

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 44.
CHARITABLE AND CURATIVE
INSTITUTIONS.

CHAPTER 9.
MENTAL HEALTH SERVICES.

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CHAPTER 9. MENTAL HEALTH SERVICES.

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CHAPTER 9. MENTAL HEALTH SERVICES.

SUBCHAPTER I. DISTRICT OF COLUMBIA MENTAL HEALTH SERVICES.

§ 44-901. FINDINGS AND PURPOSES.

(a) The Congress makes the following findings:

(1) Governmentally administered mental health services in the District of Columbia are currently provided through 2 separate public entities, the federally administered Saint Elizabeths Hospital and the Mental Health Services Administration of the District of Columbia Department of Human Resources.

(2) The District of Columbia has a continuing responsibility to provide mental health services to its residents.

(3) The federal government, through its operation of a national mental health program at Saint Elizabeths Hospital, has for over 100 years assisted the District of Columbia in carrying out that responsibility.

(4) Since its establishment by Congress in 1855, Saint Elizabeths Hospital has developed into a respected national mental health hospital and study, training, and treatment center, providing a range of quality mental health and related services, including:

(A) Acute and chronic inpatient psychiatric care;

(B) Outpatient psychiatric and substance abuse clinical and related services;

(C) Federal court system forensic psychiatry referral, evaluation, and patient treatment services for prisoners, and for individuals awaiting trial or requiring post-trial or post-sentence psychiatric evaluation;

(D) Patient care and related services for designated classes of individuals entitled to mental health benefits under federal law, such as certain members and employees of the United States Armed Forces and the Foreign Service, and residents of American overseas dependencies;

(E) District of Columbia court system forensic psychiatry referral, evaluation, and patient treatment services for prisoners, and for individuals awaiting trial or requiring post-trial or post-sentence psychiatric evaluation;

(F) Programs for special populations such as the mentally ill deaf;

(G) Support for basic and applied clinical psychiatric research and related patient services conducted by the National Institute of Mental Health and other institutions; and

(H) Professional and paraprofessional training in the major mental health disciplines.

(5) The continuation of the range of services currently provided by federally administered Saint Elizabeths Hospital must be assured, as these services are integrally related to:

(A) The availability of adequate mental health services to District of Columbia residents, nonresidents who require mental health services while in the District of Columbia, individuals entitled to mental health services under federal law, and individuals referred by both federal and local court systems; and

(B) The Nation's capacity to increase our knowledge and understanding about mental illness and to facilitate and continue the development and broad availability of sound and modern methods and approaches for the treatment of mental illness.

(6) The assumption of all or selected functions, programs, and resources of Saint Elizabeths Hospital from the federal government by the District of Columbia, and the integration of those functions, resources, and programs into a comprehensive mental health care system administered solely by the District of Columbia, will improve the efficiency and effectiveness of the services currently provided through those 2 separate entities by shifting the primary focus of care to an integrated community-

based system.

(7) Such assumption of all or selected functions, programs, and resources of Saint Elizabeths Hospital by the District of Columbia would further the principle of home rule for the District of Columbia.

(b) It is the intent of Congress that:

(1) The District of Columbia have in operation no later than October 1, 1991, an integrated coordinated mental health system in the District which provides:

(A) High quality, cost-effective, and community-based programs and facilities;

(B) A continuum of inpatient and outpatient mental health care, residential treatment, and support services through an appropriate balance of public and private resources; and

(C) Assurances that patient rights and medical needs are protected;

(2) The comprehensive District mental health care system be in full compliance with the federal court consent decree in *Dixon v. Heckler*;

(3) The District and federal governments bear equitable shares of the costs of a transition from the present system to a comprehensive District mental health system;

(4) The transition to a comprehensive District mental health system provided for by this subchapter be carried out with maximum consideration for the interests of employees of the Hospital and provide a right-of-first-refusal to such employees for employment at comparable levels in positions created under the system implementation plan;

(5) The federal government have the responsibility for the retraining of Hospital employees to prepare such employees for the requirements of employment in a comprehensive District mental health system;

(6) The federal government continue high quality mental health research, training, and demonstration programs at Saint Elizabeths Hospital;

(7) The District government establish and maintain accreditation and licensing standards for all services provided in District mental health facilities which assure quality care consistent with appropriate federal regulations and comparable with standards of the Joint Commission on Accreditation of Hospitals; and

(8) The comprehensive mental health system plan include a component for direct services for the homeless mentally ill.

(Nov. 8, 1984, 98 Stat. 3369, Pub. L. 98-621, § 2; Oct. 31, 1991, 105 Stat. 980, Pub. L. 102-150, § 3(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-621.

Effective Dates

Section 11(a) of Pub. L. 98-621 provides that this subchapter is effective on October 1, 1985.

Delegation of Authority

Delegation of Authority to Make Grants to Implement the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, Public Law 98- 621, see Mayor's Order 92-64, May 19, 1992.

Miscellaneous Notes

Transitional payment authorized: Public Law 101-518, 104 Stat. 2224, the District of Columbia Appropriations Act, 1991, provided for a federal contribution to the District of Columbia, as authorized by the Saint Elizabeth's Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (98 Stat. 3369; Public Law 98-621), \$15,000,000.

Inpatient rate and operating costs: Section 101(d) of Pub. L. 99-591, the D.C. Appropriations Act, 1987, provided that the inpatient rate (excluding the proportionate share for repairs and construction) for services rendered by Saint Elizabeths Hospital for patient care shall be at the per diem rate established pursuant to § 2 of an Act to authorize certain expenditures from the appropriation of Saint Elizabeths Hospital, and for other purposes, approved August 4, 1947 (61 Stat. 751, Pub. L. 80-353; 24 U.S.C. § 168(a)); and provided further, that total funds paid by the District of Columbia as reimbursements for operating costs of Saint Elizabeths Hospital, including any District of Columbia payments (but excluding the federal matching share of payments) associated with title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; Pub. L. 89-97; 42 U.S.C. § 1396 et seq.), shall not exceed \$71,200,000.

Preferred Alternative Use and Transfer of the Saint Elizabeths West Campus Emergency Resolution of 1993: Pursuant to Resolution 10-129, effective July 21, 1993, the Council concurred, on an emergency basis, with the Mayor's recommendation of the use and proposed transfer of the West Campus of Saint Elizabeths Hospital to the District of Columbia pursuant to the Saint Elizabeths Hospital and District of Columbia Mental

§ 44-902. DEFINITIONS.

For the purpose of this subchapter:

- (1) The term "Hospital" means the institution in the District of Columbia known as Saint Elizabeths Hospital operated on November 8, 1984, by the Secretary of Health and Human Services.
- (2) The term "Secretary" means the Secretary of Health and Human Services.
- (3) The term "Mayor" means the Mayor of the District of Columbia.
- (4) The term "District" means the District of Columbia.
- (5) The term "federal court consent decree" means the consent decree in *Dixon v. Heckler*, Civil Action No. 74-285.
- (6) The term "service coordination period" means a period beginning on October 1, 1985, and terminating on October 1, 1987.
- (7) The term "financial transition period" means a period beginning on October 1, 1985, and terminating on October 1, 1991.
- (8) The term "system implementation plan" means the plan for a comprehensive mental health system for the District of Columbia to be developed pursuant to this subchapter.
- (9) The term "Council" means the Council of the District of Columbia.

(Nov. 8, 1984, 98 Stat. 3369, Pub. L. 98-621, § 3.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-622.

Effective Dates

For effective date of this subchapter, see Historical and Statutory Notes following § 44-901.

§ 44-903. DEVELOPMENT OF PLAN FOR MENTAL HEALTH SYSTEM FOR THE DISTRICT.

(a)(1) Subject to subsection (g) of this section and § 44-908(b)(1), effective October 1, 1987, the District shall be responsible for the provision of mental health services to residents of the District.

(2) Not later than October 1, 1993, the Mayor shall complete the implementation of the final system implementation plan reviewed by the Congress and the Council in accordance with the provisions of this subchapter for the establishment of a comprehensive District mental health system to provide mental health services and programs through community mental health facilities to individuals in the District of Columbia.

(b)(1) The Mayor shall prepare a preliminary system implementation plan for a comprehensive mental health system no later than 3 months from October 1, 1985, and a final implementation plan no later than 12 months from October 1, 1985.

(2) The Mayor shall submit the preliminary system implementation plan to the Council no later than 3 months from October 1, 1985. The Council shall review such plan and transmit written recommendations to the Mayor regarding any revisions to such plan no later than 60 days after such submission. The Mayor shall submit the revised preliminary plan to the Committee on the District of Columbia of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Governmental Affairs of the Senate for review and comment in accordance with the provisions of this subchapter.

(3) The final system implementation plan shall be considered by the Council consistent with the provisions of § 1-204.22(12).

(4) After the review of the Council pursuant to paragraph (3) of this subsection, the Mayor shall submit the final implementation plan to the Committee on the District of Columbia of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Governmental Affairs of the Senate for review and comment in accordance with the provisions of this subchapter.

(c) The system implementation plan shall:

- (1) Propose and describe an integrated, comprehensive, and coordinated mental health system for the

District of Columbia;

(2) Identify the types of treatment to be offered, staffing patterns, and the proposed sites for service delivery within the District of Columbia comprehensive mental health system;

(3) Identify mechanisms to attract and retain personnel of appropriate number and quality to meet the objectives of the comprehensive mental health system;

(4) Be in full compliance with the federal court consent decree in *Dixon v. Heckler* and all applicable District of Columbia statutes and court decrees;

(5) Identify those positions, programs, and functions at Saint Elizabeths Hospital which are proposed for assumption by the District, those facilities at Saint Elizabeths Hospital which are proposed for utilization by the District under a comprehensive District mental health system, and the staffing patterns and programs at community facilities to which the assumed functions are to be integrated;

(6) Identify any capital improvements to facilities at Saint Elizabeths Hospital and elsewhere in the District of Columbia proposed for delivery of mental health services, which are necessary for the safe and cost effective delivery of mental health services; and

(7) Identify the specific real property, buildings, improvements, and personal property to be transferred pursuant to § 44-907(a)(1) needed to provide mental health and other services provided by the Department of Human Services under the final system implementation plan.

(d)(1) The Mayor shall develop the system implementation plan in close consultation with officials of Saint Elizabeths Hospital, through working groups to be established by the Secretary and the Mayor for that purpose.

(2) The Mayor and the Secretary shall establish a labor-management advisory committee, requesting the participation of federal and District employee organizations affected by this subchapter, to make recommendations on the system implementation plan. The committee shall consider staffing patterns under a comprehensive District mental health care system, retention of Hospital employees under such system, federal retraining for such employees, and any other areas of concern related to the establishment of a comprehensive District system. In developing the system implementation plan the Mayor shall carefully consider the recommendations of the committee. Such advisory committee shall not be subject to the Federal Advisory Committee Act.

(3) The Mayor and such working groups shall, in developing the plan, solicit comments from the public, which shall include professional organizations, provider agencies and individuals, and mental health advocacy groups in the District of Columbia.

(e)(1) The Mayor and the Secretary may, during the service coordination period, by mutual agreement and consistent with the requirements of the system implementation plan direct the shift of selected program responsibilities and staff resources from Saint Elizabeths Hospital to the District. The Secretary may assign staff occupying positions in affected programs to work under the supervision of the District. The Mayor shall notify the Committee on the District of Columbia of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Governmental Affairs of the Senate in writing of any planned shift in program responsibilities or staff resources not less than 30 days prior to the implementation of such shift.

(2)(A) Except as provided in subparagraph (B) of this paragraph, after October 1, 1984, and during the service coordination period, no request for proposals may be issued by the Secretary for any areas of commercial activity at the Hospital pursuant to Office of Management and Budget circular A-76.

(B) The limitation under subparagraph (A) of this paragraph shall not apply to studies initiated pursuant to such circular prior to October 1, 1984.

(f)(1) To assist the Mayor in the development of the system implementation plan, the Secretary shall contract for a financial audit and a physical plant audit of all existing facilities at the hospital to be completed by January 1, 1986. The financial audit shall be conducted according to generally accepted accounting principles. The physical plant audit shall recognize any relevant national and District codes and estimate the useful life of existing facility support systems.

(2)(A) Pursuant to such physical plant audit, the Secretary shall initiate not later than October 1, 1987, and, except as provided under an agreement entered into pursuant to subparagraph (C) of this paragraph, complete not later than October 1, 1993, such repairs and renovations to such physical plant and facility support systems of the hospital as are to be utilized by the District under the system implementation plan as part of a comprehensive District mental health system, as are necessary to meet any applicable code requirements or standards.

(B) At a minimum until October 1, 1987, the Secretary shall maintain all other facilities and infrastructure of the hospital not assumed by the District in the condition described in such audit.

(C) The Secretary may enter into an agreement with the Mayor under which the Secretary shall provide funds to the Mayor to complete the repairs and renovations described in subparagraph (A) of this paragraph and to make other capital improvements that are necessary for the safe and cost effective delivery of mental health services in the District, except that \$7,500,000 of the funds

provided to the Mayor under such an agreement shall be used to make capital improvements to facilities not located at Saint Elizabeths Hospital. Of the \$7,500,000 provided for improvements to facilities not located at the Hospital, not less than \$5,000,000 shall be used to make capital improvements to housing facilities for seriously and chronically mentally ill individuals.

(g) During the service coordination period, the District of Columbia and the Secretary, to the extent provided in the federal court consent decree, shall be jointly responsible for providing citizens with the full range and scope of mental health services set forth in such decree and the system implementation plan. No provision of this subchapter or any action or agreement during the service coordination period may be so construed as to absolve or relieve the District or the federal government of their joint or respective responsibilities to implement fully the mandates of the federal court consent decree.

(Nov. 8, 1984, 98 Stat. 3369, Pub. L. 98-621, § 4; Oct. 31, 1991, 105 Stat. 980, Pub. L. 102-150, §§ 2, 3(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-623.

Effective Dates

For effective date of this subchapter, see Historical and Statutory Notes following § 44-901.

References in Text

The Federal Advisory Committee Act, referred to at the end of subsection (d)(2), appears as Appendix 2 of Title 5 of the United States Code.

Delegation of Authority

Delegation of authority under Public Law 98-621, see Mayor's Order 85-162, September 26, 1985.

Miscellaneous Notes

Council recommendations on preliminary system implementation plan: Pursuant to Resolution 6-566, the "Preliminary System Implementation Plan for a Comprehensive District Mental Health System Recommendation Resolution of 1986," effective February 25, 1986, the Council expressed its recommendations regarding revisions to the preliminary system implementation plan for a comprehensive District mental health system proposed by the Mayor.

Mental Health System Reorganization Office established: See Mayor's Order 84- 196, November 1, 1984.

§ 44-904. CONGRESSIONAL REVIEW OF SYSTEM IMPLEMENTATION PLAN.

(a) The Committee on the District of Columbia of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Governmental Affairs of the Senate shall review the preliminary system implementation plan transmitted by the Mayor pursuant to § 44-903 to determine the extent of its compliance with the provisions of § 44-901(b) and § 44-903, and transmit written recommendations regarding any revisions to the preliminary plan to the Mayor not later than 60 days after receipt of such plan.

(b) The Committee on the District of Columbia of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Governmental Affairs of the Senate shall, within 90 days of submission of the final system implementation plan by the Mayor pursuant to § 44-903, review such plan to determine the extent to which it is in compliance with the provisions of § 44-901(b) and § 44-903.

(Nov. 8, 1984, 98 Stat. 3369, Pub. L. 98-621, § 5.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-624.

Effective Dates

For effective date of this subchapter, see Historical and Statutory Notes following § 44-901.

§ 44-905. TRANSITION PROVISIONS FOR EMPLOYEES OF THE HOSPITAL.

(a) Employees of the Hospital directly affected by the assumption of programs and functions by the District government who meet the requirements for immediate retirement under the provisions of § 8336 (d) of

Title 5, United States Code, shall be accorded the opportunity to retire during the 30-day period prior to the assumption of such programs and functions.

(b)(1) The system implementation plan shall prescribe the specific number and types of positions needed by the District government at the end of the service coordination period.

(2) Notwithstanding § 3503 of Title 5, United States Code, employees of the hospital shall only be transferred to District employment under the provisions of this section.

(c)(1) While on the retention list or the District or federal agency reemployment priority list, the system implementation plan shall provide to Hospital employees a right-of-first-refusal to District employment in positions for which such employees may qualify, (A) created under the system implementation plan in the comprehensive District mental health system, (B) available under the Department of Human Services of the District, and (C) available at the District of Columbia General Hospital.

(2) In accordance with federal regulations, the Secretary shall establish retention registers of hospital employees and provide such retention registers to the District government. Employment in positions identified in the system implementation plan under subsection (b) of this section shall be offered to hospital employees by the District government according to each such employee's relative standing on the retention registers.

(3) Employee appeals concerning the retention registers established by the Secretary shall be in accordance with federal regulations.

(4) Employee appeals concerning employment offers by the District shall be in accordance with Chapter 6 of Title 1.

(d)(1) Notwithstanding any other provision of law, employees of the Hospital, while on the federal agency reemployment priority list, shall have a right-of-first-refusal to employment in comparable available positions for which they qualify within the Department of Health and Human Services in the Washington metropolitan area.

(2) If necessary to separate employees of the hospital from federal employment, such employees may be separated only under federal reduction-in-force procedures.

(3) A federal agency reemployment priority list and a displaced employees program shall be maintained for employees of the hospital by the Secretary and the Office of Personnel Management in accordance with federal regulations for federal employees separated by reduction-in-force procedures.

(4) The Mayor shall create and maintain, in consultation with the Secretary, a District agency reemployment priority list of those employees of the Hospital on the retention registers who are not offered employment under subsection (c) of this section. Individuals who refuse an offer of employment under subsection (c) of this section shall be ineligible for inclusion on the District agency reemployment priority list. Such reemployment priority list shall be administered in accordance with procedures established pursuant to the District of Columbia Government Comprehensive Merit Personnel Act of 1978.

(5) Acceptance of nontemporary employment as a result of referral from any retention list or agency reemployment priority list shall automatically terminate an individual's severance pay as of the effective date of such employment.

(e) Any contract entered into by the District of Columbia for the provision of mental health services formerly provided by or at the hospital shall require the contractor or provider, in filling new positions created to perform under the contract, to give preference to qualified candidates on the District agency reemployment priority list created pursuant to subsection (d) of this section. An individual who is offered nontemporary employment with a contractor shall have his or her name remain on the District agency reemployment priority list under subsection (d) of this section for not more than 24 months from the date of acceptance of such employment.

(Nov. 8, 1984, 98 Stat. 3369, Pub. L. 98-621, § 6.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-625.

Effective Dates

For effective date of this subchapter, see Historical and Statutory Notes following § 44-901.

§ 44-906. CONDITIONS OF EMPLOYMENT FOR FORMER EMPLOYEES OF THE HOSPITAL.

(a) Each individual accepting employment without a break in service with the District government pursuant

to § 44-905 shall:

- (1) Except as specifically provided in this subchapter, be required to meet all District qualifications other than licensure requirements for appointment required of other candidates, and shall become District employees in the comparable District service subject to the provisions of Chapter 6 of Title 1, and all other statutes and regulations governing District personnel;
 - (2) Meet all licensure requirements within 27 months of appointment by the District government or shall be issued a limited license subject to the provisions, limitations, conditions, or restrictions that shall be determined by the appropriate board or commission. The limited license shall not exceed the term of employment with the Commission on Mental Health Services;
 - (3) Notwithstanding Chapter 63 of Title 5, United States Code, transfer accrued annual and sick leave balances pursuant to subchapter XII of Chapter 6 of Title 1;
 - (4) Have the grade and rate of pay determined in accordance with regulations established pursuant to subchapter XI of Chapter 6 of Title 1, except that no employee shall suffer a loss in the basic rate of pay or in seniority;
 - (5) If applicable, retain a rate of pay including the physician's comparability allowance under the provisions of § 5948 of Title 5, United States Code, and continue to receive such allowance under the terms of the then prevailing agreement until its expiration or for a period of 2 years from the date of appointment by the District government, whichever occurs later;
 - (6) Be entitled to the same health and life insurance benefits as are available to District employees in the applicable service;
 - (7) If employed by the federal government before January 1, 1984, continue to be covered by the United States Civil Service Retirement System, under Chapter 83 of Title 5, United States Code, to the same extent that such retirement system covers District government employees; and
 - (8) If employed by the federal government on or after January 1, 1984, be subject to the retirement system applicable to District government employees pursuant to subchapter XXVI, Retirement, of Chapter 6 of Title 1.
- (b) An individual appointed to a position in the District government without a break in service, from the retention list, or from the District or federal agency reemployment priority lists, shall be exempt from the residency requirements of subchapter VIII of Chapter 6 of Title 1.
- (c) An individual receiving compensation for work injuries pursuant to Chapter 81 of Title 5, United States Code, shall:
- (1) Continue to have the claims adjudicated and the related costs paid by the federal government until such individual recovers and returns to duty;
 - (2) If medically recovered and returned to duty, have any subsequent claim for the recurrence of the disability determined and paid under the provisions of subchapter XXIII of Chapter 6 of Title 1.
- (d) The District government may initiate or continue an action against an individual who accepts employment under § 44-905(c) for cause related to events that occur prior to the end of the service coordination period. Any such action shall be conducted in accordance with such federal laws and regulations under which action would have been conducted had the assumption of function by the District not occurred.
- (e) Commissioned public health service officers detailed to the District of Columbia mental health system shall not be considered employees for purposes of any full-time employee equivalency total of the Department of Health and Human Services.
- (f) For purposes of this section, Hospital employees shall include former patient employees occupying career positions at the Hospital.

(Nov. 8, 1984, 98 Stat. 3369, Pub. L. 98-621, § 7; June 8, 1989, D.C. Law 8-7, § 2, 36 DCR 2847; Oct. 18, 1989, D.C. Law 8-40, § 2, 36 DCR 5756.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-626.

Legislative History of Laws

Law 8-7 was introduced in Council and assigned Bill No. 8-223. The Bill was adopted on first and second readings on March 21, 1989 and April 4, 1989, respectively. Signed by the Mayor on April 17, 1989, it was assigned Act No. 8-23 and transmitted to both Houses of Congress for its review.

Law 8-40 was introduced in Council and assigned Bill No. 8-104, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 27, 1989 and July 11, 1989, respectively. Signed by the Mayor on July 27, 1989, it was assigned Act No. 8-69 and transmitted to both

Houses of Congress for its review.

Effective Dates

For effective date of this subchapter, see Historical and Statutory Notes following § 44-901.

References in Text

The District of Columbia Government Comprehensive Merit Personnel Act of 1978, referred to throughout this section, is D.C. Law 2-139.

§ 44-907. PROPERTY TRANSFER.

(a)(1) Except as provided in paragraph (2) of this subsection, on October 1, 1987, the Secretary shall transfer to the District, without compensation, all right, title, and interest of the United States in all real property at Saint Elizabeths Hospital in the District of Columbia together with any buildings, improvements, and personal property used in connection with such property needed to provide mental health and other services provided by the Department of Human Services identified pursuant to § 44-903(c)(7).

(2) Such real property as is identified by the Secretary by September 30, 1987, as necessary to federal mental health programs at Saint Elizabeths Hospital under § 44-901(b)(6) shall not be transferred under this subsection.

(b) On or before October 1, 1992, the Mayor shall prepare, and submit to the Committee on the District of Columbia of the House of Representatives and the Committees on Governmental Affairs and Labor and Human Resources of the Senate, a master plan, not inconsistent with the comprehensive plan for the National Capital, for the use of all real property, buildings, improvements, and personal property comprising Saint Elizabeths Hospital in the District of Columbia not transferred or excluded pursuant to subsection (a) of this section. In developing such plan, the Mayor shall consult with, and provide an opportunity for review by, appropriate federal, regional, and local agencies. Such master plan submitted by the Mayor shall be approved by a law enacted by the Congress within the 2-year period following the date such plan is submitted to the Committee on the District of Columbia of the House of Representatives and the Committees on Governmental Affairs and Labor and Human Resources of the Senate.

Immediately upon the approval of any such law, the Secretary shall transfer to the District, without compensation, all right, title, and interest of the United States in and to such property in accordance with such approved plan. The real property, together with the buildings and other improvements thereon, including personal property used in connection therewith, known as the Oxon Cove Park and operated by the National Park Service, Department of the Interior, shall not be transferred under this chapter.

(c) On October 1, 1985, the Secretary shall transfer to the District, without compensation, all right, title, and interest of the United States to lot 87, square 622, in the subdivision made by the District of Columbia Redevelopment Land Agency, as per plat recorded in the Office of the Surveyor for the District of Columbia, in liber 154 at folio 149 (901 First Street N.W., the J.B. Johnson Building and grounds).

(Nov. 8, 1984, 98 Stat. 3369, Pub. L. 98-621, § 8; Oct. 31, 1991, 105 Stat. 980, Pub. L. 102-150, § 3(b).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-627.

Effective Dates

For effective date of this subchapter, see Historical and Statutory Notes following § 44-901.

§ 44-908. FINANCING PROVISIONS.

(a) There are authorized to be appropriated for grants by the Secretary of Health and Human Services to the District of Columbia comprehensive mental health system, \$30,000,000 for fiscal year 1988, \$24,000,000 for fiscal year 1989, \$18,000,000 for fiscal year 1990, and \$12,000,000 for fiscal year 1991.

(b)(1) Beginning on October 1, 1987, and in each subsequent fiscal year, the appropriate federal agency is directed to pay the District of Columbia the full costs for the provision of mental health diagnostic and treatment services for the following types of patients:

(A) Any individual referred to the system pursuant to a federal statute or by a responsible federal agency;

(B) Any individual referred to the system for emergency detention or involuntary commitment after being taken into custody:

(i) As a direct result of the individual's action or threat of action against a federal official;

(ii) As a direct result of the individual's action or threat of action on the grounds of the White

House or of the Capitol; or

(iii) Under Chapter 9 of Title 21 of the District of Columbia Official Code;

(C) Any individual referred to the system as a result of a criminal proceeding in a federal court (including an individual admitted for treatment, observation, and diagnosis and an individual found incompetent to stand trial or found not guilty by reason of insanity). The preceding provisions of this paragraph apply to any individual referred to the system (or to Saint Elizabeths Hospital) before or after November 8, 1984.

(2) The responsibility of the United States for the cost of services for individuals described in paragraph (1) of this subsection shall not affect the treatment responsibilities to the District of Columbia under the Interstate Compact on Mental Health.

(c) During the service coordination and the financial transition periods, the District of Columbia shall gradually assume a greater share of the financial responsibility for the provision of mental health services provided by the system to individuals not described in subsection (b) of this section.

(d) Subject to § 44-903(f)(2), capital improvements to facilities at Saint Elizabeths Hospital authorized during the service coordination period shall be the shared responsibility of the District and the federal government in accordance with Public Law 83-472.

(e) Pursuant to the financial audit under § 44-903(f), any unassigned liabilities of the Hospital shall be assumed by and shall be the sole responsibility of the federal government.

(f)(1) After the service coordination period, the Secretary shall conduct an audit, under generally accepted accounting procedures, to identify the liability of the federal government for accrued annual leave balances for those employees assumed by the District under the system implementation plan.

(2) There is authorized to be appropriated for payment by the federal government to the District an amount equal to the liability identified by such audit.

(g) Nothing in this subchapter shall affect the authority of the District of Columbia under any other statute to collect costs billed by the District of Columbia for mental health services, except that payment for the same costs may not be collected from more than one party.

(h) The government of the United States shall be solely responsible for:

(1) All claims and causes of action against Saint Elizabeths Hospital that accrue before October 1, 1987, regardless of the date on which legal proceedings asserting such claims were or may be filed, except that the United States shall, in the case of any tort claim, only be responsible for any such claim against the United States that accrues before October 1, 1987, and the United States shall not compromise or settle any claim resulting in District liability without the consent of the District, which consent shall not be unreasonably withheld; and

(2) All claims that result in a judgment or award against Saint Elizabeths Hospital before October 1, 1987.

(Nov. 8, 1984, 98 Stat. 3369, Pub. L. 98-621, § 9(a)-(c)(1), (d)-(h).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-628.

Effective Dates

For effective date of this subchapter, see Historical and Statutory Notes following § 44-901.

§ 44-909. BUY AMERICAN PROVISIONS.

(a) *Generally.* — The Mayor shall insure that the requirements of the Buy American Act of 1933, as amended, apply to all procurements made under this subchapter.

(b) *Determination by the Mayor.* — (1) If the Mayor, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) of this subsection has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the United States Trade Representative shall rescind the waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) of this subsection is any agreement, between the United States and a foreign country pursuant to which the head of an agency of the United States Government has waived the requirements of the Buy American Act with respect to certain products produced in the foreign country.

(c) *Report to Congress.* -- The Mayor shall submit to Congress a report on the amount of purchases from foreign entities under this subchapter from foreign entities in fiscal years 1992 and 1993. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (b)(2) of this section, the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(d) *Buy American Act defined.* -- For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(e) *Restrictions on contract awards.* -- No contract or subcontract made with funds authorized under this subchapter may be awarded for the procurement of an article, material, or supply produced or manufactured in a foreign country whose government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to (g)(1)(A) of section 305 of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(A)). Any such determination shall be made in accordance with section 305 [of such act].

(f) *Prohibition against fraudulent use of "Made in America" labels.* -- If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract under this subchapter, pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

(Oct. 31, 1991, 105 Stat. 980, Pub. L. 102-150, § 4.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-629.

SUBCHAPTER II. MENTAL HEALTH SERVICES CLIENT ENTERPRISE PROGRAM.

§ 44-921. ESTABLISHMENT; EXPENSES; REVOLVING FUND; AUDIT.

(a) The Mayor is authorized to establish an enterprise program at St. Elizabeths Hospital to promote the rehabilitation and employment of clients of the Department of Mental Health with the intended purpose of assisting clients of the Department of Mental Health to acquire community work skills in preparation for independent living.

(b) Purchases and sales of merchandise which may be made by clients and the payment of any wages to clients or any other expenses of the program may be paid from funds derived from the day to day operation of the enterprise program but shall not be subject to Unit A of Chapter 3 of Title 2.

(c) The Mayor, or during a control year as defined in § 47-393, the Mayor or the Chief Financial Officer, is authorized to establish a revolving fund to be used for the collection and disbursement of funds for any enterprise program established pursuant to this subchapter and shall supervise all collections and disbursements from the fund for the purposes set forth in this subchapter.

(d) Repealed.

(Apr. 13, 1999, D.C. Law 12-226, § 2, 46 DCR 500; Dec. 18, 2001, D.C. Law 14-56, § 116(j), 48 DCR 7674; Dec. 7, 2004, D.C. Law 15-205, § 1192(e), 51 DCR 8441.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-631.

Effect of Amendments

D.C. Law 14-56, in subsec. (a), substituted "Department of Mental Health" for "Commission on Mental Health Services".

D.C. Law 15-205 repealed subsec. (d) which had read as follows:

"(d) Any business operations conducted pursuant to this subchapter shall be subject to the oversight of the District of Columbia Auditor pursuant to § 1- 204.55."

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 16(j) of Department of Mental Health Establishment Temporary Amendment Act of 2001 (D.C. Law 14-51, November 3, 2001, law notification 48 DCR 10807).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 16(j) of Department of Mental Health Establishment Emergency Amendment Act of 2001 (D.C. Act 14-55, May 2, 2001, 48 DCR 4390).

For temporary (90 day) amendment of section, see § 16(j) of Department of Mental Health Establishment Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-101, July 23, 2001, 48 DCR 7123).

For temporary (90 day) amendment of section, see § 116(j) of Mental Health Service Delivery Reform Congressional Review Emergency Act of 2001 (D.C. Act 14-144, October 23, 2001, 48 DCR 9947).

For temporary (90 day) amendment of section, see § 1192(e) of Fiscal Year 2005 Budget Support Emergency Act of 2004 (D.C. Act 15-486, August 2, 2004, 51 DCR 8236).

For temporary (90 day) amendment of section, see § 1192(e) of Fiscal Year 2005 Budget Support Congressional Review Emergency Act of 2004 (D.C. Act 15-594, October 26, 2004, 51 DCR 11725).

Legislative History of Laws

Law 12-226, the "Mental Health Services Client Enterprise Establishment Act of 1998," was introduced in Council and assigned Bill No. 12-593, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on December 11, 1998, it was assigned Act No. 12-547 and transmitted to both Houses of Congress for its review. D.C. Law 12-226 became effective on April 13, 1999.

For Law 14-56, see notes following § 44-401.

Law 15-205, the "Fiscal Year 2005 Budget Support Act of 2004", was introduced in Council and assigned Bill No. 15-768, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 14, 2004, and June 29, 2004, respectively. Signed by the Mayor on August 2, 2004, it was assigned Act No. 15-487 and transmitted to both Houses of Congress for its review. D.C. Law 15-205 became effective on December 7, 2004.

§ 44-922. RULES.

The Mayor may issue rules to implement the provisions of this subchapter in accordance with subchapter I of Chapter 5 of Title 2.

(Apr. 13, 1999, D.C. Law 12-226, § 3, 46 DCR 500.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-632.

Legislative History of Laws

For legislative history of D.C. Law 12-226, see Historical and Statutory Notes following § 44-901.