

# State of Georgia



## OFFICE OF SECRETARY OF STATE

*I, Max Cleland, Secretary of State of the State of Georgia, do hereby certify that* the fifty-nine pages of photographed matter hereto attached contain a true and correct copy of an Act approved by the Governor on April 27, 1993 numbered Act Number 552 (H.B. 100) and entitled: "An Act To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to change the composition and powers of county boards of health; to amend Title 37 of the Official Code of Georgia Annotated, relating to mental health, so as to change certain definitions; and for other purposes"; all as the same appear of file and record in this office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of my office, at the Capitol, in the City of Atlanta, this 2nd day of July, in the year of our Lord One Thousand Nine Hundred and Ninety-three and of the Independence of the United States of America the Two Hundred and Seventeenth.



*Max Cleland*

SECRETARY OF STATE.

ENROLLMENT

April 7 19 93

The Committee of the House on Journals has examined the within and finds the same properly enrolled.

[Signature]  
Chairman

[Signature]  
Speaker of the House

[Signature]  
Clerk of the House

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

Received [Signature]  
Secretary, Executive Department

This 7<sup>th</sup> day of April 19 93

Approved

[Signature]  
Governor

This 27<sup>th</sup> day of April 19 93

H. B. No. 100 Act No. 552

General Assembly



AN ACT

To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to change the composition and powers of county boards of health; to amend Title 37 of the Official Code of Georgia Annotated, relating to mental health, so as to change certain definitions; and for other purposes.

IN HOUSE

Read 1st time 1. 11. 93

Read 2nd time 1. 12. 93

Read 3rd time 3. 5. 93

And Passed

Ayes 137

Nays 33

[Signature]  
Clerk of the House

IN SENATE

Read 1st time 3. 8. 93

Read 2nd time 3. 15. 93

Read 3rd time 5. 16. 93

And Passed

Ayes 53

Nays 0

[Signature]  
Secretary of the Senate

Reps. Childers of the 13th, Martin of the 47th, Snow of the 2nd and others

AN ACT

To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to change the composition and powers of county boards of health; to change certain definitions relating to hospitals and other institutions; to amend Title 37 of the Official Code of Georgia Annotated, relating to mental health, so as to change certain definitions; to provide for legislative findings and purposes; to change powers and duties of the Department of Human Resources and the Division of Mental Health, Mental Retardation, and Substance Abuse; to provide for rules, regulations, and standards and provide for their availability; to clarify certain provisions regarding the use of psychologists and physicians; to change the manner of adopting rules and regulations of the Board of Human Resources and the department thereof; to change the provisions regarding hearings and appeals of actions of that department and injunction proceedings by that department and relating to confidentiality and inspection warrants; to change the organizations and methods through which mental disability services are provided; to change definitions; to provide for mental health, mental retardation, and substance abuse regions and provide boards and planning units for such regions in place of certain advisory councils; to change certain duties of the Governor's Advisory Council for Mental Health, Mental Retardation, and Substance Abuse; to provide for appointment of members to such boards and the terms and qualifications and compensation and expenses of such members; to provide for vacancies on and organization,

1

bylaws, and meetings of such boards; to provide for personnel for such boards and funding therefor and for the functions, duties, and powers of those boards; to provide for the distribution of funds; to provide for audits; to provide for community mental health, mental retardation, and substance abuse service boards and the areas thereof, the appointment of members of such boards, and the terms and qualifications of those members; to provide for county participation in those boards; to provide for county boards of health to serve as community service boards; to provide for community service board personnel, organization, bylaws, duties, powers, and responsibilities; to provide for personnel status, benefits, and compensation; to provide for exemption from taxation; to change the provisions relating to state disability services plans; to provide for coordination of disability services; to provide for open meeting and records; to provide for emergency services; to provide for fees and accounting therefor and use thereof; to provide for venue; to provide for legal assistance; to delete certain provisions relating to minor child drug screening; to provide for access to records and certain restrictions relating thereto; to provide for statutory construction; to change the duties and expiration date of the State Commission on Mental Health, Mental Retardation, and Substance Abuse Service Delivery and to change a specific repealer relating to that commission; to provide for all related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

Section 1. Chapter 3 of Title 31 of the Official Code of Georgia Annotated, relating to county boards of health, is amended by striking paragraph (4) of subsection (a) of Code Section 31-3-2, relating to composition of the county boards of health, and inserting in its place a new paragraph (4) to read as follows:

"(4) One member to be appointed by the governing authority of the county shall be a consumer, a representative of a consumer, or a person from an advocacy agency or group, which member will represent on the board the county's consumers of health services;"

Section 2. Said chapter is further amended by striking paragraph (6) of subsection (a) of Code Section 31-3-4, relating to powers of county boards of health, and inserting in its place a new paragraph (6) to read as follows:

"(6) Make contracts and establish fees for the provision of public health services provided by county boards of health, including but not limited to environmental health services, which fees may be charged to persons or to establishments and premises within the county for inspection of such establishments, premises, structures and appurtenances thereto, or for other county board of health services. All such fees may be used to defray costs of providing such local services and shall supplement but not replace state or federal funding. No person shall be denied services on the basis of that person's inability to pay. The scope of services, operating details, contracts, and fees approved by the county board of health shall also be approved by the district director of health. No fees

for environmental health services may be charged unless the schedule of fees for such services has been approved by the county governing authority;".

Section 3. Said chapter is further amended by adding a new Code Section 31-3-12.1 immediately following Code Section 31-3-12, to read as follows:

"31-3-12.1. In addition to any other power authorized by law, the county governing authority may authorize the county board of health to enter into a contract with a regional or community mental health, mental retardation, and substance abuse service board created under Chapter 2 of Title 37 to provide certain mental health, mental retardation, and substance abuse services based on the contractual agreement between the parties. Further, a county governing authority may authorize a county board of health, wherever applicable, to serve as the community mental health, mental retardation, and substance abuse service board, provided that the county governing authority, the board of health, and any other affected county governing authority acts pursuant to subsection (e) of Code Section 37-2-6. In the event that the county governing authority exercises the authority granted by this Code section, Chapter 2 of Title 37, or Code Section 37-2-6, the county board of health shall appoint a director for mental health, mental retardation, and substance abuse or a supervisor of the specific service which is being provided by the county board of health, whichever is applicable, who shall meet the requirements established by the regional mental health, mental retardation, and substance abuse service board. The director for mental

health, mental retardation, and substance abuse, or the service supervisor, shall not be required to be a physician and shall be a person other than the director of the county board of health appointed pursuant to Code Section 31-3-11. Further, such director for mental health, mental retardation, and substance abuse shall report directly to the county board of health and shall have no formal reporting relationship with the director of the county board of health."

Section 4. Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to regulation of hospitals and related institutions, is amended by striking subparagraph (A) of paragraph (1) of Code Section 31-7-1, relating to definitions, and inserting in its place the following:

"(A) Reserved;".

Section 5. Chapter 1 of Title 37 of the Official Code of Georgia Annotated, relating to general provisions, is amended by striking Code Section 37-1-1, relating to definitions, and inserting in its place a new Code Section 37-1-1 to read as follows:

"37-1-1. As used in this title, the term:

(1) 'Board' means the Board of Human Resources.

(2) 'County board of health' means a county board of health established in accordance with Chapter 3 of Title 31 and includes its duly authorized agents.

(2.1) 'Community service board' means a public community mental health, mental retardation,

and substance abuse service board established pursuant to Code Section 37-2-6, which governs the provision of certain disability services not provided by other public or private providers under contract with the regional board.

(2.2) 'Consumer' means a natural person who has been or is a recipient of disability services as defined in Code Section 37-2-2.

(3) 'Department' means the Department of Human Resources and includes its duly authorized agents and designees.

(4) 'Peace officer' means any federal, city, or county police officer, any officer of the Georgia State Patrol, or any sheriff or deputy sheriff.

(5) 'Penal offense' means a violation of a law of the United States, this state, or a political subdivision thereof for which the offender may be confined in a state prison or a city or county jail or any other penal institution.

(6) 'Physician' means any person duly authorized to practice medicine in this state under Chapter 34 of Title 43.

(6.1) 'Psychologist' means any person authorized under the laws of this state to practice as a licensed psychologist as set forth in paragraph (2) of Code Section 43-39-1.

(6.2) 'Regional board' means a regional mental health, mental retardation, and substance abuse board established in accordance with Code Section 37-2-4.1.

(7) 'Resident' means a person who is a legal resident of the State of Georgia."

Section 6. Said chapter is further amended by adding a new Code Section 37-1-2 to read as follows:

"37-1-2. (a) The General Assembly finds that a comprehensive range of quality services and opportunities is vitally important to the existence and well-being of persons with mental health, mental retardation, and substance abuse problems and their families. The General Assembly further finds that the state has an obligation and a responsibility to develop and implement planning and service delivery systems which focus on a core set of consumer oriented, community based values and principles, which includes but is not limited to the following:

(1) Consumers and families should have choices about services and providers and should have substantive input into the planning and delivery of all services;

(2) A single point of accountability should exist for fiscal, service, and administrative issues to ensure better coordination of services among all programs and providers and to promote cost-effective, efficient service delivery and administration;

(3) The system should be appropriately comprehensive and adaptive to allow consumers and their families to access the services they desire and need;

(4) Public programs are the foundation of the service planning and delivery system and they

should be valued and nurtured; at the same time, while assuring comparable standards of quality, private sector involvement should be increased to allow for expanded consumer choice and improved cost effectiveness;

(5) Decision making should reside at the local level, with the primary authority vested in local government, consumers, families, advocates, and other interested local parties;

(6) The system should ensure that the needs of consumers who are most in need are met at the appropriate service levels; at the same time, prevention strategies should be emphasized for those disabilities which are known to be preventable;

(7) The system should be designed to provide the highest quality of services utilizing flexibility in funding, incentives, and outcome evaluation techniques which reinforce quality, accountability, efficiency, and consumer satisfaction;

(8) The functions of service planning, coordination, contracting, resource allocation, and client assessment should be separated from the actual service delivery programs;

(9) Consumers and families should have a single, community based point of entry into the system; and

(10) Consumers, staff, providers, and governing board members should receive ongoing training and education, and should have access to key management resources such as information

systems and technical and professional support services.

(b) Local governments, specifically county governing authorities, have provided outstanding leadership and support for mental health, mental retardation, and substance abuse programs, and the General Assembly finds that their investments, both personal and capital, should be valued and utilized in any improved system. As such, the state and any new governing structure should take special precautions to ensure that the county governing authorities have an expanded level of input into decision making and resource allocation and that any services or programs should continue to use and expand their use of county facilities and resources wherever appropriate and possible.

(c) The purpose of Chapter 1 and Chapter 2 of this title is to provide for a comprehensive and improved mental health, mental retardation, and substance abuse service planning and delivery system in this state which will develop and promote the essential public interests of the state and the citizens thereof. These provisions should be constructed liberally to achieve their purposes."

Section 7. Said chapter is further amended by striking Code Section 37-1-20, relating to the Division of Mental Health, Mental Retardation, and Substance Abuse, and inserting in its place a new Code Section 37-1-20 to read as follows:

"37-1-20. (a) There shall be a Division of Mental Health, Mental Retardation, and Substance Abuse within

the Department of Human Resources and a director thereof whose qualifications meet standards set by the board.

(b) The department, through the division, shall:

(1) Establish, administer, and supervise the state programs for mental health, mental retardation, and substance abuse;

(2) Direct, supervise, and control the medical and physical care, treatment, and rehabilitation provided by the institutions and programs under its control, management, or supervision;

(3) Have authority to contract for services with: public or private hospitals; hospital authorities; medical schools and training and educational institutions; departments and agencies of this state; regional boards; county or municipal governments; any person, partnership, corporation, or association, whether public or private; the United States government or the government of any other state;

(4) Establish and support programs for the training of professional and technical personnel as well as regional boards and community service boards;

(5) Have authority to conduct research into the causes and treatment of disability and into the means of effectively promoting mental health;

(6) Assign specific responsibility to one or more units of the division for the development of a disability prevention program. The objectives of such program shall include, but are not limited to, monitoring of completed and ongoing research

related to the prevention of disability, implementation of programs known to be preventive, and testing, where practical, of those measures having a substantive potential for the prevention of disability;

(7) Assign specific responsibility to one or more units of the division for the development of programs designed to serve disabled infants, children, and youth. To the extent practicable, such units shall cooperate with the Georgia Department of Education and the University System of Georgia in developing such programs;

(8) Make and administer budget allocations to regional boards to fund the operation of mental health, mental retardation, and substance abuse services in accordance with approved regional programs and plans;

(9) Coordinate in consultation with providers, professionals, and other experts the development of appropriate outcome measures for client centered service delivery systems and, in conjunction with and on behalf of regional boards and other providers, evaluate the efficacy of the state, regional, and community service boards through the regular assessment of the impact of the programs upon individuals receiving treatment;

(10) Establish, operate, supervise, and staff programs and facilities for the treatment of disability throughout this state;

(11) Disseminate information about available services and the facilities through which such services may be obtained;

(12) Establish within the division or under the jurisdiction of the regional boards or both a unit which shall receive and consider complaints from individuals receiving services, make recommendations to the director of the division regarding such complaints, and ensure that the rights of individuals receiving services are fully protected; and

(13) Exercise all powers and duties provided for in this title or which may be deemed necessary to effectuate the purposes of this title."

Section 8. Said chapter is further amended by striking Code Section 37-1-22, relating to standards, rules and regulations, and inserting in its place a new Code Section 37-1-22 to read as follows:

"37-1-22. The board shall adopt and promulgate written rules, regulations, and standards as may be deemed necessary to effectuate the purposes of this title and which shall be the basis of state financial participation in mental health, mental retardation, and substance abuse programs."

Section 9. Said chapter is further amended by striking Code Section 37-1-23, relating to rules of practice and procedure, and inserting in its place a new Code Section 37-1-23 to read as follows:

"37-1-23. The board is directed to prescribe rules of practice and procedure in order to implement this chapter. The department, the division, and the regional boards are directed to make the board's and the department's rules available for distribution."

Section 10. Said chapter is further amended by striking Code Section 37-1-24, relating to use of a psychologist or physician, and inserting in its place a new Code Section 37-1-24 to read as follows:

"37-1-24. No provision in this title shall require the department or any facility or private facility or any community service board to utilize a physician in lieu of a psychologist or a psychologist in lieu of a physician in performing functions under this title even though this title authorizes either a physician or a psychologist to perform the function."

Section 11. Said chapter is further amended by striking Article 3, relating to promulgation of rules and regulations, and inserting a new Article 3 to read as follows:

"ARTICLE 3

37-1-40. All rules and regulations of the Board of Human Resources shall be adopted pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'"

Section 12. Said chapter is further amended by striking Article 4, relating to hearings, appeals, and evidence, and inserting in its place a new Article 4 to read as follows:

"ARTICLE 4

37-1-50. (a) No license, permit, or certificate or other similar right shall be revoked or suspended without opportunity for a hearing as provided in Chapter

13 of Title 50, the 'Georgia Administrative Procedure Act.' Any such hearing or appeal related thereto shall be conducted in accordance with such Act.

(b) The department is authorized and empowered to employ and appoint hearing examiners to conduct hearings, issue compulsory process, administer oaths, and submit their findings and recommendations to the appointing agency; provided, however, that any such examiner shall be a member of the State Bar of Georgia in good standing.

37-1-51. Reserved.

37-1-52. Reserved.

37-1-53. Notwithstanding any other provision of law to the contrary, the department is authorized by regulation to classify as confidential and privileged documents, reports, and other information and data obtained by them from persons, firms, corporations, municipalities, counties, and other public authorities and political subdivisions where such matters relate to secret processes, formulas, and methods or where such matters were obtained or furnished on a confidential basis. All matters so classified shall not be subject to public inspection or discovery and shall not be subject to production or disclosure in any court of law or elsewhere until and unless the judge of the court of competent jurisdiction, after in camera inspection, determines that the public interest requires such production and disclosure or that such production and disclosure may be necessary in the interest of justice.

This subsection shall not apply to clinical records maintained pursuant to Code Sections 37-3-166, 37-3-167, 37-4-125, 37-4-126, 37-7-166, and 37-7-167."

Section 13. Said chapter is further amended by striking paragraph (2) of Code Section 37-1-70, relating to definitions regarding inspection warrants, and inserting in its place a new paragraph to read as follows:

"(2) 'Mental health law' means Code Sections 37-3-7, 37-3-8, and 37-4-4, Chapter 6 of this title, and any rule or regulation duly promulgated thereunder."

Section 14. Said chapter is further amended by striking Code Section 37-1-71, relating to persons who may obtain inspection warrants, and inserting in its place a new Code Section 37-1-71 to read as follows:

"37-1-71. The commissioner or the commissioner's delegate, in addition to other procedures now or hereafter provided, may obtain an inspection warrant under the conditions specified in this chapter. Such warrant shall authorize the commissioner or the commissioner's delegate to conduct a search or inspection of property either with or without the consent of the person whose property is to be searched or inspected if such search or inspection is one that is elsewhere authorized under the rules and regulations duly promulgated under this title."

Section 15. Said chapter is further amended by striking Part 2 of Article 5, relating to injunctions, and inserting in its place a new Part 2 to read as follows:

"Part 2

37-1-90. The Department of Human Resources is empowered to institute appropriate proceedings for injunction in the courts of competent jurisdiction in this state for the purpose of enjoining a violation of any provision of this title as now existing or as may be hereafter amended or of any regulation or order duly issued by the board or department. The department is also empowered to maintain action for injunction to abate any public nuisance which is injurious to the public health, safety, or comfort. Such actions may be maintained notwithstanding the fact that such violation also constitutes a crime and notwithstanding that other adequate remedies at law exist. Such actions may be instituted in the name of the department in the county in which a violation of any provision of this title occurs."

Section 16. Chapter 2 of Title 37 of the Official Code of Georgia Annotated, relating to administration of mental health, mental retardation, substance abuse, and other disability services, is amended by striking Article 1, relating to general provisions, in its entirety and inserting a new Article 1 to read as follows:

"ARTICLE 1

37-2-1. (a) The State of Georgia recognizes its responsibility for its citizens who are mentally ill or mentally retarded or who suffer from certain developmental disabilities including epilepsy, cerebral palsy, autism, and other neurologically handicapping conditions or who abuse alcohol, narcotics, or other drugs and recognizes an obligation to such citizens to

meet their needs through a coordinated system of community facilities, programs, and services.

(b) It is the policy of this state to provide adequate mental health, mental retardation, substance abuse, and other disability services to all its citizens. It is further the policy of this state to provide such services through a unified system which encourages cooperation and sharing of resources among all providers of such services, both governmental and private.

(c) It is the purpose of this chapter to enable and encourage the development of comprehensive, preventive, early detection, rehabilitative, and treatment disability services; to improve and expand community service boards for the disabled; to provide continuity of care through integration of county, area, regional, and state services and facilities for the disabled; to provide for joint disability services and the sharing of manpower and other resources; and to monitor and restructure the system of providing disability services in the State of Georgia to make better use of the combined public and private resources of the state and local communities.

(d) The provisions of this chapter shall be liberally construed to achieve the objectives set forth in this Code section.

37-2-2. As used in this chapter, the term:

(1) 'Area' means a Community Mental Health, Mental Retardation, and Substance Abuse Service Area.

(2) 'Commissioner' means the commissioner of human resources.

(2.1) 'Community service board' means a public community mental health, mental retardation, and substance abuse service board established pursuant to Code Section 37-2-6, which governs the provision of certain public disability services not provided by other public or private providers under contract with the regional board.

(2.2) 'Consumer' means a natural person who has been or is a recipient of disability services as defined in this Code section.

(3) 'Director' means the director of the division.

(4) 'Disability' means:

(A) Mental or emotional illness;

(B) Mental retardation;

(C) Other neurologically handicapping conditions which require treatment similar to that for the mentally retarded including epilepsy, cerebral palsy, and autism; or

(D) The abuse of, addiction to, or dependence upon alcohol, narcotics, or other drugs.

(4.1) 'Disability services' means services to the disabled or services which are designed to prevent or ameliorate the effect of a disability.

(5) 'Disabled' means any person or persons who have a disability.

(6) 'Division' means the Division of Mental Health, Mental Retardation, and Substance Abuse of the Department of Human Resources.

(7) 'Hospital' means a state owned or state operated facility providing services which include

but are not limited to inpatient care and the diagnosis, care, treatment, or habilitation of the disabled.

(8) 'Regional board' means a regional mental health, mental retardation, and substance abuse board established in accordance with Code Section 37-2-4.1.

(8.1) 'Regional planning unit' or 'unit' means a regional mental health, mental retardation, and substance abuse planning unit created under Code Section 37-2-4.1.

(9) 'Substance abuse' means the abuse of, addiction to, or dependence upon alcohol, narcotics, or other drugs.

37-2-2.1. There shall be created within the Department of Human Resources a Division of Mental Health, Mental Retardation, and Substance Abuse.

37-2-3. (a) Based on recommendations of the State Commission on Mental Health, Mental Retardation, and Substance Abuse Service Delivery submitted to the Board of Human Resources pursuant to Code Section 37-2-34, the board shall designate boundaries for mental health, mental retardation, and substance abuse regions, which shall serve as the initial boundaries for establishment of the regional boards and units as prescribed in Code Section 37-2-4.1.

(b) The division, with input from the regional boards and with the approval of the commissioner, shall designate Community Mental Health, Mental Retardation, and Substance Abuse Service Areas, which, effective July 1, 1994, shall serve as boundaries for the establishment and operation of community service boards within this

1

state for the purpose of delivering certain disability services. For the period through June 30, 1995, and thereafter as the division deems appropriate, the boundaries for the areas and the operation of community service boards shall be the same boundaries as the Community Mental Health, Mental Retardation, and Substance Abuse Services Areas which were in effect as of July 1, 1993. After July 1, 1995, the division, with input from the regional boards, shall consider requests from a county or group of counties for recommended changes to the boundaries of the community service boards.

(c) To the extent practicable, the boundaries for regional boards and units and community service boards shall not subdivide any county unit or conflict with any districts established by the department and the state relating to the planning for or delivery of health services. In dividing the state into areas, the board, the department, and the division shall take into consideration such factors as geographic boundaries, roads and other means of transportation, population concentrations, city and county lines, other relevant community services, and community economic and social relationships. Consideration shall also be given to the existence of facilities and personnel available in the areas for the delivery of disability services.

37-2-4. (a) The Governor shall appoint, fund, and provide staff assistance to a Governor's Advisory Council for Mental Health, Mental Retardation, and Substance Abuse, referred to in this chapter as the 'Governor's council.' The Governor's council shall consist of no more than 30 and no less than 15 members,

who shall be representative of professional and lay individuals, organizations, and state agencies associated or involved with services for the disabled. Such members shall be fairly representative of all disability groups. The term of each member of the Governor's council shall be for three years, provided that of the members first appointed, ten shall be appointed for a term of one year, five for a term of two years, and the remainder, if any, for a term of three years. Vacancies shall be filled by similar appointment for unexpired terms. The director shall be an ex officio, nonvoting member.

(b) The Governor's council shall advise the Governor, the board, the department, and the division as to the efficacy of the state disability services programs, the need for legislation relating to the disabled, the need for expansion or reduction of specific disability services programs, and the need for specific changes in the state disability services programs. The Governor's council shall review and prepare written comments on proposed state plans and on standards, rules, and regulations promulgated by the division. Such comments shall be submitted to the director, the board, the commissioner of the department, and to any other individual or agency deemed appropriate. The Governor's council shall further receive and consider complaints and grievances submitted in writing by individuals, associations, or agencies involved with the delivery or receipt of disability services and, if deemed appropriate, shall make recommendations to the Governor, the board, the department, or the division with respect to such

complaints or grievances. The Governor's council shall also provide guidance and assistance to the regional boards, hospitals, community service boards, and other private or public providers in the performance of their duties.

37-2-4.1. (a) There are created within the division regional mental health, mental retardation, and substance abuse planning units. The number of those units and the regions within which they shall operate shall be established from time to time as necessary by the board. In accordance with Code Section 37-2-3, the board shall initially establish the boundaries of each region based on the recommendations of the State Commission on Mental Health, Mental Retardation, and Substance Abuse Service Delivery pursuant to Code Section 37-2-34; provided, however, that any county with a population of 400,000 or more as of the United States decennial census of 1990 or any future such census may not be combined with any other county for the purpose of creating such a region without the approval of the county governing authority.

(b) There is created a separate regional mental health, mental retardation, and substance abuse board as the governing body for each regional planning unit established under subsection (a) of this Code section. Each such board shall provide and facilitate coordinated and comprehensive planning and service delivery for its region in conformity with minimum standards and procedures established by the division. Each such board shall be designated with such identifying words before the term 'regional mental health, mental retardation, and substance abuse board' as that regional board may,

from time to time choose and designate by official action.

37-2-5. (a) Each regional board shall establish policy and direction for disability services planning, delivery, and evaluation, including outcome evaluation, within the region, and shall perform such other functions as may be provided or authorized by law.

(b) Membership on the regional board within an established region shall be determined as follows:

(1) Each county with a population of 50,000 or less according to the United States decennial census of 1990 or any future such census shall appoint one member to the board;

(2) Each county with a population of more than 50,000 according to the United States decennial census of 1990 or any future such census shall appoint one member for each population increment of 50,000 or any portion thereof;

(3) The appointment or appointments for each county shall be made by the county governing authority; and

(4) The county governing authority shall appoint a consumer of disability services, a family member of a consumer, an advocate for disability services, or a local leader or businessperson with an interest in mental health, mental retardation, and substance abuse; provided, however, that for counties with more than one appointment, the county governing authority shall seek to ensure that such appointments represent various groups and disability services.

1

(b.1) A county governing authority may appoint the school superintendent, a member of the board of health, a member of the board of education, or any other elected or appointed official to serve on the regional board provided that such person meets the qualifications of paragraph (4) of subsection (b) of this Code section, such person does not serve on the community service board, and such appointment does not violate the provisions of Chapter 10 of Title 45.

(b.2) A member of the community services board may not also serve as a member of the regional board or be an employee or board member of any private or public group, organization, or service provider which contracts with or receives funds from the regional or community services boards.

(c) In making appointments to the regional board, the various county governing authorities shall ensure that appointments are reflective of the cultural and social characteristics, including gender, race, ethnic, and age characteristics, of the regional and county populations. The county governing authorities are further encouraged to ensure that each disability group is viably represented on the regional board, and in so doing the county governing authority may consider suggestions for appointments from clinical professional associations as well as advocacy groups, including but not limited to the Georgia Mental Health Consumer Network, the Georgia Parent Support Network, the Georgia Alliance for the Mentally Ill, the American Association for Retired Persons, Georgians for Children, the Association for Retarded Citizens, the Mental Health Association of Georgia, the Georgia Network for People

with Mental Retardation/Developmental Disabilities, the Georgia Association for the Prevention and Treatment of Substance Abuse, and their local chapters and affiliates.

(d) Initial appointments to the regional board shall be made by August 1, 1993. Initial terms of the regional board shall be established in bylaws adopted pursuant to paragraph (e) of this Code section. Thereafter, the term of a member of the board shall be for a period of three years and until the member's successor is appointed and qualified. A member may serve no more than two consecutive terms. The term of a regional board member shall terminate upon resignation, death, or inability to serve due to medical infirmity or other incapacity, or such other reasonable condition as the regional board may impose under their bylaws. Vacancies on the board shall be filled in the same manner as the original appointment.

(e) Prior to December 31, 1993, each regional board shall adopt bylaws governing its operation and management. At a minimum, the bylaws shall provide for staggered initial terms of the initial board, requirements for an annual meeting to elect officers, a mechanism for ensuring that consumers of disability services and family members of consumers constitute at least approximately one-half of the appointments to the board, and a mechanism for ensuring that each disability service is equitably represented by appointments to the board. Any board member who serves an initial term of less than three years may be eligible to be reappointed for two full consecutive three-year terms. The chair and vice chair of the regional board shall be elected

from among the members of the board, to serve a term of one year with the option of reelection for an additional one-year term. The bylaws shall provide for any other officers and their means of selection, as well as any necessary committees or subcommittees of the board. The bylaws may also provide for the appointment by the regional board of an advisory committee or advisory committees to work with the regional board in addressing various issues. Prior to their adoption by the regional board, the bylaws shall be submitted to the division for review and approval. The regional board must have the written approval of the director of the division prior to the adoption of bylaws.

(f) The regional board shall meet not less than once every two months, beginning on July 1 and continuing through the next June 30, which time frame shall be the fiscal year for each regional board.

(g) Each member of the regional board may, upon regional board approval, receive reimbursement for actual expenses not to exceed the per diem allowed legislative members of interim study committees of the General Assembly and the same mileage allowance for use of a personal car as that received by all other state officials and employees or a travel allowance of actual transportation cost if traveling by public carrier.

37-2-5.1. (a) Each regional board shall be served by an executive director, who shall be duly qualified and appointed by the director of the division, with the approval of the regional board. The executive director shall serve as the director of the regional mental health, mental retardation, and substance abuse planning unit, which shall be a unit of the division and shall be

governed by the regional board. The executive director shall serve at the pleasure of the division director. An executive director may be appointed to serve the regional board only with such board's approval. At any time during the tenure of the executive director, the regional board may for good cause vote to request the removal of the executive director. Should such a vote for removal be taken and be approved by a majority of the full board membership, the board shall submit its request to the director of the division who shall in turn comply with the request of the board. The director of the division shall be authorized to appoint for a period not to exceed 12 months an interim executive director at any time that the position of executive director is vacant and prior to the appointment of a duly qualified and approved successor.

(b) The executive director of the regional board may appoint such other staff and personnel to work for the unit as that executive director and board deem necessary and appropriate. The executive director and such staff and personnel shall be employees of the division. Expenses for the regional board, the employment of the executive director, other staff and personnel, and the operation of the unit office shall be charged against the funding allocated to the regional board for planning and service delivery within the established region. The department and the division may impose limits on the administrative and operating expenditures of the regional board and the unit.

(c) (1) State, federal, and other funds appropriated to the department, the division, or both, and available for the purpose of funding the

planning and delivery of disability services shall be distributed in accordance with this subsection. After July 1, 1995, all funds associated with services to clients residing within a given region shall be allocated through the appropriate regional board; 'all funds' shall include funding for hospitals, community service boards, private and public contracts, and any contracts relating to service delivery for clients within the given region. The division shall establish a minimum funding amount for regional boards conditioned upon the amount of funds appropriated and a supplemental funding formula to be used for the distribution of available state funds in excess of the minimum funding amount. The minimum funding amount shall be determined, in part, based on consumer service needs, service and program history, population based funding needs, infrastructure mandates, program efficiency and effectiveness, geographic distances, and other factors affecting the cost and level of service needs within each region.

(2) The division shall establish guidelines to ensure that funding is allocated to community service boards and local services based on client population, past and future service delivery needs and capabilities, and in consideration of special needs populations, such as homeless and transient populations. The division shall ensure that funds are allocated based primarily on services to clients and in compliance with all federal, state, and regulatory requirements.

(3) The division; in compliance with the provisions of the appropriations Act and other applicable laws, is authorized to move funds to and between community and institutional programs based on need, and the division shall ensure that the regional boards develop appropriate allocation and accounting mechanisms to move funds in a planned and rational manner between hospitals, community service boards, and other providers based on client needs and utilization.

37-2-5.2. (a) Each regional board shall have the following duties and functions:

(1) To prepare, in consultation with consumers and families, community programs, hospitals, other public and private providers, and appropriate advisory and advocacy groups, an annual plan and mechanism for the funding and provision of all disability services in the region. The plan shall be submitted to the division at a time and in the manner specified by the division so as to ensure that the plan is a basis for the annual appropriations request. The division shall provide technical and professional expertise to the regional board upon request. Such plan may include, by way of illustration without limitation, the following:

(A) An estimate categorized by age group of the number of citizens residing in the region who require disability services and an estimate of the range of services needed for these citizens;

(B) A description of all facilities and programs, both public and private, which are available or which should be developed to provide adequate disability services in the area;

(C) An analysis of the regional availability of professional and other staff personnel trained in providing disability services and, if necessary, a proposal for recruitment and retention;

(D) A list of all public and private providers currently providing or available to provide disability services in the region;

(E) A description in order of priority of all proposed programs and disability services to be provided in the region, and the funds associated with the provision of these services, which description shall specifically address the interrelationship of programs and services and the mechanisms for ensuring effective client transition between and among such programs and services;

(F) A comprehensive plan for regular meetings, consultations, and coordinated planning efforts with and among all service providers, such as community programs, hospitals, and private contractors, and professionals in the region, which plan shall at a minimum address appropriate methods for sharing resources and expertise among service providers and professionals, mechanisms for resolving conflicts and resource allocation

problems, and a process for ensuring ongoing dialogue among all providers regarding the most effective ways of meeting individual and community client needs;

(G) An analysis of the opportunities for coordination of disability services with other regional boards, agencies, and organizations as required in Code Section 37-2-9, which analysis shall include an overview of those specialized services and programs offered in other regions which may provide the most cost-effective means of meeting specific client needs and therefore would be utilized by a regional board which did not have such specialized services or programs;

(H) A statement of the anticipated administrative and operating budget for the regional board, the executive director, and the staff of the unit;

(I) A detailed financial plan showing the costs of providing necessary disability services and all sources of revenue; and

(J) A consumer satisfaction survey conducted during the previous year in a manner consistent with policies established by the division;

(2) To provide, as funds become available, for client assessment and service authorization and coordination for each client receiving services within the region or funded by the regional board;

(3) To exercise responsibility and authority within the region in all matters relating to the

funding and delivery of disability services; provided, however, that with the exception of services authorized under paragraph (2) of this subsection the regional board may not engage in the direct delivery of goods or services to individual consumers and is prohibited from providing on its own, without the use of an agent or agents, any direct disability services to consumers;

(4) To receive and administer grants, gifts, moneys, and donations for purposes pertaining to the mental health, mental retardation, substance abuse, and other disability services;

(5) To make contracts with any hospital, community service board, or other public or private providers without regard to regional or state boundaries for the provision of disability services, and to make and enter into all contracts necessary or incidental to the performance of duties and functions of the regional board and the unit;

(6) To encourage the development, in cooperation with the division, of private and public providers of programs and disability services which respond to the needs of consumers and families of consumers within the region;

(7) To submit annual reports to the division, the Governor's council, and such other agencies or individuals deemed appropriate, which reports shall evaluate the efficiency and effectiveness of disability services in the region;

(8) To serve as the representative of the citizens of the area in regard to disability services;

(9) To receive and consider complaints and grievances submitted in writing by individuals, associations, or agencies involved with the delivery or receipt of disability services and, if deemed appropriate, to seek resolution, through processes which may include impartial mediation and alternate dispute resolution, of such complaints and grievances with the appropriate hospital, community service board, or other private or public provider of service;

(10) To assure the highest achievable level of public awareness and understanding of both available and needed disability services; and

(11) To visit regularly disability services facilities and programs which serve the region in order to evaluate the effectiveness and appropriateness of the facilities and programs in delivering services.

(b) In addition to its duties and functions, each regional board shall also have the following power and authority:

(1) To utilize the services of the Department of Administrative Services, the State Merit System for Personnel Administration, the state auditor, or any other agency of state, local, or federal government;

(2) To participate with other regional boards, the division, the department, local, state, or federal government agencies, educational

institutions, and public and private organizations in the coordination of planning, research, service development, and evaluation activities;

(3) To work cooperatively with all units of county and local government, including the county boards of health, within the region;

(4) To establish goals and objectives, not inconsistent with those established by the division and the development, for its region; and

(5) To participate in the establishment and operation of a data base and network, coordinated by the division, to serve as a comprehensive management information system for disability services and programs.

(c) It is the express intent of this chapter to confer upon the regional board the flexibility and authority necessary to contract with a wide range of public and private providers to ensure that clients are afforded cost-effective, locally based, and quality disability services. Regional boards are specifically authorized to contract directly with any county governing authority, or any disability services organization created or designated by such county governing authority, any county board of health, any private or public provider, or any hospital for the provision of disability services. Such contracts may be made directly between the regional board and the contractor and shall not be required to go through the community service board.

(d) The regional board may delegate any power, authority, duty, or function to its executive director or other staff. The executive director or other staff

is authorized to exercise any such power, authority, duty, or function on behalf of the regional board.

(e) Each regional board shall keep books of account reflecting all funds received, expended, and administered by the regional board which shall be independently audited, by an auditor approved by the Division, at least once in each fiscal year. The auditor's report shall be presented to the regional board, the division, and any other interested parties. The books of account shall be kept in a standard, uniform format to be determined by the state auditor and the department. Each regional board shall update its books of account on at least a quarterly basis and shall present the quarterly update to the division and any other interested parties. The division shall conduct a performance audit of each regional board at least once every three years.

37-2-6. (a) There shall be created community mental health, mental retardation, and substance abuse service boards, in conformity with the areas established pursuant to the subsection (b) of Code Section 37-2-3, which shall govern publicly funded programs for the purpose of providing certain disability services not provided by other public or private providers under contract with the regional board. The programs shall be governed by the community service boards, which shall be established as public agencies.

(b) Each community service board shall consist of members appointed by the county governing authorities from nominations by the boards of health of the counties within the boundaries of the community service board.

Membership on such community service board shall be determined as follows:

(1) Each county with a population of 50,000 or less according to the United States decennial census of 1990 or any future such census shall appoint one member to the board;

(2) Each county with a population of more than 50,000 according to the United States decennial census of 1990 or any future such census shall appoint one member for each population increment of 50,000 or any portion thereof;

(3) The appointment or appointments for each county shall be made by the county governing authority;

(4) The county governing authority shall appoint a consumer of disability services, a family member of a consumer, an advocate for disability services, or a local leader or businessperson with an interest in mental health, mental retardation, and substance abuse; provided, however, that for counties with more than one appointment, the county governing authority shall seek to ensure that such appointments represent various groups and disability services;

(5) The chief executive or a designee of the chief executive of each county governing authority or municipal governing authority which contributes funding or resources which equal or exceed one-half of 1 percent of the budget allocation from the regional board for disability services within the area governed by the community service board shall

serve as an ex officio, voting member of the community service board; and

(6) A member of the regional board may not also serve as a member of the community service board.

(c) In making appointments to the community service board, the various county governing authorities shall ensure that appointments are reflective of the cultural and social characteristics, including gender, race, ethnic, and age characteristics, of the regional and county populations. The county governing authorities are further encouraged to ensure that each disability group is viably and capably represented on the community service board, and in making nominations for such appointments the board of health shall consider suggestions from clinical professional associations as well as advocacy groups, including but not limited to the Georgia Mental Health Consumer Network, the Georgia Parent Support Network, the Georgia Alliance for the Mentally Ill, the Association for Retarded Citizens, the Mental Health Association of Georgia, the American Association of Retired Persons, Georgians for Children, the Georgia Network for People with Mental Retardation/Developmental Disabilities, the Georgia Association for the Prevention and Treatment of Substance Abuse, and their local chapters and affiliates.

(d) Each county within the boundaries established for the community service board shall be required to participate with the board and the operation of the program through the community service board. Each community mental health, mental retardation, and

substance abuse service area in existence on June 30, 1994, shall automatically be succeeded by the community service board for the same region as of July 1, 1994, and each such community service board shall be governed, from and after July 1, 1994, by this chapter. All contractual obligations, including but not limited to real estate leases, rentals, and other property agreements, other duties, rights, and benefits of such service area, or the county board of health involved in administering programs in such area, unless continued by the current service providers, shall automatically become duties, obligations, rights, and benefits of its respective successor community service board or other successor entity.

(e) Notwithstanding any other provision of this chapter, a community service board may be constituted in a method other than that outlined in subsection (b) of this Code section if:

(1) A board of health of a county desiring to be the lead county board of health for that county submits a written agreement to the division before July 1, 1993, to serve as the community service board and to continue providing disability services in that county after July 1, 1994, and the governing authority for that county adopts a resolution stating its desire to continue the provision of disability services through its board of health after July 1, 1994, and submits a copy of such resolution to the division before July 1, 1993; or

(2) (A) The lead county board of health for a community mental health, mental retardation,

and substance abuse service area, as designated by the division on July 15, 1993, but which area excludes any county which meets the requirements of paragraph (1) of this subsection, submits a written agreement to the division and to all counties within such service area to serve as the community service board for that area and to continue providing disability services after July 1, 1994, which agreement shall be submitted between July 31, 1993, and December 31, 1993; and

(B) Each county governing authority which is within the service area of a lead county board of health which has submitted an agreement pursuant to subparagraph (A) of this paragraph adopts a resolution stating its desire to continue the provision of disability services through such lead county board of health after July 1, 1994, and submits a copy of that resolution to the division, the regional board, and the lead county board of health between July 31, 1993, and December 31, 1993; and

(3) The lead county board of health qualifying as such under paragraph (1) or (2) of this subsection agrees in writing to appoint a director for mental health, mental retardation, and substance abuse other than the director of the county board of health as stipulated in Code Section 31-3-12.1, to appoint an advisory council on mental health, mental retardation, and substance abuse consisting of consumers, families of

consumers, and representatives from each of the counties within the boundaries of the community service board, and to comply with all other provisions relating to the delivery of disability services pursuant to this chapter.

(f) If the conditions enumerated in subsection (e) of this Code section are not met prior to or on December 31, 1993, a community service board as provided in subsection (b) shall be established and appointed by January 31, 1994, to govern the provision of disability services within the boundaries of the community service board. Such community service board shall have the authority to adopt bylaws and undertake organizational and contractual activities after January 31, 1994; provided, however, that the community service board established pursuant to this Code section may not begin providing services to clients until July 1, 1994.

(g) If a community service board is established pursuant to paragraph (2) of subsection (e) of this Code section, such community service board must operate as established at least until June 30, 1996; provided, however, that in each fiscal year following June 30, 1996, the counties included under the jurisdiction of such a community service board may vote to reconstitute the community service board pursuant to the provisions of subsection (b) of this Code section by passage of a resolution by a majority of the county governing authorities within the jurisdiction of the community service board prior to January 1, 1997, or each year thereafter.

(h) Each community service board shall be responsible for adopting bylaws and operational policies

and guidelines in conformity with procedures established by the division and the regional board. Those bylaws shall address board appointment procedures, initial terms of board members, the staggering of terms, a mechanism for ensuring that consumers of disability services and family members of consumers constitute a majority of the appointed board members, and a mechanism for ensuring equitable representation of the various disability groups. The regular term of office for each community service board member shall be two years. Vacancies on such board shall be filled in the same manner as the original appointment.

37-2-6.1. (a) Each community service board shall be responsible for employing a program director, and other necessary staff, adopting an annual budget, and securing appropriate facilities, sites, and professionals necessary for the provision of disability services.

(b) Each community service board, under the jurisdiction of its board, shall perform duties, responsibilities, and functions and may exercise power and authority described in this subsection. Each program may exercise the following power and authority:

(1) Each community service board may adopt bylaws for the conduct of its affairs; provided, however, that the community service board shall meet at least quarterly, and that all such meetings and any bylaws shall be open to the public, as otherwise required under Georgia law;

(2) Each community service board may make and enter into all contracts necessary and incidental to the performance of its duties and functions.

(3) Each community service board may acquire and dispose of real and personal property;

(4) Each community service board may contract to utilize the services of the Department of Administrative Services, the State Merit System of Personnel Administration, the state auditor, or any other agency of state, local, or federal government;

(5) Each community service board may provide, either independently or through contract with appropriate state or local governmental entities, the following benefits to its employees, their dependents, and survivors, in addition to any compensation or other benefits provided to such persons:

(A) Retirement, pension, disability, medical, and hospitalization benefits, through the purchase of insurance or otherwise, but medical and hospitalization benefits may only be provided through a contract with the State Personnel Board under the same conditions as provided for such benefits to state employees, and the State Personnel Board shall so contract for those benefits if requested;

(B) Life insurance coverage and coverage under federal old age and survivors' insurance programs;

(C) Sick leave, annual leave, and holiday leave; and

(D) Any other similar benefits including, but not limited to, death benefits;

(6) Each community service board may

cooperate with all units of local government within the boundaries of the community service board as well as neighboring regions and with the programs of other departments, agencies, and regional commissions and boards;

(7) Each community service board shall comply with the provisions of Chapter 20 of Title 45, relating to state personnel administration, and each employee of such board shall be a covered employee as defined in Code Section 45-20-2, subject to the rules and regulations of the state merit system;

(8) Each community service board may receive and administer grants, gifts, contracts, moneys, and donations for purposes pertaining to the delivery of disability services;

(9) Each community service board may make contracts and establish fees for the provision of disability services; provided, however, that such contract and fees shall be in compliance with guidelines established by the division and the regional board; and

(10) Each community service board may accept appropriations or loans of funds, facilities, equipment, and supplies from the local governmental entities within their program boundaries.

(c) Nothing shall prohibit a community service board from contracting with any county governing authority, private or other public provider, or hospital for the provision of disability services.

(d) Each community service board exists for nonprofit and public purposes, and it is found and

declared that the carrying out of the purposes of each community service board is exclusively for public benefit and its property is public property. Thus, no community service board shall be required to pay any state or local ad valorem, sales, use, or income taxes.

37-2-6.2. (a) Those employees whose job descriptions, duties, or functions as of June 30, 1994, included the performance of employment duties or functions which will become employment duties or functions of the personnel of the division or a hospital thereof or of a regional board or a community service board on July 1, 1994, which employees were eligible on June 30, 1994, for benefits under the Employees' Retirement System of Georgia and the State Merit System of Personnel Administration, whether in the classified or unclassified service, shall be deemed to be state employees and, if classified, members of the State Merit System of Personnel Administration. Each person thus deemed to be a state employee shall continue to be employed by the entity which is authorized or required on and after July 1, 1994, to perform the duties or functions which were authorized or required to be performed by that employee as of June 30, 1994, whether such entity is the division, a hospital thereof, a regional board, or a community service board, unless such employee resigns, is transferred by the department, or is terminated. Any such transfer or termination shall comply with the applicable rules and procedures of the State Merit System of Personnel Administration. Any such termination from state employment of a classified employee shall not result from the anticipated or actual employment or utilization by:

- (1) The department;
- (2) A regional board;
- (3) A community service board;
- (4) A hospital; or
- (5) Any private provider of disability services

of any person who is not an employee of the state or a political subdivision thereof to perform the duties and functions of such terminated state personnel unless such termination and utilization is the result of a reduction in appropriations for such duties or functions or is the result of a reduction in force caused by any other state department or agency which has ceased to contract with the department for the services which had been provided by the terminated state personnel. While so employed to perform those duties and functions for a community service board, those employees shall remain employees of the state and shall continue to retain all of the employment benefits provided by the state although the department may delegate the control and supervision of such employees to the community service board to which they are assigned. Those employment benefits shall include without being limited to: health, dental, disability, and life insurance options; retirement or pension benefits; federal old age and survivors' insurance; sick, annual, and holiday leave; and coverage under the state merit system. This subsection is intended to maintain the status, position, and rights of persons who are the employees described in this subsection notwithstanding their subsequent performing of duties and functions for a regional board or a community service board.

(b) On and after July 1, 1994, personnel of a community service board, other than those described in subsection (a) of this Code section, shall not be employees of the state.

37-2-7. (a) The division shall formulate and publish biennially a state plan for disability services which shall take into account the disability services plans submitted by the regional boards as required by Code Section 37-2-5.2. The state disability services plan shall be comprehensive and shall include public and private institutional and community services to the disabled. In developing the state plan, the division shall request input from the regional boards, the community service boards, hospitals, and other public and private providers. The plan shall include an overview of current services and programs and shall also present information on future program, service, educational, and training needs.

(b) The plan shall address ways of eliminating, to the extent possible, detrimental delays and interruptions in the administration of disability services when moving an individual from one element of service to another in order to ensure continuity of care and treatment for persons receiving such services.

(c) The plan shall further set forth the proposed annual budget of the division and the regional boards taking into account all financial data supplied pursuant to subparagraph (a)(1)(I) of Code Section 37-2-5.2.

(d) The plan shall be submitted to the department, the Governor, the General Assembly, the Governor's council, the regional boards, the hospitals, the

community service boards, and any other public or private provider requesting a copy of the plan.

(e) At such time as the state plan is submitted, the division shall further submit an analysis of services provided, programs instituted, progress made, and the extent of implementation of the previous biennial plan. Such analysis shall measure the effectiveness and the efficiency of the methods of delivering services which ameliorate or prevent disability and restore health. This analysis shall further address the efforts of the division in coordinating services in accordance with Code Section 37-2-9.

37-2-8. Reserved.

37-2-9. To the maximum extent possible, disability services provided by the division and the regional boards, hospitals, community service boards, and other public and private providers shall be coordinated with related activities of the department and judicial, correctional, educational, social, and other health service agencies and organizations, both private and public.

37-2-9.1. (a) Each regional board and community service board shall comply with the provisions of Chapter 14 of Title 50, relating to open and public meetings, and Article 4 of Chapter 18 of Title 50, relating to inspection of public records, except where records or proceedings are expressly made confidential pursuant to other provisions of the law.

(b) Each regional board, hospital, and community service board and other public and private providers are authorized to establish one or more advisory boards for

the purpose of ensuring coordination with various agencies and organizations and providing professional and other expert guidance.

37-2-10. Notwithstanding any other provisions of law, the director, with the concurrence of the commissioner and the Governor, is authorized to establish and administer community programs on an emergency basis in the event one or more community service boards fail to assume responsibility for the establishment and implementation of an adequate range of disability services.

37-2-11. (a) It is the goal of the State of Georgia that every citizen be provided an adequate level of disability care through a unified system of disability services. To this end, the department through the division shall, to the maximum extent possible, allocate funds available for services so as to provide an adequate disability services program available to all citizens of this state. In funding and providing disability services, the division and the regional boards shall ensure that all providers, public or private, meet minimum standards of quality and competency as established by the department and the division.

(b) Fees generated, if any, by hospitals, community service boards, and other private and public providers, providing services under contract or purview of the regional board, shall be reported to the regional board and applied wherever appropriate against the cost of providing, and increasing the quantity and quality of, disability services. The regional boards with guidance from the division shall be responsible for

developing procedures to properly account for the collection, remittance and reporting of generated fees. The regional boards shall work with the community service boards and other public or private providers to develop an appropriate mechanism for accounting for the funds and resources contributed to local disability services by counties and municipalities within the area. Such contributions are not required to be submitted to either the community service board or the regional board; however, appropriate documentation and accounting entries shall make certain that the county or municipality is credited, and if necessary compensated, appropriately for such contribution of funds or resources.

(c) No person shall be denied disability services provided by the state as defined in this chapter based on age, gender, race, ethnic origin, or inability to pay.

37-2-11.1. (a) Venue for the purpose of any action against a regional board or community service board shall be the county in which the principal office of such regional board or community program board is located. For purposes of this Code section, 'principal office' shall be defined as the facility which houses the executive director or other such top administrator for the regional or community service board.

(b) In any legal proceeding, a regional board and the regional unit shall be considered a unit of the division and shall be afforded the assistance of legal counsel from the Attorney General.

(c) (1) The community service boards shall be public bodies, but shall not be considered agencies of the state, or any specific county or municipality. Such community service boards are public agencies in their own right and shall have the same immunity as provided for counties. No county shall be liable for any action, error, or omission of a community service board.

(2) A community service board may employ or contract for legal counsel to assist in performing its duties and shall be authorized to appoint legal counsel to represent the community service board and its employees. The community service board may exercise any authority granted in Article 2 of Chapter 9 of Title 45, relating to the indemnification, defense, and insuring of members and employees of public bodies.

37-2-11.2. (a) Notwithstanding any other law to the contrary, to ensure the quality and integrity of patient and client care, any program receiving any public funds from, or subject to licensing, certification, or facility approval by, the Department of Human Resources or a regional board shall be required to provide the department or the appropriate regional board or both, upon request, complete access to, including but not limited to authorization to examine and reproduce, any records required to be maintained in accordance with contracts, standards, or rules and regulations of the Department of Human Resources or pursuant to the provisions of this title.

(b) Records obtained pursuant to subsection (a) of this Code section shall not be considered public records

and shall not be released by the department or any regional board unless otherwise specifically authorized by law.

37-2-12. Nothing in this chapter shall be construed to require the designation of any boundaries or the appointment of any board in a manner which conflicts with any federal law applicable thereto or regulations promulgated thereunder."

Section 17. Said chapter is further amended by striking subsection (c) of Code Section 37-2-34, relating to powers and duties of the State Commission on Mental Health, Mental Retardation, and Substance Abuse Service Delivery, and inserting in its place a new subsection (c) to read as follows:

"(c) The commission shall complete its initial plan relating to reorganization of the service delivery system and make a report of its findings and recommendations including proposed legislation, if any, to the Governor and to the Board of Human Resources on or before December 1, 1992. The commission shall work with the Governor and the Board of Human Resources to monitor the implementation of organizational policies and programs it recommended in its initial report. In addition, the commission will consider any further statutory, organizational, budgetary, or operational changes which may be necessary and advisable to improve the state-wide mental health, mental retardation, and substance abuse system. The commission shall submit an annual update of its findings and recommendations to the Governor, the General Assembly, and the Board of Human Resources on December 1, 1993, and December 1, 1994.

The commission shall stand abolished on December 31, 1994."

Section 17.1. Chapter 3 of Title 37 of the Official Code of Georgia Annotated, relating to hospitalization of mentally ill persons, is amended by striking paragraph (3) of Code Section 37-3-1, relating to definitions, and inserting in its place the following:

"(3) 'Community mental health center' means an organized program for the care and treatment of the mentally ill operated by a community service board or other appropriate public provider."

Section 17.2. Said chapter is further amended by striking paragraph (1) of Code Section 37-3-61, relating to court ordered evaluation, and inserting in its place the following:

"(1) Any person may file an application executed under oath with the community mental health center for a court ordered evaluation of a person located within that county who is alleged by such application to be a mentally ill person requiring involuntary treatment. Upon the filing of such application, the community mental health center shall make a preliminary investigation and, if the investigation shows that there is probable cause to believe that such allegation is true, it shall file a petition with the court in the county where the patient is located seeking an involuntary admission for evaluation; and".

Section 17.3. Said chapter is further amended by striking Code Section 37-3-101, relating to transportation

of patients generally, and inserting in its place the following:

"37-3-101. The governing authority of the county of the patient's residence shall arrange for all required transportation of the patient. The type of vehicle employed shall be in the discretion of the governing authority of the county, provided that, whenever possible, marked vehicles normally used for the transportation of criminals or those accused of crimes shall not be used for the transportation of patients. The court shall, upon the request of the community mental health center, order the sheriff to transport the patient in such manner as the patient's condition demands. At any time the community mental health center is satisfied that the patient can be transported safely by family members or friends, such private transportation shall be encouraged and authorized. No female patient shall be transported at any time without another female in attendance who is not a patient, unless such female patient is accompanied by her husband, father, adult brother, or adult son."

Section 17.4. Chapter 4 of said Title 37, relating to habilitation of mentally retarded persons, is amended by striking subsection (b) of Code Section 37-4-40.4, relating to evaluation for temporary care, and inserting in its place the following:

"(b) Within five days, Saturdays, Sundays, and holidays excluded, after a petition is filed authorizing the continued admission of a client under subsection (a) of this Code section, the staff of the facility in which the client is admitted and the representatives of the

appropriate community mental retardation program in the client's community shall:

(1) Conduct a comprehensive evaluation of the client;

(2) Jointly develop an individualized program plan for the client; and

(3) File a copy of the evaluation and plan with the court petitioned for a hearing under paragraph (1) of subsection (a) of Code Section 37-4-40.3."

Section 17.5. Said chapter is further amended by striking Code Section 37-4-61, relating to transportation of clients generally, and inserting in its place the following:

"37-4-61. The governing authority of the county of the client's residence shall arrange for all required transportation of the client. The type of vehicle employed shall be determined by the governing authority of the county, provided that, whenever possible, marked vehicles normally used for the transportation of criminals or those accused of crimes shall not be used for the transportation of clients. The court, upon the request of the community mental retardation program, shall order the sheriff to transport the client in such manner as the client's condition demands. At any time such community mental retardation program is satisfied that the client can be transported safely by family members or friends, such private transportation shall be encouraged and authorized. No female client shall be transported at any time without another female in attendance who is not a client, unless such female

client is accompanied by her husband, father, adult brother, or adult son."

Section 17.6. Chapter 6 of said Title 37, relating to day-care centers for the mentally retarded, is amended by striking Code Section 37-6-4, relating to grants-in-aid for purchase of day-care services, and inserting in its place the following:

"37-6-4. The department is authorized and empowered to make grants-in-aid to county boards of health to purchase care and training for mentally retarded individuals from privately operated, nonprofit day-care centers provided these mentally retarded individuals have been certified as eligible for financial assistance."

Section 17.7. Chapter 7 of said Title 37, relating to hospitalization of alcoholic and drug dependent persons, is amended by striking paragraph (6) of Code Section 37-7-1, relating to definitions, and inserting in its place the following:

"(6) 'Community mental health center' means an organized program for the care and treatment of alcoholics, drug dependent individuals, or drug abusers operated by a community service board or other appropriate public provider."

Section 17.8. Said chapter is further amended by striking paragraph (1) of Code Section 37-7-61, relating to petitions for court ordered evaluations, and inserting in its place the following:

"(1) Any person may file an application executed under oath with the community mental health center for a court ordered evaluation of a person located within that county who is alleged by such application to be an alcoholic, a drug dependent individual, or a drug abuser requiring involuntary treatment. Upon the filing of such application, the community mental health center shall make a preliminary investigation and, if the investigation shows that there is probable cause to believe that such allegation is true, it shall file a petition with the court in the county where the patient is located seeking an involuntary admission for evaluation; and".

Section 17.9. Said chapter is further amended by striking Code Section 37-7-101, relating to transportation of patients generally, and inserting in its place the following:

"37-7-101. The governing authority of the county of the patient's residence shall arrange for all required transportation of the patient. The type of vehicle employed shall be in the discretion of the governing authority of the county, provided that, whenever possible, marked vehicles normally used for the transportation of criminals or those accused of crimes shall not be used for the transportation of patients. The court shall, upon the request of the community mental health center, order the sheriff to transport the patient in such manner as the patient's condition demands. At any time the community mental health center is satisfied that the patient can be transported safely by family members or friends, such private

transportation shall be encouraged and authorized. No female patient shall be transported at any time without another female in attendance who is not a patient, unless such female patient is accompanied by her husband, father, adult brother, or adult son."

Section 18. An Act creating a State Commission on Mental Health, Mental Retardation, and Substance Abuse Service Delivery, approved April 13, 1992 (Ga. L. 1992, p. 1357), is amended by striking Section 3 thereof and inserting in its place a new section to read as follows:

"Section 3. This Act shall stand repealed on December 31, 1994."

Section 18.1. Nothing in this Act shall be construed to repeal any provision of Chapter 5 of Title 37 of the Official Code of Georgia Annotated, the "Community Services Act for the Mentally Retarded."

Section 19. This Act shall become effective on July 1, 1994; provided, however, that provisions relating to the establishment of regional and community service board boundaries and the appointments of regional boards and community service boards shall become effective on July 1, 1993, or upon whatever date is stipulated in the Act and provided, further, that the provisions authorizing a county board of health to agree to serve as the lead county board of health for only that county shall become effective upon the approval of this Act by the Governor or upon its becoming law without such approval.