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**Michigan House of Representatives Health Policy Committee
March 5, 2024
RE: HB 5114 – Autism Alliance of Michigan Opposition**

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President and CEO*

Board of Trustees

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Chairman*

*Sweta Alberta
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Raj Nair
Paula Patterson
Matt Paul
Colette Rizik
Carla Walker-Miller*

Chair Rogers and Members of the Committee,

Thank you for considering our testimony on position on HB 5114. The Autism Alliance of Michigan (AAoM) is opposed to this bill as written. Our organization in conjunction with a number of other behavioral health and disability rights organizations around the state have worked tirelessly over the past several years to decrease the use of seclusion and restraint in Michigan, across multiple systems of care and service institutions.

Any expansion of authority to utilize these practices will not only increase their use but also signal that the State of Michigan approves of these practices in lieu of more modern and humane behavioral intervention methods. We strongly recommend this bill not advance from the Health Policy committee, given the potential for greater utilization and expansion of these practices, which ultimately put our citizens at increased risk of physical, emotional, and mental harm, even fatality, especially those with developmental disabilities and autism, a segment of the population disproportionately subjected to these dangerous practices.

If the legislature deems the bill necessary to increase available staffing for state psychiatric hospitals, then the Autism Alliance of Michigan requests that the attached amendments are made to the bill.

Thank you for your consideration on these changes. I and members of the Autism Alliance of Michigan team are available to answer questions from the committee members.

Sincerely,

Colleen Allen Ph.D

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President and CEO, Autism Alliance of MI

HB 5115 Proposed Amendments

1. Require nationally-recognized certification for the professionals added to PA 1974 258 via HB 5114 in order to make decisions about hospitalization or seclusion and restraint decisions. Tie certification to hospital credentialing.

TRAINING LANGUAGE DRAFT (based on Human Trafficking training requirements)

In the next renewal licensure and registration cycle, individuals must receive or document having had training which covers the following areas:

- Understanding the use of seclusion and restraint in Michigan or the United States;
- Identifying the drivers / origins of mental health crisis of patients in health care settings;
- Identifying the warning signs of potential manifestation of a violent or physically threatening mental health crisis of an individual in health care settings for adults and minors; and
- Identifying those individuals and a crisis prevention methodology for that individual
- Identifying triggering events
- Non-physical interventions
- Least restrictive interventions
- “Safe” use of restraint / seclusion
- When to stop using restraint / seclusion
- How to monitor associated health impacts

Topics to be covered in training:

- Mental Health Code related to Civil Commitment for Mental Illness
- Mental Health Code related to Civil Commitment for Intellectual Disability
- Mental Health Code related to Civil Commitment for Substance Use Disorders
- Mental Health Code related to Assisted Outpatient Treatment
- Ethical principles related to beneficence, nonmaleficence, autonomy
- Ethical principles related to the balance of safety and civil rights
- Case law related to Commitment (Lake v Cameron, Lessard v Schmidt, O'Connor v Donaldson, Zinermon v Burch)
- Mental Health Code related to Restraints and Seclusion
- Difference between physical restraints, physical management, and chemical restraints

Mandatory Seclusion and Restraint Training may be accomplished through any of the following methods:

- Nationally recognized or state recognized health related organization;

- Training offered by, or in conjunction with, a state or federal agency;
- Educational programs approved by the board for initial licensure, or by a college or university

As with other continuing educational requirements the Michigan Department of Licensing and Regulatory Affairs (LARA) may randomly audit individuals and request documented proof of the completion of seclusion and restraint training. If audited the individual must provide acceptable proof of training, which includes either:

- A completion certificate issued by the training provider that includes the date, provider name, name of training, and individual's name.; or
- A self-certification statement by an individual that includes the individual's name and either:
 - For training completed by a live presentation, online presentation, teleconference, or webinar, the self-certification must include the date, training provider name, and name of training; or
 - For training completed by print or electronic media, the self-certification must include the title of article, author, publication name of peer review journal, health care journal, or professional or scientific journal, and date, volume, and issue of publication, as applicable.

2. Require a minimum of 1800 hours of experience for the same named professionals providing behavioral health services.

3. Add Michigan Department of Health and Human Services policy promulgation to reduce the use of seclusion and restraint in Michigan's psychiatric hospital system.

Seek a policy statement and implementation guide for the overall reduced use of seclusion and restraint from MDHHS and a "State of Michigan 2024-26 Mental Health Treatment Improvement Council" (to be created), which is comprised of 5 – 10 leaders of psychiatric, psychological and mental health leaders, along with key leaders within MDHHS.

4. Require annual reporting of seclusion and restraint cases from Michigan psychiatric hospitals starting in 2024. Use 2024 as the baseline year from which to require annual reductions. Document reductions and increases and the reasons for those changes.

*****Option – by institution*****

R 400.4159 Resident Child restraint; pregnant youth. reduction, prevention; prohibited restraints; elimination of restraints.

Rule 159. (1) A child caring institution must establish and follow a process improvement and restraint reduction/elimination plan that:

- (a) Includes documentation of each restraint.

(b) Requires staff training in approved crisis prevention and intervention techniques including:

(i) Prevention, de-escalation techniques and non-violent responses to assaultive behavior.

(ii) Conflict management.

(iii) Minimizing trauma.

(iv) Staff emotional self-regulation techniques.

(c) Training must be conducted by certified trainers.

(d) Staff will complete refresher training annually or more frequently as needed.

(e) The agency must maintain documentation verifying staff training.

(f) The agency will review all restraints at least monthly.

(g) The agency shall establish a restraint reduction committee for the purpose of analysis, process improvement, communication, and recognition of efforts to eliminate the use of restraints.