 risk of physical harm to other persons as manifested by evidence
29 of homicidal or other violent behavior or evidence that others are
30 placed in reasonable fear of violent behavior and serious physical
31 harm to them; (3) a very substantial risk of physical impairment
32 or injury to the person himself as manifested by evidence that such
33 person's judgment is so affected that he is unable to protect himself
34 in the community and that reasonable provision for his protection
35 is not available in the community; or (4) the person is substantially
36 unable to provide for his basic human needs such as food,
37 clothing, shelter, health or safety; or will, if not treated, suffer or
38 continue to suffer severe abnormal mental, emotional, or physical
39 distress and this distress is associated with significant impairment
40 of judgment, reason, or behavior, causing deterioration of his
41 previous ability to function on his own.

42 "Mental illness", a brain disease that is caused by neurological
43 dysfunctioning and biochemical imbalances.

44 "Qualified physician", a physician who is licensed pursuant to
45 section two of chapter one hundred and twelve who is designate
46 by and who meets qualifications required by the regulations of
47 the department; provided that different qualifications may be
48 established for different purposes of this chapter. A qualified
49 physician need not be an employee of the department or of any
50 facility of the department.

51 "Qualified psychologist", a psychologist who is licensed
52 pursuant to sections one hundred and eighteen to one hundred
53 and twenty-nine, inclusive, of chapter one hundred and twelve
54 who is designated by and who meets qualifications required by the
55 regulations of the department, provided that different qualifica-
56 tions may be established for different purposes of this chapter.
57 A qualified psychologist need not be an employee of the
58 department or of any facility of the department.

59 "Restraint", bodily physical force, mechanical devices,
60 chemicals, confinement in a place of seclusion other than the
61 placement of an inpatient or resident in his room for the night,
62 or any other means which unreasonably limit freedom of
63 movement.

64 "Superintendent", the superintendent or other head of a public
65 or private facility.