

Changes the allocation of federal aid used for drug abuse and alcohol abuse used for local programs. Redefines the services provided by community mental health centers and specifies that instead of a continuum of care, services are to be provided. Removes the authority of the division of mental health and addiction (DMHA) to license respite care. Changes elements of community based residential programs. Eliminates the duty of DMHA to submit a biennial report to the governor and the legislative council on the evaluation of the continuum of care. Requires certain mental health records to be released to a court under certain circumstances. Makes conforming changes. Repeals: (1) respite care for persons with mental illness; (2) listing of elements of community residential programs; (3) children's mental health bureau; (4) certain placement provisions for community residential facilities; and (5) definitions made obsolete by the bill.

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SECTION 1. IC 5-20-1-2, AS AMENDED BY P.L.99-2007, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. As used in this chapter:

"Assisted" means, with respect to a loan:

- (1) the payment by the United States or any duly authorized agency of the United States of assistance payments, interest payments, or mortgage reduction payments with respect to such loan; or
- (2) the provision of insurance, guaranty, security, collateral, subsidies, or other forms of assistance or aid acceptable to the authority for the making, holding, or selling of a loan from the United States, any duly authorized agency of the United States, or any entity or corporation acceptable to the authority, other than the sponsor.

"Authority" means the Indiana housing and community development authority created by section 3 of this chapter.

"Bonds" or "notes" means the bonds or notes authorized to be issued by the authority under this chapter.

"Community based residential programs" refers to programs developed by the division of mental health and addiction under IC 12-22-2-3.5.

"Development costs" means the costs approved by the authority as appropriate expenditures and credits which may be incurred by sponsors, builders, and developers of residential housing prior to commitment and initial advance of the proceeds of a construction loan or of a mortgage, including but not limited to:

- (1) payments for options to purchase properties on the proposed residential housing site, deposits on contracts of purchase, or, with prior approval of the authority, payments for the purchase of such properties;
- (2) legal, organizational, and marketing expenses, including payments of attorney's fees, project manager, clerical, and other incidental expenses;
- (3) payment of fees for preliminary feasibility studies and advances for planning, engineering, and architectural work;

- (4) expenses for surveys as to need and market analyses;
- (5) necessary application and other fees;
- (6) credits allowed by the authority to recognize the value of service provided at no cost by the sponsors, builders, or developers; and
- (7) such other expenses as the authority deems appropriate for the purposes of this chapter.

"Governmental agency" means any department, division, public agency, political subdivision, or other public instrumentality of the state of Indiana, the federal government, any other state or public agency, or any two (2) or more thereof.

"Construction loan" means a loan to provide interim financing for the acquisition or construction of single family residential housing, including land development.

"Mortgage" or "mortgage loan" means a loan to provide permanent financing for:

- (1) the rehabilitation, acquisition, or construction of single family residential housing, including land development; or
- (2) the weatherization of single family residences.

"Mortgage lender" means a bank, trust company, savings bank, savings association, credit union, national banking association, federal savings association or federal credit union maintaining an office in this state, a public utility (as defined in IC 8-1-2-1), a gas utility system organized under IC 8-1-11.1, an insurance company authorized to do business in this state, or any mortgage banking firm or mortgagee authorized to do business in this state and approved by either the authority or the Department of Housing and Urban Development.

"Land development" means the process of acquiring land primarily for residential housing construction for persons and families of low and moderate income and making, installing, or constructing nonresidential housing improvements, including water, sewer, and other utilities, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, and other installations or works, whether on or off the site, which the authority deems necessary or desirable to prepare such land primarily for residential housing construction.

"Obligations" means any bonds or notes authorized to be issued by the authority under this chapter.

"Persons and families of low and moderate income" means persons and families of insufficient personal or family income to afford adequate housing as determined by the standards established by the authority, and in determining such standards the authority shall take into account the following:

- (1) The amount of total income of such persons and families available for housing needs.
- (2) The size of the family.
- (3) The cost and condition of housing facilities available in the different geographic areas of the state.
- (4) The ability of such persons and families to compete successfully in the private housing market and to pay the amounts at which private enterprise is

1 providing sanitary, decent, and safe housing.

2 The standards shall, however, comply with the applicable limitations of section 4(b) of this
3 chapter.

4 "Residential facility for children" means a facility:

5 (1) that provides residential services to individuals who are:

6 (A) under twenty-one (21) years of age; and

7 (B) adjudicated to be children in need of services under IC 31-34 (or
8 IC 31-6-4 before its repeal) or delinquent children under IC 31-37 (or
9 IC 31-6-4 before its repeal); and

10 (2) that is:

11 (A) a child caring institution that is or will be licensed under IC 31-27;

12 (B) a residential facility that is or will be licensed under IC 12-28-5; or

13 (C) a facility that is or will be certified by the division of mental health
14 and addiction under IC 12-23.

15 "Residential facility for persons with a developmental disability" means a facility that is
16 approved for use in a community residential program for the developmentally disabled under
17 IC 12-11-1.1.

18 "~~Residential facility for persons with a mental illness~~" means a facility that is approved
19 by the division of mental health and addiction for use in a community residential program for the
20 mentally ill under ~~IC 12-22-2-3(1); IC 12-22-2-3(2); IC 12-22-2-3(3); or IC 12-22-2-3(4).~~

21 "Residential housing" means a specific work or improvement undertaken primarily to
22 provide single or multiple family housing for rental or sale to persons and families of low and
23 moderate income, including the acquisition, construction, or rehabilitation of lands, buildings,
24 and improvements to the housing, and such other nonhousing facilities as may be incidental or
25 appurtenant to the housing.

26 "Sponsors", "builders", or "developers" means corporations, associations, partnerships,
27 limited liability companies, or other entities and consumer housing cooperatives organized
28 pursuant to law for the primary purpose of providing housing to low and moderate income
29 persons and families.

30 "State" means the state of Indiana.

31 "Tenant programs and services" means services and activities for persons and families
32 living in residential housing, including the following:

33 (1) Counseling on household management, housekeeping, budgeting, and money
34 management.

35 (2) Child care and similar matters.

36 (3) Access to available community services related to job training and
37 placement, education, health, welfare, and other community services.

38 (4) Guard and other matters related to the physical security of the housing
39 residents.

40 (5) Effective management-tenant relations, including tenant participation in all

1 aspects of housing administration, management, and maintenance.

2 (6) Physical improvements of the housing, including buildings, recreational and
3 community facilities, safety measures, and removal of code violations.

4 (7) Advisory services for tenants in the creation of tenant organizations which
5 will assume a meaningful and responsible role in the planning and carrying out
6 of housing affairs.

7 (8) Procedures whereby tenants, either individually or in a group, may be given a
8 hearing on questions relating to management policies and practices either in
9 general or in relation to an individual or family.

10 SECTION 2. IC 12-7-2-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2011]: Sec. 25. "Case management" means the following:

12 ~~(1) For~~ **for** purposes of IC 12-10-1 and IC 12-10-10, has the meaning set forth in
13 IC 12-10-10-1.

14 ~~(2) For purposes of IC 12-7-2-40.6 and IC 12-24-19, the meaning set forth in~~
15 ~~IC 12-24-19-2.~~

16 SECTION 3. IC 12-7-2-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2011]: Sec. 40. "Community **based** residential program", for purposes of IC 12-22-2,
18 refers to the programs described in ~~IC 12-22-2-3~~: **IC 12-22-2-3.5**.

19 SECTION 4. IC 12-7-2-40.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2011]: Sec. 40.6. **(a)** "Continuum of care" means a range of services: ~~the provision of~~
21 ~~which is assured by a community mental health center or a managed care provider. The term~~
22 ~~includes the following:~~

23 ~~(1) Individualized treatment planning to increase patient coping skills and~~
24 ~~symptom management, which may include any combination of services listed~~
25 ~~under this section.~~

26 ~~(2) Twenty-four (24) hour a day crisis intervention.~~

27 ~~(3) Case management to fulfill individual patient needs, including assertive case~~
28 ~~management when indicated.~~

29 ~~(4) Outpatient services, including intensive outpatient services, substance abuse~~
30 ~~services, counseling, and treatment.~~

31 ~~(5) Acute stabilization services, including detoxification services.~~

32 ~~(6) Residential services.~~

33 ~~(7) Day treatment.~~

34 ~~(8) Family support services.~~

35 ~~(9) Medication evaluation and monitoring.~~

36 ~~(10) Services to prevent unnecessary and inappropriate treatment and~~
37 ~~hospitalization and the deprivation of a person's liberty.~~

38 **(1) defined by the division in rules adopted under IC 4-22-2 to provide a**
39 **comprehensive continuum of care by a community mental health center or**
40 **other provider; and**

1 (2) based on recovery focused models of care and that are intended to meet
2 the individual treatment needs of the behavioral health consumer.

3 (b) The continuum of care may include the following services:

- 4 (1) Wellness programs.
5 (2) Engagement services.
6 (3) Outpatient and inpatient services.
7 (4) Rehabilitative and habilitative services.
8 (5) Residential care and supported housing.
9 (6) Acute intensive services.

10 All services must support prevention and treatment of mental health and addiction for all
11 populations.

12 SECTION 5. IC 12-7-2-117.6, AS ADDED BY P.L.99-2007, SECTION 45, IS
13 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 117.6. "Individual
14 with a mental illness", for purposes of IC 12-21-2 ~~IC 12-22-1~~, and IC 12-24-17, means an
15 individual who:

- 16 (1) has a psychiatric disorder that substantially impairs the individual's mental
17 health; and
18 (2) requires care, treatment, training, or detention:
19 (A) because of the psychiatric disorder; or
20 (B) for the welfare of the individual or others of the community in which
21 the individual resides.

22 SECTION 6. IC 12-7-2-127 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2011]: Sec. 127. ~~(a)~~ "Managed care provider", for purposes of IC 12-14-1 through
24 IC 12-14-9.5 and IC 12-15 (except IC 12-15-21, IC 12-15-33, and IC 12-15-34) means either of
25 the following:

- 26 (1) A physician licensed under IC 25-22.5 who:
27 (A) is primarily engaged in general practice, family practice, internal
28 medicine, pediatric medicine, or obstetrics and gynecology; and
29 (B) has entered into a provider agreement for the provision of physician
30 services under IC 12-15-11-4.
31 (2) A partnership, corporation, or other entity that:
32 (A) employs or contracts with physicians licensed under IC 25-22.5 who
33 are primarily engaged in general practice, family practice, internal
34 medicine, pediatric medicine, or obstetrics and gynecology; and
35 (B) has entered into a provider agreement for the provision of physician
36 services under IC 12-15-11-4.

37 ~~(b) "Managed care provider", for purposes of IC 12-21-1 through IC 12-29-2, means an
38 organization:~~

- 39 ~~(1) that:~~
40 ~~(A) for mental health services, is defined under 42 U.S.C. 300x-2(c);~~

- (B) provides addiction services; or
- (C) provides children's mental health services;
- (2) that has entered into a provider agreement with the division of mental health and addiction under IC 12-21-2-7 to provide a continuum of care in the least restrictive, most appropriate setting; and
- (3) that is operated by at least one (1) of the following:
 - (A) A city, town, county, or other political subdivision of Indiana;
 - (B) An agency of Indiana or of the United States;
 - (C) A political subdivision of another state;
 - (D) A hospital owned or operated by:
 - (i) a unit of government; or
 - (ii) a building authority that is organized for the purpose of constructing facilities to be leased to units of government;
 - (E) A corporation incorporated under IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17;
 - (F) An organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;
 - (G) A university or college;

SECTION 7. IC 12-7-2-149.1, AS AMENDED BY P.L.145-2006, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 149.1. "Provider" means the following:

- (1) For purposes of IC 12-10-7, the meaning set forth in IC 12-10-7-3.
- (2) For purposes of the following statutes, an individual, a partnership, a corporation, or a governmental entity that is enrolled in the Medicaid program under rules adopted under IC 4-22-2 by the office of Medicaid policy and planning:
 - (A) IC 12-14-1 through IC 12-14-9.5.
 - (B) IC 12-15, except IC 12-15-32, IC 12-15-33, and IC 12-15-34.
 - (C) IC 12-17.6.
- (3) Except as provided in subdivision (4), for purposes of IC 12-17.2, a person who operates a child care center or child care home under IC 12-17.2.
- (4) For purposes of IC 12-17.2-3.5, a person that:
 - (A) provides child care; and
 - (B) is directly paid for the provision of the child care under the federal Child Care and Development Fund voucher program administered under 45 CFR 98 and 45 CFR 99.

The term does not include an individual who provides services to a person described in clauses (A) and (B), regardless of whether the individual receives compensation.

(5) For purposes of IC 12-21-1 through IC 12-29-2, an organization:

1 (A) that:

2 (i) for mental health services, as defined under 42

3 U.S.C.300x-2(c);

4 (ii) provides addiction services; or

5 (iii) provides children's mental health services;

6 (B) that has entered into a provider agreement with the division of
7 mental health and addition under IC 12-21-2-7 to provide services in
8 the least restrictive, most appropriate setting; and

9 (C) that is operated by one (1) of the following:

10 (i) A city, town, county, or other political subdivision of the
11 state.

12 (ii) An agency of the state or of the United States.

13 (iii) A political subdivision of another state

14 (iv) a hospital owned or operated by a unit of government or
15 a building authority that is organized for the purpose of
16 constructing facilities to be leased to units of government.

17 (v) A corporation incorporated under IC 23-7-1.1 (before its
18 repeal August 1, 1991) or IC 23-17.

19 (vi) An organization that is exempt from federal income
20 taxation under Section 5-1(c)(3) of the Internal Revenue
21 Code.

22 (vii) A university or college.

23 SECTION 8. IC 12-7-2-165, AS AMENDED BY P.L.99-2007, SECTION 49, IS
24 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 165. "Residential
25 facility", for purposes of IC 12-28-4 and IC 12-28-5, refers to a residential facility for individuals
26 with a developmental disability. ~~or a residential facility for individuals with a mental illness.~~

27 SECTION 9. IC 12-7-2-168 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2011]: Sec. 168. "Respite care" means, ~~the following:~~

29 ~~(1) For~~ ~~for~~ purposes of IC 12-10-4 and IC 12-10-5, temporary care or
30 supervision of an individual with Alzheimer's disease or a related senile
31 dementia that is provided because the individual's family or caretaker is
32 temporarily unable or unavailable to provide needed care.

33 ~~(2) For purposes of IC 12-22-1, the meaning set forth in IC 12-22-1-1.~~

34 SECTION 10. IC 12-10-6-2.1, AS AMENDED BY P.L.121-2008, SECTION 1, IS
35 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2.1. (a) An
36 individual who is incapable of residing in the individual's own home may apply for residential
37 care assistance under this section. The determination of eligibility for residential care assistance
38 is the responsibility of the division. Except as provided in subsections (g) and (i), an individual is
39 eligible for residential care assistance if the division determines that the individual:

40 (1) is a recipient of Medicaid or the federal Supplemental Security Income

1 program;

2 (2) is incapable of residing in the individual's own home because of dementia,
3 mental illness, or a physical disability;

4 (3) requires a degree of care less than that provided by a health care facility
5 licensed under IC 16-28;

6 (4) can be adequately cared for in a residential care setting; and

7 (5) has not made any asset transfer prohibited under the state plan or in 42
8 U.S.C. 1396p(c) in order to be eligible for Medicaid.

9 (b) Individuals with mental retardation may not be admitted to a home or facility that
10 provides residential care under this section.

11 (c) A service coordinator employed by the division may:

12 (1) evaluate a person seeking admission to a home or facility under subsection
13 (a); or

14 (2) evaluate a person who has been admitted to a home or facility under
15 subsection (a), including a review of the existing evaluations in the person's
16 record at the home or facility.

17 If the service coordinator determines the person evaluated under this subsection has mental
18 retardation, the service coordinator may recommend an alternative placement for the person.

19 (d) Except as provided in section 5 of this chapter, residential care consists of only room,
20 board, and laundry, along with minimal administrative direction. State financial assistance may
21 be provided for such care in a boarding or residential home of the applicant's choosing that is
22 licensed under IC 16-28 or a Christian Science facility listed and certified by the Commission for
23 Accreditation of Christian Science Nursing Organizations/Facilities, Inc., that meets certain life
24 safety standards considered necessary by the state fire marshal. Payment for such care shall be
25 made to the provider of the care according to division directives and supervision. The amount of
26 nonmedical assistance to be paid on behalf of a recipient living in a boarding home, residential
27 home, or Christian Science facility shall be based on the daily rate established by the division.
28 The rate for facilities that are referred to in this section and licensed under IC 16-28 may not
29 exceed an upper rate limit established by a rule adopted by the division. The recipient may retain
30 from the recipient's income a monthly personal allowance of fifty-two dollars (\$52). This amount
31 is exempt from income eligibility consideration by the division and may be exclusively used by
32 the recipient for the recipient's personal needs. However, if the recipient's income is less than the
33 amount of the personal allowance, the division shall pay to the recipient the difference between
34 the amount of the personal allowance and the recipient's income. A reserve or an accumulated
35 balance from such a source, together with other sources, may not be allowed to exceed the state's
36 resource allowance allowed for adults eligible for state supplemental assistance or Medicaid as
37 established by the rules of the office of Medicaid policy and planning.

38 (e) In addition to the amount that may be retained as a personal allowance under this
39 section, an individual shall be allowed to retain an amount equal to the individual's state and
40 local income tax liability. The amount that may be retained during a month may not exceed

1 one-third (1/3) of the individual's state and local income tax liability for the calendar quarter in
2 which that month occurs. This amount is exempt from income eligibility consideration by the
3 division. The amount retained shall be used by the individual to pay any state or local income
4 taxes owed.

5 (f) In addition to the amounts that may be retained under subsections (d) and (e), an
6 eligible individual may retain a Holocaust victim's settlement payment. The payment is exempt
7 from income eligibility consideration by the division.

8 (g) The rate of payment to the provider shall be determined in accordance with a
9 prospective prenegotiated payment rate predicated on a reasonable cost related basis, with a
10 growth of profit factor, as determined in accordance with generally accepted accounting
11 principles and methods, and written standards and criteria, as established by the division. The
12 division shall establish an administrative appeal procedure to be followed if rate disagreement
13 occurs if the provider can demonstrate to the division the necessity of costs in excess of the
14 allowed or authorized fee for the specific boarding or residential home. The amount may not
15 exceed the maximum established under subsection (d).

16 (h) The personal allowance for one (1) month for an individual described in subsection
17 (a) is the amount that an individual would be entitled to retain under subsection (d) plus an
18 amount equal to one-half (1/2) of the remainder of:

19 (1) gross earned income for that month; minus

20 (2) the sum of:

21 (A) sixteen dollars (\$16); plus

22 (B) the amount withheld from the person's paycheck for that month for
23 payment of state income tax, federal income tax, and the tax prescribed
24 by the federal Insurance Contribution Act (26 U.S.C. 3101 et seq.); plus

25 (C) transportation expenses for that month; plus

26 (D) any mandatory expenses required by the employer as a condition of
27 employment.

28 (i) An individual who, before September 1, 1983, has been admitted to a home or facility
29 that provides residential care under this section is eligible for residential care in the home or
30 facility.

31 (j) The director of the division may contract with the division of mental health and
32 addiction or the division of disability and rehabilitative services to purchase services for
33 individuals with a mental illness or a developmental disability by providing money to supplement
34 the appropriation for community **based** residential care programs established under IC 12-22-2 or
35 community residential programs established under IC 12-11-1.1-1.

36 (k) A person with a mental illness may not be placed in a Christian Science facility listed
37 and certified by the Commission for Accreditation of Christian Science Nursing
38 Organizations/Facilities, Inc., unless the facility is licensed under IC 16-28.

39 SECTION 11. IC 12-10-11-8, AS AMENDED BY P.L.99-2007, SECTION 65, IS
40 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. The board shall do

1 the following:

2 (1) Establish long term goals of the state for the provision of a continuum of care
3 for the elderly and individuals with a disability based on the following:

4 (A) Individual independence, dignity, and privacy.

5 (B) Long term care services that are:

6 (i) integrated, accessible, and responsible; and

7 (ii) available in home and community settings.

8 (C) Individual choice in planning and managing long term care.

9 (D) Access to an array of long term care services:

10 (i) for an individual to receive care that is appropriate for the
11 individual's needs; and

12 (ii) to enable a case manager to have cost effective alternatives
13 available in the construction of care plans and the delivery of
14 services.

15 (E) Long term care services that include home care, community based
16 services, assisted living, congregate care, adult foster care, and
17 institutional care.

18 (F) Maintaining an individual's dignity and self-reliance to protect the
19 fiscal interests of both taxpayers and the state.

20 (G) Long term care services that are fiscally sound.

21 **(H) Services that support prevention and treatment of mental health
22 and addiction.**

23 (2) Review state policies on community and home care services.

24 (3) Recommend the adoption of rules under IC 4-22-2.

25 (4) Recommend legislative changes affecting community and home care
26 services.

27 (5) Recommend the coordination of the board's activities with the activities of
28 other boards and state agencies concerned with community and home care
29 services.

30 (6) Evaluate cost effectiveness, quality, scope, and feasibility of a state
31 administered system of community and home care services.

32 (7) Evaluate programs for financing services to those in need of a continuum of
33 care.

34 (8) Evaluate state expenditures for community and home care services, taking
35 into account efficiency, consumer choice, competition, and equal access to
36 providers.

37 (9) Develop policies that support the participation of families and volunteers in
38 meeting the long term care needs of individuals.

39 (10) Encourage the development of funding for a continuum of care from private
40 resources, including insurance.

1 (11) Develop a cost of services basis and a program of cost reimbursement for
2 those persons who can pay all or a part of the cost of the services rendered. The
3 division shall use this cost of services basis and program of cost reimbursement
4 in administering IC 12-10-10. The cost of services basis and program of cost
5 reimbursement must include a client cost share formula that:

6 (A) imposes no charges for an eligible individual whose income does not
7 exceed one hundred fifty percent (150%) of the federal income poverty
8 level; and

9 (B) does not impose charges for the total cost of services provided to an
10 individual under the community and home options to institutional care
11 for the elderly and disabled program unless the eligible individual's
12 income exceeds three hundred fifty percent (350%) of the federal
13 income poverty level.

14 The calculation of income for an eligible individual must include the deduction
15 of the individual's medical expenses and the medical expenses of the individual's
16 spouse and dependent children who reside in the eligible individual's household.

17 (12) Establish long term goals for the provision of guardianship services for
18 adults.

19 (13) Coordinate activities and programs with the activities of other boards and
20 state agencies concerning the provision of guardianship services.

21 (14) Recommend statutory changes affecting the guardianship of indigent adults.

22 (15) Review a proposed rule concerning home and community based services as
23 required under section 9 of this chapter.

24 SECTION 12. IC 12-10.5-2-4 IS ADDED TO THE INDIANA CODE AS A **NEW**
25 SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 4. The continuum of**
26 **care provided under this article must include services that support prevention and**
27 **treatment of mental health and addiction.**

28 SECTION 13. IC 12-21-2-3, AS AMENDED BY P.L.99-2007, SECTION 100, IS
29 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. ~~(a)~~ In addition to
30 the general authority granted to the director under IC 12-8-8, the director shall do the following:

31 (1) Organize the division, create the appropriate personnel positions, and employ
32 personnel necessary to discharge the statutory duties and powers of the division
33 or a bureau of the division.

34 (2) Subject to the approval of the state personnel department, establish personnel
35 qualifications for all deputy directors, assistant directors, bureau heads, and
36 superintendents.

37 (3) Subject to the approval of the budget director and the governor, establish the
38 compensation of all deputy directors, assistant directors, bureau heads, and
39 superintendents.

40 (4) Study the entire problem of mental health, mental illness, and addictions

1 existing in Indiana.

2 (5) Adopt rules under IC 4-22-2 for the following:

3 (A) Standards for the operation of private institutions that are licensed
4 under IC 12-25 for the diagnosis, treatment, and care of individuals with
5 psychiatric disorders, addictions, or other abnormal mental conditions.

6 ~~(B) Licensing supervised group living facilities described in
7 IC 12-22-2-3 for individuals with a mental illness.~~

8 ~~(B)~~ (B) Certifying community residential programs described in
9 ~~IC 12-22-2-3~~ IC 12-22-2-3.5 for individuals with a mental illness.

10 ~~(C)~~ (C) Certifying community mental health centers to operate in
11 Indiana.

12 ~~(D)~~ (D) Establish exclusive geographic primary service areas for
13 community mental health centers. The rules must include the following:

14 (i) Criteria and procedures to justify the change to the
15 boundaries of a community mental health center's primary
16 service area.

17 (ii) Criteria and procedures to justify the change of an
18 assignment of a community mental health center to a primary
19 service area.

20 (iii) A provision specifying that the criteria and procedures
21 determined in items (i) and (ii) must include an option for the
22 county and the community mental health center to initiate a
23 request for a change in primary service area or provider
24 assignment.

25 (iv) A provision specifying the criteria and procedures
26 determined in items (i) and (ii) may not limit an eligible
27 consumer's right to choose or access the services of any provider
28 who is certified by the division of mental health and addiction to
29 provide public supported mental health services.

30 (6) Institute programs, in conjunction with an accredited college or university
31 and with the approval, if required by law, of the commission for higher
32 education, for the instruction of students of mental health and other related
33 occupations. The programs may be designed to meet requirements for
34 undergraduate and postgraduate degrees and to provide continuing education and
35 research.

36 (7) Develop programs to educate the public in regard to the prevention,
37 diagnosis, treatment, and care of all abnormal mental conditions.

38 (8) Make the facilities of the Larue D. Carter Memorial Hospital available for
39 the instruction of medical students, student nurses, interns, and resident
40 physicians under the supervision of the faculty of the Indiana University School

1 of Medicine for use by the school in connection with research and instruction in
2 psychiatric disorders.

3 (9) Institute a stipend program designed to improve the quality and quantity of
4 staff that state institutions employ.

5 (10) Establish, supervise, and conduct community programs, either directly or by
6 contract, for the diagnosis, treatment, and prevention of psychiatric disorders.

7 (11) Adopt rules under IC 4-22-2 concerning the records and data to be kept
8 concerning individuals admitted to state institutions, community mental health
9 centers, or ~~managed care~~ **other** providers.

10 ~~(12) Establish, maintain, and reallocate before July 1, 1996, one-third (1/3); and~~
11 ~~before January 1, 1998, the remaining two-thirds (2/3) of the following:~~

12 ~~(A) long term care service settings; and~~

13 ~~(B) state operated long term care inpatient beds;~~

14 ~~designed to provide services for patients with long term psychiatric disorders as~~
15 ~~determined by the quadrennial actuarial study under IC 12-21-5-1.5(9). A~~
16 ~~proportional number of long term care service settings and inpatient beds must~~
17 ~~be located in an area that includes a consolidated city and its adjacent counties.~~

18 ~~(13) (12) Compile information and statistics concerning the ethnicity and gender~~
19 ~~of a program or service recipient.~~

20 ~~(14) (13) Establish standards for each element of the continuum of care services~~
21 ~~defined in IC 12-7-2-40.6 for community mental health centers and managed~~
22 ~~care other providers.~~

23 (b) As used in this section, "long term care service setting" means the following:

24 (1) The anticipated duration of the patient's mental health setting is more than
25 twelve ~~(12)~~ months.

26 (2) Twenty-four ~~(24)~~ hour supervision of the patient is available.

27 (3) A patient in the long term care service setting receives:

28 (A) active treatment if appropriate for a patient with a chronic and
29 persistent mental disorder or chronic addictive disorder;

30 (B) case management services from a state approved provider; and

31 (C) maintenance of care under the direction of a physician.

32 (4) Crisis care is available.

33 (c) Funding for services under subsection (a)(12) shall be provided by the division
34 through the reallocation of existing appropriations. The need of the patients is a priority for
35 services. The division shall adopt rules to implement subsection (a)(12) before July 1, 1995.

36 SECTION 14. IC 12-21-2-8, AS AMENDED BY P.L.99-2007, SECTION 102, IS
37 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) The director
38 shall develop a comprehensive system of monitoring, evaluation, and quality assurance for the
39 ~~continuum of care services~~ required by this chapter.

40 (b) The director shall determine to whom contracts are awarded, based on the following

1 factors:

- 2 (1) The continuity of services a contractor provides for patients.
- 3 (2) The accessibility of a contractor's services to patients.
- 4 (3) The acceptability of a contractor's services to patients.
- 5 (4) A contractor's ability to focus services on building the self-sufficiency of the
- 6 patient.

7 (c) This subsection applies to the reimbursement of contract payments to ~~managed care~~
8 providers. Payments must be determined prospectively in accordance with generally accepted
9 accounting principles and actuarial principles recognizing costs incurred by efficiently and
10 economically operated programs that:

- 11 (1) serve individuals with a mental illness or substance abuse patients; and
- 12 (2) are subject to quality and safety standards and laws.

13 (d) Before entering into a contract under this section, the director shall submit the contract
14 to the attorney general for approval as to form and legality.

15 (e) A contract under this section must do the following:

16 (1) Specify:

17 (A) the work to be performed; and

18 (B) the patient populations to whom services must be provided.

19 (2) Provide for a reduction in funding or termination of the contract for failure to
20 comply with terms of the contract.

21 (3) Require that the contractor meet the standards set forth in rules adopted by the
22 division of mental health and addiction under IC 4-22-2.

23 (4) Require that the contractor participate in the division's evaluation process.

24 (5) For any service for which the division chooses to contract on a per diem basis,
25 the per diem reimbursement shall be determined under subsection (c) for the
26 contractor's reasonable cost of providing services.

27 (6) In contracts with capitated payment provisions, provide that the contractor's
28 cost of purchasing stop-loss insurance for the patient populations to be served in
29 amounts and with limits customarily purchased by prepaid health care plans must
30 be:

31 (A) included in the actuarial determination of the capitated payment
32 amounts; or

33 (B) separately paid to the contractor by the division.

34 (7) Provide that a contract for enumerated services granted by the division under
35 this section to an approved ~~managed care~~ provider may not create or confer upon
36 the ~~managed care~~ provider liability or responsibility for care or services beyond
37 those services supported by the contract.

38 SECTION 15. IC 12-21-5-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2011]: Sec. 1.5. The division shall do the following:

40 (1) Adopt rules under IC 4-22-2 to establish and maintain criteria to determine

1 patient eligibility and priority for publicly supported mental health and addiction
2 services. The rules must include criteria for patient eligibility and priority based
3 on the following:

4 (A) A patient's income.

5 (B) A patient's level of daily functioning.

6 (C) A patient's prognosis.

7 (2) Within the limits of appropriated funds, contract with a network of ~~managed~~
8 ~~care~~ providers to provide a ~~continuum of care~~ **services** in an appropriate setting
9 that is the least restrictive to individuals who qualify for the services.

10 (3) Require the providers of services funded directly by the division to be in good
11 standing with an appropriate accrediting body as required by rules adopted under
12 IC 4-22-2 by the division.

13 (4) Develop a provider profile that must be used to evaluate the performance of a
14 ~~managed care provider. and that may be used to evaluate other providers of~~
15 ~~mental health services that access state administered funds, including Medicaid,~~
16 ~~and other federal funding.~~ A provider's profile must include input from
17 consumers, citizens, and representatives of the mental health ombudsman
18 program (IC 12-27-9) regarding the provider's:

19 (A) information provided to the patient on patient rights before treatment;

20 (B) accessibility, acceptability, and continuity of services provided or
21 requested; and

22 (C) total cost of care per individual, using state administered funds.

23 (5) Ensure compliance with all other performance criteria set forth in a provider
24 contract. In addition to the requirements set forth in IC 12-21-2-7, a provider
25 contract must include the following:

26 (A) A requirement that the standards and criteria used in the evaluation of
27 care plans be available and accessible to the patient.

28 (B) A requirement that the provider involve the patient in the choice of
29 and preparation of the treatment plan to the greatest extent feasible.

30 (C) A provision encouraging the provider to intervene in a patient's
31 situation as early as possible, balancing the patient's right to liberty with
32 the need for treatment.

33 (D) A requirement that the provider set up and implement an internal
34 appeal process for the patient.

35 (6) Establish a toll free telephone number that operates during normal business
36 hours for individuals to make comments to the division in a confidential manner
37 regarding services or service providers.

38 (7) Develop a confidential system to evaluate complaints and patient appeals
39 received by the division of mental health and addiction and to take appropriate
40 action regarding the results of an investigation. A ~~managed care~~ provider is

1 entitled to request and to have a hearing before information derived from the
2 investigation is incorporated into the provider's profile. Information contained
3 within the provider profile is subject to inspection and copying under IC 5-14-3-3.
4 (8) ~~Submit a biennial report to the governor and legislative council that includes~~
5 ~~an evaluation of the continuum of care. A report submitted under this subdivision~~
6 ~~to the legislative council must be in an electronic format under IC 5-14-6.~~
7 (9) ~~Conduct an actuarial analysis every four (4) years beginning July 1, 2000.~~
8 (10) ~~Annually determine sufficient rates to be paid for services contracted with~~
9 ~~managed care providers who are awarded a contract under IC 12-21-2-7.~~
10 (11) ~~Take actions necessary to assure the quality of services required by the~~
11 ~~continuum of care under this chapter.~~
12 (12) ~~Incorporate the results from the actuarial analysis in subdivision (9) to fulfill~~
13 ~~the responsibilities of this section.~~

14 SECTION 16. IC 12-22-2-3.5 IS ADDED TO THE INDIANA CODE AS A NEW
15 SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 3.5. Community based**
16 **residential programs include a broad range of living arrangements designed to meet the**
17 **unique needs of individuals with behavioral health disorders in integrated settings and**
18 **described in rules adopted by the division under IC 4-22-2.**

19 SECTION 17. IC 12-22-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2011]: Sec. 5. To the extent that programs described in ~~section 3~~ **section 3.5** of this
21 chapter are available and meet an individual's needs, an individual should be placed in a program
22 that is the least restrictive.

23 SECTION 18. IC 12-22-2-11, AS AMENDED BY P.L.99-2007, SECTION 114, IS
24 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. (a) An entity may
25 not:

- 26 (1) ~~operate a program described in IC 12-22-3; or~~
- 27 (2) ~~hold itself out as operating;~~
 - 28 (A) ~~a program described in IC 12-22-3; or~~
 - 29 (B) ~~a group home for individuals with a mental illness;~~

30 **operate or hold itself out as operating a group home for individuals with serious mental**
31 **illness (SMI), serious emotional disturbance (SED), or chronic addiction (CA) unless the**
32 **entity is licensed or certified by the division of mental health and addiction. the entity is licensed**
33 **or certified by the division with the exception of psychiatric residential treatment facilities.**

34 (b) The division of mental health and addiction shall investigate a report of:

- 35 (1) ~~an unlicensed facility housing a community residential program described in~~
36 ~~section 3(1), 3(2), and 3(3)~~ **section 3.5** of this chapter;
- 37 (2) ~~an uncertified operator of a community residential program described in~~
38 ~~section 3(1), 3(2), and 3(3)~~ **section 3.5** of this chapter; or
- 39 (3) ~~a licensed or certified entity's noncompliance with this article;~~

40 and report the division's findings to the attorney general.

1 (c) The attorney general may do the following:

2 (1) Seek the issuance of a search warrant to assist in an investigation under this
3 section.

4 (2) File an action for injunctive relief to stop the operation of a facility described
5 in subsection (b) if there is reasonable cause to believe that:

6 (A) the facility or the operator of a community residential program
7 described in subsection (b) is operating without a required license or
8 certification; or

9 (B) a licensed or certified entity's actions or omissions create an
10 immediate danger of serious bodily injury to an individual with a mental
11 illness or an imminent danger to the health of an individual with a mental
12 illness.

13 (3) Seek in a civil action a civil penalty of not more than one hundred dollars
14 (\$100) a day for each day a facility is operating:

15 (A) without a license or certification required by law; or

16 (B) with a license or certification required under this chapter, but is not in
17 compliance with this article, IC 12-21-2-3, or rules adopted under this
18 article or IC 12-21-2-3.

19 (d) The division of mental health and addiction may provide for the removal of
20 individuals with a mental illness from facilities for individuals with a mental illness described in
21 subsection (c).

22 (e) There must be an opportunity for an informal meeting with the division of mental
23 health and addiction after injunctive relief is ordered under this section.

24 (f) The civil penalties collected under this section must be deposited in the mental health
25 centers fund (IC 6-7-1-32.1).

26 SECTION 19. IC 12-23-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2011]: Sec. 9. ~~One-third (1/3)~~ **(a) A part of the total amount** of the federal money
28 earmarked for Drug Abuse and Alcohol Abuse/Alcoholics Efforts received for disbursement by
29 the division shall be used for ~~treatment local~~ programs that ~~are not under the direction of a~~
30 ~~community mental health center or a state institution.~~ **provide prevention, intervention, or**
31 **treatment services for individuals who:**

32 **(1) have a primary diagnosis of chronic substance abuse and dependence;**
33 **and**

34 **(2) are without significant or immediate treatment needs for mental illness**
35 **or serious emotional disturbance.**

36 **(b) The amount designated in subsection (a) shall be distributed to specialty**
37 **addiction providers that serve the eligible population to provide consumer choice based on**
38 **outcomes determined by the division.**

39 SECTION 20. IC 12-24-19-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2011]: Sec. 4. Within the limits of appropriated funds, the division shall provide by

1 written contract a continuum of care in the community for appropriate patients who are discharged
2 or transferred under this chapter that does the following:

- 3 (1) Integrates services.
- 4 (2) Facilitates provision of appropriate services to patients.
- 5 (3) Ensures continuity of care ~~including case management~~, so that a patient is not
6 discharged or transferred without adequate and appropriate community services.
- 7 **(4) Provides services that support prevention and treatment of mental health**
8 **and addiction.**

9 SECTION 21. IC 12-26-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2011]: Sec. 4. (a) If a staff member of a program involved in the treatment, supervision,
11 or care of an individual ordered to enter an outpatient therapy program under section 1 of this
12 chapter has reason to believe that the individual has failed to comply with the requirements of
13 section 3 of this chapter, the staff member shall immediately notify the court of the failure to
14 comply.

15 (b) Except as provided in subsection (c), the individual may be transferred from the
16 outpatient therapy program to one (1) of the following:

- 17 (1) The inpatient unit of the facility that has the original commitment.
- 18 (2) ~~A supervised group living program (as defined in IC 12-22-2-3(2)).~~ **A**
19 **community based residential program under IC 12-22-2-3.5.**
- 20 (3) ~~A sub-acute stabilization facility.~~

21 (c) The individual may not be transferred to a ~~supervised group living program or a~~
22 ~~sub-acute stabilization facility~~ **community based residential program under IC 12-22-2-3.5**
23 unless in the opinion of the individual's attending physician:

- 24 (1) it is not necessary for the individual to receive acute care inpatient treatment;
25 and
- 26 (2) the individual is in need of either a ~~supervised group living program or a~~
27 ~~sub-acute stabilization facility.~~ **community based residential program under**
28 **IC 12-22-2-.35.**

29 (d) The individual may not be imprisoned or confined in a jail or correctional facility
30 unless the individual has been placed under arrest.

31 (e) A facility to which an individual is transferred under subsection (b) shall immediately
32 notify the court of the transfer. A transfer to a facility under subsection (b) is subject to review
33 under section 6 of this chapter upon petition by the individual who was transferred.

34 SECTION 22. IC 12-29-2-13, AS AMENDED BY P.L.99-2007, SECTION 151, IS
35 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) This section
36 applies to Lake County.

37 (b) In addition to any other appropriation under this article, the county annually may fund
38 each center serving the county from the county's general fund in an amount not exceeding the
39 following:

- 40 (1) For 2004, the product of the amount determined under section 2(b)(1) of this

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chapter multiplied by seven hundred fifty-two thousandths (0.752).

(2) For 2005 and each year thereafter, the product of the amount determined under section 2(b)(2) of this chapter for that year multiplied by seven hundred fifty-two thousandths (0.752).

(c) The receipts from the tax levied under this section shall be used for the leasing, purchasing, constructing, or operating of community **based** residential facilities for individuals with a mental illness (as defined in ~~IC 12-7-2-167~~; **IC 12-7-2-40**).

(d) Money appropriated under this section must be:

- (1) budgeted under IC 6-1.1-17; and
- (2) included in the center's budget submitted to the division of mental health and addiction.

(e) Permission for a levy increase in excess of the levy limitations may be ordered under IC 6-1.1-18.5-15 only if the levy increase is approved by the division of mental health and addiction for a community mental health center.

SECTION 23. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2011]:
IC 12-7-2-167; IC 12-7-2-188.7; IC 12-22-1; IC 12-22-2-3; IC 12-22-2-4; IC 12-22-2-6;
IC 12-22-2-7; IC 12-22-2-8; IC 12-22-2-9, IC 12-22-2-10; IC 12-22-3; IC 12-24-19-2.