

**DISTRICT OF COLUMBIA**  
**OFFICIAL CODE**

**TITLE 7.**  
**HUMAN HEALTH CARE AND SAFETY.**

**CHAPTER 11A.**  
**DEPARTMENT OF MENTAL HEALTH**  
**ESTABLISHMENT.**

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**DISTRICT OF COLUMBIA OFFICIAL CODE**  
**CHAPTER 11A. DEPARTMENT OF MENTAL HEALTH**  
**ESTABLISHMENT.**

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# CHAPTER 11A. DEPARTMENT OF MENTAL HEALTH ESTABLISHMENT.

## § 7-1131.01. SHORT TITLE.

This chapter may be cited as the "Department of Mental Health Establishment Amendment Act of 2001". (Dec. 18, 2001, D.C. Law 14-56, § 101, 48 DCR 7674.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Emergency Act Amendments*

For temporary (90 day) addition of section, see § 101 of Mental Health Service Delivery Reform Congressional Review Emergency Act of 2001 (D.C. Act 14-144, October 23, 2001, 48 DCR 9947).

#### *Legislative History of Laws*

Law 14-56, the "Department of Mental Health Establishment Amendment Act of 2001", was introduced in Council and assigned Bill No. 14-136, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 26, 2001, and July 10, 2001, respectively. Signed by the Mayor on July 24, 2001, it was assigned Act No. 14-119 and transmitted to both Houses of Congress for its review. D.C. Law 14-56 became effective on December 18, 2001.

## § 7-1131.02. DEFINITIONS.

For the purposes of this chapter, the term:

- (1) "Behavioral health" means a person's overall social, emotional, and psychological well-being and development.
- (1A) "Behavioral health assessment" means a more thorough and comprehensive examination by a mental health professional of the behavioral health issues and needs identified during an initial behavioral health screening by which the mental health professional shall identify the type and extent of the behavioral health problem and make recommendations for treatment interventions.
- (1B) "Behavioral Health Ombudsman" or "Ombudsman" means the individual responsible for administering the Behavioral Health Ombudsman Program.
- (1C) "Behavioral Health Ombudsman Program" or "Ombudsman Program" means the program established in § 7-1131.19 to provide District residents with assistance in accessing behavioral health programs and services.
- (1D) "Behavioral health screening" means a brief process designed to identify youth who are at risk of having behavioral health disorders that warrant immediate attention, or intervention, or to identify the need for further assessment with a more comprehensive examination.
- (1E) "Business associate" means any organization or person working in association with, or providing services to, a covered entity who handles or discloses Personal Health Information, as that term is interpreted in 45 CFR 160.103 pursuant to the Health Insurance Portability and Accountability Act of 1996, approved August 21, 1996 (110 Stat. 1936; 42 U.S.C. § 201, note) ("HIPPA").
- (1F) "Children or youth with mental health problems" means persons under 18 years of age, or persons under 22 years of age and receiving special education, youth, or child welfare services, who:
  - (A) Have, or are at risk of having, a diagnosable mental, behavioral, or emotional disorder (including those of biological etiology) which substantially impairs the mental health of the person or is of sufficient duration to meet diagnostic criteria specified within the DSM-IV or the ICD-9-CM equivalent (and subsequent revisions), with the exception of substance abuse disorders, intellectual disability, and other developmental disorders, or seizure disorders, unless those exceptions co-occur with another diagnosable serious emotional disturbance; and

- (B)(i) Demonstrate either functional impairments or symptoms that significantly disrupt their academic or developmental progress or family and interpersonal relationships; or
- (ii) Have an emotional disturbance causing problems so severe as to require significant mental health intervention.
- (2) "Consumers of mental health services" means adults, children, or youth who seek or receive mental health services or mental health supports funded or regulated by the Department.
- (3) "Core services agency" means a community-based provider of mental health services and mental health supports that is certified by the Department and that acts as a clinical home for consumers of mental health services by providing a single point of access and accountability for diagnostic assessment, medication-somatic treatment, counseling and psychotherapy, community support services, and access to other needed services.
- (4) "Court" means the Superior Court of the District of Columbia.
- (5) "Cultural competence" means the ability of a provider to deliver mental health services and mental health supports in a manner that effectively responds to the languages, values, and practices present in the various cultures of the provider's consumers of mental health services.
- (6) "Department" means the Department of Mental Health.
- (7) "Director" means the Director of the Department of Mental Health.
- (8) "District" means the District of Columbia.
- (9) "DSM-IV" means the most recent version of the Diagnostic and Statistical Manual of Mental Disorders.
- (10) "DSM-IV 'V' Codes" means "V" codes as defined in the most recent version of the Diagnostic and Statistical Manual of Mental Disorders.
- (10A) "DYRS" means the Department of Youth Rehabilitation Services.
- (11) "Hospital" means a public or private institution, or part thereof, operating in the District and licensed to provide inpatient care and certified to provide treatment for persons with physical or mental illness.
- (12) "ICD-9-CM" means the most recent version of the International Classification of Diseases Code Manual.
- (13) "Individual Plan of Care" means the individualized service plan for a child or youth with or at risk of mental health problems, including processes for the appropriate transition of youth receiving mental health services and mental health supports from the system of care for children, youth, and their families into the system of care for adults.
- (14) "Individual Recovery Plan" means the individualized service plan for a person with mental illness.
- (15) "Joint consent" means a process established by the Department to enable all participating providers to rely on a single form in which a consumer of mental health services consents to the use of his or her protected mental health information by participating providers in the Department's organized health care arrangement, for the purposes of delivering treatment, obtaining payment for services and supports rendered, and performing certain administrative operations, such as quality assurance, utilization review, accreditation, and oversight.
- (16) "Medical Assistance Administration" means the division of the District's Department of Health responsible for administering the District's Medical Assistance Program.
- (17) "Medical Assistance Program" and "Medicaid Program" mean the program described in the Medicaid State Plan and administered by the Medical Assistance Administration pursuant to § 1-307.02(b) and title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. § 1396 *et seq.*).
- (18) "Mental health services" means the services funded or regulated by the Department for the purpose of addressing mental illness or mental health problems.
- (19) "Mental health supports" means the supports funded or regulated by the Department for the purpose of addressing mental illness or mental health problems.
- (19A) "Oak Hill Youth Center" means the secure juvenile facility currently operated by DYRS in Laurel, Maryland.
- (20) "Organized health care arrangement," means an organized system of health care in which more than one provider participates, and in which the participating providers hold themselves out to the public as participating in a joint arrangement, and either:
- (A) Participate in joint activities that include utilization review under Chapter 8 of Title 44 in which health care decisions by participating providers are reviewed by other participating providers or by a third party on their behalf; or

(B) Participate in quality assessment and improvement activities under Chapter 8 of Title 44 in which mental health services or mental health supports provided by participating providers are assessed by other participating providers or by a third party on their behalf.

(21) "Participating provider" means a provider of mental health services or mental health supports that, through participation in the joint consent promulgated by the Department pursuant to § 7-1131.14(6), joins the organized health care arrangement created by the Department.

(22) "Partnership Council" means the council appointed by the Director pursuant to § 7-1131.10 to advise him or her with respect to departmental matters.

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

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

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

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

(ii) Are 22 years of age or over.

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

(25A) "Program" means the nursing educational tuition assistance program for nurses employed by Saint Elizabeths Hospital established by § 7-1131.20.

(26) "Protected mental health information" means information regulated by Chapter 12 of this title.

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

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

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

(28) "Regulate" means all non-professional certification, licensing, monitoring, and related functions, except fire inspections, food service inspections, the issuance of building permits and certificates of occupancy, all inspections relating to these permits and certificates, and all responsibilities under § 1-307.02.

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

(29A) "Secure Facilities" means Oak Hill Youth Center, the Youth Services Center, and any successor facilities or new secure facilities operated by or on behalf of DYRS for youth in DYRS custody.

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

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

supports to meet individual and special needs are delivered in natural, nurturing, and integrated environments, recognize the importance of and support for the maintenance of enduring family relationships, and are planned and developed within the District and as close to the child's or youth's home as possible so that families need not relinquish custody to secure treatment for their children and youth.

(31A) "UDC" means the University of the District of Columbia.

(31B) "Youth" means an individual under 18 years of age residing in the District and those individuals classified as youth in the custody of DYRS and the Child and Family Services Agency who are 21 years of age or younger.

(32) "Youth Services Center" means the secure juvenile facility currently operated by DYRS in the District of Columbia.

(Dec. 18, 2001, D.C. Law 14-56, § 102, 48 DCR 7674; Mar. 2, 2007, D.C. Law 16-192, § 5022(a), 53 DCR 6899; June 7, 2012, D.C. Law 19-141, § 402(a), 59 DCR 3083; Sept. 20, 2012, D.C. Law 19-168, § 5042(a), 59 DCR 8025; Sept. 26, 2012, D.C. Law 19-169, § 16, 59 DCR 5567.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Effect of Amendments*

D.C. Law 16-192 added pars. (10A), (19A), (29A), and (32).

D.C. Law 19-141 redesignated former par. (1) as par. (1F); and added pars. (1), (1A), (1B), (1C), (1D), (1E), and (31A).

D.C. Law 19-168 redesignated par. (31A) as par. (31B); and added subsecs. (25A) and (31A).

D.C. Law 19-169, in subsecs. (1F)(A) and (24)(A), substituted "intellectual" for "mental retardation"; and, in par. (11), substituted "with" for "suffering from".

##### *Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 2(a) of Comprehensive Psychiatric Emergency Program Long-Term Ground Lease Temporary Act of 2006 (D.C. Law 16-298, March 6, 2007, law notification 54 DCR 5144).

##### *Temporary Addition of Section*

For temporary (225 day) addition of section, see § 2 of Department of Mental Health Establishment Temporary Amendment Act of 2001 (D.C. Law 14-51, October 30, 2001, law notification 48 DCR 10807).

##### *Emergency Act Amendments*

For temporary (90 day) addition of section, see § 2 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) addition of section, see § 2 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) addition of section, see § 102 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 § 5022(a) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 5022(a) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 2(a) of Comprehensive Psychiatric Emergency Program Long-Term Ground Lease Emergency Act of 2006 (D.C. Act 16-529, December 4, 2006, 53 DCR 9833).

For temporary (90 day) amendment of section, see § 5022(a) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) amendment of section, see § 2(a) of Comprehensive Psychiatric Emergency Program Long-Term Ground Lease Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-16, February 20, 2007, 54 DCR 1774).

For temporary (90 day) repeal of section 2 of D.C. Law 16-298, see § 2 of Comprehensive Psychiatric Emergency Program Long-Term Ground Lease Emergency Amendment Act of 2007 (D.C. Act 17-80, July 26, 2007, 54 DCR 7636).

##### *Legislative History of Laws*

For D.C. Law 14-51, see notes following § 7-154.

For Law 14-56, see notes following § 7-1131.01.

For Law 16-192, see notes following § 7-751.16a.

Law 19-141, the "South Capitol Street Memorial Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-211, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 6, 2012, and March 20, 2012, respectively. Signed by the Mayor on April 10, 2012, it was assigned Act No. 19-344 and transmitted to both Houses of Congress for its review. D.C. Law 19-141 became effective on June 7, 2012.

Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012", was introduced in Council and assigned Bill No. 19-743, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to both Houses of Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

For history of Law 19-169, see notes under § 7-761.02.

#### *Miscellaneous Notes*

Short title: Section 5021 of D.C. Law 16-192 provided that subtitle C of title V of the act may be cited as the "Department of Mental Health Establishment Amendment Act of 2006".

Short title: Section 5041 of D.C. Law 19-168 provided that subtitle E of title V of the act may be cited as "Department of Mental Health Nurse Training Program Amendment Act of 2012".

### **§ 7-1131.03. ESTABLISHMENT AND PURPOSES OF THE DEPARTMENT OF MENTAL HEALTH.**

- (a) There is established as a separate cabinet-level Department, subordinate to the Mayor, the Department of Mental Health.
- (b) The Department shall be the successor in interest to the Commission on Mental Health Services, established by Mayor's Reorganization Plan No. 3 of 1986, effective January 3, 1987 (part B of subchapter VII of Chapter 15 of Title 1), and Mayor's Order No. 88-168, effective July 13, 1988, and under receivership in the case of *Dixon, et al. v. Williams, et al.*, C.A. No. 74-285 (NHJ), in the United States District Court for the District of Columbia.
- (c) The provisions of this chapter are intended to be construed in a manner consistent with all outstanding orders of the United States District Court in *Dixon, et al. v. Williams, et al.*, including the Final Plan adopted by the District Court in its April 2, 2001 order.
- (d) The Department shall have as its purposes:
  - (1) Developing a system of care for adults that is integrated to the maximum practicable extent with other public systems in the District, including but not limited to addiction treatment and prevention, criminal justice, education, health, housing, income maintenance, and vocational rehabilitation;
  - (2) Developing a system of care for children, youth, and their families that is integrated to the maximum practicable extent with other public systems in the District, including but not limited to addiction treatment and prevention, child welfare, criminal justice, developmental services, education, health, housing, income maintenance, juvenile justice, and vocational rehabilitation;
  - (3) Ensuring that persons with mental illness and children or youth with mental health problems are treated in the most integrated setting that can be accommodated, consistent with individual needs and public safety;
  - (4) Fostering the development of high quality, comprehensive, cost effective, and culturally competent mental health services and mental health supports, based on recognized local needs, especially for persons with serious mental illness and children or youth with serious emotional disturbances;
  - (5) Promoting mental health and public awareness of mental health issues;
  - (6) Ensuring that services provided to mental health consumers meet standards established by the Department pursuant to § 7-1131.14(2)-(5) for the operation of mental health services and mental health supports;
  - (7) Developing and implementing strategies to eliminate barriers and improve access to mental health services and mental health supports for consumers of mental health services; and
  - (8) Ensuring the participation of consumers, families, employees, providers, and advocates of mental health services and mental health supports in the planning, delivery, monitoring, and evaluation of these services and supports.
- (e) In assessing or meeting the service needs of consumers of mental health services, the Department shall not discriminate against consumers based upon their eligibility or non-eligibility for Medicaid, Medicare, or private insurance coverage; provided, that nothing in this section shall preclude the Department from establishing by regulation a mental-health-benefit program or plan based upon eligibility or non-eligibility for Medicaid, Medicare, or private insurance coverage.

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

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

(h) Nothing in this chapter shall affect the authority of the Medical Assistance Administration as the single state agency for the administration of the Medicaid Program under section 1902(a)(5) of the Social Security Act, approved July 30, 1965 (79 Stat. 344; 42 U.S.C. § 1396a(a)(5)).

(Dec. 18, 2001, D.C. Law 14-56, § 103, 48 DCR 7674; Sept. 14, 2011, D.C. Law 19-21, § 5033, 58 DCR 6226.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Effect of Amendments*

D.C. Law 19-21, in subsec. (e), substituted "insurance coverage; provided, that nothing in this section shall preclude the Department from establishing by regulation a mental-health-benefit program or plan based upon eligibility or non-eligibility for Medicaid, Medicare, or private insurance coverage" for "insurance coverage".

##### *Temporary Addition of Section*

For temporary (225 day) addition of section, see § 3 of Department of Mental Health Establishment Temporary Amendment Act of 2001 (D.C. Law 14-51, October 30, 2001, law notification 48 DCR 10807).

##### *Emergency Act Amendments*

For temporary (90 day) addition of section, see § 3 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) addition of section, see § 3 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) addition of section, see § 103 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) addition of section, see § 5002 of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

For temporary (90 day) amendment of section, see § 5003 of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

##### *Legislative History of Laws*

For Law 14-56, see notes following § 7-1131.01.

For history of Law 19-21, see notes under § 7-731.

## **§ 7-1131.04. POWERS AND DUTIES OF THE DEPARTMENT OF MENTAL HEALTH.**

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

- (1) Plan, develop, coordinate, and monitor comprehensive and integrated mental health systems of care for adults and for children, youth, and their families in the District, so as to maximize utilization of mental health services and mental health supports and to assure that services for priority populations identified in the Department's annual plan are funded within the Department's appropriations or authorizations by Congress and are available;
- (2) Arrange for all authorized, publicly funded mental health services and mental health supports for the residents of the District, whether operated directly by, or through contract with, the Department except that DYRS shall be responsible for the provision of mental health services for youth in custody in DYRS secure facilities;
- (3) Make grants, pay subsidies, purchase services, and provide reimbursement for mental health services and mental health supports;
- (4) Arrange for, or if necessary directly provide, inpatient mental health services for all persons identified to the Department who meet criteria for admission for such services;
- (5) Directly operate a hospital to provide inpatient mental health services, and seek to achieve and maintain the hospital's certification by the Health Care Financing Administration;
- (6) Directly operate one core services agency, for 3 years from December 18, 2001, or longer, as needed, to address the community mental health needs of the residents of the District;



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

(8) Beginning no later than October 1, 2001, be the exclusive agency to regulate all mental health services and mental health supports, including but not limited to housing services and residential treatment centers for children, but excluding the licensure of professionals, notwithstanding the licensing powers and responsibilities given to other District agencies and officials under the following laws:

(A) Subchapter I-A of Chapter 28 of Title 47;

(B) Subchapter I-B of Chapter 28 of Title 47; and

(C) Subchapter I of Chapter 5 of Title 44;

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

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

(11) Serve as the "Compact Administrator" under Article X of the Interstate Compact on Mental Health as set forth in Chapter 11 of this title;

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

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

(14) Independent of the District of Columbia Office of Personnel but consistent with Chapter 6 of Title 1, serve as the personnel authority for all employees of the Department, including exercising full authority to hire, retain, and terminate personnel, and to establish their compensation and reimbursement consistent with the District's wage grade and non-wage grade schedules and the Congressionally-approved budget;

(15) Independent of the Office of Contracting and Procurement, exercise procurement authority to carry out the purposes of the Department, including contracting and contract oversight and exercise this authority consistent with Chapter 3A of Title 2 ; except that § 2-352.01 shall not apply;

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

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

(Dec. 18, 2001, D.C. Law 14-56, § 104, 48 DCR 7674; Mar. 2, 2007, D.C. Law 16-192, § 5022(b), 53 DCR 6899; Sept. 26, 2012, D.C. Law 19-171, § 210, 59 DCR 6190.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Effect of Amendments*

D.C. Law 16-192, in par. (2), inserted "except that DYRS shall be responsible for the provision of mental health services for youth in custody in DYRS secure facilities" following "Department".

D.C. Law 19-171 rewrote par. (15), which formerly read:

"(15) Independent of the District of Columbia Office of Contracting and Procurement, exercise procurement authority to carry out the purposes of the Department, including contracting and contract oversight. The Department shall exercise this authority consistent with Unit A of Chapter 3 of Title 2, except with regard to the powers and duties outlined in § 2-301.05(a), (b), (c), and (e);"

##### *Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 2(b) of Comprehensive Psychiatric Emergency Program Long-Term Ground Lease Temporary Act of 2006 (D.C. Law 16-298, March 6, 2007, law notification 54 DCR 5144).

##### *Temporary Addition of Section*

For temporary (225 day) addition of section, see § 4 of Department of Mental Health Establishment Temporary Amendment Act of 2001 (D.C. Law 14-51, October 30, 2001, law notification 48 DCR 10807).

#### *Emergency Act Amendments*

For temporary (90 day) addition of section, see § 4 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) addition of section, see § 4 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) addition of section, see § 104 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) additions, see §§ 5102, 5113, 5114 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 5022(b) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 5022(b) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 2(b) of Comprehensive Psychiatric Emergency Program Long-Term Ground Lease Emergency Act of 2006 (D.C. Act 16-529, December 4, 2006, 53 DCR 9833).

For temporary (90 day) amendment of section, see § 5022(b) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) amendment of section, see § 2(b) of Comprehensive Psychiatric Emergency Program Long-Term Ground Lease Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-16, February 20, 2007, 54 DCR 1774).

For temporary (90 day) repeal of section 2 of D.C. Law 16-298, see § 2 of Comprehensive Psychiatric Emergency Program Long-Term Ground Lease Emergency Amendment Act of 2007 (D.C. Act 17-80, July 26, 2007, 54 DCR 7636).

For temporary (90 day) addition of section, see § 5012 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 5012 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

#### *Legislative History of Laws*

For Law 14-56, see notes following § 7-1131.01.

For Law 16-192, see notes following § 7-751.16a.

For history of Law 19-171, see notes under § 7-242.

#### *Miscellaneous Notes*

Short title of subtitle J of title V of Law 16-33: Section 5101 of D.C. Law 16-33 provided that subtitle J of title V of the act may be cited as the Residential Treatment Centers Placement Act of 2005.

Section 5102 of D.C. Law 16-33 provides:

"Sec. 5102. Residential treatment centers placement agreement.

"(a) The Department of Mental Health ("DMH"), the Children and Family Services Administration ("CFSA"), and the Department of Youth Rehabilitation Services ("DYRS") shall enter into an agreement for DMH to contract for and authorize placements for all children and youth requiring residential treatment center placement, regardless of the fund source for children and youth with emotional or mental disorders.

"(b) The agreement shall require DMH, CFSA, and DYRS to plan and contract jointly for evidence-based, effective community alternatives to residential treatment center placements.

"(c) All residential treatment center providers who currently are not certified who choose to remain contractors with the District and who meet certification standards shall be certified by DMH."

Short title of subtitle K of title V of Law 16-33: Section 5111 of D.C. Law 16-33 provided that subtitle K of title V of the act may be cited as the Department of Mental Health Retirement Incentive Programs Act of 2005.

Sections 5112 to 5114 of D.C. Law 16-33 provide:

"Sec. 5112. Definitions.

"For the purposes of this act, the term "felony" means an offense that is punishable by a term of imprisonment that exceeds one year or a fine of at least \$1,000, or both.

"Sec. 5113. Easy out retirement incentive.

"(a) Notwithstanding section 1106 of the District of Columbia Government Comprehensive Merit Personnel

Act of 1978, effective March 3, 1979 (D.C. Law 2- 139; D. C. Official Code § 1-611.06) ("CMPA"), if the Council adopts changes to the Career and Excepted Service compensation system under section 1104 of the CMPA that authorize the Mayor to establish a retirement incentive program for certain District employees ("Easy Out Program"), the Department of Mental Health is hereby authorized to offer the cash incentives described in subsection (b) to employees who are eligible to participate in any Easy Out Program approved by the federal Office of Personnel Management and the District of Columbia Office of Personnel for fiscal year 2006, if the Department of Mental Health chooses to participate in the Easy Out Program.

"(b) The Department of Mental Health may offer a retirement incentive of up to 50% of an employee's annual rate of base pay, based on the employee's salary or pay schedule in effect on October 1, 2005, not to exceed \$25,000, to be paid within one year of the employee's retirement.

"(c) Retirement incentive payments shall be prorated in the case of a part-time employee.

"(d) Retirement incentive payments shall not be considered basic pay for computing retirement entitlement, insurance entitlement, any category of premium pay entitlement, lump-sum leave, or any other entitlement that is computed on basic pay.

"(e) No incentive payment shall be paid to:

"(1) An employee who is a reemployed annuitant under the provisions of 5 U.S.C. § 8344;

"(2) An employee who is in a critical position as defined by the Department of Mental Health;

"(3) An employee who is under indictment or who is charged by information with or who has been convicted of a felony, or who has pled guilty or has been convicted after a plea of nolo contendere to a felony, related to his or her employment duties; provided, that any employee who is ultimately acquitted or cleared of any charge that caused his or her ineligibility shall be eligible for all benefits as if that employee had never been indicted for or charged by information with a felony; or

"(4) An employee who, based on conduct related to his or her employment duties, has been convicted of a misdemeanor, or who has pled guilty or has been convicted after a plea of nolo contendere to a misdemeanor; provided, that any employee who is ultimately acquitted or cleared of any charge that caused his or her ineligibility shall be eligible for all benefits as if that employee had never been charged with a misdemeanor.

"(f) An employee who receives an incentive payment under the Easy Out Program shall not be eligible for reemployment with the District government for 5 years from the date of retirement, and shall not be hired or retained as a sole source consultant or personal services contractor for 5 years from the date of retirement.

"Sec. 5114. Early out retirement incentive.

"(a) Notwithstanding section 1106 of the CMPA, if the Council adopts changes to the Career and Excepted Service compensation system under section 1104 of the CMPA that authorize the Mayor to establish a retirement incentive program for certain District employees ("Early Out Program"), the Department of Mental Health is hereby authorized to offer the cash incentives described in subsection (b) to employees who are eligible to participate in any Early Out Program approved by the federal Office of Personnel Management and the District of Columbia Office of Personnel for fiscal year 2006, if the Department of Mental Health chooses to participate in the Early Out Program.

"(b) The Department of Mental Health may offer a retirement incentive of up to 50% of an employee's annual rate of base pay, based on the employee's salary or pay schedule in effect on October 1, 2005 not to exceed \$25,000, to be paid within one year of the employee's retirement.

"(c) Retirement incentive payments shall be prorated in the case of a part-time employee.

"(d) Retirement incentive payments shall not be considered basic pay for computing retirement entitlement, insurance entitlement, any category of premium pay entitlement, lump-sum leave, or any other entitlement that is computed on basic pay.

"(e) No incentive payment shall be paid to:

"(1) An employee who is a reemployed annuitant under the provisions of 5 U.S.C. § 8344;

"(2) An employee who is in a critical position as defined by the Department of Mental Health;

"(3) An employee who is under indictment or who is charged by information with or who has been convicted of a felony, or who has pled guilty or has been convicted after a plea of nolo contendere to a felony, related to his or her employment duties; provided, that any employee who is ultimately acquitted or cleared of any charge that caused his or her ineligibility shall be eligible for all benefits as if that employee had never been indicted for or charged by information with a felony; or

"(4) An employee who, based on conduct related to his or her employment duties, has been convicted of a misdemeanor, or who has pled guilty or has been convicted after a plea of nolo contendere to a misdemeanor; provided, that any employee who is ultimately acquitted or cleared of any charge that caused his or her ineligibility shall be eligible for all benefits as if that employee had never been charged with a misdemeanor.

"(f) An employee who receives an incentive payment under the Early Out Program shall not be eligible for

reemployment with the District government for 5 years from the date of retirement, and shall not be hired or retained as a sole source consultant or personal services contractor for 5 years from the date of retirement."

Short title: Section 5011 of D.C. Law 19-168 provided that subtitle B of title V of the act may be cited as "Reporting Requirements Act of 2012".

For Department of Mental Health reporting requirements to Council, see § 5012 of D.C. Law 19-168.

## **§ 7-1131.05. APPOINTMENT AND DUTIES OF DIRECTOR.**

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

- (1) Serve as the chief executive officer of the Department, organizing the Department for its efficient operation, including creating offices within the Department as necessary, and exercising any other powers necessary and appropriate to implement the provisions of the law;
- (2) Hire, retain, and terminate such personnel as appropriate to perform the functions of the Department consistent with Chapter 6 of Title 1;
- (3) Establish, through contracts and memoranda of agreement or understandings with governmental bodies, public and private agencies, institutions, and organizations, systems of care for adults, and for children, youth, and their families, as well as for other identified priority populations;
- (4) Establish priorities for the delivery of mental health services and mental health supports, and develop plans for the operation and coordination of core services agencies and other providers, so as to encourage the development and expansion of preventive, rehabilitative, and consultative mental health services and mental health supports with an emphasis on continuity of care;
- (5) In accordance with Chapter 5 of Title 2, issue and enforce all rules and regulations necessary and appropriate to the proper accomplishment of the mental health duties and functions imposed by this chapter;
- (6) Execute contracts on behalf of the Department;
- (7) Coordinate with the activities of the State Mental Health Planning Council, established pursuant to section 1914 of the Public Health Service Act, approved July 10, 1992 (106 Stat. 382; 42 U.S.C. § 300x-3) and Mayor's Order 88-261, effective December 14, 1988; and
- (8)(A) Publish an annual plan describing how the Department intends to provide or arrange for systems of care for adults and for children, youth, and their families and to serve the needs of priority populations; and  
(B) In developing the annual plan, hold public forums in the community to solicit the input of residents of the District with regard to the need for present or additional mental health services and mental health supports.

(Dec. 18, 2001, D.C. Law 14-56, § 105, 48 DCR 7674.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Temporary Addition of Section*

For temporary (225 day) addition of section, see § 5 of Department of Mental Health Establishment Temporary Amendment Act of 2001 (D.C. Law 14-51, October 30, 2001, law notification 48 DCR 10807).

#### *Emergency Act Amendments*

For temporary (90 day) addition of section, see § 5 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) addition of section, see § 5 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) addition of section, see § 105 of Mental Health Service Delivery Reform Congressional Review Emergency Act of 2001 (D.C. Act 14-144, October 23, 2001, 48 DCR 9947).

#### *Legislative History of Laws*

For Law 14-56, see notes following § 7-1131.01.

#### *Miscellaneous Notes*

Establishment -- District of Columbia State Mental Health Planning Council, see Mayor's Order 2011-147, August 30, 2011 (58 DCR 7984).

## **§ 7-1131.06. APPOINTMENT AND DUTIES OF CHIEF FINANCIAL OFFICER.**

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

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

(Dec. 18, 2001, D.C. Law 14-56, § 106, 48 DCR 7674.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Temporary Addition of Section*

For temporary (225 day) addition of section, see § 6 of Department of Mental Health Establishment Temporary Amendment Act of 2001 (D.C. Law 14-51, October 30, 2001, law notification 48 DCR 10807).

#### *Emergency Act Amendments*

For temporary (90 day) addition of section, see § 6 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) addition of section, see § 6 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) addition of section, see § 106 of Mental Health Service Delivery Reform Congressional Review Emergency Act of 2001 (D.C. Act 14-144, October 23, 2001, 48 DCR 9947).

#### *Legislative History of Laws*

For Law 14-56, see notes following § 7-1131.01.

## **§ 7-1131.07. APPOINTMENT AND DUTIES OF CHIEF CLINICAL OFFICER.**

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

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

(Dec. 18, 2001, D.C. Law 14-56, § 107, 48 DCR 7674.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Temporary Addition of Section*

For temporary (225 day) addition of section, see § 7 of Department of Mental Health Establishment Temporary Amendment Act of 2001 (D.C. Law 14-51, October 30, 2001, law notification 48 DCR 10807).

#### *Emergency Act Amendments*

For temporary (90 day) addition of section, see § 7 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) addition of section, see § 7 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) addition of section, see § 107 of Mental Health Service Delivery Reform Congressional Review Emergency Act of 2001 (D.C. Act 14-144, October 23, 2001, 48 DCR 9947).

For Law 14-56, see notes following § 7-1131.01.

## **§ 7-1131.08. APPOINTMENT AND DUTIES OF GENERAL COUNSEL.**

(a) The Department shall have a General Counsel or the equivalent, appointed by the Attorney General as an employee of the Office of the Attorney General, after consultation with the Director of the Department. The General Counsel or the equivalent shall:

- (1) Be an attorney admitted to the practice of law in the District of Columbia and qualified by experience and training to advise the Department with respect to legal issues related to its powers and duties;
- (2) Be in the Senior Executive Attorney Service as an at-will employee under the direction and control of the Attorney General;
- (3) Be subject to all applicable provisions of subchapter VIII-B of Chapter 6 of Title 1;
- (4) Have an attorney-client relationship with the Department;
- (5) Advocate vigorously for the Director's positions on legal issues, and if that advocacy poses a conflict with a legal position of the Attorney General for the District of Columbia, seek exemption from the Attorney General's supervision as to that position, in accordance with § 1-608.55(b); and
- (6) Be subject to evaluation, discipline, and transfer by the Attorney General, after consultation with the Director.

(b) This section shall apply as of October 1, 2005.

(Dec. 18, 2001, D.C. Law 14-56, § 108, 48 DCR 7674; Oct. 20, 2005, D.C. Law 16-33, § 3016(a), 52 DCR 7503.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Effect of Amendments*

D.C. Law 16-33 rewrote section, which had read:

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

"(1) Be an attorney admitted to the practice of law in the District of Columbia and qualified by experience and training to advise the Department with respect to legal issues related to its powers and duties;

"(2) Be in the Senior Executive Attorney Service as an at-will employee under the direction and control of the Corporation Counsel;

"(3) Be subject to all applicable provisions of subchapter VIII-B of Chapter 6 of Title 1;

"(4) Have an attorney-client relationship with the Department;

"(5) Advocate vigorously for the Director's position on legal issues, and if such advocacy poses a conflict with a legal position of the Corporation Counsel, seek exemption from the Corporation Counsel's supervision as to that position, in accordance with § 1-608.55(b); and

"(6) Be subject to evaluation, discipline, and transfer by the Corporation Counsel, after consultation with the Director, whose views regarding evaluation, discipline, and transfer shall be entitled to great weight."

#### *Temporary Addition of Section*

For temporary (225 day) addition of section, see § 8 of Department of Mental Health Establishment Temporary Amendment Act of 2001 (D.C. Law 14-51, October 30, 2001, law notification 48 DCR 10807).

#### *Emergency Act Amendments*

For temporary (90 day) addition of section, see § 8 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) addition of section, see § 8 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) addition of section, see § 108 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 § 3016 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For Law 16-33, see notes following § 7-733.01.

## **§ 7-1131.09. APPOINTMENT AND DUTIES OF CONSUMER AND FAMILY AFFAIRS OFFICER.**

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

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

(Dec. 18, 2001, D.C. Law 14-56, § 109, 48 DCR 7674.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Temporary Addition of Section*

For temporary (225 day) addition of section, see § 9 of Department of Mental Health Establishment Temporary Amendment Act of 2001 (D.C. Law 14-51, October 30, 2001, law notification 48 DCR 10807).

#### *Emergency Act Amendments*

For temporary (90 day) addition of section, see § 9 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) addition of section, see § 9 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) addition of section, see § 109 of Mental Health Service Delivery Reform Congressional Review Emergency Act of 2001 (D.C. Act 14-144, October 23, 2001, 48 DCR 9947).

#### *Legislative History of Laws*

For Law 14-56, see notes following § 7-1131.01.

## **§ 7-1131.10. PARTNERSHIP COUNCIL.**

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

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

(Dec. 18, 2001, D.C. Law 14-56, § 110, 48 DCR 7674.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Temporary Addition of Section*

For temporary (225 day) addition of section, see § 10 of Department of Mental Health Establishment Temporary Amendment Act of 2001 (D.C. Law 14-51, October 30, 2001, law notification 48 DCR 10807).

#### *Emergency Act Amendments*

For temporary (90 day) addition of section, see § 10 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) addition of section, see § 10 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) addition of section, see § 110 of Mental Health Service Delivery Reform Congressional Review Emergency Act of 2001 (D.C. Act 14-144, October 23, 2001, 48 DCR 9947).

#### *Legislative History of Laws*

For Law 14-56, see notes following § 7-1131.01.

## **§ 7-1131.11. SYSTEM OF MENTAL HEALTH CARE SUB-COUNCIL.**

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

(b) The Sub-Council shall consist of the following individuals:

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

(Dec. 18, 2001, D.C. Law 14-56, § 111, 48 DCR 7674.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Temporary Addition of Section*

For temporary (225 day) addition of section, see § 11 of Department of Mental Health Establishment Temporary Amendment Act of 2001 (D.C. Law 14-51, October 30, 2001, law notification 48 DCR 10807).

#### *Emergency Act Amendments*

For temporary (90 day) addition of section, see § 11 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) addition of section, see § 11 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) addition of section, see § 111 of Mental Health Service Delivery Reform Congressional Review Emergency Act of 2001 (D.C. Act 14-144, October 23, 2001, 48 DCR 9947).

#### *Legislative History of Laws*

For Law 14-56, see notes following § 7-1131.01.

## **§ 7-1131.12. TRANSFER OF FUNCTIONS, PROPERTY, AND PERSONNEL.**

(a) All real and personal property, Career and Excepted Service, Management Supervisory Service, and trainee positions, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the powers, duties, functions, operations, and administration of the Commission on Mental Health Services under receivership in *Dixon, et al. v. Williams, et al.*, shall become the property of the Department on December 18, 2001.

(b) All real and personal property, positions, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the powers, duties, functions, and operations of the "Compact Administrator" of the Interstate Compact on Mental Health as set forth in Chapter 11 of this title, shall become the property of the Department on December 18, 2001.

(c) All positions, real and personal property, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the powers, duties, functions, and operations of the Department of Health in regulating mental health facilities, mental health services, and mental health supports, shall be transferred to the Department no later than



September 30, 2001, in accordance with the terms of the memoranda of agreement executed pursuant to § 7- 1131.04(17).

(d) The Department shall recognize and bargain with collective bargaining representatives that have been duly certified by the District of Columbia Public Employees Relations Board and shall assume and be bound by all existing collective bargaining agreements entered into by the Commission on Mental Health Services, if those agreements have been approved by the Council, unless Council approval is not required by law and, during a control year as defined in § 47-393(4), the District of Columbia Financial Responsibility and Management Assistance Authority.

(e) Every employee of the Commission on Mental Health Services shall be transferred to the Department. An employee transferred to the Department shall be transferred in the same classification he or she held at the Commission on Mental Health Services or other department at the time of the transfer. Subject to the District's authority to convert them to the Management Supervisory Service and the Legal Service consistent with Chapter 6 of Title 1, transferred employees shall retain all rights and privileges related to their individual pay and benefits, including retirement status, so long as the employee is continuously employed by the Department or the District government, including any applicable rights and privileges provided for in § 44-906.

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

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

- (A) Training persons who directly provide mental health services or mental health supports to consumers of mental health services through their employment by a community residence facility;
- (B) Certifying that the admission of consumers of mental health services to a mental health community facility is medically necessary;
- (C) Making determinations under 22 DCMR § 3826.3;
- (D) Receiving written admission criteria under 22 DCMR § 3827.3;
- (E) Receiving written reasons for denials of admission under 22 DCMR § 3827.5; and
- (F) Licensing mental health community residential facilities as required by 22 DCMR § 3800.5; and

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

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

(g) The following rules and regulations pertaining to the licensing, certification, and delivery of mental health services and mental health supports shall remain in full force and effect until the Department of Mental Health promulgates standards and procedures in accordance with § 7- 1131.14(2)-(4):

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

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

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

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

(C) Granting approvals and waivers; and

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

(A) Certifying residential treatment centers for children and youth; and

(B) Certifying that the admission of consumers of mental health services to residential treatment centers is medically necessary.

(Dec. 18, 2001, D.C. Law 14-56, § 112, 48 DCR 7674.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Temporary Addition of Section*

For temporary (225 day) addition of section, see § 12 of Department of Mental Health Establishment Temporary Amendment Act of 2001 (D.C. Law 14-51, October 30, 2001, law notification 48 DCR 10807).

##### *Emergency Act Amendments*

For temporary (90 day) addition of section, see § 12 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) addition of section, see § 12 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) addition of section, see § 112 of Mental Health Service Delivery Reform Congressional Review Emergency Act of 2001 (D.C. Act 14-144, October 23, 2001, 48 DCR 9947).

##### *Legislative History of Laws*

For Law 14-56, see notes following § 7-1131.01.

## **§ 7-1131.13. PROSECUTION AND REPRESENTATION BY CORPORATION COUNSEL.**

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

(Dec. 18, 2001, D.C. Law 14-56, § 113, 48 DCR 7674.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Temporary Addition of Section*

For temporary (225 day) addition of section, see § 13 of Department of Mental Health Establishment Temporary Amendment Act of 2001 (D.C. Law 14-51, October 30, 2001, law notification 48 DCR 10807).

##### *Emergency Act Amendments*

For temporary (90 day) addition of section, see § 13 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) addition of section, see § 13 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) addition of section, see § 113 of Mental Health Service Delivery Reform Congressional Review Emergency Act of 2001 (D.C. Act 14-144, October 23, 2001, 48 DCR 9947).

##### *Legislative History of Laws*

For D.C. Law 14-51, see notes following § 7-154.

For Law 14-56, see notes following § 7-1131.01.

## **§ 7-1131.14. RULES.**

No later than October 1, 2001, and in accordance with Chapter 5 of Title 2, the Department shall issue rules establishing:

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

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

- (A) Qualifications of providers, except those who are required to operate under professional licenses pursuant to subchapter I-A and I-B of Chapter 28 of Title 47;
- (B) Accessibility, availability, appropriateness, and cultural competence of the delivery of mental health services and mental health supports; and
- (C) Protections for consumers of mental health services that are consistent with Chapter 12A of this title and other applicable law;

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

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

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

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

(6) A joint consent for the use of protected mental health information by participating providers that is consistent with 45 C.F.R. Parts 160 and 164 and Chapter 12 of this title.

(Dec. 18, 2001, D.C. Law 14-56, § 114, 48 DCR 7674.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Temporary Addition of Section*

For temporary (225 day) addition of section, see § 14 of Department of Mental Health Establishment Temporary Amendment Act of 2001 (D.C. Law 14-51, October 30, 2001, law notification 48 DCR 10807).

##### *Emergency Act Amendments*

For temporary (90 day) addition of section, see § 14 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) addition of section, see § 14 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) addition of section, see § 114 of Mental Health Service Delivery Reform Congressional Review Emergency Act of 2001 (D.C. Act 14-144, October 23, 2001, 48 DCR 9947).

##### *Legislative History of Laws*

For Law 14-56, see notes following § 7-1131.01

##### *Resolutions*

Resolution 14-597, the "Department of Mental Health Civil Infractions Rulemaking Emergency Approval Resolution of 2002", was approved effective October 25, 2002.

##### *Miscellaneous Notes*

Short title: Section 5031 of D.C. Law 19-21 provided that subtitle D of title V of the act may be cited as "Mental Health Services Eligibility Act of 2011".

Section 5032 of D.C. Law 19-21 provides:

"Sec. 5032. Mental health eligibility requirements.

"By October 1, 2011, the Department of Mental Health shall issue rules governing eligibility for locally funded mental-health-rehabilitation services. At a minimum, the rules shall limit eligibility to:

"(1) District residents;

"(2) Individuals who are not eligible for Medicaid or Medicare or are not enrolled in any other third-party insurance program; provided, that eligibility or enrollment in the D.C. HealthCare Alliance shall not preclude

eligibility for locally funded mental-health-rehabilitation services;

"(3) Individuals 19 years of age and older who live in households with a countable income of less than 200% of the federal poverty level and individuals under 19 years of age who live in households with a countable income of less than 300% of the federal poverty level; and

"(4) Individuals who meet the definition of 'children or youth with mental health problem' or 'persons with mental illness' as those terms are defined in section 102(1) and (24), respectively, of the Department of Mental Health Establishment Amendment Act of 2001, effective December 18, 2001 (D.C. Law 14- 56; D.C. Official Code § 7-1131.02(1) and (24))."

## **§ 7-1131.15. APPROVAL OF MEDICAID STATE PLAN AMENDMENT.**

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

(b) The Department shall have the authority to request that the Medical Assistance Administration ("MAA") seek the approval of the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services for an amendment to the Medicaid State Plan that will provide for a per diem reimbursement for inpatient psychiatric treatment for cases where the authorized length of stay exceeds 7 days and the Diagnostic Related Group reimbursement does not exceed the per diem reimbursement schedule for Medicaid-eligible involuntary, emergency psychiatric admissions. The MAA shall submit the amendment to the Medicaid State Plan to the Council for approval by resolution within 30 days of receipt of approval of the amendment from the federal government.

(Dec. 18, 2001, D.C. Law 14-56, § 115, 48 DCR 7674; Oct. 20, 2005, D.C. Law 16-33, § 5122, 52 DCR 7503.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Effect of Amendments*

D.C. Law 16-33 designated the existing text as subsec. (a); and added subsec. (b).

#### *Temporary Addition of Section*

For temporary (225 day) addition of section, see § 15 of Department of Mental Health Establishment Temporary Amendment Act of 2001 (D.C. Law 14-51, October 30, 2001, law notification 48 DCR 10807).

#### *Emergency Act Amendments*

For temporary (90 day) addition of section, see § 15 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) addition of section, see § 15 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) addition of section, see § 115 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 § 5122 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

#### *Legislative History of Laws*

For Law 16-33, see notes following § 7-733.01.

#### *Miscellaneous Notes*

Short title of subtitle L of title V of Law 16-33: Section 5121 of D.C. Law 16-33 provided that subtitle L of title V of the act may be cited as Department of Mental Health Acute Care Initiative Act of 2005.

## **§ 7-1131.16. TRANSFERS TO DEPARTMENT OF YOUTH REHABILITATION SERVICES.**

Effective October 1, 2006, the Department shall transfer to DYRS all full-time equivalent positions and funding, real and personal property leased or assigned to the Department, assets, records, ongoing obligations, unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the Department's powers, duties, functions and administration of the operations of the mental health units at the Oak Hill Youth Center and the Youth Services Center.

(Dec. 18, 2001, D.C. Law 14-56, § 115a, as added Mar. 2, 2007, D.C. Law 16-192, § 5022(c), 53 DCR 6899.)

## *HISTORICAL AND STATUTORY NOTES*

### *Prior Codifications*

2001 Ed., § 7-1131.15a.

### *Emergency Act Amendments*

For temporary (90 day) enactments, see §§ 5022(c), 5023 of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) enactments, see §§ 5022(c), 5023 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) enactments, see §§ 5022(c), 5023 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

### *Legislative History of Laws*

For Law 16-192, see notes following § 7-751.16a.

### *Miscellaneous Notes*

Section 5023 of D.C. Law 16-192 provided:

"The transfer of funding and authority authorized in section 115a of the Department of Mental Health Establishment Amendment Act of 2001, passed on 2nd reading on July 11, 2006 (Enrolled version of Bill 16-679), does not require the Department of Youth Rehabilitation Services to employ any persons employed by the Department of Mental Health who are providing mental health or related services to youth in the care and custody of the Department of Youth Rehabilitation Services, and the Department of Youth Rehabilitation Services shall not inherit, recognize, or be bound by any collective bargaining agreement involving those persons and negotiated and entered into by Department of Mental Health."

## **§ 7-1131.17. YOUTH BEHAVIORAL HEALTH PROGRAM.**

(a) As of October 1, 2012, there is established within the Department, and shall be made available to all child development facilities, public schools, and public charter schools, a program that, at a minimum, provides participants with the tools needed to:

- (1) Identify students who may have unmet behavioral health needs; and
- (2) Refer identified students to appropriate services for behavioral health screenings and behavioral health assessments.

(b)(1) Starting October 1, 2014, completion of the program shall be mandatory for all:

- (A) Teachers in public schools and public charter schools;
- (B) Principals in public schools and public charter schools; and
- (C) Staff employed by child development facilities, who are subject to training or continuing education requirements pursuant to licensing regulations.

(2) In addition to the individuals described in paragraph (1) of this subsection, the Mayor may determine through rulemaking other individuals who shall be required to complete the program.

(3) The Department may make the program available to other interested individuals.

(c) The Department shall keep a record of all participants who complete the program and shall provide the participants with written proof of completion.

(d) If so approved by the Office of the State Superintendent for Education, the program may count towards professional development credits.

(Dec. 18, 2001, D.C. Law 14-56, § 115b, as added June 7, 2012, D.C. Law 19-141, § 402(b), 59 DCR 3083.)

## *HISTORICAL AND STATUTORY NOTES*

### *Emergency Act Amendments*

For temporary (90 day) amendment of section 601 of D.C. Law 19-141, see § 7004 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section 601 of D.C. Law 19-141, see § 7004 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

### *Legislative History of Laws*

For history of Law 19-141, see notes under § 7-1131.02.

*Miscellaneous Notes*

Section 601 of D.C. Law 19-141, as amended by section 7004 of D.C. Law 19-168, provides:

"Sec. 601. Applicability.

"Sections 302(b)(1), 304, and 502(a) shall apply upon the inclusion of their fiscal effect in an approved budget and financial plan."

Section 7016 of D.C. Law 19-168 provides:

"Sec. 7016. Sections 7001, 7004, 7007, 7009, 7011, and 7015 shall apply as of the effective date of the Fiscal Year 2013 Budget Support Emergency Act of 2012, passed on emergency basis on June 5, 2012 (Enrolled version of Bill 19- 796)."

## **§ 7-1131.18. BEHAVIORAL HEALTH RESOURCE GUIDE.**

(a) By March 30, 2013, the Department shall:

(1) Create a behavioral health resource guide for parents and legal guardians that includes information on:

- (A) Common signs and symptoms of behavioral health issues facing youth;
- (B) The roles and responsibilities of District government agencies in promoting and protecting the behavioral health of youth;
- (C) How a parent or legal guardian can obtain a behavioral health screening or assessment for a youth; and
- (D) Governmental and non-governmental resources for youth behavioral health programs and services in the District, including contact information; and

(2) Create a behavioral health resource guide for a youth that includes:

- (A) Age-appropriate information on common behavioral health issues facing youth;
- (B) A description of the impact behavioral health issues can have on a youth's development; and
- (C) Governmental and non-governmental resources for youth behavioral health programs and services in the District, including contact information.

(b) The Department shall make the behavioral health resources guides available to the public both in print and on its website. The Department shall also make the guides available to other District agencies and organizations for distribution.

(c) The Department shall update the behavioral health resource guides as appropriate.

(Dec. 18, 2001, D.C. Law 14-56, § 115c, as added June 7, 2012, D.C. Law 19-141, § 402(b), 59 DCR 3083.)

*HISTORICAL AND STATUTORY NOTES*

*Emergency Act Amendments*

For temporary (90 day) amendment of section 601 of D.C. Law 19-141, see § 7004 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section 601 of D.C. Law 19-141, see § 7004 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

*Legislative History of Laws*

For history of Law 19-141, see notes under § 7-1131.02.

*Miscellaneous Notes*

Section 601 of D.C. Law 19-141, as amended by section 7004 of D.C. Law 19-168, provides:

"Sec. 601. Applicability.

"Sections 302(b)(1), 304, and 502(a) shall apply upon the inclusion of their fiscal effect in an approved budget and financial plan."

Section 7016 of D.C. Law 19-168 provides:

"Sec. 7016. Sections 7001, 7004, 7007, 7009, 7011, and 7015 shall apply as of the effective date of the Fiscal Year 2013 Budget Support Emergency Act of 2012, passed on emergency basis on June 5, 2012 (Enrolled version of Bill 19- 796)."

## **§ 7-1131.19. BEHAVIORAL HEALTH OMBUDSMAN PROGRAM.**

(a) As of October 1, 2012, there is established within the Department a Behavioral Health Ombudsman Program ("Ombudsman Program") to provide District residents with assistance in accessing behavioral health programs and services.

(b)(1) Pursuant to its power set forth in § 7-1131.04(15) and subject to paragraph (2) of this subsection, the Department may contract with a qualified private, community-based, nonprofit corporation, organization, or consortia of organizations, with offices located in the District, to operate the Ombudsman Program. The Department shall establish the criteria that an entity must meet to be selected to operate the Ombudsman Program; provided, that the criteria include:

- (A) A public interest mission;
- (B) Qualified staff and organizational expertise in:
  - (i) Behavioral health services;
  - (ii) Behavioral health coverage under health benefits plans;
  - (iii) Public education and community outreach; and
  - (iv) Conflict resolution;
- (C) No direct involvement in the licensing, certification, or accreditation of a behavioral health facility, a health benefits plan, or with a provider of a behavioral health service;
- (D) No direct ownership or investment interest in a behavioral health facility, health benefits plan, or any behavioral health service;
- (E) No participation in the management of a behavioral health facility, health benefits plan, or any behavioral health service; and
- (F) No agreement or arrangement with an owner or operator of a behavioral health service, a behavioral health facility, or health benefits plan that could directly or indirectly result in remuneration, in cash or in kind, to the entity.

(2) If the Department is unable to contract with an outside entity that meets the criteria described in this section, or determines it to be in the best interests of the District, the Department shall operate the Ombudsman Program.

(c)(1) The Ombudsman Program shall be administered by the Behavioral Health Ombudsman, who shall be appointed by the Director of the Department of Mental Health.

(2) The Ombudsman shall be a person:

- (A) With substantive experience in the fields of behavioral health and patient advocacy; and
- (B) Who is an employee of the nonprofit corporation, organization, or consortia of organizations contracted to operate the Ombudsman Program; provided, that this subparagraph shall not apply if the Department operates the Ombudsman Program pursuant to subsection (b)(2) of this section.

(d) The Ombudsman Program may use volunteers with appropriate training and supervision to assist with counseling, outreach, and other tasks.

(e) The Ombudsman, or his or her designee, shall:

- (1) Assist consumers in resolving problems concerning behavioral health providers, behavioral health facilities, and access to behavioral health care services and programs by referring consumers to appropriate regulatory agencies when their problems are within an agency's jurisdiction, guiding consumers through existing complaint processes, and assisting consumers in informally resolving problems through discussions with their providers.
- (2) Educate District residents about behavioral health coverage under:
  - (A) Health benefits plans;
  - (B) Managed care health plans; and
  - (C) Any other behavioral health services options.
- (3) Refer individuals, when appropriate, to other District agencies or organizations for assistance with behavioral health services and programs;
- (4) Work jointly, when appropriate, with other District agencies or organizations to promote greater access to behavioral health services and programs;
- (5) Provide information regarding problems and concerns of consumers of behavioral health services and make recommendations for resolving those problems and concerns to:
  - (A) The public;
  - (B) Government agencies;

- (C) The Council of the District of Columbia; and
- (D) Any other person or entity that the Ombudsman considers appropriate;
- (6) Implement innovative strategies and adopt tools to maximize outreach to District residents;
- (7) Identify and help resolve complaints on behalf of consumers and assist consumers with the filing, pursuit, and resolution of formal and informal complaints and appeals through existing processes, including:
  - (A) Internal reviews conducted by health benefits plans;
  - (B) Grievance and appeals processes for the HealthCare Alliance and Medicaid; and
  - (C) External reviews before independent review organizations, and the Department of Mental Health; and
- (8) Comment on behalf of District residents on related behavioral health policy legislation and regulations in the District.
- (f) Within 30 days of the end of each fiscal year, the Ombudsman shall submit a report to the Department, the Council, and the Mayor, and make it available to the public upon request, regarding the activities of the Ombudsman Program during the prior fiscal year, including:
  - (1) An accounting of all activities undertaken;
  - (2) An evaluation and analysis of the Ombudsman Program's performance;
  - (3) A complete fiscal accounting;
  - (4) Issues of concern to District residents; and
  - (5) Any recommendations to improve access to behavioral health services.
- (g)(1) The Ombudsman shall establish an Advisory Council to consist of members representing at least:
  - (A) Consumers;
  - (B) Three consumer advocacy organizations;
  - (C) The Department of Mental Health;
  - (D) The Department of Health Care Finance;
  - (E) The Addiction Prevention and Recovery Administration;
  - (F) The Child and Family Services Agency;
  - (G) The Department of Youth Rehabilitation Services;
  - (H) Health benefits plans;
  - (I) Health care facilities;
  - (J) The Health Care Ombudsman Program;
  - (K) Health professionals with expertise in a person's overall social, emotional, and psychological well-being and development;
  - (L) The District of Columbia Public Schools; and
  - (M) The Public Charter School Board.
- (2) The Advisory Council shall meet quarterly to perform, at a minimum, the following functions:
  - (A) Advise the Ombudsman on program design and operational issues;
  - (B) Recommend changes in the Ombudsman Program; and
  - (C) Review data on cases handled by the Ombudsman Program and make recommendations based on that data.
- (h)(1) The Ombudsman may review the records of a health-benefits plan, or other provider, pertaining to an individual's medical records; provided, that the Ombudsman received the appropriate consent from the individual or his or her legal representative.
- (2) The Ombudsman shall maintain the confidentiality of the records in accordance with all federal and state confidentiality and disclosure laws.
- (3) No information or records maintained by the Ombudsman Program shall be disclosed to the public unless the individual or individual's legal representative has provided the appropriate consent for the release of the information or records.
- (i) The Ombudsman Program shall enter into a business associate agreement with the Department of Health Care Finance to allow the Ombudsman Program access to information about the Medicaid eligibility status of consumers whom it serves and that requires the Ombudsman Program to safeguard that information pursuant to the Privacy Rule (45 C.F.R. §§ 160 and 164) adopted pursuant to HIPPA.



(j) The Ombudsman shall request and promptly receive, with reasonable notice, the cooperation, assistance, and data from other District agencies, as necessary to enable the Ombudsman Program to investigate a resident's complaint under District or federal law.

(k) No employee, subcontractor, designee, or representative of the Ombudsman Program shall be held liable for the good-faith performance of responsibilities under this section; except, no immunity shall extend to criminal acts or other acts that violate District or federal law.

(l) No person, agency, provider, or facility shall obstruct the Ombudsman, or his or her designee, from the lawful performance of any duty or the exercise of any power.

(m) Nothing in this section shall prohibit a corporation, organization, or consortia of organizations contracted to operate the Ombudsman Program from raising private money through foundation resources to supplement government funds for the Ombudsman Program."

(Dec. 18, 2001, D.C. Law 14-56, § 115d, as added June 7, 2012, D.C. Law 19-141, § 402(b), 59 DCR 3083.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Emergency Act Amendments*

For temporary (90 day) addition of section, see § 5002 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 5002 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

##### *Legislative History of Laws*

For history of Law 19-141, see notes under § 7-1131.02.

##### *Miscellaneous Notes*

Section 601 of D.C. Law 19-141, as amended by section 7004 of D.C. Law 19-168, provides:

"Sec. 601. Applicability.

"Sections 302(b)(1), 304, and 502(a) shall apply upon the inclusion of their fiscal effect in an approved budget and financial plan."

Section 7016 of D.C. Law 19-168 provides:

"Sec. 7016. Sections 7001, 7004, 7007, 7009, 7011, and 7015 shall apply as of the effective date of the Fiscal Year 2013 Budget Support Emergency Act of 2012, passed on emergency basis on June 5, 2012 (Enrolled version of Bill 19- 796)."

## **§ 7-1131.20. DEPARTMENT OF MENTAL HEALTH NURSE TRAINING PROGRAM.**

(a) There is established within the Department, in partnership with UDC, a nurse training program, which shall offer tuition reimbursement for courses at UDC for a licensed practical nurse employed by Saint Elizabeths Hospital to become a registered nurse or for a registered nurse employed by Saint Elizabeths Hospital to earn a Bachelor of Science in Nursing degree; provided, that the nurse earns at least a grade B and agrees, in writing, to continue his or her employment at Saint Elizabeths Hospital for a minimum of 2 years.

(b) The Department shall:

(1) In partnership with UDC, develop:

(A) The Program; and

(B) A course of study that accommodates the schedule of nurses employed full-time;

(2) Administer the Program;

(3) Subject to the availability of funds, establish the number, and amounts of, assistance that can be extended in any fiscal year;

(4) Develop a competitive application process for nurses at Saint Elizabeths Hospital to participate in the Program; and

(5) Provide remote access learning capacities at Saint Elizabeths Hospital, if feasible.

(Dec. 18, 2001, D.C. Law 14-56, § 115e, as added Sept. 20, 2012, D.C. Law 19-168, § 5042(b), 59 DCR 8025.)

#### *HISTORICAL AND STATUTORY NOTES*

For history of Law 19-168, see notes under § 7-1131.02.

## **§ 7-1131.21. DEPARTMENT OF MENTAL HEALTH ENTERPRISE FUND.**

(a) There is established as a nonlapsing fund the Department of Mental Health Enterprise Fund ("Fund") into which shall be deposited all fees, proceeds, and revenues collected from the activities and operations of a food cafeteria managed and operated by the Department of Mental Health to serve department staff and patients on the Saint Elizabeths Hospital campus, which funds shall be used only for the management and operation of the food cafeteria.

(b) All funds deposited into the Fund, and any interest earned on those funds shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or of any other time, but shall be continually available for the uses and purposes set forth in subsection (a) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(Dec. 18, 2001, D.C. Law 14-56, § 115f, as added Sept. 20, 2012, D.C. Law 19-168, § 5002, 59 DCR 8025.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Emergency Act Amendments*

For temporary (90 day) addition of section, see § 5002 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 5002 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

#### *Legislative History of Laws*

For history of Law 19-168, see notes under § 7-1131.02.

#### *Miscellaneous Notes*

Short title: Section 5001 of D.C. Law 19-168 provided that subtitle A of title V of the act may be cited as "Department of Mental Health Enterprise Fund Establishment Amendment Act of 2012".