

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE DRH70426-RC-19 (11/15)

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

Sponsors: Representative Insko.

Referred to:

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

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

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

- 1 (30) Prior to requesting approval to close a State facility under
2 G.S. 122C-181(b):
3 a. Notify the Joint Legislative Commission on Governmental
4 Operations, the Joint Legislative Committee on Mental Health,
5 Developmental Disabilities, and Substance Abuse Services, and
6 members of the General Assembly who represent catchment
7 areas affected by the closure; and
8 b. Present a plan for the closure to the members of the Joint
9 Legislative Committee on Mental Health, Developmental
10 Disabilities, and Substance Abuse Services, the House of
11 Representatives Appropriations Subcommittee on Health and
12 Human Services, and the Senate Appropriations Committee on
13 Health and Human Services for their review, advice, and
14 recommendations. The plan shall address specifically how
15 patients will be cared for after closure, how support services to
16 community-based agencies and outreach services will be
17 continued, and the impact on remaining State facilities. In
18 implementing the plan, the Secretary shall take into
19 consideration the comments and recommendations of the
20 committees to which the plan is presented under this
21 subdivision.
- 22 (31) Ensure that the State Plan for Mental Health, Developmental
23 Disabilities, and Substance Abuse Services is coordinated with the
24 Medicaid State Plan and NC Health Choice.
- 25 (32) Implement standard forms, quality measures, contracts, processes, and
26 procedures to be used by all area authorities and county programs with
27 other public and private service providers. The Secretary shall consult
28 with LMEs, CFACs, counties, and qualified providers regarding the
29 development of any forms, processes, and procedures required under
30 this subdivision. Any document, process, or procedure developed
31 under this subdivision shall place an obligation upon providers to
32 transmit to LMEs timely client information and outcome data. The
33 Secretary shall also adopt rules regarding what constitutes a clean
34 claim for purposes of billing.
35 When implementing this subdivision, the Secretary shall balance
36 the need for LMEs to exercise discretion in the discharge of their LME
37 functions with the need of qualified providers for a uniform system of
38 doing business with public entities.
- 39 (33) Develop and implement critical performance indicators to be used to
40 hold LMEs accountable for managing the mental health,
41 developmental disabilities, and substance abuse services system. The
42 performance system indicators shall be implemented no later than July
43 1, 2007."

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

1 **"§ 122C-114. Powers and duties of the Commission.**

2 (a) The Commission shall have authority as provided by this Chapter, Chapters
3 90 and 148 of the General Statutes, and by G.S. 143B-147.

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

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

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

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

17 (4) The operation of State facilities.

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

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

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

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

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

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

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

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