

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**HOUSE BILL 1654**

Short Title: Clarify MH/DD/SA Rule-Making Authority. (Public)

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Sponsors: Representatives Insko; Glazier and Harrison.

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Referred to: Mental Health Reform.

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April 19, 2007

A BILL TO BE ENTITLED  
AN ACT TO CLARIFY THE AUTHORITY OF THE COMMISSION FOR MENTAL  
HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE  
SERVICES RULE-MAKING AUTHORITY.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 122C-112.1(a) reads as rewritten:

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

- (a) The Secretary shall do all of the following:
- (1) Oversee development and implementation of the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.
  - (2) Enforce the provisions of this Chapter and the rules of the Commission and the Secretary.
  - (3) ~~Establish~~ Consult with the Commission regarding rules governing a process and criteria for the submission, review, and approval or disapproval of LME business plans submitted by area authorities and county programs for the management of mental health, developmental disabilities, and substance abuse services.
  - (4) ~~Adopt~~ Consult with the Commission regarding rules specifying the content and format of LME business plans.
  - (5) Review LME business plans and, upon approval of the plan, certify the submitting area authority or county program to manage the delivery of mental health, developmental disabilities, and substance abuse services in the applicable catchment area.
  - (6) ~~Establish~~ Consult with the Commission regarding rules to establish comprehensive, cohesive oversight and monitoring procedures and processes to ensure continuous compliance by area authorities, county programs, and all providers of public services with State and federal policy, law, and standards. The procedures shall include the

- 1 development and use of critical performance measures and report cards  
2 for each area authority and county program.
- 3 (7) Conduct regularly scheduled monitoring and oversight of area  
4 authority, county programs, and all providers of public services.  
5 Monitoring and oversight shall be used to assess compliance with the  
6 LME business plan and implementation of core LME functions.  
7 Monitoring shall also include the examination of LME and provider  
8 performance on outcome measures including adherence to best  
9 practices, the assessment of consumer satisfaction, and the review of  
10 client rights complaints.
- 11 (8) Make findings and recommendations based on information and data  
12 collected pursuant to subdivision (7) of this subsection and submit  
13 these findings and recommendations to the applicable area authority  
14 board, county program director, board of county commissioners,  
15 providers of public services, and to the Local Consumer Advocacy  
16 Office.
- 17 (9) Provide ongoing and focused technical assistance to area authorities  
18 and county programs in the implementation of the LME functions and  
19 the establishment and operation of community-based programs. The  
20 technical assistance required under this subdivision includes, but is not  
21 limited to, the technical assistance required under  
22 G.S. 122C-115.4(d)(2). The Secretary shall include in the State Plan a  
23 mechanism for monitoring the Department's success in implementing  
24 this duty and the progress of area authorities and county programs in  
25 achieving these functions.
- 26 (10) Operate State facilities and ~~adopt~~enforce rules adopted by the  
27 Commission pertaining to their operation.
- 28 (11) Develop a unified system of services provided at the community level,  
29 by State facilities, and by providers enrolled or under a contract with  
30 the State and an area authority or county program.
- 31 (12) ~~Adopt~~Consult with the Commission regarding rules governing the  
32 expenditure of all funds for mental health, developmental disabilities,  
33 and substance abuse programs and services.
- 34 (13) ~~Adopt~~Consult with the Commission regarding rules to implement the  
35 appeal procedure authorized by G.S. 122C-151.2.
- 36 (14) Consult with the Commission regarding ~~Adopt~~ rules for the  
37 implementation of the uniform portal process.
- 38 (15) Except as provided in G.S. 122C-26(4), consult with the Commission  
39 regarding ~~adopt~~ rules establishing procedures for waiver of rules  
40 adopted by the Secretary under this Chapter.
- 41 (16) Notify the clerks of superior court of changes in the designation of  
42 State facility regions and of facilities designated under G.S. 122C-252.
- 43 (17) Promote public awareness and understanding of mental health, mental  
44 illness, developmental disabilities, and substance abuse.

- 1 (18) Administer and enforce rules that are conditions of participation for  
2 federal or State financial aid.
- 3 (19) Carry out G.S. 122C-361.
- 4 (20) Monitor the fiscal and administrative practices of area authorities and  
5 county programs to ensure that the programs are accountable to the  
6 State for the management and use of federal and State funds allocated  
7 for mental health, developmental disabilities, and substance abuse  
8 services. The Secretary shall ensure maximum accountability by area  
9 authorities and county programs for rate-setting methodologies,  
10 reimbursement procedures, billing procedures, provider contracting  
11 procedures, record keeping, documentation, and other matters  
12 pertaining to financial management and fiscal accountability. The  
13 Secretary shall further ensure that the practices are consistent with  
14 professionally accepted accounting and management principles.
- 15 (21) Provide technical assistance, including conflict resolution, to counties  
16 in the development and implementation of area authority and county  
17 program business plans and other matters, as requested by the county.
- 18 (22) Develop a methodology to be used for calculating county resources to  
19 reflect cash and in-kind contributions of the county.
- 20 (23) Consult with the Commission regarding ~~Adopt~~ rules establishing  
21 program evaluation and management of mental health, developmental  
22 disabilities, and substance abuse services.
- 23 (24) Consult with the Commission regarding ~~Adopt~~ rules regarding the  
24 requirements of the federal government for grants-in-aid for mental  
25 health, developmental disabilities, or substance abuse programs which  
26 may be made available to area authorities or county programs or the  
27 State. This section shall be liberally construed in order that the State  
28 and its citizens may benefit from the grants-in-aid.
- 29 (25) Consult with the Commission regarding ~~Adopt~~ rules for determining  
30 minimally adequate services for purposes of G.S. 122C-124.1 and  
31 G.S. 122C-125.
- 32 (26) Consult with the Commission regarding rules to establish ~~Establish~~ a  
33 process for approving area authorities and county programs to provide  
34 services directly in accordance with G.S. 122C-141.
- 35 (27) Sponsor training opportunities in the fields of mental health,  
36 developmental disabilities, and substance abuse.
- 37 (28) Enforce the protection of the rights of clients served by State facilities,  
38 area authorities, county programs, and providers of public services.
- 39 (29) Consult with the Commission regarding ~~Adopt~~ rules for the  
40 enforcement of the protection of the rights of clients being served by  
41 State facilities, area authorities, county programs, and providers of  
42 public services.
- 43 (30) Prior to requesting approval to close a State facility under  
44 G.S. 122C-181(b):

- 1 a. Notify the Joint Legislative Commission on Governmental
- 2 Operations, the Joint Legislative Committee on Mental Health,
- 3 Developmental Disabilities, and Substance Abuse Services, and
- 4 members of the General Assembly who represent catchment
- 5 areas affected by the closure; and
- 6 b. Present a plan for the closure to the members of the Joint
- 7 Legislative Committee on Mental Health, Developmental
- 8 Disabilities, and Substance Abuse Services, the House of
- 9 Representatives Appropriations Subcommittee on Health and
- 10 Human Services, and the Senate Appropriations Committee on
- 11 Health and Human Services for their review, advice, and
- 12 recommendations. The plan shall address specifically how
- 13 patients will be cared for after closure, how support services to
- 14 community-based agencies and outreach services will be
- 15 continued, and the impact on remaining State facilities. In
- 16 implementing the plan, the Secretary shall take into
- 17 consideration the comments and recommendations of the
- 18 committees to which the plan is presented under this
- 19 subdivision.
- 20 (31) Ensure that the State Plan for Mental Health, Developmental
- 21 Disabilities, and Substance Abuse Services is coordinated with the
- 22 Medicaid State Plan and NC Health Choice.
- 23 (32) Implement standard forms, quality measures, contracts, processes, and
- 24 procedures to be used by all area authorities and county programs with
- 25 other public and private service providers. The Secretary shall consult
- 26 with LMEs, CFACs, counties, and qualified providers regarding the
- 27 development of any forms, processes, and procedures required under
- 28 this subdivision. Any document, process, or procedure developed
- 29 under this subdivision shall place an obligation upon providers to
- 30 transmit to LMEs timely client information and outcome data. The
- 31 Secretary shall also adopt rules regarding what constitutes a clean
- 32 claim for purposes of billing.
- 33 When implementing this subdivision, the Secretary shall balance
- 34 the need for LMEs to exercise discretion in the discharge of their LME
- 35 functions with the need of qualified providers for a uniform system of
- 36 doing business with public entities.
- 37 (33) Develop and implement critical performance indicators to be used to
- 38 hold LMEs accountable for managing the mental health,
- 39 developmental disabilities, and substance abuse services system. The
- 40 performance system indicators shall be implemented no later than July
- 41 1, 2007."

**SECTION 2.** G.S. 122C-114 reads as rewritten:

**"§ 122C-114. Powers and duties of the Commission.**

1 (a) The Commission shall have authority as provided by this Chapter, Chapters  
2 90 and 148 of the General Statutes, and by G.S. 143B-147.

3 (b) The Commission shall adopt rules including all of the following:

4 (1) The process and criteria for the submission, review, and approval or  
5 disapproval by the Secretary of LME business plans submitted by area  
6 authorities and county programs for the management of mental health,  
7 developmental disabilities, and substance abuse services.

8 (2) The content and format of LME business plans.

9 (3) The establishment of comprehensive, cohesive oversight and  
10 monitoring procedures and processes to ensure continuous compliance  
11 by area authorities, county programs, and all providers of public  
12 services with State and federal policy, law, and standards. The  
13 procedures shall include the development and use of critical  
14 performance measures and report cards for each area authority and  
15 county program.

16 (4) The operation of State facilities.

17 (5) A unified system of services provided at the community level, by State  
18 facilities, and by providers enrolled or under a contract with the State  
19 and an area authority or county program.

20 (6) The expenditure of all funds for mental health, developmental  
21 disabilities, and substance abuse programs and services.

22 (7) The implementation of the appeal procedure authorized by  
23 G.S. 122C-151.2.

24 (8) The implementation of the uniform portal process.

25 (9) Except as provided in G.S. 122C-26(4), the establishment of  
26 procedures for waiver of rules adopted by the Secretary under this  
27 Chapter.

28 (10) All other matters governed by this Chapter that are not specifically  
29 reserved for the Secretary.

30 (c) The Secretary shall make available administrative and professional staff to  
31 assist the Commission in the development of rules under this Chapter."

32 **SECTION 3.** This act becomes effective October 1, 2007.