

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

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To establish, on a temporary basis, the Department of Mental Health as a separate Cabinet-level agency, subordinate to the Mayor, to describe the functions and responsibilities of the Department, to provide for the appointment of the Director of the Department and to describe the Director's duties and powers, and to make conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Department of Mental Health Establishment Temporary Amendment Act of 2001".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Children or youth with mental health problems" means persons under 18 years of age, or persons under 22 years of age and receiving special education, youth, or child welfare services, who:

(A) Have, or are at risk of having, a diagnosable mental, behavioral, or emotional disorder (including those of biological etiology) which substantially impairs the mental health of the person or is of sufficient duration to meet diagnostic criteria specified within the DSM-IV or the ICD-9-CM equivalent (and subsequent revisions), with the exception of substance abuse disorders, mental retardation, and other developmental disorders, or seizure disorders, unless those exceptions co-occur with another diagnosable serious emotional disturbance; and

(B)(i) Demonstrate either functional impairments or symptoms that significantly disrupt their academic or developmental progress or family and interpersonal relationships; or

(ii) Have an emotional disturbance causing problems so severe as to require significant mental health intervention.

(2) "Consumers of mental health services" means adults, children, or youth who seek or receive mental health services or mental health supports funded or regulated by the Department.

(3) "Core services agency" means a community-based provider of mental health services and mental health supports that is certified by the Department and that acts as a clinical home for consumers of mental health services by providing a single point of access and accountability for diagnostic assessment, medication-somatic treatment, counseling and psychotherapy, community support services, and access to other needed services.

(4) "Court" means the Superior Court of the District of Columbia.

(5) "Cultural competence" means the ability of a provider to deliver mental health services and mental health supports in a manner that effectively responds to the languages, values, and practices present in the various cultures of the provider's consumers of mental health services.

(6) "Department" means the Department of Mental Health.

(7) "Director" means the Director of the Department of Mental Health.

(8) "District" means the District of Columbia.

(9) "DSM-IV" means the most recent version of the Diagnostic and Statistical Manual of Mental Disorders.

(10) "DSM-IV 'V' Codes" means "V" codes as defined in the most recent version of the Diagnostic and Statistical Manual of Mental Disorders.

(11) "Hospital" means a public or private institution, or part thereof, operating in the District and licensed to provide inpatient care and certified to provide treatment for persons suffering from physical or mental illness.

(12) "ICD-9-CM" means the most recent version of the International Classification of Diseases Code Manual.

(13) "Individual Plan of Care" means the individualized service plan for a child or youth with or at risk of mental health problems, including processes for the appropriate transition of youth receiving mental health services and mental health supports into the system of care for adults.

(14) "Individual Recovery Plan" means the individualized service plan for a person with mental illness.

(15) "Joint consent" means a process established by the Department to enable all participating providers to rely on a single form in which a consumer of mental health services consents to the use of his or her protected mental health information by participating providers in the Department's organized health care arrangement, for the purposes of delivering treatment, obtaining payment for services and supports rendered, and performing certain administrative operations, such as quality assurance, utilization review, accreditation, and oversight.

(16) "Medical Assistance Administration" means the division of the District's Department of Health responsible for administering the District's Medical Assistance Program.

(17) "Medical Assistance Program" and "Medicaid Program" mean the program described in the Medicaid State Plan and administered by the Medical Assistance Administration pursuant to section 1(b) of An Act To enable the District of Columbia to receive Federal

financial assistance under title XIX of the Social Security Act for a medical assistance program, and for other purposes and title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. § 1396 *et seq.*).

(18) "Mental health services" means the services funded or regulated by the Department for the purpose of addressing mental illness or mental health problems.

(19) "Mental health supports" means the supports funded or regulated by the Department for the purpose of addressing mental illness or mental health problems.

(20) "Organized health care arrangement" means an organized system of health care in which more than one provider participates, and in which the participating providers hold themselves out to the public as participating in a joint arrangement, and either:

(A) Participate in joint activities that include utilization review under the Medical Records Act of 1978 in which health care decisions by participating providers are reviewed by other participating providers or by a third party on their behalf; or

(B) Participate in quality assessment and improvement activities under the Medical Records Act of 1978 in which mental health services or mental health supports provided by participating providers are assessed by other participating providers or by a third party on their behalf.

(21) "Participating provider" means a provider of mental health services or mental health supports that, through participation in the joint consent promulgated by the Department pursuant to section 14(7), joins the organized health care arrangement created by the Department.

(22) "Partnership Council" means the council appointed by the Director pursuant to section 10 to advise him or her with respect to departmental matters.

(23) "Personal representative" means an individual, whether or not an attorney, appointed by a consumer of mental health services to represent the consumer's personal interests with regard to his or her mental health needs.

(24) "Persons with mental illness" means persons who:

(A) Have a diagnosable mental, behavioral, or emotional disorder (including those of biological etiology) which substantially impairs the mental health of the person or is of sufficient duration to meet diagnostic criteria specified within the DSM-IV or its ICD-9-CM equivalent (and subsequent revisions) with the exception of DSM-IV "V" codes, substance abuse disorders, mental retardation, and other developmental disorders, or seizure disorders, unless those exceptions co-occur with another diagnosable mental illness; and

(B)(i) Are 18 years of age or over and are not consumers of special education, youth, or child welfare services; or

(ii) Are 22 years of age or over.

(25) "Physician" means a person licensed under the laws of the District to practice medicine, or a person who practices medicine in the employment of the government of the United States.

(26) "Protected mental health information" means information regulated by the District of Columbia Mental Health Information Act of 1978.

(27) "Provider" means an individual or entity that:

(A) Is duly licensed or certified by the Department to provide mental health services or mental health supports; or

(B) Has entered into an agreement with the Department to provide mental health services or mental health supports.

(28) "Regulate" means all non-professional certification, licensing, monitoring, and related functions, except fire inspections, food service inspections, the issuance of building permits and certificates of occupancy, all inspections relating to these permits and certificates, and all responsibilities under section 1 of An Act To enable the District of Columbia to receive Federal financial assistance under title XIX of the Social Security Act for a medical assistance program, and for other purposes.

(29) "Residents of the District" means persons who voluntarily live in the District and have no intention of presently removing themselves from the District. The term "residents of the District" shall not include persons who live in the District solely for a temporary purpose. Residency shall not be affected by temporary absence from and the subsequent return or intent to return to the District. Residency shall not depend upon the reason that persons entered the District, except to the extent that it bears upon whether they are in the District for a temporary purpose.

(30) "System of care for adults" means a community support system for persons with mental illness that is developed through collaboration in the administration, financing, resource allocation, training, and delivery of services across all appropriate public systems. Each person's mental health services and mental health supports are based on an Individual Recovery Plan, designed to promote recovery and develop social, community, and personal living skills, and to meet essential human needs, and includes the appropriate integrated, community-based outpatient services and inpatient care, outreach, emergency services, crisis intervention and stabilization, age-appropriate educational and vocational readiness and support, housing and residential treatment and support services, family and caregiver supports and education, and services to meet special needs, which may be delivered by both public and private entities.

(31) "System of care for children, youth, and their families" means a community support system for children or youth with mental health problems and their families, which is developed through collaboration in the administration, financing, resource allocation, training, and delivery of services across all appropriate public systems. Each child's or youth's mental health services and mental health supports are based on a single, child- and youth-centered, and family-focused Individual Plan of Care, encompassing all necessary and appropriate services and supports, which may be delivered by both public and private entities. Prevention, early intervention, and mental health services and mental health supports to meet individual and special needs are delivered in natural, nurturing, and integrated environments, recognize the importance

of and support for the maintenance of enduring family relationships, and are planned and developed within the District and as close to the child's or youth's home as possible so that families need not relinquish custody to secure treatment for their children and youth.

Sec. 3. Establishment and purposes of the Department of Mental Health.

(a) There is established as a separate cabinet-level Department, subordinate to the Mayor, the Department of Mental Health.

(b) The Department shall be the successor in interest to the Commission on Mental Health Services, established by Mayor's Reorganization Plan No. 3 of 1986, effective January 3, 1987, and Mayor's Order No. 88-168, effective July 13, 1988, and under receivership in the case of *Dixon, et al. v. Anthony A. Williams, et al.*, C.A. No. 74-285 (NHJ), in the United States District Court for the District of Columbia.

(c) The provisions of this act are intended to be and shall be construed in a manner consistent with all outstanding orders of the United States District Court in *Dixon, et al. v. Anthony A. Williams, et al.*, including the Plan to be adopted by the Court pursuant to its order of March 6, 2000.

(d) The Department shall have as its purposes:

(1) Developing a system of care for adults that is integrated to the maximum practicable extent with other public systems in the District, including but not limited to addiction treatment and prevention, criminal justice, education, health, housing, income maintenance, and vocational rehabilitation;

(2) Developing a system of care for children, youth, and their families that is integrated to the maximum practicable extent with other public systems in the District, including but not limited to addiction treatment and prevention, child welfare, criminal justice, developmental services, education, health, housing, income maintenance, juvenile justice, and vocational rehabilitation;

(3) Ensuring that persons with mental illness and children or youth with mental health problems are treated in the most integrated setting that can be accommodated, consistent with individual needs and public safety;

(4) Fostering the development of high quality, comprehensive, cost effective, and culturally competent mental health services and mental health supports, based on recognized local needs, especially for persons with serious mental illness and children or youth with serious emotional disturbances;

(5) Promoting mental health and public awareness of mental health issues;

(6) Ensuring that services provided to mental health consumers meet standards established by the Department pursuant to section 14(2) for the operation of mental health services and mental health supports;

(7) Developing and implementing strategies to eliminate barriers and improve access to mental health services and mental health supports for consumers of mental health

services; and

(8) Ensuring the participation of consumers, families, employees, providers, and advocates of mental health services and mental health supports in the planning, delivery, monitoring, and evaluation of these services and supports.

(e) In assessing or meeting the service needs of consumers of mental health services, the Department shall not discriminate against consumers based upon their eligibility or non-eligibility for Medicaid, Medicare, or private insurance coverage.

(f) Nothing in this act requires or shall be construed as requiring the Department or any provider with which the Department contracts to provide mental health services or mental health supports to persons who are not residents of the District, except where those persons are likely to injure themselves or others if services are not provided or where services are otherwise required by law.

(g) Nothing in this act shall limit the civil rights of consumers of mental health services who have reached the age of majority under District law.

Sec. 4. Powers and duties of the Department of Mental Health.

Notwithstanding any other provision of law, the Department of Mental Health shall:

(1) Plan, develop, coordinate, and monitor comprehensive and integrated mental health systems of care for adults and for children, youth, and their families in the District, so as to maximize utilization of mental health services and mental health supports and to assure that services for priority populations identified in the Department's annual plan are funded within the Department's appropriations or authorizations by Congress and are available;

(2) Arrange for all authorized, publicly-funded mental health services and mental health supports for the residents of the District, whether operated directly by, or through contract with, the Department;

(3) Make grants, pay subsidies, purchase services, and provide reimbursement for mental health services and mental health supports;

(4) Arrange for, or if necessary directly provide, inpatient mental health services for all persons identified to the Department who meet criteria for admission for such services;

(5) Directly operate a hospital to provide inpatient psychiatric services, and seek to achieve and maintain the hospital's certification by the Health Care Financing Administration;

(6) Directly operate one core services agency, for 3 years from the effective date of this act or longer, as needed, to address the community mental health needs of the residents of the District;

(7) Arrange for a 24-hour, District-wide telephone communication service to provide intervention services for adults, children, and youth in need of mental health services and mental health supports including, but not limited to, observation, evaluation, emergency treatment, and when necessary, referral for mental health services and mental health supports;

(8) Beginning no later than October 1, 2001, be the exclusive agency to regulate

all mental health services and mental health supports, including but not limited to housing services and residential treatment centers for children, but excluding the licensure of professionals, notwithstanding the licensing powers and responsibilities given to other District agencies and officials under the following laws:

(A) Subchapter I-A of Chapter 28 of Title 47 of the District of Columbia Code;

(B) Subchapter I-B of Chapter 28 of Title 47 of the District of Columbia Code; and

(C) The Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983;

(9) Facilitate the delivery of acute inpatient psychiatric services through community or public hospitals in the District, including coordinating comprehensive mental health services and mental health supports for children, youth, and their families;

(10) Arrange for the care of persons committed to the Department by the court pursuant to D.C. Code § 21-545, and arrange for their periodic evaluation and ongoing treatment;

(11) Serve as the “Compact Administrator” under Article X of the Interstate Compact on Mental Health as set forth in the Interstate Compact on Mental Health Act;

(12) Consistent with the purposes of this act, provide consultation and technical assistance to providers of mental health services and mental health supports who receive financial support from the Department;

(13) Upon request or on its own initiative, investigate, or ask another agency to investigate, any complaint alleging abuse or neglect of any consumer of mental health services, and, if the investigation by the Department or an investigation by any other agency or entity substantiates the charge of abuse or neglect, take appropriate action to correct the situation, including notification of other appropriate authorities;

(14) Independent of the District of Columbia Office of Personnel but consistent with the District of Columbia Government Comprehensive Merit Personnel Act of 1978, serve as the personnel authority for all employees of the Department, including exercising full authority to hire, retain, and terminate personnel, and to establish their compensation and reimbursement consistent with the District's wage grade and non-wage grade schedules and the Congressionally-approved budget;

(15) Independent of the District of Columbia Office of Contracting and Procurement, exercise procurement authority to carry out the purposes of the Department, including contracting and contract oversight. The Department shall exercise this authority consistent with the District of Columbia Procurement Practices Act of 1985, except with regard to the powers and duties outlined in section 105(a), (b), (c), and (e) of that act;

(16) Take, hold, and administer in trust for the District any grant, devise, gift, or bequest made to the District or to the Department for the use of persons under its care or for the

expenditure for any work which the Department is authorized to undertake; and

(17) Enter into memoranda of agreement with other agencies of the District to provide for the orderly transition of the licensure responsibilities set forth in this section.

Sec. 5. Appointment and duties of Director.

The Department shall be administered by a full-time Director appointed by the Mayor and confirmed by the Council. The Director, who shall report to the Mayor, shall be qualified by experience and training to carry out the purposes of this act. In addition to such other duties as may be lawfully imposed, the Director shall:

(1) Serve as the chief executive officer of the Department, organizing the Department for its efficient operation, including creating offices within the Department as necessary, and exercising any other powers necessary and appropriate to implement the provisions of the law;

(2) Hire, retain, and terminate such personnel as appropriate to perform the functions of the Department consistent with the District of Columbia Government Comprehensive Merit Personnel Act of 1978;

(3) Establish, through contracts and memoranda of agreement or understandings with governmental bodies, public and private agencies, institutions, and organizations, systems of care for adults, and for children, youth, and their families, as well as for other identified priority populations;

(4) Establish priorities for the delivery of mental health services and mental health supports, and develop plans for the operation and coordination of core services agencies and other providers, so as to encourage the development and expansion of preventive, rehabilitative, and consultative mental health services and mental health supports with an emphasis on continuity of care;

(5) In accordance with the District of Columbia Administrative Procedure Act, issue and enforce all rules and regulations necessary and appropriate to the proper accomplishment of the mental health duties and functions imposed by this act;

(6) Execute contracts on behalf of the Department;

(7) Coordinate with the activities of the State Mental Health Planning Council, established pursuant to section 1914 of the Public Health Service Act, approved July 10, 1992 (106 Stat. 382; 42 U.S.C. § 300x-3) and Mayor's Order 88-261, effective December 14, 1988; and

(8)(A) Publish an annual plan describing how the Department intends to provide or arrange for systems of care for adults and for children, youth, and their families and to serve the needs of priority populations; and

(B) In developing the annual plan, the Director shall hold public forums in the community to solicit the input of residents of the District with regard to the need for present or additional mental health services and mental health supports.

Sec. 6. Appointment and duties of Chief Financial Officer.

The Department shall have a Chief Financial Officer (“Department CFO”), who shall be appointed by the Chief Financial Officer of the District of Columbia (“District’s CFO”) in collaboration with the Director. The Department CFO shall:

- (1) Be qualified by experience and training to carry out accounting, budgeting, and financial management functions;
- (2) Directly report to, be ultimately responsible to, and be under the supervisory direction of the District’s CFO, through the Director;
- (3) Engage in the accounting, budgeting, and financial management functions authorized by the District’s CFO;
- (4) Serve as a member of the Department’s management team;
- (5) Advocate for and advance the policy objectives of the Director, to the extent consistent with the Department CFO’s ultimate responsibility to and supervisory control by the District’s CFO; and
- (6) Be subject to evaluation, discipline, and transfer by the District’s CFO, in collaboration with the Director.

Sec. 7. Appointment and duties of Chief Clinical Officer.

The Department shall have a Chief Clinical Officer, appointed by the Director, and qualified by experience and training to carry out the following functions:

- (1) Advising the Director on standards, quality assurance, risk management, and clinical practice;
- (2) Advising the Director on a full range of services and functions, including but not limited to clinical services, service needs, and program development; and
- (3) Coordinating the treatment of persons committed to the care of the Department by the court pursuant to D.C. Code § 21-545.

Sec. 8. Appointment and duties of General Counsel.

The Department shall have a General Counsel, appointed by the Director with the approval of the Corporation Counsel, which approval shall not be unreasonably withheld. The General Counsel shall:

- (1) Be an attorney admitted to the practice of law in the District of Columbia and qualified by experience and training to advise the Department with respect to legal issues related to its powers and duties;
- (2) Be in the Senior Executive Attorney Service as an at-will employee under the direction and control of the Corporation Counsel;
- (3) Be subject to all applicable provisions of Title VIII-B of the District of Columbia Government Comprehensive Merit Personnel Act of 1978;

- (4) Have an attorney-client relationship with the Department;
- (5) Advocate vigorously for the Director's position on legal issues, and if such advocacy poses a conflict with a legal position of the Corporation Counsel, seek exemption from the Corporation Counsel's supervision as to that position, in accordance with section 855(b) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978; and
- (6) Be subject to evaluation, discipline, and transfer by the Corporation Counsel, after consultation with the Director, whose views regarding evaluation, discipline, and transfer shall be entitled to great weight.

Sec. 9. Appointment and duties of Consumer and Family Affairs Officer.

The Department shall have a Consumer and Family Affairs officer, appointed by the Director, and qualified by experience and training to carry out the following functions:

- (1) Ensuring the involvement of consumers of mental health services and their family members in the design, implementation, and evaluation of mental health services and mental health supports;
- (2) Serving as a liaison to consumers of mental health services and their family members and personal representatives; and
- (3) Promoting the protection of the rights of consumers of mental health services.

Sec. 10. Partnership Council.

(a) The Director shall appoint and convene a Partnership Council, consisting of between 15 and 25 people, to advise the Director, upon his or her request, with respect to departmental matters.

(b) The membership of the Partnership Council shall represent the range of interests and perspectives held by adults and children, youth, and their families, as well as the various geographic areas of the District, and shall include at least one person from each ward of the District and 2 representatives from labor unions for departmental workers. At least 51% of the members of the Partnership Council shall be consumers of mental health services or their family members. No members of the Partnership Council shall receive remuneration for their service.

Sec. 11. System of Mental Health Care Sub-Council.

(a) In conformity with Mayor's Order 99-60, effective March 16, 1999, the Director shall convene a System of Mental Health Care Sub-Council of the District's Intragovernmental Youth Investment Collaborative, for the purpose of developing a system of care for children, youth, and their families. This Sub-Council shall continue to exist in the event that Mayor's Order 99-60 is repealed.

- (b) The Sub-Council shall consist of the following individuals:
 - (1) Director of the Child and Family Services Agency;

- (2) Director of the Department of Human Services;
- (3) Director of the Department of Health;
- (4) Administrator of the Youth Services Administration;
- (5) Administrator of the Addiction Prevention and Recovery Administration;
- (6) Administrator of the Medical Assistance Administration;
- (7) Administrator of the Mental Retardation and Developmental Disabilities Administration;
- (8) Superintendent of the District of Columbia Public Schools;
- (9) Presiding Judge of the Family Division of Superior Court of the District of Columbia;
- (10) Chair of the District of Columbia Mental Health Planning Council;
- (11) A representative of the designated state protection and advocacy agency established pursuant to the Protection and Advocacy for Mentally Ill Individuals Act of 1986, approved May 23, 1986 (100 Stat. 478; 42 U.S.C. § 10801 *et seq.*), and section 509 of the Rehabilitation Act of 1973, approved October 29, 1992 (106 Stat. 4430; 29 U.S.C. § 794e); and
- (12) At a minimum, 4 former child or youth consumers of mental health services or family members of child or youth consumers of mental health services.

Sec. 12. Transfer of functions, property, and personnel.

(a) All real and personal property, Career and Excepted Service, Management Supervisory Service, and trainee positions, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the powers, duties, functions, operations, and administration of the Commission on Mental Health Services under receivership in *Dixon, et al. v. Anthony A. Williams, et al.*, shall become the property of the Department on the effective date of this act.

(b) All real and personal property, positions, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the powers, duties, functions, and operations of the “Compact Administrator” of the Interstate Compact on Mental Health as set forth in the Interstate Compact on Mental Health Act shall become the property of the Department on the effective date of this act.

(c) All positions, real and personal property, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the powers, duties, functions, and operations of the Department of Health in regulating mental health facilities, mental health services, and mental health supports, shall be transferred to the Department no later than September 30, 2001, in accordance with the terms of the memoranda of agreement executed pursuant to section 4(17).

(d) The Department shall recognize and bargain with collective bargaining representatives that have been duly certified by the District of Columbia Public Employees

Relations Board and shall assume and be bound by all existing collective bargaining agreements entered into by the Commission on Mental Health Services, if those agreements have been approved by the Council, unless Council approval is not required by law, and, during a control year as defined in D.C. Code § 47-393(4), the District of Columbia Financial Responsibility and Management Assistance Authority.

(e) Every employee of the Commission on Mental Health Services shall be transferred to the Department. An employee transferred to the Department shall be transferred in the same classification he or she held at the Commission or other department at the time of the transfer. Subject to the District's authority to convert them to the Management Supervisory Service and the Legal Service consistent with the District of Columbia Government Comprehensive Merit Personnel Act of 1978, transferred employees shall retain all rights and privileges related to their individual pay and benefits, including retirement status, so long as the employee is continuously employed by the Department or the District government, including any applicable rights and privileges provided for in section 7 of the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act.

(f) The following rules and regulations pertaining to the licensing, certification, and delivery of mental health services and mental health supports shall remain in full force and effect unless and until repealed or superseded by action of the Department of Mental Health:

(1) Chapter 38 of Title 22 of the District of Columbia Municipal Regulations (Community Residence Facilities for Mentally Ill Persons), except that the Department of Mental Health shall perform all functions that Chapter 38 vests in the Commission on Mental Health Services, and shall perform the following functions instead of the Department of Consumer and Regulatory Affairs, the Department of Health, and the Department of Human Services:

(A) Training persons who directly provide mental health services or mental health supports to consumers of mental health services through their employment by a community residence facility;

(B) Certifying that the admission of consumers of mental health services to a mental health community facility is medically necessary;

(C) Making determinations under 22 DCMR § 3826.3;

(D) Receiving written admission criteria under 22 DCMR § 3827.3;

(E) Receiving written reasons for denials of admission under 22 DCMR § 3827.5; and

(F) Licensing mental health community residential facilities as required by 22 DCMR § 3800.5; and

(2) Chapter 46 of Title 29 of the District of Columbia Municipal Regulations (Mobile Community Outreach Treatment Team Services), except that the Department shall have concurrent authority with the Medical Assistance Administration to audit and review records and reports of consumers of mental health services and providers, and shall perform the following functions instead of the Commission on Mental Health Services and the Medical Assistance

Administration:

- (A) Certifying providers of mobile community outreach treatment team services;
- (B) Operating one mobile community outreach treatment team;
- (C) Authorizing admission and assignment of consumers of mental health services to mobile community outreach treatment teams; and
- (D) Granting approvals and waivers.

(g) The following rules and regulations pertaining to the licensing, certification, and delivery of mental health services and mental health supports shall remain in full force and effect until repealed by action of the Department of Health:

(1) Chapter 7 of Title 29 of the District of Columbia Municipal Regulations (Medicaid Day Treatment Programs), except that the Department shall have concurrent authority with the Department of Health to audit and review records of providers, and shall perform the following functions instead of the Department of Human Services:

- (A) Certifying Medicaid day treatment programs for consumers of mental health services; and
- (B) Granting approvals and waivers;

(2) Chapter 8 of Title 29 of the District of Columbia Municipal Regulations (Free Standing Mental Health Clinics), except that the Department shall have concurrent authority with the Department of Health to audit and review records of providers, and shall perform the following functions instead of the Department of Human Services:

- (A) Certifying providers of freestanding mental health clinics;
- (B) Determining the qualifications of administrators of freestanding mental health clinics; and
- (C) Granting approvals and waivers; and

(3) Section 948 of Title 29 of the District of Columbia Municipal Regulations (Standards for Participation of Residential Treatment Centers for Children and Youth), except that the Department shall have concurrent authority with the Department of Health and the Department of Consumer and Regulatory Affairs to audit and review records of providers, and shall perform the following functions instead of the Department of Human Services:

- (A) Certifying residential treatment centers for children and youth; and
- (B) Certifying that the admission of consumers of mental health services to residential treatment centers is medically necessary.

Sec. 13. Prosecution and representation by Corporation Counsel.

The Office of Corporation Counsel shall have charge of the prosecution of actions brought in the name of the District of Columbia for emergency detention and commitment of persons requiring receipt of involuntary mental health services and mental health supports. The Office of the Corporation Counsel shall also have charge of any litigation arising out of the

execution of the Department's powers and duties.

Sec. 14. Rules.

No later than October 1, 2001, and in accordance with the District of Columbia Administrative Procedure Act, the Department shall issue rules establishing:

(1) Definitions for priority populations, including, but not limited to persons with serious mental illness and children or youth with serious emotional disturbance;

(2) Standards for the operation of mental health services and mental health supports, including, but not limited to requirements regarding:

(A) Qualifications of providers, except those who are required to operate under professional licenses pursuant to subchapter I-A and I-B of Chapter 28 of Title 47 of the District of Columbia Code;

(B) Accessibility, availability, appropriateness, and cultural competence of the delivery of mental health services and mental health supports; and

(C) Protections for consumers of mental health services that are consistent with applicable law;

(3) Standards and procedures for internal and external monitoring and evaluation of the delivery of mental health services and mental health supports, including, but not limited to standards and procedures for granting certification or full or conditional licensure to providers of mental health services or mental health supports, and limitations on providers of mental health services or mental health supports that are granted conditional licensure;

(4) Standards and procedures for revoking the certifications or licenses, other than professional licenses, of providers of mental health services or mental health supports who do not continue to meet the standards established by the Department, and procedures for facilitating the ongoing delivery of mental health services and mental health supports to consumers of such providers;

(5)(A) A schedule of civil fines for providers of mental health services and mental health supports operating in the District without licensure or certification by the Department, to the extent that such schedule is not already part of Chapter 38 of Title 22 of the District of Columbia Municipal Regulations.

(B) The Department shall submit the proposed schedule of fines, and any subsequent amendments to the schedule, to the Council for a 45-day period of review, excluding Saturdays, Sundays, and legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed schedule, in whole or in part, by resolution within this 45-day review period, the proposed schedule shall be deemed approved;

(6) Complaint and grievance procedures to protect the rights of consumers of mental health services, which shall include both internal and external review procedures, and at least the following elements:

(A) An opportunity for the consumer, or a family member or personal

representative on his or her behalf if the consumer so consents, to file complaints and grievances with a neutral party about his or her treatment by the Department or other providers;

(B)(i) An opportunity to have the complaint or grievance reviewed by a neutral party, who shall issue a prompt written decision either sustaining or denying the complaint or grievance within a period of time established by the Department;

(ii) In its written decision, the neutral party may make recommendations relating to the grievance or complaint;

(iii) A copy of all decisions shall be conveyed to the parties and the Department in an appropriate manner; and

(iv) The Department may request information concerning the implementation of any recommendation included in the decision; and

(C) The right of a consumer, or a family member or personal representative on his or her behalf if the consumer so consents, to pursue remedies otherwise available under applicable law, except that such otherwise available remedies may not be pursued while a complaint or grievance is pending; and

(7) A joint consent for the use of protected mental health information by participating providers that is consistent with 45 C.F.R. Parts 160 and 164 and the District of Columbia Mental Health Information Act of 1978.

Sec. 15. Approval of Medicaid State Plan Amendment.

The Department shall have authority to request the Medical Assistance Administration to seek the approval of the federal Health Care Financing Administration for the amendment to the District of Columbia Medicaid State Plan to add Medicaid rehabilitation services, which was submitted to the Health Care Financing Administration on September 30, 2000.

Sec. 16. Conforming amendments.

(a) The District of Columbia Government Comprehensive Personnel Merit Act of 1978 is amended as follows:

(1) Section 301(q) is amended as follows:

(A) Paragraph (14)(C) is repealed.

(B) Paragraph (49) is amended by striking the word "and" at the end/

(C) Paragraph (50) is amended by striking the period at the end and inserting a semicolon in its place.

(D) A new paragraph (51) is added to read as follows:

"(51) Department of Mental Health;"

(2) Section 406(b) is amended as follows:

(A) Paragraph (16) is amended by striking the word "and" at the end.

(B) Paragraph (17) is amended by striking the period at the end and inserting the phrase "; and" in its place.

(C) A new paragraph (18) is added to read as follows:

“(18) For employees of the Department of Mental Health, the personnel authority is the Director of the Department of Mental Health.”.

(3) Section 2021 is amended as follows:

(A) Paragraphs (2) and (3) are repealed.

(B) Strike the phrase “Department or the Commission” wherever it appears and insert the phrase “Department of Human Services or the Department of Mental Health” in its place.

(C) Strike the phrase “Department or Commission” wherever it appears and insert the phrase “Department of Mental Health or Department of Human Services” in its place.

(4) Section 2022 is amended as follows:

(A) Strike the phrase “Department and Commission” wherever it appears and insert the phrase “Department of Mental Health and Department of Human Services” in its place.

(B) Strike the phrase “Department and the Commission” wherever it appears and insert the phrase “Department of Mental Health and the Department of Human Services” in its place.

(5) Section 2023 is amended as follows:

(A) Strike the phrase “Department or Commission” wherever it appears and insert the phrase “Department of Mental Health or Department of Human Services” in its place.

(B) Strike the phrase “Department’s or Commission’s” and insert the phrase “Department of Mental Health’s or Department of Human Services” in its place.

(6) Section 2024 is amended by striking the phrase “Department or Commission” and inserting the phrase “Department of Mental Health or Department of Human Services” in its place.

(7) Section 2025(b) is amended to read as follows:

“(b) The program shall cover all Department of Mental Health and Department of Human Services employees, including management, and shall be implemented as a single program of each Department.”.

(b) Section 320 of the District of Columbia Procurement Practices Act of 1985 is amended by adding a new subsection (o) to read as follows:

“(o) Notwithstanding section 105(a), (b), (c), and (e), the Director of the Department of Mental Health shall exercise procurement authority to carry out the purposes of the Department, including contracting and contract oversight, consistent with the other provisions of this act.”.

(c) Section 3a(3)(F) of the District of Columbia Right to Overnight Shelter Act of 1984 is amended by striking the phrase “Commission on Mental Health Services” and inserting the phrase “Department of Mental Health” in its place.

(d) Section 5(b)(2) of the Department of Public Health Establishment Act of 1992 is amended by striking the phrase "Commissioner of Mental Health Services" and inserting the phrase "Director of the Department of Mental Health" in its place.

(e) Section 3 of the Interstate Compact on Mental Health Act is amended by striking the phrase "the Mayor of the District of Columbia is hereby authorized and empowered to designate an officer who shall be the Compact Administrator and who," and inserting the phrase "the Director of the Department of Mental Health shall be the Compact Administrator and," in its place.

(f) The District of Columbia Mental Health Information Act of 1978 is amended as follows:

(1) Section 101 is amended as follows:

(A) A new paragraph (h-1) is added to read as follows:

"(h-1) "Joint consent" means a process established by the Department of Mental Health pursuant to section 14(7) of the Department of Mental Health Establishment Temporary Amendment Act of 2001 to enable all participating providers to rely on a single form in which a consumer of mental health services consents to the use of his or her protected mental health information by participating providers in the Department of Mental Health's organized health care arrangement, for the purposes of delivering treatment, obtaining payment for services and supports rendered, and performing certain administrative operations, such as quality assurance, utilization review, accreditation, and oversight."

(B) A new paragraph (k-1) is added to read as follows:

"(k-1) "Organized health care arrangement" means an organized system of health care in which more than one provider participates, and in which the participating providers hold themselves out to the public as participating in a joint arrangement, and either:

"(1) Participate in joint activities that include utilization review under the Medical Records Act of 1978 in which health care decisions by participating providers are reviewed by other participating providers or by a third party on their behalf; or

"(2) Participate in quality assessment and improvement activities under the Medical Records Act of 1978 in which mental health services or mental health supports provided by participating providers are assessed by other participating providers or by a third party on their behalf."

(C) A new paragraph (k-2) is added to read as follows:

"(k-2) "Participating provider" means a provider of mental health services or mental health supports who, through participation in the joint consent promulgated by the Department of Mental Health pursuant to section 14(7) of the Department of Mental Health Establishment Temporary Amendment Act of 2001, joins the organized health care arrangement created by the Department of Mental Health."

(D) Subsection (j) is amended by adding after the word "infirmary" the phrase ", provider as defined in section 2(27) of the Department of Mental Health Establishment

Temporary Amendment Act of 2001,".

(2) Section 202 is amended as follows:

(A) Subsection (a)(5) is amended by striking the period and inserting the phrase "and the date on which the authorization will expire, which shall be no longer than 60 days from the date of authorization." in its place.

(B) Subsection (b) is repealed.

(3) Section 207 is amended as follows:

(A) Subsection (a) is amended by adding after the phrase "a valid authorization" the phrase ", or for participating providers, a joint consent, ".

(B) Subsection (b) is amended by adding after the phrase "a valid authorization," the phrase "or for participating providers, a joint consent, ".

(4) Section 301 is amended as follows:

(A) The heading is amended by striking the phrase "Facility." And inserting the phrase "Facility or to Participating Providers." in its place.

(B) Strike the phrase "Mental health information" and insert the phrase "(a) Mental health information" in its place.

(C) A new subsection (b) is added to read as follows:

"(b) Mental health information may be disclosed by participating providers to other participating providers when and to the extent necessary to facilitate the delivery of mental health services and mental health supports to the consumer."

(5) Section 303(a) is amended by adding after the phrase "public health, " the phrase "the Department of Mental Health, a provider as defined in section 2(27) of the Department of Mental Health Establishment Temporary Amendment Act of 2001,".

(6) Section 401 is amended by striking the period at the end and inserting the phrase "or by order of the court." in its place.

(g) Chapter 5 of Title 21 of the District of Columbia Code is amended as follows:

(1) Section 21-521 is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department of Mental Health" in its place.

(2) Section 21-541(a) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department of Mental Health" in its place.

(3) Section 21-546 is amended by striking the phrase "Department of Human Services" wherever it appears and inserting the phrase "Department of Mental Health" in its place.

(h) Section 7 of the Sex Offender Registration Act of 1999 is amended as follows:

(1) The heading is amended by striking the phrase "Commission on Mental Health Services" and inserting the phrase "Department of Mental Health" in its place.

(2) Subsection (a) is amended by striking the phrase "Commission on Mental Health Services" wherever it appears and inserting the phrase "Department of Mental Health" in its place.

(3) Subsection (b) is amended by striking the phrase “Commission on Mental Health Services” and inserting the phrase “Department of Mental Health” in its place.

(4) Subsection (c) is amended by striking the phrase “Commission on Mental Health Services” and inserting the phrase “Department of Mental Health” in its place.

(5) Subsection (d) is amended by striking the phrase “Commission on Mental Health Services” and inserting the phrase “Department of Mental Health” in its place.

(i) The Health Services Planning Program Re-establishment Act of 1996 is amended as follows:

(1) Section 2 is amended as follows:

(A) Paragraph (5) is repealed.

(B) A new paragraph (7A) is added to read as follows:

"(7A) "Director of the Department of Mental Health" means the Director of the Department of Mental Health established by the Department of Mental Health Establishment Temporary Amendment Act of 2001."

(C) Paragraph (12) is amended by striking the phrase "mental health" and inserting the phrase "inpatient mental health services" in its place.

(2) Section 4(c)(9) is amended by striking the phrase "Commissioner of Mental Health Services" and inserting the phrase "Director of the Department of Mental Health" in its place.

(3) Section 8(b) is amended as follows:

(A) Paragraph (7) is amended by striking the word “and” at the end.

(B) Paragraph (8) is amended by striking the period at the end and inserting the phrase “; and” in its place.

(C) A new paragraph (9) is added to read as follows:

"(9) For a period of one year, commencing on the effective date of the Department of Mental Health Establishment Temporary Amendment Act of 2001, any increase in the licensed psychiatric bed capacity by a private general hospital, psychiatric hospital, other specialty hospital or rehabilitation facility holding a certificate of need to operate psychiatric beds. The health care facility shall provide the Department of Mental Health with a copy of the letter of notice required by SHPDA for projects exempt from certificate of need review."

(j) Section 2(a) of the Mental Health Services Client Enterprise Establishment Act of 1998 is amended by striking the phrase “Commission on Mental Health Services” wherever it appears and inserting the phrase “Department of Mental Health” in its place.

(k) Section 2(3) of the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998 is amended by adding the phrase “mental health rehabilitation” before the phrase “services in an intermediate care facility for the mentally retarded,”.

(l) Section 47-2851.3a(k)(1)(B)) of the District of Columbia Code is amended by adding a new sentence at the end to read as follows: "For any Hospital-Psychiatric, both this

endorsement and the master business license shall be issued by the Department of Mental Health."

Sec. 17. Abolishment of Commission on Mental Health Services.

The Commission on Mental Health Services, established by Mayor's Reorganization Plan No. 3 of 1986, effective January 3, 1987, and Mayor's Order No. 88-168, effective July 13, 1988, is abolished.

Sec. 18. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

Sec. 19. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 60-day period of Congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(2)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia