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Short Title: Mental Health System Reform.

(Public)

Sponsors:

Referred to:

March 1, 2001

A BILL TO BE ENTITLED

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

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

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

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

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

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

PART 1. MENTAL HEALTH SYSTEM GOVERNANCE CHANGES

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

"§ 122C-2. Policy.

The policy of the State is to assist individuals with needs for mental illness, health, developmental disabilities, and substance abuse problems services in ways consistent

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

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

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

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

25 As used in this Chapter, the phrase 'within available resources' means State funds
26 appropriated and non-State funds and other resources appropriated, allocated or
27 otherwise made available for mental health, developmental disabilities, and substance
28 abuse services.

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

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

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

- 1 (4) 'County program' means a mental health, developmental disabilities,
 2 and substance abuse services program established, operated, and
 3 governed by a county pursuant to G.S. 122C-115.1.
- 4 (5) 'Program director' means the director of a county program established
 5 pursuant to G.S. 122C-115.1.
- 6 (6) 'Public services' means publicly funded mental health, developmental
 7 disabilities, and substance abuse services, whether provided by public
 8 or private providers.
- 9 (7) 'Specialty services' means services that are provided to consumers
 10 from low-incidence populations.
- 11 (8) 'State' or 'Local' Consumer Advocate means the individual carrying out
 12 the duties of the State or Local Consumer Advocacy Program Office in
 13 accordance with Article 1A of this Chapter.
- 14 (9) 'State Plan' means the State Plan for Mental Health, Developmental
 15 Disabilities, and Substance Abuse Services.
- 16 (10) 'Targeted population' means those individuals who are given service
 17 priority under the State Plan.
- 18 (11) 'Uniform portal process' means a standardized process and procedures
 19 used to ensure consumer access to, and exit from, public services in
 20 accordance with the State Plan."

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

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

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

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

26 **"§ 122C-64. Human rights committees.**

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

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

39 **"§ 122C-101. Policy.**

40 Within the public system of mental health, developmental disabilities, and substance
 41 abuse services, there are ~~both area area, county,~~ and State facilities. An area authority or
 42 county program is the locus of coordination among public services for clients of its
 43 catchment area. ~~To assure the most appropriate and efficient care of clients within the~~
 44 ~~publicly supported service system, area authorities are encouraged to develop and~~

1 ~~secure approval for a single portal of entry and exit policy for their catchment areas for~~
2 ~~mental health and substance abuse authorities. Effective January 1, 1994, an area~~
3 ~~authority shall develop and secure approval for a single portal of entry and exit policy~~
4 ~~for public and private services for individuals with developmental disabilities."~~

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

7 **"§ 122C-102. State Plan for Mental Health, Developmental Disabilities, and**
8 **Substance Abuse Services.**

9 The Department shall develop and implement a State Plan for Mental Health,
10 Developmental Disabilities, and Substance Abuse Services. The State Plan shall include
11 the following:

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

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

43 **"§ 122C-111. Administration.**

1 The Secretary shall administer and enforce the provisions of this Chapter and the
2 rules of the Commission and shall operate State facilities. An area director or program
3 director shall administer the programs of the area authority or county program, as
4 applicable, and enforce ~~the rules of the area board~~, applicable State laws, rules of the
5 Commission, and rules of the Secretary. The Secretary in cooperation with area and
6 county program directors and State facility directors shall provide for the coordination
7 of public services between area ~~authorities~~ authorities, county programs, and State
8 facilities."

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

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

12 **"§ 122C-112.1. Powers and duties of the Secretary.**

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

- 14 (1) Oversee development of the State Plan for Mental Health,
15 Developmental Disabilities, and Substance Abuse Services.
- 16 (2) Enforce the provisions of this Chapter and the rules of the Commission
17 and the Secretary.
- 18 (3) Establish a process and criteria for the submission, review, and
19 approval or disapproval of business plans submitted by area authorities
20 and counties for the management and provision of mental health,
21 developmental disabilities, and substance abuse services.
- 22 (4) Adopt rules specifying the content and format of business plans.
- 23 (5) Review business plans and, upon approval of the business plan, certify
24 the submitting area authority or county program to provide mental
25 health, developmental disabilities, and substance abuse services.
- 26 (6) Establish comprehensive, cohesive oversight and monitoring
27 procedures and processes to ensure continuous compliance by area
28 authorities, county programs, and all providers of public services with
29 State and federal policy, law, and standards. Procedures shall include
30 performance measures and report cards for each area authority and
31 county program.
- 32 (7) Conduct regularly scheduled monitoring and oversight of area
33 authority, county programs, and all providers of public services.
34 Monitoring and oversight shall include compliance with the program
35 business plan, core administrative functions, and fiscal and
36 administrative practices and shall also address outcome measures,
37 consumer satisfaction, client rights complaints, and adherence to best
38 practices.
- 39 (8) Make findings and recommendations based on information and data
40 collected pursuant to subdivision (7) of this subsection and submit
41 these findings and recommendations to the applicable area authority
42 board, county program director, board of county commissioners,
43 providers of public services, and to the Local Consumer Advocacy
44 Office.

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

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

- 1 a. The area authority or county program refuses or has failed to
2 provide the services to clients within its catchment area, or
3 provide specialty services in another catchment area, in a
4 manner that is at least adequate.
5 b. Clients within the area authority or county program catchment
6 area will either not be served or will suffer an unreasonable
7 hardship if required to obtain the services from another area
8 authority or county program.
9 c. There is at least one private provider or public service agency
10 within the area authority or county program catchment area, or
11 within reasonable proximity to the catchment area, willing and
12 able to provide services under contract.

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

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

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

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

43 "**§ 122C-115. Powers and duties of counties and cities. Duties of counties;**
44 **appropriation and allocation of funds by counties and cities.**

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

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

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

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

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

26 **"§ 122C-115.1. County governance and operation of mental health, developmental**
27 **disabilities, and substance abuse services program.**

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

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

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

39 a. Masters degree,

40 b. Related experience, and

41 c. Management experience.

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

1 (4) Compliance with the provisions of this Chapter and the rules of the
2 Commission and the Secretary.

3 (5) Written notification to the Secretary prior to the termination of the
4 interlocal agreement.

5 (6) Appointment of an advisory committee. The interlocal agreement shall
6 designate a county manager to whom the advisory committee shall
7 report. The interlocal agreement shall also designate the appointing
8 authorities. The appointing authorities shall make appointments that
9 take into account sufficient citizen participation, equitable
10 representation of the disability groups, and equitable representation of
11 participating counties. At least fifty percent (50%) of the membership
12 shall conform to the requirements provided in G.S. 122C-118.1(b)(1)-
13 (4).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (b) Business plans shall include the following:

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

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

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

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

1 developmental disabilities, and substance abuse services through an
2 area authority or county program.

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

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

24 **"§ 122C-115.3. Dissolution of area authority.**

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

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

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

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

43 (e) Any budgetary surplus available to an area authority at the time of its
44 dissolution shall be distributed to those counties comprising the area authority on the

1 same pro rata basis that the counties appropriated and contributed funds to the area
2 authority's budget during the current fiscal year. Distribution to the counties shall be
3 determined on the basis of an audit of the financial record of the area authority. The area
4 authority board shall select a certified public accountant or an accountant who is
5 subsequently certified by the Local Government Commission to conduct the audit. The
6 audit shall be performed in accordance with G.S. 159-34. The same method of
7 distribution of funds described in this subsection shall apply when one or more counties
8 of an area authority withdraw from the area authority.

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

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

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

19 **"§ 122C-117. Powers and duties of the area authority.**

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

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

1 that one or more boards of county commissioners may waive its
2 authority to approve the appointment. The appointment shall be based
3 on a selection by a search committee of the area authority board. The
4 search committee shall include consumer board members, a county
5 manager, and one or more county commissioners. The Secretary shall
6 have the option to appoint one member to the search committee.

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

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

15 (10) Recommend to the board of county commissioners the creation of
16 local program services.

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

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

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

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

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

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

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

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

8 **"§ 122C-118.1. Structure of area board.**

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

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

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

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

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

39 a. With mental illness; and

40 b. In recovery from addiction; and

41 c. With developmental disabilities.

42 (4) Openly declared consumers:

43 a. With mental illness; and

44 b. With developmental disabilities; and

1 c. In recovery from addiction.

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

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

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

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

16 **"§ 122C-119. Organization of area board.**

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

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

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

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

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

33 **"§ 122C-121. Area director.**

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

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

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

2 (1) Appoint and supervise area program staff.

3 (2) Administer area authority services.

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

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

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

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

10 (1) Masters degree;

11 (2) Related experience; and

12 (3) Management experience."

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

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

16 **"§ 122C-124.1. Actions by the Secretary when area authority or county program is**
17 **not providing minimally adequate services.**

18 (a) Notice of Likelihood of Action. – When the Secretary determines that there is
19 a likelihood of suspension of funding, assumption of service delivery or management
20 functions, or appointment of a caretaker board under this section within the ensuing 60
21 days, the Secretary shall so notify in writing the area authority board or the county
22 program and the board of county commissioners of the area authority or county
23 program. The notice shall state the particular deficiencies in program services or
24 administration that must be remedied to avoid action by the Secretary under this section.
25 The area authority board or county program shall have 60 days from the date it receives
26 notice under this subsection to take remedial action to correct the deficiencies. The
27 Secretary shall provide technical assistance to the area authority or county program in
28 remedying deficiencies.

29 (b) Suspension of Funding; Assumption of Service Delivery or Management
30 Functions. – If the Secretary determines that a county, through an area authority or
31 county program, is not providing minimally adequate services, in accordance with rules
32 adopted by the Secretary or the Commission, to persons in need in a timely manner, or
33 fails to demonstrate reasonable efforts to do so, the Secretary, after providing written
34 notification of the Secretary's intent to the area authority or county program and to the
35 board of county commissioners of the area authority or county program, and after
36 providing the area authority or county program and the boards of county commissioners
37 of the area authority or county program an opportunity to be heard, may:

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

42 Upon suspension of funding, the Department shall direct the
43 development and oversee implementation of a corrective plan of action
44 and provide notification to the area authority or county program and

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

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

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

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

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

1 when it appoints a caretaker administrator. Chapter 150B of the General Statutes shall
2 apply to the decision to terminate the area director or program director. Neither party to
3 any such contract shall be entitled to damages. After a caretaker board has been
4 appointed, the General Assembly shall consider, at its next regular session, the future
5 governance of the identified area authority or county program."

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

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

8 "**§ 122C-141. Provision of services.**

9 (a) ~~The area authority may provide services directly and may contract with other~~
10 ~~public or private agencies, institutions, or resources for the provision of services.~~or
11 county program shall contract with other qualified public or private providers, agencies,
12 institutions, or resources for the provision of services, and, subject to the approval of the
13 Secretary, is authorized to provide services directly. The area authority or county
14 program shall indicate in its local business plan how services will be provided and how
15 the provision of services will address issues of access, availability of qualified public or
16 private providers, consumer choice, and fair competition. The Secretary shall take into
17 account these issues when reviewing the local business plan and considering approval of
18 the direct provision of services. The Secretary shall develop criteria for the approval of
19 direct service provision by area authorities and county programs in accordance with this
20 section and as evidenced by compliance with the local business plan. For the purposes
21 of this section, a qualified public or private provider is a provider that meets the
22 provider qualifications as defined by rules adopted by the Secretary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (1) A contractor or a former contractor who claims that an area authority
43 or county program is not acting or has not acted within applicable

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

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

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

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

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

2 "**§ 122C-154. Personnel.**

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

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

10 "**§ 122C-181. Secretary's jurisdiction over State facilities.**

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

13 (1) For the mentally ill:

- 14 a. Cherry Hospital;
- 15 b. Dorothea Dix Hospital;
- 16 c. John Umstead Hospital; and
- 17 d. Broughton Hospital; and

18 (2) For the mentally retarded:

- 19 a. Caswell Center;
- 20 b. O'Berry Center;
- 21 c. Murdoch Center;
- 22 d. Western Carolina Center; and
- 23 e. Black Mountain Center; and

24 (3) For substance abusers:

- 25 a. Walter B. Jones Alcohol and Drug Abuse Treatment Center at
26 Greenville;
- 27 b. Alcohol and Drug Abuse Treatment ~~Center at Butner;~~ Center at
28 John Umstead Hospital; and
- 29 c. Julian F. Keith Alcohol and Drug Abuse Treatment ~~Center at~~
30 Black Mountain; ~~Center;~~ and

31 (4) As special care facilities:

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

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

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

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

41 "**§ 143B-139.6A. Secretary's responsibilities regarding availability of early**
42 **intervention services.**

43 The Secretary of the Department of Health and Human Services shall ensure, in
44 cooperation with other appropriate agencies, that all types of early intervention services

1 specified in the "Individuals with Disabilities Education Act" (IDEA), P.L. 102-119, the
2 federal early intervention legislation, are available to all eligible infants and toddlers
3 and their families to the extent funded by the General Assembly.

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

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

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

16 **"§ 143B-147. Commission for Mental Health, Developmental Disabilities, and**
17 **Substance Abuse Services – creation, powers and duties.**

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

29 (1) To adopt rules regarding the

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

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

1 adopt rules to implement Article 3 of Chapter 122C of the General
2 ~~Statutes; Statutes.~~

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

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

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

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

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

21 "**§ 143B-148. Commission for Mental Health, Developmental Disabilities, and**
22 **Substance Abuse Services – members; selection; quorum; compensation.**

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

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

38 (2) Twenty-two of whom shall be appointed by the Governor, one from
39 each congressional district in the State in accordance with G.S.
40 147-12(3)b, and 10 at-large members.

41 a. Of these 22 members, three shall have a special interest in
42 mental health, three shall have a special interest in mental
43 retardation, three shall have a special interest in developmental
44 disabilities other than mental retardation, three shall have a

1 special interest in alcohol abuse and alcoholism and three shall
2 have a special interest in drug abuse. Each group of three shall
3 be made up of one member who is a consumer representative;
4 one other who is a representative of a local or State citizen
5 organization or association; and one other who is a professional
6 in the field.

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

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

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

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

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

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

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

34 (e) All clerical and other services required by the Commission shall be supplied
35 by the Secretary of the Department of Health and Human Services."
36

37 **PART 2. MH/DD/SA CONSUMER ADVOCACY PROGRAM**

38
39 **SECTION 2.** Effective July 1, 2002, Chapter 122C of the General Statutes is
40 amended by adding the following new Article to read:

41 "Article 1A.

42 "MH/DD/SA Consumer Advocacy Program.

43 "§ 122C-10. MH/DD/SA Consumer Advocacy Program.

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

17 **"§ 122C-11. MH/DD/SA Consumer Advocacy Program/definitions.**

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

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

34 **"§ 122C-12. State MH/DD/SA Consumer Advocacy Program.**

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

1 advocacy. The Attorney General shall provide legal staff and advice to the State
2 Consumer Advocate.

3 **"§ 122C-13. State Consumer Advocate duties.**

4 The State Consumer Advocate shall:

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

1 administration of MH/DD/SA facilities and the delivery of
2 MH/DD/SA services throughout the State.

3 **"§ 122C-14. Local Consumer Advocate; duties.**

4 (a) The State Consumer Advocate shall establish a Local MH/DD/SA Consumer
5 Advocacy Program in locations in the State to be designated by the Secretary. In
6 determining where to locate the Local Consumer Advocacy Programs, the Secretary
7 shall ensure reasonable consumer accessibility to the Local Consumer Advocates. Local
8 Consumer Advocates shall administer the Local Consumer Advocacy Programs. The
9 State Consumer Advocate shall appoint a Local Consumer Advocate for each of the
10 Local Consumer Advocacy Programs. The State Consumer Advocate shall supervise the
11 Local Consumer Advocates.

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

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

42 **"§ 122C-15. State/Local Consumer Advocate; authority to enter; communication**
43 **with residents, clients, patients; review of records.**

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

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

10 (c) In performing the Consumer Advocate's duties, a Consumer Advocate may
11 communicate privately and confidentially with a consumer. A consumer shall not be
12 compelled to communicate with a Consumer Advocate. When initiating
13 communication, a Consumer Advocate shall inform the consumer of the Consumer
14 Advocate's purpose and that a consumer may refuse to communicate with the Consumer
15 Advocate. A Consumer Advocate also may communicate privately and confidentially
16 with State and area facility employees in performing the Consumer Advocate's duties.

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

26 **"§ 122C-16. State/Local Consumer Advocate; resolution of complaints.**

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

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

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

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

40 **"§ 122C-17. State/Local Consumer Advocate; confidentiality.**

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

1 (1) Any confidential or privileged information obtained pursuant to G.S.
2 122C-15 unless the affected individual authorizes disclosure in
3 writing; or

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

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

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

13 **"§ 122C-18. State/Local Consumer Advocate; retaliation prohibited.**

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

17 **"§ 122C-19. State/Local Consumer Advocate; immunity from liability.**

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

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

24 **"§ 122C-20. State/Local Consumer Advocate; penalty for willful interference.**

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

28
29 **PART 3. PHASED IN IMPLEMENTATION**

30
31 **SECTION 3.(a)** The Department of Health and Human Services shall do the
32 following to prepare for the certification of area authorities and county programs to
33 administer and deliver mental health, developmental disabilities, and substance abuse
34 services.

35 (1) Develop the State Plan for Mental Health, Developmental Disabilities,
36 and Substance Abuse Services in accordance with G.S. 122C-102. Not
37 later than December 1, 2001, the Department shall submit the State
38 Plan to the Joint Legislative Oversight Committee on Mental Health,
39 Developmental Disabilities, and Substance Abuse Services for its
40 review.

41 (2) Review all rules currently in effect and adopted by the Secretary, the
42 Commission for Mental Health, Developmental Disabilities, and
43 Substance Abuse Services and identify areas of duplication,
44 vagueness, or ambiguity in content or in application. In conducting this

- 1 review, the Department shall solicit input from current area authorities
2 and providers on perceived problems with rules. The review may also
3 include review of rules pertaining to mental health, developmental
4 disabilities, and substance abuse services that are in effect and adopted
5 by agencies other than the Secretary and the Commission.
- 6 (3) Review the oversight and monitoring functions currently implemented
7 by the Department to determine the effectiveness of the activities in
8 achieving the intended results. Improve the oversight and monitoring
9 functions and activities, if necessary.
- 10 (4) Develop service standards, outcomes, and a financing formula for core
11 and targeted services to prepare for their administration, financing, and
12 delivery by area authorities and county programs.
- 13 (5) Develop format and required content for business plans submitted by
14 boards of county commissioners and for contractual agreements
15 between the Department and area authorities or county commissioners
16 for county programs. Develop a method for departmental evaluation of
17 local business plans. Contractual agreements for the provision of
18 services shall provide for:
- 19 a. Terms of a minimum of three years.
20 b. Annual review and renewal.
21 c. Specific conditions under which the Department will provide
22 technical assistance, impose sanctions, or terminate
23 participation.
24 d. Terms of the business plan.
25 e. Award of start-up funds for consolidation of area or county
26 programs.
- 27 (6) Report on the Department's readiness to implement system reform.
- 28 (7) Establish criteria and operational procedures for the Consumer
29 Advocacy Program and make a report to the Joint Legislative
30 Oversight Committee on Mental Health, Developmental Disabilities,
31 and Substance Abuse Services on or before March 1, 2002.
- 32 (8) Develop a catchment area consolidation plan. The Secretary shall
33 anticipate receiving letters of intent from boards of county
34 commissioners on or before October 1, 2002, indicating the intent of a
35 county or counties to provide services through an existing area
36 authority or through a county program established pursuant to G.S.
37 122C-115.1. The Secretary shall develop the consolidation plan based
38 on the letters of intent, the State Plan, geographic and population
39 targeted thresholds, and capacity to implement the business plan. The
40 consolidation plan shall provide for consolidation target of no more
41 than 20 area authorities and county programs. The Secretary, in
42 consultation with county commissioners and area authorities, shall
43 complete the consolidation plan by September 1, 2004, and shall
44 submit it no later than January 1, 2005, to the Joint Legislative

1 Oversight Committee on Mental Health, Developmental Disabilities,
2 and Substance Abuse Services, the Governor, and each board of
3 county commissioners. The total number of area authorities and county
4 programs shall be reduced to no more than a target of 20 by January 1,
5 2007.

- 6 (9) Develop a readiness plan to conduct readiness reviews and certify all
7 county programs and area authorities based on readiness by July 1,
8 2004. Each area authority and county program shall submit its
9 approved business plan to the Secretary pursuant to G.S. 122C-115.2
10 by January 1, 2003. The Secretary shall review the business plans as
11 provided in G.S. 122C-115.2(c), conduct readiness reviews, and
12 provide necessary assistance to resolve outstanding issues. The
13 Secretary shall complete certification of one-third of the area
14 authorities and county programs by July 1, 2003; two-thirds of the area
15 authorities and county programs by January 1, 2004; and shall
16 complete certification of all area authorities and county programs by
17 July 1, 2004.

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

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

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

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

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

41 **SECTION 3.(d)** The Joint Legislative Oversight Committee on Mental
42 Health, Developmental Disabilities, and Substance Abuse Services shall conduct an
43 in-depth review of the current methods of and disparities in the allocation of State
44 funding to area authorities and county programs for mental health, developmental

1 disabilities, and substance abuse services and shall recommend necessary changes in
2 allocation formulae, methods, and procedures that will ensure equitable allocation and
3 use of State funds to provide these services throughout the State. Not later than May 1,
4 2002, the Committee shall report its findings and recommendations, including fiscal
5 information on the cost to address funding allocation disparities, to the General
6 Assembly, the House of Representatives Appropriations Subcommittee on Health and
7 Human Services, the Senate Appropriations Committee on Health and Human Services,
8 and the Fiscal Research Division.

9

10 **PART 4. EFFECTIVE DATE**

11

12 **SECTION 4.** Sections 1.1 through 1.21(b) of this act become effective July
13 1, 2002. Section 2 of this act becomes effective July 1, 2002, only if funds are
14 appropriated by the 2001 General Assembly, Regular Session 2002, for that purpose.
15 The remainder of this act becomes effective when it becomes law.