

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

SESSION LAW 2006-142
HOUSE BILL 2077

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

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

- (1) Vision and mission of the State Mental Health, Developmental Disabilities, and Substance Abuse Services system.
- (2) Organizational structure of the Department and the divisions of the Department responsible for managing and monitoring mental health, developmental disabilities, and substance abuse services.
- (3) Protection of client rights and consumer involvement in planning and management of system services.
- (4) Provision of services to targeted populations, including criteria for identifying targeted populations.

- (5) Compliance with federal mandates in establishing service priorities in mental health, developmental disabilities, and substance abuse.
- (6) Description of the core services that are available to all individuals in order to improve consumer access to mental health, developmental disabilities, and substance abuse services at the local level.
- (7) Service standards for the mental health, developmental disabilities, and substance abuse services system.
- (8) Implementation of the uniform portal process.
- (9) Strategies and schedules for implementing the service plan, including consultation on Medicaid policy with area and county programs, qualified providers, and others as designated by the Secretary, intersystem collaboration, promotion of best practices, technical assistance, outcome-based monitoring, and evaluation.
- (10) A plan for coordination of the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services with the Medicaid State Plan, and NC Health Choice.
- (11) A business plan to demonstrate efficient and effective resource management of the mental health, developmental disabilities, and substance abuse services system, including strategies for accountability for non-Medicaid and Medicaid services.
- (12) Strategies and schedules for implementing a phased in plan to eliminate disparities in the allocation of State funding across county programs and area authorities by January 1, 2007, including methods to identify service gaps and to ensure equitable use of State funds to fill those gaps among all counties.

(c) State Performance Measures. – The State Plan shall also include a mechanism for measuring the State's progress towards increased performance on the following matters: access to services, consumer-focused outcomes, individualized planning and supports, promotion of best practices, quality management systems, system efficiency and effectiveness, and prevention and early intervention. Beginning October 1, 2006, and every six months thereafter, the Secretary shall report to the General Assembly and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, on the State's progress in these performance areas."

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

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

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

"(c) Within 30 days of the end of each quarter of the fiscal year, the area director and finance officer of the area authority shall provide the quarterly report of the area authority to the county finance officer. to each member of the board of county commissioners the quarterly report of the area authority. The county finance officer shall provide the quarterly report to the board of county commissioners at the next regularly scheduled meeting of the board. The clerk of the board of commissioners shall notify the area director and the county finance officer if the quarterly report required by this subsection has not been submitted within the required period of time. This information shall be presented in a format prescribed by the county. At least twice a

year, this information shall be presented in person and shall be read into the minutes of the meeting at which it is presented. In addition, the area director or finance officer of the area authority shall provide to the board of county commissioners ad hoc reports as requested by the board of county commissioners."

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

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

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

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

"§ 122C-3. Definitions.

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

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

..

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

"§ 122C-111. Administration.

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

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

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

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

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

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

(a) Local management entities are responsible for the management and oversight of the public system of mental health, developmental disabilities, and substance abuse services at the community level. An LME shall plan, develop, implement, and monitor

services within a specified geographic area to ensure expected outcomes for consumers within available resources.

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

- (1) Access for all citizens to the core services described in G.S. 122C-2. In particular, this shall include the implementation of a 24-hour a day, seven-day a week screening, triage, and referral process and a uniform portal of entry into care.
- (2) Provider endorsement, monitoring, technical assistance, capacity development, and quality control. An LME may remove a provider's endorsement if a provider fails to meet defined quality criteria or fails to provide required data to the LME.
- (3) Utilization management, utilization review, and determination of the appropriate level and intensity of services including the review and approval of the person centered plans for consumers who receive State-funded services. Concurrent review of person centered plans for all consumers in the LME's catchment area who receive Medicaid funded services.
- (4) Authorization of the utilization of State psychiatric hospitals and other State facilities. Authorization of eligibility determination requests for recipients under a CAP-MR/DD waiver.
- (5) Care coordination and quality management. This function includes the direct monitoring of the effectiveness of person centered plans. It also includes the initiation of and participation in the development of required modifications to the plans for high risk and high cost consumers in order to achieve better client outcomes or equivalent outcomes in a more cost-effective manner. Monitoring effectiveness includes reviewing client outcomes data supplied by the provider, direct contact with consumers, and review of consumer charts.
- (6) Community collaboration and consumer affairs including a process to protect consumer rights, an appeals process, and support of an effective consumer and family advisory committee.
- (7) Financial management and accountability for the use of State and local funds and information management for the delivery of publicly funded services.

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

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

- (1) The LME fails during the previous three months to achieve a satisfactory outcome on any of the critical performance measures developed by the Secretary under G.S. 122C-112.1(33).
- (2) The Secretary provides focused technical assistance to the LME in the implementation of the function. The assistance shall continue for at least six months or until the LME achieves a satisfactory outcome on the performance measure, whichever occurs first.
- (3) If, after six months of receiving technical assistance from the Secretary, the LME still fails to achieve or maintain a satisfactory outcome on the critical performance measure, the Secretary shall enter into a contract with another LME or agency to implement the function on behalf of the LME from which the function has been removed.

(e) Notwithstanding subsection (d) of this section, in the case of serious financial mismanagement or serious regulatory noncompliance, the Secretary may temporarily

remove an LME function after consultation with the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

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

- (1) The definition of a high risk consumer. Until such time as the Commission adopts a rule under this subdivision, a high risk consumer means a person who has been assessed as needing emergent crisis services three or more times in the previous 12 months.
- (2) The definition of a high cost consumer. Until such time as the Commission adopts a rule under this subdivision, a high cost consumer means a person whose treatment plan is expected to incur costs in the top twenty percent (20%) of expenditures for all consumers in a disability group.
- (3) The notice and procedural requirements for removing one or more LME functions under subsection (d) of this section."

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

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

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

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

- (1) A physician licensed under Chapter 90 of the General Statutes to practice medicine in North Carolina who, when possible, is certified as having completed a residency in psychiatry.
- (2) A clinical professional from the fields of mental health, developmental disabilities, or substance abuse.
- (3) ~~A~~ At least one family member or ~~an individual from a citizens' organizations~~ organization composed primarily of consumers or their family members, representing the interests of individuals:
 - a. With mental illness; ~~and~~
 - b. In recovery from addiction; ~~and~~ or
 - c. With developmental disabilities.
- (4) ~~Openly~~ At least one openly declared consumer; ~~consumer:~~
 - a. With mental illness; ~~and~~
 - b. With developmental ~~disabilities;~~ and disabilities; or

c. In recovery from addiction.

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

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

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

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

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

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

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

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

- (1) Adoption and administration of the program budget in accordance with Chapter 159 of the General Statutes.
- (2) Appointment of a program director to carry out the provisions of G.S. 122C-111 and duties and responsibilities delegated by the county. Except when specifically waived by the Secretary, the program director shall meet the following minimum qualifications:
 - a. Masters degree,
 - b. Related experience, and
 - c. Management experience.
- (3) A targeted minimum population of 200,000 or a targeted minimum number of five counties served by the program.
- (4) Compliance with the provisions of this Chapter and the rules of the Commission and the Secretary.
- (5) Written notification to the Secretary prior to the termination of the interlocal agreement.
- (6) Appointment of an advisory committee. The interlocal agreement shall designate a county manager to whom the advisory committee shall report. The interlocal agreement shall also designate the appointing authorities. The appointing authorities shall make appointments that take into account sufficient citizen participation, equitable representation of the disability groups, and equitable representation of

participating counties. ~~At least fifty percent (50%) of the~~The membership shall conform to the requirements provided in ~~G.S. 122C-118.1(b)(1) (4).~~G.S. 122C-118.1."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) The Secretary shall do all of the following:
 - (1) Oversee development and implementation of the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.
 - (2) Enforce the provisions of this Chapter and the rules of the Commission and the Secretary.
 - (3) Establish a process and criteria for the submission, review, and approval or disapproval of LME business plans submitted by area authorities and ~~counties~~ county programs for the management and ~~provision~~ of mental health, developmental disabilities, and substance abuse services.
 - (4) Adopt rules specifying the content and format of LME business plans.
 - (5) Review LME business plans and, upon approval of the ~~business plan~~, certify the submitting area authority or county program to ~~provide~~ manage the delivery of mental health, developmental disabilities, and substance abuse services in the applicable catchment area.
 - (6) Establish comprehensive, cohesive oversight and monitoring procedures and processes to ensure continuous compliance by area authorities, county programs, and all providers of public services with State and federal policy, law, and standards. ~~Procedures~~ The

- procedures shall include the development and use of critical performance measures and report cards for each area authority and county program.
- (7) Conduct regularly scheduled monitoring and oversight of area authority, county programs, and all providers of public services. ~~Monitoring and oversight shall include be used to assess compliance with the program-LME business plan, plan and implementation of core administrative functions, and fiscal and administrative practices and LME functions. Monitoring shall also address include the examination of LME and provider performance on outcome measures, measures including adherence to best practices, the assessment of consumer satisfaction, and the review of client rights complaints, and adherence to best practices-complaints.~~
 - (8) Make findings and recommendations based on information and data collected pursuant to subdivision (7) of this subsection and submit these findings and recommendations to the applicable area authority board, county program director, board of county commissioners, providers of public services, and to the Local Consumer Advocacy Office.
 - (9) ~~Assist~~ Provide ongoing and focused technical assistance to area authorities and county programs in the implementation of the LME functions and the establishment and operation of community-based programs. The technical assistance required under this subdivision includes, but is not limited to, the technical assistance required under G.S. 122C-115.4(d)(2). The Secretary shall include in the State Plan a mechanism for monitoring the Department's success in implementing this duty and the progress of area authorities and county programs in achieving these functions.
 - (10) Operate State facilities and adopt rules pertaining to their operation.
 - (11) Develop a unified system of services provided ~~in area, county, and at the community level, by~~ State facilities, and by providers enrolled or under a contract with the ~~State.~~ State and an area authority or county program.
 - (12) Adopt rules governing the expenditure of all funds for mental health, developmental disabilities, and substance abuse programs and services.
 - (13) Adopt rules to implement the appeal procedure authorized by G.S. 122C-151.2.
 - (14) Adopt rules for the implementation of the uniform portal process.
 - (15) Except as provided in G.S. 122C-26(4), adopt rules establishing procedures for waiver of rules adopted by the Secretary under this Chapter.
 - (16) Notify the clerks of superior court of changes in the designation of State facility regions and of facilities designated under G.S. 122C-252.
 - (17) Promote public awareness and understanding of mental health, mental illness, developmental disabilities, and substance abuse.
 - (18) Administer and enforce rules that are conditions of participation for federal or State financial aid.
 - (19) Carry out G.S. 122C-361.
 - (20) Monitor the fiscal and administrative practices of area authorities and county programs to ensure that the programs are accountable to the State for the management and use of federal and State funds allocated for mental health, developmental disabilities, and substance abuse services. The Secretary shall ensure maximum accountability by area authorities and county programs for rate-setting methodologies, reimbursement procedures, billing procedures, provider contracting

- procedures, record keeping, documentation, and other matters pertaining to financial management and fiscal accountability. The Secretary shall further ensure that the practices are consistent with professionally accepted accounting and management principles.
- (21) Provide technical assistance, including conflict resolution, to counties in the development and implementation of area authority and county program business plans and other matters, as requested by the county.
 - (22) Develop a methodology to be used for calculating county resources to reflect cash and in-kind contributions of the county.
 - (23) Adopt rules establishing program evaluation and management of mental health, developmental disabilities, and substance abuse services.
 - (24) Adopt rules regarding the requirements of the federal government for grants-in-aid for mental health, developmental disabilities, or substance abuse programs which may be made available to area authorities or county programs or the State. This section shall be liberally construed in order that the State and its citizens may benefit from the grants-in-aid.
 - (25) Adopt rules for determining minimally adequate services for purposes of G.S. 122C-124.1 and G.S. 122C-125.
 - (26) Establish a process for approving area authorities and county programs to provide services directly in accordance with G.S. 122C-141.
 - (27) Sponsor training opportunities in the fields of mental health, developmental disabilities, and substance abuse.
 - (28) Enforce the protection of the rights of clients served by State facilities, area authorities, county programs, and providers of public services.
 - (29) Adopt rules for the enforcement of the protection of the rights of clients being served by State facilities, area authorities, county programs, and providers of public services.
 - (30) Prior to requesting approval to close a State facility under G.S. 122C-181(b):
 - a. Notify the Joint Legislative Commission on Governmental Operations, the Joint Legislative Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and members of the General Assembly who represent catchment areas affected by the closure; and
 - b. Present a plan for the closure to the members of the Joint Legislative Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Senate Appropriations Committee on Health and Human Services for their review, advice, and recommendations. The plan shall address specifically how patients will be cared for after closure, how support services to community-based agencies and outreach services will be continued, and the impact on remaining State facilities. In implementing the plan, the Secretary shall take into consideration the comments and recommendations of the committees to which the plan is presented under this subdivision.
 - (31) Ensure that the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services is coordinated with the Medicaid State Plan and NC Health Choice.
 - (32) Implement standard forms, quality measures, contracts, processes, and procedures to be used by all area authorities and county programs with

other public and private service providers. The Secretary shall consult with LMEs, CFACs, counties, and qualified providers regarding the development of any forms, processes, and procedures required under this subdivision. Any document, process, or procedure developed under this subdivision shall place an obligation upon providers to transmit to LMEs timely client information and outcome data. The Secretary shall also adopt rules regarding what constitutes a clean claim for purposes of billing.

When implementing this subdivision, the Secretary shall balance the need for LMEs to exercise discretion in the discharge of their LME functions with the need of qualified providers for a uniform system of doing business with public entities.

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

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

"Part 4A. Consumer and Family Advisory Committees.

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

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

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

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

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

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

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

(d) The director of the area authority or county program shall provide sufficient staff to assist the CFAC in implementing its duties under subsection (c) of this section. The assistance shall include data for the identification of service gaps and underserved populations, training to review and comment on business plans and budgets, procedures to allow participation in quality monitoring, and technical advice on rules of procedure and applicable laws.

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

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

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

- (1) Nine by the Secretary. The Secretary's appointments shall reflect each of the disability groups. The terms shall be staggered so that terms of three of the appointees expire each year.
- (2) Three by the General Assembly upon the recommendations of the President Pro Tempore of the Senate, one each of whom shall come from the three State regions for institutional services (Eastern Region, Central Region, and Western Region). The terms of the appointees shall be staggered so that the term of one appointee expires every year.
- (3) Three by the General Assembly upon the recommendations of the Speaker of the House of Representatives, one each of whom shall come from the three State regions for institutional services (Eastern Region, Central Region, and Western Region). The terms of the appointees shall be staggered so that the term of one appointee expires every year.
- (4) Three by the Council of Community Programs, one each of whom shall come from the three State regions for institutional services (Eastern Region, Central Region, and Western Region). The terms of the appointees shall be staggered so that the term of one appointee expires every year.
- (5) Three by the North Carolina Association of County Commissioners, one each of whom shall come from the three State regions for institutional services (Eastern Region, Central Region, and Western Region). The terms of the appointees shall be staggered so that the term of one appointee expires every year.

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

- (1) Review, comment on, and monitor the implementation of the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (2) Identify service gaps and underserved populations.
- (3) Make recommendations regarding the service array and monitor the development of additional services.
- (4) Review and comment on the State budget for mental health, developmental disabilities, and substance abuse services.
- (5) Participate in all quality improvement measures and performance indicators.

(6) Receive the findings and recommendations by local CFACs regarding ways to improve the delivery of mental health, developmental disabilities, and substance abuse services.

(7) Provide technical assistance to local CFACs in implementing their duties.

(d) The Secretary shall provide sufficient staff to assist the State CFAC in implementing its duties under subsection (c) of this section. The assistance shall include data for the identification of service gaps and underserved populations, training to review and comment on the State Plan and departmental budget, procedures to allow participation in quality monitoring, and technical advice on rules of procedure and applicable laws.

(e) State CFAC members shall receive the per diem and allowances prescribed by G.S. 138-5 for State boards and commissions."

SECTION 6.(a) Notwithstanding G.S. 143-23, an area authority or a county program may transfer from one age or disability category to a different age or disability category up to fifteen percent (15%) of the funds initially allocated to the age or disability category from which funds are being transferred. Prior to the transfer, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall verify that the transfer meets applicable federal requirements. Area authorities and county programs shall:

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

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

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

"§ 122C-3. Definitions.

As used in this Chapter, unless another meaning is specified or the context clearly requires otherwise, the following terms have the meanings specified:

- (14) "Facility" means any person at one location whose primary purpose is to provide services for the care, treatment, habilitation, or rehabilitation of the mentally ill, the developmentally disabled, or substance abusers, and includes:
 - a. An "area facility", which is a facility that is operated by or under contract with the area authority or county program. For the purposes of this subparagraph, a contract is a contract, memorandum of understanding, or other written agreement whereby the facility agrees to provide services to one or more clients of the area authority or county program. Area facilities may also be licensable facilities in accordance with Article 2 of this Chapter. A State facility is not an area facility;
 - b. A "licensable facility", which is a facility that provides services to individuals who are mentally ill, developmentally disabled, or substance abusers for one or more minors or for two or more adults. ~~When the services offered are provided to individuals who are mentally ill or developmentally disabled, these~~ These services shall be day services offered to the same individual for a period of three hours or more during a 24-hour period, or residential services provided for 24 consecutive hours or more. ~~When the services offered are provided to individuals who are substance abusers, these services shall include all outpatient services, day services offered to the same individual for a~~

~~period of three hours or more during a 24 hour period, or residential services provided for 24 consecutive hours or more.~~
Facilities for individuals who are substance abusers include chemical dependency facilities;

- c. A "private facility", which is a facility that is either a licensable facility or a special unit of a general hospital or a part of either in which the specific service provided is not covered under the terms of a contract with an area authority;
- d. The psychiatric service of the University of North Carolina Hospitals at Chapel Hill;
- e. A "residential facility", which is a 24-hour facility that is not a hospital, including a group home;
- f. A "State facility", which is a facility that is operated by the Secretary;
- g. A "24-hour facility", which is a facility that provides a structured living environment and services for a period of 24 consecutive hours or more and includes hospitals that are facilities under this Chapter; and
- h. A Veterans Administration facility or part thereof that provides services for the care, treatment, habilitation, or rehabilitation of the mentally ill, the developmentally disabled, or substance abusers."

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

In the General Assembly read three times and ratified this the 10th day of July, 2006.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 7:38 p.m. this 19th day of July, 2006