

_____ offers the following
 substitute to HB 498:

A BILL TO BE ENTITLED
 AN ACT

1 To amend Chapter 3 of Title 31 of the Official Code of Georgia Annotated, relating to county
 2 boards of health, so as to authorize a county board of health to contract with the Department
 3 of Human Resources; to amend Title 37 of the Official Code of Georgia Annotated, relating
 4 to mental health, so as to abolish the regional mental health, mental retardation, and
 5 substance abuse boards and planning units and to transfer functions, duties, and obligations
 6 to the Department of Human Resources and the Division of Mental Health, Mental
 7 Retardation, and Substance Abuse of that department; to provide for definitions; to provide
 8 for alternative composition, powers, duties, and functions of community service boards; to
 9 provide for membership, terms, vacancies, and qualifications; to provide for county
 10 participation; to provide for obligations; to prohibit certain reprisals; to provide for
 11 orientation and annual training; to provide for staff and employees and rights thereof; to
 12 provide for resignations, vacancies, reimbursement, oaths, and conflicts of interest; to
 13 provide for boundaries and cessation of operation; to provide for fees and records; to provide
 14 for withholding state funds; to provide for statutory construction; to change the provisions
 15 relating to the distribution of funds relating to disability services; to change the provisions
 16 relating to personnel status and benefits; to change the provisions relating to annual and
 17 biennial plans for disability services; to change the provisions relating to open meetings and
 18 records; to change the provisions relating to venue; to change the provisions relating to
 19 access to records; to change the provisions in the state ombudsman complaint process; to
 20 provide for conforming amendments; to provide for related matters; to provide for effective
 21 dates; to repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

23 Chapter 3 of Title 31 of the Official Code of Georgia Annotated, relating to county boards
 24 of health, is amended by striking in its entirety Code Section 31-3-12.1, relating to board of
 25

1 health contracts with regional boards and community mental health, mental retardation, and
2 substance abuse service boards, and inserting in its place the following:

3 "31-3-12.1.

4 In addition to any other power authorized by law, the county governing authority may
5 authorize the county board of health to enter into a contract with ~~a regional~~ the department
6 or a community mental health, mental retardation, and substance abuse service board
7 created under Chapter 2 of Title 37 to provide certain mental health, mental retardation,
8 and substance abuse services based on the contractual agreement between the parties.
9 Further, a county governing authority may authorize a county board of health, wherever
10 applicable, to serve as the community mental health, mental retardation, and substance
11 abuse service board, provided that the county governing authority, the board of health, and
12 any other affected county governing authority acts pursuant to subsection (e) of Code
13 Section 37-2-6. In the event that the county governing authority exercises the authority
14 granted by this Code section, Chapter 2 of Title 37, or Code Section 37-2-6, the county
15 board of health shall appoint a director for mental health, mental retardation, and substance
16 abuse or a supervisor of the specific service which is being provided by the county board
17 of health, whichever is applicable, who shall meet the requirements established by the
18 ~~regional mental health, mental retardation, and substance abuse service board~~ department.
19 The director for mental health, mental retardation, and substance abuse, or the service
20 supervisor, shall not be required to be a physician and shall be a person other than the
21 director of the county board of health appointed pursuant to Code Section 31-3-11. Further,
22 such director for mental health, mental retardation, and substance abuse or such supervisor
23 of the specific service shall report directly to the community service board or the county
24 board of health, whichever is applicable, and shall have no formal reporting relationship
25 with the director of the county board of health. If a county board of health exercises the
26 authority granted pursuant to this Code section and Chapter 2 of Title 37 to serve as a
27 community service board, the membership of the county board of health shall constitute
28 the community service board and, at any time that such members are exercising duties and
29 powers related to mental health, mental retardation, and substance abuse, the community
30 service board shall be an independent agency and shall operate in accordance with the
31 provisions of Title 37 as a community service board. Notwithstanding any provisions of
32 law to the contrary, a community service board and a county board of health which have
33 the same membership may contract with each other, provided that any such contract is
34 approved by the ~~appropriate regional board, as defined in Chapter 2 of Title 37,~~ department
35 prior to adoption."

SECTION 2.

Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by striking paragraphs (1.1) and (6.2) of Code Section 37-1-1, relating to definitions, and inserting in their respective places the following:

"(1.1) '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~~ in accordance with Chapter 2 of this title to provide certain disability services not provided by other public or private providers under contract with the ~~regional board~~ department."

~~"(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."~~

SECTION 3.

Said title is further amended by striking paragraphs (3), (4), (8), (9), and (12) of subsection (b) of Code Section 37-1-20, relating to the Division of Mental Health, Mental Retardation, and Substance Abuse and its powers and duties, and inserting in their respective places the following:

"(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;"

~~"(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~~ Reserved;

(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;"

"(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"

1 "37-2-3.

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

8 (b) The division, ~~with input from the regional boards and~~ with the approval of the
9 commissioner, shall designate Community Mental Health, Mental Retardation, and
10 Substance Abuse Service Areas, which, effective July 1, 1994, shall serve as boundaries
11 for the establishment and operation of community service boards within this state for the
12 purpose of delivering certain disability services. For the period through June 30, 1995, and
13 thereafter as the division deems appropriate, the boundaries for the areas and the operation
14 of community service boards shall be the same boundaries as the Community Mental
15 Health, Mental Retardation, and Substance Abuse Service Areas which were in effect as
16 of July 1, 1993. After July 1, 1995, the division, ~~with input from the regional boards,~~ shall
17 consider requests from a county or group of counties for recommended changes to the
18 boundaries of the community service boards.

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

28 SECTION 7.

29 Said title is further amended by striking subsection (b) of Code Section 37-2-4, relating to
30 the Governor's Advisory Council on Mental Health, Mental Retardation, and Substance
31 Abuse, and inserting in its place the following:

32 "(b) The Governor's council shall advise the Governor, the board, the department, and the
33 division as to the efficacy of the state disability services programs, the need for legislation
34 relating to the disabled, the need for expansion or reduction of specific disability services
35 programs, and the need for specific changes in the state disability services programs. The

1 Governor's council shall review and prepare written comments on proposed state plans and
 2 on standards, rules, and regulations promulgated by the division. Such comments shall be
 3 submitted to the director, the board, the commissioner of the department, and to any other
 4 individual or agency deemed appropriate. The Governor's council shall further receive and
 5 consider complaints and grievances submitted in writing by individuals, associations, or
 6 agencies involved with the delivery or receipt of disability services and, if deemed
 7 appropriate, shall make recommendations to the Governor, the board, the department, or
 8 the division with respect to such complaints or grievances. The Governor's council shall
 9 also provide guidance and assistance to the regional boards, hospitals, community service
 10 boards, and other private or public providers in the performance of their duties."

11 SECTION 8.

12 Said title is further amended by striking Code Section 37-2-4.1, relating to regional mental
 13 health, mental retardation, and substance abuse planning units, and inserting in its place the
 14 following:

15 "37-2-4.1.

16 ~~(a) There are created within the division regional mental health, mental retardation, and~~
 17 ~~substance abuse planning units. The number of those units and the regions within which~~
 18 ~~they shall operate shall be established from time to time as necessary by the board. In~~
 19 ~~accordance with Code Section 37-2-3, the board shall initially establish the boundaries of~~
 20 ~~each region based on the recommendations of the State Commission on Mental Health,~~
 21 ~~Mental Retardation, and Substance Abuse Service Delivery pursuant to Code Section~~
 22 ~~37-2-34; provided, however, that any county with a population of 400,000 or more as of~~
 23 ~~the United States decennial census of 1990 or any future such census may not be combined~~
 24 ~~with any other county for the purpose of creating such a region without the approval of the~~
 25 ~~county governing authority.~~

26 ~~(b) There is created a separate regional mental health, mental retardation, and substance~~
 27 ~~abuse board as the governing body for each regional planning unit established under~~
 28 ~~subsection (a) of this Code section. Each such board shall provide and facilitate~~
 29 ~~coordinated and comprehensive planning and service delivery for its region in conformity~~
 30 ~~with minimum standards and procedures established by the division. Each such board shall~~
 31 ~~be designated with such identifying words before the term 'regional mental health, mental~~
 32 ~~retardation, and substance abuse board' as that regional board may, from time to time,~~
 33 ~~choose and designate by official action.~~

34 The regional mental health, mental retardation, and substance abuse boards created by the
 35 prior provisions of this Code section are abolished effective July 1, 2001, and the

1 department, on and after that date, shall succeed to the powers, duties, obligations, and
 2 functions of such boards unless otherwise provided by this chapter. The rights, privileges,
 3 entitlements, and duties of parties to contracts, leases, agreements, and other transactions
 4 entered into before July 1, 2001, by any such regional board and which pertain to the
 5 powers, duties, obligations, and functions transferred to the department by this chapter shall
 6 continue to exist; and none of these rights, privileges, entitlements, and duties are impaired
 7 or diminished by reason of such transfer to the department. In all such instances, the
 8 department shall be substituted for such regional board and the department shall succeed
 9 to the rights and duties under such contracts, leases, agreements, and other transactions."

10 SECTION 9.

11 Said title is further amended by striking Code Section 37-2-5, relating to regional boards
 12 establishing policy and direction for disability services and related matters, and inserting in
 13 its place the following:

14 "37-2-5.

15 ~~(a) Each regional board shall establish policy and direction for disability services planning,~~
 16 ~~delivery, and evaluation, including outcome evaluation, within the region, and shall~~
 17 ~~perform such other functions as may be provided or authorized by law:~~

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

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

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

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

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

34 ~~(b.1) A county governing authority may appoint the school superintendent, a member of~~
 35 ~~the board of health, a member of the board of education, or any other elected or appointed~~

1 ~~official to serve on the regional board provided that such person meets the qualifications~~
 2 ~~of paragraph (4) of subsection (b) of this Code section, such person does not serve on the~~
 3 ~~community service board, and such appointment does not violate the provisions of Chapter~~
 4 ~~10 of Title 45:~~

5 ~~(b.2)-(1)(a)~~ A person shall not be eligible to be appointed to or serve on a community
 6 service board if such person is:

7 ~~(A) A member of the regional board which serves the region in which that community~~
 8 ~~service board is included; or~~

9 ~~(B) An an employee of that community service board or employee or board member~~
 10 ~~of any private or public group, organization, or service provider which contracts with~~
 11 ~~or receives funds from that community service board.~~

12 ~~(2)(b)~~ A person shall not be eligible to be appointed to or serve on a community service
 13 board if such person's spouse, parent, child, or sibling is a member of that community
 14 service board or a member, employee, or board member specified in ~~subparagraph (A) or~~
 15 ~~(B) of paragraph (1) of this subsection~~ subsection (a) of this Code section. With respect to
 16 ~~appointments by the same county governing authority, no person who has served a full~~
 17 ~~term or more on a community service board may be appointed to a regional board until a~~
 18 ~~period of at least two years have passed since the time such person served on the~~
 19 ~~community service board, and no person who has served a full term or more on a regional~~
 20 ~~board may be appointed to a community service board until a period of at least two years~~
 21 ~~have passed since the time such person served on the regional board.~~

22 ~~(c) In making appointments to the regional board, the various county governing authorities~~
 23 ~~shall ensure that appointments are reflective of the cultural and social characteristics,~~
 24 ~~including gender, race, ethnic, and age characteristics, of the regional and county~~
 25 ~~populations. The county governing authorities are further encouraged to ensure that each~~
 26 ~~disability group is viably represented on the regional board, and in so doing the county~~
 27 ~~governing authority may consider suggestions for appointments from clinical professional~~
 28 ~~associations as well as advocacy groups, including but not limited to the Georgia Mental~~
 29 ~~Health Consumer Network, the Georgia Parent Support Network, the Georgia Alliance for~~
 30 ~~the Mentally Ill, the American Association for Retired Persons, Georgians for Children, the~~
 31 ~~Association for Retarded Citizens, the Mental Health Association of Georgia, the Georgia~~
 32 ~~Network for People with Mental Retardation/Developmental Disabilities, the Georgia~~
 33 ~~Association for the Prevention and Treatment of Substance Abuse, and their local chapters~~
 34 ~~and affiliates:~~

35 ~~(d) Initial appointments to the regional board shall be made by August 1, 1993. Initial~~
 36 ~~terms of the regional board shall be established in bylaws adopted pursuant to paragraph~~

1 ~~(e) of this Code section. Thereafter, the term of a member of the board shall be for a period~~
2 ~~of three years and until the member's successor is appointed and qualified. A member may~~
3 ~~serve no more than two consecutive terms. The term of a regional board member shall~~
4 ~~terminate upon resignation, death, or inability to serve due to medical infirmity or other~~
5 ~~incapacity, or such other reasonable condition as the regional board may impose under their~~
6 ~~bylaws. Vacancies on the board shall be filled in the same manner as the original~~
7 ~~appointment.~~

8 ~~(e) Prior to December 31, 1993, each regional board shall adopt bylaws governing its~~
9 ~~operation and management. At a minimum, the bylaws shall provide for staggered initial~~
10 ~~terms of the initial board, requirements for an annual meeting to elect officers, a~~
11 ~~mechanism for ensuring that consumers of disability services and family members of~~
12 ~~consumers constitute at least approximately one-half of the appointments to the board, and~~
13 ~~a mechanism for ensuring that each disability service is equitably represented by~~
14 ~~appointments to the board. Any board member who serves an initial term of less than three~~
15 ~~years may be eligible to be reappointed for two full consecutive three-year terms. The~~
16 ~~chair and vice chair of the regional board shall be elected from among the members of the~~
17 ~~board, to serve a term of one year with the option of reelection for an additional one-year~~
18 ~~term. The bylaws shall provide for any other officers and their means of selection, as well~~
19 ~~as any necessary committees or subcommittees of the board. The bylaws may also provide~~
20 ~~for the appointment by the regional board of an advisory committee or advisory committees~~
21 ~~to work with the regional board in addressing various issues. Prior to their adoption by the~~
22 ~~regional board, the bylaws shall be submitted to the division for review and approval. The~~
23 ~~regional board must have the written approval of the director of the division prior to the~~
24 ~~adoption of bylaws.~~

25 ~~(f) The regional board shall meet not less than once every two months, beginning on July~~
26 ~~1 and continuing through the next June 30, which time frame shall be the fiscal year for~~
27 ~~each regional board.~~

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

33 ~~(h) Each regional board which is composed of members who are appointed thereto by the~~
34 ~~governing authority of only one county shall have a minimum of six members,~~
35 ~~notwithstanding the provisions of subsection (b) of this Code section, which members shall~~
36 ~~in all other respects be appointed as provided in this Code section."~~

SECTION 10.

Said title is further amended by striking Code Section 37-2-5.1, relating to regional boards and executive director, staff and personnel, and related matters, and inserting in its place the following:

"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)(a) 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; provided, however, that nothing shall prohibit the allocation of funds through any regional board prior to July 1, 1995. The division shall establish a minimum funding amount for regional boards each region conditioned upon the amount of funds appropriated and a supplemental funding formula~~

1 to be used for the distribution of available state funds in excess of the minimum funding
 2 amount. The minimum funding amount shall be determined, in part, based on consumer
 3 service needs, service and program history, population based funding needs, infrastructure
 4 mandates, program efficiency and effectiveness, geographic distances, and other factors
 5 affecting the cost and level of service needs within each region.

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

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

18 SECTION 11.

19 Said title is further amended by striking Code Section 37-2-5.2, relating to regional boards
 20 and their duties and functions and related matters, and inserting in its place the following:

21 "37-2-5.2.

22 (a) ~~Each regional board~~ The division shall have the following duties and functions:

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

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

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

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

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

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

11 (F) A comprehensive plan for regular meetings, consultations, and coordinated
 12 planning efforts with and among all service providers, such as community programs,
 13 hospitals, and private contractors, and professionals in ~~the~~ each region, which plan shall
 14 at a minimum address appropriate methods for sharing resources and expertise among
 15 service providers and professionals, mechanisms for resolving conflicts and resource
 16 allocation problems, and a process for ensuring ongoing dialogue among all providers
 17 regarding the most effective ways of meeting individual and community client needs;

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

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

26 ~~(H)~~ (H) A detailed financial plan showing the costs of providing necessary disability
 27 services and all sources of revenue in each region; and

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

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

33 (3) To exercise responsibility and authority within ~~the~~ each region in all matters relating
 34 to the funding and delivery of disability services; ~~provided, however, that with the~~
 35 ~~exception of services authorized under paragraph (2) of this subsection the regional board~~
 36 ~~may not engage in the direct delivery of goods or services to individual consumers and~~

1 ~~is prohibited from providing on its own, without the use of an agent or agents, any direct~~
 2 ~~disability services to consumers;~~

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

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

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

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

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

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

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

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

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

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

34 (2) To participate with ~~other regional boards, the division, the department,~~ local, state,
 35 or federal government agencies, educational institutions, and public and private
 36 organizations in the coordination of planning, research, service development, and
 37 evaluation activities;

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

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

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

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

18 ~~(d) The regional board may delegate any power, authority, duty, or function to its~~
19 ~~executive director or other staff. The executive director or other staff is authorized to~~
20 ~~exercise any such power, authority, duty, or function on behalf of the regional board.~~

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

30 37-2-5.3.

31 (a) Except as provided in subsection (b) of this Code section, each community service
32 board created pursuant to Code Section 37-2-6 and existing on January 1, 2001, shall
33 continue in existence on and after July 1, 2001, but on and after July 1, 2001, shall become
34 a CSB and shall:

35 (1) Be constituted as provided in this Code section;

1 (2) Provide disability services within the same area served by that community service
2 board immediately prior to its becoming a CSB, until that CSB area is changed pursuant
3 to law;

4 (3) Be a public corporation and an instrumentality of the state; and

5 (4) Have the powers and duties provided in the provisions of this Code section other than
6 subsection (b).

7 (b) A community service board established under Code Section 37-2-6 may elect to
8 continue to be constituted as provided by that Code section and governed by that Code
9 section by adopting a resolution to that effect and submitting a copy thereof, prior to May
10 1, 2001, to the division and the governing authority of each county within the boundaries
11 of the area in which that board governs the provision of disability services. A community
12 service board which exercises such election may thereafter elect to become a CSB by
13 adopting a resolution to that effect and submitting a copy thereof, no later than March 31
14 of any year after 2001, to the division and the governing authority of each county within
15 the boundaries of the area in which that board governs the provision of disability services,
16 whereupon that board shall become a CSB on and after July 1 of the year of such
17 submission.

18 (c) CSBs shall provide certain disability services not provided by other public or private
19 providers under contract with the department within the boundaries of their CSB areas.
20 CSBs are created for nonprofit and public purposes to exercise essential governmental
21 functions; provided, however, the liabilities, debts, and obligations of a CSB shall not
22 constitute liabilities, debts, and obligations of the state or any county or any municipal
23 corporation within the boundaries of the CSB area, and neither the state or any county or
24 municipal corporation shall be liable for any liability, debt, or obligation of a CSB. CSBs
25 shall have the same immunity as provided for community service boards under Code
26 Section 37-2-11.1.

27 (d)(1) Except as provided in paragraph (2) of this subsection, the membership of a CSB
28 shall consist of three public officials designated in accordance with subsection (e) of this
29 Code section and eight or more other members not then holding elective public office
30 appointed by a county governing authority as provided in subsection (f) of this Code
31 section.

32 (2) A community service board in existence on January 1, 2001, the membership of
33 which is the membership of a lead county board of health as provided in subsection (e)
34 of Code Section 37-2-6 may continue to be constituted as provided in that subsection (e)
35 even though it becomes a CSB pursuant to this Code section if such board adopts a
36 resolution to that effect and submits a copy thereof, prior to May 1, 2001, to the division
37 and the governing authority of each county within the boundaries of the area in which

1 that board governs the provision of disability services. A CSB so constituted as a lead
 2 county board of health may thereafter elect to become constituted as provided in
 3 paragraph (1) of this subsection if such board adopts a resolution to that effect and
 4 submits a copy thereof, no later than March 31 of any year after 2001, to the division and
 5 the governing authority of each county within the boundaries of the area in which that
 6 board governs the provision of disability services, whereupon that board shall become
 7 constituted as provided in paragraph (1) of this subsection on and after July 1 of the year
 8 of such submission. Nothing in this Code section shall be construed to repeal the
 9 provisions of Code Section 31-3-12.1 or to limit or prohibit a county board of health from
 10 exercising the authority to provide mental health, mental retardation, or substance abuse
 11 services pursuant to Code Section 31-3-12.1.

12 (e) The three CSB members who are public officials shall be determined as follows:

13 (1) The chief executive officer of each county within the CSB area, or a member of the
 14 governing authority of the county designated by said officer, shall serve as a member of
 15 the CSB unless that CSB area:

16 (A) Has four or more counties within its boundaries, in which case the chief executive
 17 officer of each of the three counties that contributed the largest amount of funds and
 18 resources to the community service board during the fiscal year immediately preceding
 19 that community service board's becoming a CSB, or a member of the governing
 20 authority of each such county designated by said officer, shall serve as a member of the
 21 CSB. To the extent there are fewer than three such contributing counties, this
 22 subparagraph shall apply to the noncontributing counties with the largest populations
 23 in descending order according to the United States decennial census of 1990 or any
 24 future such census to the extent needed to increase to three the number of county
 25 governing authorities represented on the CSB; or

26 (B) Has fewer than three counties within its boundaries, in which case any remaining
 27 membership positions required to constitute three public official positions on the CSB
 28 shall be filled by appointment of a public official designated by the chief executive
 29 officer of the county which contributed the larger amount of funds and resources to the
 30 CSB during the fiscal year immediately preceding that community service board's
 31 becoming a CSB. If no county contributed such funds or resources or both contributed
 32 equal amounts, any remaining member shall be a public official designated by the chief
 33 executive officer of the county having the larger population according to the United
 34 States decennial census of 1990 or any future such census; and

35 (2) If the chief executive officer of a county and all members of the governing authority
 36 of that county decline to serve on a CSB when authorized and designated to serve thereon
 37 or if a chief executive officer is authorized to designate any other public official to serve

1 on a CSB, that chief executive officer shall only designate from any of the following
 2 public officials, whose designation as CSB member has been approved by the governing
 3 authority of the county in which such official holds office:

4 (A) The chief executive officer, or a member of the governing authority designated by
 5 said officer, of another county within the CSB area;

6 (B) The chief executive officer, or a member of the governing authority designated by
 7 said officer, of a municipality lying wholly or partially within the CSB area, but only
 8 if such designated person resides in such area;

9 (C) The superintendent of schools or a member of the board of education of a county
 10 or independent school system serving a school district lying wholly or partially within
 11 the CSB area, but only if such designated person resides in such area; or

12 (D) The sheriff of a county within the CSB area.

13 Only one municipal official, one school official, or one sheriff may be appointed to the
 14 CSB.

15 (f) The remaining members of the CSB shall be persons who do not hold other elective
 16 public office. An employee of the department or a county board of health may not serve
 17 as a member of a CSB. The county governing authority of each county within a CSB area
 18 consisting of eight or more counties shall appoint one member, pursuant to this subsection,
 19 to the CSB. In a CSB area that consists of fewer than eight counties, there shall be eight
 20 members appointed to such CSB pursuant to this subsection with the governing authority
 21 of each county appointing one member, pursuant to this subsection, to the CSB. The
 22 distribution of any additional memberships needed to increase to eight the number of
 23 members of the CSB appointed pursuant to this subsection shall be allocated among the
 24 counties in such area by allocating one such membership to each county in descending
 25 order from the county with the largest population to the county with the smallest population
 26 according to the United States decennial census of 1990 or any future such census and
 27 repeating such allocations as are necessary until all membership positions have been so
 28 allocated. In making appointments to the CSB, the various county governing authorities
 29 shall endeavor to ensure that the resulting appointments:

30 (1) Are reflective of the cultural and social characteristics, including gender, race, ethnic,
 31 and age characteristics of the area and county populations;

32 (2) Include at least one person appointed pursuant to this subsection who is trained or
 33 certified in performing financial audits;

34 (3) Include individuals who are actively engaged in business, professional, and
 35 community activities; and

1 (4) Are reflective of each disability group and that each such group is viably, capably,
2 and equitably represented on the CSB; provided, however, consumers and members of
3 the families of consumers shall constitute a majority of the membership of the CSB.

4 (g)(1) The term of office of a member of a CSB who is a chief executive officer pursuant
5 to paragraph (1) of subsection (e) of this Code section or who is designated by or
6 authorized to be designated by the elected chief executive officer of a county governing
7 authority shall run concurrent with the term of office of the chief executive officer so
8 serving as or designating or authorized to designate said member.

9 (2) After the initial terms of office established in the bylaws of a CSB, regular terms of
10 office of CSB members, except for those members specified in paragraph (1) of this
11 subsection, shall be for three years from the expiration of the previous term and until a
12 successor is appointed and qualified.

13 (3) Vacancies in office in a CSB membership position to which a person has been
14 appointed, whether occurring by expiration of term or any other reason, shall be filled in
15 the same manner as the original appointment, unless that position is one which may be
16 held by a chief executive officer of a county under paragraph (1) of subsection (e) of this
17 Code section, in which event that chief executive officer shall succeed to such
18 membership position or appoint another public officer to succeed thereto as authorized
19 in that subsection. If the chief executive officer or governing authority of a county so
20 authorized to fill a vacancy in the office of a CSB member does not fill that vacancy
21 within 120 days after such expiration of term or vacancy occurs, the members of the
22 General Assembly whose House or Senate districts include any part of that county shall
23 meet in caucus, no sooner than 121 days and no later than 150 days after the vacancy
24 occurs, to designate, by majority vote, a person to fill such vacancy and who meets the
25 requirements for CSB membership in the vacated position under this Code section.
26 Persons appointed to fill a vacancy in office in a CSB, other than one occurring by
27 expiration of term, shall serve out the remainder of the term of office and until a
28 successor is appointed, or otherwise authorized to take office, and qualified.

29 (4) The terms of office of the members of a community service board which becomes a
30 CSB on July 1 of any year shall expire at the end of June 30 immediately preceding that
31 July 1. The chief executive officer or governing authority of a county that is otherwise
32 authorized to designate CSB members may do so no sooner than May 1 of that year, but
33 any person so designated shall not take office until July 1 of that year. If a membership
34 position on that CSB is not filled by July 1 of that year, a vacancy in that position shall
35 be deemed to have occurred on July 1 of that year.

36 (h) Each county within the boundaries of a CSB area shall be required to participate with
37 such CSB and the operation of the disability services program through the CSB. Each

1 community service board in existence and functioning on June 30 of any year that becomes
2 a CSB on July 1 of that year shall automatically be succeeded by the CSB for the same
3 CSB area as of July 1 of that year and each such CSB shall be governed from and after
4 July 1 of that year by this Code section. All contractual obligations, including but not
5 limited to real estate leases, rentals, and other property agreements, other duties,
6 obligations, rights, and benefits of such community service board shall automatically
7 become duties, obligations, rights, and benefits of its respective successor CSB.

8 (i) Each CSB shall be responsible for adopting bylaws and operational policies and
9 guidelines. The bylaws shall address board appointment procedures, initial terms of board
10 members, quorum, the staggering of terms of office, a mechanism for ensuring that
11 consumers of disability services and family members of such consumers constitute a
12 majority of the board members, and a mechanism for ensuring equitable representation of
13 the various disability groups. Bylaws and operational policies and guidelines promulgated
14 by the predecessor community service board of a CSB and not in conflict with this Code
15 section shall remain in effect for that CSB until amended, repealed, superceded, or nullified
16 by the successor CSB or as otherwise provided by law.

17 (j) No officer of a CSB who has authority to take, direct others to take, recommend, or
18 approve any personnel action shall take or threaten against any employee of a CSB as a
19 reprisal for making a complaint or disclosing information concerning the possible existence
20 of any activity constituting fraud, waste, or abuse in or relating to the programs, operations,
21 or client services of the board to the board or to a member of the General Assembly unless
22 the complaint was made or the information was disclosed with the knowledge that it was
23 false or with willful disregard for its truth or falsity. Any action taken in violation of this
24 subsection shall give the public employee a right to have such action set aside in a
25 proceeding instituted in the superior court.

26 (k)(1) The department shall provide an annual training program of at least ten hours for
27 members of CSBs which shall include an initial orientation for members of CSBs, the
28 contents of which can be administered by a CSB member or a member of its professional
29 staff.

30 (2) The department may appoint an advisory committee that includes, but is not limited
31 to, CSB members and executive directors, consumers and members of consumers'
32 families, advocates, and training professionals to develop guidelines for training members
33 of CSBs.

34 (3) A member of a CSB, who after notice that said member has failed to complete the
35 required initial orientation prescribed by the department and continues such failure for
36 30 days, may be removed from office by the remaining members of the CSB. A member
37 of a CSB, who after notice that said member has failed to complete the required annual

1 training prescribed by the department and continues such failure for 30 days, may be
2 removed from office by the remaining members of the CSB.

3 (l) Each CSB shall employ an executive director to serve as its chief executive officer.
4 Such executive director shall be appointed and removed by the CSB and shall appoint other
5 necessary staff pursuant to an annual budget adopted by the board, which budget shall
6 provide for the securing of appropriate facilities, sites, and professionals necessary for the
7 provision of disability services. The CSB may delegate any power, authority, duty, or
8 function to its executive director or other staff. The executive director or other staff is
9 authorized to exercise any power, authority, duty, or function on behalf of the CSB.
10 Subject to the general policy established by the CSB, the executive director shall supervise,
11 direct, account for, organize, plan, administer, and execute the powers, duties, authority,
12 functions, and responsibilities vested in the CSB. The executive director shall delegate
13 authority for clinical decisions to appropriately licensed clinical professionals.

14 (m) Each CSB, under the jurisdiction of its board members, shall perform duties,
15 responsibilities, and functions, and may exercise power and authority described in this
16 subsection. Each CSB may exercise the following power and authority:

17 (1) To adopt bylaws for the conduct of its affairs; provided however, the CSB shall meet
18 not less than once every two months beginning on July 1 and continuing through the next
19 June 30, which time shall be the fiscal year of the CSB; provided, further, that all such
20 meetings and any bylaws shall be open to the public, as otherwise prescribed under
21 Georgia law;

22 (2) To elect a chairperson and vice chairperson from among its membership, and the
23 bylaws of the CSB shall provide for any other officers of such board and their means of
24 selection, the terms of office of the officers, and an annual meeting to elect officers;

25 (3) To make and enter into all contracts necessary and incidental to the performance of
26 its duties and functions, including, but not limited to, contracts to utilize the services of
27 the Department of Administrative Services, the state auditor, or any other agency of the
28 state, local, or federal government;

29 (4) To acquire by purchase, gift, lease, or otherwise, and to own, hold, improve, use, and
30 to sell, convey, exchange, transfer, lease, sublease, and dispose of real and personal
31 property of every kind and character, or any interest therein, for its corporate purposes;

32 (5) To have a seal and alter the same;

33 (6) To cooperate with all units of local government within the CSB area as well as
34 neighboring regions and with the programs of other departments and agencies;

35 (7) To contract with the State Personnel Board regarding those CSB personnel who
36 remain in the classified service;

1 (8) To establish fees for the provision of disability services according to Department of
2 Human Resources and Department of Community Health state-wide standards;

3 (9) To receive and administer grants, gifts, contracts, moneys, and donations for
4 purposes pertaining to the delivery of disability services;

5 (10) To accept appropriations, loans of funds, facilities, equipment, and supplies from
6 the local governmental entities within its boundaries;

7 (11) To borrow money for any corporate purpose, and, when approved by the
8 department, to incur debt, liabilities, and obligations for any corporate purpose. No debt,
9 liability, or obligation incurred by a CSB shall be considered a debt, liability, or
10 obligation of the state or any county or any municipality or any political subdivision of
11 the state. A CSB may not borrow money as permitted by this Code section if the highest
12 aggregate annual debt service requirements for the then current fiscal year or any
13 subsequent year for outstanding borrowings of the CSB, including the proposed
14 borrowing, exceed 15 percent of the total revenues of the CSB in its fiscal year
15 immediately preceding the fiscal year in which such debt is to be incurred. Interest paid
16 upon such borrowings shall be exempt from taxation by the state or its political
17 subdivisions;

18 (12) To carry forward without lapse fund balances and to establish operating, capital, and
19 debt reserve accounts from revenues and grants derived from state, county, and all other
20 sources. The total of all such reserves shall not exceed two months of the annual
21 operating budget for the fiscal year for which those funds were obtained;

22 (13) To operate, establish, or operate and establish facilities deemed by the CSB as
23 necessary and convenient for the administration, operation, or provision of disability
24 services by the CSB. For such purposes, a CSB may construct, reconstruct, improve,
25 alter, repair, and equip facilities;

26 (14) To establish fees, rates, rents, and charges for the use of facilities of the CSB for the
27 provision of disability services when approved by the department;

28 (n) Nothing shall prohibit a CSB from contracting with any county or municipal governing
29 authority, private or public provider, or hospital for the provision of disability services.

30 (o) Each CSB exists for nonprofit and public purposes and it is found and declared that the
31 carrying out of the purposes of each such CSB is exclusively for public benefit and its
32 property is public property. No CSB shall be required to pay any state or local ad valorem,
33 sales, use, or income tax.

34 (p) A CSB shall not have the power to tax, the power to issue general obligation bonds or
35 revenue bonds or revenue certificates, or the power to financially obligate the state or any
36 county or any municipal corporation.

1 (q) A CSB shall not operate any facility for profit. Consistent with this limitation, a CSB
2 shall have authority to fix fees, rents, rates, and charges that are reasonably expected to
3 produce revenues, which, together with all other funds of the CSB, will be sufficient to
4 administer, operate, and provide the disability services that such board is required to pay,
5 or undertakes to provide, the cost of acquiring, constructing, equipping, maintaining,
6 repairing, and the operating of its facilities; and to create and maintain reserves sufficient
7 to meet principal and interest payments due on any obligation of the CSB. The CSB may
8 provide reasonable reserves for the improvement, replacement, or expansion of its facilities
9 and services. Reserves under this subsection shall be subject to the limitations in paragraph
10 (12) of subsection (m) of this Code section.

11 (r) Each county and municipal corporation of this state is authorized to convey or lease
12 property of such county or municipal corporation to a CSB for its public purposes. Any
13 property conveyed or leased to a CSB by a county or municipal corporation shall be
14 operated by the CSB to which the same is conveyed or leased in accordance with this
15 chapter and the terms of the CSBs agreements with the county or municipal corporation
16 providing such conveyance or lease.

17 (s) Each CSB shall keep books of account reflecting all funds received, expended, and
18 administered by the CSB, which shall be independently audited annually.

19 (t) A CSB may not create, form, or become a member of a nonprofit corporation, limited
20 liability company, or other profit or nonprofit entity.

21 (u) Employees of each community service board which becomes constituted as a CSB
22 shall retain all existing rights under the State Merit System of Personnel Administration
23 and under the Employees' Retirement System of Georgia or other public retirement
24 systems as existed immediately prior to that community service board's being constituted
25 as a CSB in the same manner as such rights were retained by employees transferred to
26 community service boards under subsection (a) of Code Section 37-2-6.2. Only those CSB
27 employees who were in a classified position under the State Merit System of Personnel
28 Administration immediately prior to their employing community service board's being
29 constituted as CSBs shall continue to be classified employees under that system so long as
30 they remain in a classified position in the CSB.

31 (v) CSBs shall not be a state public authority for purposes of inclusion under the
32 Employees' Retirement System of Georgia pursuant to Code Section 47-2-70.1 except to
33 the extent required for CSB employees whose rights in that system are retained pursuant
34 to subsection (u) of this Code section.

35 (w) CSBs shall comply with all applicable state and federal laws and regulations, including
36 but not limited to the federal antitrust laws and shall be subject to Article 3 of Chapter 6
37 of Title 31, relating to certificate of need.

1 (x) Beginning January 1, 2002, and every six months thereafter, each CSB shall be
 2 required to file a written report with the state auditor providing information concerning the
 3 CSB's activities and expenditures during the previous six months including but not limited
 4 to the following: a list of the CSB's then current membership and a certification that each
 5 such member has completed the initial orientation and annual training required in
 6 subsection (k) of this Code section; any real property acquired, monies borrowed, and
 7 facilities established or operated; any contracts entered into with private or public providers
 8 or hospitals as authorized in subsection (n) of this Code section; steps taken by the CSB to
 9 comply with the limitation in subsection (q) of this Code section that it not operate any
 10 facility for profit; and the specified amount of disability services provided by the CSB to
 11 indigent patients and the specific steps taken by the CSB to ensure that it serves people
 12 regardless of their ability to pay."

13 SECTION 12.

14 Said title is further amended by striking subsection (a) of Code Section 37-2-6, relating to
 15 the creation of community mental health, mental retardation, and substance abuse service
 16 boards and related matters, and inserting in its place the following:

17 "(a)(1) As used in this Code section, Code Section 37-2-6.1, and paragraph (1) of
 18 subsection (c) of Code Section 37-2-11.1, the term 'community service board' means a
 19 community service board created under paragraph (2) of this subsection, other than a
 20 CSB.

21 (2) There shall be created community mental health, mental retardation, and substance
 22 abuse service boards, in conformity with the areas established pursuant to the subsection
 23 (b) of Code Section 37-2-3, which shall govern publicly funded programs for the purpose
 24 of providing provide certain disability services not provided by other public or private
 25 providers under contract with the regional board department except that CSBs shall
 26 provide those services in those areas in which those CSBs are constituted pursuant to
 27 Code Section 37-2-5.3 as provided in subsection (c) of Code Section 37-2-5.3. The
 28 programs Such disability services shall be governed provided by the community service
 29 boards, which shall be established as public agencies."

30 SECTION 13.

31 Said title is further amended by striking paragraphs (4), (5), and (6) of subsection (b) of Code
 32 Section 37-2-6, relating to the creation of community mental health, mental retardation, and
 33 substance abuse service boards and related matters, and inserting in their respective places
 34 the following:

1 person who is a member of the classified service shall not result from the anticipated or
 2 actual employment or utilization by:

- 3 (1) The department;
 4 ~~(2) A regional board;~~
 5 ~~(3)~~(2) A community service board;
 6 ~~(4)~~(3) A hospital; or
 7 ~~(5)~~(4) Any private provider of disability services

8 of any person who is not an employee of the state or a political subdivision thereof to
 9 perform the duties and functions of such terminated state personnel unless such termination
 10 and utilization is the result of a reduction in appropriations for such duties or functions or
 11 is the result of a reduction in force caused by any other state department or agency which
 12 has ceased to contract with the department for the services which had been provided by the
 13 terminated state personnel."

14 **SECTION 16.1.**

15 Said title is further amended by adding after Code Section 37-2-6.2, relating to community
 16 service board employees, a new Code section to read as follows:

17 "37-2-6.3.

18 (a) This Code section shall apply to all community service boards whether or not they are
 19 CSBs.

20 (b) A member of a community service board may resign from office by giving written
 21 notice of such resignation to the executive director or program director, as applicable, of
 22 the community service board. The resignation is irrevocable after delivery to such director
 23 but shall become effective upon the date on which the notice is received or on the effective
 24 date given by the member in the notice, whichever date is later. That director, upon receipt
 25 of the resignation, shall give notice of the resignation to the remaining members of the
 26 community service board and to the chief executive officer or governing authority of the
 27 county that appointed the member.

28 (c) The office of a member of a community service board shall be vacated upon the
 29 member's resignation, death, or inability to serve due to medical infirmity or other
 30 incapacity, removal by the community service board as authorized in this chapter, or upon
 31 such other reasonable condition as the community service board may impose under its
 32 bylaws.

33 (d) Each member of a community service board may, upon the approval of the community
 34 service board, receive reimbursement for actual expenses incurred in carrying out the duties
 35 of such office in conformance with rates and allowances set for state employees by the
 36 Office of Planning and Budget and the same mileage allowance for use of a personal car

1 that is received by all state officials and employees or a travel allowance of actual
2 transportation cost if traveling by public carrier.

3 (e) A member of a community service board is a public officer and may not first enter
4 upon the duties of office on or after the date this Code section first becomes effective in
5 2001 until such member takes the following oath of office before an official qualified to
6 administer such oaths:

7 'STATE OF GEORGIA

8 COUNTY OF _____

9 I, _____, do solemnly swear or affirm that I will truly perform the
10 duties of a Member of the _____ Community Service Board, to the best of my
11 ability.

12 I do further swear or affirm:

- 13 (1) That I am not the holder of any unaccounted for public money due this state or any
14 political subdivision or authority thereof;
- 15 (2) That I am not the holder of any office of trust under the government of the United
16 States, any other state, or any foreign state which I am by the laws of the State of
17 Georgia prohibited from holding;
- 18 (3) That I am otherwise qualified to hold said office according to the Constitution and
19 the laws of Georgia; and
- 20 (4) That I will support the Constitution of the United States and this state.

21 _____
22 (Signature of Member of _____ Community Service Board)

23 _____
24 (Typed Name of Member of _____ Community Service Board)

25 Sworn and Subscribed before this
26 ____ day of _____, 20__.

27 _____

28 {SEAL}'

29 (f) A community service board shall keep the department informed of the names,
30 addresses, and terms of office of its members.

1 (g) A member of a community service board shall not vote on or seek to influence the
2 outcome of any matter that comes before such board involving:

3 (1) A contract by the community service board or the department with, or the award of
4 funds by the community service board or the department to, or any action affecting a
5 license or permit of:

6 (A) Any private individual who is a member of that board, or a spouse, child, spouse
7 of a child, parent, sibling, or spouse of a sibling of that member; or

8 (B) Any private individual or organization or entity if said member, or the spouse, a
9 child, a spouse of a child, a parent, a sibling, or a spouse of a sibling is a shareholder,
10 director, officer, partner, manager, or member entitled to share in the capital, profits,
11 or distributions, employer or employee, or principal or agent of the private individual
12 or private organization or entity; or

13 (2) A contract by the community service board or the department with, or the award of
14 funds by the community service board or the department to, any public official or public
15 agency if such member, or the spouse, a child, a spouse of a child, a parent, a sibling, or
16 a spouse of a sibling of the member will personally derive any personal financial benefit
17 from such contract or award of funds.

18 (h) The boundaries for the establishment and operation of community service boards
19 existing on January 1, 2001, shall continue as the boundaries of the community service
20 boards constituted under Code Section 37-2-5.3 or Code Section 37-2-6 until changed
21 pursuant to Code Section 37-2-3.

22 (i) If a community service board ceases operations, then the governing authority of the
23 counties lying within the area served by the board or the department may petition the
24 superior court of the county in which the principal office of that community service board
25 is located for appointment of a receiver of the assets of the community service board for
26 the protection of the board's creditors and the public. The receiver shall be authorized to
27 marshal and sell or transfer assets of the board, and, after payment of the costs, expenses,
28 and approved fees of the proceeding, to pay the liabilities of the community service board.
29 The court shall then decree that the board be dissolved. Upon completion of the
30 liquidation, any surplus remaining after paying all costs of the liquidation shall be
31 distributed, as shall be determined by the court, to the community service boards, agencies,
32 or entities providing disability services in the service area formerly served by the
33 community service board which ceased operations.

34 (j) The department may withhold state funds from any community service board which the
35 department determines to be in violation of this chapter or any other law."

1 (d) The plan shall be submitted to the department, the Governor, the General Assembly,
 2 the Governor's council, ~~the regional boards~~, the hospitals, the community service boards,
 3 and any other public or private provider requesting a copy of the plan.

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

10 **SECTION 18.**

11 Said title is further amended by striking Code Section 37-2-9, relating to coordination of
 12 disability services, and inserting in its place the following:

13 "37-2-9.

14 To the maximum extent possible, disability services provided by the division, ~~and the~~
 15 ~~regional boards~~, hospitals, community service boards, and other public and private
 16 providers shall be coordinated with related activities of the department and judicial,
 17 correctional, educational, social, and other health service agencies and organizations, both
 18 private and public."

19 **SECTION 19.**

20 Said title is further amended by striking Code Section 37-2-9.1, relating to compliance by
 21 regional boards and community service boards with laws as to open meetings and inspection
 22 of records and related matters, and inserting in its place the following:

23 "37-2-9.1.

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

28 (b) Each ~~regional board~~, hospital, and community service board and other public and
 29 private providers are authorized to establish one or more advisory boards for the purpose
 30 of ensuring coordination with various agencies and organizations and providing
 31 professional and other expert guidance."

32 **SECTION 20.**

33 Said title is further amended by striking Code Section 37-2-11, relating to allocation of funds
 34 for services and related matters, and inserting in its place the following:

1 "37-2-11.

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

9 (b) Fees generated, if any, by hospitals, community service boards, and other private and
10 public providers, providing services under contract or purview of the ~~regional board~~
11 division, shall be reported to the ~~regional board~~ division and applied wherever appropriate
12 against the cost of providing, and increasing the quantity and quality of, disability services;
13 provided, however, that income to a CSB established pursuant to Code Section 37-2-5.3
14 derived from fees may be used to further the purposes of such CSB as found in said Code
15 section. The ~~regional boards with guidance from the~~ division shall be responsible for
16 developing procedures to properly account for the collection, remittance, and reporting of
17 generated fees. The ~~regional boards~~ division shall work with the community service boards
18 and other public or private providers to develop an appropriate mechanism for accounting
19 for the funds and resources contributed to local disability services by counties and
20 municipalities within the area. Such contributions are not required to be submitted to either
21 the community service board or the ~~regional board~~ division; however, appropriate
22 documentation and accounting entries shall make certain that the county or municipality
23 is credited, and if necessary compensated, appropriately for such contribution of funds or
24 resources."

25 SECTION 21.

26 Said title is further amended by striking subsections (a) and (b) of Code Section 37-2-11.1,
27 relating to venue in actions against regional boards or community service boards, and
28 inserting in their respective places the following:

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

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

SECTION 22.

Said title is further amended by striking Code Section 37-2-11.2, relating to access by the Department of Human Resources or regional board to records of any program receiving public funds and related matters, and inserting in its place the following:

"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.

(c) The community service board shall maintain a clinical record for each consumer receiving treatment or habilitation services from such board. The treatment of clinical records of consumers in treatment for mental illness shall be governed by the provisions of Code Section 37-3-166. The treatment of clinical records of consumers receiving habilitation services for mental retardation shall be governed by the provisions of Code Section 37-4-125. The treatment of clinical records of consumers in treatment for the abuse of, or dependency on, alcohol, narcotics, or other drugs shall be governed by the provisions of Code Section 37-7-166."

SECTION 23.

Said title is further amended by striking paragraphs (5) and (6) of Code Section 37-2-30, relating to definitions, and inserting in their respective places the following:

"(5) 'Service recipient' means a person with a disability who receives or is eligible to receive disability services from a services provider which provides disability services in a ~~regional board district~~ region in which the program is operated.

(6) 'Services provider' means a community service board or state or local governmental entity, ~~but not a regional board~~, which provides disability services to service recipients in a ~~regional board district~~ region in which the program is operated or which contracts for the provision of those services or any person, corporation, or business which provides disability services to service recipients in a ~~regional board district~~ region in which the program is operated."

SECTION 24.

Said title is further amended by striking Code Section 37-2-32, relating to a community ombudsman program, and inserting in its place the following:

"37-2-32.

The state ombudsman shall contract with one or more nonprofit corporations to operate a community ombudsman program in one or more ~~regional board districts~~ regions in this state. A nonprofit corporation shall not be eligible for such contract unless that corporation has experience in complaint resolution for service recipients and secures as community ombudsmen only such persons as are certified as such by the state ombudsman. The state ombudsman may certify community ombudsmen and such certified ombudsmen shall have the powers and duties set forth in this article. The state ombudsman shall require such community ombudsmen to receive appropriate training as determined and approved by the state ombudsman prior to certification."

SECTION 25.

Said title is further amended by striking Code Section 37-2-36, relating to investigations, and inserting in its place the following:

"37-2-36.

(a) Following an investigation, the state ombudsman or community ombudsman may report his or her opinions or recommendations to the party or parties affected thereby and shall attempt to resolve the complaint using, whenever possible, informal techniques of mediation, conciliation, and persuasion. With respect to a complaint against the services provider, the ombudsman may first notify the administrator or person in charge of that provider in writing and give such person a reasonable opportunity to correct any alleged defect. If so notified and the administrator or person in charge fails to take corrective action after a reasonable amount of time or if the defect seriously threatens the safety or well-being of any service recipient, the state ombudsman or community ombudsman may refer the complaint to the ~~appropriate regional board~~ division and any other appropriate agency.

(b) Complaints or conditions adversely affecting service recipients which cannot be resolved in the manner described in subsection (a) of this Code section shall, whenever possible, be referred by the state ombudsman or community ombudsman to the ~~appropriate regional board~~ division and any other appropriate agency.

(c) A community ombudsman shall not disclose to the public, either directly or indirectly, the identity of any services provider which is the subject of an investigation unless and until the matter has been reviewed by the office of the state ombudsman and the matter has

