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SESSION 2005

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HOUSE BILL 2077*
Committee Substitute Favorable 6/5/06
Senate Health Care Committee Substitute Adopted 6/28/06

Short Title: Mental Health Reform Changes.

(Public)

Sponsors:

Referred to:

May 18, 2006

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES WITH RESPECT TO THE IMPLEMENTATION OF
MENTAL HEALTH REFORM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-142(a) reads as rewritten:

"§ 122C-142. **Contract for services.**

(a) When the area authority contracts with persons for the provision of services, ~~the area authority~~ it shall use the standard contract adopted by the Secretary and shall assure that these contracted services meet the requirements of applicable State statutes and the rules of the Commission and the Secretary. However, an area authority or county program may amend the contract to comply with any court-imposed duty or responsibility. Terms of the standard contract shall require the area authority to monitor the contract to assure that rules and State statutes are met. It shall also place an obligation upon the entity providing services to provide to the area authority timely data regarding the clients being served, the services provided, and the client outcomes. The Secretary may also monitor contracted services to assure that rules and State statutes are met."

SECTION 2.(a) G.S. 122C-102 reads as rewritten:

"§ 122C-102. **State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.**~~Services; system performance measures.~~

(a) Purpose of State Plan. – The Department shall develop and implement a State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services. The purpose of the State Plan is to provide a strategic template regarding how State and local resources shall be organized and used to provide services. The State Plan shall be issued every three years beginning July 1, 2007. It shall identify specific goals to be achieved by the Department, area authorities, and county programs over a three-year period of time and benchmarks for determining whether progress is being made towards those goals. It shall also identify data that will be used to measure progress towards the

1 specified goals. In order to increase the ability of the State, area authorities, county
2 programs, private providers, and consumers to successfully implement the goals of the
3 State Plan, the Department shall not adopt or implement policies that are inconsistent
4 with the State Plan without first consulting with the Joint Legislative Oversight
5 Committee on Mental Health, Developmental Disabilities, and Substance Abuse
6 Services.

7 (b) Content of State Plan. – The State Plan shall include the following:

- 8 (1) Vision and mission of the State Mental Health, Developmental
9 Disabilities, and Substance Abuse Services system.
- 10 ~~(2) Organizational structure of the Department and the divisions of the~~
11 ~~Department responsible for managing and monitoring mental health,~~
12 ~~developmental disabilities, and substance abuse services.~~
- 13 (3) Protection of client rights and consumer involvement in planning and
14 management of system services.
- 15 (4) Provision of services to targeted populations, including criteria for
16 identifying targeted populations.
- 17 (5) Compliance with federal mandates in establishing service priorities in
18 mental health, developmental disabilities, and substance abuse.
- 19 (6) Description of the core services that are available to all individuals in
20 order to improve consumer access to mental health, developmental
21 disabilities, and substance abuse services at the local level.
- 22 (7) Service standards for the mental health, developmental disabilities, and
23 substance abuse services system.
- 24 (8) Implementation of the uniform portal process.
- 25 (9) Strategies and schedules for implementing the service plan, including
26 consultation on Medicaid policy with area and county programs,
27 qualified providers, and others as designated by the Secretary,
28 intersystem collaboration, promotion of best practices, technical
29 assistance, outcome-based monitoring, and evaluation.
- 30 (10) A plan for coordination of the State Plan for Mental Health,
31 Developmental Disabilities, and Substance Abuse Services with the
32 Medicaid State Plan, and NC Health Choice.
- 33 (11) A business plan to demonstrate efficient and effective resource
34 management of the mental health, developmental disabilities, and
35 substance abuse services system, including strategies for
36 accountability for non-Medicaid and Medicaid services.
- 37 (12) Strategies and schedules for implementing a phased in plan to
38 eliminate disparities in the allocation of State funding across county
39 programs and area authorities by January 1, 2007, including methods
40 to identify service gaps and to ensure equitable use of State funds to
41 fill those gaps among all counties.

42 (c) State Performance Measures. – The State Plan shall also include a mechanism
43 for measuring the State's progress towards increased performance on the following
44 matters: access to services, consumer-focused outcomes, individualized planning and

1 supports, promotion of best practices, quality management systems, system efficiency
2 and effectiveness, and prevention and early intervention. Beginning October 1, 2006,
3 and every six months thereafter, the Secretary shall report to the General Assembly and
4 the Joint Legislative Oversight Committee on Mental Health, Developmental
5 Disabilities, and Substance Abuse Services, on the State's progress in these performance
6 areas."

7 **SECTION 2.(b)** The North Carolina Department of Health and Human
8 Services (DHHS) shall review all State Plans for Mental Health, Developmental
9 Disabilities, and Substance Abuse Services, implemented after July 1, 2001, and before
10 the effective date of this act and produce a single document that contains a cumulative
11 statement of all still applicable provisions of those Plans. This cumulative document
12 shall constitute the State Plan until July 1, 2007.

13 DHHS and the Secretary shall also identify those provisions in
14 G.S. 122C-112.1, prior State Plans, and directives or communications by the Division of
15 Mental Health, Developmental Disabilities, and Substance Abuse Services that must be
16 adopted as administrative rules in order to be enforceable and undertake to adopt those
17 rules.

18 **SECTION 3.(a)** G.S. 122C-117(c) reads as rewritten:

19 "(c) Within 30 days of the end of each quarter of the fiscal year, the area director
20 and finance officer of the area authority shall provide the quarterly report of the area
21 authority to the county finance officer. to each member of the board of county
22 commissioners the quarterly report of the area authority. The county finance officer
23 shall provide the quarterly report to the board of county commissioners at the next
24 regularly scheduled meeting of the board. The clerk of the board of commissioners shall
25 notify the area director and the county finance officer if the quarterly report required by
26 this subsection has not been submitted within the required period of time. This
27 information shall be presented in a format prescribed by the county. At least twice a
28 year, this information shall be presented in person and shall be read into the minutes of
29 the meeting at which it is presented. In addition, the area director or finance officer of
30 the area authority shall provide to the board of county commissioners ad hoc reports as
31 requested by the board of county commissioners."

32 **SECTION 3.(b)** Article 23 of Chapter 153A of the General Statutes is
33 amended by adding the following new section to read:

34 **"§ 153A-453. Quarterly reports by Mental Health, Developmental Disabilities, and**
35 **Substance Abuse Services area authority or county program.**

36 Quarterly reports by the area director and finance officer of Mental Health,
37 Developmental Disabilities, and Substance Abuse Services area authorities or county
38 programs shall be submitted to the county finance officer as provided under
39 G.S. 122C-117(c)."

40 **SECTION 4.(a)** G.S. 122C-3 reads as rewritten:

41 **"§ 122C-3. Definitions.**

42 As used in this Chapter, unless another meaning is specified or the context clearly
43 requires otherwise, the following terms have the meanings specified: The following
44 definitions apply in this Chapter:

1 ...
2 (20b) "Local management entity" or "LME" means an area authority, county
3 program, or consolidated human services agency. It is a collective term
4 that refers to functional responsibilities rather than governance
5 structure.

6 ..."

7 **SECTION 4.(b)** G.S. 122C-111 reads as rewritten:

8 **"§ 122C-111. Administration.**

9 The Secretary shall administer and enforce the provisions of this Chapter and the
10 rules of the Commission and shall operate State facilities. An area director or program
11 director shall (i) manage the public mental health, developmental disabilities, and
12 substance abuse system for administer the programs of the area authority or county
13 ~~program, as applicable, program according to the local business plan, and (ii) enforce~~
14 applicable State laws, rules of the Commission, and rules of the Secretary. The
15 Secretary in cooperation with area and county program directors and State facility
16 directors shall provide for the coordination of public services between area authorities,
17 county programs, and State facilities. The area authority or county program shall
18 monitor the provision of mental health, developmental ~~disability, disabilities,~~ and
19 substance abuse services for compliance with the law, which monitoring and
20 management shall not supersede or duplicate the regulatory authority or functions of
21 agencies of the Department."

22 **SECTION 4.(c)** G.S. 122C-115.2(a) reads as rewritten:

23 **"§ 122C-115.2. ~~Business~~ LME business plan required; content, process, certification.**

24 (a) Every county, through an area authority or county program, shall provide for
25 the development, review, and approval of a-an LME business plan for the management
26 and delivery of mental health, developmental disabilities, and substance abuse services.
27 ~~A-An LME business plan shall provide detailed information on- regarding~~ how the area
28 authority or county program will meet State standards, laws, and rules for ensuring
29 quality mental health, developmental disabilities, and substance abuse services,
30 including outcome measures for evaluating program effectiveness. The business plan
31 shall be in effect for at least three State fiscal years."

32 **SECTION 4.(d)** Article 4 of Chapter 122C is amended by adding a new
33 section to read:

34 **"§ 122C-115.4. Functions of local management entities.**

35 (a) Local management entities are responsible for the management and oversight
36 of the public system of mental health, developmental disabilities, and substance abuse
37 services at the community level. An LME shall plan, develop, implement, and monitor
38 services within a specified geographic area to ensure expected outcomes for consumers
39 within available resources.

40 (b) The primary functions of an LME include all of the following:

41 (1) Access for all citizens to the core services described in G.S. 122C-2. In
42 particular, this shall include the implementation of a 24-hour a day,
43 seven-day a week screening, triage, and referral process and a uniform
44 portal of entry into care.

- 1 (2) Provider endorsement, monitoring, technical assistance, capacity
2 development, and quality control. An LME may remove a provider's
3 endorsement if a provider fails to meet defined quality criteria or fails
4 to provide required data to the LME.
- 5 (3) Utilization management, utilization review, and determination of the
6 appropriate level and intensity of services including the review and
7 approval of the person centered plans for consumers who receive
8 State-funded services. Concurrent review of person centered plans for
9 all consumers in the LME's catchment area who receive Medicaid
10 funded services.
- 11 (4) Authorization of the utilization of State psychiatric hospitals and other
12 State facilities. Authorization of eligibility determination requests for
13 recipients under a CAP-MR/DD waiver.
- 14 (5) Care coordination and quality management. This function includes the
15 direct monitoring of the effectiveness of person centered plans. It also
16 includes the initiation of and participation in the development of
17 required modifications to the plans for high risk and high cost
18 consumers in order to achieve better client outcomes or equivalent
19 outcomes in a more cost-effective manner. Monitoring effectiveness
20 includes reviewing client outcomes data supplied by the provider,
21 direct contact with consumers, and review of consumer charts.
- 22 (6) Community collaboration and consumer affairs including a process to
23 protect consumer rights, an appeals process, and support of an
24 effective consumer and family advisory committee.
- 25 (7) Financial management and accountability for the use of State and local
26 funds and information management for the delivery of publicly funded
27 services.

28 (c) Subject to all applicable State and federal laws and rules established by the
29 Secretary, an area authority, or county program or consolidated human services agency
30 may contract with a public or private entity for the implementation of LME functions
31 articulated under subsection (b) of this section.

32 (d) Except as provided in G.S. 122C-142.1 and G.S. 122C-125, the Secretary
33 may not remove from an LME any function enumerated under subsection (b) of this
34 section unless all of the following applies:

- 35 (1) The LME fails during the previous three months to achieve a
36 satisfactory outcome on any of the critical performance measures
37 developed by the Secretary under G.S. 122C-112.1(33).
- 38 (2) The Secretary provides focused technical assistance to the LME in the
39 implementation of the function. The assistance shall continue for at
40 least six months or until the LME achieves a satisfactory outcome on
41 the performance measure, whichever occurs first.
- 42 (3) If, after six months of receiving technical assistance from the
43 Secretary, the LME still fails to achieve or maintain a satisfactory
44 outcome on the critical performance measure, the Secretary shall enter

1 into a contract with another LME or agency to implement the function
2 on behalf of the LME from which the function has been removed.

3 (e) Notwithstanding subsection (d) of this section, in the case of serious financial
4 mismanagement or serious regulatory noncompliance, the Secretary may temporarily
5 remove an LME function after consultation with the Joint Legislative Oversight
6 Committee on Mental Health, Developmental Disabilities, and Substance Abuse
7 Services.

8 (f) The Commission shall adopt rules regarding the following matters:

9 (1) The definition of a high risk consumer. Until such time as the
10 Commission adopts a rule under this subdivision, a high risk consumer
11 means a person who has been assessed as needing emergent crisis
12 services three or more times in the previous 12 months.

13 (2) The definition of a high cost consumer. Until such time as the
14 Commission adopts a rule under this subdivision, a high cost consumer
15 means a person whose treatment plan is expected to incur costs in the
16 top twenty percent (20%) of expenditures for all consumers in a
17 disability group.

18 (3) The notice and procedural requirements for removing one or more
19 LME functions under subsection (d) of this section."

20 **SECTION 4.(e)** G.S. 122C-118.1(a) reads as rewritten:

21 **"§ 122C-118.1. Structure of area board.**

22 (a) An area board shall have no fewer than 11 and no more than 25 members.
23 However, the area board for a multicounty area authority consisting of eight or more
24 counties and serving a catchment area with a population of more than 500,000 may have
25 up to 30 members. In a single-county area authority, the members shall be appointed by
26 the board of county commissioners. Except as otherwise provided, in areas consisting of
27 more than one county, each board of county commissioners within the area shall appoint
28 one commissioner as a member of the area board. These members shall appoint the
29 other members. The boards of county commissioners within the multicounty area shall
30 have the option to appoint the members of the area board in a manner other than as
31 required under this section by adopting a resolution to that effect. The boards of county
32 commissioners in a multicounty area authority shall indicate in the business plan each
33 board's method of appointment of the area board members in accordance with
34 G.S. 122C-115.2(b). These appointments shall take into account sufficient citizen
35 participation, ~~equitable~~ representation of the disability groups, and equitable
36 representation of participating counties. Individuals appointed to the board shall include
37 ~~an individual~~ two individuals with financial expertise or a county finance officer,
38 expertise, an individual with expertise in management or business, and an individual
39 representing the interests of children. A member of the board may be removed with or
40 without cause by the initial appointing authority. Vacancies on the board shall be filled
41 by the initial appointing authority before the end of the term of the vacated seat or
42 within 90 days of the vacancy, whichever occurs first, and the appointments shall be for
43 the remainder of the unexpired term.

1 (b) ~~At least~~ Not more than fifty percent (50%) of the members of the area board
2 shall represent the following:

3 (1) A physician licensed under Chapter 90 of the General Statutes to
4 practice medicine in North Carolina who, when possible, is certified as
5 having completed a residency in psychiatry.

6 (2) A clinical professional from the fields of mental health, developmental
7 disabilities, or substance abuse.

8 (3) ~~A~~ At least one family member or ~~an~~ individual from a citizens'
9 ~~organizations~~ organization composed primarily of consumers or their
10 family members, representing the interests of individuals:

11 a. With mental illness; ~~and~~

12 b. In recovery from addiction; ~~and~~ or

13 c. With developmental disabilities.

14 (4) ~~Openly~~ At least one openly declared ~~consumers;~~ consumer:

15 a. With mental illness; ~~and~~

16 b. With developmental ~~disabilities;~~ and disabilities; or

17 c. In recovery from addiction.

18 (c) The board of county commissioners may elect to appoint a member of the
19 area authority board to fill concurrently no more than ~~one category~~ two categories of
20 membership if the member has the qualifications or attributes of ~~more than one category~~
21 the two categories of membership.

22 (d) Any member of an area board who is a county commissioner serves on the
23 board in an ex officio capacity. The terms of county commissioners on an area board are
24 concurrent with their terms as county commissioners. The terms of the other members
25 on the area board shall be for ~~four~~ three years, except that upon the initial formation of
26 an area board ~~one fourth~~ one-third shall be appointed for one year, ~~one fourth~~ one-third
27 for two years, ~~one fourth~~ for three years, and all remaining members for ~~four~~ three
28 years. Members ~~other than county commissioners~~ shall not be appointed for more than
29 two consecutive terms. Board members serving as of July 1, 2006, may remain on the
30 board for one additional term.

31 (e) Upon request, the board shall provide information pertaining to the
32 membership of the board that is a public record under Chapter 132 of the General
33 Statutes."

34 **SECTION 4.(f)** G.S. 122C-115.1(g) reads as rewritten:

35 "(g) In a single-county program, an advisory committee shall be appointed by the
36 board of county commissioners and shall report to the county manager. The
37 appointments shall take into account sufficient citizen participation, equitable
38 representation of the disability groups, and equitable representation of participating
39 counties. ~~At least fifty percent (50%) of the~~ The membership shall conform to the
40 requirements in ~~G.S. 122C-118.1(b)(1)-(4).~~ G.S. 122C-118.1. In a multicounty program,
41 the advisory committee shall be appointed in accordance with the terms of the interlocal
42 agreement."

43 **SECTION 4.(g)** G.S. 122C-115.1(a) reads as rewritten:

1 **"§ 122C-115.1. County governance and operation of mental health, developmental**
2 **disabilities, and substance abuse services program.**

3 (a) A county may operate a county program for mental health, developmental
4 disabilities, and substance abuse services as a single county or, pursuant to Article 20 of
5 Chapter 160A of the General Statutes, may enter into an interlocal agreement with one
6 or more other counties for the operation of a multicounty program. An interlocal
7 agreement shall provide for the following:

- 8 (1) Adoption and administration of the program budget in accordance with
9 Chapter 159 of the General Statutes.
- 10 (2) Appointment of a program director to carry out the provisions of
11 G.S. 122C-111 and duties and responsibilities delegated by the county.
12 Except when specifically waived by the Secretary, the program
13 director shall meet the following minimum qualifications:
14 a. Masters degree,
15 b. Related experience, and
16 c. Management experience.
- 17 (3) A targeted minimum population of 200,000 or a targeted minimum
18 number of five counties served by the program.
- 19 (4) Compliance with the provisions of this Chapter and the rules of the
20 Commission and the Secretary.
- 21 (5) Written notification to the Secretary prior to the termination of the
22 interlocal agreement.
- 23 (6) Appointment of an advisory committee. The interlocal agreement shall
24 designate a county manager to whom the advisory committee shall
25 report. The interlocal agreement shall also designate the appointing
26 authorities. The appointing authorities shall make appointments that
27 take into account sufficient citizen participation, equitable
28 representation of the disability groups, and equitable representation of
29 participating counties. ~~At least fifty percent (50%) of the~~The
30 membership shall conform to the requirements provided in
31 ~~G.S. 122C-118.1(b)(1)-(4).~~G.S. 122C-118.1."

32 **SECTION 4.(h)** Article 4 of Chapter 122C of the General Statutes is
33 amended by adding a new section to read:

34 **"§ 122C-120.1. Job classifications; director and finance officer.**

35 (a) The Office of State Personnel shall develop a job classification for director of
36 an area authority or county program that reflects the skills required of an individual
37 operating a local management entity. The Office of State Personnel shall also review the
38 job classifications for area authority and county program finance officers to determine
39 whether they reflect the skills necessary to manage the finances of a local management
40 entity. The Commission shall adopt a job classification for director and any new or
41 revised job classifications for finance officers no later than December 31, 2006.

42 (b) The job classifications developed under subsection (a) of this section shall
43 apply to persons newly hired on or after January 1, 2007."

1 **SECTION 4.(i)** Effective January 1, 2007, G.S. 122C-115.1(a), as amended
2 by Section 4(g) of this act, reads as rewritten:

3 "**§ 122C-115.1. County governance and operation of mental health, developmental**
4 **disabilities, and substance abuse services program.**

5 (a) A county may operate a county program for mental health, developmental
6 disabilities, and substance abuse services as a single county or, pursuant to Article 20 of
7 Chapter 160A of the General Statutes, may enter into an interlocal agreement with one
8 or more other counties for the operation of a multicounty program. An interlocal
9 agreement shall provide for the following:

- 10 (1) Adoption and administration of the program budget in accordance with
11 Chapter 159 of the General Statutes.
- 12 (2) Appointment of a program director to carry out the provisions of
13 G.S. 122C-111 and duties and responsibilities delegated by the county.
14 Except when specifically waived by the Secretary, the program
15 director shall meet all the following minimum qualifications:
- 16 a. Masters ~~degree, degree.~~
17 b. Related ~~experience, and experience.~~
18 c. Management experience.
19 d. Any other qualifications required under G.S. 122C-120.1.
- 20 (3) A targeted minimum population of 200,000 or a targeted minimum
21 number of five counties served by the program.
- 22 (4) Compliance with the provisions of this Chapter and the rules of the
23 Commission and the Secretary.
- 24 (5) Written notification to the Secretary prior to the termination of the
25 interlocal agreement.
- 26 (6) Appointment of an advisory committee. The interlocal agreement shall
27 designate a county manager to whom the advisory committee shall
28 report. The interlocal agreement shall also designate the appointing
29 authorities. The appointing authorities shall make appointments that
30 take into account sufficient citizen participation, equitable
31 representation of the disability groups, and equitable representation of
32 participating counties. The membership shall conform to the
33 requirements provided in G.S. 122C-118.1."

34 **SECTION 4.(j)** Effective January 1, 2007, G.S. 122C-115.1(f) reads as
35 rewritten:

36 "(f) In a single-county program, the program director shall be appointed by the
37 county manager. In a multicounty program, the program director shall be appointed in
38 accordance with the terms of the interlocal agreement.

39 Except when specifically waived by the Secretary, the program director in a single
40 county program shall meet all the following minimum qualifications:

- 41 (1) Masters degree.
42 (2) Related experience.
43 (3) Management experience.
44 (4) Any other qualifications required under G.S. 122C-120.1."

1 **SECTION 4.(k)** Effective January 1, 2007, G.S. 122C-121(d) reads as
2 rewritten:

3 "(d) Except when specifically waived by the Secretary, the area director shall meet
4 all the following minimum qualifications:

- 5 (1) ~~Masters degree;~~degree.
- 6 (2) ~~Related experience;~~ and experience.
- 7 (3) Management experience.
- 8 (4) Any other qualifications required under G.S. 122C-120.1."

9 **SECTION 4.(l)** G.S. 122C-141 is amended by adding two new subsections
10 to read:

11 "(d) If two or more counties enter into an interlocal agreement under Article 20 of
12 Chapter 160A of the General Statutes to be a public provider of mental health,
13 developmental disabilities, or substance abuse services ("public provider"), before an
14 LME may enter into a contract with the public provider, all of the following must apply:

- 15 (1) The public provider must meet all the provider qualifications as
16 defined by rules adopted by the Secretary. A county that satisfies its
17 duties under G.S. 122C-115(a) through a consolidated human services
18 agency may not be considered a qualified provider for purposes of this
19 subdivision.
- 20 (2) The LME must adopt a conflict of interest policy that applies to all
21 provider contracts.
- 22 (3) The interlocal agreement must provide that any liabilities of the public
23 provider shall be paid from its unobligated surplus funds and that if
24 those funds are not sufficient to satisfy the indebtedness, the remaining
25 indebtedness shall be apportioned to the participating counties.

26 (d1) The Secretary shall ensure that there is fair competition among providers. The
27 Department shall study the effect of subsection (d) of this section and shall report its
28 findings and recommendations to the Joint Legislative Oversight Committee on Mental
29 Health, Developmental Disabilities, and Substance Abuse Services by December 1,
30 2009."

31 **SECTION 4.(m)** G.S. 122C-112.1(a) reads as rewritten:

32 "**§ 122C-112.1. Powers and duties of the Secretary.**

33 (a) The Secretary shall do all of the following:

- 34 (1) Oversee development and implementation of the State Plan for Mental
35 Health, Developmental Disabilities, and Substance Abuse Services.
- 36 (2) Enforce the provisions of this Chapter and the rules of the Commission
37 and the Secretary.
- 38 (3) Establish a process and criteria for the submission, review, and
39 approval or disapproval of LME business plans submitted by area
40 authorities and ~~counties~~ county programs for the management ~~and~~
41 ~~provision~~ of mental health, developmental disabilities, and substance
42 abuse services.
- 43 (4) Adopt rules specifying the content and format of LME business plans.

- 1 (5) Review LME business plans and, upon approval of the ~~business plan~~,
2 certify the submitting area authority or county program to ~~provide~~
3 manage the delivery of mental health, developmental disabilities, and
4 substance abuse ~~services~~services in the applicable catchment area.
- 5 (6) Establish comprehensive, cohesive oversight and monitoring
6 procedures and processes to ensure continuous compliance by area
7 authorities, county programs, and all providers of public services with
8 State and federal policy, law, and standards. ~~Procedures~~The
9 procedures shall include the development and use of critical
10 performance measures and report cards for each area authority and
11 county program.
- 12 (7) Conduct regularly scheduled monitoring and oversight of area
13 authority, county programs, and all providers of public services.
14 Monitoring and oversight shall ~~include~~be used to assess compliance
15 with the ~~program~~LME business plan, plan and implementation of core
16 administrative functions, and fiscal and administrative practices and
17 LME functions. Monitoring shall also addressinclude the examination
18 of LME and provider performance on outcome measures, measures
19 including adherence to best practices, the assessment of consumer
20 satisfaction, and the review of client rights complaints, and adherence
21 to best practices complaints.
- 22 (8) Make findings and recommendations based on information and data
23 collected pursuant to subdivision (7) of this subsection and submit
24 these findings and recommendations to the applicable area authority
25 board, county program director, board of county commissioners,
26 providers of public services, and to the Local Consumer Advocacy
27 Office.
- 28 (9) ~~Assist~~Provide ongoing and focused technical assistance to area
29 authorities and county programs in the implementation of the LME
30 functions and the establishment and operation of community-based
31 programs. The technical assistance required under this subdivision
32 includes, but is not limited to, the technical assistance required under
33 G.S. 122C-115.4(d)(2). The Secretary shall include in the State Plan a
34 mechanism for monitoring the Department's success in implementing
35 this duty and the progress of area authorities and county programs in
36 achieving these functions.
- 37 (10) Operate State facilities and adopt rules pertaining to their operation.
- 38 (11) Develop a unified system of services provided ~~in area, county, and at~~
39 the community level, by State facilities, and by providers enrolled or
40 under a contract with the ~~State~~State and an area authority or county
41 program.
- 42 (12) Adopt rules governing the expenditure of all funds for mental health,
43 developmental disabilities, and substance abuse programs and services.

- 1 (13) Adopt rules to implement the appeal procedure authorized by
2 G.S. 122C-151.2.
- 3 (14) Adopt rules for the implementation of the uniform portal process.
- 4 (15) Except as provided in G.S. 122C-26(4), adopt rules establishing
5 procedures for waiver of rules adopted by the Secretary under this
6 Chapter.
- 7 (16) Notify the clerks of superior court of changes in the designation of
8 State facility regions and of facilities designated under G.S. 122C-252.
- 9 (17) Promote public awareness and understanding of mental health, mental
10 illness, developmental disabilities, and substance abuse.
- 11 (18) Administer and enforce rules that are conditions of participation for
12 federal or State financial aid.
- 13 (19) Carry out G.S. 122C-361.
- 14 (20) Monitor the fiscal and administrative practices of area authorities and
15 county programs to ensure that the programs are accountable to the
16 State for the management and use of federal and State funds allocated
17 for mental health, developmental disabilities, and substance abuse
18 services. The Secretary shall ensure maximum accountability by area
19 authorities and county programs for rate-setting methodologies,
20 reimbursement procedures, billing procedures, provider contracting
21 procedures, record keeping, documentation, and other matters
22 pertaining to financial management and fiscal accountability. The
23 Secretary shall further ensure that the practices are consistent with
24 professionally accepted accounting and management principles.
- 25 (21) Provide technical assistance, including conflict resolution, to counties
26 in the development and implementation of area authority and county
27 program business plans and other matters, as requested by the county.
- 28 (22) Develop a methodology to be used for calculating county resources to
29 reflect cash and in-kind contributions of the county.
- 30 (23) Adopt rules establishing program evaluation and management of
31 mental health, developmental disabilities, and substance abuse
32 services.
- 33 (24) Adopt rules regarding the requirements of the federal government for
34 grants-in-aid for mental health, developmental disabilities, or
35 substance abuse programs which may be made available to area
36 authorities or county programs or the State. This section shall be
37 liberally construed in order that the State and its citizens may benefit
38 from the grants-in-aid.
- 39 (25) Adopt rules for determining minimally adequate services for purposes
40 of G.S. 122C-124.1 and G.S. 122C-125.
- 41 (26) Establish a process for approving area authorities and county programs
42 to provide services directly in accordance with G.S. 122C-141.
- 43 (27) Sponsor training opportunities in the fields of mental health,
44 developmental disabilities, and substance abuse.

- 1 (28) Enforce the protection of the rights of clients served by State facilities,
2 area authorities, county programs, and providers of public services.
- 3 (29) Adopt rules for the enforcement of the protection of the rights of
4 clients being served by State facilities, area authorities, county
5 programs, and providers of public services.
- 6 (30) Prior to requesting approval to close a State facility under
7 G.S. 122C-181(b):
- 8 a. Notify the Joint Legislative Commission on Governmental
9 Operations, the Joint Legislative Committee on Mental Health,
10 Developmental Disabilities, and Substance Abuse Services, and
11 members of the General Assembly who represent catchment
12 areas affected by the closure; and
- 13 b. Present a plan for the closure to the members of the Joint
14 Legislative Committee on Mental Health, Developmental
15 Disabilities, and Substance Abuse Services, the House of
16 Representatives Appropriations Subcommittee on Health and
17 Human Services, and the Senate Appropriations Committee on
18 Health and Human Services for their review, advice, and
19 recommendations. The plan shall address specifically how
20 patients will be cared for after closure, how support services to
21 community-based agencies and outreach services will be
22 continued, and the impact on remaining State facilities. In
23 implementing the plan, the Secretary shall take into
24 consideration the comments and recommendations of the
25 committees to which the plan is presented under this
26 subdivision.
- 27 (31) Ensure that the State Plan for Mental Health, Developmental
28 Disabilities, and Substance Abuse Services is coordinated with the
29 Medicaid State Plan and NC Health Choice.
- 30 (32) Implement standard forms, quality measures, contracts, processes, and
31 procedures to be used by all area authorities and county programs with
32 other public and private service providers. The Secretary shall consult
33 with LMEs, CFACs, counties, and qualified providers regarding the
34 development of any forms, processes, and procedures required under
35 this subdivision. Any document, process, or procedure developed
36 under this subdivision shall place an obligation upon providers to
37 transmit to LMEs timely client information and outcome data. The
38 Secretary shall also adopt rules regarding what constitutes a clean
39 claim for purposes of billing.
- 40 When implementing this subdivision, the Secretary shall balance
41 the need for LMEs to exercise discretion in the discharge of their LME
42 functions with the need of qualified providers for a uniform system of
43 doing business with public entities.

1 (33) Develop and implement critical performance indicators to be used to
2 hold LMEs accountable for managing the mental health,
3 developmental disabilities, and substance abuse services system. The
4 performance system indicators shall be implemented no later than July
5 1, 2007."

6 **SECTION 5.** Article 4 of Chapter 122C is amended by adding a new Part to
7 read:

8 "Part 4A. Consumer and Family Advisory Committees.

9 **§ 122C-170. Local Consumer and Family Advisory Committees.**

10 (a) Area authorities and county programs shall establish committees made up of
11 consumers and family members to be known as Consumer and Family Advisory
12 Committees (CFACS). A local CFAC shall be a self-governing and a self-directed
13 organization that advises the area authority or county program in its catchment area on
14 the planning and management of the local public mental health, developmental
15 disabilities, and substance abuse services system.

16 Each CFAC shall adopt bylaws to govern the selection and appointment of its
17 members, their terms of service, the number of members, and other procedural matters.
18 At the request of either the CFAC or the governing board of the area authority or county
19 program, the CFAC and the governing board shall execute an agreement that identifies
20 the roles and responsibilities of each party, channels of communication between the
21 parties, and a process for resolving disputes between the parties.

22 (b) Each of the disability groups shall be equally represented on the CFAC, and
23 the CFAC shall reflect as closely as possible the racial and ethnic composition of the
24 catchment area. The terms of members shall be three years, and no member may serve
25 more than two consecutive terms. The CFAC shall be composed exclusively of:

- 26 (1) Adult consumers of mental health, developmental disabilities, and
27 substance abuse services.
28 (2) Family members of consumers of mental health, developmental
29 disabilities, and substance abuse services.

30 (c) The CFAC shall undertake all of the following:

- 31 (1) Review, comment on, and monitor the implementation of the local
32 business plan.
33 (2) Identify service gaps and underserved populations.
34 (3) Make recommendations regarding the service array and monitor the
35 development of additional services.
36 (4) Review and comment on the area authority or county program budget.
37 (5) Participate in all quality improvement measures and performance
38 indicators.
39 (6) Submit to the State Consumer and Family Advisory Committee
40 findings and recommendations regarding ways to improve the delivery
41 of mental health, developmental disabilities, and substance abuse
42 services.

43 (d) The director of the area authority or county program shall provide sufficient
44 staff to assist the CFAC in implementing its duties under subsection (c) of this section.

1 The assistance shall include data for the identification of service gaps and underserved
2 populations, training to review and comment on business plans and budgets, procedures
3 to allow participation in quality monitoring, and technical advice on rules of procedure
4 and applicable laws.

5 **"§ 122C-171. State Consumer and Family Advisory Committee.**

6 (a) There is established the State Consumer and Family Advisory Committee
7 (State CFAC). The State CFAC shall be shall be a self-governing and self-directed
8 organization that advises the Department and the General Assembly on the planning and
9 management of the State's public mental health, developmental disabilities, and
10 substance abuse services system.

11 (b) The State CFAC shall be composed of 21 members. The members shall be
12 composed exclusively of adult consumers of mental health, developmental disabilities,
13 and substance abuse services; and family members of consumers of mental health,
14 developmental disabilities, and substance abuse services. The terms of members shall be
15 three years, and no member may serve more than two consecutive terms. Vacancies
16 shall be filled by the appointing authority. The members shall be appointed as follows:

17 (1) Nine by the Secretary. The Secretary's appointments shall reflect each
18 of the disability groups. The terms shall be staggered so that terms of
19 three of the appointees expire each year.

20 (2) Three by the General Assembly upon the recommendations of the
21 President Pro Tempore of the Senate, one each of whom shall come
22 from the three State regions for institutional services (Eastern Region,
23 Central Region, and Western Region). The terms of the appointees
24 shall be staggered so that the term of one appointee expires every year.

25 (3) Three by the General Assembly upon the recommendations of the
26 Speaker of the House of Representatives, one each of whom shall
27 come from the three State regions for institutional services (Eastern
28 Region, Central Region, and Western Region). The terms of the
29 appointees shall be staggered so that the term of one appointee expires
30 every year.

31 (4) Three by the Council of Community Programs, one each of whom
32 shall come from the three State regions for institutional services
33 (Eastern Region, Central Region, and Western Region). The terms of
34 the appointees shall be staggered so that the term of one appointee
35 expires every year.

36 (5) Three by the North Carolina Association of County Commissioners,
37 one each of whom shall come from the three State regions for
38 institutional services (Eastern Region, Central Region, and Western
39 Region). The terms of the appointees shall be staggered so that the
40 term of one appointee expires every year.

41 (c) The State CFAC shall undertake all of the following:

42 (1) Review, comment on, and monitor the implementation of the State
43 Plan for Mental Health, Developmental Disabilities, and Substance
44 Abuse Services.

- 1 (2) Identify service gaps and underserved populations.
- 2 (3) Make recommendations regarding the service array and monitor the
- 3 development of additional services.
- 4 (4) Review and comment on the State budget for mental health,
- 5 developmental disabilities, and substance abuse services.
- 6 (5) Participate in all quality improvement measures and performance
- 7 indicators.
- 8 (6) Receive the findings and recommendations by local CFACs regarding
- 9 ways to improve the delivery of mental health, developmental
- 10 disabilities, and substance abuse services.
- 11 (7) Provide technical assistance to local CFACs in implementing their
- 12 duties.

13 (d) The Secretary shall provide sufficient staff to assist the State CFAC in

14 implementing its duties under subsection (c) of this section. The assistance shall include

15 data for the identification of service gaps and underserved populations, training to

16 review and comment on the State Plan and departmental budget, procedures to allow

17 participation in quality monitoring, and technical advice on rules of procedure and

18 applicable laws.

19 (e) State CFAC members shall receive the per diem and allowances prescribed

20 by G.S. 138-5 for State boards and commissions."

21 **SECTION 6.(a)** Notwithstanding G.S. 143-23, an area authority or a county

22 program may transfer from one age or disability category to a different age or disability

23 category up to fifteen percent (15%) of the funds initially allocated to the age or

24 disability category from which funds are being transferred. Prior to the transfer, the

25 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

26 shall verify that the transfer meets applicable federal requirements. Area authorities and

27 county programs shall:

- 28 (1) Publicly document that they have addressed the service needs of the
- 29 category from which the funds are being transferred before any
- 30 transfer may occur; and
- 31 (2) Submit the required documentation to the Division of Mental Health,
- 32 Developmental Disabilities, and Substance Abuse Services and to the
- 33 Fiscal Research Division within 15 days of making the transfer.

34 **SECTION 6.(b)** This section expires July 1, 2007.

35 **SECTION 7.** G.S. 122C-3(14) reads as rewritten:

36 "**§ 122C-3. Definitions.**

37 As used in this Chapter, unless another meaning is specified or the context clearly

38 requires otherwise, the following terms have the meanings specified:

39 ...

- 40 (14) "Facility" means any person at one location whose primary purpose is
- 41 to provide services for the care, treatment, habilitation, or
- 42 rehabilitation of the mentally ill, the developmentally disabled, or
- 43 substance abusers, and includes:

- 1 a. An "area facility", which is a facility that is operated by or
2 under contract with the area authority or county program. For
3 the purposes of this subparagraph, a contract is a contract,
4 memorandum of understanding, or other written agreement
5 whereby the facility agrees to provide services to one or more
6 clients of the area authority or county program. Area facilities
7 may also be licensable facilities in accordance with Article 2 of
8 this Chapter. A State facility is not an area facility;
- 9 b. A "licensable facility", which is a facility that provides services
10 to individuals who are mentally ill, developmentally disabled,
11 or substance abusers for one or more minors or for two or more
12 adults. ~~When the services offered are provided to individuals~~
13 ~~who are mentally ill or developmentally disabled, these~~ These
14 services shall be day services offered to the same individual for
15 a period of three hours or more during a 24-hour period, or
16 residential services provided for 24 consecutive hours or more.
17 ~~When the services offered are provided to individuals who are~~
18 ~~substance abusers, these services shall include all outpatient~~
19 ~~services, day services offered to the same individual for a~~
20 ~~period of three hours or more during a 24-hour period, or~~
21 ~~residential services provided for 24 consecutive hours or more.~~
22 Facilities for individuals who are substance abusers include
23 chemical dependency facilities;
- 24 c. A "private facility", which is a facility that is either a licensable
25 facility or a special unit of a general hospital or a part of either
26 in which the specific service provided is not covered under the
27 terms of a contract with an area authority;
- 28 d. The psychiatric service of the University of North Carolina
29 Hospitals at Chapel Hill;
- 30 e. A "residential facility", which is a 24-hour facility that is not a
31 hospital, including a group home;
- 32 f. A "State facility", which is a facility that is operated by the
33 Secretary;
- 34 g. A "24-hour facility", which is a facility that provides a
35 structured living environment and services for a period of 24
36 consecutive hours or more and includes hospitals that are
37 facilities under this Chapter; and
- 38 h. A Veterans Administration facility or part thereof that provides
39 services for the care, treatment, habilitation, or rehabilitation of
40 the mentally ill, the developmentally disabled, or substance
41 abusers."

42 **SECTION 8.** Except as otherwise provided, this act is effective when it
43 becomes law.