

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 221 Session of
1989

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R. C. WRIGHT AND JOSEPHS, FEBRUARY 1, 1989

AS REPORTED FROM COMMITTEE ON HEALTH AND WELFARE, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 18, 1989

AN ACT

1 ~~Relating to mental health; authorizing county programs;~~ <—
2 ~~providing for the continuation or establishment of facilities~~
3 ~~and programs to care and provide services for persons with~~
4 ~~mental illness; imposing additional powers upon the counties;~~
5 ~~and making repeals.~~

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3 RELATING TO MENTAL HEALTH; AUTHORIZING COUNTY PROGRAMS; <—

4 PROVIDING FOR THE CONTINUATION OR ESTABLISHMENT OF FACILITIES
5 AND PROGRAMS TO CARE AND PROVIDE SERVICES FOR PERSONS WITH
6 MENTAL ILLNESS; IMPOSING ADDITIONAL POWERS UPON THE COUNTIES;
7 AND MAKING REPEALS.

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24 The General Assembly of the Commonwealth of Pennsylvania
25 hereby enacts as follows:

26 ~~CHAPTER 1~~
27 ~~PRELIMINARY PROVISIONS~~
28 ~~Section 101. Short title.~~

29 ~~This act shall be known and may be cited as the Mental Health~~
30 ~~Act of 1989.~~

1 ~~Section 102. Definitions.~~

2 ~~The following words and phrases when used in this act shall~~
3 ~~have the meanings given to them in this section unless the~~
4 ~~context clearly indicates otherwise:~~

5 ~~"Administrator." The person appointed to carry out the~~
6 ~~duties specified in section 304.~~

7 ~~"Board." A county mental health board, as established~~
8 ~~pursuant to section 302.~~

9 ~~"Case management." Services rendered to a mentally ill~~
10 ~~person to assure appropriate and timely use of generic and~~
11 ~~specialized services that will assist the individual in~~
12 ~~establishing and maintaining himself in the community.~~

13 ~~"County." A county or a first class city.~~

14 ~~"County program." A program established by a county, or two~~
15 ~~or more counties acting in concert. The term includes a complex~~
16 ~~of services providing a continuum of care for persons with~~
17 ~~mental illness.~~

18 ~~"Department." The Department of Public Welfare of the~~
19 ~~Commonwealth.~~

20 ~~"Director." The administrative head of a facility. The term~~
21 ~~includes, but is not limited to, superintendents of Commonwealth~~
22 ~~facilities.~~

23 ~~"Facility." A mental health establishment, hospital, clinic,~~
24 ~~institution, center or other organizational unit, or part~~
25 ~~thereof, which is devoted primarily to the diagnosis, treatment,~~
26 ~~care or rehabilitation of persons with mental illness.~~

27 ~~"Inpatient services." Diagnosis, evaluation, classification,~~
28 ~~care or treatment rendered to a person admitted or committed to~~
29 ~~a facility for mental health treatment for a continuous period~~
30 ~~of 24 hours or longer.~~

~~"Local authorities." The county commissioners of a county,
county council or the city council and the mayor of a first
class city, or two or more of these acting in concert.~~

~~"Mental disability." A mental illness which so lessens the
capacity of a person to use customary self control, judgment and
discretion in the conduct of the person's affairs and social
relations as to make it necessary or advisable for the person to
receive mental health services as provided in this act.~~

~~"Mental hospital." A residential facility for the diagnosis,
care and treatment of the mentally disabled other than the
mentally retarded.~~

~~"Outpatient services." Diagnosis, evaluation,
classification, counseling, care, treatment or rehabilitation
rendered under this act to a mentally disabled person.~~

~~"Partial hospitalization." Diagnosis, evaluation,
classification, care, treatment or rehabilitation rendered to a
mentally ill person admitted or committed to a facility for some
portion of one or more 24 hour periods.~~

~~"Secretary." The Secretary of Public Welfare of the
Commonwealth.~~

~~CHAPTER 2~~

~~RESPONSIBILITIES OF COMMONWEALTH~~

~~Section 201. General powers and duties of department.~~

~~The department shall have the following powers and duties:~~

~~(1) To assure within this Commonwealth the availability
and equitable provision of adequate services for adults and
children who are mentally ill, regardless of residence or
economic or social status. Mentally ill persons shall be
assured of adequate and appropriate care and treatment in a
manner which:~~

1 ~~(i) Provides appropriate services to the maximum~~
2 ~~extent possible within the community.~~

3 ~~(ii) Encourages the utilization of voluntary care~~
4 ~~and self help.~~

5 ~~(iii) Promotes the use of services in the least~~
6 ~~restrictive setting appropriate to the needs of the~~
7 ~~individual.~~

8 ~~(iv) Ensures the integration of a full range of~~
9 ~~treatment alternatives at the community level.~~

10 ~~(2) To make, with the advice of the Mental Health and~~
11 ~~Mental Retardation Advisory Committee, and enforce~~
12 ~~regulations necessary and appropriate to the proper~~
13 ~~accomplishment of the duties and functions imposed by this~~
14 ~~act. The regulations shall not become effective until at~~
15 ~~least 30 days after the department has given the local~~
16 ~~authorities written notice of the proposed regulations and~~
17 ~~afforded the local authorities the opportunity for a hearing~~
18 ~~before the department on the proposed regulations.~~

19 ~~(3) To consult with and assist each county in carrying~~
20 ~~out the provisions of this act.~~

21 ~~(4) To require, after consultation with each affected~~
22 ~~county and with the advice of the Mental Health and Mental~~
23 ~~Retardation Advisory Committee, two or more counties to join~~
24 ~~in establishing a program to provide the services required by~~
25 ~~this act.~~

26 ~~(5) To adopt Statewide plans for the delivery of mental~~
27 ~~health services. The plans shall be based on needs identified~~
28 ~~by local authorities.~~

29 ~~(6) To establish and maintain working relationships with~~
30 ~~other governmental bodies and public and private agencies,~~

1 ~~institutions and organizations so as to assure maximum~~
2 ~~utilization of services and facilities which the governmental~~
3 ~~body and public and private agency, institution and~~
4 ~~organization may have which may be of benefit to persons with~~
5 ~~mental illness.~~

6 ~~(7) To make grants, pay subsidies, purchase services and~~
7 ~~provide reimbursement for services in accordance with this~~
8 ~~act. The department's powers and duties relating to grants~~
9 ~~and payments are set forth more specifically in section 608.~~

10 ~~(8) To supervise facilities, services and programs as~~
11 ~~provided by law.~~

12 ~~(9) To hear appeals by consumers of mental health~~
13 ~~services and providers and to issue adjudications concerning~~
14 ~~final decisions made by local boards relating to services~~
15 ~~provided and actions taken pursuant to this act.~~

16 ~~Section 202. Commonwealth facilities.~~

17 ~~(a) Authority to operate. The department shall operate all~~
18 ~~Commonwealth facilities and shall assign functions to each as~~
19 ~~the secretary shall prescribe.~~

20 ~~(b) Additional facilities. The department is hereby~~
21 ~~authorized to establish, extend, operate and maintain additional~~
22 ~~facilities and provide mental health services in the additional~~
23 ~~facilities. The department may also lease or otherwise acquire~~
24 ~~other additional facilities.~~

25 ~~(c) Operation by local authorities. Beginning on July 1,~~
26 ~~1989, the department shall phase in a system whereby, within a~~
27 ~~five year period, the department will transfer all funding~~
28 ~~appropriated for Commonwealth facilities, except as provided by~~
29 ~~subsection (d), to local authorities which shall utilize the~~
30 ~~moneys to purchase care or treatment for their residents at~~

~~State facilities or utilize the moneys to provide alternative forms of community based care as provided by this act. The department shall submit a plan outlining this system to the General Assembly 90 days prior to its implementation.~~

~~(d) Rate schedules. Notwithstanding the provisions of subsection (c), the department shall be directly responsible for the basic administration and maintenance of Commonwealth facilities. The department shall annually, by regulation, establish a schedule of rates for the care and treatment of persons at Commonwealth facilities.~~

~~Section 203. Qualifications of directors of Commonwealth facilities.~~

~~Each Commonwealth operated facility shall be administered by a director who shall have the following qualifications:~~

~~(1) Experience in the administration of mental hospitals and other hospitals, institutions or facilities.~~

~~(2) Ability to organize, direct and coordinate the operation of the facility and its programs.~~

~~(3) Knowledge and competencies, demonstrated through application of objective measurements developed by the department, in the field of mental health and illness, including community mental health, as well as in the field of health care administration. A master's degree, or an appropriate equivalent, shall be required. The director of the clinical program of a State hospital shall be a physician who shall be responsible for planning and executing programs of treatment and therapy.~~

~~(4) Additional standards of qualification for the position of director which the department establishes by regulation.~~

1 CHAPTER 3

2 RESPONSIBILITIES OF COUNTIES

3 ~~Section 301. General powers and duties of local authorities.~~

4 ~~(a) Duty to establish county program. The local authorities~~
5 ~~of each county, separately or in concert with another county or~~
6 ~~counties, as the secretary may approve, shall establish a county~~
7 ~~mental health program for the prevention of mental illness and~~
8 ~~for the diagnosis, care, treatment and rehabilitation of adults~~
9 ~~and children with mental illness; shall appoint an administrator~~
10 ~~or designate the administrator appointed under the act of~~
11 ~~October 20, 1966 (3rd Sp.Sess., P.L.96, No.6), known as the~~
12 ~~Mental Health and Mental Retardation Act of 1966; and shall have~~
13 ~~the power to make appropriations for these purposes. The program~~
14 ~~shall conform to regulations promulgated by the department.~~

15 ~~(b) Duty to merge programs. To insure the operation of a~~
16 ~~county mental health program in each county, the secretary,~~
17 ~~subject to the provisions of section 201(4), shall have the~~
18 ~~power to direct the local authorities of a county to join with~~
19 ~~the local authorities of another county to establish a program~~
20 ~~or become a part of a program existing in the other county or~~
21 ~~counties.~~

22 ~~(c) Power to hire staff. To operate a mental health~~
23 ~~program, the local authorities shall employ necessary, qualified~~
24 ~~personnel. The selection, appointment and retention of employees~~
25 ~~and the termination of their employment shall be on the basis of~~
26 ~~a merit system, which shall conform to minimum standards~~
27 ~~established by the department with the advice of the Mental~~
28 ~~Health and Mental Retardation Advisory Committee. These minimum~~
29 ~~standards shall not become effective until the department shall~~
30 ~~have given the local authorities 30 days' written notice of the~~

~~proposed standards and shall have afforded the local authorities the opportunity for a hearing before the department on the proposed minimum standards.~~

~~(d) Duty to provide certain services. Subject to the provisions of section 608(a)(5), local authorities, in cooperation with the department, shall insure that a full continuum of services are available for adults and children in need of mental health services, including the following services as a minimum:~~

~~(1) Inpatient services.~~

~~(2) Outpatient services.~~

~~(3) Partial hospitalization services.~~

~~(4) Emergency services 24 hours a day, seven days a week.~~

~~(5) Consultation and education services to professional personnel and community agencies.~~

~~(6) Specialized rehabilitative and vocational services.~~

~~(7) Residential care.~~

~~(8) Unified procedures for intake for all mental health services; and a central place providing information, referral services and discharge planning for all adults or children receiving publicly financed inpatient services.~~

~~(9) Case management.~~

~~(e) Discretionary service. Local authorities may establish the following additional services or programs for mentally disabled adults and children to fulfill the requirement of a continuum of care and services:~~

~~(1) Family support services.~~

~~(2) Training of personnel.~~

~~(3) Self help groups.~~

~~(4) Outreach.~~

~~(5) Foster care.~~

~~(6) Client advocacy.~~

~~(7) Any other service or program designed to prevent mental illness or the necessity of admitting or committing mentally disabled persons to a facility or to insure coordination with other human services.~~

~~(f) Power to purchase services. Services required or authorized under this act may be provided either directly or by purchase of the services.~~

~~(g) Duty to establish local boards. Local authorities shall establish local mental health boards in accordance with the provisions of section 302.~~

~~Section 302. Establishment of county mental health boards.~~

~~(a) Creation and membership.~~

~~(1) Except in cities of the first class, the governing body of a county shall appoint a county mental health board, hereinafter called the board, which shall consist of 15 persons who reside in the county to be served by that program, including a representative of the elected county governing body.~~

~~(2) At least one member shall be a physician, and, where possible, a psychiatrist. There shall also be appropriate representation drawn from:~~

~~(i) The professional fields of psychology, social work, nursing, education and religion.~~

~~(ii) Local citizens' organizations active in the field of mental health.~~

~~(iii) Local organizations representing family members of persons with mental illness.~~

1 ~~(iv) Consumers.~~

2 ~~(v) Other interested community groups.~~

3 ~~(vi) Advocates.~~

4 ~~(3) Where two or more counties are participating in~~
5 ~~concert in the program, the members of the board shall be~~
6 ~~selected substantially on a proportionate basis as to~~
7 ~~population. Each county, irrespective of population, shall~~
8 ~~have at least one member on the board.~~

9 ~~(b) Term. Each member shall be appointed for a period of~~
10 ~~three years. The initial appointment of members of the board~~
11 ~~shall be for overlapping periods of three, two and one years. In~~
12 ~~making the initial appointments, insofar as possible, one third~~
13 ~~of the members shall be appointed for three years, one third for~~
14 ~~two years and one third for one year. A vacancy occurring in the~~
15 ~~membership of the board shall be filled by the local authorities~~
16 ~~for the unexpired period. The local authorities may remove a~~
17 ~~member of the board during his or her period of service for~~
18 ~~cause only. The members shall serve without compensation other~~
19 ~~than reimbursement for travel and other actual expenses incurred~~
20 ~~in connection with called meetings of the board.~~

21 ~~(c) Voting and meeting procedure. A majority of the board~~
22 ~~members shall constitute a quorum. The members shall select a~~
23 ~~chairman from among themselves. Each board shall meet at least~~
24 ~~once each quarter and may, by majority vote of the membership,~~
25 ~~establish more frequent regular meetings. Special meetings shall~~
26 ~~be held at the call of the chairman, and it shall be the duty of~~
27 ~~the chairman to call a special meeting upon the written request~~
28 ~~of one third or more of the members, not including vacancies of~~
29 ~~the board.~~

30 ~~(d) Boards in first class cities. In cities of the first~~

~~class, a mental health board shall be appointed, and the members shall hold office, under the provisions of the city charter.~~

~~Section 303. Powers and duties of board.~~

~~(a) Imposition. Each county mental health board shall have the power and its duty shall be:~~

~~(1) To review and evaluate the county's mental health needs, services, facilities and special problems in relation to the local needs, services and programs.~~

~~(2) Except in cities of the first class, to recommend to local authorities, for the position of administrator, at least two persons who meet the standards of professional skill and experience as the department may establish by regulation.~~

~~(3) To develop, together with the administrator, annual plans for the programs required by sections 301 and 608.~~

~~(4) To make recommendations to the local authorities regarding the program and any other matters relating to services for persons with mental illness in the county, including the purchase of service contracts and the extent of funds required to implement the program.~~

~~(5) To review and evaluate the performance of the programs and services developed by the county and agencies under contract with the county to serve persons with mental illness.~~

~~(b) Assignment of board's functions. The functions of the board may be performed by a multipurpose board acting in the human services field, if the local authorities so elect, with appropriate representation as specified in section 302(a) insofar as possible, and subject to the approval of the department.~~

~~Section 304. Powers and duties of administrator.~~

~~The county program administrator appointed or designated pursuant to section 301 shall have the power and his or her duty shall be:~~

~~(1) To administer the county mental health program.~~

~~(2) To insure that county services required by this act are available.~~

~~(3) To provide staff services to the board.~~

~~(4) To make reports to the department in the form and containing the information which the department requires.~~

~~(5) To develop, together with the board, annual plans for the programs required by this act. The plans may be an integral part of a broader county human services plan and must include proposed utilization of Commonwealth operated facilities.~~

~~(6) To submit to local authorities annual plans and estimated costs for the provision of services, establishment and operation of facilities, and other related matters for review, approval and transmittal to the department.~~

~~(7) To review and evaluate facilities and services, and to cooperate with the department in the maintenance of established standards.~~

~~(8) To maintain effective liaison with governmental and private community health and human services agencies and organizations and Commonwealth operated facilities.~~

~~(9) To submit an annual report to the local authorities, the board and the department reporting all activities of the program and his or her administration thereof.~~

~~(10) To analyze and evaluate needs of and services for persons with mental illness and their families in the county~~

1 ~~and recommend improvements to the board and local~~
2 ~~authorities, and to conduct research studies and take the~~
3 ~~steps and adopt measures necessary for the proper discharge~~
4 ~~of his or her duties.~~

5 ~~CHAPTER 4~~

6 ~~EXTENDED CARE~~

7 ~~Section 401. General provisions for extended care.~~

8 ~~(a) Discharge assistance required. A person receiving~~
9 ~~services in a Commonwealth operated mental hospital shall be~~
10 ~~provided with discharge planning and assistance by the local~~
11 ~~authorities in conjunction with the facility.~~

12 ~~(b) Essential elements of assistance. Discharge planning~~
13 ~~and assistance shall include, but not be limited to, the~~
14 ~~following:~~

15 ~~(1) An individualized care plan that includes provision~~
16 ~~for housing, social and financial support, treatment and~~
17 ~~needed services.~~

18 ~~(2) Return of all personal possessions.~~

19 ~~(3) Transportation assistance.~~

20 ~~(4) Initial appointments for all services to be provided~~
21 ~~following discharge from the facility.~~

22 ~~CHAPTER 5~~

23 ~~RIGHTS OF INDIVIDUALS~~

24 ~~Section 501. Rights of persons admitted or committed.~~

25 ~~A person receiving mental health services under this act~~
26 ~~shall have the right:~~

27 ~~(1) To receive appropriate, individualized treatment and~~
28 ~~services in the least restrictive manner and appropriate~~
29 ~~setting.~~

30 ~~(2) To be treated with dignity and respect.~~

1 ~~(3) To communicate with and to be alone at an interview~~
2 ~~with his or her counsel, a representative of the department~~
3 ~~or an advocate; and to send sealed communications to a~~
4 ~~facility director, to a member of his or her family, to the~~
5 ~~department, to the court, if any, which committed the person~~
6 ~~and to the Governor.~~

7 ~~(4) To maintain religious freedom and to be visited by a~~
8 ~~clergyman.~~

9 ~~(5) To be employed at a useful occupation.~~

10 ~~(6) To be furnished with writing materials and~~
11 ~~reasonable opportunity for communicating with a person~~
12 ~~outside a facility. Communications shall be stamped and~~
13 ~~mailed.~~

14 ~~(7) To be discharged as soon as care and treatment in a~~
15 ~~facility is no longer necessary.~~

16 ~~(8) To request the department to arrange for the~~
17 ~~examination of the person's mental or physical condition by a~~
18 ~~physician not associated with the department. The department~~
19 ~~may refuse to grant this request only when it is made sooner~~
20 ~~than three months after the person's admission or commitment.~~

21 ~~(9) To handle all his or her money and other property or~~
22 ~~to designate someone to handle it if no guardian or~~
23 ~~representative payee has been appointed.~~

24 ~~(10) To petition for a writ of habeas corpus. Except as~~
25 ~~provided in Chapter 7, the petition shall be filed in~~
26 ~~accordance with the provisions of 42 Pa.C.S. Ch. 65 (relating~~
27 ~~to habeas corpus).~~

28 ~~(11) To be advised of his or her rights, including the~~
29 ~~right to appeal as provided for in section 201(8), and to be~~
30 ~~assisted by an advocate.~~

1 ~~(12) To retain the same rights as any other citizens of~~
2 ~~this Commonwealth.~~

3 ~~(13) To have access to his or her treatment records,~~
4 ~~unless any of the following determinations is made by the~~
5 ~~director of treatment:~~

6 ~~(i) That disclosure of specific information~~
7 ~~concerning treatment will constitute a substantial~~
8 ~~detriment to the patient's treatment. This determination~~
9 ~~shall be substantiated by documentation by the treatment~~
10 ~~team leader.~~

11 ~~(ii) That disclosure of specific information will~~
12 ~~reveal the identity of persons or breach the trust or~~
13 ~~confidentiality of persons who have provided information~~
14 ~~upon an agreement to maintain their confidentiality.~~

15 ~~CHAPTER 6~~

16 ~~FINANCIAL OBLIGATIONS; LIABILITIES AND PAYMENTS~~

17 ~~Section 601. Liability of persons with mental illness.~~

18 ~~When public funds are expended under a provision of this act~~
19 ~~on behalf of a person with mental illness, the local authority~~
20 ~~may recover the funds from the person, subject to the~~
21 ~~regulations of the department. For this purpose, liability is~~
22 ~~hereby imposed, upon a person admitted, committed or otherwise~~
23 ~~receiving a service or benefit under this act, for the costs,~~
24 ~~payments or expenditures relating to the service, including, but~~
25 ~~not limited to, the costs of admission or commitment,~~
26 ~~transportation, treatment or maintenance. The liability imposed~~
27 ~~shall be based on the person's ability to pay.~~

28 ~~Section 602. Liability of persons owing legal duty to support.~~

29 ~~(a) Imposition of liability. Except as provided in this~~
30 ~~section and in section 604, when a person under 18 years of age~~

~~is admitted, committed or otherwise receiving a service or benefit under this act and is unable to discharge the obligation imposed upon him or her by section 601, that liability is hereby imposed on any person owing a legal duty to support him or her. The imposition of liability on another person ceases, however, when the minor becomes 18 years of age. Spouses shall remain liable for each other, regardless of age, except for periods of continuous inpatient or residential care which exceed 120 days.~~

~~(b) Insurance. Nothing in this section shall relieve a private, nonprofit or governmental health insurer for liability to pay for continuous inpatient, outpatient, partial hospitalization or residential care under a contract of insurance or group insurance plan.~~

~~(c) Definition. As used in this section, the term "continuous inpatient or residential care" means any in hospital or residential stay not interrupted by more than 120 days.~~

~~Section 603. Contingent liability of State and local government.~~

~~(a) Exhaustion of personal funds and benefits. Neither the Commonwealth nor a county shall be required to expend public funds under this act on behalf of a mentally ill person until that person, who has been admitted or committed or who is receiving services or benefits under this act, has exhausted his or her eligibility and receipt of benefits under all other private, public, local, State or Federal programs.~~

~~(b) Federal responsibility. If the mentally ill person's benefits from other sources are exhausted, the Commonwealth and the counties shall share the financial obligations accruing under this act to the extent that these obligations are not borne by the Federal Government or by a private person or~~

1 agency.

2 ~~(c) Construction of act. It is the intention of this act~~
3 ~~that its provisions be construed so as to maintain and not~~
4 ~~decrease or destroy the eligibility of a person, a facility or~~
5 ~~the Commonwealth or a political subdivision to receive Federal~~
6 ~~assistance, grants or funds.~~

7 ~~Section 604. Powers of secretary to determine liability and~~
8 ~~establish criteria.~~

9 ~~(a) Determine extent of liability. When a person receives a~~
10 ~~service or benefit at a facility under this act, wholly or in~~
11 ~~part at public expense, the secretary may determine the extent~~
12 ~~of liability imposed under section 601 or 602 and shall abate,~~
13 ~~modify, compromise or discharge the liability imposed, if:~~

14 ~~(1) The secretary is satisfied that liability would do~~
15 ~~any of the following:~~

16 ~~(i) Result in the loss of financial payments or~~
17 ~~other benefits from a public or private source which a~~
18 ~~mentally ill person would receive, would be eligible to~~
19 ~~receive or would be expended on his or her behalf but for~~
20 ~~the liability.~~

21 ~~(ii) Result in a substantial hardship upon the~~
22 ~~person or a person with a legal duty to support the~~
23 ~~person, or upon the family of either.~~

24 ~~(iii) Result in a greater financial burden upon the~~
25 ~~people of this Commonwealth.~~

26 ~~(iv) Create upon the person a financial burden which~~
27 ~~nullifies the results of care, treatment, service or~~
28 ~~other benefits afforded to the person under a provision~~
29 ~~of this act.~~

30 ~~(2) Proceedings to recover such costs or discharge such~~

1 ~~liability, including legal fees, would not be in the best~~
2 ~~interest of the Commonwealth.~~

3 ~~(b) Reimburse county. If the secretary exercises the power~~
4 ~~conferred in subsection (a) or in section 601 with reference to~~
5 ~~a person upon whom liability is imposed by section 601 or 602,~~
6 ~~the department shall reimburse the county to the extent the~~
7 ~~person is relieved of an obligation to pay the county for~~
8 ~~services or benefits received under this act and paid for by the~~
9 ~~county.~~

10 ~~(c) Fix charges. The liability of a mentally ill person or~~
11 ~~of anyone legally responsible for his or her support shall be~~
12 ~~the amount fixed or charged by the secretary. The payment of the~~
13 ~~amount fixed or charged shall relieve a person of further~~
14 ~~liability for payment for the mental health services.~~

15 ~~(d) Establish criteria. In exercising the powers herein~~
16 ~~conferred, the secretary, by regulation, shall establish~~
17 ~~criteria by which the extent of amount of liability shall be~~
18 ~~determined. Real estate which constitutes the home residence of~~
19 ~~the person who receives services under this act, or of his or~~
20 ~~her spouse, or of a person owing a legal duty to support, shall~~
21 ~~not be considered.~~

22 ~~Section 605. Collection of costs.~~

23 ~~(a) Responsibility. The primary responsibility for~~
24 ~~collecting the cost of care and treatment provided at a facility~~
25 ~~not operated by the Commonwealth, or by an individual, because~~
26 ~~of liability imposed by this act shall rest with the facility or~~
27 ~~the individual, as the case may be, which provides the care and~~
28 ~~treatment.~~

29 ~~(b) Agency.~~

30 ~~(1) Moneys due the Commonwealth by reason of liability~~

~~imposed by this act for care and treatment at a Commonwealth-operated facility shall be collected by the department.~~

~~(2) All moneys due by reason of liability imposed by this act upon a person for care and treatment for which the county makes an expenditure shall be collected by the county.~~

~~(3) If there are moneys due both the Commonwealth and the county by reason of liability imposed by this act upon a person, and the assets of that person are insufficient to discharge the liability in full, the assets shall be applied to the Commonwealth and county on a pro rata basis in proportion to the respective claims of each.~~

~~Section 606. Liability of Commonwealth.~~

~~Except as provided in sections 601 and 602, the Commonwealth shall pay for the following:~~

~~(1) Diagnosis, evaluation and care of patients in Commonwealth-operated facilities or in facilities with which the Commonwealth may contract, by transferring funds to the local authorities pursuant to section 202(c).~~

~~(2) Obligations which may arise under a new program established by the department.~~

~~(3) Inpatient care not exceeding 60 days per benefit period; and partial hospitalization not exceeding 120 days a year for adults or 180 days a year for children under 18 years of age.~~

~~(4) Residential care.~~

~~Section 607. Relief of county from obligation to insure services.~~

~~(a) Application necessary. If local authorities cannot insure the availability of services required under section 301 or if they assert that it would be economically unsound to do~~

~~so, they may make application to the department to be relieved,
for the period of one year, from the duty to insure availability
and shall specify in the application the service involved
alternatives for the provision of services and the facts
relating to the request for relief.~~

~~(b) Action by department. After consideration of an
application and an independent investigation as it deems
appropriate, the department shall determine whether the
application is justified. Upon approval of the application, the
department may assume or otherwise ensure the availability of
the services specified in the application for the year specified
in the application.~~

~~(c) Liability for cost of service. When the department
provides a service under this section, the liability for its
cost shall be apportioned in accordance with section 608(a)(1).
Section 608. State and county grants and payments.~~

~~(a) Specific powers and duties of department. The
department, subject to the provisions of section 603, shall have
the following powers and duties:~~

~~(1) To make annual grants from Commonwealth and Federal
funds to counties to defray part of the cost of county
programs authorized by this act and approved by the
department. Grants shall be in the amount of 90% of the
excess of approved expenditures for the programs not set
forth in section 606 over the amount paid for the same
purpose directly from a public or private funding source to
participating counties, facilities or individuals. Private
contributions donated to county programs or their contract
agencies shall be encouraged and shall not be considered by
the Commonwealth or the county in calculating financial~~

1 ~~obligations under this act.~~

2 ~~(2) To prescribe the time at which the counties shall~~
3 ~~submit to the department annual plans and annual estimates of~~
4 ~~expenditures, and revisions of estimates, to carry out mental~~
5 ~~health programs. Plans and estimates shall contain the~~
6 ~~information prescribed by the secretary by regulation.~~

7 ~~(3) Upon approval of an annual plan and the estimated~~
8 ~~expenditures for a mental health program, to compute an~~
9 ~~annual grant in accordance with the formula established in~~
10 ~~paragraph (1).~~

11 ~~(4) To pay the annual grant in four quarterly~~
12 ~~installments. Quarters shall begin on July 1, October 1,~~
13 ~~January 1 and April 1. Each installment shall be paid at the~~
14 ~~beginning of the quarter if the department is satisfied that~~
15 ~~the county is complying with the regulations of the~~
16 ~~department prescribing minimum services, minimum standards of~~
17 ~~performance of those services and minimum standards of~~
18 ~~personnel administration on a merit basis. The first~~
19 ~~installment shall be paid in the quarter beginning on July 1.~~
20 ~~Moneys received in a quarter may be used at any time during~~
21 ~~the year.~~

22 ~~(5) In the event that sufficient funds have been~~
23 ~~appropriated to pay the full amount of the grants to which~~
24 ~~the counties may be entitled under the provisions of this~~
25 ~~section, to distribute Commonwealth funds among the counties~~
26 ~~by a formula reasonably designed to achieve the objectives of~~
27 ~~this act. In the event that the counties' financial~~
28 ~~obligations under this act shall be reduced in accordance~~
29 ~~with this formula, the counties shall be required to provide~~
30 ~~only those services for which sufficient funds are available.~~

~~(6) To review grants against actual expenditures at any time and to make appropriate adjustments in subsequent grants. If a grant overpayment cannot be recovered through an appropriate adjustment, the department shall effect a refund of the overpayment from the county or counties.~~

~~(b) Priority of certain obligations. For the purpose of this act, the contributions, with respect to services, equivalent to the employer's tax established by the Social Security Act (Public Law 74 271, 42 U.S.C. § 301 et seq.) shall be the first obligation against Commonwealth funds received by the counties under this act.~~

~~Section 609. Supplemental grants.~~

~~The department may make additional grants to a county participating in an approved plan to assist in establishing the services provided for in that plan for the first three years of operation of the plan. The grant shall be supplemental to grants authorized by section 608.~~

~~Section 610. Interim grants for services.~~

~~From the Commonwealth and Federal funds, the department may make grants to a county, a combination of counties or a facility for all or part of the cost of services designed to carry out the provisions of Chapter 3.~~

~~CHAPTER 7~~

~~MISCELLANEOUS PROVISIONS~~

~~Section 701. Forms to be used.~~

~~The secretary may develop suggested forms to be used in carrying out the provisions of this act and may, by regulation, require their use.~~

~~Section 702. Records of persons admitted or committed.~~

~~(a) Contents. When a person is admitted or committed to a~~

~~facility or receives services or benefits at a facility under a provision of this act, the facility shall maintain a complete record pertaining to that person.~~

~~(1) Except as provided in paragraph (2), the record shall include, if available, applications; petitions; affidavits; orders of court; reports of physicians, psychiatrists, psychologists, nurses and social workers; police records; and all clinical records.~~

~~(2) If the information required under paragraph (1) is not available, the record shall consist of a full abstract of the records set forth in paragraph (1), with the essential particulars, including, but not limited to, results of physical examinations, examinations for mental disabilities and physical handicaps, laboratory tests and any other material with reference to the person.~~

~~(b) Transfer. If an individual is transferred to another facility or program under a provision of this act, a copy of all pertinent records pertaining to that person shall accompany him or her.~~

~~(c) Certain requests for copy of record. When a person who has previously received services or benefits at a facility is later given services or benefits at another facility, the first facility shall, upon request from the subsequent facility, furnish a copy of all pertinent records pertaining to the person.~~

~~(d) Inspection limited. A record or portion of a record maintained as provided in this section shall be open to inspection and examination only to those persons designated by the director of a facility at which a person has been admitted or committed or at which the person is receiving services or~~

~~benefits. As to those facilities under the control of the Commonwealth or local authorities, only those persons whom the secretary by regulation designates may inspect these records.~~

~~Section 703. Immunities.~~

~~No person and no governmental or recognized nonprofit health or welfare organization or agency shall be held civilly or criminally liable for a diagnosis, opinion, report or anything done pursuant to the provisions of this act if the person acted in good faith and not falsely, corruptly, maliciously or without reasonable cause. Causes of action based upon gross negligence or incompetence shall not be affected by the immunities granted by this section.~~

~~Section 704. Penalties.~~

~~(a) Offenses defined.~~

~~(1) It is unlawful for a person to disclose without authority the contents of a record or report touching upon any matter concerning a person who has been admitted or committed or is receiving services under this act.~~

~~(2) It is unlawful for a physician to knowingly make a false statement, certificate or report which aids in or causes a person to be admitted or committed or to receive services under this act.~~

~~(b) Penalty. A violation of subsection (a)(1) or (2) is a misdemeanor of the third degree punishable by a fine of not more than \$2,000 or imprisonment of not more than one year, or both.~~

~~Section 705. Administrative agency law to apply.~~

~~The provisions of this act shall be subject to the provisions of 2 Pa.C.S. (relating to administrative law and procedure).~~

~~CHAPTER 8~~

~~REPEALS AND EFFECTIVE DATE~~

1 ~~Section 801. Repeals.~~

2 ~~(a) Absolute. Section 408 of the act of July 9, 1976~~
3 ~~(P.L.817, No.143), known as the Mental Health Procedures Act, is~~
4 ~~repealed.~~

5 ~~(b) Inconsistent. The act of October 20, 1966 (3rd~~
6 ~~Sp.Sess., P.L.96, No.6), known as the Mental Health and Mental~~
7 ~~Retardation Act of 1966, is repealed insofar as it is~~
8 ~~inconsistent with this act.~~

9 ~~Section 802. Effective date.~~

10 ~~This act shall take effect in 60 days.~~

11 CHAPTER 1

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12 PRELIMINARY PROVISIONS

13 SECTION 101. SHORT TITLE.

14 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE MENTAL HEALTH
15 UNIFIED SYSTEM ACT OF 1989.

16 SECTION 102. DEFINITIONS.

17 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
18 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
19 CONTEXT CLEARLY INDICATES OTHERWISE:

20 "ADMINISTRATOR." THE PERSON APPOINTED TO CARRY OUT THE
21 DUTIES SPECIFIED IN SECTION 304.

22 "BOARD." A COUNTY MENTAL HEALTH BOARD, AS ESTABLISHED
23 PURSUANT TO SECTION 302.

24 "COUNTY." A COUNTY OR A FIRST CLASS CITY.

25 "COUNTY PROGRAM." A PROGRAM ESTABLISHED BY A COUNTY, OR TWO
26 OR MORE COUNTIES ACTING IN CONCERT. THE TERM INCLUDES A COMPLEX
27 OF SERVICES PROVIDING A CONTINUUM OF CARE FOR PERSONS WITH
28 MENTAL ILLNESS.

29 "DEPARTMENT." THE DEPARTMENT OF PUBLIC WELFARE OF THE
30 COMMONWEALTH.

1 "DIRECTOR." THE ADMINISTRATIVE HEAD OF A FACILITY. THE TERM
2 INCLUDES, BUT IS NOT LIMITED TO, SUPERINTENDENTS OF COMMONWEALTH
3 FACILITIES.

4 "EXTERNAL ADVOCACY." A PROGRAM WHICH ASSISTS PERSONS WHO USE
5 MENTAL HEALTH SERVICES OR THEIR FAMILIES IN RESOLVING THEIR
6 COMPLAINTS, PROBLEMS, OR CONCERNS RELATED TO THEIR USE OF MENTAL
7 HEALTH SERVICES, AND WHICH IS NOT OPERATED BY FEDERAL, STATE OR
8 LOCAL GOVERNMENT.

9 "FACILITY." A MENTAL HEALTH ESTABLISHMENT, HOSPITAL, CLINIC,
10 INSTITUTION, CENTER OR OTHER ORGANIZATIONAL UNIT, OR PART
11 THEREOF, WHICH IS DEVOTED PRIMARILY TO THE DIAGNOSIS, TREATMENT,
12 CARE OR REHABILITATION OF PERSONS WITH MENTAL ILLNESS.

13 "INPATIENT SERVICES." DIAGNOSIS, EVALUATION, CLASSIFICATION,
14 CARE OR TREATMENT RENDERED TO A PERSON ADMITTED OR COMMITTED TO
15 A FACILITY FOR MENTAL HEALTH TREATMENT FOR A CONTINUOUS PERIOD
16 OF 24 HOURS OR LONGER.

17 "INTENSIVE CASE MANAGEMENT." CONTINUOUS INDIVIDUALIZED
18 ASSISTANCE AND OUTREACH TO ADULTS AND CHILDREN WITH SERIOUS
19 MENTAL ILLNESS.

20 "LOCAL AUTHORITIES." COUNTY COMMISSIONERS, COUNTY COUNCIL
21 MEMBERS OR THE MAYOR OF A FIRST CLASS CITY AND COUNTY MENTAL
22 HEALTH PROGRAM ADMINISTRATORS.

23 "MENTAL ILLNESS." ANY MENTAL DISORDER OR EMOTIONAL
24 DISTURBANCE WHICH SO LESSENS THE CAPACITY OF A PERSON TO USE
25 CUSTOMARY SELF-CONTROL, JUDGMENT AND DISCRETION IN THE CONDUCT
26 OF THE PERSON'S AFFAIRS AND SOCIAL RELATIONS AS TO MAKE IT
27 NECESSARY OR ADVISABLE FOR THE PERSON TO RECEIVE SERVICES AS
28 PROVIDED IN THIS ACT. THE TERM SHALL NOT INCLUDE MENTAL
29 RETARDATION, SENILITY OR DRUG OR ALCOHOL DEPENDENCE UNLESS SUCH
30 CONDITION IS ALSO PRESENT WITH MENTAL ILLNESS.

1 "OUTPATIENT SERVICES." DIAGNOSIS, EVALUATION, CLASSIFICATION,
2 COUNSELING, CARE, TREATMENT OR REHABILITATION RENDERED UNDER
3 THIS ACT TO A MENTALLY DISABLED PERSON.

4 "PARTIAL HOSPITALIZATION." DIAGNOSIS, EVALUATION,
5 CLASSIFICATION, CARE, TREATMENT OR REHABILITATION RENDERED TO A
6 MENTALLY ILL PERSON ADMITTED OR COMMITTED TO A FACILITY FOR SOME
7 PORTION OF ONE OR MORE 24-HOUR PERIODS.

8 "SECRETARY." THE SECRETARY OF PUBLIC WELFARE OF THE
9 COMMONWEALTH.

10 "SERVICE MANAGEMENT." SERVICES RENDERED TO A MENTALLY ILL
11 PERSON TO ASSURE APPROPRIATE AND TIMELY USE OF GENERIC
12 SPECIALIZED SERVICES AND PROVIDE CONTINUITY OF SERVICES AND
13 COORDINATION BETWEEN MENTAL HEALTH AND OTHER PUBLIC AND PRIVATE
14 HEALTH AND HUMAN SERVICES.

15 CHAPTER 2

16 RESPONSIBILITIES OF COMMONWEALTH

17 SECTION 201. GENERAL POWERS AND DUTIES OF DEPARTMENT.

18 THE DEPARTMENT SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

19 (1) SUBJECT TO AVAILABLE FUNDS, TO ASSURE WITHIN THIS
20 COMMONWEALTH THE AVAILABILITY AND EQUITABLE PROVISION OF
21 ADEQUATE SERVICES FOR ADULTS AND CHILDREN WHO ARE MENTALLY
22 ILL, REGARDLESS OF RACE, CREED, COLOR, NATIONAL ORIGIN,
23 RELIGION, RESIDENCE, DISABILITY, AGE, GENDER, ECONOMIC OR
24 SOCIAL STATUS. MENTALLY ILL PERSONS SHALL BE ASSURED OF
25 ADEQUATE AND APPROPRIATE CARE AND TREATMENT IN A MANNER
26 WHICH:

27 (I) PROVIDES APPROPRIATE SERVICES TO THE MAXIMUM
28 EXTENT POSSIBLE WITHIN THE COMMUNITY.

29 (II) ENCOURAGES THE UTILIZATION OF VOLUNTARY CARE
30 AND SELF-HELP.

1 (III) PROMOTES THE USE OF SERVICES IN THE LEAST
2 RESTRICTIVE SETTING APPROPRIATE TO THE NEEDS OF THE
3 INDIVIDUAL.

4 (IV) ENSURES THE INTEGRATION OF A FULL RANGE OF
5 TREATMENT ALTERNATIVES AT THE COMMUNITY LEVEL.

6 (2) TO MAKE, WITH THE ADVICE OF THE MENTAL HEALTH AND
7 MENTAL RETARDATION ADVISORY COMMITTEE, AND ENFORCE
8 REGULATIONS NECESSARY AND APPROPRIATE TO THE PROPER
9 ACCOMPLISHMENT OF THE DUTIES AND FUNCTIONS IMPOSED BY THIS
10 ACT. THE REGULATIONS SHALL NOT BECOME EFFECTIVE UNTIL AT
11 LEAST 30 DAYS AFTER THE DEPARTMENT HAS GIVEN THE LOCAL
12 AUTHORITIES WRITTEN NOTICE OF THE PROPOSED REGULATIONS AND
13 AFFORDED THE LOCAL AUTHORITIES THE OPPORTUNITY FOR A HEARING
14 BEFORE THE DEPARTMENT ON THE PROPOSED REGULATIONS.

15 (3) TO CONSULT WITH AND ASSIST EACH COUNTY IN CARRYING
16 OUT THE PROVISIONS OF THIS ACT AND, UPON WRITTEN APPLICATION
17 OF THE LOCAL AUTHORITIES AND OPPORTUNITY FOR A HEARING BEFORE
18 THE DEPARTMENT, TO APPROVE THE REQUEST OF TWO OR MORE
19 COUNTIES TO JOIN IN ESTABLISHING A PROGRAM TO PROVIDE THE
20 SERVICES REQUIRED BY THIS ACT.

21 (4) TO ADOPT PLANS FOR THE DELIVERY OF MENTAL HEALTH
22 SERVICES. THE PLANS SHALL BE BASED ON NEEDS IDENTIFIED BY
23 LOCAL AUTHORITIES AND DEVELOPED THROUGH A PROCESS OF PUBLIC
24 PARTICIPATION WHICH INCLUDES THE INVOLVEMENT OF ORGANIZATIONS
25 REPRESENTING PEOPLE WHO USE MENTAL HEALTH SERVICES AND THEIR
26 FAMILIES, ADVOCATES, MENTAL HEALTH PROFESSIONALS AND SERVICE
27 PROVIDERS.

28 (5) TO ESTABLISH AND MAINTAIN WORKING RELATIONSHIPS WITH
29 OTHER GOVERNMENTAL BODIES, INCLUDING, BUT NOT LIMITED TO, THE
30 DEPARTMENT OF AGING, DEPARTMENT OF COMMUNITY AFFAIRS,

1 DEPARTMENT OF EDUCATION, DEPARTMENT OF HEALTH, DEPARTMENT OF
2 LABOR AND INDUSTRY, THE PENNSYLVANIA HOUSING AND FINANCE
3 AGENCY, AND PUBLIC AND PRIVATE AGENCIES, INSTITUTIONS AND
4 ORGANIZATIONS SO AS TO ASSURE MAXIMUM EFFECTIVENESS AND
5 UTILIZATION OF SERVICES AND FACILITIES WHICH MAY BE OF
6 BENEFIT TO PERSONS WITH MENTAL ILLNESS.

7 (6) TO MAKE GRANTS TO ALL COUNTY MENTAL HEALTH PROGRAMS
8 THAT SUBMIT AN APPROVED PLAN, IN CONJUNCTION WITH OTHER LOCAL
9 PUBLIC CHILD SERVING AGENCIES, FOR THE DEVELOPMENT OR
10 CONTINUATION OF LOCAL CHILDREN AND ADOLESCENT SERVICE SYSTEM
11 PROGRAMS (CASSP) TO INSURE COORDINATION OF SERVICES WITH AT
12 LEAST ONE OTHER PUBLIC CHILD SERVING AGENCY AND PROVIDE FOR A
13 MULTI-AGENCY TEAM TO RESPOND TO THE NEEDS OF INDIVIDUAL
14 CHILDREN.

15 (7) TO MAKE GRANTS, PAY SUBSIDIES, PURCHASE SERVICES AND
16 PROVIDE REIMBURSEMENT FOR SERVICES IN ACCORDANCE WITH THIS
17 ACT.

18 (8) TO LICENSE OR APPROVE PROGRAMS AND FACILITIES
19 INTENDED FOR CARE, TREATMENT AND REHABILITATION OF PERSONS
20 WITH MENTAL ILLNESS.

21 (9) TO ESTABLISH FAIR PROCEDURES FOR THE RESOLUTION OF
22 GRIEVANCES FROM CONSUMERS OF MENTAL HEALTH SERVICES, THEIR
23 FAMILIES, PROVIDERS OF MENTAL HEALTH SERVICES AND LOCAL
24 AUTHORITIES.

25 (10) TO PROVIDE TRAINING AND TECHNICAL ASSISTANCE TO
26 COUNTY PROGRAMS AND BOARDS ON MINORITY POPULATIONS. SUCH
27 TRAINING SHALL INCLUDE HISTORY, CULTURE, VALUES AND LANGUAGE
28 AND ETHNIC SENSITIVITY PRACTICE THEORY. TRAINING SHALL ALSO
29 INCLUDE TECHNIQUES FOR ENGAGING AND ASSESSING THE NEEDS AND
30 STRENGTHS OF MINORITY CLIENTS.

(11) TO PROVIDE TRAINING AND TECHNICAL ASSISTANCE IN THE MANAGEMENT AND DELIVERY OF MENTAL HEALTH SERVICES, THE ADMINISTRATION OF INVOLUNTARY COMMITMENT STANDARDS AND PROCEDURES AND ANY SUCH ADDITIONAL SUBJECTS AS MAY BE REQUIRED.

(12) TO OPERATE STATE MENTAL HOSPITALS AND OTHER FACILITIES AND SERVICES ESTABLISHED UNDER SECTION 202, AND ASSURE THE AVAILABILITY OF EXTERNAL ADVOCACY SERVICES IN ALL STATE OPERATED FACILITIES AND SERVICES.

SECTION 202. COMMONWEALTH FACILITIES.

(A) AUTHORITY TO OPERATE.--THE DEPARTMENT SHALL OPERATE ALL STATE MENTAL HEALTH FACILITIES AND SHALL ASSIGN FUNCTIONS TO EACH AS THE SECRETARY SHALL PRESCRIBE.

(B) ADDITIONAL FACILITIES AND PROGRAMS.--THE DEPARTMENT IS HEREBY AUTHORIZED TO ESTABLISH, EXTEND, OPERATE AND MAINTAIN ADDITIONAL FACILITIES AND PROGRAMS AND PROVIDE MENTAL HEALTH SERVICES IN THE ADDITIONAL FACILITIES, PROVIDED THAT SUCH FACILITY, PROGRAM OR SERVICE SHALL BE ESTABLISHED AND OPERATED UPON REQUEST OF A COUNTY PROGRAM AND BE INCLUDED IN AN APPROVED COUNTY PLAN.

(C) DIRECTOR QUALIFICATIONS.--ESTABLISH QUALIFICATIONS OF DIRECTORS OF STATE OPERATED FACILITIES, SERVICES OR PROGRAMS WHICH SHALL INCLUDE EXPERIENCE IN THE ADMINISTRATION OF PSYCHIATRIC HOSPITALS OR OTHER MENTAL HEALTH FACILITIES, SERVICES OR PROGRAMS; ABILITY TO ORGANIZE, DIRECT AND COORDINATE THE OPERATION OF THE FACILITY, SERVICE OR PROGRAM; AND ANY OTHER QUALIFICATIONS AS MAY BE ESTABLISHED IN REGULATION BY THE DEPARTMENT.

(D) DUTY TO ESTABLISH RATES.--THE DEPARTMENT SHALL ANNUALLY, BY REGULATION, ESTABLISH A SCHEDULE OF RATES FOR THE CARE AND

1 TREATMENT OF PERSONS AT STATE MENTAL HEALTH FACILITIES.

2 CHAPTER 3

3 RESPONSIBILITIES OF COUNTIES

4 SECTION 301. GENERAL POWERS AND DUTIES OF LOCAL AUTHORITIES.

5 (A) DUTY TO ESTABLISH COUNTY PROGRAM.--THE LOCAL AUTHORITIES
6 OF EACH COUNTY, SEPARATELY OR IN CONCERT WITH ANOTHER COUNTY OR
7 COUNTIES, AS THE SECRETARY MAY APPROVE, SHALL ESTABLISH A COUNTY
8 MENTAL HEALTH PROGRAM FOR THE PREVENTION OF MENTAL ILLNESS AND
9 FOR THE DIAGNOSIS, CARE, TREATMENT AND REHABILITATION OF ADULTS
10 AND CHILDREN WITH MENTAL ILLNESS; SHALL APPOINT AN ADMINISTRATOR
11 OR DESIGNATE THE ADMINISTRATOR APPOINTED UNDER THE ACT OF
12 OCTOBER 20, 1966 (3RD SP.SESS., P.L.96, NO.6), KNOWN AS THE
13 MENTAL HEALTH AND MENTAL RETARDATION ACT OF 1966; AND SHALL HAVE
14 THE POWER TO MAKE APPROPRIATIONS FOR THESE PURPOSES. THE PROGRAM
15 SHALL CONFORM TO REGULATIONS PROMULGATED BY THE DEPARTMENT.

16 (B) PERSONNEL.--TO OPERATE THE COUNTY MENTAL HEALTH PROGRAM,
17 THE LOCAL AUTHORITIES SHALL EMPLOY SUCH PERSONNEL AS ARE
18 NECESSARY. THE SELECTION, APPOINTMENT AND RETENTION OF SUCH
19 EMPLOYEES, AND THE TERMINATION OF THEIR EMPLOYMENT SHALL BE ON
20 THE BASIS OF A MERIT SYSTEM WHICH SHALL CONFORM TO MINIMUM
21 STANDARDS ESTABLISHED BY REGULATIONS OF THE DEPARTMENT.

22 (C) DUTY TO PROVIDE CERTAIN SERVICES.--SUBJECT TO AVAILABLE
23 FUNDS, LOCAL AUTHORITIES, IN COOPERATION WITH THE DEPARTMENT,
24 SHALL INSURE THAT A FULL CONTINUUM OF SERVICES ARE AVAILABLE FOR
25 ADULTS AND CHILDREN IN NEED OF MENTAL HEALTH SERVICES, INCLUDING
26 THE FOLLOWING SERVICES AS A MINIMUM:

27 (1) INPATIENT SERVICES.

28 (2) OUTPATIENT SERVICES.

29 (3) PARTIAL HOSPITALIZATION SERVICES.

30 (4) EMERGENCY SERVICES AND CRISIS INTERVENTION 24 HOURS

1 A DAY, SEVEN DAYS A WEEK.

2 (5) CONSULTATION AND EDUCATION SERVICES TO PROFESSIONAL
3 PERSONNEL AND COMMUNITY AGENCIES.

4 (6) SPECIALIZED REHABILITATIVE AND VOCATIONAL SERVICES.

5 (7) RESIDENTIAL CARE.

6 (8) UNIFIED PROCEDURES FOR INTAKE ASSESSMENT, DIAGNOSTIC
7 TESTING AND INFORMATION AND REFERRAL FOR ALL PUBLICLY FUNDED
8 MENTAL HEALTH SERVICES.

9 (9) UNIFORM DISCHARGE PLANNING FOR ALL ADULTS OR
10 CHILDREN RECEIVING PUBLICLY FINANCED INPATIENT SERVICES.

11 (10) SERVICE MANAGEMENT.

12 (11) INTENSIVE CASE MANAGEMENT.

13 (12) SUPPORT SERVICES FOR PERSONS WITH MENTAL ILLNESS,
14 THEIR FAMILIES OR CARE GIVERS. SUCH SERVICES MAY INCLUDE:

15 (I) SELF-HELP GROUPS.

16 (II) FAMILY SUPPORT SERVICES INCLUDING FAMILY-BASED
17 INTENSIVE IN-HOME MENTAL HEALTH SERVICES AND RESPITE
18 CARE.

19 (13) ANY OTHER SERVICE OR PROGRAM DESIGNED TO PREVENT
20 MENTAL ILLNESS OR THE NECESSITY OF ADMITTING OR COMMITTING
21 MENTALLY DISABLED PERSONS TO A FACILITY OR TO INSURE
22 COORDINATION WITH OTHER HUMAN SERVICES.

23 (D) POWER TO PURCHASE SERVICES.--SERVICES REQUIRED OR
24 AUTHORIZED UNDER THIS ACT MAY BE PROVIDED EITHER DIRECTLY OR BY
25 PURCHASE OF SUCH SERVICES, INCLUDING THE PURCHASE OF SERVICES
26 FROM THE COMMONWEALTH AS APPROPRIATE, PROVIDED HOWEVER CONTRACTS
27 TO PURCHASE SERVICES SHALL CONTAIN A REQUIREMENT THAT ALLOWS FOR
28 REASONABLE ADVANCE NOTICE TO THE LOCAL AUTHORITY OF THE PROPOSED
29 TERMINATION OR TRANSFER OF ANY INDIVIDUAL FROM SERVICE.

30 (E) DUTY TO ESTABLISH LOCAL BOARDS.--LOCAL AUTHORITIES SHALL

1 ESTABLISH LOCAL MENTAL HEALTH BOARDS IN ACCORDANCE WITH THE
2 PROVISIONS OF SECTION 302.

3 SECTION 302. ESTABLISHMENT OF COUNTY MENTAL HEALTH BOARDS.

4 (A) CREATION AND MEMBERSHIP.--EXCEPT IN CITIES OF THE FIRST
5 CLASS, THE GOVERNING BODY OF A COUNTY OR TWO OR MORE COUNTIES
6 PARTICIPATING IN CONCERT IN A COUNTY MENTAL HEALTH PROGRAM SHALL
7 APPOINT A COUNTY MENTAL HEALTH BOARD, HEREINAFTER CALLED THE
8 BOARD, WHICH SHALL CONSIST OF 15 PERSONS WHO RESIDE IN THE
9 COUNTY TO BE SERVED BY THAT PROGRAM, INCLUDING A REPRESENTATIVE
10 OF THE ELECTED COUNTY GOVERNING BODY. THERE SHALL BE
11 PROPORTIONAL REPRESENTATION OF THE MINORITY POPULATION OF THE
12 COUNTY, AND MEMBERSHIP SHALL INCLUDE AT LEAST TWO PEOPLE WHO USE
13 MENTAL HEALTH SERVICES, TWO FAMILY MEMBERS, AN ADVOCACY
14 ORGANIZATION REPRESENTATIVE AND TWO MENTAL HEALTH PROFESSIONALS.
15 APPROPRIATE REPRESENTATION SHALL ALSO BE DRAWN FROM HEALTH AND
16 HUMAN SERVICES PROFESSIONALS AND ORGANIZATIONS. WHERE TWO OR
17 MORE COUNTIES ARE PARTICIPATING IN CONCERT IN THE COUNTY
18 PROGRAM, THE BOARD MEMBERS SHALL BE SELECTED SUBSTANTIALLY ON A
19 PROPORTIONATE BASIS TO POPULATION. EACH COUNTY, REGARDLESS OF
20 POPULATION, SHALL HAVE A COUNTY COMMISSIONER ON THE BOARD.

21 (B) MEMBERS, TERMS AND EXPENSES.--EACH MEMBER SHALL BE
22 APPOINTED FOR PERIOD OF THREE YEARS. THE INITIAL APPOINTMENT OF
23 MEMBERS OF THE BOARD SHALL BE FOR OVERLAPPING PERIODS OF THREE,
24 TWO AND ONE YEARS. NO MEMBER SHALL SERVE MORE THAN THREE
25 CONSECUTIVE TERMS. IN MAKING THE INITIAL APPOINTMENTS, INsofar
26 AS POSSIBLE, ONE-THIRD OF THE MEMBERS SHALL BE APPOINTED TO THE
27 OVERLAPPING PERIODS. ANY VACANCIES OCCURRING IN THE MEMBERSHIP
28 OF THE BOARD SHALL BE FILLED BY THE LOCAL AUTHORITIES FOR THE
29 UNEXPIRED PERIOD. THE LOCAL AUTHORITIES MAY REMOVE A MEMBER OF
30 THE BOARD DURING HIS OR HER PERIOD OF SERVICE FOR CAUSE ONLY.

1 THE MEMBERS SHALL SERVE WITHOUT COMPENSATION OTHER THAN
2 REIMBURSEMENT FOR TRAVEL AND OTHER ACTUAL EXPENSES INCURRED IN
3 CONNECTION WITH CALLED MEETINGS OF THE BOARD.

4 (C) QUORUM, MEETINGS.--A MAJORITY OF THE BOARD MEMBERS SHALL
5 CONSTITUTE A QUORUM. THE MEMBERS SHALL SELECT A CHAIRPERSON FROM
6 AMONG THEMSELVES. EACH BOARD SHALL MEET AT LEAST ONCE EACH
7 QUARTER, AND MAY, BY MAJORITY VOTE OF THE MEMBERSHIP, ESTABLISH
8 MORE FREQUENT REGULAR MEETINGS. SPECIAL MEETINGS SHALL BE HELD
9 ON CALL OF THE CHAIRPERSON, AND IT SHALL BE THE DUTY OF THE
10 CHAIRPERSON TO CALL A SPECIAL MEETING UPON THE WRITTEN REQUEST
11 OF ONE-THIRD OR MORE OF THE MEMBERS, NOT INCLUDING VACANCIES OF
12 THE BOARD.

13 (D) FIRST CLASS CITIES.--IN CITIES OF THE FIRST CLASS, A
14 LOCAL MENTAL HEALTH ADVISORY BOARD SHALL BE APPOINTED AND THE
15 MEMBERS SHALL HOLD OFFICE UNDER PROVISION OF THE CITY CHARTER.
16 SECTION 303. POWERS AND DUTIES OF BOARD.

17 (A) IMPOSITION.--EACH COUNTY MENTAL HEALTH BOARD SHALL HAVE
18 THE POWER AND ITS DUTY SHALL BE:

19 (1) TO REVIEW AND EVALUATE THE COUNTY'S MENTAL HEALTH
20 NEEDS, SERVICES, FACILITIES AND SPECIAL PROBLEMS IN RELATION
21 TO THE LOCAL NEEDS, SERVICES AND PROGRAMS.

22 (2) EXCEPT IN CITIES OF THE FIRST CLASS, TO RECOMMEND TO
23 LOCAL AUTHORITIES, FOR THE POSITION OF ADMINISTRATOR, AT
24 LEAST TWO PERSONS WHO MEET THE STANDARDS OF PROFESSIONAL
25 SKILL AND EXPERIENCE AS THE DEPARTMENT MAY ESTABLISH BY
26 REGULATION.

27 (3) TO DEVELOP AN ANNUAL PLAN FOR THE PROGRAMS REQUIRED
28 BY SECTION 301(C). THE PLAN SHALL BE DEVELOPED WITH THE
29 ADMINISTRATOR, ORGANIZATIONS REPRESENTING PEOPLE WHO USE
30 MENTAL HEALTH SERVICES AND THEIR FAMILIES, MENTAL HEALTH

1 PROFESSIONALS, SERVICE PROVIDERS, ADVOCATES AND OTHER
2 CONCERNED INDIVIDUALS AND ORGANIZATIONS.

3 (4) TO MAKE RECOMMENDATIONS TO THE LOCAL AUTHORITIES
4 REGARDING THE PROGRAM AND ANY OTHER MATTERS RELATING TO
5 SERVICES FOR PERSONS WITH MENTAL ILLNESS IN THE COUNTY
6 INCLUDING THE PURCHASE OF SERVICE CONTRACTS AND THE EXTENT OF
7 FUNDS REQUIRED TO IMPLEMENT THE PROGRAM.

8 (5) TO REVIEW AND EVALUATE THE PERFORMANCE OF THE
9 PROGRAMS AND SERVICES DEVELOPED BY THE COUNTY AND AGENCIES
10 UNDER CONTRACT WITH THE COUNTY TO SERVE PERSONS WITH MENTAL
11 ILLNESS.

12 (B) ASSIGNMENT OF BOARD'S FUNCTIONS.--THE FUNCTIONS OF THE
13 BOARD MAY BE PERFORMED BY A MULTIPURPOSE BOARD ACTING IN THE
14 HUMAN SERVICES FIELD, IF THE LOCAL AUTHORITIES SO ELECT, WITH
15 APPROPRIATE REPRESENTATION AS SPECIFIED IN SECTION 302(A)
16 INSOFAR AS POSSIBLE, AND SUBJECT TO THE APPROVAL OF THE
17 DEPARTMENT.

18 SECTION 304. POWERS AND DUTIES OF ADMINISTRATOR.

19 THE COUNTY PROGRAM ADMINISTRATOR APPOINTED OR DESIGNATED
20 PURSUANT TO SECTION 301 SHALL HAVE THE POWER AND DUTY:

21 (1) TO ADMINISTER THE COUNTY MENTAL HEALTH PROGRAM.

22 (2) TO THE EXTENT THAT FUNDS ARE AVAILABLE, TO INSURE
23 THAT THE COUNTY SERVICES REQUIRED BY THIS ACT ARE AVAILABLE.

24 (3) TO PROVIDE STAFF SERVICES TO THE BOARD.

25 (4) TO MAKE REPORTS TO THE DEPARTMENT IN THE FORM AND
26 CONTAINING THE INFORMATION WHICH THE DEPARTMENT REQUIRES.

27 (5) TO DEVELOP, TOGETHER WITH THE BOARD, ANNUAL PLANS
28 FOR THE PROGRAMS REQUIRED BY THIS ACT. THE PLANS MAY BE AN
29 INTEGRAL PART OF A BROADER COUNTY HUMAN SERVICES PLAN AND
30 MUST INCLUDE PROPOSED UTILIZATION OF COMMONWEALTH-OPERATED

1 FACILITIES.

2 (6) TO SUBMIT TO LOCAL AUTHORITIES ANNUAL PLANS AND
3 ESTIMATED COSTS FOR THE PROVISION OF SERVICES, ESTABLISHMENT
4 AND OPERATION OF FACILITIES, AND OTHER RELATED MATTERS FOR
5 REVIEW, APPROVAL AND TRANSMITTAL TO THE DEPARTMENT.

6 (7) TO REVIEW AND EVALUATE FACILITIES AND SERVICES, AND
7 TO COOPERATE WITH THE DEPARTMENT IN THE MAINTENANCE OF
8 ESTABLISHED STANDARDS.

9 (8) TO SUBMIT AN ANNUAL REPORT TO THE LOCAL AUTHORITIES,
10 THE BOARD AND THE DEPARTMENT ON ALL MAJOR ACTIVITIES AND
11 EXPENDITURES OF THE PROGRAM AND THE ADMINISTRATION THEREOF.

12 (9) TO MAINTAIN EFFECTIVE LIAISON WITH GOVERNMENTAL AND
13 PRIVATE COMMUNITY HEALTH AND HUMAN SERVICES AGENCIES AND
14 ORGANIZATIONS AND COMMONWEALTH-OPERATED FACILITIES.

15 (10) TO ANALYZE AND EVALUATE NEEDS OF AND SERVICES FOR
16 PERSONS WITH MENTAL ILLNESS AND THEIR FAMILIES IN THE COUNTY
17 AND RECOMMEND IMPROVEMENTS FOR SERVICES AND PROGRAM OUTCOMES
18 TO THE BOARD AND LOCAL AUTHORITIES.

19 (11) TO ARRANGE FOR THE PROVISION OF CONTINUITY OF
20 SERVICES AND DISCHARGE PLANNING AND AUTHORIZATION OF FUNDING
21 FOR INPATIENT CARE PURSUANT TO SECTION 401.

22 (12) ASSURE THAT PERSONS WHO USE MENTAL HEALTH SERVICES
23 AND THEIR FAMILIES ARE AFFORDED INFORMATION ABOUT AND ACCESS
24 TO EXISTING EXTERNAL ADVOCACY AND RIGHTS PROTECTION PROGRAMS.

25 SECTION 305. COUNTY MENTAL HEALTH PLAN.

26 (A) ANNUAL PREPARATION OF PLAN.--PURSUANT TO REQUIREMENTS
27 AND PROCEDURES IN SECTIONS 301, 302 AND 304, EACH COUNTY SHALL
28 PREPARE AND SUBMIT TO THE DEPARTMENT FOR APPROVAL AN ANNUAL PLAN
29 AND ESTIMATE OF EXPENDITURES TO CARRY OUT THE MENTAL HEALTH
30 PROGRAM REQUIRED BY THIS ACT.

1 (B) CONTENTS OF PLAN.--THE PLAN SHALL INCLUDE, BUT NOT BE
2 LIMITED TO, INFORMATION ON THE CURRENT AND PROJECTED STATUS OF
3 THE COMPREHENSIVE TREATMENT AND SUPPORT SERVICES REQUIRED BY
4 SECTION 301; THE NUMBER AND RESIDENTIAL ARRANGEMENTS OF THE
5 PRIORITY POPULATIONS IDENTIFIED BY THE DEPARTMENT AND THE LOCAL
6 AUTHORITY; THE AMOUNT, COST AND OUTCOMES OF SERVICES REQUIRED BY
7 THIS ACT PROVIDED TO PRIORITY POPULATIONS; THE COUNTY'S
8 PROJECTED UTILIZATION OF EACH LEVEL OF STATE MENTAL HOSPITAL
9 SERVICE AND THE PROTOCOLS, INCLUDING DISPUTE RESOLUTION
10 MECHANISMS, WHICH SHALL BE USED FOR ADMITTING, MONITORING
11 TREATMENT AND DISCHARGING COUNTY RESIDENTS USING STATE MENTAL
12 HOSPITAL SERVICES; THE PROTOCOLS TO BE USED IN AWARDED PURCHASE
13 OF SERVICE CONTRACTS INCLUDING NONDISCRIMINATION PROVISIONS AND
14 DISPUTE RESOLUTION MECHANISMS; AND ANY OTHER INFORMATION AS THE
15 DEPARTMENT SHALL REQUIRE.

16 (C) PREPARATION TIMETABLE.--THE PLAN SHALL BE SUBMITTED TO
17 THE DEPARTMENT IN ACCORDANCE WITH PUBLISHED TIME FRAMES.

18 (D) COORDINATION OF CHILDREN'S PROGRAMS SPECIFICALLY
19 REQUIRED.--THE PLAN SHALL INCLUDE A SPECIFIC SECTION ADDRESSING
20 THE NEEDS OF CHILDREN WITH SERIOUS MENTAL HEALTH PROBLEMS AND
21 THE COORDINATION OF MENTAL HEALTH SERVICES TO CHILDREN WITH
22 OTHER YOUTH SERVING AGENCIES AND PROGRAMS.

23 CHAPTER 4

24 CONTINUITY OF SERVICES AND DISCHARGE PLANNING

25 SECTION 401. GENERAL PROVISIONS FOR EXTENDED CARE.

26 (A) DISCHARGE ASSISTANCE REQUIRED.--A PERSON RECEIVING
27 PUBLICLY FUNDED INPATIENT CARE SHALL BE PROVIDED WITH DISCHARGE
28 PLANNING AND ASSISTANCE BY THE LOCAL AUTHORITIES IN CONJUNCTION
29 WITH THE FACILITY. APPROPRIATE STAFF FROM THE INPATIENT
30 FACILITY, INCLUDING STATE MENTAL HOSPITALS WHEN APPROPRIATE,

1 SHALL JOINTLY DEVELOP DISCHARGE PLANS WITH LOCAL AUTHORITIES.

2 (B) ESSENTIAL ELEMENTS OF ASSISTANCE.--DISCHARGE PLANNING
3 AND ASSISTANCE FOR PERSONS RECEIVING STATE-FUNDED INPATIENT CARE
4 SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

5 (1) AN INDIVIDUALIZED SERVICE PLAN THAT INCLUDES
6 PROVISIONS FOR HOUSING, SOCIAL AND FINANCIAL SUPPORT,
7 TREATMENT AND NEEDED SERVICES.

8 (2) RETURN OF ALL PERSONAL POSSESSIONS.

9 (3) TRANSPORTATION ASSISTANCE.

10 (4) INITIAL APPOINTMENTS FOR ALL SERVICES TO BE PROVIDED
11 FOLLOWING DISCHARGE FROM THE FACILITY.

12 (C) NOTIFICATIONS REGARDING DISCHARGED PATIENTS.--
13 APPROPRIATE LOCAL AUTHORITIES SHALL BE NOTIFIED WHEN ANY
14 PUBLICLY FINANCED PATIENT HAS BEEN DISCHARGED FROM INPATIENT
15 CARE OR LEAVES A FACILITY AGAINST MEDICAL ADVICE.

16 CHAPTER 5

17 RIGHTS OF INDIVIDUALS

18 SECTION 501. RIGHTS OF PERSONS WHO USE MENTAL HEALTH SERVICES.

19 A PERSON RECEIVING MENTAL HEALTH SERVICES UNDER THIS ACT
20 SHALL HAVE THE RIGHT:

21 (1) TO BE TREATED WITH DIGNITY AND RESPECT.

22 (2) TO RECEIVE APPROPRIATE, INDIVIDUALIZED TREATMENT AND
23 SERVICES IN THE LEAST RESTRICTIVE MANNER AND APPROPRIATE
24 SETTING IN ACCORDANCE WITH AN INDIVIDUALIZED SERVICE PLAN.

25 (3) TO PARTICIPATE IN THE DEVELOPMENT OF THEIR
26 INDIVIDUAL SERVICE PLAN AND BE INFORMED OF ANY MEDICATIONS
27 AND PROCEDURES PRESCRIBED, THEIR PURPOSE AND POSSIBLE SIDE
28 EFFECTS.

29 (4) TO COMMUNICATE WITH AND TO BE ALONE AT AN INTERVIEW
30 WITH HIS OR HER COUNSEL, A MEMBER OF THE CLERGY, A

1 REPRESENTATIVE OF THE DEPARTMENT OR AN ADVOCATE; AND TO SEND
2 SEALED COMMUNICATIONS TO A FACILITY DIRECTOR, TO A MEMBER OF
3 HIS OR HER FAMILY, TO THE DEPARTMENT, TO THE COURT, IF ANY,
4 WHICH COMMITTED THE PERSON AND TO THE GOVERNOR.

5 (5) TO BE FURNISHED WITH WRITING MATERIALS AND
6 REASONABLE OPPORTUNITY FOR COMMUNICATING WITH A PERSON
7 OUTSIDE A FACILITY IF RECEIVING INPATIENT SERVICES. THESE
8 COMMUNICATIONS SHALL BE STAMPED AND MAILED.

9 (6) TO BE DISCHARGED AS SOON AS CARE AND TREATMENT IN A
10 FACILITY IS NO LONGER NECESSARY.

11 (7) TO REQUEST THE DEPARTMENT TO ARRANGE FOR THE
12 EXAMINATION OF THE PERSON'S MENTAL OR PHYSICAL CONDITION BY A
13 PHYSICIAN NOT ASSOCIATED WITH THE DEPARTMENT. THE DEPARTMENT
14 MAY REFUSE TO GRANT THIS REQUEST ONLY WHEN IT IS MADE SOONER
15 THAN THREE MONTHS AFTER THE PERSON'S ADMISSION OR COMMITMENT
16 TO SERVICES.

17 (8) TO HANDLE ALL HIS OR HER MONEY AND OTHER PROPERTY OR
18 TO DESIGNATE SOMEONE TO HANDLE IT IF NO GUARDIAN OR
19 REPRESENTATIVE PAYEE HAS BEEN APPOINTED.

20 (9) TO PETITION FOR A WRIT OF HABEAS CORPUS. EXCEPT AS
21 PROVIDED IN CHAPTER 7, THE PETITION SHALL BE FILED IN
22 ACCORDANCE WITH THE PROVISIONS OF 42 PA.C.S. CH. 65 (RELATING
23 TO HABEAS CORPUS).

24 (10) TO BE ADVISED OF HIS OR HER RIGHTS, INCLUDING THE
25 RIGHT TO APPEAL, AND TO BE ASSISTED BY AN ADVOCATE.

26 (11) TO RETAIN THE SAME RIGHTS AS ANY OTHER CITIZENS OF
27 THIS COMMONWEALTH.

28 (12) TO HAVE ACCESS TO HIS OR HER TREATMENT RECORDS,
29 UNLESS ANY OF THE FOLLOWING DETERMINATIONS IS MADE BY THE
30 DIRECTOR OF TREATMENT:

(I) THAT DISCLOSURE OF SPECIFIC INFORMATION CONCERNING TREATMENT WILL CONSTITUTE A SUBSTANTIAL DETRIMENT TO THE PATIENT'S TREATMENT. THIS DETERMINATION SHALL BE SUBSTANTIATED BY DOCUMENTATION BY THE TREATMENT TEAM LEADER.

(II) THAT DISCLOSURE OF SPECIFIC INFORMATION WILL REVEAL THE IDENTITY OF PERSONS OR BREACH THE TRUST OR CONFIDENTIALITY OF PERSONS WHO HAVE PROVIDED INFORMATION UPON AN AGREEMENT TO MAINTAIN THEIR CONFIDENTIALITY.

(13) TO HAVE INFORMATION ABOUT MENTAL HEALTH TREATMENT BE KEPT CONFIDENTIAL, EXCEPT FOR THE GENERAL RELEASE OF INFORMATION REGARDING A PERSON'S CONTINUED TREATMENT AT A FACILITY OR DISCHARGE FROM A FACILITY TO AN INVOLVED FAMILY OR HOUSEHOLD MEMBER, UNLESS THERE IS A SPECIFIC OBJECTION BY THE PATIENT.

CHAPTER 6

ESTABLISHMENT AND FUNDING OF THE UNIFIED MENTAL HEALTH SYSTEM
SECTION 601. ESTABLISHMENT OF UNIFIED SYSTEM.

(A) CONTRACTS BETWEEN DEPARTMENT AND COUNTIES.--COUNTY PROGRAMS SHALL HAVE THE OPTION OF ENTERING INTO AGREEMENTS WITH THE DEPARTMENT TO MANAGE THEIR UTILIZATION OF STATE HOSPITAL SERVICES AND AUTHORIZE PAYMENT FOR SERVICES IN STATE MENTAL HOSPITALS. PRIOR TO APPROVAL FOR A UNIFIED MENTAL HEALTH SERVICE DELIVERY SYSTEM, THERE SHALL BE AN AGREEMENT BETWEEN THE COUNTY PROGRAM AND THE DEPARTMENT ON UTILIZATION OF EACH LEVEL OF STATE HOSPITAL SERVICES, AUTHORIZATION FOR PAYMENT TO THE HOSPITAL FOR SERVICES AND THE PROTOCOLS AND DISPUTE RESOLUTION MECHANISMS GOVERNING ADMISSION, TREATMENT MONITORING AND DISCHARGE FROM STATE-OPERATED FACILITIES AND PROGRAMS.

(B) COMMONWEALTH GRANTS PROGRAM.--THE DEPARTMENT SHALL MAKE

1 AVAILABLE IMPLEMENTATION GRANTS TO COUNTY PROGRAMS THAT ELECT TO
2 MANAGE THEIR UTILIZATION OF STATE HOSPITAL SERVICES, UTILIZATION
3 GRANTS SHALL BE USED BY COUNTY PROGRAMS TO DEVELOP COMMUNITY
4 MENTAL HEALTH SERVICES AND PROGRAM MANAGEMENT CAPABILITY. THE
5 DEPARTMENT SHALL DETERMINE INITIAL IMPLEMENTATION GRANTS BASED
6 ON ESTIMATES OF THE NUMBER OF CHILDREN WITH OR AT RISK OF
7 SERIOUS EMOTIONAL PROBLEMS AND ADULTS WITH SERIOUS MENTAL
8 ILLNESS IN EACH COUNTY PROGRAM, CURRENT AND PRIOR YEARS' SERVICE
9 UTILIZATION OF STATE MENTAL HOSPITALS AND EXPENDITURE PATTERNS,
10 AND COUNTY PROGRAM ESTIMATES OF SERVICE AND MANAGEMENT CAPACITY
11 NEEDS UNDER A UNIFIED MENTAL HEALTH SYSTEM.

12 (C) GRANT QUALIFICATION REQUIREMENTS.--TO APPLY FOR AN
13 IMPLEMENTATION GRANT, THE COUNTY PROGRAM SHALL DEVELOP AN ANNUAL
14 PLAN IN ACCORDANCE WITH PROCEDURES AND INFORMATION REQUIRED
15 UNDER THIS ACT. THE PLAN SHALL DESCRIBE THE CURRENT AND
16 PROJECTED STATUS OF A UNIFIED MENTAL HEALTH SYSTEM OVER A FOUR
17 YEAR IMPLEMENTATION PERIOD. THE INITIAL YEAR PLAN AND SUBSEQUENT
18 PLAN SUBMISSIONS SHALL CONSTITUTE A REQUEST FOR RECEIPT OF
19 IMPLEMENTATION GRANTS UNDER SUBSECTION (B) AND CONTROL OVER THE
20 UNIFIED MENTAL HEALTH SYSTEM RESOURCES AVAILABLE TO THE COUNTY
21 PROGRAM.

22 (D) IMPLEMENTATION DATE FOR UNIFIED SERVICES.--TWO YEARS
23 FOLLOWING THE EFFECTIVE DATE OF THIS ACT, EACH COUNTY PROGRAM
24 SHALL BE REQUIRED TO CARRY OUT THE CONTINUITY OF SERVICES
25 PROVISIONS AND DISCHARGE PLANNING RESPONSIBILITIES OUTLINED IN
26 CHAPTER 4.

27 SECTION 602. FINANCIAL OBLIGATIONS FOR UTILIZATION OF STATE
28 MENTAL HOSPITALS AND PROGRAMS.

29 (A) TRANSFER OF RESPONSIBILITY FOR STATE MENTAL HOSPITAL
30 TREATMENT COSTS TO COUNTIES.--COUNTY PROGRAMS WHICH ELECT TO

1 MANAGE A UNIFIED MENTAL HEALTH SYSTEM SHALL RECEIVE
2 IMPLEMENTATION GRANTS AND RESPONSIBILITY FOR FUNDING IN THE
3 FOLLOWING MANNER:

4 (1) THE DEPARTMENT SHALL ANNUALLY ESTABLISH AND PUBLISH
5 A SCHEDULE OF RATES FOR EACH LEVEL OF SERVICE MADE AVAILABLE
6 IN STATE MENTAL HOSPITALS WHICH SHALL BE SEPARATELY FINANCED.
7 THE RATE SCHEDULE SHALL BE BASED ON THE AMOUNT OF STATE FUNDS
8 APPROPRIATED FOR THE UNIFIED MENTAL HEALTH SYSTEM LINE ITEM
9 AND SHALL BE USED IN DETERMINING THE DISTRIBUTION OF FUNDS TO
10 COUNTY PROGRAMS WHICH ELECT RESPONSIBILITY FOR A UNIFIED
11 MENTAL HEALTH SYSTEM AND IN DETERMINING EXPENDITURES FROM THE
12 RISK FUND REQUIRED BY SECTION 603.

13 (2) THE DEPARTMENT SHALL CALCULATE ANNUALLY EACH COUNTY
14 PROGRAM'S UTILIZATION BASE OF EACH LEVEL OF STATE MENTAL
15 HOSPITAL SERVICE. EXCEPT AS OTHERWISE MUTUALLY AGREED UPON BY
16 A COUNTY PROGRAM AND THE DEPARTMENT, EACH COUNTY PROGRAM'S
17 UTILIZATION BASE SHALL BE EITHER THE PREVIOUS FISCAL YEAR'S
18 UTILIZATION OR AN AVERAGE OF THE MOST RECENT THREE FISCAL
19 YEARS OF UTILIZATION, WHICHEVER IS GREATER.

20 (3) COUNTY PROGRAMS ELECTING RESPONSIBILITY FOR A
21 UNIFIED MENTAL HEALTH SYSTEM MAY EITHER RECEIVE QUARTERLY
22 PAYMENTS AT THE BEGINNING OF EACH QUARTER OF THE FISCAL YEAR
23 OR THEY MAY ELECT TO AUTHORIZE STATE-RUN FACILITIES TO DRAW
24 UPON THE UNIFIED MENTAL HEALTH SYSTEM FUNDS AVAILABLE TO THE
25 COUNTY PROGRAM AND REQUEST REIMBURSEMENT FOR UNIFIED MENTAL
26 HEALTH SYSTEM FUNDS USED IN THE COMMUNITY MENTAL HEALTH
27 PROGRAM. ALL PAYMENTS MADE TO COUNTY PROGRAMS PURSUANT TO
28 THIS PARAGRAPH SHALL BE CARRIED FORWARD AND INCLUDED AS A
29 SEPARATE LINE ITEM IN THE FOLLOWING YEAR'S ALLOCATION OF
30 FUNDS TO THE COUNTY.

1 (4) FUNDS DISTRIBUTED TO THE COUNTY PROGRAMS UNDER THIS
2 SECTION MUST BE SPENT ON SERVICES ENUMERATED IN SECTION 301.
3 IF ANY FUNDS REMAIN UNEXPENDED BY THE CLOSE OF THE FISCAL
4 YEAR, THEY SHALL BE DEEMED ENCUMBERED BY THE COUNTY PROGRAM
5 AND MAY BE SPENT BY THE COUNTY PROGRAM IN THE FOLLOWING
6 FISCAL YEAR ON ANY SERVICE ENUMERATED IN SECTION 301.

7 (B) PAYMENT BY COUNTY PROGRAMS FOR OVER-UTILIZATION OF STATE
8 MENTAL HOSPITAL SERVICES.-- WHEN A COUNTY PROGRAM ELECTS TO
9 MANAGE THE UTILIZATION OF STATE MENTAL HOSPITAL SERVICES
10 PURSUANT TO THE PROVISIONS OF THIS CHAPTER AND IN THE EVENT THE
11 COUNTY PROGRAM'S UTILIZATION OF ONE OR MORE LEVELS OF STATE
12 MENTAL HOSPITAL SERVICES IN A FISCAL YEAR EXCEEDS THE COUNTY
13 PROGRAM'S UTILIZATION BASE, SUCH COUNTY PROGRAM SHALL BE
14 FINANCIALLY OBLIGATED TO PAY THE DEPARTMENT FUNDS EQUIVALENT TO
15 THE RATE ESTABLISHED IN SUBSECTION (A)(L) AS MULTIPLIED BY THE
16 DAYS OF UTILIZATION IN EXCESS OF THE UTILIZATION BASE FOR EACH
17 LEVEL OF SERVICE. NO COUNTY PROGRAM SHALL BE OBLIGATED TO MAKE
18 PAYMENTS FOR UTILIZATION IN EXCESS OF 5% ABOVE ITS UTILIZATION
19 BASE. SUCH COUNTY PROGRAM OBLIGATION FOR EXCESS UTILIZATION
20 SHALL BE OFFSET IN WHOLE OR IN PART BY PAYMENTS FROM THE RISK
21 FUND PURSUANT TO GUIDELINES ESTABLISHED UNDER SECTION 603(2) AND
22 THE FORMULA IN SECTION 603(3).

23 SECTION 603. ESTABLISHMENT AND MAINTENANCE OF A RISK FUND.

24 IN ORDER TO PREVENT FINANCIAL INSTABILITY IN COUNTY PROGRAMS
25 WHICH UTILIZE STATE MENTAL HOSPITAL SERVICES WHEN THE SERVICE
26 UTILIZATION EXCEEDS THE UTILIZATION BASE AMOUNT, A RISK FUND
27 SHALL BE ESTABLISHED AS FOLLOWS:

28 (1) BEGINNING IN THE FIRST YEAR OF THE REQUIRED FOUR
29 YEAR PHASE-IN OF THE UNIFIED MENTAL HEALTH SYSTEM, A SEPARATE
30 LINE ITEM SHALL BE ESTABLISHED IN THE COMMONWEALTH'S BUDGET

1 AND ON AN ANNUAL BASIS, FUNDS EQUIVALENT TO 1% OF THE STATE
2 FUNDS APPROPRIATED FOR THE OPERATION AND MAINTENANCE OF THE
3 UNIFIED MENTAL HEALTH SYSTEM SHALL BE APPROPRIATED TO THE
4 DEPARTMENT AND PLACED IN A RISK FUND.

5 (2) THE DEPARTMENT, IN CONSULTATION WITH THE COUNTY
6 PROGRAMS, SHALL DEVELOP AND PROMULGATE REGULATIONS FOR THE
7 DISTRIBUTION OF MONEYS IN THE RISK FUND.

8 (3) IN THE EVENT AN ELIGIBLE COUNTY PROGRAM'S
9 UTILIZATION OF STATE MENTAL HOSPITAL SERVICES EXCEEDS ITS
10 BASE YEAR UTILIZATION DURING A GIVEN FISCAL YEAR, SUCH COUNTY
11 PROGRAM'S FINANCIAL OBLIGATION TO THE DEPARTMENT SHALL BE
12 OFFSET BY PAYMENTS FROM THE RISK FUND TO THE APPROPRIATE
13 ACCOUNTS AT STATE MENTAL HOSPITALS AS FOLLOWS:

14 (I) COUNTY PROGRAMS WITH LESS THAN 10,000 DAYS OF
15 TOTAL BASE YEAR UTILIZATION SHALL RECEIVE A 100% OFFSET.

16 (II) COUNTY PROGRAMS WITH 10,000 THROUGH 24,999 DAYS
17 OF TOTAL BASE YEAR UTILIZATION SHALL RECEIVE A 75%
18 OFFSET.

19 (III) COUNTY PROGRAMS WITH 25,000 THROUGH 49,999
20 DAYS OF TOTAL BASE YEAR UTILIZATION SHALL RECEIVE A 60%
21 OFFSET.

22 (IV) COUNTY PROGRAMS WITH 50,000 THROUGH 99,999 DAYS
23 OF TOTAL BASE YEAR UTILIZATION SHALL RECEIVE A 50%
24 OFFSET.

25 (V) COUNTY PROGRAMS WITH 100,000 THROUGH 174,999
26 DAYS OF TOTAL BASE YEAR UTILIZATION SHALL RECEIVE A 40%
27 OFFSET.

28 (VI) COUNTY PROGRAMS WITH 175,000 OR MORE DAYS OF
29 BASE UTILIZATION SHALL RECEIVE A 25% OFFSET.

30 (4) FOUR YEARS FOLLOWING THE EFFECTIVE DATE OF THIS ACT,

1 THE DEPARTMENT IN CONSULTATION WITH COUNTY PROGRAMS SHALL
2 REVIEW AND, AS NECESSARY, RECALCULATE THE FORMULA ESTABLISHED
3 UNDER PARAGRAPH (3). THE REVIEW AND POSSIBLE RECALCULATION
4 SHALL OCCUR ON A BIENNIAL BASIS THEREAFTER.

5 (5) FUNDS NOT DISTRIBUTED DURING A FISCAL YEAR SHALL BE
6 ENCUMBERED BY THE DEPARTMENT AND SHALL BE MADE AVAILABLE FOR
7 THIS PURPOSE IN THE FOLLOWING FISCAL YEAR. IN THIS EVENT, THE
8 APPROPRIATION REQUIRED UNDER PARAGRAPH (1) SHALL BE REDUCED
9 BY THE AMOUNT OF FUNDS CARRIED FORWARD FROM THE PREVIOUS
10 FISCAL YEAR.

11 CHAPTER 7

12 FINANCIAL OBLIGATIONS, PAYMENTS AND LIABILITIES

13 SECTION 701. LIABILITY OF PERSONS RECEIVING SERVICES.

14 IF PUBLIC FUNDS ARE EXPENDED ON BEHALF OF A PERSON UNDER A
15 PROVISION OF THIS ACT, THE GOVERNMENTAL BODY EXPENDING THOSE
16 FUNDS MAY RECOVER THE SAME FROM THAT PERSON SUBJECT TO THE
17 REGULATIONS OF THE DEPARTMENT. THE LIABILITY IMPOSED SHALL BE
18 BASED ON THE PERSON'S ABILITY TO PAY.

19 SECTION 702. LIABILITY OF PERSONS OWING A LEGAL DUTY TO 20 SUPPORT.

21 (A) IMPOSITION OF LIABILITY ON LEGAL GUARDIAN.--EXCEPT AS
22 PROVIDED IN THIS SECTION AND SECTION 704, WHEN A PERSON UNDER 18
23 YEARS OF AGE IS ADMITTED OR COMMITTED OR OTHERWISE RECEIVES A
24 SERVICE FOR BENEFIT UNDER THIS ACT AND IS UNABLE TO DISCHARGE
25 THE OBLIGATION IMPOSED UNDER SECTION 701, THAT LIABILITY IS
26 HEREBY IMPOSED ON ANY PERSON OWING A LEGAL DUTY TO SUPPORT THE
27 OBLIGEE. THE IMPOSITION OF LIABILITY ON ANOTHER PERSON CEASES
28 WHEN THE MINOR BECOMES 18 YEARS OF AGE. SPOUSES SHALL REMAIN
29 LIABLE FOR EACH OTHER, REGARDLESS OF AGE, EXCEPT FOR PERIODS OF
30 CONTINUOUS INPATIENT OR RESIDENTIAL CARE WHICH EXCEED 120 DAYS.

1 (B) INSURANCE.--NOTHING IN THIS SECTION SHALL RELIEVE A
2 PRIVATE, NONPROFIT OR GOVERNMENTAL HEALTH INSURER FROM A
3 LIABILITY TO PAY FOR CONTINUOUS INPATIENT, OUTPATIENT, PARTIAL
4 HOSPITALIZATION OR RESIDENTIAL CARE UNDER A CONTRACT OF
5 INSURANCE OR GROUP INSURANCE PLAN.

6 (C) DEFINITION.--AS USED IN THIS SECTION, THE TERM
7 "CONTINUOUS INPATIENT OR RESIDENTIAL CARE" MEANS ANY IN-HOSPITAL
8 OR RESIDENTIAL STAY IN A LICENSED MENTAL HEALTH FACILITY NOT
9 INTERRUPTED BY MORE THAN 120 DAYS.

10 SECTION 703. CONTINGENT LIABILITY OF STATE AND LOCAL
11 GOVERNMENT.

12 (A) EXHAUSTION OF PERSONAL FUNDS AND BENEFITS.--NEITHER THE
13 COMMONWEALTH NOR A COUNTY SHALL BE REQUIRED TO EXPEND PUBLIC
14 FUNDS UNDER THIS ACT ON BEHALF OF A PERSON RECEIVING SERVICES
15 UNDER THIS ACT UNTIL THAT PERSON HAS EXHAUSTED ANY ELIGIBILITY
16 AND RECEIPT OF BENEFITS UNDER ALL OTHER FEDERAL, STATE, LOCAL,
17 PUBLIC OR PRIVATE PROGRAMS.

18 (B) FEDERAL RESPONSIBILITY.--UPON EXHAUSTION OF SUCH
19 ELIGIBILITY FROM OTHER SOURCES, THE COMMONWEALTH AND THE
20 COUNTIES SHALL SHARE THE FINANCIAL OBLIGATIONS ACCRUING UNDER
21 THIS ACT TO THE EXTENT THAT THESE OBLIGATIONS ARE NOT BORN BY
22 THE FEDERAL GOVERNMENT OR BY A PRIVATE PERSON OR AGENCY.

23 (C) CONSTRUCTION OF ACT.--IT IS THE INTENTION OF THIS ACT
24 THAT ITS PROVISIONS BE CONSTRUED AS TO MAINTAIN AND NOT DECREASE
25 OR DESTROY THE ELIGIBILITY OF A PERSON, A FACILITY OR THE
26 COMMONWEALTH OR A POLITICAL SUBDIVISION TO RECEIVE FEDERAL
27 ASSISTANCE, GRANTS OR FUNDS.

28 SECTION 704. POWERS OF DEPARTMENT TO DETERMINE LIABILITY AND
29 ESTABLISH CRITERIA.

30 (A) DETERMINE EXTENT OF LIABILITY.--WHEN A PERSON RECEIVES A

SERVICE OR BENEFIT UNDER THIS ACT, WHOLLY OR IN PART AT PUBLIC
EXPENSE, THE DEPARTMENT MAY DETERMINE THE EXTENT OF LIABILITY
IMPOSED UNDER SECTION 701 OR 702 AND SHALL ABATE, MODIFY,
COMPROMISE OR DISCHARGE THE LIABILITY IMPOSED IF:

(1) THE DEPARTMENT IS SATISFIED THAT LIABILITY WOULD DO
ANY OF THE FOLLOWING:

(I) RESULT IN THE LOSS OF FINANCIAL PAYMENTS OR
OTHER BENEFITS FROM A PUBLIC OR PRIVATE SOURCE WHICH A
MENTALLY ILL PERSON WOULD RECEIVE, WOULD BE ELIGIBLE TO
RECEIVE OR WOULD BE EXPENDED ON HIS OR HER BEHALF BUT FOR
THE LIABILITY.

(II) RESULT IN A SUBSTANTIAL HARDSHIP UPON THE
PERSON OR A PERSON WITH A LEGAL DUTY TO SUPPORT THE
PERSON, OR UPON THE FAMILY OF EITHER.

(III) RESULT IN A GREATER FINANCIAL BURDEN UPON THE
PEOPLE OF THIS COMMONWEALTH.

(IV) CREATE UPON THE PERSON A FINANCIAL BURDEN WHICH
NULLIFIES THE RESULTS OF CARE, TREATMENT, SERVICE OR
OTHER BENEFITS AFFORDED TO THE PERSON UNDER A PROVISION
OF THIS ACT.

(2) PROCEEDINGS TO RECOVER SUCH COSTS OR DISCHARGE SUCH
LIABILITY, INCLUDING LEGAL FEES, WOULD NOT BE IN THE BEST
INTEREST OF THE COMMONWEALTH.

(B) AMOUNT OF LIABILITY.--IF SERVICES OR BENEFITS ARE
RENDERED UNDER THIS ACT, THE LIABILITY OF THE PERSON RECEIVING
THE SERVICE OR BENEFIT, OR OF ANYONE LEGALLY RESPONSIBLE FOR THE
PERSON'S SUPPORT, SHALL BE THE AMOUNT FIXED OR CHARGED BY THE
DEPARTMENT. PAYMENT OF THE AMOUNT SO FIXED OR SO CHARGED SHALL
RELIEVE THE PERSON OF ALL FURTHER LIABILITY FOR PAYMENT OF
SERVICES OR BENEFITS WHICH HAVE BEEN RENDERED AND ARE COVERED

1 UNDER THE AMOUNT CHARGED.

2 (C) ESTABLISH CRITERIA.--IN EXERCISING THE POWERS HEREIN
3 CONFERRED, THE DEPARTMENT, BY REGULATION, SHALL ESTABLISH
4 CRITERIA BY WHICH THE EXTENT OF LIABILITY SHALL BE DETERMINED.
5 REAL ESTATE WHICH CONSTITUTES THE HOME RESIDENCE OF THE PERSON
6 WHO RECEIVES SERVICES UNDER THIS ACT, OR OF HIS OR HER SPOUSE,
7 OR OF A PERSON OWING A LEGAL DUTY TO SUPPORT, SHALL NOT BE
8 CONSIDERED.

9 SECTION 705. COLLECTION OF COSTS.

10 (A) RESPONSIBILITY.--THE PRIMARY RESPONSIBILITY FOR
11 COLLECTING THE COST OF CARE AND TREATMENT PROVIDED AT A FACILITY
12 NOT OPERATED BY THE COMMONWEALTH, OR BY AN INDIVIDUAL, BECAUSE
13 OF LIABILITY IMPOSED BY THIS ACT SHALL REST WITH THE FACILITY OR
14 THE INDIVIDUAL, AS THE CASE MAY BE, WHICH PROVIDES THE CARE AND
15 TREATMENT.

16 (B) AGENCY.--

17 (1) MONEYS DUE THE COMMONWEALTH BY REASON OF LIABILITY
18 IMPOSED BY THIS ACT FOR CARE AND TREATMENT AT A COMMONWEALTH
19 OPERATED FACILITY SHALL BE COLLECTED BY THE DEPARTMENT.

20 (2) ALL MONEYS DUE BY REASON OF LIABILITY IMPOSED BY
21 THIS ACT UPON A PERSON FOR CARE AND TREATMENT FOR WHICH THE
22 COUNTY MAKES AN EXPENDITURE SHALL BE COLLECTED BY THE COUNTY.

23 (3) WHERE THERE ARE MONEYS DUE BOTH TO THE COMMONWEALTH
24 AND THE COUNTY BY REASON OF ANY LIABILITY IMPOSED BY THIS ACT
25 UPON A PERSON, AND THE ASSETS OF THAT PERSON ARE INSUFFICIENT
26 TO DISCHARGE THE LIABILITY IN FULL, THE ASSETS SHALL BE
27 APPLIED TO THE COMMONWEALTH AND COUNTY ON A PRO RATA BASIS IN
28 PROPORTION TO THEIR RESPECTIVE CLAIMS.

29 SECTION 706. FINANCIAL RESPONSIBILITY OF COMMONWEALTH AND
30 ALLOCATION OF FUNDS.

1 (A) ANNUAL ALLOCATIONS TO LOCAL AUTHORITIES.--THE DEPARTMENT
2 SHALL ANNUALLY ALLOCATE FEDERAL AND STATE FUNDS APPROPRIATED FOR
3 THE SERVICES AUTHORIZED UNDER THIS ACT TO LOCAL AUTHORITIES
4 WHICH SHALL USE THE MONEYS TO DEFRAY ALL OR PART OF THE COST OF
5 SERVICES AUTHORIZED IN SECTION 301. SEPARATE LINE ITEMS SHALL BE
6 ESTABLISHED IN THE APPROPRIATION TO DISTINGUISH THOSE FUNDS PAID
7 TO COUNTIES PURSUANT TO CHAPTER 6, THE UNIFIED MENTAL HEALTH
8 SYSTEM LINE ITEM.

9 (B) ADDITIONAL DUTIES OF DEPARTMENT FOR OPERATIONS AND FUND
10 MANAGEMENT.--NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (A),
11 THE DEPARTMENT SHALL BE DIRECTLY RESPONSIBLE FOR THE OPERATION
12 AND MAINTENANCE OF STATE MENTAL HOSPITALS AND THE MAINTENANCE OF
13 THE RISK FUND REQUIRED BY SECTION 603.

14 (C) QUARTERLY PAYMENTS OF GRANTS TO LOCAL AUTHORITIES.--UPON
15 APPROVAL OF THE ANNUAL PLAN REQUIRED BY SECTION 305, THE
16 DEPARTMENT SHALL COMPUTE AN ANNUAL GRANT WHICH SHALL BE PAID TO
17 THE LOCAL AUTHORITIES IN FOUR ADVANCE QUARTERLY INSTALLMENTS.
18 THE MONEYS RECEIVED IN ANY QUARTER MAY BE USED AT ANY TIME
19 DURING THE YEAR. THE FIRST INSTALLMENT SHALL BE FOR THE QUARTER
20 BEGINNING JULY 1 AND ENDING SEPTEMBER 30; THE SECOND INSTALLMENT
21 SHALL BE FOR THE QUARTER BEGINNING OCTOBER 1 AND ENDING DECEMBER
22 31; THE THIRD INSTALLMENT SHALL BE FOR THE QUARTER BEGINNING
23 JANUARY 1 AND ENDING MARCH 31; AND THE FOURTH INSTALLMENT SHALL
24 BE FOR THE QUARTER BEGINNING APRIL 1 AND ENDING JUNE 30. THE
25 DEPARTMENT MAY WITHHOLD SOME OR ALL OF THE QUARTERLY INSTALLMENT
26 IF THE COUNTY PROGRAM IS NOT COMPLYING WITH THE PROVISIONS OF
27 ITS APPROVED PLAN OR WITH THE REGULATIONS OF THE DEPARTMENT.

28 (D) ADJUSTMENTS BASED ON ACTUAL APPROPRIATIONS.--IF
29 SUFFICIENT FUNDS TO PAY THE FULL AMOUNT OF THE GRANTS TO WHICH
30 THE COUNTIES MAY BE ENTITLED UNDER THE PROVISIONS OF THIS

SECTION HAVE NOT BEEN APPROPRIATED, THE DEPARTMENT SHALL
DISTRIBUTE STATE FUNDS AMONG THE COUNTIES BY A FORMULA DESIGNED
TO REASONABLY ACHIEVE THE OBJECTIVES OF THIS ACT. IF THIS
OCCURS, THE FINANCIAL OBLIGATIONS OF THE LOCAL AUTHORITIES UNDER
THIS ACT SHALL BE REDUCED IN ACCORDANCE WITH THE SAME FORMULA
AND THE COUNTY PROGRAMS SHALL BE REQUIRED TO PROVIDE ONLY THOSE
SERVICES FOR WHICH SUFFICIENT FUNDS ARE AVAILABLE.

(E) ADJUSTMENTS BASED ON ACTUAL EXPENDITURES.--THE
DEPARTMENT SHALL REVIEW ADVANCE PAYMENTS AGAINST ACTUAL
EXPENDITURES AT ANY TIME AND MAY MAKE APPROPRIATE ADJUSTMENTS IN
SUBSEQUENT GRANTS. IF A GRANT OVERPAYMENT CANNOT BE RECOVERED
THROUGH SUCH AN ADJUSTMENT FOR ANY REASON, THE DEPARTMENT SHALL
EFFECT A REFUND OF THE OVERPAYMENT FROM THE LOCAL AUTHORITIES.
SECTION 707. MAINTENANCE OF EFFORT.

EXPENDITURES BY THE COMMONWEALTH AND EXPENDITURES BY THE
LOCAL AUTHORITIES FOR MENTAL HEALTH SERVICES AUTHORIZED BY THIS
ACT SHALL NOT BE LESS THAN EXPENDITURES FOR MENTAL HEALTH
SERVICES MADE BY THE COMMONWEALTH AND THE LOCAL AUTHORITIES IN
THE FISCAL YEAR PRIOR TO THE EFFECTIVE DATE OF THIS ACT. IN
FURTHERANCE OF THIS PROVISION:

(1) THE COMMONWEALTH SHALL ALLOCATE FUNDS TO THE LOCAL
AUTHORITIES UNDER THE LINE ITEM ESTABLISHED IN SECTION 706(A)
FOR THE ONGOING OPERATION OF COUNTY PROGRAMS IN AN AMOUNT NO
LESS THAN THE STATE FUNDS ALLOCATED UNDER THE COMMUNITY
MENTAL HEALTH APPROPRIATION TO EACH COUNTY PROGRAM IN THE
FISCAL YEAR PRIOR TO THE EFFECTIVE DATE OF THIS ACT.

(2) THE LOCAL AUTHORITIES SHALL PROVIDE FUNDS FOR THE
ONGOING OPERATION OF THE COUNTY PROGRAMS IN AN AMOUNT NO LESS
THAN EACH COUNTY'S TOTAL EXPENDITURES FOR MATCHING FUNDS TO
THE COMMONWEALTH'S COMMUNITY MENTAL HEALTH APPROPRIATION IN

1 THE FISCAL YEAR PRIOR TO THE EFFECTIVE DATE OF THIS ACT.

2 (3) ANY ADDITIONAL STATE FUNDS APPROPRIATED UNDER THE
3 LINE ITEM ESTABLISHED UNDER SECTION 706(A) FOR THE ONGOING
4 OPERATION OF COUNTY PROGRAMS THAT ARE SPECIFICALLY
5 ATTRIBUTABLE TO A COST OF LIVING INCREASE SHALL BE MATCHED BY
6 A PROPORTIONATE PERCENTAGE INCREASE TO THE OBLIGATION OF THE
7 LOCAL AUTHORITIES PURSUANT TO PARAGRAPH (2).

8 SECTION 708. RELIEF OF COUNTY FROM OBLIGATION TO INSURE
9 SERVICES.

10 (A) APPLICATION NECESSARY.--IF LOCAL AUTHORITIES ELECT TO
11 DISCONTINUE RESPONSIBILITY FOR UTILIZATION OF STATE MENTAL
12 HOSPITAL SERVICES UNDER CHAPTER 6 OR IF LOCAL AUTHORITIES CANNOT
13 INSURE THE AVAILABILITY OF SERVICES REQUIRED UNDER SECTION 301
14 OR IF THEY ASSERT THAT IT WOULD BE ECONOMICALLY UNSOUND TO DO
15 SO, THEY MAY MAKE APPLICATION TO THE DEPARTMENT TO BE RELIEVED,
16 FOR THE PERIOD OF ONE YEAR, FROM THE DUTY TO INSURE AVAILABILITY
17 AND SHALL SPECIFY IN THE APPLICATION THE SERVICE-INVOLVED
18 ALTERNATIVES FOR THE PROVISION OF SERVICES AND THE FACTS
19 RELATING TO THE REQUEST FOR RELIEF.

20 (B) ACTION BY DEPARTMENT.--AFTER CONSIDERATION OF AN
21 APPLICATION AND AN INDEPENDENT INVESTIGATION AS IT DEEMS
22 APPROPRIATE, THE DEPARTMENT SHALL DETERMINE WHETHER THE
23 APPLICATION IS JUSTIFIED. UPON APPROVAL OF THE APPLICATION, THE
24 DEPARTMENT MAY ASSUME OR OTHERWISE ENSURE THE AVAILABILITY OF
25 THE SERVICES SPECIFIED IN THE APPLICATION FOR THE YEAR SPECIFIED
26 IN THE APPLICATION.

27 (C) LIABILITY FOR COST OF SERVICE.--WHEN THE DEPARTMENT
28 PROVIDES A SERVICE UNDER THIS SECTION, THE LOCAL AUTHORITIES
29 SHALL BE RESPONSIBLE FOR 5% OF THE COST OF ALL SERVICES PROVIDED
30 UNDER SECTION 301.

1 CHAPTER 8

2 MISCELLANEOUS PROVISIONS

3 SECTION 801. IMMUNITIES.

4 NO PERSON AND NO GOVERNMENTAL OR RECOGNIZED NONPROFIT HEALTH
5 OR WELFARE ORGANIZATION SHALL BE HELD CIVILLY OR CRIMINALLY
6 LIABLE FOR A DIAGNOSIS, OPINION, REPORT OR ANYTHING DONE
7 PURSUANT TO THE PROVISIONS OF THIS ACT IF THE PERSON ACTED IN
8 GOOD FAITH AND NOT FALSELY, CORRUPTLY, MALICIOUSLY OR WITHOUT
9 REASONABLE CAUSE. CAUSES OF ACTION BASED ON GROSS NEGLIGENCE OR
10 INCOMPETENCE SHALL NOT BE AFFECTED BY THE IMMUNITIES GRANTED
11 UNDER THIS SECTION.

12 SECTION 802. FORMS TO BE USED.

13 THE SECRETARY MAY DEVELOP SUGGESTED FORMS TO BE USED IN
14 CARRYING OUT THE PROVISIONS OF THIS ACT AND MAY, BY REGULATION,
15 REQUIRE THEIR USE.

16 SECTION 803. PRIVATE CONTRIBUTIONS.

17 PRIVATE CONTRIBUTIONS DONATED TO COUNTY PROGRAMS OR THEIR
18 CONTRACT AGENCIES SHALL BE ENCOURAGED AND SHALL NOT BE
19 CONSIDERED BY THE COMMONWEALTH OR THE COUNTY IN CALCULATING
20 FINANCIAL OBLIGATIONS UNDER THIS ACT.

21 SECTION 804. RECORDS OF PERSONS RECEIVING SERVICES UNDER THIS
22 ACT.

23 (A) CONTENTS.--WHEN A PERSON IS ADMITTED OR COMMITTED TO A
24 FACILITY OR RECEIVES SERVICES OR BENEFITS UNDER ANY PROVISION OF
25 THIS ACT, THE SERVICE PROVIDER SHALL MAINTAIN A COMPLETE RECORD
26 PERTAINING TO THAT PERSON.

27 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), THE RECORD
28 SHALL INCLUDE, IF AVAILABLE, APPLICATIONS, PETITIONS,
29 AFFIDAVITS, ORDERS OF COURT, REPORTS OF PHYSICIANS,
30 PSYCHIATRISTS, PSYCHOLOGISTS, NURSES AND SOCIAL WORKERS AND

1 ALL CLINICAL RECORDS.

2 (2) IF THE INFORMATION REQUIRED UNDER PARAGRAPH (1) IS
3 NOT AVAILABLE, THE RECORD SHALL CONSIST OF A FULL ABSTRACT OF
4 THE RECORDS SET FORTH IN PARAGRAPH (1), WITH THE ESSENTIAL
5 PARTICULARS, INCLUDING, BUT NOT LIMITED TO, RESULTS OF
6 PHYSICAL EXAMINATIONS, EXAMINATIONS FOR MENTAL DISABILITIES
7 AND PHYSICAL HANDICAPS, LABORATORY TESTS, DIAGNOSIS AND
8 INDIVIDUALIZED TREATMENT PLAN AND ANY OTHER MATERIAL THAT
9 WILL ASSIST IN PROVIDING APPROPRIATE SERVICES TO THE PERSON.

10 (B) TRANSFER OF RECORDS.--WHEN AN INDIVIDUAL IS TRANSFERRED
11 TO ANOTHER MENTAL HEALTH FACILITY OR PROGRAM UNDER A PROVISION
12 OF THIS ACT, A COPY OF ALL PERTINENT RECORDS PERTAINING TO THAT
13 PERSON SHALL ACCOMPANY HIM OR HER.

14 (C) DISCLOSURE OF RECORDS AND REPORTS PROHIBITED.--A PERSON
15 MAY NOT DISCLOSE WITHOUT AUTHORITY THE CONTENTS OF A RECORD OR
16 REPORT TOUCHING UPON ANY MATTER CONCERNING A PERSON WHO HAS BEEN
17 ADMITTED OR COMMITTED OR IS RECEIVING SERVICES UNDER THIS ACT.

18 (D) FALSE STATEMENTS BY PHYSICIANS PROHIBITED.--A PHYSICIAN
19 MAY NOT KNOWINGLY MAKE A FALSE STATEMENT, CERTIFICATE OR REPORT
20 WHICH AIDS IN OR CAUSES A PERSON TO BE ADMITTED OR COMMITTED OR
21 TO RECEIVE SERVICES UNDER THIS ACT.

22 (E) PENALTY FOR VIOLATING SUBSECTION (C) OR (D).--A PERSON
23 WHO VIOLATES SUBSECTION (C) OR (D) COMMITS A MISDEMEANOR OF THE
24 THIRD DEGREE AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A
25 FINE OF NOT MORE THAN \$2,000 OR TO IMPRISONMENT FOR NOT MORE
26 THAN ONE YEAR, OR BOTH.

27 SECTION 805. ADMINISTRATIVE AGENCY LAW TO APPLY.

28 THE PROVISIONS OF THIS ACT SHALL BE SUBJECT TO THE PROVISIONS
29 OF 2 PA.C.S. (RELATING TO ADMINISTRATIVE LAW AND PROCEDURE).

30 SECTION 806. REPEALS.

1 (A) ABSOLUTE.--SECTION 408 OF THE ACT OF JULY 9, 1976
2 (P.L.817, NO.143), KNOWN AS THE MENTAL HEALTH PROCEDURES ACT, IS
3 REPEALED.

4 (B) INCONSISTENT.--THE ACT OF OCTOBER 20, 1966 (3RD SP.
5 SESS., P.L.96, NO.6), KNOWN AS THE MENTAL HEALTH AND MENTAL
6 RETARDATION ACT OF 1966, IS REPEALED INSOFAR AS IT IS
7 INCONSISTENT WITH THIS ACT.

8 SECTION 807. EFFECTIVE DATE.

9 THIS ACT SHALL TAKE EFFECT JULY 1, 1990.