

2001-2002

**HOUSE
MENTAL HEALTH**

MINUTES

**HOUSE COMMITTEE ON MENTAL HEALTH,
DEVELOPMENTAL DISABILITIES, AND
SUBSTANCE ABUSE SERVICES**

2001 – 2002 SESSION

CHAIRMAN

Representative Jim Crawford

VICE CHAIRS

Representative Theresa Esposito

Representative Verla Insko

STAFF

Linda Attarian

Dianna Jessup

COMMITTEE ASSISTANT

Linda Winstead

NORTH CAROLINA GENERAL ASSEMBLY

**House Mental Health Committee
2001 – 2002 SESSION**



**Rep. J. Crawford
(Chair)**



**Rep. Esposito
(Vice-Chair)**



**Rep. Insko
(Vice-Chair)**



Rep. Alexander



Rep. Bell



Rep. Carpenter



Rep. M. Crawford



Rep. Earle



Rep. Gillespie



Rep. Holliman



Rep. Lucas



Rep. Rayfield



Rep. Warwick



Rep. G. Wilson

**HOUSE COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL
DISABILITIES, AND SUBSTANCE ABUSE SERVICES**

2001 (Name of Committee)

[illegible]

ATTENDANCE

HOUSE COMMITTEE ON MENTAL HEALTH

2002

(Name of Committee)

[illegible]

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION**

You are hereby notified that the Committee on **MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES** will meet as follows:

DAY & DATE: **TUESDAY, MARCH 6, 2001**

TIME: **10:00 A.M.**

LOCATION: **415**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

Respectfully,

Representative Jim Crawford
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at **10:00 a.m. on Thursday, March 1, 2001.**

____Principal Clerk
____Reading Clerk - House Chamber

Linda Winstead (Committee Assistant)

Agenda

House Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services

10:00 a.m. March 6, 2001

Room 415 - LOB

10:00 a.m. **Introductions**

Report on the Activities of the Joint Legislative Oversight Committee on MH/DD/SAS
Dr. Alice Lin, Project Director.

Discussion

Adjournment

VISITOR REGISTRATION SHEET

MENTAL HEALTH, DD AND SAS

Name of Committee

3-6-01

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

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MINUTES
HOUSE COMMITTEE ON MENTAL HEALTH,
DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES
MARCH 6, 2001

The House Committee on Mental Health, Developmental Disabilities and Substance Abuse Services met on Tuesday, March 6, 2001, in Room 415 of the Legislative Office Building at 10:00 a.m. The following members were present: Chairman Jim Crawford, Representatives Esposito, Insko, Cansler, Carpenter, Earle, Gillespie, Holliman, Lucas, and Rayfield. Staff to the committee, Linda Attarian and Dianna Jessup, attended. A visitor registration list is attached and made part of these minutes. Chairman Crawford introduced the pages and asked members to introduce themselves.

Representative Insko announced that the name of the committee has been changed to reflect all services involved, not just mental health.

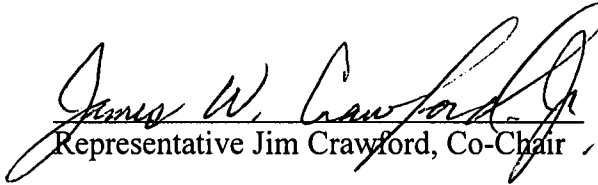
Chairman Crawford introduced Dr. Alice Lin, project director, to brief the committee on the background and activities of the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services. Reform of the mental health system was initiated because of a loss of public confidence in the present system, failure of previous reform efforts, and the present crisis in access and quality of care. The Joint Legislative Oversight Committee was authorized last session. The committee established five subcommittees – governance, finance, services, hospitals/facilities, and developmental disabilities. The subcommittees operate under specific guidelines to assure a common goal. The Governance Subcommittee has looked at how to define and reshape governance, other state's models to identify areas of focus, conditions for participation, rationale for developing county-based system, and state and local accountability. The Services Subcommittee has look at who should be served and what should be the core services. The Developmental Disabilities Subcommittee is looking at the Auditor's Report recommendation of a separate division and providing a full array of services. The Hospital/Facilities Subcommittee is visiting all the hospitals in the state to review facilities, services for young children, staffing, and interaction between hospitals and area programs. The Finance Subcommittee has looked at how Medicaid is being used and barriers to better local financial management.

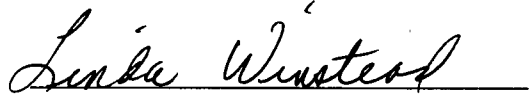
Key elements in the legislation are: Policy statement on the role of state and local governments, public policy on core and targeted services, standard requirements for local management, a link of authority to accountability, Ombudsman program, and state readiness. There are certain elements in the proposed legislation that are critical to the reform effort. By July 2002, the legislation should be enacted, however, the Department of Health and Human Services is to begin immediately to incorporate the policy statement on its role and standardized local requirements. By July 2002, counties will notify the department how they will partner in managing services. This is a multi-year reform plan.

March 6, 2001

Chairman Crawford said the bill will be placed in a subcommittee when it is received by this committee.

The meeting adjourned at 10:50 a.m.


Representative Jim Crawford, Co-Chair


Linda Winstead, Committee Assistant

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION**

You are hereby notified that the Committee on **MENTAL HEALTH** will meet as follows:

DAY & DATE: TUESDAY, MARCH 13, 2001

TIME: 10:00 A.M.

LOCATION: 415

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 381 MENTAL HEALTH SYSTEM REFORM

Respectfully,

Representative Jim Crawford
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at **1:00 p.m. on Tuesday, March 6, 2001.**

____Principal Clerk
____Reading Clerk - House Chamber

Linda Winstead (Committee Assistant)

Agenda

House Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services

10:00 a.m. March 13, 2001

Room 415 - LOB

Opening Remarks

Representative Jim Crawford, Chairman

Agenda Items

HB 381 Mental Health System Reform

Discussion

Adjournment

VISITOR REGISTRATION SHEET

Mental Health, Developmental Disabilities
Name of Committee Date 2/12/20

Date 3/13/2001

VISITORS:.. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

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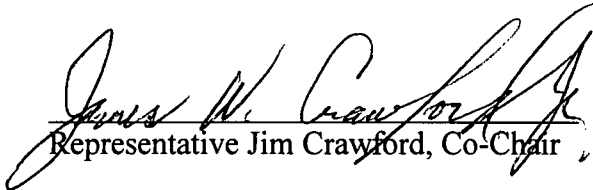
MINUTES
HOUSE COMMITTEE ON MENTAL HEALTH,
DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES
MARCH 13, 2001

The House Committee on Mental Health, Developmental Disabilities and Substance Abuse Services met on Tuesday, March 13, 2001, in Room 415 of the Legislative Office Building at 10:00 a.m. The following members were present: Chairman Jim Crawford, Representatives Insko, Cansler, Carpenter, Gillespie, Holliman, Lucas, Rayfield, Warwick, and Wilson. Staff to the committee, Dianna Jessup, attended. A visitor registration list is attached and made part of these minutes. Chairman Crawford introduced the pages.

HB 381 Mental Health System Reform

Chairman Crawford placed HB 381 in a subcommittee to work on a more palatable solution to those concerned. Members of the subcommittee will be announced later in the week.

The meeting adjourned at 10:15 a.m.


Representative Jim Crawford, Co-Chair


Linda Winstead, Committee Assistant

March 27, 2001

MEMO TO: Rep. Martha Alexander
Rep. Theresa Esposito
Rep. Hugh Holliman
Rep. Verla Insko

FROM: Jim Crawford, Chair
Mental Health, Developmental Disabilities and Substance Abuse Services

**SUBJECT: SUBCOMMITTEE FOR HOUSE BILL 381
MENTAL HEALTH SYSTEM REFORM**

As discussed at the March 13 committee meeting, I am asking you to serve with me on the subcommittee to work on House Bill 381. The Senate members should be named this week to work collaboratively with the House on this bill.

I hope to have an organizational meeting sometime this week and immediately begin our work.

The tentative plan is to meet on Tuesdays at 10:00 a.m.

lw

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION**

You are hereby notified that the Committee on **MENTAL HEALTH** will meet as follows:

DAY & DATE: **TUESDAY, APRIL 10, 2001**

TIME: **10:00 A.M.**

LOCATION: **415**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 857 AREA MENTAL HEALTH BACKGROUND CHECK

Respectfully,

Representative Jim Crawford
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at **1:00 p.m. on Thursday, April 5, 2001.**

____ Principal Clerk
____ Reading Clerk - House Chamber

Linda Winstead (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR
2001-2002**

BILL SPONSOR: Rep. Martha Alexander

OFFICE: 2208

NOTIFICATION DATE: April 5, 2001

**The House Committee on Mental Health, Developmental Disabilities,
and Substance Abuse Services will meet as follows:**

DAY & DATE: Tuesday, April 10, 2001

TIME: 10:00 a.m.

LOCATION: 415

Your Bill (or Bills) will be discussed at this time:

HB 857 AREA MENTAL HEALTH BACKGROUND CHECK

We would like to have you attend this meeting.

Representative Jim Crawford
Chairman

Linda Winstead (Committee Assistant)

Agenda

House Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services

Tuesday, April 4, 2001
10:00 a.m., Room 415

Opening Remarks

Representative Jim Crawford, Chairman

Agenda Items

HB 857 Area Mental Health Background Check

Discussion

Adjournment

VISITOR REGISTRATION SHEET

Name of Committee

Date _____

VISITORS:.. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS[illegible]

MINUTES
HOUSE COMMITTEE ON MENTAL HEALTH,
DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES
APRIL 10, 2001

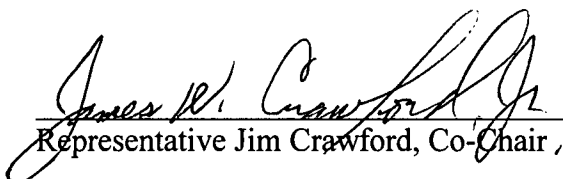
The House Committee on Mental Health, Developmental Disabilities and Substance Abuse Services met on Tuesday, April 10, 2001, in Room 415 of the Legislative Office Building at 10:00 a.m. The following members were present: Chairman Jim Crawford, Representatives Alexander, Bell, Carpenter, Esposito, Gillespie, Holliman, Lucas, and Rayfield. Staff to the committee, Linda Attarian and Dianna Jessup, attended. A visitor registration list is attached and made part of these minutes. Chairman Crawford introduced the pages.

HB 857 AREA MENTAL HEALTH BACKGROUND CHECK

Vice-Chair Esposito introduced Representative Alexander to explain the bill. Legislation passed last session required area mental health authorities to perform criminal background checks on potential employees. It required the authority to submit to the Department of Justice a request for the background check within 5 days of making an offer of employment. This bill clarifies that the area authority will receive information through the county and will have access to that information within the timeframe. Representative Holliman asked about the cost involved. Staff responded that a request through the SBI incurred costs but was not aware of costs of this process. She will get that information to the members.

Representative Lucas moved for a favorable report. The motion carried.

The meeting adjourned at 10:15 a.m.


Representative Jim Crawford, Co-Chair,


Linda Winstead, Committee Assistant

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Jim Crawford** (Chair/Chairs) for the Committee on **Mental Health**.

☐ Committee Substitute for

H.B. 857 A BILL TO BE ENTITLED AN ACT TO CLARIFY THAT AN AREA MENTAL AUTHORITY THAT HAS ACCESS TO THE CRIMINAL RECORDS DATA BANK MAY OBTAIN THE REQUIRED CRIMINAL HISTORY RECORD CHECK THROUGH THE DATA BANK.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/15/01

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 857

Short Title: Area Mental Health Background Check.

(Public)

Sponsors: Representative Alexander.

Referred to: Mental Health.

March 29, 2001

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT AN AREA MENTAL AUTHORITY THAT HAS ACCESS TO THE CRIMINAL RECORDS DATA BANK MAY OBTAIN THE REQUIRED CRIMINAL HISTORY RECORD CHECK THROUGH THE DATA BANK.

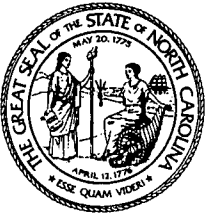
The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-80(b) reads as rewritten:

"(b) Requirement. – An offer of employment by an area authority licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a State and national criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An area authority shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within Except as otherwise provided in this subsection, within five business days of making the conditional offer of employment, an area authority shall submit a request to the Department of Justice under G.S. 114-19.10 to conduct a criminal history record check required by this section. A county that has adopted an appropriate local ordinance and has access to the Division of Criminal Information data bank may conduct on behalf of an area authority a State criminal history record check required by this section without the area authority having to submit a request to the Department of Justice. In such a case, the county shall commence with the State criminal history record check required by this section within five business days of the conditional offer of employment by the area authority. All criminal history information

1 received by the area authority is confidential and may not be disclosed, except to the
2 applicant as provided in subsection (c) of this section."

3 **SECTION 2.** This act is effective when it becomes law.



HOUSE BILL 857:

Area Mental Health Background Check

BILL ANALYSIS

Committee: House Mental Health
Date: April 10, 2001
Version: Introduced

Introduced by: Rep. Alexander
Summary by: Linda Attarian
Committee Counsel

SUMMARY: *House Bill 857, if enacted, would amend the current law requiring area authorities to conduct State and national criminal history checks on certain applicants for employment. House Bill 857 clarifies that certain counties may access the State Division of Criminal Information databank on behalf of an area authority to obtain a State criminal history check in lieu of submitting a request to the Department of Justice to obtain the State criminal history. The bill would not change the current requirements regarding conducting a national criminal history check for certain applicants. The bill is effective when it becomes law.*

CURRENT LAW: G.S. 122C-80 requires area authorities to condition an offer of employment for positions not requiring an occupational license on the applicants consent to a criminal history check. If the applicant has lived in North Carolina less than five years immediately preceding the date of application, the area authority must submit the applicants' fingerprints to the SBI so that a State and a national check by the FBI may be performed. If the applicant has been a NC resident for more than five years, then the area authority must request a State criminal history check, in which case the Division of Criminal Information databanks are scanned. The area authority must initiate the check within five days after offering the applicant conditional employment. The results of the checks are sent to the area authority and, based on the results of the check, the area authority may or may not continue the employment of the applicant.

BILL ANALYSIS: **Section 1** amends G.S. 122C-80 to provide that instead of submitting a request for a State check to the SBI, a county that has adopted an appropriate ordinance and has access to the Division of Criminal Information (DCI) (e.g., county law enforcement officials) databanks may access the DCI databanks for the criminal history check.

Section 2 makes the act effective when it becomes law.

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION**

You are hereby notified that the Committee on **Mental Health** will meet as follows:

DAY & DATE: **Tuesday, July 10, 2001**

TIME: **10:00 am**

LOCATION: **415**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 381 MENTAL HEALTH SYSTEM REFORM

Respectfully,

Representative Crawford
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at
11:00 Am on July 4, 2001.

____Principal Clerk
____Reading Clerk - House Chamber

Linda Winstead (Committee Assistant)

Agenda

House Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services

Tuesday, July 10, 2001
10:00 a.m., Room 415

Opening Remarks

Representative Jim Crawford, Chairman

Agenda Items

HB 381 Mental Health System Reform

Discussion

Adjournment

VISITOR REGISTRATION SHEET

Mental Health

Name of Committee

7/10/01

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

<u>Mr. Brink</u>	<u>Gov's Advocacy Council for Persons w Disabilities</u>
<u>Patricia Rander</u>	<u>NCACC</u>
<u>James D. [unclear]</u>	<u>NC Council</u>
<u>Paul H. [unclear]</u>	<u>Catawba County</u>
<u>Ken Melton</u>	<u>Alley Associates, Inc.</u>
<u>John Bowditch</u>	<u>Alley Associates</u>
<u>Karen Fottori</u>	<u>Div. of Aging</u>
<u>Michael Dusenberry</u>	<u>NC EQUITY</u>
<u>Don Willis</u>	<u>DMH/DD/SAS</u>
<u>Flo Stein</u>	<u>DMH/DD/SAS</u>
<u>Barbara [unclear]</u>	<u>NCPA</u>
<u>Sally Cameron</u>	<u>NCPA</u>
<u>Bruce Gardner</u>	<u>DFS Dick Rort.</u>
<u>THOMAS TILSON</u>	<u>NCH/A</u>
<u>ZEB ALLEY</u>	<u>Alley Assoc.</u>
<u>Iwe Metcalf</u>	<u>N.C. Senate</u>
<u>James Mahan</u>	<u>MHA/NC</u>
<u>Don [unclear]</u>	<u>DMH</u>
<u>Don [unclear]</u>	<u>DMH</u>
<u>Ben Melcher</u>	<u>NAME NC</u>

MINUTES
HOUSE COMMITTEE ON MENTAL HEALTH,
DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES
JULY 10, 2001

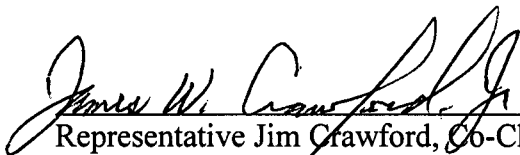
The House Committee on Mental Health, Developmental Disabilities and Substance Abuse Services met on Tuesday, July 10, 2001, in Room 415 of the Legislative Office Building at 10:00 a.m. The following members were present: Chairman Jim Crawford, Representatives Alexander, Carpenter, M. Crawford, Earle, Esposito, Gillespie, Holliman, Insko, Lucas, and Rayfield. Staff to the committee, Linda Attarian and Dianna Jessup, attended. A visitor registration list is attached and made part of these minutes. Chairman Crawford introduced the pages.

HB 381 MENTAL HEALTH SYSTEM REFORM

Chairman Crawford reported that the subcommittee appointed to study the bill had prepared a substitute bill. Copies of the proposed committee substitute (PCS), a comparison chart, and bill analysis were handed out. Rep. Mark Crawford moved for consideration of the PCS and the motion passed. Rep. Insko explained the comparison chart which summarized the changes recommended. Rep. Gillespie submitted and explained an amendment; however, after much discussion withdrew the amendment.

Representative Holliman moved for a favorable report on the proposed committee substitute. The motion carried.

The meeting adjourned at 10:50 a.m.


Representative Jim Crawford, Co-Chair


Linda Winstead, Committee Assistant

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Comparison Chart

H381-PCS1198-LN-24 to H381-PCS9308-RM-43

July 10, 2001

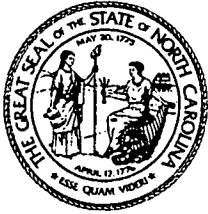
Summary of substantive amendments to H381-PCS1198-LN-24 (May 14, 2001) adopted by the subcommittee appointed to review the PCS and make recommendations to the House Mental Health Committee. (AA = Area Authority; CP = County Program).

PAGE#	LINES	SUMMARY
2	41-42	Adds a definition of ' <i>specialty services</i> '.
3	8-10	Adds a definition of ' <i>uniform portal process</i> '.
3	24-26	Amends section on human rights committees, to require, in multicounty AAs and CPs, a member appointed from each affiliated county affiliated to serve on the human rights committees.
4	17	Requires DHHS to include the <i>process and procedures for the uniform portal process</i> in the State Plan.
5	11	Replaces the words " <i>contracted providers</i> " with " <i>providers of public services</i> " throughout the bill.
6	15-16	Adds <i>conflict resolution</i> to the Secretary's duty to provide technical assistance to counties in the development and <i>implementation</i> of business plans.
6	33-34	Moves the Secretary's duty of sponsoring training opportunities in the fields of MHDDSAS from " <i>authorized</i> " to " <i>required</i> ".
6	35-39	Adds to Secretary's duties to enforce the protection of client rights and to adopt rules to enforce this protection. Currently, the Commission has rule-making authority in this area.
8	40-42	Deletes requirement that AAs must serve a minimum catchment area of at least 200,000 people or a minimum of five counties.
9 (17)	19 (20)	Authorizes the Secretary <i>to waive</i> one or more of the minimum qualifications for the selection of a county program director. (Corresponding authority for the selection of area authority director).
9 (17)	22 (23)	Replaces the <i>clinical</i> experience minimum requirement in selecting a county program director with <i>related</i> experience. (Corresponding replacement regarding minimum requirements for area authority director).

PAGE#	LINES	SUMMARY
9	24-25	Deletes requirements for county programs to serve a minimum catchment area of at least 200,000 people or a minimum of five counties with the requirement that these thresholds be a <i>"target"</i> for the county program.
9	27	Requires interlocal agreement to provide that the joint agency shall comply with the rules of the Secretary <i>and the rules of the Commission</i> .
9	28-29	Requires counties that have established a county program pursuant to an interlocal agreement to give the Secretary prior notice of any planned termination of the interlocal agreement.
9	30-38	Requires that the interlocal agreement contain terms for the appointment of an advisory committee, and provides minimum appointment requirements
9	39-41	Requires a county to hold a public hearing prior to establishing a CP.
9	42-44	Requires a CP and the services provided through the CP to comply with Chapter 122C and the rules of the Secretary and the Commission.
10	1-17	Adds new subsections (d) and (e) that describe the process whereby county programs submit service delivery reports and budgetary statements to the board of county commissioners and the Secretary (conforms CP to the duties AA must perform).
10	27-33	Requires all CPs (single or multi-county) to appoint advisory committees. Subsection provides for minimum appointment requirements.
10	27-29	Adds a new subsection allowing the county program to contract to provide services to governmental or private entities. (Conforms this section to corresponding authorization provided to AAs)
11	15	Requires local service delivery plans to ensure equitable service delivery among member counties.
11	32-39	Requires business plan to include provisions for the implementation of <i>uniform portal process</i> under the service management descriptions.; and changes "use" of State bed days to " <i>management</i> " of State bed days.

PAGE#	LINES	SUMMARY
12	11-12	Makes conforming change to business plan to conform to the " <i>consolidation plan adopted by the Secretary</i> ".
13	4-7	Requires each AA and CP submitting a business plan to enter into a MOA with the Secretary for the purpose of ensuring that State funds are used in accordance with priorities expressed in the business plan.
13	14-19	Requires a county board of commissioners to hold a public hearing before withdrawing a county from an area authority, and requires an area authority to hold a public hearing prior to dissolving.
13	20-23	Requires the AA or CP to demonstrate that <i>continuity of services</i> will be assured if a county withdraws from an area authority or an area authority dissolves.
14	28-29	<i>Requires</i> , rather than <i>permits</i> , the Secretary to appoint a member to the area authority director search committee.
15	38-39	Adds a requirement that an area authority board have a member who represents <i>interests of children</i> .
16	11, 12, 15, 16	Modifies the composition of the AA board and CP advisory committee- composition must include separate individuals representing <i>each</i> of the service groups (was <i>at least one</i> of the service groups).
16	26-27	Requires the area authority board to provide public record information pertaining to its membership upon request.
16	41-43	Modifies the membership composition of the AA board's finance committee to require a county finance officer to serve as an ex officio member.
17	32, 37	Changes <i>120 days</i> to <i>60 days</i> as the timeframe within which the Secretary expects that the AA or CP is likely to fail or otherwise need assistance from the Secretary, and shortens the timeframe (from 120 days to 60 days) within which the CP or AA must initiate remedial action subsequent to notification by the Secretary.
20	10	Deletes Section 1.14(b) of original bill governing the single portal plan and repeals G.S. 122C – 132 and 132.1 to conform to new provision providing for a uniform portal process.
20	11	Repeals G.S. 122C-143.2, (Annual Memorandum of Agreement).

PAGE#	LINES	SUMMARY
23	44	Extends the Commission's authority to adopt rules regarding the operation of education, prevention and other related services to include providers of public services.
24	11-13	Repeals Commission authority to adopt rules regarding the implementation of the uniform portal process.
29	21	Deletes the requirement that 12 local ombudsman programs be established by the State ombudsman and requires that the local ombudsman locations be <i>designated by the Secretary</i> .
32	21-24	Adds a March 1, 2002 reporting date to subsection (7) that requires DHHS to establish criteria for the Quality Care Ombudsman Program.
32	25-41	Amends the uncodified language to state that the Consolidation plan shall provide for no more than a <i>targeted</i> number of 20 area authorities and county programs. The Sec., in consultation w/county commissioners and area authorities, shall complete the Consolidation plan by <i>Sept. 1, 2004</i> and shall submit it to the Joint Leg. Oversight Com. on MH/DD/SAS by <i>Jan. 1, 2005</i> , (was Jan. 1, 2003). The number of area authority and county programs shall be reduced to no more than 20 by <i>Jan. 1, 2007</i> , (was July 1, 2006).
32-33	42-44 and 1-9	Each area authority and county program shall submit its approved business plans to the Sec. by <i>Jan. 1, 2003</i> , (no change from first PCS). The Sec. shall certify 1/3 of the area authorities and county programs by <i>July 1, 2003</i> , 2/3 of the area authorities and county programs by <i>Jan. 1, 2004</i> , and shall <i>complete</i> certification of all area authorities and county programs by <i>July 1, 2004</i> , (was July 1, 2006).
33	10 and 14	Requires DHHS to complete the activities under subdivisions (1) through (6) – <i>includes assessment on Department's readiness</i> and make a final report by December 1, 2001.
33	22-33	Adds a new section to requires the Secretary to study the consolidation of State Ombudsman Programs in DHHS with other ombudsman programs and report its findings to the <i>Joint Leg. Oversight Committee on MH/DD/SAS by March 1, 2002</i> .



HOUSE BILL 381: Mental Health System Reform

BILL ANALYSIS

Committee: House Mental Health
Date: July 10, 2001
Version: H381-PCS9308-RM-43

Introduced by: Rep. Verla Insko
Summary by: Linda Attarian
Committee Counsel

SUMMARY: Currently, except for Wake and Mecklenberg, counties provide mental health, developmental disabilities and substance abuse services (MH/DD/SAS) through area authorities. H381-PCS9308-RM-43 would amend Article 4 of Chapter 122C to provide counties an alternative to area authorities to provide mental health, developmental disabilities, and substance abuse services to consumers. Counties would be authorized to withdraw from area authorities and opt to provide for the delivery of public MH/DD/SAS services through a single county program or jointly with one or more counties through a joint agency established pursuant to an interlocal agreement. Other elements of the legislation include:

- Enhanced accountability and cooperation between counties, area authorities, and the Department of Health and Human Services;
- Requirement to develop a 'business plan' to guide the management and delivery of public services at the local level and State level;
- Requirements for the universal availability of core services within available State and local resources and for State support of services to target populations pursuant to a State Plan developed by the Secretary of Health and Human Services;
- Enhanced powers and duties relating to quality assurance and accountability at the State level and the county level; and
- Establishment of an ombudsman program to operate at the State and local level and will coordinate their functions with local consumer groups.
- Directs DHHS to implement a certification process and to follow specific procedures to prepare for the reforms outlined in the bill.

Effective Dates: Sections 1.1 through 1.20(b), and Section 2 become effective July 1, 2002; Section 4 becomes effective July 1, 2001; and the remainder is effective when it becomes law.

SUMMARY OF SIGNIFICANT CHANGES TO THE INTRODUCED VERSION:

- The original bill provided for a phased-in repeal of the current area authority governance structure and a move to a county-based governance for local service delivery. H381-PCS9308-RM-43 provides counties with an option to provide services through a county-based program instead of an area authority model, but doesn't require it. The PCS sets forth minimum requirements for all county programs, including compliance with the business plan and the appointment of a program director with certain minimum qualifications.
- Deletes references to minimum population or geographic thresholds required in the business plan and replaces the specific thresholds with "targeted" thresholds, and directs the Secretary to develop a catchment area consolidation plan to guide the eventual consolidation of program services areas.

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- *Repeals current "single-portal of entry and exit" plan that is currently applicable only to certain types of services provided to the developmental disabled and replaces it with a "uniform portal process", consisting of a standardized process with which consumers shall gain access to all public services delivered by area authorities, county programs and public or private providers of public services.*
- *Modifies current law regarding the establishment of human rights committees.*
- *Modifies the Secretary's powers and duties.*
- *Modifies the minimum qualifications of the area authority director or county program director and authorizes the Secretary to waive one or more of the requirements.*
- *Modifies the business plan requirements.*
- *Modifies powers and duties of area authority boards.*
- *Modifies the minimum requirements for county programs, for example, adds a requirement that county programs to appoint an advisory counsel.*
- *Modifies the composition of the area authority board.*
- *Modifies the designation of local ombudsman sites by assigning that duty to the Secretary and deleting reference to a specific number of sites.*
- *Adds a section to allow for counties to withdraw from area authorities and for area authorities to dissolve.*
- *Repeals current provision governing an annual memorandum of agreement between area authorities and the Secretary.*
- *Modifies time line for implementation of consolidation plan.*

CURRENT LAW:

In North Carolina, the public system of mental health, developmental disabilities, and substance abuse services consists of State and local area facilities. Except for Mecklenberg and Wake counties, local MH/DD/SA services are administered and managed by counties through area authorities (also called "area programs"). The following provides a brief introduction to the current governance structure.

Area Authorities: A board or boards of county commissioners, as applicable, establish area authorities to serve geographic areas (catchment areas) designated by the Commission of MH/DD/SAS. The area authority is the locus of coordination among public services for clients of its catchment area. Area authorities have the responsibility of planning, budgeting, implementing, and monitoring of program services. There are 39 area authorities. Twenty-four serve multi-county catchment areas ranging from two to seven counties in size, and 15 that serve a single county.

Area Authority Boards The governing unit of the area authority is the area authority board. The ultimate responsibility for the execution of all powers and duties conferred by law on the area authority is with the area board.

Area Director: The area board appoints an area director, who has the responsibility of administering the programs of the area authority and enforcing the policies of the area board, the rules of the Secretary of the Department of Health and Human Services (Secretary), and the rules of the Commission.

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Mecklenberg County and Wake County Programs: G.S. 153A-77(a) authorizes the board of county commissioners of a county with more than 425,000 in population to assume direct control of any activities conducted by or through the area authority or other boards, commissions, or agencies. Pursuant to this subsection, Mecklenberg's board of county commissioners controls the Mecklenberg area authority board. G.S. 153A-77(b) further authorizes the board of county commissioners of a county with a county manager and a population of at least 425,000 to create a consolidated human services agency having the authority to carry out the functions of the local health department, the county department of social services and the area MH/DD/SAS authority. Wake County's board of commissioners has established such an agency under the authority of this subsection.

Role of County Government: Counties must provide mental health, developmental disabilities, and substance abuse services *through* area authorities. Under current law, area authorities are authorized to act independently from county government. Area authorities are actually in partnership with the counties and the State. This partnership demands communication and cooperation between all three governmental units for effective service delivery and shared accountability.

Role of State Government: The Secretary of Health and Human Services has responsibility for the operation of State facilities, for the administration and enforcement of the provisions of Chapter 122C, the Mental Health, Developmental Disabilities, and Substance Abuse Services Act, and the rules of the Commission. The Department (Secretary) is authorized to adopt rules pertaining to program operation, accreditation, and how area authorities may spend the funding it receives.

Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services: The Commission is the administrative body authorized to adopt rules governing the delivery of services. Its 26 members include consumers and professionals. The rules set program standards.

Client Services: State regulations require each area authority to provide certain services. The area authority may provide services either directly or by contract with public and private providers. In addition to required services, area authorities may provide optional services, based on the needs of the area authority's clients. The area authority must assure that the services provided are of the highest possible quality and must perform monitoring and evaluation procedures.

Single-Portal-of-Entry-and-Exit-Policy: This is a plan that provides for an admission and discharge policy designed to promote efficient provision of services among both area and State facilities and also private providers. The goal of the policy is to integrate independent service providers into a unified, coordinated system. State law only encourages area authorities to develop such policies for the public system of mental health and substance abuse services. However, the law requires area authorities, in cooperation with private providers, to develop such policies for both public and private providers of day/night services and twenty-four-hour services for individuals with developmental disabilities.

Budget and Fiscal Control of Area Authorities: Area authorities consisting of more than one county have responsibility, without input from the county, for developing the program services budget for the area authority. The spending priorities of the area authority must comply with rules established by the Secretary, and the budget is subject to the approval by the Secretary. The funding for program services comes to the area authority from a combination of State, federal, and local sources. While there is no requirement that counties appropriate funds for the support of area authority programs, county money is an important source of funding. A single county area authority is a department of the county for the purposes of budget and fiscal matters.

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State Assumption of Control of Area Authorities: Failure of an area authority to allocate and use funds in accordance with law could lead to delay, reduction, or denial of funds administered by the Secretary. The Secretary may suspend all funding to an area authority when a significant deterioration in the fund balance is found or when the area authority has revenue or an expenditure budget variance of 10 percent. If the Secretary determines that the area authority is failing to provide a particular service, the Secretary may suspend funding for that service and provide the service through a contracted provider. The restoration of funds is in the complete discretion of the Secretary. The Secretary may assume *complete control* over the area authority when the area authority is in imminent danger of failing financially or is not providing minimally adequate services.

BILL ANALYSIS:

Section 1.1 amends G.S. 122C-2 to update the language of the State's policy towards persons in need of mental health, developmental disabilities and substance abuse services and to articulate the role of the State and counties to provide for, (directly or through contracts) the following minimum services *within available resources*. The first three are within the financial obligations of the State and counties and the fourth obligates State resources.

1. Make available community-based treatment when such treatment is appropriate and reasonably accommodated within available resources;
2. Ensure the universal availability of the following core services: screening, assessment, and referral; emergency services; case support; and consultation, prevention, and education;
3. Provide matching funds for entitlement program services as required by law (e.g., the counties' share of the cost of services for Medicaid is approximately 5.2 percent) and
4. The State is obligated to provide funding for the support of services to targeted populations –i.e., individuals who are given service priority under the State Plan as developed by the Secretary.

Section 1.2 (a) adds eleven new defined terms to Chapter 122C. Significant definitions include: 'core services', 'public services', 'specialty services', 'targeted population', and 'uniform portal process'.

Section 1.2 (b) makes a conforming change to the current definition of 'catchment area'.

Section 1.3 amends G.S. 122C-64 to add that every area authority or county program, *in addition to every State facility*, must establish a human rights committee responsible for protecting the rights of clients. Currently, only State facilities are required to establish human rights committees. These committees will coordinate with State and local ombudsman. In multicounty area authorities and county programs, the committee must include a member representing each affiliated county.

Section 1.4 makes conforming changes to G.S. 122C-101.

Section 1.5 adds a new section to Chapter 122C to require the Department of Health and Human Services to develop a "*State Plan for MH/DD/SA Services*". Among other things, the Plan will include standards and outcome expectations for core and targeted services, strategies and schedules for implementing, monitoring and evaluating the service plan, the procedures for a uniform portal process, and a business plan that demonstrates efficient and effective resource management, including strategies for Medicaid and non-Medicaid services. The State Plan is to be completed by December 1, 2001.

Section 1.6 makes conforming changes to G.S. 122C-111.

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Sections 1.7(a) and 1.7(b) recodify G.S. 122C-112 to G.S. 122C-112.1, the Secretary's powers and duties. Several new powers and duties are added to the expanded oversight role of the Secretary in the proposed legislation, including additional rule-making authority.

Section 1.8 makes conforming changes and substantively amends G.S. 122C-115 by stating that counties "shall" (was "may") appropriate funds to support programs delivered by area authorities or county programs.

Section 1.9 amends Part 2 of Article 4 of Chapter 122C to add three new sections.

1. *County Governance Option*: G.S. 122C-115.1 will authorize a county to operate a program for mental health, developmental disabilities, and substance abuse services as a single county program or join with one or more other counties and form a joint agency to operate a multicounty program. This entity will be called a "county program" and will be subject to all of the provisions of Chapter 122C and the rules of the Secretary and the Commission, including the business plan (see below). A county program will not function independently of county government and the boards of county commissioners are free to confer upon the joint agency as many or as few powers and duties (in addition to those that are required under this section) as they deem appropriate.

The requirements provided in the bill are 1) the appointment of a program director with certain minimum qualifications, unless waived by the Secretary, 2) budgetary and fiscal matters, 3) a catchment area with a target population of 200,000 or a target number of five counties, 4) appointment of an advisory committee, 5) public hearings and 6) reporting requirements.

2. *Business Plan Requirement*: G.S. 122C-115.2 requires every county, through an area authority or county program to develop, review and approve a business plan for *the management, delivery and financial accountability* of mental health, developmental disabilities, and substance abuse services. The plan must describe how the area authority or county program will carry out its administrative functions, address financial accountability and oversight, and other matters relating to the effective and efficient service delivery. This new section also sets forth the procedures and timeframes for the approval of the business plans and certification by the Secretary.

3. *Dissolution of An Area Authority*: G.S. 122C-115.3 governs the dissolution of or a withdrawal from an area authority. Dissolution of a county program would be by joint agreement to dissolve the joint agency.

Section 1.10 makes the several substantive changes to G.S. 122C-117, *the powers and duties of area authorities and their boards*, including additional reporting requirements, and modifications in the selection of the area authority director. This section and sections 1.11 through 1.12 that follow will apply to existing area authorities at the time the act becomes effective (July 1, 2002) and any future area authorities certified by the Secretary subsequent to the approval its business plan. These sections will not apply to county programs certified by the Secretary.

Sections 1.11(a) and 1.11(b) recodify G.S. 122C-118 to G.S. 122C-118.1, governing the composition of the area authority board. Currently, an area authority board may have no less than 15 members and no more than 25 members. G.S. 122C-118.1 would require the board to have *no less than 11 and no more than 15 members*. In addition, the requirements regarding the composition of the board are modified to provide greater flexibility and representation. *Members may only serve two consecutive terms*.

Section 1.11(c) amends G.S. 122C-119 to require that the area board's finance committee include a county finance officer as an ex officio member.

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Section 1.12 rewrites G.S. 122C-121 to provide that the appointment and the termination of the director is subject to the approval of the board of commissioners. The candidate must meet certain minimum qualifications and shall be selected by a search committee with representation from consumer boards, the county board of commissioners, and the Secretary. The Secretary may waive one or more of the minimum requirements. The area board is required to evaluate the area director annual according to criteria established by the Secretary and the area board, and the board is required to solicit input from the county board of commissioners.

Sections 1.13(a) and 1.13(b) recodify 125.1, and 126, which govern the process whereby the Secretary is authorized to take over an area authority that is failing to provide minimally adequate services. This new section sets forth the procedures under which the Secretary, upon notice of deficiencies in local program services, may issue a notice that suspension of funding, assumption of service delivery or management functions or appointment of a caretaker board is likely, send a notice to the offending program and if necessary, suspend funding, ensure service delivery, and appoint a caretaker administrator or caretaker board. The bill reduces the time frames within which an area authority or county program must take remedial action subsequent to receipt of notice from 120 days to 60 days. The secretary has similar authority under current law, but doesn't have the authority to warn an area authority that action by the Secretary is likely if corrective action isn't taken.

Section 1.14. Current law, 122C-141(a), provides that the area authority may provide services directly and may contract with other public or private agencies, institutions, or resources for the provision of services. This section amends 122C-141(a) to provide that an area authority or county program must contract with other public or private agencies, institutions, or resources to provide public services and *may only provide services directly when other public or private providers are unavailable to meet service needs and after receiving approval from the Secretary*. Services provided directly must ensure consumer choice and fair competition.

Section 1.15. Makes a conforming change to repeal G.S.122C-143.2.

Sections 1.16(a), (b) make conforming changes to current law.

Section 1.16(c) adds a definition of "client" to the current law governing appeals by providers and clients to the Area Authority (State MH/DD/SA) Appeals Panel.

Sections 1.17. Under current law, employees under the direct supervision of the area director are employees of the area authority and are subject to Chapter 126 of the General Statutes (State Personnel Act). This section amends 122C-154 to provide that employees appointed by the *county program director are employees of the county*. In a multicounty program, employment of staff shall be as agreed upon in the county commissioners of each county.

Section 1.18 updates current law.

Sections 1.19(a) and 1.19(b) moves a provision that is currently under the Secretary's powers and duties and moves it to a new section in Article 3 of Chapter 143B, which governs the Department of Health and Human Services.

Section 1.20(a) amends G.S. 143B-147, which creates and provides the rule making authority of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, to expand the Commission's jurisdiction to include providers of public services and to expand the scope of the Commission's rule making authority to include screening, assessment, referral, detoxification, treatment, rehabilitation, continuing care, emergency services and case management.

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Section 1.20(b) makes conforming changes to G.S. 143B-148, which provides for the composition of membership of the Commission and specifies *that a member may not serve more than three consecutive two-year terms.*

Section 2 amends Chapter 122C by adding a new Article 1A which establishes a MH/DD/SA Quality of Care Ombudsman Program to ensure that consumers have information about the availability of services and access to resources to obtain timely quality care. The ombudsman program would be established in the Office of the Secretary, and include a State ombudsman and an unspecified number of local ombudsmen located throughout the State in locations designated by the Secretary. The purposes of the program include 1) providing consumers, their families, and providers with the information and assistance needed to locate appropriate services, 2) resolve complaints or address common concerns, 3) to promote community development, 4) to ensure, within available resources, that the performance of the MH/DD/SA service system is closely monitored, that reviews are conducted, and that local and systemic problems are identified and corrected when necessary to promote the rights and interests of all consumers of MH/DD/SA services.

Part 3. Phased-In Implementation.

Section 3(a) directs DHHS to do the following by **December 1, 2001**:

1. Develop a State Plan for Mental Health, Developmental Disabilities and Substance Abuse Services.
2. Review all current rules for MH/DD/SAS services to identify areas of duplication, vagueness, or ambiguity.
3. Review the oversight and monitoring functions implemented by the Department.
4. Develop service standards, outcomes, and financing formula for core and targeted services.
5. Develop the business plan format.
6. Report on the Department's readiness to implement system reform.

By **March 1, 2002**, DHHS shall Establish criteria and operational procedures for the Quality Care Ombudsman Program.

By **September 1, 2004**, DHHS shall Develop a consolidation plan based on geographic and population thresholds to reduce the number of area and county programs to not more than 20.

By **July 1, 2003**, the DHHS shall complete certification of one-third of the area authorities and county programs with approved business plans.

By **January 1, 2004**, the DHHS shall complete certification of two-thirds of the area authorities and county programs with approved business plans.

By **July 1, 2004**, the DHHS shall complete certification of all area authorities and county programs.

Section 3(b) grants temporary rule making authority to the Commission and to the Department to implement reform and requires the rules to be adopted in accordance with Chapter 150B.

Section 3(c) requires the Secretary to study consolidating the Quality of Care Ombudsman with other ombudsman programs in the Department and report to the Joint Leg. Oversight Committee on or before March 1, 2002.

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Section 4(a) appropriates \$ to DHHS for the 2001-2002 fiscal year and \$ for the 2002-2003 fiscal year in order to implement the Ombudsman Program enacted in Section 1.

Section 4(b) appropriates \$1,600,000 to DHHS for the 2002-2003 fiscal year to create incentives for counties to consolidate MH/DD/SAS services. Multicounty programs either consisting of 2 counties with a total minimum population of 200,000, or consisting of at least 5 counties, shall receive \$250,000 per fiscal year as well as an additional \$50,000 for each additional county above the population or 5-county thresholds.

Section 5 makes Sections 1.1 – 1.20(b), and Section 2 become effective July 1, 2002; Section 4 becomes effective July 1, 2001; and the remainder effective when it becomes law.

Timeline

July 1, 2001

Sec. 4 Appropriations becomes effective.

Oct. 1, 2001

DHHS shall submit a progress report on each activity required under Sec. 3(a).

Dec. 1, 2001

DHHS completes the activities listed under Sec. 3(a), Subdivisions 1-6, including the review of rules, monitoring functions, service standards, the development of format and required content for business plans, and the report on readiness to implement system reform. DHHS submits a final report on each activity under Sec. 3(a) subdivisions 1-6 to the Joint Leg. Oversight Com. on MHDDSAS. DHHS submits the State Plan for MHDDSAS to the Joint Leg. Oversight Com. on MHDDSAS.

March 1, 2002

DHHS shall study the consolidation of State Ombudsman Programs and make its report to the Joint Leg. Oversight Com. on MHDDSAS. DHHS shall also make a report on established criteria and operational procedures for the Quality of Care Ombudsman Program.

July 1, 2002

The Secretary receives letters of intent from boards of county commissioners. Sections 1.1-1.21 Mental Health System Governance Changes and Sec. 2 Quality of Care Ombudsman Program become effective.

Jan. 1, 2003

Each area authority and county program submits approved business plan to Secretary.

July 1, 2003

The Secretary completes certification of 1/3 of the area authorities and county programs.

Jan. 1, 2004

The Secretary completes certification of 2/3 of the area authorities and county programs.

July 1, 2004

The Secretary completes certification of all area authorities and county programs.

Sept. 1, 2004

The Secretary, in consultation w/county commissioners & area authorities, completes the Catchment Area Consolidation Plan.

Jan. 1, 2005

The Secretary submits a report on the Catchment Area Consolidation Plan to the Leg. Oversight Com. on MHDDSAS.

Jan. 1, 2007

The number of area authority and county programs shall be reduced to no more than 20.

**2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Jim Crawford** (Chair/Chairs) for the Committee on **Mental Health**.

- ☐ Committee Substitute for
H.B. 381 A BILL TO BE ENTITLED AN ACT TO PHASE-IN IMPLEMENTATION OF
MENTAL HEALTH SYSTEM REFORM AT THE STATE AND LOCAL LEVEL.
- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.
- ☒ With a favorable report as to committee substitute bill, unfavorable as to original bill.
- ☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/15/01

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H

D

HOUSE BILL 381*
PROPOSED COMMITTEE SUBSTITUTE H381*-PCS9308-RM-43

Short Title: Mental Health System Reform.

(Public)

Sponsors:

Referred to:

March 1, 2001

A BILL TO BE ENTITLED
AN ACT TO PHASE-IN IMPLEMENTATION OF MENTAL HEALTH SYSTEM
REFORM AT THE STATE AND LOCAL LEVEL.

The General Assembly of North Carolina enacts:

Whereas, the 1999 General Assembly, Regular Session 2000, established the
Joint Legislative Oversight Committee ("Committee") on Mental Health,
Developmental Disabilities, and Substance Abuse Services; and

Whereas, the Committee was directed to develop a Plan for Mental Health
System Reform; and

Whereas, the General Assembly expressed the intent that the Plan be fully
implemented not later than July 1, 2005; and

Whereas, the General Assembly directed the Committee to "Report to the
2001 General Assembly upon its convening the changes that should be made to the
governance, structure, and financing of the State's mental health system at the State and
local levels"; and

Whereas, the Committee reviewed the governance, structure, and financing of
the current mental health system and reported its findings and recommendations to the
2001 General Assembly for legislative action; Now, therefore,
The General Assembly of North Carolina enacts:

PART 1. MENTAL HEALTH SYSTEM GOVERNANCE CHANGES

SECTION 1.1. G.S. 122C-2 reads as rewritten:

"§ 122C-2. Policy.

The policy of the State is to assist individuals with needs for mental illness, health,
developmental disabilities, and substance abuse ~~problems-services~~ in ways consistent
with the dignity, rights, and responsibilities of all North Carolina citizens. Within
available resources it is the obligation of State and local government to provide mental
health, developmental disabilities, and substance abuse services ~~to eliminate, reduce, or~~

1 ~~prevent the disabling effects of mental illness, developmental disabilities, and substance~~
2 ~~abuse through a service-delivery system designed to meet the needs of clients in the~~
3 ~~least restrictive available setting, if the least restrictive setting is therapeutically most~~
4 ~~appropriate, restrictive, therapeutically most appropriate setting available and to~~
5 ~~maximize their quality of life. It is further the obligation of the State and local~~
6 ~~government to provide community-based services when such services are appropriate,~~
7 ~~unopposed by the affected individuals, and can be reasonably accommodated within~~
8 ~~available resources and taking into account the needs of other persons for mental health,~~
9 ~~developmental disabilities, and substance abuse services.~~

10 State and local governments shall develop and maintain a unified system of services
11 centered in area authorities or county programs. The public service system will strive to
12 provide a continuum of services for clients while considering the availability of services
13 in the private sector. Within available resources, State and local government shall
14 ensure that the following core services are available:

- 15 (1) Screening, assessment, and referral.
- 16 (2) Emergency services.
- 17 (3) Service coordination.
- 18 (4) Consultation, prevention, and education.

19 Within available resources, the State shall provide funding to support services to
20 targeted populations, except that the State and counties shall provide matching funds for
21 entitlement program services as required by law.

22 The furnishing of services to implement the policy of this section requires the
23 cooperation and financial assistance of counties, the State, and the federal government."

24 **SECTION 1.2.(a)** G.S. 122C-3 is amended by adding the following new
25 subdivisions in alphabetical order to read:

- 26 "(1) 'Area director' means the administrative head of the area authority
27 program appointed pursuant to G.S. 122C-121.
- 28 (2) 'Board of county commissioners' includes the participating boards of
29 county commissioners for multicounty area authorities and
30 multicounty programs.
- 31 (3) 'Core services' are those services that are basic, essential, and
32 universally available to all individuals.
- 33 (4) 'County program' means a mental health, developmental disabilities,
34 and substance abuse services program established, operated, and
35 governed by a county pursuant to G.S. 122C-115.1.
- 36 (5) 'Program director' means the director of a county program established
37 pursuant to G.S. 122C-115.1.
- 38 (6) 'Public services' means publicly funded mental health, developmental
39 disabilities, and substance abuse services, whether provided by public
40 or private providers.
- 41 (7) 'Specialty services' means services that are provided to consumers
42 from low incidence populations.

(8) 'State' or 'Local' Ombudsman means the individual carrying out the duties of the State or Local Quality of Care Ombudsman Office in accordance with Article 1A of this Chapter.

(9) 'State Plan' means the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.

(10) 'Targeted population' means those individuals who are given service priority under the State Plan.

(11) 'Uniform portal process' means a standardized process and procedures used to ensure consumer access to, and exit from, public services in accordance with the State Plan."

SECTION 1.2.(b) G.S. 122C-3(5) reads as rewritten:

"(5) 'Catchment area' means the geographic part of the State served by a specific area authority-or county program."

SECTION 1.2.(c) G.S. 122C-3(34) and G.S. 122C-3(35) are repealed.

SECTION 1.3. G.S. 122C-64 reads as rewritten:

"§ 122C-64. Human rights committees.

Human rights committees responsible for protecting the rights of clients shall be established at each State facility and may be established for area authorities. The Commission shall adopt rules for the establishment of committees. These rules shall include the composition and duties of the committees and procedures for appointment of the members by the Secretary for State facilities and by the area board for area authorities, facility, area authority, and county program. The Commission shall adopt rules for the establishment, composition, and duties of the committees and procedures for appointment and coordination with the State and Local Ombudsman programs. In multicounty area authorities and county programs, the membership of the human rights committee shall include a representative from each of the participating counties."

SECTION 1.4. G.S. 122C-101 reads as rewritten:

"§ 122C-101. Policy.

Within the public system of mental health, developmental disabilities, and substance abuse services, there are both area, county, and State facilities. An area authority or county program is the locus of coordination among public services for clients of its catchment area. ~~To assure the most appropriate and efficient care of clients within the publicly supported service system, area authorities are encouraged to develop and secure approval for a single portal of entry and exit policy for their catchment areas for mental health and substance abuse authorities. Effective January 1, 1994, an area authority shall develop and secure approval for a single portal of entry and exit policy for public and private services for individuals with developmental disabilities."~~

SECTION 1.5. Part 1 of Article 4 of Chapter 122C of the General Statutes is amended by adding the following new section to read:

"§ 122C-102. State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.

The Department shall develop and implement a State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services. 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 engagement of stakeholders in planning coordinated Medicaid policy development, intersystem collaboration, promotion of best practices, technical assistance, outcome-based monitoring, and evaluation.
- (10) 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."

SECTION 1.6. 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 administer the programs of the area authority or county program, as applicable, and enforce ~~the rules of the area board~~, 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~~ authorities, county programs, and State facilities."

SECTION 1.7.(a) G.S. 122C-112 is repealed.

SECTION 1.7.(b) Part 2 of Article 4 of Chapter 122C of the General Statutes is amended by adding the following new section to read:

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

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

- (1) Oversee development 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 business plans submitted by area authorities and counties for the management and provision of mental health, developmental disabilities, and substance abuse services.
- (4) Adopt rules specifying the content and format of business plans.
- (5) Review business plans and upon approval of the business plan, certify the submitting area authority or county program to provide mental health, developmental disabilities, and substance abuse services.
- (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 shall include 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 compliance with the program business plan, core administrative functions, and fiscal and administrative practices and shall also address outcome measures, consumer satisfaction, client rights complaints, and adherence to best practices.
- (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 for area authorities and county programs, providers of public services, and to the Local Ombudsman Office.
- (9) Assist area authorities and county programs in the establishment and operation of community-based programs.
- (10) Operate State facilities and adopt rules pertaining to their operation.
- (11) Develop a unified system of services provided in State facilities, area facilities, and by providers enrolled or under a contract with the State.
- (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.
- (b) The Secretary may do the following:
- (1) Acquire by purchase or otherwise in the name of the Department equipment, supplies, and other personal property necessary to carry out the mental health, developmental disabilities, and substance abuse programs.

- (2) Promote and conduct research in the fields of mental health, developmental disabilities, and substance abuse; promote best practices.
- (3) Receive donations of money, securities, equipment, supplies, or any other personal property of any kind or description that shall be used by the Secretary for the purpose of carrying out mental health, developmental disabilities, and substance abuse programs. Any donations shall be reported to the Office of State Budget and Management as determined by that office.
- (4) Accept, allocate, and spend any federal funds for mental health, developmental disabilities, and substance abuse activities that may be made available to the State by the federal government. This Chapter shall be liberally construed in order that the State and its citizens may benefit fully from these funds. Any federal funds received shall be deposited with the Department of State Treasurer and shall be appropriated by the General Assembly for the mental health, developmental disabilities, or substance abuse purposes specified.
- (5) Enter agreements authorized by G.S. 122C-346.
- (6) Notwithstanding G.S. 126-18, authorize funds for contracting with a person, firm, or corporation for aid or assistance in locating, recruiting, or arranging employment of health care professionals in any facility listed in G.S. 122C-181.
- (7) Contract with one or more private providers or other public service agencies to serve clients of area authorities or county programs and reallocate program funds to pay for services under the contract if the Secretary finds all of the following:
- a. The area authority or county program refuses or has failed to provide the services to clients within its catchment area, or provide specialty services in another catchment area, in a manner that is at least adequate.
 - b. Clients within the area authority or county program catchment area will either not be served or will suffer an unreasonable hardship if required to obtain the services from another area authority or county program.
 - c. There is at least one private provider or public service agency within the area authority or county program catchment area, or within reasonable proximity to the catchment area, willing and able to provide services under contract.

Before contracting with a private provider as authorized under this subdivision, the Secretary shall provide written notification to the area authority or county program and to the board of county commissioners of the area authority or county program, of the Secretary's intent to contract and shall provide the area authority or county program and the participating boards of county commissioners an opportunity to be heard.

- (8) Contract with one or more private providers or other public service agencies to serve clients from more than one area authority or county program and reallocate the funds of the applicable programs to pay for services under the contract if the Secretary finds either that there is no other area authority or county program available to act as the administrative entity under contract with the provider or that the area authority or county program refuses or has failed to properly manage and administer the contract with the contract provider, and clients will either not be served or will suffer unreasonable hardship if services are not provided under the contract. Before contracting with a private provider as authorized under this subdivision, the Secretary shall provide written notification to the area authority or county program and the board of county commissioners of the area authority or county program of the Secretary's intent to contract, and shall provide the area authority or county program and the participating boards of county commissioners an opportunity to be heard.
- (9) Require reports of client characteristics, staffing patterns, agency policies or activities, services, or specific financial data of the area authority, county program, or all providers of public services. The reports shall not identify individual clients of the area authority or county program unless specifically required by State law or by federal law or regulation or unless valid consent for the release has been given by the client or legally responsible person."

SECTION 1.8. G.S. 122C-115 reads as rewritten:

"§ 122C-115. Powers and duties of counties and cities. Duties of counties; appropriation and allocation of funds by counties and cities.

(a) Except as provided in G.S. 153A-77, a county shall provide mental health, developmental disabilities, and substance abuse services through an area authority. A county shall provide mental health, developmental disabilities, and substance abuse services through an area authority or through a county program established pursuant to G.S. 122C-115.1. To the extent this section conflicts with G.S. 153A-77(a), the provisions of G.S. 153A-77(a) control.

(b) Counties shall and cities may appropriate funds for the support of programs that serve the catchment area, whether the programs are physically located within a single county or whether any facility housing a program is owned and operated by the city or county. Counties and cities may make appropriations for the purposes of this Chapter and may allocate for these purposes other revenues not restricted by law, and counties may fund them by levy of property taxes pursuant to G.S. 153A-149(c)(22).

(c) Within-Except as authorized in G.S. 122C-115.1, within a catchment area designated by the Commission in the business plan pursuant to G.S. 122C-115.2, a board of county commissioners or two or more boards of county commissioners jointly shall establish an area authority with the approval of the Secretary.

(d) Except as otherwise provided in this subsection, counties shall not reduce county appropriations and expenditures for current operations and ongoing programs

1 and services of area authorities or county programs because of the availability of
2 State-allocated funds, fees, capitation amounts, or fund balance to the area ~~authority-~~
3 authority or county program. Counties may reduce county appropriations by the amount
4 previously appropriated by the county for one-time, nonrecurring special needs of the
5 area ~~authority-~~ authority or county program."

6 SECTION 1.9. Part 2 of Article 4 of Chapter 122C of the General Statutes is
7 amended by adding the following new sections to read:

8 **"§ 122C-115.1. County governance and operation of mental health, developmental**
9 **disabilities, and substance abuse services program.**

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

15 (1) Adoption and administration of the program budget in accordance with
16 Chapter 159 of the General Statutes.

17 (2) Appointment of a program director to carry out the provisions of G.S.
18 122C-111 and duties and responsibilities delegated by the county.
19 Except when specifically waived by the Secretary, the program
20 director shall meet the following minimum qualifications:

21 a. Masters degree,

22 b. Related experience, and

23 c. Management experience.

24 (3) A targeted minimum population of 200,000 or a targeted minimum
25 number of five counties served by the program.

26 (4) Compliance with duties and responsibilities required under this
27 Chapter and the rules of the Commission and the Secretary.

28 (5) Written notification to the Secretary prior to the termination of the
29 interlocal agreement.

30 (6) Appointment of an advisory committee. The interlocal agreement shall
31 designate a county manager to which the advisory committee shall
32 report. The interlocal agreement shall also designate the appointing
33 authorities. The appointing authorities shall make appointments that
34 take into account sufficient citizen participation, equitable
35 representation of the disability groups, and equitable representation of
36 participating counties. At least fifty percent (50%) of the membership
37 shall conform to the requirements provided in G.S. 122C-118.1(b)(1)-

38 (4).

39 (b) Before establishing a county program pursuant to this section, a county board
40 of commissioners shall hold a public hearing with notice published at least 10 days
41 before the hearing.

42 (c) A county shall ensure that the county program and the services provided
43 through the county program comply with the provisions of this Chapter and the rules
44 adopted by the Commission and the Secretary.

(d) A county program shall submit on a quarterly basis to the Secretary and the board of county commissioners service delivery reports that assess the quality and availability of public services within the county program's catchment area. The service delivery reports shall include the types of services delivered, number of recipients served, and services requested but not delivered due to staffing, financial, or other constraints. In addition, at least annually, a progress report shall be submitted to the Secretary and the board of county commissioners. The progress report shall include an assessment of the progress in implementing local service plans, goals, and outcomes. All reports shall be in a format and shall contain any additional information required by the Secretary or board of county commissioners.

(e) Within 30 days of the end of each quarter of the fiscal year, the program director and finance officer of the county program shall present to each member of the board of county commissioners a budgetary statement and balance sheet that details the assets, liabilities, and fund balance of the county program. This information shall be read into the minutes of the meeting at which it is presented. The program director or finance officer of the county program shall provide to the board of county commissioners ad hoc reports as requested by the board of county commissioners.

(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.

(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 membership shall conform to the requirements in G.S. 122C-118.1(b)(1)-(4). In a multicounty program, the advisory committee shall be appointed in accordance with the terms of the interlocal agreement.

(h) The county program may contract to provide services to governmental or private entities, including Employee Assistance Programs.

(i) Except as otherwise specifically provided, this Chapter applies to counties that provide mental health, developmental disabilities, and substance abuse services through a county program. As used in the applicable sections of this Article, the terms 'area authority', 'area program', and 'area facility' shall be construed to include 'county program'. The following sections of this Article do not apply to county programs:

(1) G.S. 122C-115.3, 122C-116, 122C-117, and 122C-118.1.

(2) G.S. 122C-119 and G.S. 122C-119.1.

(3) G.S. 122C-120 and G.S. 122C-121.

(4) G.S. 122C-127.

(5) G.S. 122C-147.

(6) G.S. 122C-152 and G.S. 122C-153.

(7) G.S. 122C-156.

(8) G.S. 122C-158.

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

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

9 (b) Business plans shall include the following:

10 (1) Description of how the following core administrative functions will be
11 carried out:

12 a. Planning. – Local services plans that identify service gaps and
13 methods for filling the gaps, ensure the availability of an array
14 of services based on consumer needs, provision of core
15 services, equitable service delivery among member counties,
16 and prescribing the efficient and effective use of all funds for
17 targeted services. Local planning shall be an open process
18 involving key stakeholders.

19 b. Provider network development. – Ensuring available, qualified
20 providers to deliver services based on the business plan.
21 Development of new providers and monitoring provider
22 performance and service outcomes. Provider network
23 development shall address consumer choice and fair
24 competition. For the purposes of this section, a 'qualified
25 provider' means a provider who meets the provider
26 qualifications as defined by rules adopted by the Secretary.

27 c. Service management. – Implementation of uniform portal
28 process. Service management shall include appropriate level
29 and intensity of services, management of State
30 hospitals/facilities bed days, utilization management, case
31 management, and quality management. If services are provided
32 directly by the area authority or county program, then the plan
33 shall indicate how consumer choice and fair competition in the
34 marketplace is ensured.

35 d. Financial management and accountability. – Carrying out
36 business functions in an efficient and effective manner, cost-
37 sharing, and managing resources dedicated to the public system.

38 e. Service monitoring and oversight. – Ensuring that services
39 provided to consumers and families meet State outcome
40 standards and ensure quality performance by providers in the
41 network.

42 f. Evaluation. – Self-evaluation based on statewide outcome
43 standards and participation in independent evaluation studies.

g. Collaboration. – Collaborating with other local service systems in ensuring access and coordination of services at the local level. Collaborating with other area authorities and county programs and the State in planning and delivering services.

h. Access. – Ensuring access to core and targeted services.

(2) Description of how the following will be addressed:

a. Reasonable administrative costs based on uniform State criteria for calculating administrative costs and costs or savings anticipated from consolidation.

b. Proposed reinvestment of savings toward direct services.

c. Compliance with the catchment area consolidation plan adopted by the Secretary.

d. Based on rules adopted by the Secretary, method for calculating county resources to reflect cash and in-kind contributions of the county.

e. Financial and services accountability and oversight in accordance with State and federal law.

f. The composition and appointment of the area authority board.

g. The population base of the catchment area to be served.

h. Use of local funds for the alteration, improvement, and rehabilitation of real property as authorized by and in accordance with G.S. 122C-147.

(3) Other matters determined by the Secretary to be necessary to effectively and efficiently provide mental health, developmental disabilities, and substance abuse services through an area authority or county program.

(c) The county program or area authority proposing the business plan shall submit the proposed plan as approved by the board of county commissioners to the Secretary for review and certification. The Secretary shall review the business plan within 30 days of receipt of the plan. If the business plan meets all of the requirements of State law and standards adopted by the Secretary, then the Secretary shall certify the area authority or county program as a single-county area authority or county program or a multicounty area authority or multicounty program. Implementation of the certified plan shall begin within 30 days of certification. If the Secretary determines that changes to the plan are necessary, then the Secretary shall so notify the submitting county program or area authority and to the participating boards of county commissioners an opportunity and shall indicate in the notification the changes that need to be made in order for the proposed program to be certified. The submitting county program or area authority shall have 30 days from receipt of the Secretary's notice to make the requested changes and resubmit the amended plan to the Secretary for review. The Secretary shall provide whatever assistance is necessary to resolve outstanding issues. Amendments to the business plan shall be subject to the approval of the participating boards of county commissioners.

(d) Annually, in accordance with procedures established by the Secretary, each area authority and county program submitting a business plan shall enter into a memorandum of agreement with the Secretary for the purpose of ensuring that State funds are used in accordance with priorities expressed in the business plan.

"§ 122C-115.3. Dissolution of area authority.

(a) Whenever the board of commissioners of each county constituting an area authority determines that the area authority is not operating in the best interests of consumers, it may direct that the area authority be dissolved. In addition, whenever a board of commissioners of a county that is a member of an area authority determines that the area authority is not operating in the best interests of consumers of that county, it may withdraw from the area authority. Dissolution of an area authority or withdrawal from the area authority by a county shall be effective only at the end of the fiscal year in which the action of dissolution or withdrawal transpired.

(b) Before a county withdraws from an area authority, the county board of commissioners shall hold a public hearing with notice published at least 10 days before the hearing.

(c) Prior to dissolution, an area authority shall hold a public hearing with notice published in every county comprising the area authority at least 10 days before the hearing.

(d) Notwithstanding the provisions of subsection (a) of this section, no county shall withdraw from an area authority nor shall an area authority be dissolved without first demonstrating that continuity of services will be assured and without prior approval of the Secretary.

(e) Any budgetary surplus available to an area authority at the time of its dissolution shall be distributed to those counties comprising the area authority on the same pro rata basis that the counties appropriated and contributed funds to the area authority's budget during the current fiscal year. Distribution to the counties shall be determined on the basis of an audit of the financial record of the area authority. The area authority board shall select a certified public accountant or an accountant who is subsequently certified by the Local Government Commission to conduct the audit. The audit shall be performed in accordance with G.S. 159-34. The same method of distribution of funds described above shall apply when one or more counties of an area authority withdraw from the area authority.

(f) Any liabilities at the time of its dissolution shall be paid from unobligated surplus funds available to the area authority. If unobligated surplus funds are not sufficient to satisfy the total indebtedness of the area authority, then the remaining unsatisfied indebtedness shall be apportioned on the same pro rata basis as the distribution of surplus funds described in subsection (e) of this section.

(g) The same method of distribution of funds described in subsection (e) of this section shall apply when one or more counties of an area authority withdraw from the area authority."

SECTION 1.10. G.S. 122C-117 reads as rewritten:

"§ 122C-117. Powers and duties of the area authority.

(a) The area authority shall do all of the following:

- (1) Engage in comprehensive planning, budgeting, implementing, and monitoring of community-based mental health, developmental disabilities, and substance abuse ~~services;~~services.
- (2) Provide services to clients in the catchment area, including clients committed to the custody of the Department of Juvenile Justice and Delinquency ~~Prevention;~~Prevention.
- (3) Determine the needs of the area authority's clients and coordinate with the Secretary and with the Department of Juvenile Justice and Delinquency Prevention the provision of services to clients through area and State ~~facilities;~~facilities.
- (4) Develop plans and budgets for the area authority subject to the approval of the ~~Secretary;~~Secretary. The area authority shall submit the approved budget to the board of county commissioners and the county manager and provide quarterly reports on financial status of the program in accordance with subsection (c) of this section.
- (5) Assure that the services provided by the county through the area authority meet the rules of the Commission and ~~Secretary;~~Secretary.
- (6) Comply with federal requirements as a condition of receipt of federal ~~grants; and~~ grants.
- (7) ~~Appoint an area director, chosen through a search committee on which the Secretary of the Department of Health and Human Services or the Secretary's designee serves as a nonvoting member.~~ Appoint an area director in accordance with G.S. 122C-121. The appointment is subject to the approval of the board of county commissioners. The appointment shall be based on a selection by a search committee of the area authority board. The search committee shall include consumer board members, a county manager, a member appointed by the Secretary, and one or more county commissioners.
- (8) Develop and submit to the board of county commissioners for approval the business plan required under G.S. 122C-115.2. A multicounty area authority shall submit the business plan to each participating board of county commissioners for its approval. The boards of county commissioners of a multicounty area authority shall jointly submit one approved business plan to the Secretary for approval and certification.
- (9) Perform public relations and community advocacy functions.
- (10) Recommend to the board of county commissioners the creation of local program services.
- (11) Submit to the Secretary and the board of county commissioners service delivery reports, on a quarterly basis, that assess the quality and availability of public services within the area authority's catchment area. The service delivery reports shall include the types of services delivered, number of recipients served, and services requested but not delivered due to staffing, financial, or other constraints. In addition, at

1 least annually, a progress report shall be submitted to the Secretary and
2 the board of county commissioners. The progress report shall include
3 an assessment of the progress in implementing local service plans,
4 goals, and outcomes. All reports shall be in a format and shall contain
5 any additional information required by the Secretary or board of
6 county commissioners.

7 (12) Comply with this Article and rules adopted by the Secretary for the
8 development and submission of and compliance with the area authority
9 business plan.

10 (a1) The area authority may contract to provide services to governmental or
11 private entities, including Employee Assistance Programs.

12 (b) The governing unit of the area authority is the area board. All powers, duties,
13 functions, rights, privileges, or immunities conferred on the area authority may be
14 exercised by the area board.

15 (c) Within 30 days of the end of each quarter of the fiscal year, the area director
16 and finance officer of the area authority shall provide to each member of the board of
17 county commissioners the quarterly report of the area authority. This information shall
18 be presented in a format prescribed by the county. At least twice a year, this information
19 shall be presented in person and shall be read into the minutes of the meeting at which it
20 is presented. In addition, the area director or finance officer of the area authority shall
21 provide to the board of county commissioners ad hoc reports as requested by the board
22 of county commissioners.

23 (d) A multicounty area authority shall provide to each board of county
24 commissioners of participating counties a copy of the area authority's annual audit. The
25 audit findings shall be presented in a format prescribed by the county and shall be read
26 into the minutes of the meeting at which the audit findings are presented."

27 **SECTION 1.11.(a)** G.S. 122C-118 is repealed.

28 **SECTION 1.11.(b)** Article 4 of Chapter 122C of the General Statutes is
29 amended by adding the following new section to read:

30 **"§ 122C-118.1. Structure of area board.**

31 (a) An area board shall have no fewer than 11 and no more than 15 members. In
32 a single county area authority, the members shall be appointed by the board of county
33 commissioners. In a multicounty area authority, each board of county commissioners
34 shall jointly appoint the members of the board. These appointments shall take into
35 account sufficient citizen participation, equitable representation of the disability groups,
36 and equitable representation of participating counties. Individuals appointed to the
37 board shall include an individual with financial expertise or a county finance officer, an
38 individual with expertise in management or business, and an individual representing the
39 interests of children. A member of the board may be removed with or without cause by
40 the initial appointing authority. Vacancies on the board shall be filled by the initial
41 appointing authority before the end of the term of the vacated seat or within 120 days of
42 the vacancy, whichever occurs first, and the appointments shall be for the remainder of
43 the unexpired term.

1 **(b)** At least fifty percent (50%) of the members of the area board shall represent
2 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 family member or an individual from citizens' organizations
9 composed primarily of consumers or their family members,
10 representing the interests of individuals:

11 a. With mental illness; and

12 b. In recovery from addiction; and

13 c. With developmental disabilities.

14 **(4)** Openly declared consumers:

15 a. With mental illness; and

16 b. With developmental disabilities; and

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 more than one category of membership if the
20 member has the qualifications or attributes of more than one category of membership.

21 **(d)** The terms of the members on the area authority board shall be for four years,
22 except that upon the initial formation of a program board one-fourth shall be appointed
23 for one year, one-fourth for two years, one-fourth for three years, and all remaining
24 members for four years. Members shall not be appointed for more than two consecutive
25 terms.

26 **(e)** The board shall provide upon request public information pertaining to the
27 membership of the board as required under Chapter 132 of the General Statutes."

28 **SECTION 1.11.(c)** G.S. 122C-119 reads as rewritten:

29 **"§ 122C-119. Organization of area board.**

30 **(a)** The area board shall meet at least six times per year.

31 **(b)** Meetings shall be called by the area board chairman or by three or more
32 members of the board after notifying the area board chairman in writing.

33 **(c)** Members of the area board elect the board's chairman. The term of office of
34 the area board chairman shall be one year. A county commissioner area board member
35 may serve as the area board chairman.

36 **(d)** The area board shall establish a finance committee that shall meet at least six
37 times per year to review the financial strength of the area program. The finance
38 committee shall have a minimum of three members, two of whom have expertise in
39 budgeting and fiscal control. A county finance officer shall serve as an ex officio
40 member. All other finance officers of affiliated counties in a multicounty area authority
41 may serve as ex officio members. If the area board so chooses, the entire area board
42 may function as the finance committee; however, its required meetings as a finance
43 committee shall be distinct from its meetings as an area board."

44 **SECTION 1.12.** G.S. 122C-121 reads as rewritten:

1 **"§ 122C-121. Area director.**

2 (a) ~~The area director is an employee of the area board and shall serve at the~~
3 ~~pleasure of the area board. The director is responsible for the staff appointments, for~~
4 ~~implementation of the policies and programs of the board in compliance with rules of~~
5 ~~the Commission and the Secretary, and for the supervision of all service programs and~~
6 ~~staff. The area director is an employee of the area board and shall be appointed in~~
7 ~~accordance with G.S. 122C-117(7). The area director is the administrative head of the~~
8 ~~area program.~~

9 (b) The area board shall evaluate annually the area director for performance
10 based on criteria established by the Secretary and the area board. In conducting the
11 evaluation, the area board shall consider comments from the board of county
12 commissioners.

13 (c) In addition to the duties under G.S. 122C-111, the area director shall:

14 (1) Appoint and supervise area program staff.

15 (2) Administer area authority services.

16 (3) Develop the budget of the area authority for review by the area board.

17 (4) Provide information and advice to the board of county commissioners
18 through the county manager.

19 (5) Act as liaison between the area authority and the Department.

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

22 (1) Masters degree;

23 (2) Related experience; and

24 (3) Management experience."

25 **SECTION 1.13.(a)** G.S. 122C-124, 122C-125.1, and 122C-126 are repealed.

26 **SECTION 1.13.(b)** Article 4 of Chapter 122C of the General Statutes is
27 amended by adding the following new section to read:

28 **"§ 122C-124.1. Actions by the Secretary when area authority or county program is**
29 **not providing minimally adequate services.**

30 (a) Notice of Likelihood of Action. – When the Secretary determines that there is
31 a likelihood of suspension of funding, assumption of service delivery or management
32 functions, or appointment of a caretaker board under this section within the ensuing 60
33 days, the Secretary shall so notify in writing the area authority board or the county
34 program and the board of county commissioners of the area authority or county
35 program. The notice shall state the particular deficiencies in program services or
36 administration that must be remedied to avoid action by the Secretary under this section.
37 The area authority board or county program shall have 60 days from the date it receives
38 notice under this subsection to take remedial action to correct the deficiencies. The
39 Secretary shall provide technical assistance to the area authority or county program in
40 remedying deficiencies.

41 (b) Suspension of Funding; Assumption of Service Delivery or Management
42 Functions. – If the Secretary determines that a county, through an area authority or
43 county program, is not providing minimally adequate services, in accordance with rules
44 adopted by the Secretary or the Commission, to persons in need in a timely manner, or

1 fails to demonstrate reasonable efforts to do so, the Secretary, after providing written
2 notification of the Secretary's intent to the area authority or county program and to the
3 board of county commissioners of the area authority or county program, and after
4 providing the area authority or county program and the boards of county commissioners
5 of the area authority or county program an opportunity to be heard, may:

- 6 (1) Withhold funding for the particular service or services in question
7 from the area authority or county program and ensure the provision of
8 these services through contracts with public or private agencies or by
9 direct operation by the Department.

10 Upon suspension of funding, the Department shall direct the
11 development and oversee implementation of a corrective plan of action
12 and provide notification to the area authority or county program and
13 the board of county commissioners of the area authority or county
14 program of any ongoing concerns or problems with the area authority's
15 or county program's finances or delivery of services.

- 16 (2) Assume control of the particular service or management functions in
17 question or of the area authority or county program and appoint an
18 administrator to exercise the powers assumed. This assumption of
19 control shall have the effect of divesting the area authority or county
20 program of its powers in G.S. 122C-115.1 and G.S. 122C-117.1 and
21 all other service delivery powers conferred in the area authority or
22 county program by law as they pertain to this service or management
23 function. County funding of the area program or county program shall
24 continue when the State has assumed control of an area program or
25 county program catchment area or of the area program or county
26 program. At no time after the State has assumed this control shall a
27 county withdraw funds previously obligated or appropriated to the area
28 program or county program.

29 Upon assumption of control of service delivery or management
30 functions, the Department shall, in conjunction with the area authority
31 or county program, develop and implement a corrective plan of action
32 and provide notification to the area authority or county program and
33 the board of county commissioners of the area authority or county
34 program of the plan. The Department shall also keep the area authority
35 board and the board of county commissioners informed of any ongoing
36 concerns or problems with the delivery of services.

37 (c) Appointment of Caretaker Administrator. – In the event that a county,
38 through an area authority or county program, fails to comply with the corrective plan of
39 action required when funding is suspended or when the State assumes control of service
40 delivery or management functions, the Secretary, after providing written notification of
41 the Secretary's intent to the area authority or county program and the board of county
42 commissioners of the area authority or county program, shall appoint a caretaker
43 administrator, a caretaker board of directors, or both.

1 The Secretary may assign any of the powers and duties of the area director or
2 program director and of the area authority board and board of county commissioners of
3 the area authority or county program pertaining to the operation of mental health,
4 developmental disabilities, and substance abuse services and the caretaker board to the
5 caretaker administrator as it deems necessary and appropriate to continue to provide
6 direct services to clients, including the powers as to the adoption of budgets,
7 expenditures of money, and all other financial powers conferred on the area authority or
8 county program by law pertaining to the operation of mental health, developmental
9 disabilities, and substance abuse services. County funding of the area program or county
10 program shall continue when the State has assumed control of the financial affairs of the
11 program. At no time after the State has assumed this control shall a county withdraw
12 funds previously obligated or appropriated to the area program or county program. The
13 caretaker administrator and the caretaker board shall perform all of these powers and
14 duties. The Secretary may terminate the area director or program director when it
15 appoints a caretaker administrator. Chapter 150B of the General Statutes shall apply to
16 any such decision. Neither party to any such contract shall be entitled to damages. After
17 a caretaker board has been appointed, the General Assembly shall consider, at its next
18 regular session, the future governance of the identified area program or county
19 program."

20 **SECTION 1.14.** G.S. 122C-141 reads as rewritten:

21 **"§ 122C-141. Provision of services.**

22 (a) The area authority or county program may provide services directly and may
23 shall contract with other public or private agencies, institutions, or resources for the
24 provision of services. Subject to the approval of the Secretary, an area authority or
25 county program may provide services directly when other qualified public or private
26 providers are unavailable to meet service needs. When providing services directly, an
27 area authority or county program shall ensure consumer choice and fair competition in
28 accordance with rules adopted by the Secretary. For the purposes of this section, a
29 'qualified public or private provider' is a provider who meets the provider qualifications
30 as defined by rules adopted by the Secretary.

31 (b) All area authority or county program services provided directly or under
32 contract shall meet the requirements of applicable State statutes and the rules of the
33 Commission and the Secretary. The Secretary may delay payments and, with written
34 notification of cause, may reduce or deny payment of funds if an area authority or
35 county program fails to meet these requirements.

36 (c) The area authority or board of county commissioners of a county program
37 may contract with a health maintenance organization, certified and operating in
38 accordance with the provisions of Article 67 of Chapter 58 of the General Statutes for
39 the area ~~authority~~, authority or county program, to provide mental health, developmental
40 disabilities, or substance abuse services to enrollees in a health care plan provided by
41 the health maintenance organization. The terms of the contract must meet the
42 requirements of all applicable State statutes and rules of the Commission and Secretary
43 governing both the provision of services by an area authority or county program and the
44 general and fiscal operation of an area authority or county program and the

reimbursement rate for services rendered shall be based on the usual and customary charges paid by the health maintenance organization to similar providers. Any provision in conflict with a State statute or rule of the Commission or the Secretary shall be void; however, the presence of any void provision in that contract does not render void any other provision in that contract which is not in conflict with a State statute or rule of the Commission or the Secretary. Subject to approval by the Secretary and pending the timely reimbursement of the contractual charges, the area authority or county program may expend funds for costs which may be incurred by the area authority or county program as a result of providing the additional services under a contractual agreement with a health maintenance organization."

SECTION 1.15. G.S. 122C-143.2 is repealed.

SECTION 1.16.(a) G.S. 122C-151.2 reads as rewritten:

"§ 122C-151.2. Appeal by area ~~authorities~~ authorities and county programs.

(a) The area authority or county program may appeal to the Commission any action regarding rules under the jurisdiction of the Commission or rules under the joint jurisdiction of the Commission and the Secretary.

(b) The area authority or county program may appeal to the Secretary any action regarding rules under the jurisdiction of the Secretary.

(c) Appeals shall be conducted according to rules adopted by the Commission and Secretary and in accordance with Chapter 150B of the General Statutes."

SECTION 1.16.(b) G.S. 122C-151.3 reads as rewritten:

"§ 122C-151.3. Dispute with area ~~authorities~~ authorities or county programs.

An area authority or county program shall establish written procedures for resolving disputes over decisions of an area authority or county program that may be appealed to the ~~Area Authority~~ State MH/DD/SA Appeals Panel under G.S. 122C-151.4. The procedures shall be informal and shall provide an opportunity for those who dispute the decision to present their position."

SECTION 1.16.(c) G.S. 122C-151.4 reads as rewritten:

"§ 122C-151.4. Appeal to ~~Area Authority~~ State MH/DD/SA Appeals Panel.

(a) Definitions. – The following definitions apply in this section:

(1) "Contract" means a contract with an area authority or county program to provide services, other than personal services, to clients and other recipients of services.

(2) "Contractor" means a person who has a contract or who had a contract during the current fiscal year.

(3) "Former contractor" means a person who had a contract during the previous fiscal year.

(4) "Appeals Panel" means the State MH/DD/SA Appeals Panel established under this section.

(5) "Client" means an individual who is admitted to or receiving public services from an area facility. "Client" includes the client's personal representative or designee.

(b) Appeals Panel. – The ~~Area Authority~~ State MH/DD/SA Appeals Panel is established. The Panel shall consist of three members appointed by the Secretary. The

1 Secretary shall determine the qualifications of the Panel members. Panel members serve
2 at the pleasure of the Secretary.

3 (c) Who Can Appeal. – The following persons may appeal to the ~~Area Authority~~
4 State MH/DD/SA Appeals Panel after having exhausted the appeals process at the
5 appropriate area authority or county program:

6 (1) A contractor or a former contractor who claims that an area authority
7 or county program is not acting or has not acted within applicable
8 State law or rules in imposing a particular requirement on the
9 contractor on fulfillment of the contract;

10 (2) A contractor or a former contractor who claims that a requirement of
11 the contract substantially compromises the ability of the contractor to
12 fulfill the contract;

13 (3) A contractor or former contractor who claims that an area authority or
14 county program has acted arbitrarily and capriciously in reducing
15 funding for the type of services provided or formerly provided by the
16 contractor or former contractor;

17 (4) A client or a person who was a client in the previous fiscal year, who
18 claims that an area authority or county program has acted arbitrarily
19 and capriciously in reducing funding for the type of services provided
20 or formerly provided to the client directly by the area ~~authority~~; or
21 county program; and

22 (5) A person who claims that an area authority or county program did not
23 comply with a State law or a rule adopted by the Secretary or the
24 Commission in developing the plans and budgets of the area authority
25 or county program and that the ~~area authority's~~ failure to comply has
26 adversely affected the ability of the person to participate in the
27 development of the plans and budgets.

28 (d) Hearing. – All members of the ~~Area Authority~~ State MH/DD/SA Appeals
29 Panel shall hear an appeal to the Panel. An appeal shall be filed with the Panel within
30 the time required by the Secretary and shall be heard by the Panel within the time
31 required by the Secretary. A hearing shall be conducted at the place determined in
32 accordance with the rules adopted by the Secretary. A hearing before the Panel shall be
33 informal; no sworn testimony shall be taken and the rules of evidence do not apply. The
34 person who appeals to the Panel has the burden of proof. The Panel shall not stay a
35 decision of an area authority during an appeal to the Panel.

36 (e) Decision. – The ~~Area Authority~~ State MH/DD/SA Appeals Panel shall make
37 a written decision on each appeal to the Panel within the time set by the Secretary. A
38 decision may direct a ~~contractor or contractor~~, an area ~~authority~~ authority, or a county
39 program to take an action or to refrain from taking an action, but it shall not require a
40 party to appeal to pay any amount except payment due under the contract. In making a
41 decision, the Panel shall determine the course of action that best protects or benefits the
42 clients of the area ~~authority~~ authority or county program. If a party to an appeal fails to
43 comply with a decision of the Panel and the Secretary determines that the failure
44 deprives clients of the area authority or county program of a type of needed service, the

Secretary may use funds previously allocated to the area authority or county program to provide the service.

(f) Chapter 150B Appeal. – A person who is dissatisfied with a decision of the Panel may commence a contested case under Article 3 of Chapter 150B of the General Statutes. Notwithstanding G.S. 150B-2(1), an area authority or county program is considered an agency for purposes of the limited appeal authorized by this section. The Secretary shall make a final decision in the contested case."

SECTION 1.17. G.S. 122C-154 reads as rewritten:

"§ 122C-154. Personnel.

Employees under the direct supervision of the area ~~authority~~ director are employees of the area authority. For the purpose of personnel administration, Chapter 126 of the General Statutes applies unless otherwise provided in this Article. Employees appointed by the county program director are employees of the county. In a multicounty program, employment of county program staff shall be as agreed upon in the interlocal agreement adopted pursuant to G.S. 122C-115.1."

SECTION 1.18. G.S. 122C-181 reads as rewritten:

"§ 122C-181. Secretary's jurisdiction over State facilities.

(a) Except as provided in subsection (b) of this section, the Secretary shall operate the following facilities:

(1) For the mentally ill:

- a. Cherry Hospital;
- b. Dorothea Dix Hospital;
- c. John Umstead Hospital; and
- d. Broughton Hospital; and

(2) For the mentally retarded:

- a. Caswell Center;
- b. O'Berry Center;
- c. Murdoch Center;
- d. Western Carolina Center; and
- e. Black Mountain Center; and

(3) For substance abusers:

- a. Walter B. Jones Alcohol and Drug Abuse Treatment Center at Greenville; and
- b. Julian F. Keith Alcohol and Drug Abuse Treatment ~~Center at~~
~~Butner; Center; and~~
- c. ~~Alcohol and Drug Abuse Treatment Center at Black Mountain;~~
~~and~~

(4) As special care facilities:

- a. ~~Wilson~~ North Carolina Special Care Center;
- b. Whitaker School; and
- c. ~~Wright School; and~~ School.
- d. ~~Butner Adolescent Treatment Center.~~

(b) The Secretary may, with the approval of the Governor and Council of State, close any State facility."

1 **SECTION 1.19.(a)** G.S. 122C-112(13) is repealed.

2 **SECTION 1.19.(b)** Part 1 of Article 3 of Chapter 143B of the General
3 Statutes is amended by adding the following new section to read:

4 "§ 143B-139.6A. Secretary's responsibilities regarding availability of early
5 intervention services.

6 The Secretary of the Department of Health and Human Services shall ensure, in
7 cooperation with other appropriate agencies, that all types of early intervention services
8 specified in the "Individuals with Disabilities Education Act" (IDEA), P.L. 102-119, the
9 federal early intervention legislation, are available to all eligible infants and toddlers
10 and their families to the extent funded by the General Assembly.

11 The Secretary shall coordinate and facilitate the development and administration of
12 the early intervention system for eligible infants and toddlers and shall assign among the
13 cooperating agencies the responsibility, including financial responsibility, for services.
14 The Secretary shall be advised by the Interagency Coordinating Council for Children
15 from Birth to Five with Disabilities and Their Families, established by G.S. 143B-179.5,
16 and may enter into formal interagency agreements to establish the collaborative
17 relationships with the Department of Public Instruction, other appropriate agencies, and
18 other public and private service providers necessary to administer the system and
19 deliver the services.

20 The Secretary shall adopt rules to implement the early intervention system, in
21 consultation with all other appropriate agencies."

22 **SECTION 1.20.(a)** G.S. 143B-147 reads as rewritten:

23 **"§ 143B-147. Commission for Mental Health, Developmental Disabilities, and**
24 **Substance Abuse Services – creation, powers and duties.**

25 (a) There is hereby created the Commission for Mental Health, Developmental
26 Disabilities, and Substance Abuse Services of the Department of Health and Human
27 Services with the power and duty to adopt, amend and repeal rules to be followed in the
28 conduct of State and local mental health, developmental disabilities, ~~alcohol and drug~~
29 ~~abuse~~ substance abuse programs including education, prevention, intervention,
30 ~~treatment, rehabilitation screening, assessment, referral, detoxification, treatment,~~
31 ~~rehabilitation, continuing care, emergency services, case management, and other related~~
32 services. Such rules shall be designed to promote the amelioration or elimination of the
33 ~~mental health, illness, developmental disabilities, or alcohol and drug abuse substance~~
34 ~~abuse~~ problems of the citizens of this State. The Commission for Mental Health,
35 Developmental Disabilities, and Substance Abuse Services shall have the authority:

36 (1) To adopt rules regarding the

37 a. Admission, including the designation of regions, treatment, and
38 professional care of individuals admitted to a facility operated
39 under the authority of G.S. 122C-181(a), that is now or may be
40 established;

41 b. Operation of education, prevention, intervention, treatment,
42 rehabilitation and other related services as provided by area
43 mental health, developmental disabilities, and substance abuse
44 ~~authorities~~ authorities, county programs, and all providers of

- 1 public services under Part 4 of Article 4 of Chapter 122C of the
2 General Statutes;
- 3 c. Hearings and appeals of area mental health, developmental
4 disabilities, and substance abuse authorities as provided for in
5 Part 4 of Article 4 of Chapter 122C of the General Statutes; and
6 d. ~~Requirements of the federal government for grants in aid for~~
7 ~~mental health, developmental disabilities, alcohol or drug abuse~~
8 ~~programs which may be made available to local programs or the~~
9 ~~State. This section is to be liberally construed in order that the~~
10 ~~State and its citizens may benefit from such grants in aid; and~~
11 e. ~~Implementation of single uniform portal process and policies of~~
12 ~~entry and exit policies established pursuant to Chapter 122C of~~
13 ~~the General Statutes.~~
14 f. Standards of public services for mental health, developmental
15 disabilities, and substance abuse services.
- 16 (2) To adopt rules for the licensing of facilities for the mentally ill,
17 developmentally disabled, and substance abusers, under Article 2 of
18 Chapter 122C of the General Statutes.
- 19 (3) To advise the Secretary of the Department of Health and Human
20 Services regarding the need for, provision and coordination of
21 education, prevention, intervention, treatment, rehabilitation and other
22 related services in the areas of:
- 23 a. Mental illness and mental health,
24 b. Developmental disabilities,
25 c. ~~Alcohol abuse, and~~ Substance abuse.
26 d. ~~Drug abuse;~~
- 27 (4) To review and advise the Secretary of the Department of Health and
28 Human Services regarding all State plans required by federal or State
29 law and to recommend to the Secretary any changes it thinks necessary
30 in those plans; provided, however, for the purposes of meeting State
31 plan requirements under federal or State law, the Department of Health
32 and Human Services is designated as the single State agency
33 responsible for administration of plans involving mental health,
34 developmental disabilities, ~~alcohol abuse, and drug abuse services;~~ and
35 substance abuse services.
- 36 (5) To adopt rules relating to the registration and control of the
37 manufacture, distribution, security, and dispensing of controlled
38 substances as provided by ~~G.S. 90-100;~~ G.S. 90-100.
- 39 (6) To adopt rules to establish the professional requirements for staff of
40 licensed facilities for the mentally ill, developmentally disabled, and
41 substance abusers. Such rules may require that one or more, but not all
42 staff of a facility be either licensed or certified. If a facility has only
43 one professional staff, such rules may require that that individual be
44 licensed or certified. Such rules may include the recognition of

professional certification boards for those professions not licensed or certified under other provisions of the General Statutes provided that the professional certification board evaluates applicants on a basis which protects the public health, safety or ~~welfare~~; welfare.

(7) Except where rule making authority is assigned under that Article to the Secretary of the Department of Health and Human Services, to adopt rules to implement Article 3 of Chapter 122C of the General ~~Statutes~~; Statutes.

(8) To adopt rules specifying procedures for waiver of rules adopted by the Commission.

(b) All rules hereby adopted shall be consistent with the laws of this State and not inconsistent with the management responsibilities of the Secretary of the Department of Health and Human Services provided by this Chapter and the Executive Organization Act of 1973.

(c) All rules and regulations pertaining to the delivery of services and licensing of facilities heretofore adopted by the Commission for Mental Health and Mental Retardation Services, controlled substances rules and regulations adopted by the North Carolina Drug Commission, and all rules and regulations adopted by the Commission for Mental Health, Mental Retardation and Substance Abuse Services shall remain in full force and effect unless and until repealed or superseded by action of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.

(d) All rules adopted by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall be enforced by the Department of Health and Human Services."

SECTION 1.20.(b) G.S. 143B-148 reads as rewritten:

"§ 143B-148. Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services – members; selection; quorum; compensation.

(a) The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services shall consist of 26 members:

(1) Four of whom shall be appointed by the General Assembly, two upon the recommendation of the Speaker of the House of Representatives, and two upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. These members shall be individuals who are concerned about the needs of individuals for mental health, developmental disabilities, and substance abuse services. ~~have concern for the problems of mental illness, developmental disabilities, alcohol and drug abuse.~~ Members shall serve for two-year terms beginning July 1 of odd-numbered years. A member shall serve not more than three consecutive two-year terms. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122;

(2) Twenty-two of whom shall be appointed by the Governor, one from each congressional district in the State in accordance with G.S. 147-12(3)b, and 10 at-large members.

a. Of these 22 members, three shall have a special interest in mental health, three shall have a special interest in mental retardation, three shall have a special interest in developmental disabilities other than mental retardation, three shall have a special interest in alcohol abuse and alcoholism and three shall have a special interest in drug abuse. Each group of three shall be made up of one member who is a consumer representative; one other who is a representative of a local or State citizen organization or association; and one other who is a professional in the field.

b. The remaining seven members shall be appointed from the general public, other citizen groups, area mental health, developmental disabilities, and substance abuse authorities, or from other related agencies.

c. Of these 22 appointments, at least one shall be a licensed physician and at least one other shall be a licensed attorney.

d. The Governor shall appoint members to the Commission in accordance with the foregoing provisions. The terms of all Commission members appointed by the Governor shall be four years. The initial term of the person representing the 12th Congressional District shall begin January 3, 1993, and expire June 30, 1996. All Commission members shall serve their designated terms and until their successors are duly appointed and qualified. All Commission members may succeed themselves.

(3) All appointments shall be made pursuant to current federal rules and regulations, when not inconsistent with State law, which prescribe the selection process and demographic characteristics as a necessary condition to the receipt of federal aid.

(b) Except as otherwise provided in this section, the provisions of G.S. 143B-13 through 143B-20 relating to appointment, qualifications, terms and removal of members shall apply to all members of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.

(c) Commission members shall receive per diem, travel and subsistence allowances in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

(d) A majority of the Commission shall constitute a quorum for the transaction of business.

(e) All clerical and other services required by the Commission shall be supplied by the Secretary of the Department of Health and Human Services."

PART 2. QUALITY OF CARE OMBUDSMAN PROGRAM

SECTION 2. Chapter 122C of the General Statutes is amended by adding the following new Article to read:

"Article 1A.

"MH/DD/SA Quality of Care Ombudsman Program.

"§ 122C-10. MH/DD/SA Quality of Care Ombudsman Program.

The General Assembly finds that many consumers of mental health, developmental disabilities, and substance abuse services are uncertain about their rights and responsibilities and how to access the public service system to obtain appropriate care and treatment. The General Assembly recognizes the importance of ensuring that consumers have information about the availability of services and access to resources to obtain timely quality care. There is established the MH/DD/SA Quality of Care Ombudsman Program. The purpose of this Program is to provide consumers, their families, and providers with the information and assistance needed to locate appropriate services, resolve complaints, or address common concerns and promote community involvement. It is further the intent of the General Assembly that the Department, within available resources and pursuant to its duties under this Chapter, ensure that the performance of the mental health care system in this State is closely monitored, reviews are conducted, findings and recommendations and reports are made, and that local and systemic problems are identified and corrected when necessary to promote the rights and interests of all consumers of mental health, developmental disabilities, and substance abuse services.

"§ 122C-11. MH/DD/SA Quality of Care Ombudsman Program/definitions.

Unless the context clearly requires otherwise, as used in this Article:

- (1) 'MH/DD/SA' means mental health, developmental disabilities, and substance abuse.
- (2) 'State Ombudsman' means the individual charged with the duties and functions of the State MH/DD/SA Quality of Care Ombudsman Program established under this Article.
- (3) 'State Ombudsman Program' means the State MH/DD/SA Quality of Care Ombudsman Program.
- (4) 'Local Ombudsman' means an individual employed and certified by the State Ombudsman to perform the duties and functions of the MH/DD/SA Quality of Care Local Ombudsman Program in accordance with this Article.
- (5) 'Local Ombudsman Program' means a local MH/DD/SA Quality of Care Local Ombudsman Program.
- (6) 'Consumer' means an individual who is a client or a potential client of public services from a State or area facility.

"§ 122C-12. State MH/DD/SA Quality of Care Ombudsman Program.

The Secretary shall establish a State MH/DD/SA Quality of Care Ombudsman Program office in the Office of the Secretary of Health and Human Services. The Secretary shall appoint a State Ombudsman. In selecting the State Ombudsman, the Secretary shall consider candidates recommended by citizens' organizations

1 representing the interest of individuals with needs for mental health, developmental
2 disabilities, and substance abuse services. The State Ombudsman may hire individuals
3 to assist in executing the State Ombudsman Program and to act on the State
4 Ombudsman's behalf. The State Ombudsman shall have expertise and experience in
5 MH/DD/SA, including expertise and experience in advocacy. The Attorney General
6 shall provide legal staff and advice to the State Ombudsman.

7 **"§ 122C-13. State Ombudsman duties.**

8 The State Ombudsman shall:

- 9 (1) Establish Local Quality Care of Ombudsman Programs described in
10 G.S. 122C-14 and appoint the Local Ombudsmen.
- 11 (2) Establish certification criteria and minimum training requirements for
12 Local Ombudsmen.
- 13 (3) Certify Local Ombudsmen. The certification requirements shall
14 include completion of the minimum training requirements established
15 by the State Ombudsman.
- 16 (4) Provide training and technical assistance to Local Ombudsmen.
- 17 (5) Establish procedures for processing and resolving quality of care
18 complaints both at the State and local levels.
- 19 (6) Establish procedures for coordinating quality of care complaints with
20 local human rights committees and the State protection and advocacy
21 agency.
- 22 (7) Establish procedures for appropriate access by the State and Local
23 Ombudsmen to State, area authority, and county program facilities and
24 records to ensure MH/DD/SA quality of care. The procedures shall
25 include, but not be limited to, interviews of owners, consumers, and
26 employees of State, area authority, and county program facilities, and
27 on-site monitoring of conditions and services. The procedures shall
28 ensure the confidentiality of these records and that the identity of any
29 complainant or consumer will not be disclosed except as otherwise
30 provided by law.
- 31 (8) Provide information to the public about available MH/DD/SA services,
32 complaint procedures, and dispute resolution processes.
- 33 (9) Analyze and monitor the development and implementation of federal,
34 State, and local laws, regulations, and policies relating to consumers
35 and recommend changes as considered necessary to the Secretary.
- 36 (10) Analyze and monitor data relating to complaints or concerns about
37 access and quality of care issues to identify significant local or
38 systemic problems, as well as opportunities for improvement, and
39 advise and assist the Secretary in developing policies, plans, and
40 programs for ensuring that the quality of services provided to
41 consumers is of a uniformly high standard.
- 42 (11) Submit a report annually to the Secretary, the Joint Legislative
43 Oversight Committee on Mental Health, Developmental Disabilities,
44 and Substance Abuse Services, and the Joint Legislative Health Care

Oversight Committee containing data and findings regarding the types of problems experienced and complaints reported by or on behalf of providers, consumers, and employees of providers, as well as recommendations to resolve identified quality of care issues and to improve the administration of MH/DD/SA facilities and the delivery of MH/DD/SA services throughout the State.

"§ 122C-14. Local Ombudsman; duties.

(a) The State Ombudsman shall establish a Local MH/DD/SA Quality of Care Ombudsman Program in locations in the State to be designated by the Secretary. In determining where to locate the Local Ombudsman Programs, the Secretary shall ensure reasonable consumer accessibility to the Local Ombudsmen. Local Ombudsmen shall administer the Local Ombudsman Programs. The State Ombudsman shall appoint a Local Ombudsman for each of the Local Ombudsman Programs. The State Ombudsman shall supervise the Local Ombudsmen.

(b) Pursuant to policies and procedures established by the State Ombudsman, the Local Ombudsman shall:

- (1) Assist consumers and their families with information, referral, and assistance in obtaining appropriate services.
- (2) Assist consumers and their families in understanding their rights and remedies available to them from the public service system.
- (3) Serve as a liaison between consumers and their families and facility personnel and administration.
- (4) Promote the development of consumer and citizen involvement in addressing issues relating to MH/DD/SA.
- (5) Visit the State, area authority, or county program facilities to review and evaluate the quality of care provided to consumers and submit findings to the State Ombudsman.
- (6) Work with providers and consumers and their families or advocates to resolve issues of common concern.
- (7) Participate in regular Local Ombudsman training established by the State Ombudsman.
- (8) Report regularly to area authorities and county programs, county and area authority boards, and boards of county commissioners about the Local Ombudsman's activities, including the findings made pursuant to subdivision (5) of this subsection.
- (9) Provide training and technical assistance to counties, area authority boards, and providers concerning responding to consumers, evaluating quality of care, and determining availability of services and access to resources.
- (10) Coordinate activities with local human rights committees based on procedures developed by the State Ombudsman.
- (11) Provide information to the public on MH/DD/SA issues.
- (12) Perform any other related duties as directed by the State Ombudsman.

"§ 122C-15. State/Local Ombudsman; authority to enter; communication with residents, clients, patients; review of records.

(a) For purposes of this section, G.S. 122C-16 and G.S. 122C-17, 'Ombudsman' means either the State Ombudsman or any Local Ombudsman.

(b) In performing the Ombudsman's duties, an Ombudsman shall have access at all times to any State or area facility and shall have reasonable access to any consumer or to an employee of a State or area facility. Entry and access to any consumer or to an employee shall be conducted in a manner that will not significantly disrupt the provision of services. If a facility requires visitor registration, then the Ombudsman shall register.

(c) In performing the Ombudsman's duties, an Ombudsman may communicate privately and confidentially with a consumer. A consumer shall not be compelled to communicate with an Ombudsman. When initiating communication, an Ombudsman shall inform the consumer of the Ombudsman's purpose and that a consumer may refuse to communicate with the Ombudsman. An Ombudsman also may communicate privately and confidentially with State and area facility employees in performing the Ombudsman's duties.

(d) Notwithstanding G.S. 8-53, G.S. 8-53.3, or any other law relating to confidentiality of communications involving a consumer, in the course of performing the Ombudsman's duties, the Ombudsman may access any information, whether recorded or not, concerning the admission, discharge, medication, treatment, medical condition, or history of any consumer to the extent permitted by federal law and regulations. Notwithstanding any State law pertaining to the privacy of personnel records, in the course of the Ombudsman's duties, the Ombudsman shall have access to personnel records of employees of State, area authority, or county program facilities.

"§ 122C-16. State/Local Ombudsman; resolution of complaints.

(a) Following receipt of a complaint, an Ombudsman shall attempt to resolve the complaint using, whenever possible, informal mediation, conciliation, and persuasion.

(b) If a complaint concerns a particular consumer, the consumer may participate in determining what course of action the Ombudsman should take on the consumer's behalf. If the consumer has an opinion concerning a course of action, the Ombudsman shall consider the consumer's opinion.

(c) Following receipt of a complaint, an Ombudsman shall contact the service provider to allow the service provider the opportunity to respond, provide additional information, or initiate action to resolve the complaint.

(d) Complaints or conditions adversely affecting consumers that cannot be resolved in the manner described in subsection (a) of this section shall be referred by the Ombudsman to the appropriate licensing agency under Article 2 of this Chapter.

"§ 122C-17. State/Local Ombudsman; confidentiality.

(a) Except as required by law, an Ombudsman shall not disclose the following:

(1) Any confidential or privileged information obtained pursuant to G.S. 122C-15 unless the affected individual authorizes disclosure in writing; or

(2) The name of anyone who has furnished information to an Ombudsman unless the individual authorizes disclosure in writing.

(b) Violation of this section is a Class 3 misdemeanor, punishable only by a fine not to exceed five hundred dollars (\$500.00).

(c) All confidential or privileged information obtained under this section and the names of persons providing information to an Ombudsman are exempt from disclosure pursuant to Chapter 132 of the General Statutes. Access to substance abuse records and redisclosure of protected information shall be in compliance with federal confidentiality laws protecting medical records.

"§ 122C-18. State/Local Ombudsman; retaliation prohibited.

No one shall discriminate or retaliate against any person, provider, or facility because the person, provider, or facility in good faith complained or provided information to an Ombudsman.

"§ 122C-19. State/Local Ombudsman; immunity from liability.

(a) The State and Local Ombudsman shall be immune from liability for the good faith performance of official Ombudsman duties.

(b) A State or area facility, its employees, and any other individual interviewed by an Ombudsman are immune from liability for damages resulting from disclosure of any information or documents to an Ombudsman pursuant to this Article.

"§ 122C-20. State/Local Ombudsman; penalty for willful interference.

Willful interference with the State or a Local Ombudsman in the performance of the Ombudsman's official duties is a Class 1 misdemeanor."

PART 3. PHASED-IN IMPLEMENTATION

SECTION 3.(a) The Department of Health and Human Services shall do the following to prepare for the certification of area authorities and county programs to administer and deliver mental health, developmental disabilities, and substance abuse services.

- (1) Develop the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services in accordance with G.S. 122C-102. Not later than December 1, 2001, the Department shall submit the State Plan to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services for its review.
- (2) Review all rules currently in effect and adopted by the Secretary, the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services and identify areas of duplication, vagueness, or ambiguity in content or in application. In conducting this review, the Department shall solicit input from current area authorities and providers on perceived problems with rules. The review may also include review of rules pertaining to mental health, developmental disabilities, and substance abuse services that are in effect and adopted by agencies other than the Secretary and the Commission.
- (3) Review the oversight and monitoring functions currently implemented by the Department to determine the effectiveness of the activities in

- 1 achieving the intended results. Improve the oversight and monitoring
2 functions and activities, if necessary.
- 3 (4) Develop service standards, outcomes, and financing formula for core
4 and targeted services to prepare for their administration, financing, and
5 delivery by area authorities and county programs.
- 6 (5) Develop format and required content for business plans submitted by
7 boards of county commissioners and for contractual agreements
8 between the Department and area authorities of county commissioners
9 for county programs. Develop a method for Departmental evaluation
10 of local business plans. Contractual agreements for the provision of
11 services shall provide for:
- 12 a. Terms of a minimum of three years.
13 b. Annual review and renewal.
14 c. Specific conditions under which the Department will provide
15 technical assistance, impose sanctions, or terminate
16 participation.
17 d. Terms of the business plan.
18 e. Award of start-up funds for consolidation of area or county
19 programs.
- 20 (6) Report on Department's readiness to implement system reform.
- 21 (7) Establish criteria and operational procedures for the Quality of Care
22 Ombudsman Program and make a report to the Joint Legislative
23 Oversight Committee on Mental Health, Developmental Disabilities,
24 and Substance Abuse Services on or before March 1, 2002.
- 25 (8) Develop a catchment area consolidation plan. The Secretary shall
26 anticipate receiving letters of intent from boards of county
27 commissioners on or before July 1, 2002, indicating the intent of a
28 county or counties to provide services through an existing area
29 authority or through a county program established pursuant to G.S.
30 122C-115.1. The Secretary shall develop the consolidation plan based
31 on the letters of intent, the State Plan, geographic and population
32 targeted thresholds, and capacity to implement the business plan. The
33 consolidation plan shall provide for consolidation target of no more
34 than 20 area authorities and county programs. The Secretary, in
35 consultation with county commissioners and area authorities, shall
36 complete the consolidation plan by September 1, 2004, and shall
37 submit it no later than January 1, 2005, to the Joint Legislative
38 Oversight Committee on Mental Health, Developmental Disabilities,
39 and Substance Abuse Services, the Governor, and each board of
40 county commissioners. The total number of area authorities and county
41 programs shall be reduced to no more than 20 by January 1, 2007.
- 42 (9) Develop a readiness plan to conduct readiness reviews and certify all
43 county programs and area authorities based on readiness by July 1,
44 2004. Each area authority and county program shall submit its

approved business plan to the Secretary pursuant to G.S. 122C-115.2 by January 1, 2003. The Secretary shall review the business plans as provided in G.S. 122C-115.2(b), conduct readiness reviews, and provide necessary assistance to resolve outstanding issues. The Secretary shall complete certification of one-third of the area authorities and county programs by July 1, 2003; two-thirds of the area authorities and county programs by January 1, 2004; and shall complete certification of all area authorities and county programs by July 1, 2004.

The activities required under subdivisions (1) through (6) of this section shall be completed by December 1, 2001. On or before October 1, 2001, and quarterly thereafter, the Department shall submit a progress report on each of the activities required under this section. By December 1, 2001, the Department shall submit a final report on each of the activities required under subdivisions (1) through (6) of this section. The Department shall make its reports to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

SECTION 3.(b) Rules adopted by the Secretary of Health and Human Services and the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall be adopted in accordance with Chapter 150B of the General Statutes.

SECTION 3.(c) The Secretary shall study consolidating the Quality of Care Ombudsman as provided in Section 2 of this act with other State ombudsman programs in the Department of Health and Human Services. The study shall include:

- (1) An analysis of the budgetary implications of consolidation;
- (2) Strategies for local inter-agency collaboration and coordination of ombudsman and consumer assistance services; and
- (3) The possible effects of the consolidation on quality of care, service delivery, and consumer assistance for each affected consumer population.

The Secretary shall report the findings and recommendations, including enabling legislation, to the Joint Legislative Oversight Committee on MH/DD/SAS on or before March 1, 2002.

PART 4. APPROPRIATIONS

SECTION 4.(a) There is appropriated from the General Fund to the Department of Health and Human Services the sum of (\$) for the 2001-2002 fiscal year and the sum of (\$) for the 2002-2003 fiscal year to implement the Ombudsman Program enacted in Section 1 of this act.

SECTION 4.(b) There is appropriated from the General Fund to the Department of Health and Human Services the sum of one million six hundred thousand dollars (\$1,600,000) for the 2002-2003 fiscal year. These funds shall be used to create incentives for counties to consolidate mental health, developmental disabilities, and

1 substance abuse services into multicounty area authorities or multicounty programs.
2 Multicounty area authorities and multicounty programs consisting of two counties with
3 a total population of at least 200,000, or consisting of at least five counties, shall receive
4 two hundred fifty thousand dollars (\$250,000) in each of the first two fiscal years of
5 multicounty area authority or multicounty program implementation. For each county
6 added to the two-county program, the multicounty area authority or multicounty
7 program shall receive an additional fifty thousand dollars (\$50,000) of incentive funds
8 in each fiscal year.

9
10 **PART 5. EFFECTIVE DATE**

11
12 **SECTION 6.** Sections 1.1 through 1.20(b), and Section 2 of this act become
13 effective July 1, 2002. Section 4 of this act becomes effective July 1, 2001. The
14 remainder of this act is effective when it becomes law.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

H

D

**HOUSE BILL 381*
PROPOSED COMMITTEE SUBSTITUTE H381*-PCS7255-RM-54**

Short Title: Mental Health System Reform.

(Public)

Sponsors:

Referred to:

March 1, 2001

A BILL TO BE ENTITLED
AN ACT TO PHASE IN IMPLEMENTATION OF MENTAL HEALTH SYSTEM
REFORM AT THE STATE AND LOCAL LEVEL.

Whereas, the 1999 General Assembly, Regular Session 2000, established the Joint Legislative Oversight Committee ("Committee") on Mental Health, Developmental Disabilities, and Substance Abuse Services; and

Whereas, the Committee was directed to develop a Plan for Mental Health System Reform; and

Whereas, the General Assembly expressed the intent that the Plan be fully implemented not later than July 1, 2005; and

Whereas, the General Assembly directed the Committee to "Report to the 2001 General Assembly upon its convening the changes that should be made to the governance, structure, and financing of the State's mental health system at the State and local levels"; and

Whereas, the Committee reviewed the governance, structure, and financing of the current mental health system and reported its findings and recommendations to the 2001 General Assembly for legislative action; Now, therefore,
The General Assembly of North Carolina enacts:

PART 1. MENTAL HEALTH SYSTEM GOVERNANCE CHANGES

SECTION 1.1. G.S. 122C-2 reads as rewritten:

"§ 122C-2. Policy.

The policy of the State is to assist individuals with needs for mental illness, health, developmental disabilities, and substance abuse problems services in ways consistent with the dignity, rights, and responsibilities of all North Carolina citizens. Within available resources it is the obligation of State and local government to provide mental health, developmental disabilities, and substance abuse services to eliminate, reduce, or prevent the disabling effects of mental illness, developmental disabilities, and substance

1 abuse through a service delivery system designed to meet the needs of clients in the
2 least restrictive available setting, ~~if the least restrictive setting is therapeutically most~~
3 ~~appropriate,~~ restrictive, therapeutically most appropriate setting available and to
4 maximize their quality of life. It is further the obligation of the State and local
5 government to provide community-based services when such services are appropriate,
6 unopposed by the affected individuals, and can be reasonably accommodated within
7 available resources and taking into account the needs of other persons for mental health,
8 developmental disabilities, and substance abuse services.

9 State and local governments shall develop and maintain a unified system of services
10 centered in area authorities or county programs. The public service system will strive to
11 provide a continuum of services for clients while considering the availability of services
12 in the private sector. Within available resources, State and local government shall
13 ensure that the following core services are available:

- 14 (1) Screening, assessment, and referral.
- 15 (2) Emergency services.
- 16 (3) Service coordination.
- 17 (4) Consultation, prevention, and education.

18 Within available resources, the State shall provide funding to support services to
19 targeted populations, except that the State and counties shall provide matching funds for
20 entitlement program services as required by law.

21 The furnishing of services to implement the policy of this section requires the
22 cooperation and financial assistance of counties, the State, and the federal government."

23 **SECTION 1.2.(a)** G.S. 122C-3 is amended by adding the following new
24 subdivisions in alphabetical order to read:

- 25 "(1) 'Area director' means the administrative head of the area authority
26 program appointed pursuant to G.S. 122C-121.
- 27 (2) 'Board of county commissioners' includes the participating boards of
28 county commissioners for multicounty area authorities and
29 multicounty programs.
- 30 (3) 'Core services' are those services that are basic, essential, and
31 universally available to all individuals.
- 32 (4) 'County program' means a mental health, developmental disabilities,
33 and substance abuse services program established, operated, and
34 governed by a county pursuant to G.S. 122C-115.1.
- 35 (5) 'Program director' means the director of a county program established
36 pursuant to G.S. 122C-115.1.
- 37 (6) 'Public services' means publicly funded mental health, developmental
38 disabilities, and substance abuse services, whether provided by public
39 or private providers.
- 40 (7) 'Specialty services' means services that are provided to consumers
41 from low incidence populations.

(8) 'State' or 'Local' Ombudsman means the individual carrying out the duties of the State or Local Quality of Care Ombudsman Office in accordance with Article 1A of this Chapter.

(9) 'State Plan' means the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.

(10) 'Targeted population' means those individuals who are given service priority under the State Plan.

(11) 'Uniform portal process' means a standardized process and procedures used to ensure consumer access to, and exit from, public services in accordance with the State Plan."

SECTION 1.2.(b) G.S. 122C-3(5) reads as rewritten:

"(5) 'Catchment area' means the geographic part of the State served by a specific area authority. authority or county program."

SECTION 1.2.(c) G.S. 122C-3(34) and G.S. 122C-3(35) are repealed.

SECTION 1.3. G.S. 122C-64 reads as rewritten:

"§ 122C-64. Human rights committees.

Human rights committees responsible for protecting the rights of clients shall be established at each State facility and ~~may be established for area authorities. The Commission shall adopt rules for the establishment of committees. These rules shall include the composition and duties of the committees and procedures for appointment of the members by the Secretary for State facilities and by the area board for area authorities. facility and for each area authority and county program. The Commission shall adopt rules for the establishment, composition, and duties of the committees and procedures for appointment and coordination with the State and Local Ombudsman programs. In multicounty area authorities and multicounty programs, the membership of the human rights committee shall include a representative from each of the participating counties."~~

SECTION 1.4. G.S. 122C-101 reads as rewritten:

"§ 122C-101. Policy.

Within the public system of mental health, developmental disabilities, and substance abuse services, there are ~~both area area, county, and State facilities. An area authority or county program is the locus of coordination among public services for clients of its catchment area. To assure the most appropriate and efficient care of clients within the publicly supported service system, area authorities are encouraged to develop and secure approval for a single portal of entry and exit policy for their catchment areas for mental health and substance abuse authorities. Effective January 1, 1994, an area authority shall develop and secure approval for a single portal of entry and exit policy for public and private services for individuals with developmental disabilities."~~

SECTION 1.5. Part 1 of Article 4 of Chapter 122C of the General Statutes is amended by adding the following new section to read:

"§ 122C-102. State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.

1 The Department shall develop and implement a State Plan for Mental Health,
2 Developmental Disabilities, and Substance Abuse Services. The State Plan shall include
3 the following:

- 4 (1) Vision and mission of the State Mental Health, Developmental
5 Disabilities, and Substance Abuse Services system.
- 6 (2) Organizational structure of the Department and the Divisions of the
7 Department responsible for managing and monitoring mental health,
8 developmental disabilities, and substance abuse services.
- 9 (3) Protection of client rights and consumer involvement in planning and
10 management of system services.
- 11 (4) Provision of services to targeted populations, including criteria for
12 identifying targeted populations.
- 13 (5) Compliance with federal mandates in establishing service priorities in
14 mental health, developmental disabilities, and substance abuse.
- 15 (6) Description of the core services that are available to all individuals in
16 order to improve consumer access to mental health, developmental
17 disabilities, and substance abuse services at the local level.
- 18 (7) Service standards for the mental health, developmental disabilities, and
19 substance abuse services system.
- 20 (8) Implementation of the uniform portal process.
- 21 (9) Strategies and schedules for implementing the service plan, including
22 engagement of stakeholders in planning coordinated Medicaid policy
23 development, intersystem collaboration, promotion of best practices,
24 technical assistance, outcome-based monitoring, and evaluation.
- 25 (10) A business plan to demonstrate efficient and effective resource
26 management of the mental health, developmental disabilities, and
27 substance abuse services system, including strategies for
28 accountability for non-Medicaid and Medicaid services."

29 **SECTION 1.6.** G.S. 122C-111 reads as rewritten:

30 **"§ 122C-111. Administration.**

31 The Secretary shall administer and enforce the provisions of this Chapter and the
32 rules of the Commission and shall operate State facilities. An area director or program
33 director shall administer the programs of the area authority or county program, as
34 applicable, and enforce the rules of the area board, applicable State laws, rules of the
35 Commission, and rules of the Secretary. The Secretary in cooperation with area and
36 county program directors and State facility directors shall provide for the coordination
37 of public services between area ~~authorities~~ authorities, county programs, and State
38 facilities."

39 **SECTION 1.7.(a)** G.S. 122C-112 is repealed.

40 **SECTION 1.7.(b)** Part 2 of Article 4 of Chapter 122C of the General
41 Statutes is amended by adding the following new section to read:

42 **"§ 122C-112.1. Powers and duties of the Secretary.**

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

- (1) Oversee development 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 business plans submitted by area authorities and counties for the management and provision of mental health, developmental disabilities, and substance abuse services.
- (4) Adopt rules specifying the content and format of business plans.
- (5) Review business plans and upon approval of the business plan, certify the submitting area authority or county program to provide mental health, developmental disabilities, and substance abuse services.
- (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 shall include 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 compliance with the program business plan, core administrative functions, and fiscal and administrative practices and shall also address outcome measures, consumer satisfaction, client rights complaints, and adherence to best practices.
- (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 Ombudsman Office.
- (9) Assist area authorities and county programs in the establishment and operation of community-based programs.
- (10) Operate State facilities and adopt rules pertaining to their operation.
- (11) Develop a unified system of services provided in area, county, and State facilities, and by providers enrolled or under a contract with the State.
- (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.

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 (b) The Secretary may do the following:

7 (1) Acquire, by purchase or otherwise in the name of the Department,
8 equipment, supplies, and other personal property necessary to carry out
9 the mental health, developmental disabilities, and substance abuse
10 programs.

11 (2) Promote and conduct research in the fields of mental health,
12 developmental disabilities, and substance abuse; promote best
13 practices.

14 (3) Receive donations of money, securities, equipment, supplies, or any
15 other personal property of any kind or description that shall be used by
16 the Secretary for the purpose of carrying out mental health,
17 developmental disabilities, and substance abuse programs. Any
18 donations shall be reported to the Office of State Budget and
19 Management as determined by that office.

20 (4) Accept, allocate, and spend any federal funds for mental health,
21 developmental disabilities, and substance abuse activities that may be
22 made available to the State by the federal government. This Chapter
23 shall be liberally construed in order that the State and its citizens may
24 benefit fully from these funds. Any federal funds received shall be
25 deposited with the Department of State Treasurer and shall be
26 appropriated by the General Assembly for the mental health,
27 developmental disabilities, or substance abuse purposes specified.

28 (5) Enter agreements authorized by G.S. 122C-346.

29 (6) Notwithstanding G.S. 126-18, authorize funds for contracting with a
30 person, firm, or corporation for aid or assistance in locating, recruiting,
31 or arranging employment of health care professionals in any facility
32 listed in G.S. 122C-181.

33 (7) Contract with one or more private providers or other public service
34 agencies to serve clients of an area authority or county program and
35 reallocate program funds to pay for services under the contract if the
36 Secretary finds all of the following:

37 a. The area authority or county program refuses or has failed to
38 provide the services to clients within its catchment area, or
39 provide specialty services in another catchment area, in a
40 manner that is at least adequate.

41 b. Clients within the area authority or county program catchment
42 area will either not be served or will suffer an unreasonable

1 hardship if required to obtain the services from another area
2 authority or county program.

- 3 c. There is at least one private provider or public service agency
4 within the area authority or county program catchment area, or
5 within reasonable proximity to the catchment area, willing and
6 able to provide services under contract.

7 Before contracting with a private provider as authorized under this
8 subdivision, the Secretary shall provide written notification to the area
9 authority or county program and to the applicable participating boards of
10 county commissioners of the Secretary's intent to contract and shall provide
11 the area authority or county program and the applicable participating boards
12 of county commissioners an opportunity to be heard.

- 13 (8) Contract with one or more private providers or other public service
14 agencies to serve clients from more than one area authority or county
15 program and reallocate the funds of the applicable programs to pay for
16 services under the contract if the Secretary finds either that there is no
17 other area authority or county program available to act as the
18 administrative entity under contract with the provider or that the area
19 authority or county program refuses or has failed to properly manage
20 and administer the contract with the contract provider, and clients will
21 either not be served or will suffer unreasonable hardship if services are
22 not provided under the contract. Before contracting with a private
23 provider as authorized under this subdivision, the Secretary shall
24 provide written notification to the area authority or county program
25 and the applicable participating boards of county commissioners of the
26 Secretary's intent to contract and shall provide the area authority or
27 county program and the applicable participating boards of county
28 commissioners an opportunity to be heard.

- 29 (9) Require reports of client characteristics, staffing patterns, agency
30 policies or activities, services, or specific financial data of the area
31 authority, county program, and providers of public services. The
32 reports shall not identify individual clients of the area authority or
33 county program unless specifically required by State law or by federal
34 law or regulation or unless valid consent for the release has been given
35 by the client or legally responsible person."

36 SECTION 1.8. G.S. 122C-115 reads as rewritten:

37 "~~§ 122C-115. Powers and duties of counties and cities.~~ Duties of counties;
38 appropriation and allocation of funds by counties and cities.

- 39 (a) ~~Except as provided in G.S. 153A-77, a county shall provide mental health,~~
40 ~~developmental disabilities, and substance abuse services through an area authority. A~~
41 county shall provide mental health, developmental disabilities, and substance abuse
42 services through an area authority or through a county program established pursuant to

1 G.S. 122C-115.1. To the extent this section conflicts with G.S. 153A-77(a), the
2 provisions of G.S. 153A-77(a) control.

3 (b) Counties shall and cities may appropriate funds for the support of programs
4 that serve the catchment area, whether the programs are physically located within a
5 single county or whether any facility housing a program is owned and operated by the
6 city or county. Counties and cities may make appropriations for the purposes of this
7 Chapter and may allocate for these purposes other revenues not restricted by law, and
8 counties may fund them by levy of property taxes pursuant to G.S. 153A-149(c)(22).

9 (c) Within Except as authorized in G.S. 122C-115.1, within a catchment area
10 designated by the Commission in the business plan pursuant to G.S. 122C-115.2, a
11 board of county commissioners or two or more boards of county commissioners jointly
12 shall establish an area authority with the approval of the Secretary.

13 (d) Except as otherwise provided in this subsection, counties shall not reduce
14 county appropriations and expenditures for current operations and ongoing programs
15 and services of area authorities or county programs because of the availability of
16 State-allocated funds, fees, capitation amounts, or fund balance to the area authority.
17 authority or county program. Counties may reduce county appropriations by the amount
18 previously appropriated by the county for one-time, nonrecurring special needs of the
19 area authority. authority or county program."

20 **SECTION 1.9.** Part 2 of Article 4 of Chapter 122C of the General Statutes is
21 amended by adding the following new sections to read:

22 **"§ 122C-115.1. County governance and operation of mental health, developmental**
23 **disabilities, and substance abuse services program.**

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

29 (1) Adoption and administration of the program budget in accordance with
30 Chapter 159 of the General Statutes.

31 (2) Appointment of a program director to carry out the provisions of G.S.
32 122C-111 and duties and responsibilities delegated by the county.
33 Except when specifically waived by the Secretary, the program
34 director shall meet the following minimum qualifications:

35 a. Masters degree,

36 b. Related experience, and

37 c. Management experience.

38 (3) A targeted minimum population of 200,000 or a targeted minimum
39 number of five counties served by the program.

40 (4) Compliance with the provisions of this Chapter and the rules of the
41 Commission and the Secretary.

1 (5) Written notification to the Secretary prior to the termination of the
2 interlocal agreement.

3 (6) Appointment of an advisory committee. The interlocal agreement shall
4 designate a county manager to whom the advisory committee shall
5 report. The interlocal agreement shall also designate the appointing
6 authorities. The appointing authorities shall make appointments that
7 take into account sufficient citizen participation, equitable
8 representation of the disability groups, and equitable representation of
9 participating counties. At least fifty percent (50%) of the membership
10 shall conform to the requirements provided in G.S. 122C-118.1(b)(1)-
11 (4).

12 (b) Before establishing a county program pursuant to this section, a county board
13 of commissioners shall hold a public hearing with notice published at least 10 days
14 before the hearing.

15 (c) A county shall ensure that the county program and the services provided
16 through the county program comply with the provisions of this Chapter and the rules
17 adopted by the Commission and the Secretary.

18 (d) A county program shall submit on a quarterly basis to the Secretary and the
19 board of county commissioners service delivery reports that assess the quality and
20 availability of public services within the county program's catchment area. The service
21 delivery reports shall include the types of services delivered, number of recipients
22 served, and services requested but not delivered due to staffing, financial, or other
23 constraints. In addition, at least annually, a progress report shall be submitted to the
24 Secretary and the board of county commissioners. The progress report shall include an
25 assessment of the progress in implementing local service plans, goals, and outcomes.
26 All reports shall be in a format and shall contain any additional information required by
27 the Secretary or board of county commissioners.

28 (e) Within 30 days of the end of each quarter of the fiscal year, the program
29 director and finance officer of the county program shall present to each member of the
30 board of county commissioners a budgetary statement and balance sheet that details the
31 assets, liabilities, and fund balance of the county program. This information shall be
32 read into the minutes of the meeting at which it is presented. The program director or
33 finance officer of the county program shall provide to the board of county
34 commissioners ad hoc reports as requested by the board of county commissioners.

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

38 (g) In a single-county program, an advisory committee shall be appointed by the
39 board of county commissioners and shall report to the county manager. The
40 appointments shall take into account sufficient citizen participation, equitable
41 representation of the disability groups, and equitable representation of participating
42 counties. At least fifty percent (50%) of the membership shall conform to the

1 requirements in G.S. 122C-118.1(b)(1)-(4). In a multicounty program, the advisory
2 committee shall be appointed in accordance with the terms of the interlocal agreement.

3 (h) The county program may contract to provide services to governmental or
4 private entities, including Employee Assistance Programs.

5 (i) Except as otherwise specifically provided, this Chapter applies to counties
6 that provide mental health, developmental disabilities, and substance abuse services
7 through a county program. As used in the applicable sections of this Article, the terms
8 'area authority', 'area program', and 'area facility' shall be construed to include 'county
9 program'. The following sections of this Article do not apply to county programs:

10 (1) G.S. 122C-115.3, 122C-116, 122C-117, and 122C-118.1.

11 (2) G.S. 122C-119 and G.S. 122C-119.1.

12 (3) G.S. 122C-120 and G.S. 122C-121.

13 (4) G.S. 122C-127.

14 (5) G.S. 122C-147.

15 (6) G.S. 122C-152 and G.S. 122C-153.

16 (7) G.S. 122C-156.

17 (8) G.S. 122C-158.

18 **"§ 122C-115.2. Business plan required; content, process, certification.**

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

27 (b) Business plans shall include the following:

28 (1) Description of how the following core administrative functions will be
29 carried out:

30 a. Planning. – Local services plans that identify service gaps and
31 methods for filling the gaps, ensure the availability of an array
32 of services based on consumer needs, provision of core
33 services, equitable service delivery among member counties,
34 and prescribing the efficient and effective use of all funds for
35 targeted services. Local planning shall be an open process
36 involving key stakeholders.

37 b. Provider network development. – Ensuring available, qualified
38 providers to deliver services based on the business plan.
39 Development of new providers and monitoring provider
40 performance and service outcomes. Provider network
41 development shall address consumer choice and fair
42 competition. For the purposes of this section, a 'qualified

- 1 provider' means a provider who meets the provider
2 qualifications as defined by rules adopted by the Secretary.
- 3 c. Service management. – Implementation of uniform portal
4 process. Service management shall include appropriate level
5 and intensity of services, management of State
6 hospitals/facilities bed days, utilization management, case
7 management, and quality management. If services are provided
8 directly by the area authority or county program, then the plan
9 shall indicate how consumer choice and fair competition in the
10 marketplace is ensured.
- 11 d. Financial management and accountability. – Carrying out
12 business functions in an efficient and effective manner, cost-
13 sharing, and managing resources dedicated to the public system.
- 14 e. Service monitoring and oversight. – Ensuring that services
15 provided to consumers and families meet State outcome
16 standards and ensure quality performance by providers in the
17 network.
- 18 f. Evaluation. – Self-evaluation based on statewide outcome
19 standards and participation in independent evaluation studies.
- 20 g. Collaboration. – Collaborating with other local service systems
21 in ensuring access and coordination of services at the local
22 level. Collaborating with other area authorities and county
23 programs and the State in planning and delivering services.
- 24 h. Access. – Ensuring access to core and targeted services.
- 25 (2) Description of how the following will be addressed:
- 26 a. Reasonable administrative costs based on uniform State criteria
27 for calculating administrative costs and costs or savings
28 anticipated from consolidation.
- 29 b. Proposed reinvestment of savings toward direct services.
- 30 c. Compliance with the catchment area consolidation plan adopted
31 by the Secretary.
- 32 d. Based on rules adopted by the Secretary, method for calculating
33 county resources to reflect cash and in-kind contributions of the
34 county.
- 35 e. Financial and services accountability and oversight in
36 accordance with State and federal law.
- 37 f. The composition and appointment of the area authority board.
- 38 g. The population base of the catchment area to be served.
- 39 h. Use of local funds for the alteration, improvement, and
40 rehabilitation of real property as authorized by and in
41 accordance with G.S. 122C-147.

1 (3) Other matters determined by the Secretary to be necessary to
2 effectively and efficiently provide mental health, developmental
3 disabilities, and substance abuse services through an area authority or
4 county program.

5 (c) The county program or area authority proposing the business plan shall
6 submit the proposed plan as approved by the board of county commissioners to the
7 Secretary for review and certification. The Secretary shall review the business plan
8 within 30 days of receipt of the plan. If the business plan meets all of the requirements
9 of State law and standards adopted by the Secretary, then the Secretary shall certify the
10 area authority or county program as a single-county area authority, a single-county
11 program, a multicounty area authority, or a multicounty program. Implementation of the
12 certified plan shall begin within 30 days of certification. If the Secretary determines that
13 changes to the plan are necessary, then the Secretary shall so notify the submitting
14 county program or area authority and the applicable participating boards of county
15 commissioners and shall indicate in the notification the changes that need to be made in
16 order for the proposed program to be certified. The submitting county program or area
17 authority shall have 30 days from receipt of the Secretary's notice to make the requested
18 changes and resubmit the amended plan to the Secretary for review. The Secretary shall
19 provide whatever assistance is necessary to resolve outstanding issues. Amendments to
20 the business plan shall be subject to the approval of the participating boards of county
21 commissioners.

22 (d) Annually, in accordance with procedures established by the Secretary, each
23 area authority and county program submitting a business plan shall enter into a
24 memorandum of agreement with the Secretary for the purpose of ensuring that State
25 funds are used in accordance with priorities expressed in the business plan.

26 **"§ 122C-115.3. Dissolution of area authority.**

27 (a) Whenever the board of commissioners of each county constituting an area
28 authority determines that the area authority is not operating in the best interests of
29 consumers, it may direct that the area authority be dissolved. In addition, whenever a
30 board of commissioners of a county that is a member of an area authority determines
31 that the area authority is not operating in the best interests of consumers of that county,
32 it may withdraw from the area authority. Dissolution of an area authority or withdrawal
33 from the area authority by a county shall be effective only at the end of the fiscal year in
34 which the action of dissolution or withdrawal transpired.

35 (b) Notwithstanding the provisions of subsection (a) of this section, no county
36 shall withdraw from an area authority nor shall an area authority be dissolved without
37 first demonstrating that continuity of services will be assured and without prior approval
38 of the Secretary.

39 (c) Prior to withdrawal of a county from an area authority, the county board of
40 commissioners shall hold a public hearing with notice published at least 10 days before
41 the hearing.

1 (d) Prior to dissolution of an area authority, the area authority shall hold a public
2 hearing with notice published in every participating county at least 10 days before the
3 hearing.

4 (e) Any budgetary surplus available to an area authority at the time of its
5 dissolution shall be distributed to those counties comprising the area authority on the
6 same pro rata basis that the counties appropriated and contributed funds to the area
7 authority's budget during the current fiscal year. Distribution to the counties shall be
8 determined on the basis of an audit of the financial record of the area authority. The area
9 authority board shall select a certified public accountant or an accountant who is
10 subsequently certified by the Local Government Commission to conduct the audit. The
11 audit shall be performed in accordance with G.S. 159-34. The same method of
12 distribution of funds described in this subsection shall apply when one or more counties
13 of an area authority withdraw from the area authority.

14 (f) Any liabilities at the time of its dissolution shall be paid from unobligated
15 surplus funds available to the area authority. If unobligated surplus funds are not
16 sufficient to satisfy the total indebtedness of the area authority, then the remaining
17 unsatisfied indebtedness shall be apportioned on the same pro rata basis that the
18 counties appropriated and contributed funds to the area authority's budget during the
19 current fiscal year. "

20 **SECTION 1.10.** G.S. 122C-117 reads as rewritten:

21 **"§ 122C-117. Powers and duties of the area authority.**

22 (a) The area authority ~~shall~~: shall do all of the following:

- 23 (1) Engage in comprehensive planning, budgeting, implementing, and
24 monitoring of community-based mental health, developmental
25 disabilities, and substance abuse ~~services~~; services.
- 26 (2) Provide services to clients in the catchment area, including clients
27 committed to the custody of the Department of Juvenile Justice and
28 Delinquency ~~Prevention~~; Prevention.
- 29 (3) Determine the needs of the area authority's clients and coordinate with
30 the Secretary and with the Department of Juvenile Justice and
31 Delinquency Prevention the provision of services to clients through
32 area and State ~~facilities~~; facilities.
- 33 (4) Develop plans and budgets for the area authority subject to the
34 approval of the ~~Secretary~~; Secretary. The area authority shall submit
35 the approved budget to the board of county commissioners and the
36 county manager and provide quarterly reports on financial status of the
37 program in accordance with subsection (c) of this section.
- 38 (5) Assure that the services provided by the county through the area
39 authority meet the rules of the Commission and ~~Secretary~~; Secretary.
- 40 (6) Comply with federal requirements as a condition of receipt of federal
41 ~~grants~~; and grants.

- 1 (7) ~~Appoint an area director, chosen through a search committee on which~~
2 ~~the Secretary of the Department of Health and Human Services or the~~
3 ~~Secretary's designee serves as a nonvoting member. Appoint an area~~
4 ~~director in accordance with G.S. 122C-121. The appointment is subject~~
5 ~~to the approval of the board of county commissioners. The~~
6 ~~appointment shall be based on a selection by a search committee of the~~
7 ~~area authority board. The search committee shall include consumer~~
8 ~~board members, a county manager, a member appointed by the~~
9 ~~Secretary, and one or more county commissioners.~~
- 10 (8) Develop and submit to the board of county commissioners for
11 approval the business plan required under G.S. 122C-115.2. A
12 multicounty area authority shall submit the business plan to each
13 participating board of county commissioners for its approval. The
14 boards of county commissioners of a multicounty area authority shall
15 jointly submit one approved business plan to the Secretary for
16 approval and certification.
- 17 (9) Perform public relations and community advocacy functions.
- 18 (10) Recommend to the board of county commissioners the creation of
19 local program services.
- 20 (11) Submit to the Secretary and the board of county commissioners service
21 delivery reports, on a quarterly basis, that assess the quality and
22 availability of public services within the area authority's catchment
23 area. The service delivery reports shall include the types of services
24 delivered, number of recipients served, and services requested but not
25 delivered due to staffing, financial, or other constraints. In addition, at
26 least annually, a progress report shall be submitted to the Secretary and
27 the board of county commissioners. The progress report shall include
28 an assessment of the progress in implementing local service plans,
29 goals, and outcomes. All reports shall be in a format and shall contain
30 any additional information required by the Secretary or board of
31 county commissioners.
- 32 (12) Comply with this Article and rules adopted by the Secretary for the
33 development and submission of and compliance with the area authority
34 business plan.
- 35 (a1) The area authority may contract to provide services to governmental or
36 private entities, including Employee Assistance Programs.
- 37 (b) The governing unit of the area authority is the area board. All powers, duties,
38 functions, rights, privileges, or immunities conferred on the area authority may be
39 exercised by the area board.
- 40 (c) Within 30 days of the end of each quarter of the fiscal year, the area director
41 and finance officer of the area authority shall provide to each member of the board of
42 county commissioners the quarterly report of the area authority. This information shall

1 be presented in a format prescribed by the county. At least twice a year, this information
2 shall be presented in person and shall be read into the minutes of the meeting at which it
3 is presented. In addition, the area director or finance officer of the area authority shall
4 provide to the board of county commissioners ad hoc reports as requested by the board
5 of county commissioners.

6 (d) A multicounty area authority shall provide to each board of county
7 commissioners of participating counties a copy of the area authority's annual audit. The
8 audit findings shall be presented in a format prescribed by the county and shall be read
9 into the minutes of the meeting at which the audit findings are presented."

10 **SECTION 1.11.(a)** G.S. 122C-118 is repealed.

11 **SECTION 1.11.(b)** Article 4 of Chapter 122C of the General Statutes is
12 amended by adding the following new section to read:

13 **"§ 122C-118.1. Structure of area board.**

14 (a) An area board shall have no fewer than 11 and no more than 15 members. In
15 a single county area authority, the members shall be appointed by the board of county
16 commissioners. In a multicounty area authority, the participating boards of county
17 commissioners shall jointly appoint the members of the board. These appointments shall
18 take into account sufficient citizen participation, equitable representation of the
19 disability groups, and equitable representation of participating counties. Individuals
20 appointed to the board shall include an individual with financial expertise or a county
21 finance officer, an individual with expertise in management or business, and an
22 individual representing the interests of children. A member of the board may be
23 removed with or without cause by the initial appointing authority. Vacancies on the
24 board shall be filled by the initial appointing authority before the end of the term of the
25 vacated seat or within 120 days of the vacancy, whichever occurs first, and the
26 appointments shall be for the remainder of the unexpired term.

27 (b) At least fifty percent (50%) of the members of the area board shall represent
28 the following:

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

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

34 (3) A family member or an individual from citizens' organizations
35 composed primarily of consumers or their family members,
36 representing the interests of individuals:

37 a. With mental illness; and

38 b. In recovery from addiction; and

39 c. With developmental disabilities.

40 (4) Openly declared consumers:

41 a. With mental illness; and

42 b. With developmental disabilities; and

1 c. In recovery from addiction.

2 (c) The board of county commissioners may elect to appoint a member of the
3 area authority board to fill concurrently more than one category of membership if the
4 member has the qualifications or attributes of more than one category of membership.

5 (d) The terms of the members on the area authority board shall be for four years,
6 except that upon the initial formation of a program board one-fourth shall be appointed
7 for one year, one-fourth for two years, one-fourth for three years, and all remaining
8 members for four years. Members shall not be appointed for more than two consecutive
9 terms.

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

13 **SECTION 1.11.(c)** G.S. 122C-119 reads as rewritten:

14 **"§ 122C-119. Organization of area board.**

15 (a) The area board shall meet at least six times per year.

16 (b) Meetings shall be called by the area board chairman or by three or more
17 members of the board after notifying the area board chairman in writing.

18 (c) Members of the area board elect the board's chairman. The term of office of
19 the area board chairman shall be one year. A county commissioner area board member
20 may serve as the area board chairman.

21 (d) The area board shall establish a finance committee that shall meet at least six
22 times per year to review the financial strength of the area program. The finance
23 committee shall have a minimum of three members, two of whom have expertise in
24 budgeting and fiscal control. A county finance officer shall serve as an ex officio
25 member. All other finance officers of participating counties in a multicounty area
26 authority may serve as ex officio members. If the area board so chooses, the entire area
27 board may function as the finance committee; however, its required meetings as a
28 finance committee shall be distinct from its meetings as an area board."

29 **SECTION 1.12.** G.S. 122C-121 reads as rewritten:

30 **"§ 122C-121. Area director.**

31 ~~(a) The area director is an employee of the area board and shall serve at the~~
32 ~~pleasure of the area board. The director is responsible for the staff appointments, for~~
33 ~~implementation of the policies and programs of the board in compliance with rules of~~
34 ~~the Commission and the Secretary, and for the supervision of all service programs and~~
35 ~~staff. The area director is an employee of the area board and shall be appointed in~~
36 ~~accordance with G.S. 122C-117(7). The area director is the administrative head of the~~
37 ~~area program.~~

38 (b) The area board shall evaluate annually the area director for performance
39 based on criteria established by the Secretary and the area board. In conducting the
40 evaluation, the area board shall consider comments from the board of county
41 commissioners.

42 (c) In addition to the duties under G.S. 122C-111, the area director shall:

- 1 (1) Appoint and supervise area program staff.
- 2 (2) Administer area authority services.
- 3 (3) Develop the budget of the area authority for review by the area board.
- 4 (4) Provide information and advice to the board of county commissioners
- 5 through the county manager.
- 6 (5) Act as liaison between the area authority and the Department.
- 7 (d) Except when specifically waived by the Secretary, the area director shall meet
- 8 the following minimum qualifications:

- 9 (1) Masters degree;
- 10 (2) Related experience; and
- 11 (3) Management experience."

12 **SECTION 1.13.(a)** G.S. 122C-124, 122C-125.1, and 122C-126 are repealed.

13 **SECTION 1.13.(b)** Article 4 of Chapter 122C of the General Statutes is

14 amended by adding the following new section to read:

15 **"§ 122C-124.1. Actions by the Secretary when area authority or county program is**

16 **not providing minimally adequate services.**

17 (a) Notice of Likelihood of Action. – When the Secretary determines that there is

18 a likelihood of suspension of funding, assumption of service delivery or management

19 functions, or appointment of a caretaker board under this section within the ensuing 60

20 days, the Secretary shall so notify in writing the area authority board or the county

21 program and the board of county commissioners of the area authority or county

22 program. The notice shall state the particular deficiencies in program services or

23 administration that must be remedied to avoid action by the Secretary under this section.

24 The area authority board or county program shall have 60 days from the date it receives

25 notice under this subsection to take remedial action to correct the deficiencies. The

26 Secretary shall provide technical assistance to the area authority or county program in

27 remedying deficiencies.

28 (b) Suspension of Funding; Assumption of Service Delivery or Management

29 Functions. – If the Secretary determines that a county, through an area authority or

30 county program, is not providing minimally adequate services, in accordance with rules

31 adopted by the Secretary or the Commission, to persons in need in a timely manner, or

32 fails to demonstrate reasonable efforts to do so, the Secretary, after providing written

33 notification of the Secretary's intent to the area authority or county program and to the

34 board of county commissioners of the area authority or county program, and after

35 providing the area authority or county program and the boards of county commissioners

36 of the area authority or county program an opportunity to be heard, may:

- 37 (1) Withhold funding for the particular service or services in question
- 38 from the area authority or county program and ensure the provision of
- 39 these services through contracts with public or private agencies or by
- 40 direct operation by the Department.

41 Upon suspension of funding, the Department shall direct the

42 development and oversee implementation of a corrective plan of action

1 and provide notification to the area authority or county program and
2 the board of county commissioners of the area authority or county
3 program of any ongoing concerns or problems with the area authority's
4 or county program's finances or delivery of services.

5 (2) Assume control of the particular service or management functions in
6 question or of the area authority or county program and appoint an
7 administrator to exercise the powers assumed. This assumption of
8 control shall have the effect of divesting the area authority or county
9 program of its powers in G.S. 122C-115.1 and G.S. 122C-117 and all
10 other service delivery powers conferred on the area authority or county
11 program by law as they pertain to this service or management function.
12 County funding of the area authority or county program shall continue
13 when the State has assumed control of the catchment area or of the
14 area authority or county program. At no time after the State has
15 assumed this control shall a county withdraw funds previously
16 obligated or appropriated to the area authority or county program.

17 Upon assumption of control of service delivery or management
18 functions, the Department shall, in conjunction with the area authority
19 or county program, develop and implement a corrective plan of action
20 and provide notification to the area authority or county program and
21 the board of county commissioners of the area authority or county
22 program of the plan. The Department shall also keep the area authority
23 board and the board of county commissioners informed of any ongoing
24 concerns or problems with the delivery of services.

25 (c) Appointment of Caretaker Administrator. – In the event that a county,
26 through an area authority or county program, fails to comply with the corrective plan of
27 action required when funding is suspended or when the State assumes control of service
28 delivery or management functions, the Secretary, after providing written notification of
29 the Secretary's intent to the area authority or county program and the applicable
30 participating boards of county commissioners of the area authority or county program,
31 shall appoint a caretaker administrator, a caretaker board of directors, or both.

32 The Secretary may assign any of the powers and duties of the area director or
33 program director or of the area authority board or board of county commissioners of the
34 area authority or county program pertaining to the operation of mental health,
35 developmental disabilities, and substance abuse services to the caretaker board or to the
36 caretaker administrator as it deems necessary and appropriate to continue to provide
37 direct services to clients, including the powers as to the adoption of budgets,
38 expenditures of money, and all other financial powers conferred on the area authority or
39 county program by law pertaining to the operation of mental health, developmental
40 disabilities, and substance abuse services. County funding of the area authority or
41 county program shall continue when the State has assumed control of the financial
42 affairs of the program. At no time after the State has assumed this control shall a county

1 withdraw funds previously obligated or appropriated to the area authority or county
2 program. The caretaker administrator and the caretaker board shall perform all of these
3 powers and duties. The Secretary may terminate the area director or program director
4 when it appoints a caretaker administrator. Chapter 150B of the General Statutes shall
5 apply to the decision to terminate the area director or program director. Neither party to
6 any such contract shall be entitled to damages. After a caretaker board has been
7 appointed, the General Assembly shall consider, at its next regular session, the future
8 governance of the identified area authority or county program."

9 **SECTION 1.14.** G.S. 122C-132 and G.S. 122C-132.1 are repealed.

10 **SECTION 1.15.** G.S. 122C-141 reads as rewritten:

11 **"§ 122C-141. Provision of services.**

12 (a) The area authority or county program may provide services directly and may
13 shall contract with other public or private agencies, institutions, or resources for the
14 provision of services. Subject to the approval of the Secretary, an area authority or
15 county program may provide services directly when other qualified public or private
16 providers are unavailable to meet service needs. When providing services directly, an
17 area authority or county program shall ensure consumer choice and fair competition in
18 accordance with rules adopted by the Secretary. For the purposes of this section, a
19 'qualified public or private provider' is a provider who meets the provider qualifications
20 as defined by rules adopted by the Secretary.

21 (b) All area authority or county program services provided directly or under
22 contract shall meet the requirements of applicable State statutes and the rules of the
23 Commission and the Secretary. The Secretary may delay payments and, with written
24 notification of cause, may reduce or deny payment of funds if an area authority or
25 county program fails to meet these requirements.

26 (c) The area authority or board of county commissioners of a county program
27 may contract with a health maintenance organization, certified and operating in
28 accordance with the provisions of Article 67 of Chapter 58 of the General Statutes for
29 the area authority, authority or county program, to provide mental health, developmental
30 disabilities, or substance abuse services to enrollees in a health care plan provided by
31 the health maintenance organization. The terms of the contract must meet the
32 requirements of all applicable State statutes and rules of the Commission and Secretary
33 governing both the provision of services by an area authority or county program and the
34 general and fiscal operation of an area authority or county program and the
35 reimbursement rate for services rendered shall be based on the usual and customary
36 charges paid by the health maintenance organization to similar providers. Any provision
37 in conflict with a State statute or rule of the Commission or the Secretary shall be void;
38 however, the presence of any void provision in that contract does not render void any
39 other provision in that contract which is not in conflict with a State statute or rule of the
40 Commission or the Secretary. Subject to approval by the Secretary and pending the
41 timely reimbursement of the contractual charges, the area authority or county program
42 may expend funds for costs which may be incurred by the area authority or county

1 program as a result of providing the additional services under a contractual agreement
2 with a health maintenance organization."

3 **SECTION 1.16.** G.S. 122C-143.2 is repealed.

4 **SECTION 1.17.(a)** G.S. 122C-151.2 reads as rewritten:

5 "**§ 122C-151.2. Appeal by area ~~authorities.~~ authorities and county programs.**

6 (a) The area authority or county program may appeal to the Commission any
7 action regarding rules under the jurisdiction of the Commission or rules under the joint
8 jurisdiction of the Commission and the Secretary.

9 (b) The area authority or county program may appeal to the Secretary any action
10 regarding rules under the jurisdiction of the Secretary.

11 (c) Appeals shall be conducted according to rules adopted by the Commission
12 and Secretary and in accordance with Chapter 150B of the General Statutes."

13 **SECTION 1.17.(b)** G.S. 122C-151.3 reads as rewritten:

14 "**§ 122C-151.3. Dispute with area ~~authorities.~~ authorities or county programs.**

15 An area authority or county program shall establish written procedures for resolving
16 disputes over decisions of an area authority or county program that may be appealed to
17 the ~~Area Authority~~ State MH/DD/SA Appeals Panel under G.S. 122C-151.4. The
18 procedures shall be informal and shall provide an opportunity for those who dispute the
19 decision to present their position."

20 **SECTION 1.17.(c)** G.S. 122C-151.4 reads as rewritten:

21 "**§ 122C-151.4. Appeal to ~~Area Authority~~ State MH/DD/SA Appeals Panel.**

22 (a) Definitions. – The following definitions apply in this section:

23 (1) "Contract" means a contract with an area authority or county program
24 to provide services, other than personal services, to clients and other
25 recipients of services.

26 (2) "Contractor" means a person who has a contract or who had a contract
27 during the current fiscal year.

28 (3) "Former contractor" means a person who had a contract during the
29 previous fiscal year.

30 (4) "Appeals Panel" means the State MH/DD/SA Appeals Panel
31 established under this section.

32 (5) "Client" means an individual who is admitted to or receiving public
33 services from an area facility. "Client" includes the client's personal
34 representative or designee.

35 (b) Appeals Panel. – The ~~Area Authority~~ State MH/DD/SA Appeals Panel is
36 established. The Panel shall consist of three members appointed by the Secretary. The
37 Secretary shall determine the qualifications of the Panel members. Panel members serve
38 at the pleasure of the Secretary.

39 (c) Who Can Appeal. – The following persons may appeal to the ~~Area Authority~~
40 State MH/DD/SA Appeals Panel after having exhausted the appeals process at the
41 appropriate area authority or county program:

- 1 (1) A contractor or a former contractor who claims that an area authority
2 or county program is not acting or has not acted within applicable
3 State law or rules in imposing a particular requirement on the
4 contractor on fulfillment of the contract;
- 5 (2) A contractor or a former contractor who claims that a requirement of
6 the contract substantially compromises the ability of the contractor to
7 fulfill the contract;
- 8 (3) A contractor or former contractor who claims that an area authority or
9 county program has acted arbitrarily and capriciously in reducing
10 funding for the type of services provided or formerly provided by the
11 contractor or former contractor;
- 12 (4) A client or a person who was a client in the previous fiscal year, who
13 claims that an area authority or county program has acted arbitrarily
14 and capriciously in reducing funding for the type of services provided
15 or formerly provided to the client directly by the area ~~authority~~; or
16 county program; and
- 17 (5) A person who claims that an area authority or county program did not
18 comply with a State law or a rule adopted by the Secretary or the
19 Commission in developing the plans and budgets of the area authority
20 or county program and that the ~~area authority's~~ failure to comply has
21 adversely affected the ability of the person to participate in the
22 development of the plans and budgets.

23 (d) Hearing. – All members of the ~~Area Authority~~ State MH/DD/SA Appeals
24 Panel shall hear an appeal to the Panel. An appeal shall be filed with the Panel within
25 the time required by the Secretary and shall be heard by the Panel within the time
26 required by the Secretary. A hearing shall be conducted at the place determined in
27 accordance with the rules adopted by the Secretary. A hearing before the Panel shall be
28 informal; no sworn testimony shall be taken and the rules of evidence do not apply. The
29 person who appeals to the Panel has the burden of proof. The Panel shall not stay a
30 decision of an area authority during an appeal to the Panel.

31 (e) Decision. – The ~~Area Authority~~ State MH/DD/SA Appeals Panel shall make
32 a written decision on each appeal to the Panel within the time set by the Secretary. A
33 decision may direct a ~~contractor or~~ contractor, an area ~~authority~~ authority, or a county
34 program to take an action or to refrain from taking an action, but it shall not require a
35 party to appeal to pay any amount except payment due under the contract. In making a
36 decision, the Panel shall determine the course of action that best protects or benefits the
37 clients of the area ~~authority~~ authority or county program. If a party to an appeal fails to
38 comply with a decision of the Panel and the Secretary determines that the failure
39 deprives clients of the area authority or county program of a type of needed service, the
40 Secretary may use funds previously allocated to the area authority or county program to
41 provide the service.

(f) Chapter 150B Appeal. – A person who is dissatisfied with a decision of the Panel may commence a contested case under Article 3 of Chapter 150B of the General Statutes. Notwithstanding G.S. 150B-2(1), an area authority or county program is considered an agency for purposes of the limited appeal authorized by this section. The Secretary shall make a final decision in the contested case."

SECTION 1.18. G.S. 122C-154 reads as rewritten:

"§ 122C-154. Personnel.

Employees under the direct supervision of the area ~~authority~~ director are employees of the area authority. For the purpose of personnel administration, Chapter 126 of the General Statutes applies unless otherwise provided in this Article. Employees appointed by the county program director are employees of the county. In a multicounty program, employment of county program staff shall be as agreed upon in the interlocal agreement adopted pursuant to G.S. 122C-115.1."

SECTION 1.19. G.S. 122C-181 reads as rewritten:

"§ 122C-181. Secretary's jurisdiction over State facilities.

(a) Except as provided in subsection (b) of this section, the Secretary shall operate the following facilities:

(1) For the mentally ill:

- a. Cherry Hospital;
- b. Dorothea Dix Hospital;
- c. John Umstead Hospital; and
- d. Broughton Hospital; and

(2) For the mentally retarded:

- a. Caswell Center;
- b. O'Berry Center;
- c. Murdoch Center;
- d. Western Carolina Center; and
- e. Black Mountain Center; and

(3) For substance abusers:

- a. Walter B. Jones Alcohol and Drug Abuse Treatment Center at Greenville; and
- b. Julian F. Keith Alcohol and Drug Abuse Treatment Center ~~at~~ Butner; Center; and
- e. ~~Alcohol and Drug Abuse Treatment Center at Black Mountain;~~ and

(4) As special care facilities:

- a. ~~Wilson~~ North Carolina Special Care Center;
- b. Whitaker School; and
- c. Wright School; and School.
- d. ~~Butner Adolescent Treatment Center.~~

(b) The Secretary may, with the approval of the Governor and Council of State, close any State facility."

1 **SECTION 1.20.(a)** G.S. 122C-112(13) is repealed.

2 **SECTION 1.20.(b)** Part 1 of Article 3 of Chapter 143B of the General
3 Statutes is amended by adding the following new section to read:

4 "§ 143B-139.6A. Secretary's responsibilities regarding availability of early
5 intervention services.

6 The Secretary of the Department of Health and Human Services shall ensure, in
7 cooperation with other appropriate agencies, that all types of early intervention services
8 specified in the "Individuals with Disabilities Education Act" (IDEA), P.L. 102-119, the
9 federal early intervention legislation, are available to all eligible infants and toddlers
10 and their families to the extent funded by the General Assembly.

11 The Secretary shall coordinate and facilitate the development and administration of
12 the early intervention system for eligible infants and toddlers and shall assign among the
13 cooperating agencies the responsibility, including financial responsibility, for services.
14 The Secretary shall be advised by the Interagency Coordinating Council for Children
15 from Birth to Five with Disabilities and Their Families, established by G.S. 143B-179.5,
16 and may enter into formal interagency agreements to establish the collaborative
17 relationships with the Department of Public Instruction, other appropriate agencies, and
18 other public and private service providers necessary to administer the system and
19 deliver the services.

20 The Secretary shall adopt rules to implement the early intervention system, in
21 consultation with all other appropriate agencies."

22 **SECTION 1.21.(a)** G.S. 143B-147 reads as rewritten:

23 **"§ 143B-147. Commission for Mental Health, Developmental Disabilities, and**
24 **Substance Abuse Services – creation, powers and duties.**

25 (a) There is hereby created the Commission for Mental Health, Developmental
26 Disabilities, and Substance Abuse Services of the Department of Health and Human
27 Services with the power and duty to adopt, amend and repeal rules to be followed in the
28 conduct of State and local mental health, developmental disabilities, ~~alcohol and drug~~
29 ~~abuse~~ substance abuse programs including education, prevention, intervention,
30 ~~treatment, rehabilitation~~ screening, assessment, referral, detoxification, treatment,
31 rehabilitation, continuing care, emergency services, case management, and other related
32 services. Such rules shall be designed to promote the amelioration or elimination of the
33 ~~mental health, illness,~~ developmental disabilities, or ~~alcohol and drug abuse~~ substance
34 ~~abuse~~ problems of the citizens of this State. The Commission for Mental Health,
35 Developmental Disabilities, and Substance Abuse Services shall have the authority:

36 (1) To adopt rules regarding the

37 a. Admission, including the designation of regions, treatment, and
38 professional care of individuals admitted to a facility operated
39 under the authority of G.S. 122C-181(a), that is now or may be
40 established;

41 b. Operation of education, prevention, intervention, treatment,
42 rehabilitation and other related services as provided by area

- 1 mental health, developmental disabilities, and substance abuse
2 authorities, county programs, and all providers of
3 public services under Part 4 of Article 4 of Chapter 122C of the
4 General Statutes;
- 5 c. Hearings and appeals of area mental health, developmental
6 disabilities, and substance abuse authorities as provided for in
7 Part 4 of Article 4 of Chapter 122C of the General Statutes; and
- 8 ~~d. Requirements of the federal government for grants in aid for~~
9 ~~mental health, developmental disabilities, alcohol or drug abuse~~
10 ~~programs which may be made available to local programs or the~~
11 ~~State. This section is to be liberally construed in order that the~~
12 ~~State and its citizens may benefit from such grants in aid; and~~
- 13 e. ~~Implementation of single uniform portal process and policies of~~
14 ~~entry and exit policies established pursuant to Chapter 122C of~~
15 ~~the General Statutes.~~
- 16 f. Standards of public services for mental health, developmental
17 disabilities, and substance abuse services.
- 18 (2) To adopt rules for the licensing of facilities for the mentally ill,
19 developmentally disabled, and substance abusers, under Article 2 of
20 Chapter 122C of the General Statutes.
- 21 (3) To advise the Secretary of the Department of Health and Human
22 Services regarding the need for, provision and coordination of
23 education, prevention, intervention, treatment, rehabilitation and other
24 related services in the areas of:
- 25 a. Mental illness and mental health,
26 b. Developmental disabilities,
27 c. ~~Alcohol abuse, and~~ Substance abuse.
28 ~~Drug abuse;~~
- 29 (4) To review and advise the Secretary of the Department of Health and
30 Human Services regarding all State plans required by federal or State
31 law and to recommend to the Secretary any changes it thinks necessary
32 in those plans; provided, however, for the purposes of meeting State
33 plan requirements under federal or State law, the Department of Health
34 and Human Services is designated as the single State agency
35 responsible for administration of plans involving mental health,
36 developmental disabilities, ~~alcohol abuse, and drug abuse services; and~~
37 substance abuse services.
- 38 (5) To adopt rules relating to the registration and control of the
39 manufacture, distribution, security, and dispensing of controlled
40 substances as provided by ~~G.S. 90-100; G.S. 90-100.~~
- 41 (6) To adopt rules to establish the professional requirements for staff of
42 licensed facilities for the mentally ill, developmentally disabled, and

1 substance abusers. Such rules may require that one or more, but not all
2 staff of a facility be either licensed or certified. If a facility has only
3 one professional staff, such rules may require that that individual be
4 licensed or certified. Such rules may include the recognition of
5 professional certification boards for those professions not licensed or
6 certified under other provisions of the General Statutes provided that
7 the professional certification board evaluates applicants on a basis
8 which protects the public health, safety or ~~welfare~~; welfare.

9 (7) Except where rule making authority is assigned under that Article to
10 the Secretary of the Department of Health and Human Services, to
11 adopt rules to implement Article 3 of Chapter 122C of the General
12 Statutes; Statutes.

13 (8) To adopt rules specifying procedures for waiver of rules adopted by
14 the Commission.

15 (b) All rules hereby adopted shall be consistent with the laws of this State and not
16 inconsistent with the management responsibilities of the Secretary of the Department of
17 Health and Human Services provided by this Chapter and the Executive Organization
18 Act of 1973.

19 (c) All rules and regulations pertaining to the delivery of services and licensing
20 of facilities heretofore adopted by the Commission for Mental Health and Mental
21 Retardation Services, controlled substances rules and regulations adopted by the North
22 Carolina Drug Commission, and all rules and regulations adopted by the Commission
23 for Mental Health, Mental Retardation and Substance Abuse Services shall remain in
24 full force and effect unless and until repealed or superseded by action of the
25 Commission for Mental Health, Developmental Disabilities, and Substance Abuse
26 Services.

27 (d) All rules adopted by the Commission for Mental Health, Developmental
28 Disabilities, and Substance Abuse Services shall be enforced by the Department of
29 Health and Human Services."

30 **SECTION 1.21.(b)** G.S. 143B-148 reads as rewritten:

31 **"§ 143B-148. Commission for Mental Health, Developmental Disabilities, and**
32 **Substance Abuse Services – members; selection; quorum; compensation.**

33 (a) The Commission for Mental Health, Developmental Disabilities, and
34 Substance Abuse Services of the Department of Health and Human Services shall
35 consist of 26 members:

36 (1) Four of whom shall be appointed by the General Assembly, two upon
37 the recommendation of the Speaker of the House of Representatives,
38 and two upon the recommendation of the President Pro Tempore of the
39 Senate in accordance with G.S. 120-121. These members shall be
40 individuals who are concerned about the needs of individuals for
41 mental health, developmental disabilities, and substance abuse
42 services. ~~have concern for the problems of mental illness;~~

developmental disabilities, alcohol and drug abuse. Members shall serve for two-year terms beginning July 1 of odd-numbered years. A member shall serve not more than three consecutive two-year terms. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122;

(2) Twenty-two of whom shall be appointed by the Governor, one from each congressional district in the State in accordance with G.S. 147-12(3)b, and 10 at-large members.

a. Of these 22 members, three shall have a special interest in mental health, three shall have a special interest in mental retardation, three shall have a special interest in developmental disabilities other than mental retardation, three shall have a special interest in alcohol abuse and alcoholism and three shall have a special interest in drug abuse. Each group of three shall be made up of one member who is a consumer representative; one other who is a representative of a local or State citizen organization or association; and one other who is a professional in the field.

b. The remaining seven members shall be appointed from the general public, other citizen groups, area mental health, developmental disabilities, and substance abuse authorities, or from other related agencies.

c. Of these 22 appointments, at least one shall be a licensed physician and at least one other shall be a licensed attorney.

d. The Governor shall appoint members to the Commission in accordance with the foregoing provisions. The terms of all Commission members appointed by the Governor shall be four years. The initial term of the person representing the 12th Congressional District shall begin January 3, 1993, and expire June 30, 1996. All Commission members shall serve their designated terms and until their successors are duly appointed and qualified. All Commission members may succeed themselves.

(3) All appointments shall be made pursuant to current federal rules and regulations, when not inconsistent with State law, which prescribe the selection process and demographic characteristics as a necessary condition to the receipt of federal aid.

(b) Except as otherwise provided in this section, the provisions of G.S. 143B-13 through 143B-20 relating to appointment, qualifications, terms and removal of members shall apply to all members of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.

(c) Commission members shall receive per diem, travel and subsistence allowances in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

(d) A majority of the Commission shall constitute a quorum for the transaction of business.

(e) All clerical and other services required by the Commission shall be supplied by the Secretary of the Department of Health and Human Services."

PART 2. QUALITY OF CARE OMBUDSMAN PROGRAM

SECTION 2. Chapter 122C of the General Statutes is amended by adding the following new Article to read:

"Article 1A.

"MH/DD/SA Quality of Care Ombudsman Program.

"§ 122C-10. MH/DD/SA Quality of Care Ombudsman Program.

The General Assembly finds that many consumers of mental health, developmental disabilities, and substance abuse services are uncertain about their rights and responsibilities and how to access the public service system to obtain appropriate care and treatment. The General Assembly recognizes the importance of ensuring that consumers have information about the availability of services and access to resources to obtain timely quality care. There is established the MH/DD/SA Quality of Care Ombudsman Program. The purpose of this Program is to provide consumers, their families, and providers with the information and assistance needed to locate appropriate services, resolve complaints, or address common concerns and promote community involvement. It is further the intent of the General Assembly that the Department, within available resources and pursuant to its duties under this Chapter, ensure that the performance of the mental health care system in this State is closely monitored, reviews are conducted, findings and recommendations and reports are made, and that local and systemic problems are identified and corrected when necessary to promote the rights and interests of all consumers of mental health, developmental disabilities, and substance abuse services.

"§ 122C-11. MH/DD/SA Quality of Care Ombudsman Program/definitions.

Unless the context clearly requires otherwise, as used in this Article:

- (1) 'MH/DD/SA' means mental health, developmental disabilities, and substance abuse.
- (2) 'State Ombudsman' means the individual charged with the duties and functions of the State MH/DD/SA Quality of Care Ombudsman Program established under this Article.
- (3) 'State Ombudsman Program' means the State MH/DD/SA Quality of Care Ombudsman Program.
- (4) 'Local Ombudsman' means an individual employed and certified by the State Ombudsman to perform the duties and functions of the

1 MH/DD/SA Quality of Care Local Ombudsman Program in
2 accordance with this Article.

3 (5) 'Local Ombudsman Program' means a local MH/DD/SA Quality of
4 Care Local Ombudsman Program.

5 (6) 'Consumer' means an individual who is a client or a potential client of
6 public services from a State or area facility.

7 **"§ 122C-12. State MH/DD/SA Quality of Care Ombudsman Program.**

8 The Secretary shall establish a State MH/DD/SA Quality of Care Ombudsman
9 Program office in the Office of the Secretary of Health and Human Services. The
10 Secretary shall appoint a State Ombudsman. In selecting the State Ombudsman, the
11 Secretary shall consider candidates recommended by citizens' organizations
12 representing the interest of individuals with needs for mental health, developmental
13 disabilities, and substance abuse services. The State Ombudsman may hire individuals
14 to assist in executing the State Ombudsman Program and to act on the State
15 Ombudsman's behalf. The State Ombudsman shall have expertise and experience in
16 MH/DD/SA, including expertise and experience in advocacy. The Attorney General
17 shall provide legal staff and advice to the State Ombudsman.

18 **"§ 122C-13. State Ombudsman duties.**

19 The State Ombudsman shall:

20 (1) Establish Local Quality Care of Ombudsman Programs described in
21 G.S. 122C-14 and appoint the Local Ombudsmen.

22 (2) Establish certification criteria and minimum training requirements for
23 Local Ombudsmen.

24 (3) Certify Local Ombudsmen. The certification requirements shall
25 include completion of the minimum training requirements established
26 by the State Ombudsman.

27 (4) Provide training and technical assistance to Local Ombudsmen.

28 (5) Establish procedures for processing and resolving quality of care
29 complaints both at the State and local levels.

30 (6) Establish procedures for coordinating quality of care complaints with
31 local human rights committees and the State protection and advocacy
32 agency.

33 (7) Establish procedures for appropriate access by the State and Local
34 Ombudsmen to State, area authority, and county program facilities and
35 records to ensure MH/DD/SA quality of care. The procedures shall
36 include, but not be limited to, interviews of owners, consumers, and
37 employees of State, area authority, and county program facilities, and
38 on-site monitoring of conditions and services. The procedures shall
39 ensure the confidentiality of these records and that the identity of any
40 complainant or consumer will not be disclosed except as otherwise
41 provided by law.

- (8) Provide information to the public about available MH/DD/SA services, complaint procedures, and dispute resolution processes.
- (9) Analyze and monitor the development and implementation of federal, State, and local laws, regulations, and policies relating to consumers and recommend changes as considered necessary to the Secretary.
- (10) Analyze and monitor data relating to complaints or concerns about access and quality of care issues to identify significant local or systemic problems, as well as opportunities for improvement, and advise and assist the Secretary in developing policies, plans, and programs for ensuring that the quality of services provided to consumers is of a uniformly high standard.
- (11) Submit a report annually to the Secretary, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Joint Legislative Health Care Oversight Committee containing data and findings regarding the types of problems experienced and complaints reported by or on behalf of providers, consumers, and employees of providers, as well as recommendations to resolve identified quality of care issues and to improve the administration of MH/DD/SA facilities and the delivery of MH/DD/SA services throughout the State.

"§ 122C-14. Local Ombudsman; duties.

(a) The State Ombudsman shall establish a Local MH/DD/SA Quality of Care Ombudsman Program in locations in the State to be designated by the Secretary. In determining where to locate the Local Ombudsman Programs, the Secretary shall ensure reasonable consumer accessibility to the Local Ombudsmen. Local Ombudsmen shall administer the Local Ombudsman Programs. The State Ombudsman shall appoint a Local Ombudsman for each of the Local Ombudsman Programs. The State Ombudsman shall supervise the Local Ombudsmen.

(b) Pursuant to policies and procedures established by the State Ombudsman, the Local Ombudsman shall:

- (1) Assist consumers and their families with information, referral, and assistance in obtaining appropriate services.
- (2) Assist consumers and their families in understanding their rights and remedies available to them from the public service system.
- (3) Serve as a liaison between consumers and their families and facility personnel and administration.
- (4) Promote the development of consumer and citizen involvement in addressing issues relating to MH/DD/SA.
- (5) Visit the State, area authority, or county program facilities to review and evaluate the quality of care provided to consumers and submit findings to the State Ombudsman.

- (6) Work with providers and consumers and their families or advocates to resolve issues of common concern.
- (7) Participate in regular Local Ombudsman training established by the State Ombudsman.
- (8) Report regularly to area authorities and county programs, county and area authority boards, and boards of county commissioners about the Local Ombudsman's activities, including the findings made pursuant to subdivision (5) of this subsection.
- (9) Provide training and technical assistance to counties, area authority boards, and providers concerning responding to consumers, evaluating quality of care, and determining availability of services and access to resources.
- (10) Coordinate activities with local human rights committees based on procedures developed by the State Ombudsman.
- (11) Provide information to the public on MH/DD/SA issues.
- (12) Perform any other related duties as directed by the State Ombudsman.
- "§ 122C-15. State/Local Ombudsman; authority to enter; communication with residents, clients, patients; review of records.**
- (a) For purposes of this section, G.S. 122C-16 and G.S. 122C-17, 'Ombudsman' means either the State Ombudsman or any Local Ombudsman.
- (b) In performing the Ombudsman's duties, an Ombudsman shall have access at all times to any State or area facility and shall have reasonable access to any consumer or to an employee of a State or area facility. Entry and access to any consumer or to an employee shall be conducted in a manner that will not significantly disrupt the provision of services. If a facility requires visitor registration, then the Ombudsman shall register.
- (c) In performing the Ombudsman's duties, an Ombudsman may communicate privately and confidentially with a consumer. A consumer shall not be compelled to communicate with an Ombudsman. When initiating communication, an Ombudsman shall inform the consumer of the Ombudsman's purpose and that a consumer may refuse to communicate with the Ombudsman. An Ombudsman also may communicate privately and confidentially with State and area facility employees in performing the Ombudsman's duties.
- (d) Notwithstanding G.S. 8-53, G.S. 8-53.3, or any other law relating to confidentiality of communications involving a consumer, in the course of performing the Ombudsman's duties, the Ombudsman may access any information, whether recorded or not, concerning the admission, discharge, medication, treatment, medical condition, or history of any consumer to the extent permitted by federal law and regulations. Notwithstanding any State law pertaining to the privacy of personnel records, in the course of the Ombudsman's duties, the Ombudsman shall have access to personnel records of employees of State, area authority, or county program facilities.
- "§ 122C-16. State/Local Ombudsman; resolution of complaints.**

(a) Following receipt of a complaint, an Ombudsman shall attempt to resolve the complaint using, whenever possible, informal mediation, conciliation, and persuasion.

(b) If a complaint concerns a particular consumer, the consumer may participate in determining what course of action the Ombudsman should take on the consumer's behalf. If the consumer has an opinion concerning a course of action, the Ombudsman shall consider the consumer's opinion.

(c) Following receipt of a complaint, an Ombudsman shall contact the service provider to allow the service provider the opportunity to respond, provide additional information, or initiate action to resolve the complaint.

(d) Complaints or conditions adversely affecting consumers that cannot be resolved in the manner described in subsection (a) of this section shall be referred by the Ombudsman to the appropriate licensing agency under Article 2 of this Chapter.

"§ 122C-17. State/Local Ombudsman; confidentiality.

(a) Except as required by law, an Ombudsman shall not disclose the following:

(1) Any confidential or privileged information obtained pursuant to G.S. 122C-15 unless the affected individual authorizes disclosure in writing; or

(2) The name of anyone who has furnished information to an Ombudsman unless the individual authorizes disclosure in writing.

(b) Violation of this section is a Class 3 misdemeanor, punishable only by a fine not to exceed five hundred dollars (\$500.00).

(c) All confidential or privileged information obtained under this section and the names of persons providing information to an Ombudsman are exempt from disclosure pursuant to Chapter 132 of the General Statutes. Access to substance abuse records and redisclosure of protected information shall be in compliance with federal confidentiality laws protecting medical records.

"§ 122C-18. State/Local Ombudsman; retaliation prohibited.

No one shall discriminate or retaliate against any person, provider, or facility because the person, provider, or facility in good faith complained or provided information to an Ombudsman.

"§ 122C-19. State/Local Ombudsman; immunity from liability.

(a) The State and Local Ombudsman shall be immune from liability for the good faith performance of official Ombudsman duties.

(b) A State or area facility, its employees, and any other individual interviewed by an Ombudsman are immune from liability for damages resulting from disclosure of any information or documents to an Ombudsman pursuant to this Article.

"§ 122C-20. State/Local Ombudsman; penalty for willful interference.

Willful interference with the State or a Local Ombudsman in the performance of the Ombudsman's official duties is a Class 1 misdemeanor."

PART 3. PHASED-IN IMPLEMENTATION

1 **SECTION 3.(a)** The Department of Health and Human Services shall do the
2 following to prepare for the certification of area authorities and county programs to
3 administer and deliver mental health, developmental disabilities, and substance abuse
4 services.

- 5 (1) Develop the State Plan for Mental Health, Developmental Disabilities,
6 and Substance Abuse Services in accordance with G.S. 122C-102. Not
7 later than December 1, 2001, the Department shall submit the State
8 Plan to the Joint Legislative Oversight Committee on Mental Health,
9 Developmental Disabilities, and Substance Abuse Services for its
10 review.
- 11 (2) Review all rules currently in effect and adopted by the Secretary, the
12 Commission for Mental Health, Developmental Disabilities, and
13 Substance Abuse Services and identify areas of duplication,
14 vagueness, or ambiguity in content or in application. In conducting this
15 review, the Department shall solicit input from current area authorities
16 and providers on perceived problems with rules. The review may also
17 include review of rules pertaining to mental health, developmental
18 disabilities, and substance abuse services that are in effect and adopted
19 by agencies other than the Secretary and the Commission.
- 20 (3) Review the oversight and monitoring functions currently implemented
21 by the Department to determine the effectiveness of the activities in
22 achieving the intended results. Improve the oversight and monitoring
23 functions and activities, if necessary.
- 24 (4) Develop service standards, outcomes, and financing formula for core
25 and targeted services to prepare for their administration, financing, and
26 delivery by area authorities and county programs.
- 27 (5) Develop format and required content for business plans submitted by
28 boards of county commissioners and for contractual agreements
29 between the Department and area authorities of county commissioners
30 for county programs. Develop a method for Departmental evaluation
31 of local business plans. Contractual agreements for the provision of
32 services shall provide for:
 - 33 a. Terms of a minimum of three years.
 - 34 b. Annual review and renewal.
 - 35 c. Specific conditions under which the Department will provide
36 technical assistance, impose sanctions, or terminate
37 participation.
 - 38 d. Terms of the business plan.
 - 39 e. Award of start-up funds for consolidation of area or county
40 programs.
- 41 (6) Report on Department's readiness to implement system reform.

- 1 (7) Establish criteria and operational procedures for the Quality of Care
2 Ombudsman Program and make a report to the Joint Legislative
3 Oversight Committee on Mental Health, Developmental Disabilities,
4 and Substance Abuse Services on or before March 1, 2002.
- 5 (8) Develop a catchment area consolidation plan. The Secretary shall
6 anticipate receiving letters of intent from boards of county
7 commissioners on or before July 1, 2002, indicating the intent of a
8 county or counties to provide services through an existing area
9 authority or through a county program established pursuant to G.S.
10 122C-115.1. The Secretary shall develop the consolidation plan based
11 on the letters of intent, the State Plan, geographic and population
12 targeted thresholds, and capacity to implement the business plan. The
13 consolidation plan shall provide for consolidation target of no more
14 than 20 area authorities and county programs. The Secretary, in
15 consultation with county commissioners and area authorities, shall
16 complete the consolidation plan by September 1, 2004, and shall
17 submit it no later than January 1, 2005, to the Joint Legislative
18 Oversight Committee on Mental Health, Developmental Disabilities,
19 and Substance Abuse Services, the Governor, and each board of
20 county commissioners. The total number of area authorities and county
21 programs shall be reduced to no more than 20 by January 1, 2007.
- 22 (9) Develop a readiness plan to conduct readiness reviews and certify all
23 county programs and area authorities based on readiness by July 1,
24 2004. Each area authority and county program shall submit its
25 approved business plan to the Secretary pursuant to G.S. 122C-115.2
26 by January 1, 2003. The Secretary shall review the business plans as
27 provided in G.S. 122C-115.2(c), conduct readiness reviews, and
28 provide necessary assistance to resolve outstanding issues. The
29 Secretary shall complete certification of one-third of the area
30 authorities and county programs by July 1, 2003; two-thirds of the area
31 authorities and county programs by January 1, 2004; and shall
32 complete certification of all area authorities and county programs by
33 July 1, 2004.

34 The activities required under subdivisions (1) through (6) of this section shall be
35 completed by December 1, 2001. On or before October 1, 2001, and quarterly
36 thereafter, the Department shall submit a progress report on each of the activities
37 required under this section. By December 1, 2001, the Department shall submit a final
38 report on each of the activities required under subdivisions (1) through (6) of this
39 section. The Department shall make its reports to the Joint Legislative Oversight
40 Committee on Mental Health, Developmental Disabilities, and Substance Abuse
41 Services.

1 **SECTION 3.(b)** Rules adopted by the Secretary of Health and Human
2 Services and the Commission for Mental Health, Developmental Disabilities, and
3 Substance Abuse Services shall be adopted in accordance with Chapter 150B of the
4 General Statutes.

5 **SECTION 3.(c)** The Secretary shall study consolidating the Quality of Care
6 Ombudsman as provided in Section 2 of this act with other State ombudsman programs
7 in the Department of Health and Human Services. The study shall include:

- 8 (1) An analysis of the budgetary implications of consolidation;
- 9 (2) Strategies for local inter-agency collaboration and coordination of
10 ombudsman and consumer assistance services; and
- 11 (3) The possible effects of the consolidation on quality of care, service
12 delivery, and consumer assistance for each affected consumer
13 population.

14 The Secretary shall report the findings and recommendations, including
15 enabling legislation, to the Joint Legislative Oversight Committee on MH/DD/SAS on
16 or before March 1, 2002.

17 18 **PART 4. APPROPRIATIONS**

19
20 **SECTION 4.(a)** There is appropriated from the General Fund to the
21 Department of Health and Human Services the sum of (\$) for the 2001-2002 fiscal year
22 and the sum of (\$) for the 2002-2003 fiscal year to implement the Ombudsman Program
23 enacted in Section 1 of this act.

24 **SECTION 4.(b)** There is appropriated from the General Fund to the
25 Department of Health and Human Services the sum of one million six hundred thousand
26 dollars (\$1,600,000) for the 2002-2003 fiscal year. These funds shall be used to create
27 incentives for counties to consolidate mental health, developmental disabilities, and
28 substance abuse services into multicounty area authorities or multicounty programs.
29 Multicounty area authorities and multicounty programs consisting of two counties with
30 a total population of at least 200,000, or consisting of at least five counties, shall receive
31 two hundred fifty thousand dollars (\$250,000) in each of the first two fiscal years of
32 multicounty area authority or multicounty program implementation. For each county
33 added to the two-county program, the multicounty area authority or multicounty
34 program shall receive an additional fifty thousand dollars (\$50,000) of incentive funds
35 in each fiscal year.

36 37 **PART 5. EFFECTIVE DATE**

38
39 **SECTION 5.** Sections 1.1 through 1.21, and Section 2 of this act become
40 effective July 1, 2002. Section 4 of this act becomes effective July 1, 2001. The
41 remainder of this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 381

DATE 7/10/01

S. B. No. _____

Amendment No. _____

COMMITTEE SUBSTITUTE PCS9308-RM-43

(to be filled in by
Principal Clerk)

(Rep.) Gillespie
Sen.)

1 moves to amend the bill on page 15, line 5 26-27

2 () WHICH CHANGES THE TITLE

3 by inserting between the lines the following:

4 "SECTION 1.10 (b) Article 4 of Chapter 122C of the General
5 Statutes is amended by adding the following new section to read:
6 '§122C-117.1 Area Authority Oversight Committee.

7 (a) An area authority oversight committee shall be
8 established in each area authority. Each board of county
9 commissioners in the counties in the area authority
10 catchment area shall appoint two persons to the
11 committee, one of whom shall be a county commissioner,
12 and one of whom shall be either a county commissioner
13 or an individual from the county's finance office.

14 (b) The hiring of an area director shall be subject
15 to the approval of the area authority oversight committee.
16 The area board shall consult with its oversight committee
17 when evaluating the job performance of the area
18 director.

19 (c) Approval of ^{an} area authority budget
shall be subject to the approval of the oversight
committee. " " " SIGNED _____

and conforming
and to make all necessary technical changes.

ADOPTED _____ FAILED _____ TABLED _____

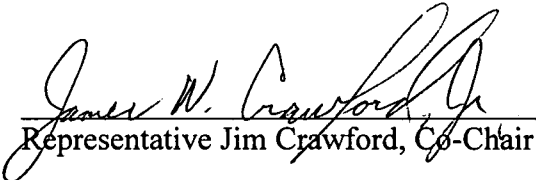
MINUTES
HOUSE COMMITTEE ON MENTAL HEALTH,
DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES
JULY 18, 2001

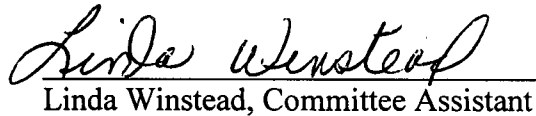
The House Committee on Mental Health, Developmental Disabilities and Substance Abuse Services met on Wednesday, July 18, 2001, around Chairman Crawford's desk after session. The following members were present: Chairman Jim Crawford, Representatives Alexander, M. Crawford, Earle, Esposito, Holliman, Insko, and Warwick. Staff to the committee, Linda Attarian and Dianna Jessup, attended.

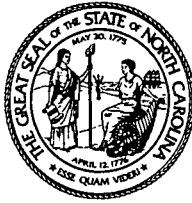
HB 381 MENTAL HEALTH SYSTEM REFORM

From the July 10 committee meeting, the bill was reported on the floor; however, was re-referred back to the committee for changes. Chairman Crawford submitted and explained a necessary amendment to the committee substitute bill necessary to make technical changes and take out money reference. Rep. Mark Crawford moved for acceptance of the amendment and a favorable report to committee substitute #2 and unfavorable to committee substitute #1. The motion carried.

The meeting adjourned.


Representative Jim Crawford, Co-Chair


Linda Winstead, Committee Assistant



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 381**

H381-ARM-22 [v.1]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 2

Date _____, 2001

Comm. Sub. [YES]
Amends Title [NO]
PCS7255-RM-54

Representative Crawford

1 moves to amend the bill on page 28, line 10,
2 by inserting before the word "Chapter" the words "Effective July 1, 2002,"; and
3
4 further moves to amend the bill on page 35, lines 18 through 35 by deleting those lines;
5 and
6
7 further moves to amend the bill on page 35, lines 39-41 by rewriting those lines to read:
8
9 "SECTION 4. Sections 1.1 through 1.20(b) of this act become effective
10 July 1, 2002. Section 2 of this act becomes effective July 1, 2002 only if funds are
11 appropriated by the 2001 General Assembly, Regular Session, 2002, for that purpose.
12



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 381**

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H381-ARM-22 [v.1]

Page 2 of 2

1 The remainder of this act is effective when it becomes law."
2

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

**2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Jim Crawford** (Chair/Chairs) for the Committee on **Mental Health**.

- ☒ Committee Substitute for
H.B. 381 A BILL TO BE ENTITLED AN ACT TO PHASE-IN IMPLEMENTATION OF
MENTAL HEALTH SYSTEM REFORM AT THE STATE AND LOCAL LEVEL.
- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.
- ☒ With a favorable report as to committee substitute bill (# 2), unfavorable as to Committee
Substitute Bill # 1).
- ☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/15/01

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

H

D

**HOUSE BILL 381*
Committee Substitute Favorable 7/11/01
PROPOSED COMMITTEE SUBSTITUTE H381*-PCS7264-RM-61**

Short Title: Mental Health System Reform.

(Public)

Sponsors:

Referred to:

March 1, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO PHASE IN IMPLEMENTATION OF MENTAL HEALTH SYSTEM
3 REFORM AT THE STATE AND LOCAL LEVEL.

4 Whereas, the 1999 General Assembly, Regular Session 2000, established the
5 Joint Legislative Oversight Committee ("Committee") on Mental Health,
6 Developmental Disabilities, and Substance Abuse Services; and

7 Whereas, the Committee was directed to develop a Plan for Mental Health
8 System Reform; and

9 Whereas, the General Assembly expressed the intent that the Plan be fully
10 implemented not later than July 1, 2005; and

11 Whereas, the General Assembly directed the Committee to "Report to the
12 2001 General Assembly upon its convening the changes that should be made to the
13 governance, structure, and financing of the State's mental health system at the State and
14 local levels"; and

15 Whereas, the Committee reviewed the governance, structure, and financing of
16 the current mental health system and reported its findings and recommendations to the
17 2001 General Assembly for legislative action; Now, therefore,
18 The General Assembly of North Carolina enacts:

19
20 **PART 1. MENTAL HEALTH SYSTEM GOVERNANCE CHANGES**

21
22 **SECTION 1.1.** G.S. 122C-2 reads as rewritten:

23 **"§ 122C-2. Policy.**

24 The policy of the State is to assist individuals with needs for mental illness, health,
25 developmental disabilities, and substance abuse problems services in ways consistent
26 with the dignity, rights, and responsibilities of all North Carolina citizens. Within
27 available resources it is the obligation of State and local government to provide mental
28 health, developmental disabilities, and substance abuse services to eliminate, reduce, or

1 ~~prevent the disabling effects of mental illness, developmental disabilities, and substance~~
2 ~~abuse through a service delivery system designed to meet the needs of clients in the~~
3 ~~least restrictive available setting, if the least restrictive setting is therapeutically most~~
4 ~~appropriate, restrictive, therapeutically most appropriate setting available and to~~
5 maximize their quality of life. It is further the obligation of the State and local
6 government to provide community-based services when such services are appropriate,
7 unopposed by the affected individuals, and can be reasonably accommodated within
8 available resources and taking into account the needs of other persons for mental health,
9 developmental disabilities, and substance abuse services.

10 State and local governments shall develop and maintain a unified system of services
11 centered in area authorities or county programs. The public service system will strive to
12 provide a continuum of services for clients while considering the availability of services
13 in the private sector. Within available resources, State and local government shall
14 ensure that the following core services are available:

- 15 (1) Screening, assessment, and referral.
- 16 (2) Emergency services.
- 17 (3) Service coordination.
- 18 (4) Consultation, prevention, and education.

19 Within available resources, the State shall provide funding to support services to
20 targeted populations, except that the State and counties shall provide matching funds for
21 entitlement program services as required by law.

22 The furnishing of services to implement the policy of this section requires the
23 cooperation and financial assistance of counties, the State, and the federal government."

24 **SECTION 1.2.(a)** G.S. 122C-3 is amended by adding the following new
25 subdivisions in alphabetical order to read:

- 26 "(1) 'Area director' means the administrative head of the area authority
27 program appointed pursuant to G.S. 122C-121.
- 28 (2) 'Board of county commissioners' includes the participating boards of
29 county commissioners for multicounty area authorities and
30 multicounty programs.
- 31 (3) 'Core services' are those services that are basic, essential, and
32 universally available to all individuals.
- 33 (4) 'County program' means a mental health, developmental disabilities,
34 and substance abuse services program established, operated, and
35 governed by a county pursuant to G.S. 122C-115.1.
- 36 (5) 'Program director' means the director of a county program established
37 pursuant to G.S. 122C-115.1.
- 38 (6) 'Public services' means publicly funded mental health, developmental
39 disabilities, and substance abuse services, whether provided by public
40 or private providers.
- 41 (7) 'Specialty services' means services that are provided to consumers
42 from low incidence populations.

(8) 'State' or 'Local' Ombudsman means the individual carrying out the duties of the State or Local Quality of Care Ombudsman Office in accordance with Article 1A of this Chapter.

(9) 'State Plan' means the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.

(10) 'Targeted population' means those individuals who are given service priority under the State Plan.

(11) 'Uniform portal process' means a standardized process and procedures used to ensure consumer access to, and exit from, public services in accordance with the State Plan."

SECTION 1.2.(b) G.S. 122C-3(5) reads as rewritten:

"(5) 'Catchment area' means the geographic part of the State served by a specific area authority. authority or county program."

SECTION 1.2.(c) G.S. 122C-3(34) and G.S. 122C-3(35) are repealed.

SECTION 1.3. G.S. 122C-64 reads as rewritten:

"§ 122C-64. Human rights committees.

Human rights committees responsible for protecting the rights of clients shall be established at each State facility ~~and may be established for area authorities.~~ The Commission ~~shall adopt rules for the establishment of committees. These rules shall include the composition and duties of the committees and procedures for appointment of the members by the Secretary for State facilities and by the area board for area authorities.~~ facility and for each area authority and county program. The Commission shall adopt rules for the establishment, composition, and duties of the committees and procedures for appointment and coordination with the State and Local Ombudsman programs. In multicounty area authorities and multicounty programs, the membership of the human rights committee shall include a representative from each of the participating counties."

SECTION 1.4. G.S. 122C-101 reads as rewritten:

"§ 122C-101. Policy.

Within the public system of mental health, developmental disabilities, and substance abuse services, there are ~~both area~~ area, county, and State facilities. An area authority or county program is the locus of coordination among public services for clients of its catchment area. ~~To assure the most appropriate and efficient care of clients within the publicly supported service system, area authorities are encouraged to develop and secure approval for a single portal of entry and exit policy for their catchment areas for mental health and substance abuse authorities. Effective January 1, 1994, an area authority shall develop and secure approval for a single portal of entry and exit policy for public and private services for individuals with developmental disabilities."~~

SECTION 1.5. Part 1 of Article 4 of Chapter 122C of the General Statutes is amended by adding the following new section to read:

"§ 122C-102. State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.

1 The Department shall develop and implement a State Plan for Mental Health,
2 Developmental Disabilities, and Substance Abuse Services. The State Plan shall include
3 the following:

- 4 (1) Vision and mission of the State Mental Health, Developmental
5 Disabilities, and Substance Abuse Services system.
- 6 (2) Organizational structure of the Department and the Divisions of the
7 Department responsible for managing and monitoring mental health,
8 developmental disabilities, and substance abuse services.
- 9 (3) Protection of client rights and consumer involvement in planning and
10 management of system services.
- 11 (4) Provision of services to targeted populations, including criteria for
12 identifying targeted populations.
- 13 (5) Compliance with federal mandates in establishing service priorities in
14 mental health, developmental disabilities, and substance abuse.
- 15 (6) Description of the core services that are available to all individuals in
16 order to improve consumer access to mental health, developmental
17 disabilities, and substance abuse services at the local level.
- 18 (7) Service standards for the mental health, developmental disabilities, and
19 substance abuse services system.
- 20 (8) Implementation of the uniform portal process.
- 21 (9) Strategies and schedules for implementing the service plan, including
22 engagement of stakeholders in planning coordinated Medicaid policy
23 development, intersystem collaboration, promotion of best practices,
24 technical assistance, outcome-based monitoring, and evaluation.
- 25 (10) A business plan to demonstrate efficient and effective resource
26 management of the mental health, developmental disabilities, and
27 substance abuse services system, including strategies for
28 accountability for non-Medicaid and Medicaid services."

29 **SECTION 1.6.** G.S. 122C-111 reads as rewritten:

30 **"§ 122C-111. Administration.**

31 The Secretary shall administer and enforce the provisions of this Chapter and the
32 rules of the Commission and shall operate State facilities. An area director or program
33 director shall administer the programs of the area authority or county program, as
34 applicable, and enforce ~~the rules of the area board~~, applicable State laws, rules of the
35 Commission, and rules of the Secretary. The Secretary in cooperation with area and
36 county program directors and State facility directors shall provide for the coordination
37 of public services between area ~~authorities~~ authorities, county programs, and State
38 facilities."

39 **SECTION 1.7.(a)** G.S. 122C-112 is repealed.

40 **SECTION 1.7.(b)** Part 2 of Article 4 of Chapter 122C of the General
41 Statutes is amended by adding the following new section to read:

42 **"§ 122C-112.1. Powers and duties of the Secretary.**

- (a) The Secretary shall do all of the following:
- (1) Oversee development 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 business plans submitted by area authorities and counties for the management and provision of mental health, developmental disabilities, and substance abuse services.
 - (4) Adopt rules specifying the content and format of business plans.
 - (5) Review business plans and upon approval of the business plan, certify the submitting area authority or county program to provide mental health, developmental disabilities, and substance abuse services.
 - (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 shall include 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 compliance with the program business plan, core administrative functions, and fiscal and administrative practices and shall also address outcome measures, consumer satisfaction, client rights complaints, and adherence to best practices.
 - (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 Ombudsman Office.
 - (9) Assist area authorities and county programs in the establishment and operation of community-based programs.
 - (10) Operate State facilities and adopt rules pertaining to their operation.
 - (11) Develop a unified system of services provided in area, county, and State facilities, and by providers enrolled or under a contract with the State.
 - (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.

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 (b) The Secretary may do the following:

7 (1) Acquire, by purchase or otherwise in the name of the Department,
8 equipment, supplies, and other personal property necessary to carry out
9 the mental health, developmental disabilities, and substance abuse
10 programs.

11 (2) Promote and conduct research in the fields of mental health,
12 developmental disabilities, and substance abuse; promote best
13 practices.

14 (3) Receive donations of money, securities, equipment, supplies, or any
15 other personal property of any kind or description that shall be used by
16 the Secretary for the purpose of carrying out mental health,
17 developmental disabilities, and substance abuse programs. Any
18 donations shall be reported to the Office of State Budget and
19 Management as determined by that office.

20 (4) Accept, allocate, and spend any federal funds for mental health,
21 developmental disabilities, and substance abuse activities that may be
22 made available to the State by the federal government. This Chapter
23 shall be liberally construed in order that the State and its citizens may
24 benefit fully from these funds. Any federal funds received shall be
25 deposited with the Department of State Treasurer and shall be
26 appropriated by the General Assembly for the mental health,
27 developmental disabilities, or substance abuse purposes specified.

28 (5) Enter agreements authorized by G.S. 122C-346.

29 (6) Notwithstanding G.S. 126-18, authorize funds for contracting with a
30 person, firm, or corporation for aid or assistance in locating, recruiting,
31 or arranging employment of health care professionals in any facility
32 listed in G.S. 122C-181.

33 (7) Contract with one or more private providers or other public service
34 agencies to serve clients of an area authority or county program and
35 reallocate program funds to pay for services under the contract if the
36 Secretary finds all of the following:

37 a. The area authority or county program refuses or has failed to
38 provide the services to clients within its catchment area, or
39 provide specialty services in another catchment area, in a
40 manner that is at least adequate.

41 b. Clients within the area authority or county program catchment
42 area will either not be served or will suffer an unreasonable

1 hardship if required to obtain the services from another area
2 authority or county program.

3 c. There is at least one private provider or public service agency
4 within the area authority or county program catchment area, or
5 within reasonable proximity to the catchment area, willing and
6 able to provide services under contract.

7 Before contracting with a private provider as authorized under this
8 subdivision, the Secretary shall provide written notification to the area
9 authority or county program and to the applicable participating boards of
10 county commissioners of the Secretary's intent to contract and shall provide
11 the area authority or county program and the applicable participating boards
12 of county commissioners an opportunity to be heard.

13 (8) Contract with one or more private providers or other public service
14 agencies to serve clients from more than one area authority or county
15 program and reallocate the funds of the applicable programs to pay for
16 services under the contract if the Secretary finds either that there is no
17 other area authority or county program available to act as the
18 administrative entity under contract with the provider or that the area
19 authority or county program refuses or has failed to properly manage
20 and administer the contract with the contract provider, and clients will
21 either not be served or will suffer unreasonable hardship if services are
22 not provided under the contract. Before contracting with a private
23 provider as authorized under this subdivision, the Secretary shall
24 provide written notification to the area authority or county program
25 and the applicable participating boards of county commissioners of the
26 Secretary's intent to contract and shall provide the area authority or
27 county program and the applicable participating boards of county
28 commissioners an opportunity to be heard.

29 (9) Require reports of client characteristics, staffing patterns, agency
30 policies or activities, services, or specific financial data of the area
31 authority, county program, and providers of public services. The
32 reports shall not identify individual clients of the area authority or
33 county program unless specifically required by State law or by federal
34 law or regulation or unless valid consent for the release has been given
35 by the client or legally responsible person."

36 SECTION 1.8. G.S. 122C-115 reads as rewritten:

37 "~~§ 122C-115. Powers and duties of counties and cities.~~ Duties of counties;
38 appropriation and allocation of funds by counties and cities.

39 (a) ~~Except as provided in G.S. 153A-77, a county shall provide mental health,~~
40 ~~developmental disabilities, and substance abuse services through an area authority. A~~
41 county shall provide mental health, developmental disabilities, and substance abuse
42 services through an area authority or through a county program established pursuant to

1 G.S. 122C-115.1. To the extent this section conflicts with G.S. 153A-77(a), the
2 provisions of G.S. 153A-77(a) control.

3 (b) Counties shall and cities may appropriate funds for the support of programs
4 that serve the catchment area, whether the programs are physically located within a
5 single county or whether any facility housing a program is owned and operated by the
6 city or county. Counties and cities may make appropriations for the purposes of this
7 Chapter and may allocate for these purposes other revenues not restricted by law, and
8 counties may fund them by levy of property taxes pursuant to G.S. 153A-149(c)(22).

9 (c) ~~Within~~ Except as authorized in G.S. 122C-115.1, within a catchment area
10 designated by the Commission in the business plan pursuant to G.S. 122C-115.2, a
11 board of county commissioners or two or more boards of county commissioners jointly
12 shall establish an area authority with the approval of the Secretary.

13 (d) Except as otherwise provided in this subsection, counties shall not reduce
14 county appropriations and expenditures for current operations and ongoing programs
15 and services of area authorities or county programs because of the availability of
16 State-allocated funds, fees, capitation amounts, or fund balance to the area ~~authority.~~
17 authority or county program. Counties may reduce county appropriations by the amount
18 previously appropriated by the county for one-time, nonrecurring special needs of the
19 area ~~authority.~~ authority or county program."

20 **SECTION 1.9.** Part 2 of Article 4 of Chapter 122C of the General Statutes is
21 amended by adding the following new sections to read:

22 **"§ 122C-115.1. County governance and operation of mental health, developmental**
23 **disabilities, and substance abuse services program.**

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

29 (1) Adoption and administration of the program budget in accordance with
30 Chapter 159 of the General Statutes.

31 (2) Appointment of a program director to carry out the provisions of G.S.
32 122C-111 and duties and responsibilities delegated by the county.
33 Except when specifically waived by the Secretary, the program
34 director shall meet the following minimum qualifications:

35 a. Masters degree,

36 b. Related experience, and

37 c. Management experience.

38 (3) A targeted minimum population of 200,000 or a targeted minimum
39 number of five counties served by the program.

40 (4) Compliance with the provisions of this Chapter and the rules of the
41 Commission and the Secretary.

1 (5) Written notification to the Secretary prior to the termination of the
2 interlocal agreement.

3 (6) Appointment of an advisory committee. The interlocal agreement shall
4 designate a county manager to whom the advisory committee shall
5 report. The interlocal agreement shall also designate the appointing
6 authorities. The appointing authorities shall make appointments that
7 take into account sufficient citizen participation, equitable
8 representation of the disability groups, and equitable representation of
9 participating counties. At least fifty percent (50%) of the membership
10 shall conform to the requirements provided in G.S. 122C-118.1(b)(1)-
11 (4).

12 (b) Before establishing a county program pursuant to this section, a county board
13 of commissioners shall hold a public hearing with notice published at least 10 days
14 before the hearing.

15 (c) A county shall ensure that the county program and the services provided
16 through the county program comply with the provisions of this Chapter and the rules
17 adopted by the Commission and the Secretary.

18 (d) A county program shall submit on a quarterly basis to the Secretary and the
19 board of county commissioners service delivery reports that assess the quality and
20 availability of public services within the county program's catchment area. The service
21 delivery reports shall include the types of services delivered, number of recipients
22 served, and services requested but not delivered due to staffing, financial, or other
23 constraints. In addition, at least annually, a progress report shall be submitted to the
24 Secretary and the board of county commissioners. The progress report shall include an
25 assessment of the progress in implementing local service plans, goals, and outcomes.
26 All reports shall be in a format and shall contain any additional information required by
27 the Secretary or board of county commissioners.

28 (e) Within 30 days of the end of each quarter of the fiscal year, the program
29 director and finance officer of the county program shall present to each member of the
30 board of county commissioners a budgetary statement and balance sheet that details the
31 assets, liabilities, and fund balance of the county program. This information shall be
32 read into the minutes of the meeting at which it is presented. The program director or
33 finance officer of the county program shall provide to the board of county
34 commissioners ad hoc reports as requested by the board of county commissioners.

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

38 (g) In a single-county program, an advisory committee shall be appointed by the
39 board of county commissioners and shall report to the county manager. The
40 appointments shall take into account sufficient citizen participation, equitable
41 representation of the disability groups, and equitable representation of participating
42 counties. At least fifty percent (50%) of the membership shall conform to the

1 requirements in G.S. 122C-118.1(b)(1)-(4). In a multicounty program, the advisory
2 committee shall be appointed in accordance with the terms of the interlocal agreement.

3 (h) The county program may contract to provide services to governmental or
4 private entities, including Employee Assistance Programs.

5 (i) Except as otherwise specifically provided, this Chapter applies to counties
6 that provide mental health, developmental disabilities, and substance abuse services
7 through a county program. As used in the applicable sections of this Article, the terms
8 'area authority', 'area program', and 'area facility' shall be construed to include 'county
9 program'. The following sections of this Article do not apply to county programs:

10 (1) G.S. 122C-115.3, 122C-116, 122C-117, and 122C-118.1.

11 (2) G.S. 122C-119 and G.S. 122C-119.1.

12 (3) G.S. 122C-120 and G.S. 122C-121.

13 (4) G.S. 122C-127.

14 (5) G.S. 122C-147.

15 (6) G.S. 122C-152 and G.S. 122C-153.

16 (7) G.S. 122C-156.

17 (8) G.S. 122C-158.

18 **"§ 122C-115.2. Business plan required; content, process, certification.**

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

27 (b) Business plans shall include the following:

28 (1) Description of how the following core administrative functions will be
29 carried out:

30 a. Planning. – Local services plans that identify service gaps and
31 methods for filling the gaps, ensure the availability of an array
32 of services based on consumer needs, provision of core
33 services, equitable service delivery among member counties,
34 and prescribing the efficient and effective use of all funds for
35 targeted services. Local planning shall be an open process
36 involving key stakeholders.

37 b. Provider network development. – Ensuring available, qualified
38 providers to deliver services based on the business plan.
39 Development of new providers and monitoring provider
40 performance and service outcomes. Provider network
41 development shall address consumer choice and fair
42 competition. For the purposes of this section, a 'qualified

- 1 provider' means a provider who meets the provider
2 qualifications as defined by rules adopted by the Secretary.
- 3 c. Service management. – Implementation of uniform portal
4 process. Service management shall include appropriate level
5 and intensity of services, management of State
6 hospitals/facilities bed days, utilization management, case
7 management, and quality management. If services are provided
8 directly by the area authority or county program, then the plan
9 shall indicate how consumer choice and fair competition in the
10 marketplace is ensured.
- 11 d. Financial management and accountability. – Carrying out
12 business functions in an efficient and effective manner, cost-
13 sharing, and managing resources dedicated to the public system.
- 14 e. Service monitoring and oversight. – Ensuring that services
15 provided to consumers and families meet State outcome
16 standards and ensure quality performance by providers in the
17 network.
- 18 f. Evaluation. – Self-evaluation based on statewide outcome
19 standards and participation in independent evaluation studies.
- 20 g. Collaboration. – Collaborating with other local service systems
21 in ensuring access and coordination of services at the local
22 level. Collaborating with other area authorities and county
23 programs and the State in planning and delivering services.
- 24 h. Access. – Ensuring access to core and targeted services.
- 25 (2) Description of how the following will be addressed:
- 26 a. Reasonable administrative costs based on uniform State criteria
27 for calculating administrative costs and costs or savings
28 anticipated from consolidation.
- 29 b. Proposed reinvestment of savings toward direct services.
- 30 c. Compliance with the catchment area consolidation plan adopted
31 by the Secretary.
- 32 d. Based on rules adopted by the Secretary, method for calculating
33 county resources to reflect cash and in-kind contributions of the
34 county.
- 35 e. Financial and services accountability and oversight in
36 accordance with State and federal law.
- 37 f. The composition and appointment of the area authority board.
- 38 g. The population base of the catchment area to be served.
- 39 h. Use of local funds for the alteration, improvement, and
40 rehabilitation of real property as authorized by and in
41 accordance with G.S. 122C-147.

1 (3) Other matters determined by the Secretary to be necessary to
2 effectively and efficiently provide mental health, developmental
3 disabilities, and substance abuse services through an area authority or
4 county program.

5 (c) The county program or area authority proposing the business plan shall
6 submit the proposed plan as approved by the board of county commissioners to the
7 Secretary for review and certification. The Secretary shall review the business plan
8 within 30 days of receipt of the plan. If the business plan meets all of the requirements
9 of State law and standards adopted by the Secretary, then the Secretary shall certify the
10 area authority or county program as a single-county area authority, a single-county
11 program, a multicounty area authority, or a multicounty program. Implementation of the
12 certified plan shall begin within 30 days of certification. If the Secretary determines that
13 changes to the plan are necessary, then the Secretary shall so notify the submitting
14 county program or area authority and the applicable participating boards of county
15 commissioners and shall indicate in the notification the changes that need to be made in
16 order for the proposed program to be certified. The submitting county program or area
17 authority shall have 30 days from receipt of the Secretary's notice to make the requested
18 changes and resubmit the amended plan to the Secretary for review. The Secretary shall
19 provide whatever assistance is necessary to resolve outstanding issues. Amendments to
20 the business plan shall be subject to the approval of the participating boards of county
21 commissioners.

22 (d) Annually, in accordance with procedures established by the Secretary, each
23 area authority and county program submitting a business plan shall enter into a
24 memorandum of agreement with the Secretary for the purpose of ensuring that State
25 funds are used in accordance with priorities expressed in the business plan.

26 **"§ 122C-115.3. Dissolution of area authority.**

27 (a) Whenever the board of commissioners of each county constituting an area
28 authority determines that the area authority is not operating in the best interests of
29 consumers, it may direct that the area authority be dissolved. In addition, whenever a
30 board of commissioners of a county that is a member of an area authority determines
31 that the area authority is not operating in the best interests of consumers of that county,
32 it may withdraw from the area authority. Dissolution of an area authority or withdrawal
33 from the area authority by a county shall be effective only at the end of the fiscal year in
34 which the action of dissolution or withdrawal transpired.

35 (b) Notwithstanding the provisions of subsection (a) of this section, no county
36 shall withdraw from an area authority nor shall an area authority be dissolved without
37 first demonstrating that continuity of services will be assured and without prior approval
38 of the Secretary.

39 (c) Prior to withdrawal of a county from an area authority, the county board of
40 commissioners shall hold a public hearing with notice published at least 10 days before
41 the hearing.

1 (d) Prior to dissolution of an area authority, the area authority shall hold a public
2 hearing with notice published in every participating county at least 10 days before the
3 hearing.

4 (e) Any budgetary surplus available to an area authority at the time of its
5 dissolution shall be distributed to those counties comprising the area authority on the
6 same pro rata basis that the counties appropriated and contributed funds to the area
7 authority's budget during the current fiscal year. Distribution to the counties shall be
8 determined on the basis of an audit of the financial record of the area authority. The area
9 authority board shall select a certified public accountant or an accountant who is
10 subsequently certified by the Local Government Commission to conduct the audit. The
11 audit shall be performed in accordance with G.S. 159-34. The same method of
12 distribution of funds described in this subsection shall apply when one or more counties
13 of an area authority withdraw from the area authority.

14 (f) Any liabilities at the time of its dissolution shall be paid from unobligated
15 surplus funds available to the area authority. If unobligated surplus funds are not
16 sufficient to satisfy the total indebtedness of the area authority, then the remaining
17 unsatisfied indebtedness shall be apportioned on the same pro rata basis that the
18 counties appropriated and contributed funds to the area authority's budget during the
19 current fiscal year. "

20 **SECTION 1.10.** G.S. 122C-117 reads as rewritten:

21 **"§ 122C-117. Powers and duties of the area authority.**

22 (a) The area authority ~~shall~~: shall do all of the following:

- 23 (1) Engage in comprehensive planning, budgeting, implementing, and
24 monitoring of community-based mental health, developmental
25 disabilities, and substance abuse ~~services~~; services.
- 26 (2) Provide services to clients in the catchment area, including clients
27 committed to the custody of the Department of Juvenile Justice and
28 Delinquency ~~Prevention~~; Prevention.
- 29 (3) Determine the needs of the area authority's clients and coordinate with
30 the Secretary and with the Department of Juvenile Justice and
31 Delinquency Prevention the provision of services to clients through
32 area and State ~~facilities~~; facilities.
- 33 (4) Develop plans and budgets for the area authority subject to the
34 approval of the ~~Secretary~~; Secretary. The area authority shall submit
35 the approved budget to the board of county commissioners and the
36 county manager and provide quarterly reports on financial status of the
37 program in accordance with subsection (c) of this section.
- 38 (5) Assure that the services provided by the county through the area
39 authority meet the rules of the Commission and ~~Secretary~~; Secretary.
- 40 (6) Comply with federal requirements as a condition of receipt of federal
41 ~~grants; and grants.~~

- 1 (7) ~~Appoint an area director, chosen through a search committee on which~~
2 ~~the Secretary of the Department of Health and Human Services or the~~
3 ~~Secretary's designee serves as a nonvoting member. Appoint an area~~
4 ~~director in accordance with G.S. 122C-121. The appointment is subject~~
5 ~~to the approval of the board of county commissioners. The~~
6 ~~appointment shall be based on a selection by a search committee of the~~
7 ~~area authority board. The search committee shall include consumer~~
8 ~~board members, a county manager, a member appointed by the~~
9 ~~Secretary, and one or more county commissioners.~~
- 10 (8) Develop and submit to the board of county commissioners for
11 approval the business plan required under G.S. 122C-115.2. A
12 multicounty area authority shall submit the business plan to each
13 participating board of county commissioners for its approval. The
14 boards of county commissioners of a multicounty area authority shall
15 jointly submit one approved business plan to the Secretary for
16 approval and certification.
- 17 (9) Perform public relations and community advocacy functions.
- 18 (10) Recommend to the board of county commissioners the creation of
19 local program services.
- 20 (11) Submit to the Secretary and the board of county commissioners service
21 delivery reports, on a quarterly basis, that assess the quality and
22 availability of public services within the area authority's catchment
23 area. The service delivery reports shall include the types of services
24 delivered, number of recipients served, and services requested but not
25 delivered due to staffing, financial, or other constraints. In addition, at
26 least annually, a progress report shall be submitted to the Secretary and
27 the board of county commissioners. The progress report shall include
28 an assessment of the progress in implementing local service plans,
29 goals, and outcomes. All reports shall be in a format and shall contain
30 any additional information required by the Secretary or board of
31 county commissioners.
- 32 (12) Comply with this Article and rules adopted by the Secretary for the
33 development and submission of and compliance with the area authority
34 business plan.
- 35 (a1) The area authority may contract to provide services to governmental or
36 private entities, including Employee Assistance Programs.
- 37 (b) The governing unit of the area authority is the area board. All powers, duties,
38 functions, rights, privileges, or immunities conferred on the area authority may be
39 exercised by the area board.
- 40 (c) Within 30 days of the end of each quarter of the fiscal year, the area director
41 and finance officer of the area authority shall provide to each member of the board of
42 county commissioners the quarterly report of the area authority. This information shall

1 be presented in a format prescribed by the county. At least twice a year, this information
2 shall be presented in person and shall be read into the minutes of the meeting at which it
3 is presented. In addition, the area director or finance officer of the area authority shall
4 provide to the board of county commissioners ad hoc reports as requested by the board
5 of county commissioners.

6 (d) A multicounty area authority shall provide to each board of county
7 commissioners of participating counties a copy of the area authority's annual audit. The
8 audit findings shall be presented in a format prescribed by the county and shall be read
9 into the minutes of the meeting at which the audit findings are presented."

10 **SECTION 1.11.(a)** G.S. 122C-118 is repealed.

11 **SECTION 1.11.(b)** Article 4 of Chapter 122C of the General Statutes is
12 amended by adding the following new section to read:

13 **"§ 122C-118.1. Structure of area board.**

14 (a) An area board shall have no fewer than 11 and no more than 15 members. In
15 a single county area authority, the members shall be appointed by the board of county
16 commissioners. In a multicounty area authority, the participating boards of county
17 commissioners shall jointly appoint the members of the board. These appointments shall
18 take into account sufficient citizen participation, equitable representation of the
19 disability groups, and equitable representation of participating counties. Individuals
20 appointed to the board shall include an individual with financial expertise or a county
21 finance officer, an individual with expertise in management or business, and an
22 individual representing the interests of children. A member of the board may be
23 removed with or without cause by the initial appointing authority. Vacancies on the
24 board shall be filled by the initial appointing authority before the end of the term of the
25 vacated seat or within 120 days of the vacancy, whichever occurs first, and the
26 appointments shall be for the remainder of the unexpired term.

27 (b) At least fifty percent (50%) of the members of the area board shall represent
28 the following:

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

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

34 (3) A family member or an individual from citizens' organizations
35 composed primarily of consumers or their family members,
36 representing the interests of individuals:

37 a. With mental illness; and

38 b. In recovery from addiction; and

39 c. With developmental disabilities.

40 (4) Openly declared consumers:

41 a. With mental illness; and

42 b. With developmental disabilities; and

1 c. In recovery from addiction.

2 (c) The board of county commissioners may elect to appoint a member of the
3 area authority board to fill concurrently more than one category of membership if the
4 member has the qualifications or attributes of more than one category of membership.

5 (d) The terms of the members on the area authority board shall be for four years,
6 except that upon the initial formation of a program board one-fourth shall be appointed
7 for one year, one-fourth for two years, one-fourth for three years, and all remaining
8 members for four years. Members shall not be appointed for more than two consecutive
9 terms.

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

13 **SECTION 1.11.(c)** G.S. 122C-119 reads as rewritten:

14 **"§ 122C-119. Organization of area board.**

15 (a) The area board shall meet at least six times per year.

16 (b) Meetings shall be called by the area board chairman or by three or more
17 members of the board after notifying the area board chairman in writing.

18 (c) Members of the area board elect the board's chairman. The term of office of
19 the area board chairman shall be one year. A county commissioner area board member
20 may serve as the area board chairman.

21 (d) The area board shall establish a finance committee that shall meet at least six
22 times per year to review the financial strength of the area program. The finance
23 committee shall have a minimum of three members, two of whom have expertise in
24 budgeting and fiscal control. A county finance officer shall serve as an ex officio
25 member. All other finance officers of participating counties in a multicounty area
26 authority may serve as ex officio members. If the area board so chooses, the entire area
27 board may function as the finance committee; however, its required meetings as a
28 finance committee shall be distinct from its meetings as an area board."

29 **SECTION 1.12.** G.S. 122C-121 reads as rewritten:

30 **"§ 122C-121. Area director.**

31 ~~(a) The area director is an employee of the area board and shall serve at the~~
32 ~~pleasure of the area board. The director is responsible for the staff appointments, for~~
33 ~~implementation of the policies and programs of the board in compliance with rules of~~
34 ~~the Commission and the Secretary, and for the supervision of all service programs and~~
35 ~~staff. The area director is an employee of the area board and shall be appointed in~~
36 ~~accordance with G.S. 122C-117(7). The area director is the administrative head of the~~
37 ~~area program.~~

38 (b) The area board shall evaluate annually the area director for performance
39 based on criteria established by the Secretary and the area board. In conducting the
40 evaluation, the area board shall consider comments from the board of county
41 commissioners.

42 (c) In addition to the duties under G.S. 122C-111, the area director shall:

- 1 (1) Appoint and supervise area program staff.
- 2 (2) Administer area authority services.
- 3 (3) Develop the budget of the area authority for review by the area board.
- 4 (4) Provide information and advice to the board of county commissioners
5 through the county manager.
- 6 (5) Act as liaison between the area authority and the Department.

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

- 9 (1) Masters degree;
- 10 (2) Related experience; and
- 11 (3) Management experience."

12 **SECTION 1.13.(a)** G.S. 122C-124, 122C-125.1, and 122C-126 are repealed.

13 **SECTION 1.13.(b)** Article 4 of Chapter 122C of the General Statutes is
14 amended by adding the following new section to read:

15 **"§ 122C-124.1. Actions by the Secretary when area authority or county program is**
16 **not providing minimally adequate services.**

17 (a) Notice of Likelihood of Action. – When the Secretary determines that there is
18 a likelihood of suspension of funding, assumption of service delivery or management
19 functions, or appointment of a caretaker board under this section within the ensuing 60
20 days, the Secretary shall so notify in writing the area authority board or the county
21 program and the board of county commissioners of the area authority or county
22 program. The notice shall state the particular deficiencies in program services or
23 administration that must be remedied to avoid action by the Secretary under this section.
24 The area authority board or county program shall have 60 days from the date it receives
25 notice under this subsection to take remedial action to correct the deficiencies. The
26 Secretary shall provide technical assistance to the area authority or county program in
27 remedying deficiencies.

28 (b) Suspension of Funding; Assumption of Service Delivery or Management
29 Functions. – If the Secretary determines that a county, through an area authority or
30 county program, is not providing minimally adequate services, in accordance with rules
31 adopted by the Secretary or the Commission, to persons in need in a timely manner, or
32 fails to demonstrate reasonable efforts to do so, the Secretary, after providing written
33 notification of the Secretary's intent to the area authority or county program and to the
34 board of county commissioners of the area authority or county program, and after
35 providing the area authority or county program and the boards of county commissioners
36 of the area authority or county program an opportunity to be heard, may:

- 37 (1) Withhold funding for the particular service or services in question
38 from the area authority or county program and ensure the provision of
39 these services through contracts with public or private agencies or by
40 direct operation by the Department.

41 Upon suspension of funding, the Department shall direct the
42 development and oversee implementation of a corrective plan of action

1 and provide notification to the area authority or county program and
2 the board of county commissioners of the area authority or county
3 program of any ongoing concerns or problems with the area authority's
4 or county program's finances or delivery of services.

5 (2) Assume control of the particular service or management functions in
6 question or of the area authority or county program and appoint an
7 administrator to exercise the powers assumed. This assumption of
8 control shall have the effect of divesting the area authority or county
9 program of its powers in G.S. 122C-115.1 and G.S. 122C-117 and all
10 other service delivery powers conferred on the area authority or county
11 program by law as they pertain to this service or management function.
12 County funding of the area authority or county program shall continue
13 when the State has assumed control of the catchment area or of the
14 area authority or county program. At no time after the State has
15 assumed this control shall a county withdraw funds previously
16 obligated or appropriated to the area authority or county program.

17 Upon assumption of control of service delivery or management
18 functions, the Department shall, in conjunction with the area authority
19 or county program, develop and implement a corrective plan of action
20 and provide notification to the area authority or county program and
21 the board of county commissioners of the area authority or county
22 program of the plan. The Department shall also keep the area authority
23 board and the board of county commissioners informed of any ongoing
24 concerns or problems with the delivery of services.

25 (c) Appointment of Caretaker Administrator. – In the event that a county,
26 through an area authority or county program, fails to comply with the corrective plan of
27 action required when funding is suspended or when the State assumes control of service
28 delivery or management functions, the Secretary, after providing written notification of
29 the Secretary's intent to the area authority or county program and the applicable
30 participating boards of county commissioners of the area authority or county program,
31 shall appoint a caretaker administrator, a caretaker board of directors, or both.

32 The Secretary may assign any of the powers and duties of the area director or
33 program director or of the area authority board or board of county commissioners of the
34 area authority or county program pertaining to the operation of mental health,
35 developmental disabilities, and substance abuse services to the caretaker board or to the
36 caretaker administrator as it deems necessary and appropriate to continue to provide
37 direct services to clients, including the powers as to the adoption of budgets,
38 expenditures of money, and all other financial powers conferred on the area authority or
39 county program by law pertaining to the operation of mental health, developmental
40 disabilities, and substance abuse services. County funding of the area authority or
41 county program shall continue when the State has assumed control of the financial
42 affairs of the program. At no time after the State has assumed this control shall a county

1 withdraw funds previously obligated or appropriated to the area authority or county
2 program. The caretaker administrator and the caretaker board shall perform all of these
3 powers and duties. The Secretary may terminate the area director or program director
4 when it appoints a caretaker administrator. Chapter 150B of the General Statutes shall
5 apply to the decision to terminate the area director or program director. Neither party to
6 any such contract shall be entitled to damages. After a caretaker board has been
7 appointed, the General Assembly shall consider, at its next regular session, the future
8 governance of the identified area authority or county program."

9 **SECTION 1.14.** G.S. 122C-132 and G.S. 122C-132.1 are repealed.

10 **SECTION 1.15.** G.S. 122C-141 reads as rewritten:

11 **"§ 122C-141. Provision of services.**

12 (a) The area authority or county program may provide services directly and may
13 shall contract with other public or private agencies, institutions, or resources for the
14 provision of services. Subject to the approval of the Secretary, an area authority or
15 county program may provide services directly when other qualified public or private
16 providers are unavailable to meet service needs. When providing services directly, an
17 area authority or county program shall ensure consumer choice and fair competition in
18 accordance with rules adopted by the Secretary. For the purposes of this section, a
19 'qualified public or private provider' is a provider who meets the provider qualifications
20 as defined by rules adopted by the Secretary.

21 (b) All area authority or county program services provided directly or under
22 contract shall meet the requirements of applicable State statutes and the rules of the
23 Commission and the Secretary. The Secretary may delay payments and, with written
24 notification of cause, may reduce or deny payment of funds if an area authority or
25 county program fails to meet these requirements.

26 (c) The area authority or board of county commissioners of a county program
27 may contract with a health maintenance organization, certified and operating in
28 accordance with the provisions of Article 67 of Chapter 58 of the General Statutes for
29 the area authority, authority or county program, to provide mental health, developmental
30 disabilities, or substance abuse services to enrollees in a health care plan provided by
31 the health maintenance organization. The terms of the contract must meet the
32 requirements of all applicable State statutes and rules of the Commission and Secretary
33 governing both the provision of services by an area authority or county program and the
34 general and fiscal operation of an area authority or county program and the
35 reimbursement rate for services rendered shall be based on the usual and customary
36 charges paid by the health maintenance organization to similar providers. Any provision
37 in conflict with a State statute or rule of the Commission or the Secretary shall be void;
38 however, the presence of any void provision in that contract does not render void any
39 other provision in that contract which is not in conflict with a State statute or rule of the
40 Commission or the Secretary. Subject to approval by the Secretary and pending the
41 timely reimbursement of the contractual charges, the area authority or county program
42 may expend funds for costs which may be incurred by the area authority or county

1 program as a result of providing the additional services under a contractual agreement
2 with a health maintenance organization."

3 **SECTION 1.16.** G.S. 122C-143.2 is repealed.

4 **SECTION 1.17.(a)** G.S. 122C-151.2 reads as rewritten:

5 "**§ 122C-151.2. Appeal by area ~~authorities.~~ authorities and county programs.**

6 (a) The area authority or county program may appeal to the Commission any
7 action regarding rules under the jurisdiction of the Commission or rules under the joint
8 jurisdiction of the Commission and the Secretary.

9 (b) The area authority or county program may appeal to the Secretary any action
10 regarding rules under the jurisdiction of the Secretary.

11 (c) Appeals shall be conducted according to rules adopted by the Commission
12 and Secretary and in accordance with Chapter 150B of the General Statutes."

13 **SECTION 1.17.(b)** G.S. 122C-151.3 reads as rewritten:

14 "**§ 122C-151.3. Dispute with area ~~authorities.~~ authorities or county programs.**

15 An area authority or county program shall establish written procedures for resolving
16 disputes over decisions of an area authority or county program that may be appealed to
17 the ~~Area Authority~~ State MH/DD/SA Appeals Panel under G.S. 122C-151.4. The
18 procedures shall be informal and shall provide an opportunity for those who dispute the
19 decision to present their position."

20 **SECTION 1.17.(c)** G.S. 122C-151.4 reads as rewritten:

21 "**§ 122C-151.4. Appeal to ~~Area Authority~~ State MH/DD/SA Appeals Panel.**

22 (a) Definitions. – The following definitions apply in this section:

23 (1) "Contract" means a contract with an area authority or county program
24 to provide services, other than personal services, to clients and other
25 recipients of services.

26 (2) "Contractor" means a person who has a contract or who had a contract
27 during the current fiscal year.

28 (3) "Former contractor" means a person who had a contract during the
29 previous fiscal year.

30 (4) "Appeals Panel" means the State MH/DD/SA Appeals Panel
31 established under this section.

32 (5) "Client" means an individual who is admitted to or receiving public
33 services from an area facility. "Client" includes the client's personal
34 representative or designee.

35 (b) Appeals Panel. – The ~~Area Authority~~ State MH/DD/SA Appeals Panel is
36 established. The Panel shall consist of three members appointed by the Secretary. The
37 Secretary shall determine the qualifications of the Panel members. Panel members serve
38 at the pleasure of the Secretary.

39 (c) Who Can Appeal. – The following persons may appeal to the ~~Area Authority~~
40 State MH/DD/SA Appeals Panel after having exhausted the appeals process at the
41 appropriate area authority or county program:

- 1 (1) A contractor or a former contractor who claims that an area authority
2 or county program is not acting or has not acted within applicable
3 State law or rules in imposing a particular requirement on the
4 contractor on fulfillment of the contract;
- 5 (2) A contractor or a former contractor who claims that a requirement of
6 the contract substantially compromises the ability of the contractor to
7 fulfill the contract;
- 8 (3) A contractor or former contractor who claims that an area authority or
9 county program has acted arbitrarily and capriciously in reducing
10 funding for the type of services provided or formerly provided by the
11 contractor or former contractor;
- 12 (4) A client or a person who was a client in the previous fiscal year, who
13 claims that an area authority or county program has acted arbitrarily
14 and capriciously in reducing funding for the type of services provided
15 or formerly provided to the client directly by the area ~~authority~~; or
16 county program; and
- 17 (5) A person who claims that an area authority or county program did not
18 comply with a State law or a rule adopted by the Secretary or the
19 Commission in developing the plans and budgets of the area authority
20 or county program and that the ~~area authority's~~ failure to comply has
21 adversely affected the ability of the person to participate in the
22 development of the plans and budgets.

23 (d) Hearing. – All members of the ~~Area Authority~~ State MH/DD/SA Appeals
24 Panel shall hear an appeal to the Panel. An appeal shall be filed with the Panel within
25 the time required by the Secretary and shall be heard by the Panel within the time
26 required by the Secretary. A hearing shall be conducted at the place determined in
27 accordance with the rules adopted by the Secretary. A hearing before the Panel shall be
28 informal; no sworn testimony shall be taken and the rules of evidence do not apply. The
29 person who appeals to the Panel has the burden of proof. The Panel shall not stay a
30 decision of an area authority during an appeal to the Panel.

31 (e) Decision. – The ~~Area Authority~~ State MH/DD/SA Appeals Panel shall make
32 a written decision on each appeal to the Panel within the time set by the Secretary. A
33 decision may direct a ~~contractor or~~ contractor, an area ~~authority~~ authority, or a county
34 program to take an action or to refrain from taking an action, but it shall not require a
35 party to appeal to pay any amount except payment due under the contract. In making a
36 decision, the Panel shall determine the course of action that best protects or benefits the
37 clients of the area ~~authority~~ authority or county program. If a party to an appeal fails to
38 comply with a decision of the Panel and the Secretary determines that the failure
39 deprives clients of the area authority or county program of a type of needed service, the
40 Secretary may use funds previously allocated to the area authority or county program to
41 provide the service.

(f) Chapter 150B Appeal. – A person who is dissatisfied with a decision of the Panel may commence a contested case under Article 3 of Chapter 150B of the General Statutes. Notwithstanding G.S. 150B-2(1), an area authority or county program is considered an agency for purposes of the limited appeal authorized by this section. The Secretary shall make a final decision in the contested case."

SECTION 1.18. G.S. 122C-154 reads as rewritten:

"§ 122C-154. Personnel.

Employees under the direct supervision of the area ~~authority~~ director are employees of the area authority. For the purpose of personnel administration, Chapter 126 of the General Statutes applies unless otherwise provided in this Article. Employees appointed by the county program director are employees of the county. In a multicounty program, employment of county program staff shall be as agreed upon in the interlocal agreement adopted pursuant to G.S. 122C-115.1."

SECTION 1.19. G.S. 122C-181 reads as rewritten:

"§ 122C-181. Secretary's jurisdiction over State facilities.

(a) Except as provided in subsection (b) of this section, the Secretary shall operate the following facilities:

(1) For the mentally ill:

- a. Cherry Hospital;
- b. Dorothea Dix Hospital;
- c. John Umstead Hospital; and
- d. Broughton Hospital; and

(2) For the mentally retarded:

- a. Caswell Center;
- b. O'Berry Center;
- c. Murdoch Center;
- d. Western Carolina Center; and
- e. Black Mountain Center; and

(3) For substance abusers:

- a. Walter B. Jones Alcohol and Drug Abuse Treatment Center at Greenville; and
- b. Julian F. Keith Alcohol and Drug Abuse Treatment Center ~~at~~ Butner; Center; and
- e. ~~Alcohol and Drug Abuse Treatment Center at Black Mountain;~~ and

(4) As special care facilities:

- a. ~~Wilson~~ North Carolina Special Care Center;
- b. Whitaker School; and
- c. ~~Wright School; and~~ School.
- d. ~~Butner Adolescent Treatment Center.~~

(b) The Secretary may, with the approval of the Governor and Council of State, close any State facility."

1 **SECTION 1.20.(a)** G.S. 122C-112(13) is repealed.

2 **SECTION 1.20.(b)** Part 1 of Article 3 of Chapter 143B of the General
3 Statutes is amended by adding the following new section to read:

4 **"§ 143B-139.6A. Secretary's responsibilities regarding availability of early**
5 **intervention services.**

6 The Secretary of the Department of Health and Human Services shall ensure, in
7 cooperation with other appropriate agencies, that all types of early intervention services
8 specified in the "Individuals with Disabilities Education Act" (IDEA), P.L. 102-119, the
9 federal early intervention legislation, are available to all eligible infants and toddlers
10 and their families to the extent funded by the General Assembly.

11 The Secretary shall coordinate and facilitate the development and administration of
12 the early intervention system for eligible infants and toddlers and shall assign among the
13 cooperating agencies the responsibility, including financial responsibility, for services.
14 The Secretary shall be advised by the Interagency Coordinating Council for Children
15 from Birth to Five with Disabilities and Their Families, established by G.S. 143B-179.5,
16 and may enter into formal interagency agreements to establish the collaborative
17 relationships with the Department of Public Instruction, other appropriate agencies, and
18 other public and private service providers necessary to administer the system and
19 deliver the services.

20 The Secretary shall adopt rules to implement the early intervention system, in
21 consultation with all other appropriate agencies."

22 **SECTION 1.21.(a)** G.S. 143B-147 reads as rewritten:

23 **"§ 143B-147. Commission for Mental Health, Developmental Disabilities, and**
24 **Substance Abuse Services – creation, powers and duties.**

25 (a) There is hereby created the Commission for Mental Health, Developmental
26 Disabilities, and Substance Abuse Services of the Department of Health and Human
27 Services with the power and duty to adopt, amend and repeal rules to be followed in the
28 conduct of State and local mental health, developmental disabilities, ~~alcohol and drug~~
29 ~~abuse~~ substance abuse programs including education, prevention, intervention,
30 ~~treatment, rehabilitation~~ screening, assessment, referral, detoxification, treatment,
31 rehabilitation, continuing care, emergency services, case management, and other related
32 services. Such rules shall be designed to promote the amelioration or elimination of the
33 ~~mental health, illness,~~ developmental disabilities, or ~~alcohol and drug abuse~~ substance
34 abuse problems of the citizens of this State. The Commission for Mental Health,
35 Developmental Disabilities, and Substance Abuse Services shall have the authority:

36 (1) To adopt rules regarding the

37 a. Admission, including the designation of regions, treatment, and
38 professional care of individuals admitted to a facility operated
39 under the authority of G.S. 122C-181(a), that is now or may be
40 established;

41 b. Operation of education, prevention, intervention, treatment,
42 rehabilitation and other related services as provided by area

- 1 mental health, developmental disabilities, and substance abuse
2 ~~authorities~~ authorities, county programs, and all providers of
3 public services under Part 4 of Article 4 of Chapter 122C of the
4 General Statutes;
- 5 c. Hearings and appeals of area mental health, developmental
6 disabilities, and substance abuse authorities as provided for in
7 Part 4 of Article 4 of Chapter 122C of the General Statutes; and
- 8 d. ~~Requirements of the federal government for grants in aid for~~
9 ~~mental health, developmental disabilities, alcohol or drug abuse~~
10 ~~programs which may be made available to local programs or the~~
11 ~~State. This section is to be liberally construed in order that the~~
12 ~~State and its citizens may benefit from such grants in aid; and~~
- 13 e. ~~Implementation of single uniform portal process and policies of~~
14 ~~entry and exit policies established pursuant to Chapter 122C of~~
15 ~~the General Statutes.~~
- 16 f. Standards of public services for mental health, developmental
17 disabilities, and substance abuse services.
- 18 (2) To adopt rules for the licensing of facilities for the mentally ill,
19 developmentally disabled, and substance abusers, under Article 2 of
20 Chapter 122C of the General Statutes.
- 21 (3) To advise the Secretary of the Department of Health and Human
22 Services regarding the need for, provision and coordination of
23 education, prevention, intervention, treatment, rehabilitation and other
24 related services in the areas of:
- 25 a. Mental illness and mental health,
26 b. Developmental disabilities,
27 c. ~~Alcohol abuse, and~~ Substance abuse.
28 d. ~~Drug abuse;~~
- 29 (4) To review and advise the Secretary of the Department of Health and
30 Human Services regarding all State plans required by federal or State
31 law and to recommend to the Secretary any changes it thinks necessary
32 in those plans; provided, however, for the purposes of meeting State
33 plan requirements under federal or State law, the Department of Health
34 and Human Services is designated as the single State agency
35 responsible for administration of plans involving mental health,
36 developmental disabilities, ~~alcohol abuse, and drug abuse services; and~~
37 substance abuse services.
- 38 (5) To adopt rules relating to the registration and control of the
39 manufacture, distribution, security, and dispensing of controlled
40 substances as provided by ~~G.S. 90-100; G.S. 90-100.~~
- 41 (6) To adopt rules to establish the professional requirements for staff of
42 licensed facilities for the mentally ill, developmentally disabled, and

1 substance abusers. Such rules may require that one or more, but not all
2 staff of a facility be either licensed or certified. If a facility has only
3 one professional staff, such rules may require that that individual be
4 licensed or certified. Such rules may include the recognition of
5 professional certification boards for those professions not licensed or
6 certified under other provisions of the General Statutes provided that
7 the professional certification board evaluates applicants on a basis
8 which protects the public health, safety or ~~welfare~~; welfare.

9 (7) Except where rule making authority is assigned under that Article to
10 the Secretary of the Department of Health and Human Services, to
11 adopt rules to implement Article 3 of Chapter 122C of the General
12 ~~Statutes~~; Statutes.

13 (8) To adopt rules specifying procedures for waiver of rules adopted by
14 the Commission.

15 (b) All rules hereby adopted shall be consistent with the laws of this State and not
16 inconsistent with the management responsibilities of the Secretary of the Department of
17 Health and Human Services provided by this Chapter and the Executive Organization
18 Act of 1973.

19 (c) All rules and regulations pertaining to the delivery of services and licensing
20 of facilities heretofore adopted by the Commission for Mental Health and Mental
21 Retardation Services, controlled substances rules and regulations adopted by the North
22 Carolina Drug Commission, and all rules and regulations adopted by the Commission
23 for Mental Health, Mental Retardation and Substance Abuse Services shall remain in
24 full force and effect unless and until repealed or superseded by action of the
25 Commission for Mental Health, Developmental Disabilities, and Substance Abuse
26 Services.

27 (d) All rules adopted by the Commission for Mental Health, Developmental
28 Disabilities, and Substance Abuse Services shall be enforced by the Department of
29 Health and Human Services."

30 **SECTION 1.21.(b)** G.S. 143B-148 reads as rewritten:

31 **"§ 143B-148. Commission for Mental Health, Developmental Disabilities, and**
32 **Substance Abuse Services – members; selection; quorum; compensation.**

33 (a) The Commission for Mental Health, Developmental Disabilities, and
34 Substance Abuse Services of the Department of Health and Human Services shall
35 consist of 26 members:

36 (1) Four of whom shall be appointed by the General Assembly, two upon
37 the recommendation of the Speaker of the House of Representatives,
38 and two upon the recommendation of the President Pro Tempore of the
39 Senate in accordance with G.S. 120-121. These members shall be
40 individuals who are concerned about the needs of individuals for
41 mental health, developmental disabilities, and substance abuse
42 services. ~~have concern for the problems of mental illness,~~

~~developmental disabilities, alcohol and drug abuse.~~ Members shall serve for two-year terms beginning July 1 of odd-numbered years. A member shall serve not more than three consecutive two-year terms.

Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122;

(2) Twenty-two of whom shall be appointed by the Governor, one from each congressional district in the State in accordance with G.S. 147-12(3)b, and 10 at-large members.

a. Of these 22 members, three shall have a special interest in mental health, three shall have a special interest in mental retardation, three shall have a special interest in developmental disabilities other than mental retardation, three shall have a special interest in alcohol abuse and alcoholism and three shall have a special interest in drug abuse. Each group of three shall be made up of one member who is a consumer representative; one other who is a representative of a local or State citizen organization or association; and one other who is a professional in the field.

b. The remaining seven members shall be appointed from the general public, other citizen groups, area mental health, developmental disabilities, and substance abuse authorities, or from other related agencies.

c. Of these 22 appointments, at least one shall be a licensed physician and at least one other shall be a licensed attorney.

d. The Governor shall appoint members to the Commission in accordance with the foregoing provisions. The terms of all Commission members appointed by the Governor shall be four years. The initial term of the person representing the 12th Congressional District shall begin January 3, 1993, and expire June 30, 1996. All Commission members shall serve their designated terms and until their successors are duly appointed and qualified. All Commission members may succeed themselves.

(3) All appointments shall be made pursuant to current federal rules and regulations, when not inconsistent with State law, which prescribe the selection process and demographic characteristics as a necessary condition to the receipt of federal aid.

(b) Except as otherwise provided in this section, the provisions of G.S. 143B-13 through 143B-20 relating to appointment, qualifications, terms and removal of members shall apply to all members of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.

(c) Commission members shall receive per diem, travel and subsistence allowances in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

(d) A majority of the Commission shall constitute a quorum for the transaction of business.

(e) All clerical and other services required by the Commission shall be supplied by the Secretary of the Department of Health and Human Services."

PART 2. QUALITY OF CARE OMBUDSMAN PROGRAM

SECTION 2. Effective July 1, 2002, Chapter 122C of the General Statutes is amended by adding the following new Article to read:

"Article 1A.

"MH/DD/SA Quality of Care Ombudsman Program.

"§ 122C-10. MH/DD/SA Quality of Care Ombudsman Program.

The General Assembly finds that many consumers of mental health, developmental disabilities, and substance abuse services are uncertain about their rights and responsibilities and how to access the public service system to obtain appropriate care and treatment. The General Assembly recognizes the importance of ensuring that consumers have information about the availability of services and access to resources to obtain timely quality care. There is established the MH/DD/SA Quality of Care Ombudsman Program. The purpose of this Program is to provide consumers, their families, and providers with the information and assistance needed to locate appropriate services, resolve complaints, or address common concerns and promote community involvement. It is further the intent of the General Assembly that the Department, within available resources and pursuant to its duties under this Chapter, ensure that the performance of the mental health care system in this State is closely monitored, reviews are conducted, findings and recommendations and reports are made, and that local and systemic problems are identified and corrected when necessary to promote the rights and interests of all consumers of mental health, developmental disabilities, and substance abuse services.

"§ 122C-11. MH/DD/SA Quality of Care Ombudsman Program/definitions.

Unless the context clearly requires otherwise, as used in this Article:

- (1) 'MH/DD/SA' means mental health, developmental disabilities, and substance abuse.
- (2) 'State Ombudsman' means the individual charged with the duties and functions of the State MH/DD/SA Quality of Care Ombudsman Program established under this Article.
- (3) 'State Ombudsman Program' means the State MH/DD/SA Quality of Care Ombudsman Program.
- (4) 'Local Ombudsman' means an individual employed and certified by the State Ombudsman to perform the duties and functions of the

1 MH/DD/SA Quality of Care Local Ombudsman Program in
2 accordance with this Article.

3 (5) 'Local Ombudsman Program' means a local MH/DD/SA Quality of
4 Care Local Ombudsman Program.

5 (6) 'Consumer' means an individual who is a client or a potential client of
6 public services from a State or area facility.

7 **"§ 122C-12. State MH/DD/SA Quality of Care Ombudsman Program.**

8 The Secretary shall establish a State MH/DD/SA Quality of Care Ombudsman
9 Program office in the Office of the Secretary of Health and Human Services. The
10 Secretary shall appoint a State Ombudsman. In selecting the State Ombudsman, the
11 Secretary shall consider candidates recommended by citizens' organizations
12 representing the interest of individuals with needs for mental health, developmental
13 disabilities, and substance abuse services. The State Ombudsman may hire individuals
14 to assist in executing the State Ombudsman Program and to act on the State
15 Ombudsman's behalf. The State Ombudsman shall have expertise and experience in
16 MH/DD/SA, including expertise and experience in advocacy. The Attorney General
17 shall provide legal staff and advice to the State Ombudsman.

18 **"§ 122C-13. State Ombudsman duties.**

19 The State Ombudsman shall:

- 20 (1) Establish Local Quality Care of Ombudsman Programs described in
21 G.S. 122C-14 and appoint the Local Ombudsmen.
- 22 (2) Establish certification criteria and minimum training requirements for
23 Local Ombudsmen.
- 24 (3) Certify Local Ombudsmen. The certification requirements shall
25 include completion of the minimum training requirements established
26 by the State Ombudsman.
- 27 (4) Provide training and technical assistance to Local Ombudsmen.
- 28 (5) Establish procedures for processing and resolving quality of care
29 complaints both at the State and local levels.
- 30 (6) Establish procedures for coordinating quality of care complaints with
31 local human rights committees and the State protection and advocacy
32 agency.
- 33 (7) Establish procedures for appropriate access by the State and Local
34 Ombudsmen to State, area authority, and county program facilities and
35 records to ensure MH/DD/SA quality of care. The procedures shall
36 include, but not be limited to, interviews of owners, consumers, and
37 employees of State, area authority, and county program facilities, and
38 on-site monitoring of conditions and services. The procedures shall
39 ensure the confidentiality of these records and that the identity of any
40 complainant or consumer will not be disclosed except as otherwise
41 provided by law.

- (8) Provide information to the public about available MH/DD/SA services, complaint procedures, and dispute resolution processes.
- (9) Analyze and monitor the development and implementation of federal, State, and local laws, regulations, and policies relating to consumers and recommend changes as considered necessary to the Secretary.
- (10) Analyze and monitor data relating to complaints or concerns about access and quality of care issues to identify significant local or systemic problems, as well as opportunities for improvement, and advise and assist the Secretary in developing policies, plans, and programs for ensuring that the quality of services provided to consumers is of a uniformly high standard.
- (11) Submit a report annually to the Secretary, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Joint Legislative Health Care Oversight Committee containing data and findings regarding the types of problems experienced and complaints reported by or on behalf of providers, consumers, and employees of providers, as well as recommendations to resolve identified quality of care issues and to improve the administration of MH/DD/SA facilities and the delivery of MH/DD/SA services throughout the State.

"§ 122C-14. Local Ombudsman; duties.

(a) The State Ombudsman shall establish a Local MH/DD/SA Quality of Care Ombudsman Program in locations in the State to be designated by the Secretary. In determining where to locate the Local Ombudsman Programs, the Secretary shall ensure reasonable consumer accessibility to the Local Ombudsmen. Local Ombudsmen shall administer the Local Ombudsman Programs. The State Ombudsman shall appoint a Local Ombudsman for each of the Local Ombudsman Programs. The State Ombudsman shall supervise the Local Ombudsmen.

(b) Pursuant to policies and procedures established by the State Ombudsman, the Local Ombudsman shall:

- (1) Assist consumers and their families with information, referral, and assistance in obtaining appropriate services.
- (2) Assist consumers and their families in understanding their rights and remedies available to them from the public service system.
- (3) Serve as a liaison between consumers and their families and facility personnel and administration.
- (4) Promote the development of consumer and citizen involvement in addressing issues relating to MH/DD/SA.
- (5) Visit the State, area authority, or county program facilities to review and evaluate the quality of care provided to consumers and submit findings to the State Ombudsman.

- (6) Work with providers and consumers and their families or advocates to resolve issues of common concern.
- (7) Participate in regular Local Ombudsman training established by the State Ombudsman.
- (8) Report regularly to area authorities and county programs, county and area authority boards, and boards of county commissioners about the Local Ombudsman's activities, including the findings made pursuant to subdivision (5) of this subsection.
- (9) Provide training and technical assistance to counties, area authority boards, and providers concerning responding to consumers, evaluating quality of care, and determining availability of services and access to resources.
- (10) Coordinate activities with local human rights committees based on procedures developed by the State Ombudsman.
- (11) Provide information to the public on MH/DD/SA issues.
- (12) Perform any other related duties as directed by the State Ombudsman.

"§ 122C-15. State/Local Ombudsman; authority to enter; communication with residents, clients, patients; review of records.

(a) For purposes of this section, G.S. 122C-16 and G.S. 122C-17, 'Ombudsman' means either the State Ombudsman or any Local Ombudsman.

(b) In performing the Ombudsman's duties, an Ombudsman shall have access at all times to any State or area facility and shall have reasonable access to any consumer or to an employee of a State or area facility. Entry and access to any consumer or to an employee shall be conducted in a manner that will not significantly disrupt the provision of services. If a facility requires visitor registration, then the Ombudsman shall register.

(c) In performing the Ombudsman's duties, an Ombudsman may communicate privately and confidentially with a consumer. A consumer shall not be compelled to communicate with an Ombudsman. When initiating communication, an Ombudsman shall inform the consumer of the Ombudsman's purpose and that a consumer may refuse to communicate with the Ombudsman. An Ombudsman also may communicate privately and confidentially with State and area facility employees in performing the Ombudsman's duties.

(d) Notwithstanding G.S. 8-53, G.S. 8-53.3, or any other law relating to confidentiality of communications involving a consumer, in the course of performing the Ombudsman's duties, the Ombudsman may access any information, whether recorded or not, concerning the admission, discharge, medication, treatment, medical condition, or history of any consumer to the extent permitted by federal law and regulations. Notwithstanding any State law pertaining to the privacy of personnel records, in the course of the Ombudsman's duties, the Ombudsman shall have access to personnel records of employees of State, area authority, or county program facilities.

"§ 122C-16. State/Local Ombudsman; resolution of complaints.

1 (a) Following receipt of a complaint, an Ombudsman shall attempt to resolve the
2 complaint using, whenever possible, informal mediation, conciliation, and persuasion.

3 (b) If a complaint concerns a particular consumer, the consumer may participate
4 in determining what course of action the Ombudsman should take on the consumer's
5 behalf. If the consumer has an opinion concerning a course of action, the Ombudsman
6 shall consider the consumer's opinion.

7 (c) Following receipt of a complaint, an Ombudsman shall contact the service
8 provider to allow the service provider the opportunity to respond, provide additional
9 information, or initiate action to resolve the complaint.

10 (d) Complaints or conditions adversely affecting consumers that cannot be
11 resolved in the manner described in subsection (a) of this section shall be referred by the
12 Ombudsman to the appropriate licensing agency under Article 2 of this Chapter.

13 **"§ 122C-17. State/Local Ombudsman; confidentiality.**

14 (a) Except as required by law, an Ombudsman shall not disclose the following:

15 (1) Any confidential or privileged information obtained pursuant to G.S.
16 122C-15 unless the affected individual authorizes disclosure in
17 writing; or

18 (2) The name of anyone who has furnished information to an Ombudsman
19 unless the individual authorizes disclosure in writing.

20 (b) Violation of this section is a Class 3 misdemeanor, punishable only by a fine
21 not to exceed five hundred dollars (\$500.00).

22 (c) All confidential or privileged information obtained under this section and the
23 names of persons providing information to an Ombudsman are exempt from disclosure
24 pursuant to Chapter 132 of the General Statutes. Access to substance abuse records and
25 redisclosure of protected information shall be in compliance with federal confidentiality
26 laws protecting medical records.

27 **"§ 122C-18. State/Local Ombudsman; retaliation prohibited.**

28 No one shall discriminate or retaliate against any person, provider, or facility
29 because the person, provider, or facility in good faith complained or provided
30 information to an Ombudsman.

31 **"§ 122C-19. State/Local Ombudsman; immunity from liability.**

32 (a) The State and Local Ombudsman shall be immune from liability for the good
33 faith performance of official Ombudsman duties.

34 (b) A State or area facility, its employees, and any other individual interviewed
35 by an Ombudsman are immune from liability for damages resulting from disclosure of
36 any information or documents to an Ombudsman pursuant to this Article.

37 **"§ 122C-20. State/Local Ombudsman; penalty for willful interference.**

38 Willful interference with the State or a Local Ombudsman in the performance of the
39 Ombudsman's official duties is a Class 1 misdemeanor."

40
41 **PART 3. PHASED-IN IMPLEMENTATION**
42

1 **SECTION 3.(a)** The Department of Health and Human Services shall do the
2 following to prepare for the certification of area authorities and county programs to
3 administer and deliver mental health, developmental disabilities, and substance abuse
4 services.

- 5 (1) Develop the State Plan for Mental Health, Developmental Disabilities,
6 and Substance Abuse Services in accordance with G.S. 122C-102. Not
7 later than December 1, 2001, the Department shall submit the State
8 Plan to the Joint Legislative Oversight Committee on Mental Health,
9 Developmental Disabilities, and Substance Abuse Services for its
10 review.
- 11 (2) Review all rules currently in effect and adopted by the Secretary, the
12 Commission for Mental Health, Developmental Disabilities, and
13 Substance Abuse Services and identify areas of duplication,
14 vagueness, or ambiguity in content or in application. In conducting this
15 review, the Department shall solicit input from current area authorities
16 and providers on perceived problems with rules. The review may also
17 include review of rules pertaining to mental health, developmental
18 disabilities, and substance abuse services that are in effect and adopted
19 by agencies other than the Secretary and the Commission.
- 20 (3) Review the oversight and monitoring functions currently implemented
21 by the Department to determine the effectiveness of the activities in
22 achieving the intended results. Improve the oversight and monitoring
23 functions and activities, if necessary.
- 24 (4) Develop service standards, outcomes, and financing formula for core
25 and targeted services to prepare for their administration, financing, and
26 delivery by area authorities and county programs.
- 27 (5) Develop format and required content for business plans submitted by
28 boards of county commissioners and for contractual agreements
29 between the Department and area authorities of county commissioners
30 for county programs. Develop a method for Departmental evaluation
31 of local business plans. Contractual agreements for the provision of
32 services shall provide for:
 - 33 a. Terms of a minimum of three years.
 - 34 b. Annual review and renewal.
 - 35 c. Specific conditions under which the Department will provide
36 technical assistance, impose sanctions, or terminate
37 participation.
 - 38 d. Terms of the business plan.
 - 39 e. Award of start-up funds for consolidation of area or county
40 programs.
- 41 (6) Report on Department's readiness to implement system reform.

(7) Establish criteria and operational procedures for the Quality of Care Ombudsman Program and make a report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on or before March 1, 2002.

(8) Develop a catchment area consolidation plan. The Secretary shall anticipate receiving letters of intent from boards of county commissioners on or before July 1, 2002, indicating the intent of a county or counties to provide services through an existing area authority or through a county program established pursuant to G.S. 122C-115.1. The Secretary shall develop the consolidation plan based on the letters of intent, the State Plan, geographic and population targeted thresholds, and capacity to implement the business plan. The consolidation plan shall provide for consolidation target of no more than 20 area authorities and county programs. The Secretary, in consultation with county commissioners and area authorities, shall complete the consolidation plan by September 1, 2004, and shall submit it no later than January 1, 2005, to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, the Governor, and each board of county commissioners. The total number of area authorities and county programs shall be reduced to no more than 20 by January 1, 2007.

(9) Develop a readiness plan to conduct readiness reviews and certify all county programs and area authorities based on readiness by July 1, 2004. Each area authority and county program shall submit its approved business plan to the Secretary pursuant to G.S. 122C-115.2 by January 1, 2003. The Secretary shall review the business plans as provided in G.S. 122C-115.2(c), conduct readiness reviews, and provide necessary assistance to resolve outstanding issues. The Secretary shall complete certification of one-third of the area authorities and county programs by July 1, 2003; two-thirds of the area authorities and county programs by January 1, 2004; and shall complete certification of all area authorities and county programs by July 1, 2004.

The activities required under subdivisions (1) through (6) of this section shall be completed by December 1, 2001. On or before October 1, 2001, and quarterly thereafter, the Department shall submit a progress report on each of the activities required under this section. By December 1, 2001, the Department shall submit a final report on each of the activities required under subdivisions (1) through (6) of this section. The Department shall make its reports to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

1 **SECTION 3.(b)** Rules adopted by the Secretary of Health and Human
2 Services and the Commission for Mental Health, Developmental Disabilities, and
3 Substance Abuse Services shall be adopted in accordance with Chapter 150B of the
4 General Statutes.

5 **SECTION 3.(c)** The Secretary shall study consolidating the Quality of Care
6 Ombudsman as provided in Section 2 of this act with other State ombudsman programs
7 in the Department of Health and Human Services. The study shall include:

- 8 (1) An analysis of the budgetary implications of consolidation;
- 9 (2) Strategies for local inter-agency collaboration and coordination of
10 ombudsman and consumer assistance services; and
- 11 (3) The possible effects of the consolidation on quality of care, service
12 delivery, and consumer assistance for each affected consumer
13 population.

14 The Secretary shall report the findings and recommendations, including
15 enabling legislation, to the Joint Legislative Oversight Committee on MH/DD/SAS on
16 or before March 1, 2002.

17
18 **PART 5. EFFECTIVE DATE**

19
20 **SECTION 4.** Sections 1.1 through 1.20(b) of this act become effective July
21 1, 2002. Section 2 of this act becomes effective July 1, 2002, only if funds are
22 appropriated by the 2001 General Assembly, Regular Session 2002, for that purpose.
23 The remainder of this act is effective when it becomes law.

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION**

You are hereby notified that the Committee on **MENTAL HEALTH** will meet as follows:

DAY & DATE: TUESDAY, JUNE 11, 2002

TIME: 10:00 A.M.

LOCATION: 415

The following bills will be considered (Bill # & Short Title & Bill Sponsor):
HB 1515 MH/DD/SA COMMISSION CHANGES

Respectfully,

Representative Jim Crawford
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at
4:00 a.m. on June 5, 2002.

____ Principal Clerk
____ Reading Clerk - House Chamber

Linda Winstead (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR
2001-2002**

BILL SPONSOR: Reps. Martha Alexander and Verla Insko

OFFICE:

NOTIFICATION DATE: June 6, 2002

The House Committee on Mental Health will meet as follows:

DAY & DATE: Tuesday, June 11, 2002

TIME: 10:00 a.m.

LOCATION: 415

Your Bill (or Bills) will be discussed at this time:
HB 1515 MH/DD/SA COMMISSION CHANGES

We would like to have you attend this meeting.

Representative Jim Crawford
Chairman

Linda Winstead (Committee Assistant)

Agenda

House Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services

Tuesday, June 11, 2002
10:00 a.m., Room 415

Opening Remarks

Representative Jim Crawford, Chairman

Agenda Items

HB 1515 MH/DD/SA COMMISSION CHANGES

Discussion

Adjournment

VISITOR REGISTRATION SHEET

MENTAL HEALTH, DD, AND SAS

Name of Committee

6-11-02

Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

[illegible]

MINUTES
HOUSE COMMITTEE ON MENTAL HEALTH,
DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES
JUNE 11, 2002

The House Committee on Mental Health, Developmental Disabilities and Substance Abuse Services met on Tuesday, June 11, 2002, in Room 415 of the Legislative Office Building at 10:00 a.m. The following members were present: Chairman Jim Crawford, Representatives Alexander, Carpenter, M. Crawford, Earle, Esposito, Gillespie, Insko, Lucas, Rayfield and Wilson. Staff to the committee, Linda Attarian and Dianna Jessup, attended. A visitor registration list is attached and made part of these minutes. Chairman Crawford introduced the pages.

HB 1515 MH/DD/SA COMMISSION CHANGES

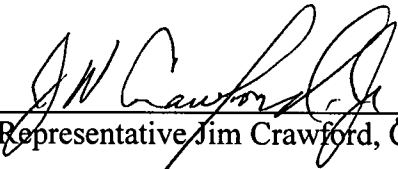
Chairman Crawford asked Rep. Alexander to explain the bill (handouts). Rep. Alexander explained changes the bill would make in appointments to the Commission on MH/DD/SAS. She explained an amendment she proposed, however, withdrew it from consideration. Rep. Insko sent forth an amendment to change page 3 line 7-9 by deleting "three" and substituting "two" and adding that one individual must be a qualified professional. Chairman Crawford asked if there were any objections to the amendment and hearing none, it was accepted.

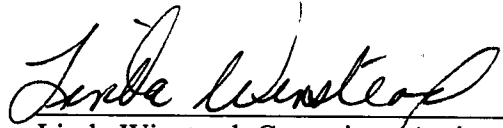
Rep. Insko sent forth a second amendment to include the field of social workers licensed in Chapter 90B on Page 2 Line 40 and page 3 Lines 7 and 39. Chairman Crawford asked if there were any objections to the amendment and hearing none, it was accepted.

Chairman Crawford recognized Louise Fisher who shared concerns that Coalition 2001 would be given too much power in the nominations allowed on Page 3. Rep. Esposito submitted an amendment to change lines 4, 13, and 34 to read "no more than two." Chairman Crawford asked if there were any objections to the amendment and hearing none, it was accepted.

Rep. Mark Crawford moved to roll the accepted amendments into a committee substitute and give the committee substitute a favorable report and unfavorable report as to original bill. The motion carried.

The meeting adjourned at 10:45 a.m.


Representative Jim Crawford, Co-Chair


Linda Winstead, Committee Assistant



HOUSE BILL 1515: MH/DD/SA Commission Changes

BILL ANALYSIS

Committee: House Mental Health
Date: June 11, 2002
Version: First Edition

Introduced by: Rep. Alexander
Summary by: Amy Currie
Committee Staff

SUMMARY: *House Bill 1515 would increase the membership to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services (Commission) from 29 to 30 members, change the term limits from three consecutive two-year terms to two consecutive three-year terms, further specify categories of appointment to the Commission, and direct the Secretary of the Department of Health and Human Services (Secretary) to assign an individual to the Commission who is knowledgeable in the rule-making processes of the Commission and the Secretary and in the fields of MH/DD/SAS to assist the Commission in its work.*

The bill would become effective when it becomes law. The categories of appointment as amended by the bill would be phased-in upon the expiration of the term of a person initially appointed or reappointed prior to July 1, 2002.

BILL ANALYSIS: House Bill 1515 is a recommendation of the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services. The bill amends G.S. 143B-148, which provides for the composition of membership of the Commission. Section 1.21(b) of S.L. 2001-437 (the Mental Health System Reform Act) amended the statute to limit members of the Commission to three consecutive two-year terms. Section 90.5 of S.L. 2001-487 (the Technical Correction Act) amended the statute by increasing the number of Commission members from 26 to 29, increasing the number of appointees by the General Assembly from 4 to 6, increasing the number of appointees by the Governor from 22 to 23, and making conforming changes to the statute that were not included in S.L. 2001-437.

If HB 1515 is enacted, the composition of the Commission would include: 3 licensed physicians, 1 licensed attorney, 12 consumers or immediate family members, 10 professionals, and 4 "at large" members. The chart below compares the provisions in House Bill 1515 to current law as amended by Section 1.21(b) of S.L. 2001-437 and by Section 90.5 of S.L. 2001-487. The provisions in the session laws would become effective July 1, 2002.

<u>CURRENT LAW</u>	<u>House Bill 1515</u>
29 members	30 members
6 members appointed by the General Assembly: 3 by the Speaker and 3 by the President Pro Tem who are concerned about the needs of individuals for mental health, developmental disabilities, and substance abuse services (MH/DD/SAS)	6 members appointed by the General Assembly: 3 by the President Pro Tem including one licensed physician, preferably a psychiatrist, and 2 members of the public; 3 by the Speaker including one licensed physician with expertise in the field of DD or a professional with a Ph.D and experience in the field of DD and 2 members of the public *Consideration will be given to ensure a balance of appointments among those with knowledge in adult issues and those with knowledge in children's issues.

HOUSE BILL 1515

Page 2

<p>23 appointed by the Governor:</p> <p>MH: 3 members with special interest in the field</p> <p>Mental Retardation: 3 members with special interest in the field</p> <p>DD: 3 members with special interest in DD other than mental retardation</p> <p>Alcohol abuse and alcoholism: 3 members with special interest in the field</p> <p>Drug Abuse: 3 members with special interest in the field</p> <p>* Each group of 3 includes one consumer representative, one representative of a local or State organization, and one professional in the field.</p> <p>8 members appointed from general public, area authorities, or other organizations</p> <p>* Of these 23 appointments, at least one must be a licensed physician and one must be a licensed attorney.</p>	<p>24 appointed by the Governor:</p> <p>MH: 3 licensed or certified professionals under Chapter 90 of the General Statutes and 4 consumers or immediate family members of consumers = 7 members</p> <p>DD: 3 licensed or certified professionals under Chapter 90 of the General Statutes and 4 consumers or immediate family members of consumers = 7 members</p> <p>SA: 2 licensed or certified professionals under Chapter 90 of the General Statutes, 1 professional who is a certified prevention specialist or who specializes in the area of addiction education, and 4 consumers or immediate family members of consumers = 7 members</p> <p>1 individual knowledgeable in the field of controlled substance regulation and enforcement selected from recommendations of the Attorney General</p> <p>1 licensed physician with expertise in the field of SA, preference given to one certified by the American Society of Addiction Medicine</p> <p>1 licensed attorney</p> <p>* Of the 4 consumers or immediate family members groupings, at least one shall be a consumer and at least one shall be an immediate family member. At least 3 of the consumers or immediate family members shall be selected from nominations submitted by Coalition 2001.</p>
<p>Length of Terms:</p> <p>Members serve two-year terms and may not serve more than two consecutive terms.</p>	<p>Length of Terms:</p> <p>Members serve three-year terms and may not serve more than two consecutive terms.</p>
<p>This provision is not part of current law.</p>	<p>Support services:</p> <p>The Secretary shall assign an individual knowledgeable about the rule-making processes of the Commission and the Secretary and in the fields of MH/DD/SAS to assist the Commission in its work.</p>

BACKGROUND:

MH/DD/SA Commission

The Commission is authorized to adopt, amend and repeal rules to be followed in the conduct of State and local mental health, developmental disabilities, alcohol and drug abuse programs. The rules the Commission are authorized to adopt include rules regarding the licensing of facilities for the mentally ill, developmentally disabled and substance abusers under Article 2 of Chapter 122C of the General Statutes as well as rules regarding the registration and control of controlled substances. In addition, the Commission has the responsibility of advising the Secretary regarding the provision and coordination of services provided for MH/DD/SA illnesses and for reviewing and advising the Secretary regarding all State plans required by federal or State law involving MH/DD/SA services.

Joint Legislative Oversight Committee on MH/DD/SA Services (Committee)

S.L. 2000-83 created the Committee in order to recommend a plan to reform North Carolina's public MH/DD/SA services. This Committee is composed of eight members of the Senate and eight members of the House of Representatives.

Overview of Current MH/DD/SA Commission Appointments and Projected Expiration of Terms and Resulting Vacancies

General Assembly appointees: 6 current members; all appointees are at-large, and all terms shall expire 6/30/03.

Governor appointees: 22 current members; 1 of the 22 members is serving an expired appointment until reappointment. There is 1 vacancy – an at-large position representing the 13th Congressional District.

Of the 22 current members, five hold at-large seats, 15 represent 5 service areas (mental health, developmental disabilities, mental retardation, drug addition, and alcohol abuse) in three distinguishable capacities (consumer, professional and organization). There is one attorney, and one physician. The following table provides an overview of the expected vacancies as the current terms expire between now and June 30, 2005.

Term Expiration Date	Number of Members	Service Area Representation
6/30/01	1	MRP (position has not been reappointed)
6/30/02	0	
6/30/03	7	MRO, DDO, MHO, AAO, AL, AL, MD
6/30/04	7	DDC, DDP, MHP, AAC, AAP, DAO, DAC
6/30/05	7	MRC, MHC, DAP, AL, AL, AL, JD

MR = mental retardation, MH - mental health, DD = developmental disabilities (other than MR), AA = alcohol abuse, DA = drug abuse AL= at large, JD = attorney, MD = physician, O = organization, P= professional, C = consumer.

Summary of projected vacancies in MH/DD/SA service areas: The following table summarizes the expected vacancies between now and June 30, 2005 in MH, DD, and SA representation by combining the MR and DD vacancies and the DA and AA vacancies.

Term Expiration Date	Mental Health	Developmental Disabilities	Substance Abuse
June 30, 2001		1	
June 30, 2003	1	2	1
June 30, 2004	1	2	4
June 30, 2005	1	1	1

U.S. Congressional District representation:

District	Members	District	Members	District	Members
1	2	6	3	11	1
2	3	7	1	12	0
3	3	8	1	13	0
4	1	9	3		
5	2	10	1		

Definition of "Qualified Professional"

NC General Statutes

§ 122C-3. (Effective July 1, 2002) Definitions.

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

- (31) "Qualified professional" means any individual with appropriate training or experience as specified by the General Statutes or by rule of the Commission in the fields of mental health or developmental disabilities or substance abuse treatment or habilitation, including physicians, psychologists, psychological associates, educators, social workers, registered nurses, certified fee-based practicing pastoral counselors, and certified counselors.

NC Administrative Code

NCAC 10-14V.0104:

(17) "Qualified professional" means, within the MH/DD/SAS system of care, an individual serving in the following categories:

(A) Independent practitioner. An independent practitioner is an individual who holds an unrestricted license, certificate, registration, issued by the Board regulating the profession in question, in the following disciplines: Ph.D. psychologist, psychiatrist, certified clinical social worker, clinical nurse specialist certified in psychiatric mental health advanced practice nursing, licensed clinical social worker, licensed occupational, physical and speech therapist and who provides and bills MH/DD/SA services under their own provider number and through employment or contract with an area program or other billing provider; or

(B) Independent practitioner provisional. An independent practitioner provisional has a limited, provisional and temporary license, certificate, registration or permit in the disciplines listed above issued by the governing Board regulating the profession and requires clinical supervision by a qualified independent practitioner and provides and bills MH/DD/SA services under their own provider number and through employment or contract with an area program or other billing provider; or

(C) Qualified professional of MH/DD/SA services:

- (i) a graduate of a college or university with a masters degree in a related human service field and has one year of full-time, post-graduate accumulated MH/DD/SA experience with the population served and a substance abuse professional shall have one year of full-time post-

graduate accumulated supervised experience in alcoholism and drug abuse counseling; or

(ii) a graduate of a college or university with a baccalaureate degree in a related human service field and has two years of full-time, post-baccalaureate accumulated MH/DD/SA experience with the population served and a substance abuse professional shall have two years of full-time post-graduate accumulated supervised experience in alcoholism and drug abuse counseling; or

(iii) a graduate of a college or university with a baccalaureate degree in a field not related to human services and has four years of full-time, post-baccalaureate accumulated MH/DD/SA experience with the population served and a substance abuse professional shall have four years of full-time post-graduate accumulated supervised experience in alcoholism and drug abuse counseling; or

(iv) a substance abuse professional who has a counseling certification by the North Carolina Substance Abuse Professional Certification Board; or

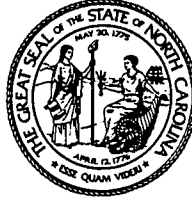
(v) a registered nurse who is licensed to practice in the state of North Carolina by the North Carolina Board of Nursing and has four years of full-time accumulated experience in psychiatric mental health nursing.

Statutory authority

Authority G.S. 122C-3; 122C-25; 122C-26; 143B-147.

Effective dates

Eff. May 11, 1996; Temporary Amendment Eff. January 1, 2001; Temporary Amendment Expired October 13, 2001; Temporary Amendment Eff. November 1, 2001.



#1 *withdraw*

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1515

H1515-ALN-103 [v.2]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

Date _____, 2002

Comm. Sub. [NO]
Amends Title [NO]

Representative Alexander

- 1 moves to amend the bill on page 3, lines 7 through 9,
2 by rewriting the lines to read:
3 "c. Three individuals each of whom is a 'qualified professional' as
4 that term is defined in G.S. 122C-3(31) who has experience in
5 the field of developmental disabilities."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

#1

EDITION No. 1st

H. B. No. 1515

DATE 6/11/02

S. B. No. _____

Amendment No. 1

COMMITTEE SUBSTITUTE _____

(to be filled in by
Principal Clerk)

Rep.) Insko
Sen.) _____

1 moves to amend the bill on page 3, line 7

2 () WHICH CHANGES THE TITLE

3 by deleting "Three" and substituting "Two" ;

4 and in page 3, line 9, by adding the following
5 before the period

6 "and one individual who is a 'qualified
7 professional' as that term is defined in
8 G.S. 122C-3(31) who has experience in the
9 field of developmental disabilities"

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED Ulla C. Melis

ADOPTED ✓ FAILED _____ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1515

H1515-ARM-63 [v.1]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

Date _____, 2002

Comm. Sub. [NO]
Amends Title [NO]
H1515

Representative Insko

1 moves to amend the bill on

2

3 page 2, line 40, by inserting "or Chapter 90B" before the word "of" at the end of that
4 line; and further moves to amend the bill on

5

page 3, line 7, by inserting "or Chapter 90B" before the word "of" at the end of that line;
and further moves to amend the bill on

page 3, line 39, by inserting "or Chapter 90B" before the word "of" at the beginning of
that line.

SIGNED

Amendment Sponsor

Charles Insko

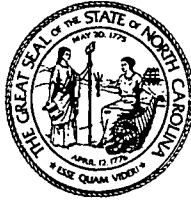
SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

FAILED

TABLED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1515

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1515-ARM-63 [v.1]

Page 1 of 1

Date _____, 2002

Comm. Sub. [NO]
Amends Title [NO]
H1515

Representative Insko

1 moves to amend the bill on
2
3 page 2, line 40, by inserting "or Chapter 90B" before the word "of" at the end of that
4 line; and further moves to amend the bill on

5
page 3, line 7, by inserting "or Chapter 90B" before the word "of" at the end of that line;
and further moves to amend the bill on

page 3, line 39, by inserting "or Chapter 90B" before the word "of" at the beginning of
that line.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1515

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1515-ARM-63 [v.1]

Page 1 of 1

Date _____, 2002

Comm. Sub. [NO]
Amends Title [NO]
H1515

Representative Insko

- 1 moves to amend the bill on
2
3 page 2, line 40, by inserting "or Chapter 90B" before the word "of" at the end of that
4 line; and further moves to amend the bill on
5
page 3, line 7, by inserting "or Chapter 90B" before the word "of" at the end of that line;
and further moves to amend the bill on

page 3, line 39, by inserting "or Chapter 90B" before the word "of" at the beginning of
that line.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

#3

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____

DATE _____

S. B. No. _____

Amendment No. _____

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)

Sen.)

Expositor

1 moves to amend the bill on page 3, line 4, 13, 34

2 () WHICH CHANGES THE TITLE

3 by _____

4 deleting "At least three" and substituting
5 "no more than two" on those lines

6 _____

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED

Theresa Espino

ADOPTED ☒ FAILED ☐ TABLED ☐

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H

1

HOUSE BILL 1515*

Short Title: MH/DD/SA Commission Changes.

(Public)

Sponsors: Representatives Alexander, Insko (Primary Sponsors); Adams, Church, J. Crawford, M. Crawford, Earle, Esposito, Gray, and Nye.

Referred to: Mental Health.

June 4, 2002

A BILL TO BE ENTITLED
AN ACT PERTAINING TO THE MEMBERSHIP OF THE COMMISSION FOR
MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE
ABUSE SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-148, as amended by Section 1.21(b) of S.L. 2001-437, and by Section 90.5 of S.L. 2001-487, reads as rewritten:

"§ 143B-148. Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services – members; selection; quorum; compensation.

(a) The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services shall consist of ~~29 members~~ 30 members, as follows:

- (1) ~~Six of whom shall be appointed by the General Assembly, three upon the recommendation of the Speaker of the House of Representatives, and three upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. These members shall be individuals who are concerned about the needs of individuals for mental health, developmental disabilities, and substance abuse services. Members shall serve for two year terms beginning July 1 of odd numbered years. A member shall serve not more than three consecutive two year terms. In recommending appointments under this section, the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall give consideration to ensuring a balance of appointments that represent those who may have knowledge and expertise in adult issues and those who may have knowledge and expertise in children's issues. Of the three appointments recommended~~

1 by the President Pro Tempore of the Senate, one shall be a physician
2 licensed to practice medicine in North Carolina, with preference given
3 to a psychiatrist, and two shall be members of the public. Of the three
4 appointments recommended by the Speaker of the House of
5 Representatives, one shall be a physician licensed to practice medicine
6 in North Carolina who has expertise and experience in the field of
7 developmental disabilities, or a professional holding a Ph.D. with
8 experience in the field of developmental disabilities, and two shall be
9 members of the public. Vacancies in appointments made by the
10 General Assembly shall be filled in accordance with G.S. 120-
11 ~~122;120-122.~~

12 (2) ~~Twenty three of whom Twenty-four~~ shall be appointed by the
13 Governor, one from each congressional district in the State in
14 accordance with G.S. 147-12(3)b, and the remainder at-large members.

15 a. ~~Of these 23 members, three shall have a special interest in~~
16 ~~mental health, three shall have a special interest in mental~~
17 ~~retardation, three shall have a special interest in developmental~~
18 ~~disabilities other than mental retardation, three shall have a~~
19 ~~special interest in alcohol abuse and alcoholism and three shall~~
20 ~~have a special interest in drug abuse. Each group of three shall~~
21 ~~be made up of one member who is a consumer representative;~~
22 ~~one other who is a representative of a local or State citizen~~
23 ~~organization or association; and one other who is a professional~~
24 ~~in the field.~~

25 b. ~~The remaining eight members shall be appointed from the~~
26 ~~general public, other citizen groups, area mental health,~~
27 ~~developmental disabilities, and substance abuse authorities, or~~
28 ~~from other related agencies.~~

29 c. ~~Of these 23 appointments, at least one shall be a licensed~~
30 ~~physician and at least one other shall be a licensed attorney.~~

31 d. ~~The terms of all Commission members appointed or~~
32 ~~reappointed by the Governor on or after July 1, 2002, shall be~~
33 ~~two years. All Commission members shall serve their~~
34 ~~designated terms and until their successors are duly appointed~~
35 ~~and qualified. All Commission members may succeed~~
36 ~~themselves. A member shall serve not more than three~~
37 ~~consecutive terms.~~

38 The Governor's appointees shall represent the following categories of
39 appointment:

40 a. Three professionals licensed or certified under Chapter 90 of
41 the General Statutes who are practicing, teaching, or conducting
42 research in the field of mental health.

- 1 b. Four consumers or immediate family members of consumers of
2 mental health services. Of these four, at least one shall be a
3 consumer and at least one shall be an immediate family member
4 of a consumer. At least three of the consumers or immediate
5 family members shall be selected from nominations submitted
6 by the Coalition 2001 or its successor organization.
7 c. Three professionals licensed or certified under Chapter 90 of
8 the General Statutes who are practicing, teaching, or conducting
9 research in the field of developmental disabilities. *and 1 2 1*
10 d. Four consumers or immediate family members of consumers of
11 developmental disabilities services. Of these four, at least one
12 shall be a consumer and at least one shall be an immediate
13 family member of a consumer. At least three of the consumers
14 or immediate family members shall be selected from
15 nominations submitted by the Coalition 2001 or its successor
16 organization.
17 e. Two professionals licensed or certified under Chapter 90 of the
18 General Statutes who are practicing, teaching, or conducting
19 research in the field of substance abuse, and one professional
20 who is a certified prevention specialist or who specializes in the
21 area of addiction education.
22 f. An individual knowledgeable and experienced in the field of
23 controlled substance regulation and enforcement. The
24 controlled substances appointee shall be selected from
25 recommendations made by the Attorney General of North
26 Carolina.
27 g. A physician licensed to practice medicine in North Carolina
28 who has expertise and experience in the field of substance
29 abuse, with preference given to a physician that is certified by
30 the American Society of Addiction Medicine (ASAM).
31 h. Four consumers or immediate family members of consumers of
32 substance abuse services. Of these four, at least one shall be a
33 consumer and at least one shall be an immediate family member
34 of a consumer. At least three of the consumers or immediate
35 family members shall be selected from nominations submitted
36 by the Coalition 2001 or its successor organization.
37 i. A licensed attorney.
38 The appointments of professionals licensed or certified under Chapter
39 90 of the General Statutes made in accordance with this subdivision,
40 and physicians appointed in accordance with subdivision (1) of this
41 subsection shall be selected from nominations submitted to the
42 appointing authority by the respective professional associations.
- 2y
mif
7 p
27.6*

1 (2a) The terms of all Commission members appointed or reappointed on or
2 after July 1, 2002, shall be three years. All Commission members shall
3 serve their designated terms and until their successors are duly
4 appointed and qualified. All Commission members may succeed
5 themselves. A member appointed on and after July 1, 2002, shall not
6 serve more than two consecutive terms.

7 (3) All appointments shall be made pursuant to current federal rules and
8 regulations, when not inconsistent with State law, which prescribe the
9 selection process and demographic characteristics as a necessary
10 condition to the receipt of federal aid.

11 (b) Except as otherwise provided in this section, the provisions of G.S. 143B-13
12 through 143B-20 relating to appointment, qualifications, terms and removal of members
13 shall apply to all members of the Commission for Mental Health, Developmental
14 Disabilities, and Substance Abuse Services.

15 (c) Commission members shall receive per diem, travel and subsistence
16 allowances in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

17 (d) A majority of the Commission shall constitute a quorum for the transaction of
18 business.

19 (e) All clerical and other services required by the Commission shall be supplied
20 by the Secretary of the Department of Health and Human Services. To ensure effective
21 and efficient coordination of rules and policies adopted by the Commission and the
22 Secretary, the Secretary shall assign an individual who is knowledgeable about and
23 experienced in the rule-making processes of the Commission and the Secretary and in
24 the fields of mental health, developmental disabilities, and substance abuse to assist the
25 Commission in carrying out its duties and responsibilities."

26 **SECTION 2.** This act is effective when it becomes law. Compliance with
27 the categories of appointment to the Commission under G.S. 143B-148(a) as amended
28 by this act shall be phased-in as follows. Upon expiration of the term of an initial
29 appointment or reappointment made prior to July 1, 2002, the original appointing
30 authority shall appoint an individual who most closely represents the appointment
31 category delegated to that appointing authority under G.S. 143B-148(a) as amended by
32 this act.

**2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Crawford** (Chair/Chairs) for the Committee on **Mental Health**.

- ☐ Committee Substitute for
H.B. 1515 A BILL TO BE ENTITLED AN ACT PERTAINING TO THE MEMBERSHIP
OF THE COMMISSION FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES,
AND SUBSTANCE ABUSE SERVICES.
- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.
- ☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill.
- ☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/13/02