

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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HOUSE BILL 381\*  
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Short Title: Mental Health System Reform.

(Public)

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Sponsors:

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Referred to:

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March 1, 2001

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

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

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

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

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

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

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

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

23 **"§ 122C-2. Policy.**

24 The policy of the State is to assist individuals with needs for mental ~~illness,~~ health,  
25 developmental disabilities, and substance abuse ~~problems~~ services in ways consistent  
26 with the dignity, rights, and responsibilities of all North Carolina citizens. Within

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

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

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

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

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

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

- 28 "(1) 'Area director' means the administrative head of the area authority  
29 program appointed pursuant to G.S. 122C-121.
- 30 (2) 'Board of county commissioners' includes the participating boards of  
31 county commissioners for multicounty area authorities and  
32 multicounty programs.
- 33 (3) 'Core services' are services that are necessary for the basic foundation  
34 of any service delivery system. Core services are of two types: front-  
35 end service capacity such as screening, assessment, and emergency  
36 triage, and indirect services such as prevention, education, and  
37 consultation at a community level.
- 38 (4) 'County program' means a mental health, developmental disabilities,  
39 and substance abuse services program established, operated, and  
40 governed by a county pursuant to G.S. 122C-115.1.
- 41 (5) 'Program director' means the director of a county program established  
42 pursuant to G.S. 122C-115.1.

- 1           (6) 'Public services' means publicly funded mental health, developmental  
2           disabilities, and substance abuse services, whether provided by public  
3           or private providers.
- 4           (7) 'Specialty services' means services that are provided to consumers  
5           from low-incidence populations.
- 6           (8) 'State' or 'Local' Consumer Advocate means the individual carrying out  
7           the duties of the State or Local Consumer Advocacy Program Office in  
8           accordance with Article 1A of this Chapter.
- 9           (9) 'State Plan' means the State Plan for Mental Health, Developmental  
10          Disabilities, and Substance Abuse Services.
- 11          (10) 'Targeted population' means those individuals who are given service  
12          priority under the State Plan.
- 13          (11) 'Uniform portal process' means a standardized process and procedures  
14          used to ensure consumer access to, and exit from, public services in  
15          accordance with the State Plan."

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

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

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

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

21          "**§ 122C-64. Human rights committees.**

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

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

34          "**§ 122C-101. Policy.**

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

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

3 **"§ 122C-102. State Plan for Mental Health, Developmental Disabilities, and**  
4 **Substance Abuse Services.**

5 The Department shall develop and implement a State Plan for Mental Health,  
6 Developmental Disabilities, and Substance Abuse Services. The State Plan shall include  
7 the following:

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

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

39 **"§ 122C-111. Administration.**

40 The Secretary shall administer and enforce the provisions of this Chapter and the  
41 rules of the Commission and shall operate State facilities. An area director or program  
42 director shall administer the programs of the area authority or county program, as  
43 applicable, and enforce the rules of the area board, applicable State laws, rules of the  
44 Commission, and rules of the Secretary. The Secretary in cooperation with area and

1 county program directors and State facility directors shall provide for the coordination  
2 of public services between area ~~authorities~~ authorities, county programs, and State  
3 facilities."

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

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

7 "**§ 122C-112.1. Powers and duties of the Secretary.**

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

9 (1) Oversee development of the State Plan for Mental Health,  
10 Developmental Disabilities, and Substance Abuse Services.

11 (2) Enforce the provisions of this Chapter and the rules of the Commission  
12 and the Secretary.

13 (3) Establish a process and criteria for the submission, review, and  
14 approval or disapproval of business plans submitted by area authorities  
15 and counties for the management and provision of mental health,  
16 developmental disabilities, and substance abuse services.

17 (4) Adopt rules specifying the content and format of business plans.

18 (5) Review business plans and, upon approval of the business plan, certify  
19 the submitting area authority or county program to provide mental  
20 health, developmental disabilities, and substance abuse services.

21 (6) Establish comprehensive, cohesive oversight and monitoring  
22 procedures and processes to ensure continuous compliance by area  
23 authorities, county programs, and all providers of public services with  
24 State and federal policy, law, and standards. Procedures shall include  
25 performance measures and report cards for each area authority and  
26 county program.

27 (7) Conduct regularly scheduled monitoring and oversight of area  
28 authority, county programs, and all providers of public services.  
29 Monitoring and oversight shall include compliance with the program  
30 business plan, core administrative functions, and fiscal and  
31 administrative practices and shall also address outcome measures,  
32 consumer satisfaction, client rights complaints, and adherence to best  
33 practices.

34 (8) Make findings and recommendations based on information and data  
35 collected pursuant to subdivision (7) of this subsection and submit  
36 these findings and recommendations to the applicable area authority  
37 board, county program director, board of county commissioners,  
38 providers of public services, and to the Local Consumer Advocacy  
39 Office.

40 (9) Assist area authorities and county programs in the establishment and  
41 operation of community-based programs.

42 (10) Operate State facilities and adopt rules pertaining to their operation.

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

- 1           (25) Adopt rules for determining minimally adequate services for purposes  
2           of G.S. 122C-124.1 and G.S. 122C-125.
- 3           (26) Establish a process for approving area authorities and county programs  
4           to provide services directly in accordance with G.S. 122C-141.
- 5           (27) Sponsor training opportunities in the fields of mental health,  
6           developmental disabilities, and substance abuse.
- 7           (28) Enforce the protection of the rights of clients served by State facilities,  
8           area authorities, county programs, and providers of public services.
- 9           (29) Adopt rules for the enforcement of the protection of the rights of  
10          clients being served by State facilities, area authorities, county  
11          programs, and providers of public services.
- 12        (b) The Secretary may do the following:
- 13           (1) Acquire, by purchase or otherwise in the name of the Department,  
14           equipment, supplies, and other personal property necessary to carry out  
15           the mental health, developmental disabilities, and substance abuse  
16           programs.
- 17           (2) Promote and conduct research in the fields of mental health,  
18           developmental disabilities, and substance abuse; promote best  
19           practices.
- 20           (3) Receive donations of money, securities, equipment, supplies, or any  
21           other personal property of any kind or description that shall be used by  
22           the Secretary for the purpose of carrying out mental health,  
23           developmental disabilities, and substance abuse programs. Any  
24           donations shall be reported to the Office of State Budget and  
25           Management as determined by that office.
- 26           (4) Accept, allocate, and spend any federal funds for mental health,  
27           developmental disabilities, and substance abuse activities that may be  
28           made available to the State by the federal government. This Chapter  
29           shall be liberally construed in order that the State and its citizens may  
30           benefit fully from these funds. Any federal funds received shall be  
31           deposited with the Department of State Treasurer and shall be  
32           appropriated by the General Assembly for the mental health,  
33           developmental disabilities, or substance abuse purposes specified.
- 34           (5) Enter into agreements authorized by G.S. 122C-346.
- 35           (6) Notwithstanding G.S. 126-18, authorize funds for contracting with a  
36           person, firm, or corporation for aid or assistance in locating, recruiting,  
37           or arranging employment of health care professionals in any facility  
38           listed in G.S. 122C-181.
- 39           (7) Contract with one or more private providers or other public service  
40           agencies to serve clients of an area authority or county program and  
41           reallocate program funds to pay for services under the contract if the  
42           Secretary finds all of the following:
- 43           a. The area authority or county program refuses or has failed to  
44           provide the services to clients within its catchment area, or

1 provide specialty services in another catchment area, in a  
2 manner that is at least adequate.

3 b. Clients within the area authority or county program catchment  
4 area will either not be served or will suffer an unreasonable  
5 hardship if required to obtain the services from another area  
6 authority or county program.

7 c. There is at least one private provider or public service agency  
8 within the area authority or county program catchment area, or  
9 within reasonable proximity to the catchment area, willing and  
10 able to provide services under contract.

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

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

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

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

41 "~~§ 122C-115. Powers and duties of counties and cities.~~ **Duties of counties;**  
42 **appropriation and allocation of funds by counties and cities.**

43 (a) ~~Except as provided in G.S. 153A-77, a county shall provide mental health,~~  
44 ~~developmental disabilities, and substance abuse services through an area authority. A~~



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

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

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

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

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

24 **"§ 122C-115.1. County governance and operation of mental health, developmental**  
25 **disabilities, and substance abuse services program.**

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

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

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

37 a. Masters degree,

38 b. Related experience, and

39 c. Management experience.

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

42 (4) Compliance with the provisions of this Chapter and the rules of the  
43 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  
43 requirements in G.S. 122C-118.1(b)(1)-(4). In a multicounty program, the advisory  
44 committee shall be appointed in accordance with the terms of the interlocal agreement.

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

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

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

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

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

11          (4) G.S. 122C-127.

12          (5) G.S. 122C-147.

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

14          (7) G.S. 122C-156.

15          (8) G.S. 122C-158.

16 **"§ 122C-115.2. Business plan required; content, process, certification.**

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

25       (b) Business plans shall include the following:

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

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

35           b. Provider network development. – Ensuring available, qualified  
36 providers to deliver services based on the business plan.  
37 Development of new providers and monitoring provider  
38 performance and service outcomes. Provider network  
39 development shall address consumer choice and fair  
40 competition. For the purposes of this section, a 'qualified  
41 provider' means a provider who meets the provider  
42 qualifications as defined by rules adopted by the Secretary.

43           c. Service management. – Implementation of uniform portal  
44 process. Service management shall include appropriate level

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

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

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

22 **"§ 122C-115.3. Dissolution of area authority.**

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

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

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

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

41       (e) Any budgetary surplus available to an area authority at the time of its  
42 dissolution shall be distributed to those counties comprising the area authority on the  
43 same pro rata basis that the counties appropriated and contributed funds to the area  
44 authority's budget during the current fiscal year. Distribution to the counties shall be

1 determined on the basis of an audit of the financial record of the area authority. The area  
2 authority board shall select a certified public accountant or an accountant who is  
3 subsequently certified by the Local Government Commission to conduct the audit. The  
4 audit shall be performed in accordance with G.S. 159-34. The same method of  
5 distribution of funds described in this subsection shall apply when one or more counties  
6 of an area authority withdraw from the area authority.

7 (f) Funds distributed to counties pursuant to subsection (e) of this section shall  
8 be placed in the fund balance of the county program or area authority subsequently  
9 established or joined pursuant to G.S. 122C-115.

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

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

17 **"§ 122C-117. Powers and duties of the area authority.**

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

- 19 (1) Engage in comprehensive planning, budgeting, implementing, and  
20 monitoring of community-based mental health, developmental  
21 disabilities, and substance abuse ~~services;~~ services.
- 22 (2) ~~Provide~~Ensure the provision of services to clients in the catchment  
23 area, including clients committed to the custody of the Department of  
24 Juvenile Justice and Delinquency ~~Prevention;~~ Prevention.
- 25 (3) Determine the needs of the area authority's clients and coordinate with  
26 the Secretary and with the Department of Juvenile Justice and  
27 Delinquency Prevention the provision of services to clients through  
28 area and State ~~facilities;~~ facilities.
- 29 (4) Develop plans and budgets for the area authority subject to the  
30 approval of the ~~Secretary;~~ Secretary. The area authority shall submit  
31 the approved budget to the board of county commissioners and the  
32 county manager and provide quarterly reports on the financial status of  
33 the program in accordance with subsection (c) of this section.
- 34 (5) Assure that the services provided by the county through the area  
35 authority meet the rules of the Commission and ~~Secretary;~~ Secretary.
- 36 (6) Comply with federal requirements as a condition of receipt of federal  
37 ~~grants; and~~ grants.
- 38 (7) ~~Appoint an area director, chosen through a search committee on which~~  
39 ~~the Secretary of the Department of Health and Human Services or the~~  
40 ~~Secretary's designee serves as a nonvoting member. Appoint an area~~  
41 director in accordance with G.S. 122C-121(d). The appointment is  
42 subject to the approval of the board of county commissioners except  
43 that one or more boards of county commissioners may waive its  
44 authority to approve the appointment. The appointment shall be based

1           on a selection by a search committee of the area authority board. The  
2           search committee shall include consumer board members, a county  
3           manager, a member appointed by the Secretary, and one or more  
4           county commissioners.

5           (8) Develop and submit to the board of county commissioners for  
6           approval the business plan required under G.S. 122C-115.2. A  
7           multicounty area authority shall submit the business plan to each  
8           participating board of county commissioners for its approval. The  
9           boards of county commissioners of a multicounty area authority shall  
10           jointly submit one approved business plan to the Secretary for  
11           approval and certification.

12           (9) Perform public relations and community advocacy functions.

13           (10) Recommend to the board of county commissioners the creation of  
14           local program services.

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

27           (12) Comply with this Article and rules adopted by the Secretary for the  
28           development and submission of and compliance with the area authority  
29           business plan.

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

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

35           (c) Within 30 days of the end of each quarter of the fiscal year, the area director  
36 and finance officer of the area authority shall provide to each member of the board of  
37 county commissioners the quarterly report of the area authority. This information shall  
38 be presented in a format prescribed by the county. At least twice a year, this information  
39 shall be presented in person and shall be read into the minutes of the meeting at which it  
40 is presented. In addition, the area director or finance officer of the area authority shall  
41 provide to the board of county commissioners ad hoc reports as requested by the board  
42 of county commissioners.

43           (d) A multicounty area authority shall provide to each board of county  
44 commissioners of participating counties a copy of the area authority's annual audit. The

1 audit findings shall be presented in a format prescribed by the county and shall be read  
2 into the minutes of the meeting at which the audit findings are presented."

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

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

6 **"§ 122C-118.1. Structure of area board.**

7 (a) An area board shall have no fewer than 11 and no more than 25 members. In  
8 a single-county area authority, the members shall be appointed by the board of county  
9 commissioners. Except as otherwise provided, in areas consisting of more than one  
10 county, each board of county commissioners within the area shall appoint one  
11 commissioner as a member of the area board. These members shall appoint the other  
12 members. The boards of county commissioners within the multicounty area shall have  
13 the option to appoint the members of the area board in a manner other than as required  
14 under this section by adopting a resolution to that effect. The boards of county  
15 commissioners in a multicounty area authority shall indicate in the business plan each  
16 board's method of appointment of the area board members in accordance with G.S.  
17 122C-155.2(b). These appointments shall take into account sufficient citizen  
18 participation, equitable representation of the disability groups, and equitable  
19 representation of participating counties. Individuals appointed to the board shall include  
20 an individual with financial expertise or a county finance officer, an individual with  
21 expertise in management or business, and an individual representing the interests of  
22 children. A member of the board may be removed with or without cause by the initial  
23 appointing authority. Vacancies on the board shall be filled by the initial appointing  
24 authority before the end of the term of the vacated seat or within 90 days of the vacancy,  
25 whichever occurs first, and the appointments shall be for the remainder of the unexpired  
26 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

43 c. In recovery from addiction.



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

4       (d) Any member of an area board who is a county commissioner serves on the  
5 board in an ex officio capacity. The terms of county commissioners on an area board are  
6 concurrent with their terms as county commissioners. The terms of the other members  
7 on the area board shall be for four years, except that upon the initial formation of an  
8 area board one-fourth shall be appointed for one year, one-fourth for two years, one-  
9 fourth for three years, and all remaining members for four years. Members other than  
10 county commissioners shall not be appointed for more than two consecutive terms.

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

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

15 **"§ 122C-119. Organization of area board.**

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

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

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

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

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

32 **"§ 122C-121. Area director.**

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

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

44       (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  
43 and provide notification to the area authority or county program and  
44 the board of county commissioners of the area authority or county

1           program of any ongoing concerns or problems with the area authority's  
2           or county program's finances or delivery of services.

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

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

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

30                The Secretary may assign any of the powers and duties of the area director or  
31                program director or of the area authority board or board of county commissioners of the  
32                area authority or county program pertaining to the operation of mental health,  
33                developmental disabilities, and substance abuse services to the caretaker board or to the  
34                caretaker administrator as it deems necessary and appropriate to continue to provide  
35                direct services to clients, including the powers as to the adoption of budgets,  
36                expenditures of money, and all other financial powers conferred on the area authority or  
37                county program by law pertaining to the operation of mental health, developmental  
38                disabilities, and substance abuse services. County funding of the area authority or  
39                county program shall continue when the State has assumed control of the financial  
40                affairs of the program. At no time after the State has assumed this control shall a county  
41                withdraw funds previously obligated or appropriated to the area authority or county  
42                program. The caretaker administrator and the caretaker board shall perform all of these  
43                powers and duties. The Secretary may terminate the area director or program director  
44                when it appoints a caretaker administrator. Chapter 150B of the General Statutes shall

1 apply to the decision to terminate the area director or program director. Neither party to  
2 any such contract shall be entitled to damages. After a caretaker board has been  
3 appointed, the General Assembly shall consider, at its next regular session, the future  
4 governance of the identified area authority or county program."

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

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

7 **"§ 122C-141. Provision of services.**

8 (a) The area authority or county program ~~may provide services directly and may~~  
9 ~~shall~~ contract with other public or private agencies, institutions, or resources for the  
10 provision of ~~services~~.services or may provide services directly as approved by the  
11 Secretary. Approval of the Secretary shall be granted based on access, availability of  
12 qualified providers, consumer choice, fair competition, and in accordance with criteria  
13 established in the State Plan, and evidenced by approval of the local business plan. For  
14 the purposes of this section, a 'qualified public or private provider' is a provider who  
15 meets the provider qualifications as defined by rules adopted by the Secretary.

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

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

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

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

42 **"§ 122C-151.2. Appeal by area ~~authorities~~. authorities and county programs.**

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

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

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

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

9 **"§ 122C-151.3. Dispute with area authorities, authorities or county programs.**

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

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

16 **"§ 122C-151.4. Appeal to ~~Area Authority~~ State MH/DD/SA Appeals Panel.**

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

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

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

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

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

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

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

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

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

41 (2) A contractor or a former contractor who claims that a requirement of  
42 the contract substantially compromises the ability of the contractor to  
43 fulfill the contract;

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

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

10 (5) A person who claims that an area authority or county program did not  
11 comply with a State law or a rule adopted by the Secretary or the  
12 Commission in developing the plans and budgets of the area authority  
13 or county program and that the ~~area authority's~~ failure to comply has  
14 adversely affected the ability of the person to participate in the  
15 development of the plans and budgets.

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

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

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

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

41 "**§ 122C-154. Personnel.**

42 Employees under the direct supervision of the area ~~authority~~ director are employees  
43 of the area authority. For the purpose of personnel administration, Chapter 126 of the  
44 General Statutes applies unless otherwise provided in this Article. Employees appointed

1 by the county program director are employees of the county. In a multicounty program,  
2 employment of county program staff shall be as agreed upon in the interlocal agreement  
3 adopted pursuant to G.S. 122C-115.1."

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

5 **"§ 122C-181. Secretary's jurisdiction over State facilities.**

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

8 (1) For the mentally ill:

- 9 a. Cherry Hospital;  
10 b. Dorothea Dix Hospital;  
11 c. John Umstead Hospital; and  
12 d. Broughton Hospital; and

13 (2) For the mentally retarded:

- 14 a. Caswell Center;  
15 b. O'Berry Center;  
16 c. Murdoch Center;  
17 d. Western Carolina Center; and  
18 e. Black Mountain Center; and

19 (3) For substance abusers:

- 20 a. Walter B. Jones Alcohol and Drug Abuse Treatment Center at  
21 Greenville;  
22 b. Alcohol and Drug Abuse Treatment ~~Center at Butner;~~ Center at  
23 John Umstead Hospital; and  
24 c. Julian F. Keith Alcohol and Drug Abuse Treatment Center at  
25 Black Mountain; Center; and

26 (4) As special care facilities:

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

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

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

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

36 **"§ 143B-139.6A. Secretary's responsibilities regarding availability of early**  
37 **intervention services.**

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

43 The Secretary shall coordinate and facilitate the development and administration of  
44 the early intervention system for eligible infants and toddlers and shall assign among the

1 cooperating agencies the responsibility, including financial responsibility, for services.  
2 The Secretary shall be advised by the Interagency Coordinating Council for Children  
3 from Birth to Five with Disabilities and Their Families, established by G.S. 143B-179.5,  
4 and may enter into formal interagency agreements to establish the collaborative  
5 relationships with the Department of Public Instruction, other appropriate agencies, and  
6 other public and private service providers necessary to administer the system and  
7 deliver the services.

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

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

11 "**§ 143B-147. Commission for Mental Health, Developmental Disabilities, and**  
12 **Substance Abuse Services – creation, powers and duties.**

13 (a) There is hereby created the Commission for Mental Health, Developmental  
14 Disabilities, and Substance Abuse Services of the Department of Health and Human  
15 Services with the power and duty to adopt, amend and repeal rules to be followed in the  
16 conduct of State and local mental health, developmental disabilities, ~~alcohol and drug~~  
17 ~~abuse~~ substance abuse programs including education, prevention, intervention,  
18 ~~treatment, rehabilitation~~ screening, assessment, referral, detoxification, treatment,  
19 rehabilitation, continuing care, emergency services, case management, and other related  
20 services. Such rules shall be designed to promote the amelioration or elimination of the  
21 ~~mental health, illness,~~ developmental disabilities, or ~~alcohol and drug abuse~~ substance  
22 abuse problems of the citizens of this State. The Commission for Mental Health,  
23 Developmental Disabilities, and Substance Abuse Services shall have the authority:

24 (1) To adopt rules regarding the

- 25 a. Admission, including the designation of regions, treatment, and  
26 professional care of individuals admitted to a facility operated  
27 under the authority of G.S. 122C-181(a), that is now or may be  
28 established;
- 29 b. Operation of education, prevention, intervention, treatment,  
30 rehabilitation and other related services as provided by area  
31 mental health, developmental disabilities, and substance abuse  
32 ~~authorities~~ authorities, county programs, and all providers of  
33 public services under Part 4 of Article 4 of Chapter 122C of the  
34 General Statutes;
- 35 c. Hearings and appeals of area mental health, developmental  
36 disabilities, and substance abuse authorities as provided for in  
37 Part 4 of Article 4 of Chapter 122C of the General Statutes; and
- 38 ~~Requirements of the federal government for grants in aid for~~  
39 ~~mental health, developmental disabilities, alcohol or drug abuse~~  
40 ~~programs which may be made available to local programs or the~~  
41 ~~State. This section is to be liberally construed in order that the~~  
42 ~~State and its citizens may benefit from such grants in aid; and~~



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

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

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

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

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

17 "**§ 143B-148. Commission for Mental Health, Developmental Disabilities, and**  
18 **Substance Abuse Services – members; selection; quorum; compensation.**

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

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

34 (2) Twenty-two of whom shall be appointed by the Governor, one from  
35 each congressional district in the State in accordance with G.S.  
36 147-12(3)b, and 10 at-large members.

37 a. Of these 22 members, three shall have a special interest in  
38 mental health, three shall have a special interest in mental  
39 retardation, three shall have a special interest in developmental  
40 disabilities other than mental retardation, three shall have a  
41 special interest in alcohol abuse and alcoholism and three shall  
42 have a special interest in drug abuse. Each group of three shall  
43 be made up of one member who is a consumer representative;  
44 one other who is a representative of a local or State citizen

1 organization or association; and one other who is a professional  
2 in the field.

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

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

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

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

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

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

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

30 (e) All clerical and other services required by the Commission shall be supplied  
31 by the Secretary of the Department of Health and Human Services."  
32

## 33 PART 2. MH/DD/SA CONSUMER ADVOCACY PROGRAM

34  
35 SECTION 2. Effective July 1, 2002, Chapter 122C of the General Statutes is  
36 amended by adding the following new Article to read:

### 37 "Article 1A.

#### 38 "MH/DD/SA Consumer Advocacy Program.

#### 39 "§ 122C-10. MH/DD/SA Consumer Advocacy Program.

40 The General Assembly finds that many consumers of mental health, developmental  
41 disabilities, and substance abuse services are uncertain about their rights and  
42 responsibilities and how to access the public service system to obtain appropriate care  
43 and treatment. The General Assembly recognizes the importance of ensuring that  
44 consumers have information about the availability of services and access to resources to

1 obtain timely quality care. There is established the MH/DD/SA Consumer Advocacy  
2 Program. The purpose of this Program is to provide consumers, their families, and  
3 providers with the information and advocacy needed to locate appropriate services,  
4 resolve complaints, or address common concerns and promote community involvement.  
5 It is further the intent of the General Assembly that the Department, within available  
6 resources and pursuant to its duties under this Chapter, ensure that the performance of  
7 the mental health care system in this State is closely monitored, reviews are conducted,  
8 findings and recommendations and reports are made, and that local and systemic  
9 problems are identified and corrected when necessary to promote the rights and interests  
10 of all consumers of mental health, developmental disabilities, and substance abuse  
11 services.

12 **"§ 122C-11. MH/DD/SA Consumer Advocacy Program/definitions.**

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

- 14 (1) 'MH/DD/SA' means mental health, developmental disabilities, and  
15 substance abuse.
- 16 (2) 'State Consumer Advocate' means the individual charged with the  
17 duties and functions of the State MH/DD/SA Consumer Advocacy  
18 Program established under this Article.
- 19 (3) 'State Consumer Advocacy Program' means the State MH/DD/SA  
20 Consumer Advocacy Program.
- 21 (4) 'Local Consumer Advocate' means an individual employed and  
22 certified by the State Consumer Advocate to perform the duties and  
23 functions of the MH/DD/SA Local Consumer Advocacy Program in  
24 accordance with this Article.
- 25 (5) 'Local Consumer Advocacy Program' means a local MH/DD/SA Local  
26 Consumer Advocacy Program.
- 27 (6) 'Consumer' means an individual who is a client or a potential client of  
28 public services from a State or area facility.

29 **"§ 122C-12. State MH/DD/SA Consumer Advocacy Program.**

30 The Secretary shall establish a State MH/DD/SA Consumer Advocacy Program  
31 office in the Office of the Secretary of Health and Human Services. The Secretary shall  
32 appoint a State Consumer Advocate. In selecting the State Consumer Advocate, the  
33 Secretary shall consider candidates recommended by citizens' organizations  
34 representing the interest of individuals with needs for mental health, developmental  
35 disabilities, and substance abuse services. The State Consumer Advocate may hire  
36 individuals to assist in executing the State Consumer Advocacy Program and to act on  
37 the State Consumer Advocate's behalf. The State Consumer Advocate shall have  
38 expertise and experience in MH/DD/SA, including expertise and experience in  
39 advocacy. The Attorney General shall provide legal staff and advice to the State  
40 Consumer Advocate.

41 **"§ 122C-13. State Consumer Advocate duties.**

42 The State Consumer Advocate shall:

- 43 (1) Establish Local Quality Care Consumer Advocacy Programs described  
44 in G.S. 122C-14 and appoint the Local Consumer Advocates.

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

41 **§ 122C-14. Local Consumer Advocate; duties.**

- 42          (a)   The State Consumer Advocate shall establish a Local MH/DD/SA Consumer  
43          Advocacy Program in locations in the State to be designated by the Secretary. In  
44          determining where to locate the Local Consumer Advocacy Programs, the Secretary

1 shall ensure reasonable consumer accessibility to the Local Consumer Advocates. Local  
2 Consumer Advocates shall administer the Local Consumer Advocacy Programs. The  
3 State Consumer Advocate shall appoint a Local Consumer Advocate for each of the  
4 Local Consumer Advocacy Programs. The State Consumer Advocate shall supervise the  
5 Local Consumer Advocates.

6 (b) Pursuant to policies and procedures established by the State Consumer  
7 Advocate, the Local Consumer Advocate shall:

8 (1) Assist consumers and their families with information, referral, and  
9 advocacy in obtaining appropriate services.

10 (2) Assist consumers and their families in understanding their rights and  
11 remedies available to them from the public service system.

12 (3) Serve as a liaison between consumers and their families and facility  
13 personnel and administration.

14 (4) Promote the development of consumer and citizen involvement in  
15 addressing issues relating to MH/DD/SA.

16 (5) Visit the State, area authority, or county program facilities to review  
17 and evaluate the quality of care provided to consumers and submit  
18 findings to the State Consumer Advocate.

19 (6) Work with providers and consumers and their families or advocates to  
20 resolve issues of common concern.

21 (7) Participate in regular Local Consumer Advocate training established  
22 by the State Consumer Advocate.

23 (8) Report regularly to area authorities and county programs, county and  
24 area authority boards, and boards of county commissioners about the  
25 Local Consumer Advocate's activities, including the findings made  
26 pursuant to subdivision (5) of this subsection.

27 (9) Provide training and technical assistance to counties, area authority  
28 boards, and providers concerning responding to consumers, evaluating  
29 quality of care, and determining availability of services and access to  
30 resources.

31 (10) Coordinate activities with local human rights committees based on  
32 procedures developed by the State Consumer Advocate.

33 (11) Provide information to the public on MH/DD/SA issues.

34 (12) Perform any other related duties as directed by the State Consumer  
35 Advocate.

36 **"§ 122C-15. State/Local Consumer Advocate; authority to enter; communication**  
37 **with residents, clients, patients; review of records.**

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

41 (b) In performing the Consumer Advocate's duties, a Consumer Advocate shall  
42 have access at all times to any State or area facility and shall have reasonable access to  
43 any consumer or to an employee of a State or area facility. Entry and access to any  
44 consumer or to an employee shall be conducted in a manner that will not significantly

1 disrupt the provision of services. If a facility requires visitor registration, then the  
2 Consumer Advocate shall register.

3 (c) In performing the Consumer Advocate's duties, a Consumer Advocate may  
4 communicate privately and confidentially with a consumer. A consumer shall not be  
5 compelled to communicate with a Consumer Advocate. When initiating  
6 communication, a Consumer Advocate shall inform the consumer of the Consumer  
7 Advocate's purpose and that a consumer may refuse to communicate with the Consumer  
8 Advocate. A Consumer Advocate also may communicate privately and confidentially  
9 with State and area facility employees in performing the Consumer Advocate's duties.

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

19 **"§ 122C-16. State/Local Consumer Advocate; resolution of complaints.**

20 (a) Following receipt of a complaint, a Consumer Advocate shall attempt to  
21 resolve the complaint using, whenever possible, informal mediation, conciliation, and  
22 persuasion.

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

27 (c) Following receipt of a complaint, a Consumer Advocate shall contact the  
28 service provider to allow the service provider the opportunity to respond, provide  
29 additional information, or initiate action to resolve the complaint.

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

33 **"§ 122C-17. State/Local Consumer Advocate; confidentiality.**

34 (a) Except as required by law, a Consumer Advocate shall not disclose the  
35 following:

36 (1) Any confidential or privileged information obtained pursuant to G.S.  
37 122C-15 unless the affected individual authorizes disclosure in  
38 writing; or

39 (2) The name of anyone who has furnished information to a Consumer  
40 Advocate unless the individual authorizes disclosure in writing.

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

43 (c) All confidential or privileged information obtained under this section and the  
44 names of persons providing information to a Consumer Advocate are exempt from

1 disclosure pursuant to Chapter 132 of the General Statutes. Access to substance abuse  
2 records and redisclosure of protected information shall be in compliance with federal  
3 confidentiality laws protecting medical records.

4 **"§ 122C-18. State/Local Consumer Advocate; retaliation prohibited.**

5 No one shall discriminate or retaliate against any person, provider, or facility  
6 because the person, provider, or facility in good faith complained or provided  
7 information to a Consumer Advocate.

8 **"§ 122C-19. State/Local Consumer Advocate; immunity from liability.**

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

11 (b) A State or area facility, its employees, and any other individual interviewed  
12 by a Consumer Advocate are immune from liability for damages resulting from  
13 disclosure of any information or documents to a Consumer Advocate pursuant to this  
14 Article.

15 **"§ 122C-20. State/Local Consumer Advocate; penalty for willful interference.**

16 Willful interference by an individual other than the consumer or the consumer's  
17 representative with the State or a Local Consumer Advocate in the performance of the  
18 Consumer Advocate's official duties is a Class 1 misdemeanor."

19  
20 **PART 3. PHASED IN IMPLEMENTATION**

21  
22 **SECTION 3.(a)** The Department of Health and Human Services shall do the  
23 following to prepare for the certification of area authorities and county programs to  
24 administer and deliver mental health, developmental disabilities, and substance abuse  
25 services.

- 26 (1) Develop the State Plan for Mental Health, Developmental Disabilities,  
27 and Substance Abuse Services in accordance with G.S. 122C-102. Not  
28 later than December 1, 2001, the Department shall submit the State  
29 Plan to the Joint Legislative Oversight Committee on Mental Health,  
30 Developmental Disabilities, and Substance Abuse Services for its  
31 review.
- 32 (2) Review all rules currently in effect and adopted by the Secretary, the  
33 Commission for Mental Health, Developmental Disabilities, and  
34 Substance Abuse Services and identify areas of duplication,  
35 vagueness, or ambiguity in content or in application. In conducting this  
36 review, the Department shall solicit input from current area authorities  
37 and providers on perceived problems with rules. The review may also  
38 include review of rules pertaining to mental health, developmental  
39 disabilities, and substance abuse services that are in effect and adopted  
40 by agencies other than the Secretary and the Commission.
- 41 (3) Review the oversight and monitoring functions currently implemented  
42 by the Department to determine the effectiveness of the activities in  
43 achieving the intended results. Improve the oversight and monitoring  
44 functions and activities, if necessary.



- 1           (4)    Develop service standards, outcomes, and a financing formula for core  
2           and targeted services to prepare for their administration, financing, and  
3           delivery by area authorities and county programs.
- 4           (5)    Develop format and required content for business plans submitted by  
5           boards of county commissioners and for contractual agreements  
6           between the Department and area authorities or county commissioners  
7           for county programs. Develop a method for departmental evaluation of  
8           local business plans. Contractual agreements for the provision of  
9           services shall provide for:
- 10           a.     Terms of a minimum of three years.
- 11           b.     Annual review and renewal.
- 12           c.     Specific conditions under which the Department will provide  
13           technical assistance, impose sanctions, or terminate  
14           participation.
- 15           d.     Terms of the business plan.
- 16           e.     Award of start-up funds for consolidation of area or county  
17           programs.
- 18           (6)    Report on the Department's readiness to implement system reform.
- 19           (7)    Establish criteria and operational procedures for the Consumer  
20           Advocacy Program and make a report to the Joint Legislative  
21           Oversight Committee on Mental Health, Developmental Disabilities,  
22           and Substance Abuse Services on or before March 1, 2002.
- 23           (8)    Develop a catchment area consolidation plan. The Secretary shall  
24           anticipate receiving letters of intent from boards of county  
25           commissioners on or before October 1, 2002, indicating the intent of a  
26           county or counties to provide services through an existing area  
27           authority or through a county program established pursuant to G.S.  
28           122C-115.1. The Secretary shall develop the consolidation plan based  
29           on the letters of intent, the State Plan, geographic and population  
30           targeted thresholds, and capacity to implement the business plan. The  
31           consolidation plan shall provide for consolidation target of no more  
32           than 20 area authorities and county programs. The Secretary, in  
33           consultation with county commissioners and area authorities, shall  
34           complete the consolidation plan by September 1, 2004, and shall  
35           submit it no later than January 1, 2005, to the Joint Legislative  
36           Oversight Committee on Mental Health, Developmental Disabilities,  
37           and Substance Abuse Services, the Governor, and each board of  
38           county commissioners. The total number of area authorities and county  
39           programs shall be reduced to no more than a target of 20 by January 1,  
40           2007.
- 41           (9)    Develop a readiness plan to conduct readiness reviews and certify all  
42           county programs and area authorities based on readiness by July 1,  
43           2004. Each area authority and county program shall submit its  
44           approved business plan to the Secretary pursuant to G.S. 122C-115.2

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

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

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

19 **SECTION 3.(c)** The Secretary shall study consolidating the Quality of Care  
20 Consumer Advocacy Program as provided in Section 2 of this act with other consumer  
21 advocacy or ombudsman programs in the Department of Health and Human Services.  
22 The study shall include:

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

29 The Secretary shall report the findings and recommendations, including  
30 enabling legislation, to the Joint Legislative Oversight Committee on Mental Health,  
31 Developmental Disabilities, and Substance Abuse Services on or before March 1, 2002.

32 **SECTION 3.(d)** The Joint Legislative Oversight Committee on Mental  
33 Health, Developmental Disabilities, and Substance Abuse Services shall conduct an  
34 in-depth review of the current methods of and disparities in the allocation of State  
35 funding to area authorities and county programs for mental health, developmental  
36 disabilities, and substance abuse services and shall recommend necessary changes in  
37 allocation formulae, methods, and procedures that will ensure equitable allocation and  
38 use of State funds to provide these services throughout the State. Not later than May 1,  
39 2002, the Committee shall report its findings and recommendations, including fiscal  
40 information on the cost to address funding allocation disparities, to the General  
41 Assembly, the House of Representatives Appropriations Subcommittee on Health and  
42 Human Services, the Senate Appropriations Committee on Health and Human Services,  
43 and the Fiscal Research Division.

44

1 **PART 4. EFFECTIVE DATE**

2

3 **SECTION 4.** Sections 1.1 through 1.21(b) of this act become effective July  
4 1, 2002. Section 2 of this act becomes effective July 1, 2002, only if funds are  
5 appropriated by the 2001 General Assembly, Regular Session 2002, for that purpose.  
6 The remainder of this act becomes effective when it becomes law.