

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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**HOUSE BILL 381*
Committee Substitute Favorable 7/11/01
Committee Substitute #2 Favorable 7/19/01**

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

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.

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

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

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

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

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

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

14 **SECTION 1.2.(c)** G.S. 122C-3(34) and G.S. 122C-3(35) are repealed.

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

16 "**§ 122C-64. Human rights committees.**

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

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

29 "**§ 122C-101. Policy.**

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

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

41 "**§ 122C-102. State Plan for Mental Health, Developmental Disabilities, and**
42 **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.**

- 1 (a) The Secretary shall do all of the following:
- 2 (1) Oversee development of the State Plan for Mental Health,
3 Developmental Disabilities, and Substance Abuse Services.
- 4 (2) Enforce the provisions of this Chapter and the rules of the Commission
5 and the Secretary.
- 6 (3) Establish a process and criteria for the submission, review, and
7 approval or disapproval of business plans submitted by area authorities
8 and counties for the management and provision of mental health,
9 developmental disabilities, and substance abuse services.
- 10 (4) Adopt rules specifying the content and format of business plans.
- 11 (5) Review business plans and upon approval of the business plan, certify
12 the submitting area authority or county program to provide mental
13 health, developmental disabilities, and substance abuse services.
- 14 (6) Establish comprehensive, cohesive oversight and monitoring
15 procedures and processes to ensure continuous compliance by area
16 authorities, county programs, and all providers of public services with
17 State and federal policy, law, and standards. Procedures shall include
18 performance measures and report cards for each area authority and
19 county program.
- 20 (7) Conduct regularly scheduled monitoring and oversight of area
21 authority, county programs, and all providers of public services.
22 Monitoring and oversight shall include compliance with the program
23 business plan, core administrative functions, and fiscal and
24 administrative practices and shall also address outcome measures,
25 consumer satisfaction, client rights complaints, and adherence to best
26 practices.
- 27 (8) Make findings and recommendations based on information and data
28 collected pursuant to subdivision (7) of this subsection and submit
29 these findings and recommendations to the applicable area authority
30 board, county program director, board of county commissioners,
31 providers of public services, and to the Local Ombudsman Office.
- 32 (9) Assist area authorities and county programs in the establishment and
33 operation of community-based programs.
- 34 (10) Operate State facilities and adopt rules pertaining to their operation.
- 35 (11) Develop a unified system of services provided in area, county, and
36 State facilities, and by providers enrolled or under a contract with the
37 State.
- 38 (12) Adopt rules governing the expenditure of all funds for mental health,
39 developmental disabilities, and substance abuse programs and services.
- 40 (13) Adopt rules to implement the appeal procedure authorized by G.S.
41 122C-151.2.
- 42 (14) Adopt rules for the implementation of the uniform portal process.

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

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

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

7 "**§ 122C-154. Personnel.**

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

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

15 "**§ 122C-181. Secretary's jurisdiction over State facilities.**

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

18 (1) For the mentally ill:

- 19 a. Cherry Hospital;
- 20 b. Dorothea Dix Hospital;
- 21 c. John Umstead Hospital; and
- 22 d. Broughton Hospital; and

23 (2) For the mentally retarded:

- 24 a. Caswell Center;
- 25 b. O'Berry Center;
- 26 c. Murdoch Center;
- 27 d. Western Carolina Center; and
- 28 e. Black Mountain Center; and

29 (3) For substance abusers:

- 30 a. Walter B. Jones Alcohol and Drug Abuse Treatment Center at
31 Greenville; and
- 32 Julian F. Keith Alcohol and Drug Abuse Treatment Center ~~at~~
33 ~~Butner;~~ Center; and
- 34 ~~Alcohol and Drug Abuse Treatment Center at Black Mountain;~~
35 ~~and~~

36 (4) As special care facilities:

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

41 (b) The Secretary may, with the approval of the Governor and Council of State,
42 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 ~~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,~~

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

6 (2) Twenty-two of whom shall be appointed by the Governor, one from
7 each congressional district in the State in accordance with G.S.
8 147-12(3)b, and 10 at-large members.

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

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

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

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

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

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

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

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

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

7 8 **PART 2. QUALITY OF CARE OMBUDSMAN PROGRAM**

9
10 **SECTION 2.** Effective July 1, 2002, Chapter 122C of the General Statutes is
11 amended by adding the following new Article to read:

12 "Article 1A.

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

14 **"§ 122C-10. MH/DD/SA Quality of Care Ombudsman Program.**

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

31 **"§ 122C-11. MH/DD/SA Quality of Care Ombudsman Program/definitions.**

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

- 33 (1) 'MH/DD/SA' means mental health, developmental disabilities, and
34 substance abuse.
- 35 (2) 'State Ombudsman' means the individual charged with the duties and
36 functions of the State MH/DD/SA Quality of Care Ombudsman
37 Program established under this Article.
- 38 (3) 'State Ombudsman Program' means the State MH/DD/SA Quality of
39 Care Ombudsman Program.
- 40 (4) 'Local Ombudsman' means an individual employed and certified by the
41 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.

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

21 **"§ 122C-14. Local Ombudsman; duties.**

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

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

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

- 1 (6) Work with providers and consumers and their families or advocates to
2 resolve issues of common concern.
- 3 (7) Participate in regular Local Ombudsman training established by the
4 State Ombudsman.
- 5 (8) Report regularly to area authorities and county programs, county and
6 area authority boards, and boards of county commissioners about the
7 Local Ombudsman's activities, including the findings made pursuant to
8 subdivision (5) of this subsection.
- 9 (9) Provide training and technical assistance to counties, area authority
10 boards, and providers concerning responding to consumers, evaluating
11 quality of care, and determining availability of services and access to
12 resources.
- 13 (10) Coordinate activities with local human rights committees based on
14 procedures developed by the State Ombudsman.
- 15 (11) Provide information to the public on MH/DD/SA issues.
- 16 (12) Perform any other related duties as directed by the State Ombudsman.

17 **"§ 122C-15. State/Local Ombudsman; authority to enter; communication with**
18 **residents, clients, patients; review of records.**

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

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

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

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

41 **"§ 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**

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 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.