

March 1, 2001

**H 381. MENTAL HEALTH SYSTEM REFORM. TO PHASE-IN IMPLEMENTATION OF MENTAL HEALTH SYSTEM REFORM AT THE STATE AND LOCAL LEVEL.** Establishes a new system of organization and management for the delivery of mental health, developmental disabilities, and substance abuse services (MH/DD/SA services), to be phased in beginning July 1, 2002, and completing in 2006. During the transition period, two governance statutes will operate concurrently. The bill primarily affects GS Ch. 122C, Art. 4, which sets forth the current, area authority-based structure for service provision. Bill creates a new GS Ch. 122C Art. 3B that creates a county-based structure.

*Policy and Definitions.* Amends GS 122C-2 to add the following new obligations: within available resources, state and local government must: (1) make available community-based treatment when such treatment is appropriate; (2) ensure the universal availability of the following core services: screening, assessment, and referral; emergency services; case support; and consultation and education; and (3) provide matching funds for entitlement programs and services, such as Medicaid, as required by law. In addition, state government must provide services to targeted populations of individuals who are given service priority under a state plan developed by the Sec'y of Health and Human Services. Amends GS 122C-3 to define ten new terms that relate to the new system described below.

*Applicability.* Adds new GS 122C-6, providing that all of GS Ch. 122C except Art. 4 will apply to local programs established under new Art. 3B and all of GS Ch. 122C except new Art. 1A and new Art. 3B will apply to area authorities established under Art. 4 throughout the transition period.

*New System.* Adds new GS Ch. 122C, Art. 3B, establishing a new, county-based structure for the management and delivery of MH/DD/SA services. County-based services are referred to as "local programs." Requires every county to operate a single-county local program or join with one or more other counties to administer a multi-county local program pursuant to an interlocal agreement. Makes local programs responsible for providing MH/DD/SA services within the local program service area. Multi-county programs must designate one of the counties to be the administering county. (In a single-county program, that county is the administering county.) A single-county program is a department of the county. A multi-county program is a department of the administering county for purposes of personnel administration and other purposes agreed to by the participating counties. The administering county is responsible for ensuring that services are provided, coordinating the provision of services with other agencies, and assuring that services meet applicable state and federal requirements and are of the highest quality possible, within available resources. Counties, through the administering county, must develop a business plan for the management and delivery of services. The business plan must describe how the following functions will be carried out: planning, provider network development, service management, care management, financial management and accountability, service monitoring and oversight, evaluation, and collaboration. Business plans must be reviewed and certified by the Sec'y. Every local program must have a local program board to plan and review local services, plan and recommend a local budget, report to the county commissioners on the program's progress, perform public relations and community advocacy functions, and recommend the creation of local program services. Bill specifies the size and composition of the board and provides that the members will be appointed by county commissioners. The county manager of the administering county appoints a program director, who serves as the administrative head of the local program and has specified duties. The administering county must contract with other public or private agencies or institutions for the provision of services and may provide services directly only when other public or private providers are unavailable to meet service needs. When providing services directly, the administering county must ensure consumer choice and fair competition in accordance with rules adopted by Sec'y.

*Role of Sec'y.* Assigns several new duties to the Sec'y. Sec'y must: (1) develop a state plan for MH/DD/SA services, (2) establish a process for review and approval of business plans, (3) certify local programs to provide services, (4) establish comprehensive oversight and monitoring procedures, (5) provide technical assistance to counties, (6) develop a methodology to be used for calculating county resources to reflect in-kind contributions of the county, and (7) conduct regularly scheduled monitoring and oversight of local programs and make findings and recommendations for improvement. Requires Sec'y to adopt rules regarding program evaluation

and management of services, and regarding the requirements for federal grants-in-aid for MH/DD/SA programs. Authorizes Sec'y to spend funding and assume control services if a local program is not providing minimally adequate services in accordance with rules adopted by the Sec'y.

*Ombudsman Program.* Adds new GS Ch. 122C, Art. 1A, establishing a MH/DD/SA Quality of Care Ombudsman Program in the Office of the Sec'y. Program includes a state ombudsman and 12 local ombudsmen throughout the state. The purposes of the program are: (1) to provide consumers, their families, and providers with the information and assistance needed to locate appropriate services, resolve complaints, or address concerns, and to promote community development; and (2) to ensure, within available resources, that the performance of the MH/DD/SA service system is closely monitored, that reviews are conducted, and that local and systemic problems are identified and corrected when necessary to promote the rights and interests of all service consumers. Appropriates unspecified amount from General Fund to Dep't of Health and Human Services for 2001-2002 and 2002-2003 to support ombudsman program.

*Rule-making authority.* Amends GS 143B-147 to authorize the Comm'n for MH/DD/SA Services to adopt rules regarding standards of care for services. Repeals Comm'n's authority to adopt rules regarding the requirements of the federal government for grants-in-aid for MH/DD/SA services and transfers this authority to the Sec'y.

*Duties of the Dep't.* Requires Dep't to develop a phase-in plan to prepare for implementation of new system and provide for all counties to be phased in by July 1, 2006. Requires Dep't to develop format and content requirements for local business plans and conduct readiness reviews of local programs when they apply for certification to operate.

*Reporting Requirements.* Requires Dep't to report to Jt. Legis. Oversight Comm. on MH/DD/SA services by Dec. 1, 2001, on how the assets and liabilities of area authorities should be transferred or otherwise distributed when counties assume responsibility for local program governance. The joint legislative committee must consider this issue and report its findings to the 2002 session of the General Assembly. Dep't must report to the committee again by December 1, 2002. Second report must: (1) include a state plan for MH/DD/SA services, (2) review all current rules governing services, (3) review the effectiveness of the Dep't's current system of monitoring and oversight, and (4) develop service standards, outcomes, and financing formulae for core and targeted services.

*Conforming Changes and Effectiveness Dates.* Makes additional technical changes and conforming changes to various statutes. Sections establishing new system, establishing ombudsman program, and making conforming changes to current laws effective July 1, 2002, provided the 2001 General Assembly enacts legislation necessary to authorize or otherwise provide for the lawful distribution of assets, liabilities, and other financial obligations of area authorities. Appropriation for ombudsman program effective July 1, 2001. Remainder effective when it becomes law.

**Intro. by Insko.**

Ref. to Mental Health	GS 7B, 122C, 143B, 14, 62, 90, 108A, 120, 126, 131E, 135, APPROP
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July 11, 2001

**H 381. MENTAL HEALTH SYSTEM REFORM.** Intro. 03/01/01. House committee substitute makes the following changes to 1st edition. Restores provisions permitting counties to provide mental health, developmental disabilities, and substance abuse services through an area authority. Counties may provide services through an area authority governed by an area board, or through a county program governed by a board of county commissioners or as provided in an interlocal agreement entered into by two or more counties. The Secretary of DHHS must certify area authorities and county programs as either a single-county area authority, a single-county program, a multicounty area authority, or a multicounty program. Before establishing a county program, the county board of commissioners (or county boards of commissioners intending to participate in a multicounty program) must hold a public hearing with notice published at least 10 days before the hearing. Counties choosing to establish a multicounty program must do so by entering into an interlocal agreement pursuant to Article 20 of GS Chapter 160A. Deletes requirement that interlocal agreement must designate a single administering county, but adds

provisions requiring the interlocal agreement to provide for (1) a targeted minimum population of 200,000 or a targeted minimum number of five counties served by the program; (2) written notification to the Sec'y prior to the termination of the interlocal agreement; and (3) appointment of an advisory committee that reports to a designated county manager. The interlocal agreement must designate entities authorized to appoint the advisory committee. In a single-county program, the advisory committee is appointed by the county commissioners. Appointments to the advisory committee must take into consideration citizen participation, equitable representation of disability groups, and equitable representation of participating counties. As least fifty percent of advisory committee membership must conform to the requirements for area board composition in new GS 122C-118.1(b)(1)-(4).

In a single-county program, the program director must be appointed by the county manager; in a multicounty program, the program director must be appointed in accordance with the terms of the interlocal agreement. A multicounty program director (and the director for an area authority) must at a minimum, have a masters degree, related experience, and management experience. Except as otherwise specifically provided, sections of GS Ch. 122C related to area authority powers and duties, area board composition and appointment, area director powers and duties, financing and title of area authority property, liability insurance and defense of employees and officers, area authority salary plans, and privacy of area authority personnel records, do not apply to county programs.

Every county, through an area authority or county program, must develop a business plan for the management and delivery of services, which plan must be approved by the Sec'y. A business plan for an area authority must be developed by the area board and submitted to the board of county commissioners for approval. A multicounty area authority must submit its business plan to each participating board of county commissioners for approval, and the participating boards of commissioners must jointly submit one approved business plan to the Sec'y. County programs and area authorities must submit to the Sec'y and county commissioners quarterly service delivery reports that address service shortages and annual reports assessing progress in implementing local service plans. Within 30 days of the end of each quarter of the fiscal year, the program director and finance director of the county program must present to the board or boards of county commissioners a budgetary statement and balance sheet that details the assets, liabilities, and fund balance of the county program. Similarly, the area director and finance officer for an area authority must submit quarterly reports, in a form prescribed by the county, to the board or boards of county commissioners. A multicounty area authority must submit its annual audit to each board of county commissioners for the participating counties.

Changes size and composition of area board. An area board must have no fewer than 11 and no more than 15 members (now, no fewer than 15 members). Requires membership to include an individual with financial expertise or a county finance officer, an individual with expertise in management or business, and individual representing the interests of children. At least 50 percent of the members of the area board must represent the following: (1) a physician; (2) a clinical professional from the fields of mental health, developmental disabilities, or substance abuse; (3) a family member, or an individual from citizens' organizations composed primarily of consumers or their family members, representing the interests of individuals with mental illness, recovering from addiction, and with developmental disabilities; and (4) openly declared consumers with mental illness, with developmental disabilities, and in recovery from addiction. An area board member may concurrently fulfill more than one category of membership if the member has the qualifications or attributes of more than one category of membership. Sets a two term limit with four-year terms.

Requires area board to evaluate annually the performance of the area director according to criteria established by the Sec'y and the area board. In conducting the evaluation, the area board must consider comments from the board or boards of county commissioners. Adds to area director's duties the responsibility to develop the budget of the area authority, to provide information and advice to the board of county commissioners through the county manager, and to act as a liaison between the area authority and DHHS.

Whenever the board of commissioners of each county constituting an area authority determines that an area authority is not operating in the best interest of consumers, it may direct that the area authority be dissolved. In addition, whenever the board of commissioners of a county

that is a member of an area authority determines that an area authority is not operating in the best interest of consumers of that county, it may withdraw from the area authority. Dissolution or withdrawal must be effective only at the end of the fiscal year, and no dissolution or withdrawal may occur without the acting county or counties first demonstrating that continuity of services will be assured and without prior approval of the Sec'y. Dissolution and withdrawal requires a public hearing with 10 days public notice of the hearing. Includes provisions addressing distribution of budgetary surplus and allocation of liabilities when a county or counties opts for dissolution or withdrawal.

With respect to state government, committee substitute adds to the powers and duties of the Sec'y of DHHS the duty to (1) establish a process for permitting area authorities and county programs to provide services directly (versus through contract agencies); (2) sponsor training opportunities in the fields of mental health, developmental disabilities, and substance abuse; (3) adopt rules for the enforcement of client rights; (4) enforce client rights; and (5) adopt rules for the implementation of a uniform portal process. (Repeals single portal provisions in GS 122C.) Procedures for monitoring and oversight of area authorities and county programs must include performance measures and report cards for each authority and program. In addition to items listed in first edition, requires the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services to include service standards and implementation of a uniform portal process. Requires the Sec'y, when there is the likelihood of suspension of funding, assumption of service delivery or management, or appointment of a caretaker board under new GS 124.1, to notify in writing the area authority or county program. The notice must state the particular deficiencies in services or administration that must be remedied to avoid action by the Sec'y, and the area authority or county program has 60 days to take remedial action to correct the deficiencies. The Sec'y must provide technical assistance to the area authority or county program on remedying deficiencies.

Requires each area authority and county program to establish a human rights committee responsible for protecting the rights of clients, and requires the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services to adopt rules governing human rights committee establishment, appointment, composition, and duties. Human rights committees for multicounty programs and multicounty area authorities must include a representative from each of the participating counties.

Appropriates from the General Fund to DHHS \$1.6 million for 2002-2003 to create incentives for counties to consolidate services into multicounty programs or multicounty area authorities. Multicounty area authorities and multicounty programs consisting of two counties with a total population of at least 200,000, or consisting of at least five counties, shall receive \$250,000 in each of the first two fiscal years of area authority or county program implementation. For each county added to the two-county program, an additional \$50,000 of incentive funds shall be provided in each fiscal year.

In preparation for phase-in of system change, requires DHHS to develop format and required content for business plans, and to develop a plan for consolidation of programs that reduces the total number of area authorities and county programs to at least 20 by Jan. 1, 2007. Each area authority and county program must submit its business plan to the Sec'y by Jan. 1, 2003, and the Sec'y must review and certify all county programs and area authorities for readiness by July 1, 2004. Moves up date for development of State Plan to Dec. 1, 2001. With the exception of the appropriations provisions, which are effective July 1, 2001, and the phase-in provisions effective when the bill becomes law, the act is effective July 1, 2002.

July 19, 2001

**H 381. MENTAL HEALTH SYSTEM REFORM.** Intro. 3/01/01. House committee substitute makes the following changes to 2nd edition. Deletes appropriations provisions and makes effectiveness of provisions establishing Ombudsman Program contingent on the 2001 General Assembly appropriating funds for that purpose. Changes effective date of amendments to GS 143B-147 (rulemaking commission duties) and GS 143B-148 (composition of rulemaking commission; new term limits) from July 1, 2002, to when the act becomes law.

July 24, 2001

**H 381. MENTAL HEALTH SYSTEM REFORM.** Intro. 3/1/01. House amendments make the following changes to 3rd edition. Amendment # 1 provides that, in multicounty area authorities, an area authority oversight committee may be established by the boards of county commissioners of the counties comprising the area authority. The committee shall have the authority to approve (1) the area board's appointment and termination of the area director, and (2) the area authority budget. Each board of commissioners shall appoint two persons to the committee, one county commissioner and either one commissioner or a designee from the county's finance office. Changes GS 122C-117(11) to require that service delivery reports submitted by the area authority to the Secretary and the board of county commissioners, also be made to the multicounty oversight committee. Amendment # 2 requires General Assembly approval of any decision of the Secretary to close any state facility providing mental health, developmental disabilities, or substance abuse services. Amendment # 3 requires that any budget surplus distributed to a county or counties upon the dissolution of an area authority, or the withdrawal of a county from an area authority, must be placed in the fund balance of the county program or area authority subsequently established or joined as a result of the dissolution action. Amendment # 4 provides an alternative method of appointing the area board by authorizing the participating boards of county commissioners to appoint one commissioner each to the area board, with the remaining members of the area board to be appointed by the commissioner members. (Does not change the authority of participating boards of county commissioners to jointly appoint the area board.) Amendment # 5 restores number of state operated substance abuse facilities to three; (3<sup>rd</sup> edition had deleted Black Mountain Center, leaving two facilities). Amendment # 6 makes changes to GS 143B-147 and GS 143B-148 (rulemaking commission's powers, duties, appointment, and terms) effective July 1, 2002. Amendment # 6 makes several other technical changes.

July 26, 2001

**H 381. MENTAL HEALTH SYSTEM REFORM.** Intro. 3/01/01. House amendment #1 makes the following changes to 3rd edition. Amends proposed GS 122C-102 (state plan for mental health) by adding the following to list of items that must be included in plan: strategies and schedules for implementing a phased-in plan eliminating disparities in the allocation of state funding across county programs and area authorities by Jan. 1, 2007, including methods to identify service gaps and ensure equitable use of state funds. Adds new Section 3.(d) to act, requiring that the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services conduct a review of current methods of and disparities in the allocation of state funding to area authorities and county programs. Requires report on findings and recommendations for change no later than March 1, 2002, to the House Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

House amendment #2 amends proposed GS 122C-118.1 (structure of area board) to clarify that in a multicounty area authority, each board of county commissioners shall appoint the members of the area authority board from its county as designated in the business plan in accordance with proposed GS 122C-115.2(b) (previous version provided for joint appointment without reference to the business plan).

August 16, 2001

**H 381. MENTAL HEALTH SYSTEM REFORM.** Intro. 3/1/01. Senate committee substitute makes the following changes to 4th edition. Changes the "Quality of Care Ombudsman Program" in Part 2 of the bill to the "MH/DD/SA Consumer Advocacy Program," and expands the scope of the program beyond quality of care issues to include advocacy. Changes references to ombudsman throughout the bill to consumer advocate, but retains the basic structure of the program. Modifies proposed GS 122C-20 to exclude the consumer or consumer's representative from criminal liability for willful interference with a consumer advocate. Modifies definition of "core services" in GS 122C-3(3) and specifies two types - "front end" and "indirect" services within that definition. Makes several minor modifications to the requirements for business plans under GS 122C-115.2. Deletes proposed GS 122C-116.1, which established the Area Authority Oversight Committee, and eliminates references to it in the bill.

Adds provision authorizing county boards of commissioners to waive their authority to approve appointment of area director. Changes maximum number of area board members from 15 to 25. Provides that in multicounty areas, each county appoints one commissioner as a member of the area authority board and these members appoint the other members [option previously contained in proposed GS 122C-118.1(f)]. Authorizes the boards of county commissioners to use a different appointment method of their choice, which must be indicated in the business plan. Changes the period within which vacancies must be filled from 120 to 90 days. Clarifies the ex officio status of county commissioners and finance officers or finance experts on area authority boards. Clarifies that approval by Secretary of county's direct provision of services shall be granted based on "access, availability of qualified providers, consumer choice, fair competition and in accordance with the criteria established in the State Plan." Changes requirement for reduction of programs to a "target" of 20, (was, no more than 20). Changes date for report by the Joint Legislative Oversight Committee on MH/DD/SA from March 1 to May 1, 2002.

August 28, 2001

**H 381. MENTAL HEALTH SYSTEM REFORM.** Intro. 3/1/01. Senate amendments make the following changes to 5th edition. Amendment # 1 makes largely technical changes to GS 122C-141, clarifying procedure for area authorities and county programs to obtain approval from Sec'y of DHHS to provide services directly. Amendment # 2 revises GS 122C-117(a)(7) to provide that Sec'y may (rather than must) appoint one member of search committees for area director.

September 4, 2001

**H 381. MENTAL HEALTH SYSTEM REFORM.** Intro. 3/1/01. Senate amendment makes the following changes to 5th edition. Clarifies that the phrase "within available resources," as used in GS Ch. 122C, means state funds appropriated and non-state funds and other resources appropriated, allocated, or otherwise made available for mental health, developmental disabilities, and substance abuse services.

September 27, 2001

**H 381. MENTAL HEALTH SYSTEM REFORM.** Intro. 3/1/01. Conference report recommends the following changes to reconcile matters in controversy. The House and Senate concur in the 5<sup>th</sup> edition (the Senate committee substitute adopted 8/16/01), with the following amendments:

(1) The bill's new GS 122C-102(9) calls on the Dep't of Health and Human Services to develop a State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services. Before the conference report, Subsection (9) required that the State Plan include strategies for implementing the plan, including "engagement of stakeholders" in a coordinated Medicaid policy. The conference report replaces that phrase with "consultation on Medicaid policy with area and county programs, qualified providers, and others designated by the Secretary."

(2) Subsection (10) of the same new statute required that the new State Plan include a plan for resource management "including strategies for accountability for non-Medicare and Medicaid services." The conference report replaces that phrase with a "plan for coordination . . . with the Medicaid State Plan, and NC Health Choice."

(3) The bill's new GS 122C-112.1(a) directs the Secretary to take certain actions. The conference report adds a new Subsection (30) directing the Secretary, before requesting approval to close a state facility, to (a) notify designated legislative commissions and individual members of the General Assembly who represent catchment areas affected by the closure and (b) present a plan for the closure to designated legislative committees, with the plan addressing how patients will be cared for, how support services to community-based agencies and outreach services will be continued, and the impact on remaining state facilities. Specifies that the Secretary is to take into consideration the comments and recommendations of the legislative committees.

(4) Also in new GS 122C-112.1, the conference report adds a new Subsection (31) directing the Secretary to ensure that the new State Plan is coordinated with the Medicaid State Plan and NC Health Choice.

(5) Current GS 122C-181 empowers the Secretary, with the approval of the Governor and Council of State, to close any state facility. The conference report adds a new subsection to that statute specifying that such a closure become effective on the earlier of the 31<sup>st</sup> legislative day or

the day of adjournment of the next regular session of the General Assembly that begins at least 10 days after the date the closure is approved. If a bill disapproving the closure is introduced before that deadline, then the closure becomes effective on the earlier of either the day an unfavorable final action is taken on the bill or the day that session of the General Assembly adjourns without ratifying the bill. These provisions do not affect the power of the Secretary to close a state facility temporarily for protection of health and safety.

October 17, 2001

**SL 2001-437 (H 381). MENTAL HEALTH SYSTEM REFORM.** AN ACT TO PHASE IN IMPLEMENTATION OF MENTAL HEALTH SYSTEM REFORM AT THE STATE AND LOCAL LEVEL. Summarized in *Daily Bulletin* 3/1/01, 7/11/01, 7/19/01, 7/24/01, 7/26/01, 8/16/01, 8/28/01, 9/4/01, and 9/27/01. Enacted Oct 15, 2001. Sections 1.1-1.21(b) of this act are effective July 1, 2002. Section 2 is effective July 1, 2002, only if funds are appropriated by the 2001 General Assembly, Regular Session 2002, for that purpose. The remainder of this act is effective Oct. 15, 2001.