

Senate Bill 349

By: Senators Bethel of the 54th, Sims of the 12th, Jackson of the 24th and Miller of the 49th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 37 of the Official Code of Georgia Annotated, relating to mental health, so
 2 as to provide for changes to the powers and duties of the Department of Behavioral Health
 3 and Developmental Disabilities; to provide for changes to the administration of mental
 4 health, developmental disabilities, addictive diseases, and other disability services; to define
 5 a term; to revise provisions pertaining to the designation of boundaries for mental health,
 6 developmental disabilities, and addictive diseases regions and community service board
 7 areas; to provide for the re-creation of community service boards; to change provisions for
 8 the community mental health, developmental disabilities, and addictive diseases service
 9 boards including re-creation, membership, participation of counties, transfer of powers and
 10 duties, alternate method of establishment, bylaws, and reprisals; to change certain provisions
 11 relating to a community service board's program director, staff, budget, facilities, and powers
 12 and duties; to provide changes to provisions relating to a community service board as a
 13 public body, debts, obligations, and liabilities; to provide for revisions to certain
 14 redesignation of boundaries of the community service board areas; to provide for revision
 15 of the commissioner's emergency powers upon failure of a community service board to
 16 establish and administer programs; to provide for related matters; to provide for an effective
 17 date; to repeal conflicting laws; and for other purposes.

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

19 **SECTION 1.**

20 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by
 21 revising Code Section 37-1-20, relating to obligations of the Department of Behavioral
 22 Health and Developmental Disabilities, as follows:

23 "37-1-20.

24 The department shall:

25 (1) Establish, administer, and supervise the state programs for mental health,
 26 developmental disabilities, and addictive diseases;

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- 27 (2) Direct, supervise, and control the medical and physical care and treatment; recovery;
28 and social, employment, housing, and community supports and services based on single
29 or co-occurring diagnoses provided by the institutions, contractors, and programs under
30 its control, management, or supervision;
- 31 (3) Plan for and implement the coordination of mental health, developmental disability,
32 and addictive disease services with physical health services, and the prevention of any of
33 these diseases or conditions, and develop and promulgate rules and regulations to require
34 that all health services be coordinated and that the public and private providers of any of
35 these services that receive state support notify other providers of services to the same
36 patients of the conditions, treatment, and medication regimens each provider is
37 prescribing and delivering;
- 38 (4) Ensure that providers of mental health, developmental disability, or addictive disease
39 services coordinate with providers of primary and specialty health care so that treatment
40 of conditions of the brain and the body can be integrated to promote recovery, health, and
41 well-being;
- 42 (5) Have authority to contract, including performance based contracts which may include
43 financial incentives or consequences based on the results achieved by a contractor as
44 measured by output, quality, or outcome measures, for services with community service
45 boards, private agencies, and other public entities for the provision of services within a
46 service area so as to provide an adequate array of services and choice of providers for
47 consumers and to comply with the applicable federal laws and rules and regulations
48 related to public or private hospitals; hospital authorities; medical schools and training
49 and educational institutions; departments and agencies of this state; county or municipal
50 governments; any person, partnership, corporation, or association, whether public or
51 private; and the United States government or the government of any other state;
- 52 (6) Establish and support programs for the training of professional and technical
53 personnel as well as regional planning boards and community service boards;
- 54 (7) Have authority to conduct research into the causes and treatment of disability and
55 into the means of effectively promoting mental health and addictive disease recovery;
- 56 (8) Assign specific responsibility to one or more units of the department for the
57 development of a disability prevention program. The objectives of such program shall
58 include, but are not limited to, monitoring of completed and ongoing research related to
59 the prevention of disability, implementation of programs known to be preventive, and
60 testing, where practical, of those measures having a substantive potential for the
61 prevention of disability;
- 62 (9) Establish a system for regional administration of mental health, developmental
63 disability, and addictive disease services in institutions and in the community;

- 64 (10) Make and administer budget allocations to regional offices established by the board
65 pursuant to Code Section 37-2-4.1 to fund the operation of mental health, developmental
66 disabilities, and addictive diseases facilities and programs;
- 67 (11) Coordinate in consultation with providers, professionals, and other experts the
68 development of appropriate outcome measures for client centered service delivery
69 systems;
- 70 (12) Establish, operate, supervise, and staff programs and facilities for the treatment of
71 disabilities throughout this state;
- 72 (13) Disseminate information about available services and the facilities through which
73 such services may be obtained;
- 74 (14) Supervise the regional office's exercise of its responsibility and authority concerning
75 funding and delivery of disability services;
- 76 (15) Supervise the regional offices concerning the receipt and administration of grants,
77 gifts, moneys, and donations for purposes pertaining to mental health, developmental
78 disabilities, and addictive diseases;
- 79 (16) Supervise the administration of contracts with any hospital, community service
80 board, or any public or private providers without regard to regional or state boundaries
81 for the provision of disability services and in making and entering into all contracts
82 necessary or incidental to the performance of the duties and functions of the department
83 and the regional offices;
- 84 (17) Regulate the delivery of care, including behavioral interventions and medication
85 administration by licensed staff, or certified staff as determined by the department, within
86 residential settings serving only persons who are receiving services authorized or
87 financed, in whole or in part, by the department;
- 88 (18) Classify host homes for persons whose services are financially supported, in whole
89 or in part, by funds authorized through the department. As used in this Code section, the
90 term 'host home' means a private residence in a residential area in which the occupant
91 owner or lessee provides housing and provides or arranges for the provision of food, one
92 or more personal services, supports, care, or treatment exclusively for one or two persons
93 who are not related to the occupant owner or lessee by blood or marriage. A host home
94 shall be occupied by the owner or lessee, who shall not be an employee of the same
95 community provider which provides the host home services by contract with the
96 department. The department shall approve and enter into agreements with community
97 providers which, in turn, contract with host homes. The occupant owner or lessee shall
98 not be the guardian of any person served or of their property nor the agent in such
99 person's advance directive for health care. The placement determination for each person
100 placed in a host home shall be made according to such person's choice as well as the

101 individual needs of such person in accordance with the requirements of Code
 102 Section 37-3-162, 37-4-122, or 37-7-162, as applicable to such person;

103 (19) Provide guidelines for and oversight of host homes, which may include, but not be
 104 limited to, criteria to become a host home, requirements relating to physical plants and
 105 supports, placement procedures, and ongoing oversight requirements;

106 (20) Establish a unit of the department which shall receive and consider complaints from
 107 individuals receiving services, make recommendations to the commissioner regarding
 108 such complaints, and ensure that the rights of individuals receiving services are fully
 109 protected;

110 (21) With respect to housing opportunities for persons with mental illness and
 111 co-occurring disorders:

112 (A) Coordinate the department's programs and services with other state agencies and
 113 housing providers;

114 (B) Facilitate partnerships with local communities;

115 (C) Educate the public on the need for supportive housing;

116 (D) Collect information on the need for supportive housing and monitor the benefit of
 117 such housing; and

118 (E) Identify and determine best practices for the provision of services connected to
 119 housing;

120 (22) Exercise all powers and duties provided for in this title or which may be deemed
 121 necessary to effectuate the purposes of this title;

122 (23) Assign specific responsibility to one or more units of the department for the
 123 development of programs designed to serve disabled infants, children, and youth. To the
 124 extent practicable, such units shall cooperate with the Georgia Department of Education
 125 and the University System of Georgia in developing such programs; ~~and~~

126 (24) Have the right to designate private institutions as state institutions; to contract with
 127 such private institutions for such activities, in carrying out this title, as the department
 128 may deem necessary from time to time; and to exercise such supervision and cooperation
 129 in the operation of such designated private institutions as the department may deem
 130 necessary; and

131 (25) Establish policies and procedures governing fiscal standards and practices of
 132 community service boards and their respective governing boards."

133 **SECTION 2.**

134 Said title is further amended by revising Code Section 37-2-2, relating to definitions relative
 135 to administration of mental health, developmental disabilities, addictive diseases, and other
 136 disability services, as follows:

137 "37-2-2.

138 As used in this chapter, the term:

139 (1) 'Community service board' means a public mental health, developmental disabilities,
140 and addictive diseases board established pursuant to Code Section 37-2-6.

141 (2) 'Community service board area' means an area inclusive of the counties which fall
142 within the boundaries of a community service board as designated by the department
143 pursuant to subsection (b) of Code Section 37-2-3 for the establishment of a community
144 service board.

145 (3) 'Community service board service area' means a community service board area and
146 any other county or portion thereof in which the community service board provides
147 services.

148 (4) 'Council' means the Behavioral Health Coordinating Council established pursuant to
149 Code Section 37-2-4.

150 (5) 'Governing board' means the governing board of a community service board
151 established pursuant to subsection (b) of Code Section 37-2-6.

152 ~~(5)~~(6) 'Health services' means any education or service provided by the department, the
153 Department of Public Health, or the Department of Human Services, either directly or by
154 contract.

155 ~~(6)~~(7) 'Hospital' means a state owned or state operated facility providing services which
156 include, but are not limited to, inpatient care and the diagnosis, care, and treatment or
157 habilitation of the disabled. Such hospital may also provide or manage state owned or
158 operated programs in the community."

159 **SECTION 3.**

160 Said title is further amended by revising Code Section 37-2-3, relating to designation of
161 boundaries for mental health, development disabilities, and addictive diseases regions, and
162 community service board areas, as follows:

163 "37-2-3.

164 (a) The board shall designate boundaries for mental health, developmental disabilities, and
165 addictive diseases regions and may modify the boundaries of such regions from time to
166 time as deemed necessary by the board.

167 (b) The department, with the approval of the commissioner, shall designate community
168 service board areas, which shall serve as boundaries for the establishment of community
169 service boards within this state for the purpose of delivering disability services. The
170 department shall be authorized to initiate the redesignation of such community service
171 board area boundaries and may consider requests from a county or group of counties or a
172 community service board or a group of community service boards for recommended

173 changes to the boundaries of the community service board areas. The department, with the
 174 approval of the commissioner, is authorized to redesignate two or more ~~contiguous~~
 175 community service board areas as a single community service board area, ~~upon the request~~
 176 ~~of the community service boards serving such areas; and, if so authorized~~ Two or more
 177 community service boards may request that the department, with the approval of the
 178 commissioner, merge the community service board areas served by such boards into a
 179 single community service board area. If the department, with the approval of the
 180 commissioner, authorizes the redesignation or merging of community services board areas
 181 pursuant to this paragraph, the assets, equipment, and resources of such community service
 182 boards shall become the assets, equipment, and resources of the reconstituted community
 183 service board serving the successor single board area. It is the intent of the General
 184 Assembly not to limit a community service board to serving only those counties within the
 185 boundaries of its community service board area.

186 (c) To the extent practicable, the boundaries for regional planning boards and offices and
 187 community service areas shall not subdivide any county unit ~~or conflict with any districts~~
 188 ~~established by the Department of Public Health and the state relating to the planning for,~~
 189 ~~or delivery of, health services.~~ In dividing the state into areas, the board and the
 190 department shall take into consideration such factors as geographic boundaries, roads and
 191 other means of transportation, population concentrations, city and county lines, other
 192 relevant community services, and community economic and social relationships.
 193 Consideration shall also be given to the existence of facilities and personnel available in
 194 the areas for the delivery of disability services."

195 **SECTION 4.**

196 Said title is further amended by revising Code Section 37-2-6, relating to community mental
 197 health, developmental disabilities, and addictive diseases service boards creation,
 198 membership, participation of counties, transfer of powers and duties, alternate method of
 199 establishment, bylaws, and reprisals prohibited, as follows:

200 "37-2-6.

201 (a) Community service boards in existence on June 30, ~~2006~~ 2014, are re-created effective
 202 July 1, ~~2006~~ 2014, to provide mental health, developmental disabilities, and addictive
 203 diseases services. ~~Effective July 1, 2009, such~~ Such community service boards may enroll
 204 and contract with the department, the Department of Human Services, the Department of
 205 Public Health, or the Department of Community Health to become a provider of mental
 206 health, developmental disabilities, and addictive diseases services or health, recovery,
 207 housing, or other supportive services. Such boards shall be considered public agencies.
 208 Each community service board shall be a public corporation and an instrumentality of the

209 state; provided, however, that the liabilities, debts, and obligations of a community service
 210 board shall not constitute liabilities, debts, or obligations of the state or any county or
 211 municipal corporation and neither the state nor any county or municipal corporation shall
 212 be liable for any liability, debt, or obligation of a community service board. Each
 213 community service board re-created pursuant to this Code section is created for nonprofit
 214 and public purposes to exercise essential governmental functions. The re-creation of
 215 community service boards pursuant to this Code section shall not alter the provisions of
 216 Code Section 37-2-6.2 which shall apply to those re-created community service boards and
 217 their employees covered by that Code section and those employees' rights are retained.

218 (b) ~~Each~~ The governing board of each community service board shall consist of members
 219 appointed by the governing authorities of the counties within the community service board
 220 area. Membership on such ~~community service~~ governing board shall be determined as
 221 follows:

222 (1)(A) The governing authority of each county within the community service board
 223 area:

224 (i) With a population of 50,000 or less according to the most recent United States
 225 decennial census shall appoint one member to ~~the~~ such governing board; and

226 (ii) With a population of more than 50,000 according to the most recent United States
 227 decennial census shall appoint one member for each population increment of 50,000
 228 or any portion thereof; or

229 (B) In the event that the number of ~~community service~~ governing board member
 230 positions established in accordance with subparagraph (A) of this paragraph would
 231 exceed ~~13~~ nine, the membership of such ~~community service~~ governing board pursuant
 232 to this subsection shall be appointed as follows and the bylaws shall be amended
 233 accordingly:

234 (i) For community service boards whose community service board area contains ~~13~~
 235 nine or fewer counties, the membership of the board shall be set at ~~13~~ nine members
 236 and appointments to the board shall be made by the governing authority of each
 237 county within the community service board area in descending order from the county
 238 with the largest population to the county with the smallest population according to the
 239 most recent United States decennial census and this method shall be repeated until
 240 all ~~13~~ nine members of the governing board of the community service board are
 241 appointed. If a county governing authority fails to make an appointment within a
 242 reasonable time, the next descending county by population shall make an appointment
 243 and the method shall continue; and

244 (ii) For community service boards whose community service board area contains
 245 more than ~~13~~ nine counties, one member of the governing board of the community

246 service board shall be appointed by the governing authority of each county within the
 247 community service board area, so that the number of members on the governing board
 248 is equal to the number of counties in the community service board area.

249 The county governing authority shall appoint as at least one of its appointments a
 250 consumer of disability services; a ~~child~~ psychiatrist, a ~~child~~ psychologist, or other
 251 behavioral health or development disabilities professional; a law enforcement officer;
 252 a family member of a consumer; an advocate for disability services; a parent of a child
 253 with mental illness or addictive disease; or a local leader or businessperson with an
 254 interest in mental health, developmental disabilities, and addictive diseases; provided,
 255 however, that for counties with more than one appointment, the county governing
 256 authority shall seek to ensure that such appointments represent various groups and
 257 disability services;

258 (2) In addition to the members appointed pursuant to paragraph (1) of this subsection,
 259 ~~each the governing board of each~~ community service board may appoint ~~up to three~~ one
 260 additional ~~members~~ member in order to address variation in the population sizes of
 261 counties or the financial contributions of counties within the community service board
 262 area ~~or may authorize the elected chief executive officer of a county governing authority,~~
 263 ~~by whatever name called, or an elected member of that county governing authority to~~
 264 ~~serve on the community service board while holding such elective office.~~ The bylaws of
 265 the community service board shall address the ~~number~~ establishment of ~~such the~~
 266 additional ~~members~~ governing board membership position, if any established, and the
 267 purpose or purposes for which such ~~positions are~~ position is created. The term of office
 268 of such additional ~~members~~ member shall be the same as that of other members of the
 269 governing board of the community service board as provided in subsection (h) of this
 270 Code section; ~~except that the term of office of a member in a position created to authorize~~
 271 ~~the elected chief executive officer of a county governing authority, by whatever name~~
 272 ~~called, or an elected member of that county governing authority to serve on the~~
 273 ~~community service board shall be the same term of office as the elective term of office~~
 274 ~~of said chief executive officer or said member of that county governing authority;~~

275 (3) In addition to the members appointed pursuant to paragraphs (1) and (2) of this
 276 subsection, each governing board of a community service board shall have additional
 277 members who shall serve on such governing board while concurrently holding elective
 278 or appointive office and who shall be appointed by a county governing authority as
 279 follows:

280 (A) The number of elected or appointed officials serving on the governing board of a
 281 community service board shall be equal to one-third, defined herein as 33 percent or
 282 0.33, of the number of the members of such board appointed in accordance with

283 paragraph (1) of this subsection. In the event the calculation of such percentage yields
284 a whole number and a fraction of a whole number, then the number of members to be
285 appointed shall be equal to the nearest whole number; however, a fraction equal to 50
286 percent or greater shall be rounded to the next highest whole number;

287 (B) The governing authority of each county in the community service board area
288 making the largest cash or in-kind financial contribution in descending order to the
289 community service board in the county fiscal year immediately prior to the time of such
290 appointment shall make one appointment of an elected or appointed official to the
291 community service board until the number of such appointments required by this
292 paragraph is reached. For community service boards whose community service board
293 areas contains fewer counties than the number of appointments made pursuant to this
294 paragraph, the membership appointments of elected or appointed officials to the
295 governing board shall be made in the descending order prescribed in this paragraph and
296 this method shall be repeated until all members who hold elective or appointive office
297 are appointed to the governing board of the community service board. In the event that
298 the number of such county governing authorities making a cash or in-kind financial
299 contribution to the community service board does not result in the number of
300 appointments required by this paragraph, the remaining appointment or appointments
301 shall be made by the governing authority or authorities of the county or counties in the
302 community service board area with the largest population in descending order
303 according to the most recent United States decennial census until the number of
304 appointments required by this paragraph is reached. For community service boards
305 whose community service board area contains three or fewer counties, the membership
306 appointments of elected or appointed officials to the governing board shall be made in
307 the descending order prescribed in this paragraph and this method shall be repeated
308 until all members who hold elective or appointive office are appointed to the governing
309 board of the community service board. In the event there is no county in the
310 community service board area where the governing authority made a cash or in-kind
311 financial contribution to the community service board in the county fiscal year
312 immediately prior to the time of such appointment, the appointments required by this
313 paragraph shall be made by the governing authority or authorities of the county or
314 counties in the community service board area with the largest population in descending
315 order according to the most recent United States decennial census until the number of
316 appointments required by this paragraph is reached;

317 (C) As used in this paragraph, the term 'elective or appointive office' or 'elected or
318 appointed official' means:

319 (i) The elected chief executive officer, by whatever name called, of the county
 320 governing authority making the appointment to the governing board of the community
 321 service board;

322 (ii) An elected member of such county governing authority;

323 (iii) The county manager of such county governing authority where such position
 324 exists as defined in Code Section 36-5-22;

325 (iv) The sheriff of such county;

326 (v) The elected chief executive officer, by whatever named called, an elected member
 327 of the governing authority, or an appointed city manager of any municipality lying
 328 wholly or partially within such county;

329 (vi) A member of the board of education of such county or a member of the
 330 governing board of any municipal school system lying wholly or partially within such
 331 county;

332 (vii) The school superintendent of such county or the superintendent of any
 333 municipal school system lying wholly or partially within such county;

334 (viii) The appointed public safety commissioner, police chief, or fire chief of such
 335 county or any municipality lying wholly or partially within such county; or

336 (ix) Any other elected official from within such county;

337 (D) No member of the governing board of the community service board appointed
 338 pursuant to this paragraph shall continue to serve on the governing board if such
 339 member no longer holds the elective or appointive office which made him or her
 340 eligible for appointment to such board. The term of office of an elected official
 341 appointed to serve as a member of the governing board of a community service board
 342 shall be the same as such official's elective term of office. The term of office of an
 343 appointed official appointed to serve as a member of such governing board shall be the
 344 same as that of other members of such governing board; and

345 (E) As used in this paragraph, the term 'in-kind financial contribution' means the most
 346 current dollar value of any physical facilities or buildings and equipment, including
 347 vehicles, of all kinds provided at no cost by the county governing authority for use by
 348 the community service board.

349 ~~(3)~~(4) Each community service board in existence on June 30, ~~2006~~ 2014, shall
 350 reconstitute ~~its~~ the membership of its governing board in accordance with the provisions
 351 of paragraphs ~~(1)~~ (2) and ~~(2)~~ (3) of this subsection, effective July 1, 2014. ~~2006~~, as
 352 follows:

353 ~~(A)~~ A community service board which increases or reduces the number of its members
 354 of its governing board in accordance with paragraphs ~~(1)~~ (2) and ~~(2)~~ (3) of this
 355 subsection shall revise its bylaws adopted in accordance with subsection (h) of this

356 Code section to reflect such increases or reductions. A community service board which
 357 reduces the number of ~~its~~ members of its governing board shall designate which
 358 position or positions are to be eliminated and shall make reasonable efforts to eliminate
 359 any position or positions of governing board members whose terms expire on or before
 360 June 30, ~~2006~~ 2014; provided, however, that members serving on a the governing board
 361 of a community service board whose terms do not expire on or before June 30, ~~2006~~
 362 2014, shall continue to serve out the terms of office to which they were appointed,
 363 regardless of whether this causes a governing board to temporarily exceed the
 364 maximum number of members. Any additional positions created in conformity with
 365 such paragraphs ~~(1)~~ (2) and ~~(2)~~ (3) may be filled on July 1, ~~2006~~ 2014, and the
 366 governing authority of a county that is otherwise authorized to appoint such additional
 367 member or members to the governing board of a community service board ~~member or~~
 368 ~~members~~ may do so no sooner than May 1, ~~2006~~ 2014, but any person so appointed
 369 shall not take office until July 1, ~~2006~~ 2014. If a position on such governing board of
 370 the community service board is not filled on July 1, ~~2006~~ 2014, a vacancy in that
 371 position shall be deemed to have occurred on that date. A governing board of the
 372 community service board is authorized to make whatever changes necessary in the
 373 terms of office of its members in order to achieve the staggering of terms required by
 374 subsection (h) of this Code section; ~~and~~

375 ~~(B) The term of office of an ex officio, voting member of a community service board~~
 376 ~~holding membership on June 30, 2006, shall expire on June 30, 2006; and~~

377 ~~(4)(5)(A)~~ (A) A person shall not be eligible to be appointed to or serve on a governing
 378 board of a community service board if such person is:

- 379 (i) A member of the regional planning board which serves the region in which that
 380 community service board is located;
- 381 (ii) An employee or board member of a public or private entity which contracts with
 382 the department, ~~the Department of Human Services, the Department of Public Health,~~
 383 ~~or the Department of Community Health~~ to provide mental health, developmental
 384 disabilities, and addictive diseases services ~~or health services~~ within the region
 385 community service board area served by that community service board; or
- 386 (iii) An employee of that community service board or employee or board member of
 387 any private or public group, organization, or service provider which contracts with or
 388 receives funds from that community service board; or
- 389 (iv) A former employee of that community service board until a period of at least two
 390 years has passed since the time such person was employed by that community service
 391 board.

392 (B) A person shall not be eligible to be appointed to or serve on a governing board of
 393 a community service board if such person's spouse, parent, child, or sibling is a member
 394 of that ~~community service board~~ governing board or a member, employee, or board
 395 member specified in this paragraph. With respect to appointments by the same county
 396 governing authority, no person who has served a full term or more on a governing
 397 board of a community service board may be appointed to a regional planning board
 398 until a period of at least two years has passed since the time such person served on the
 399 governing board of a community service board, and no person who has served a full
 400 term or more on a regional planning board may be appointed to the governing board of
 401 a community service board until a period of at least two years has passed since the time
 402 such person has served on the regional planning board-; and

403 ~~(5)~~(6) A governing board of a community service board created in accordance with this
 404 subsection shall reconstitute its governing board membership in conformity with the most
 405 recent United States decennial census in accordance with subparagraph (d)(2)(C) of Code
 406 Section 1-3-1.

407 (b.1) A county governing authority may appoint ~~the school superintendent~~, a member of
 408 the county board of health, ~~a member of the board of education, or any other elected or~~
 409 ~~appointed official~~ to serve on the governing board of the community service board
 410 provided that such person meets the qualifications of paragraph (1) or (2) of subsection (b)
 411 of this Code section and such appointment does not violate the provisions of Chapter 10
 412 of Title 45. For terms of office which begin July 1, 1994, or later, an employee of the
 413 Department of Human Resources (now known as the Department of Behavioral Health and
 414 Developmental Disabilities for these purposes) or an employee of a county board of health
 415 shall not serve on a governing board of a community service board. For terms of office
 416 which begin July 1, 2009, or later, an employee of the department, the Department of
 417 Human Services, the Department of Public Health, or the Department of Community
 418 Health or a board member of the respective boards of each department shall not serve on
 419 a governing board of a community service board.

420 (c) In making appointments to the governing board of a community service board, the
 421 county governing authorities shall ensure that such appointments are reflective of the
 422 cultural and social characteristics, including gender, race, ethnic, and age characteristics,
 423 of the community service board area and county populations. The county governing
 424 authorities are further encouraged to ensure that each disability group is represented on the
 425 governing board of the community service board, and in making such appointments the
 426 county governing authorities may consider suggestions from clinical professional
 427 associations as well as advocacy groups. For the purposes of this subsection, the term
 428 'advocacy groups' means any organizations or associations that advocate for, promote, or

429 have an interest in disability services and are exempted as a charitable organization from
 430 federal income tax pursuant to Section 501(c) of the Internal Revenue Code; provided,
 431 however, that 'advocacy groups' shall not mean paid providers of disability services or
 432 health services.

433 (c.1) A county governing authority in making appointments to the governing board of a
 434 community service board shall take into consideration that at least one member of the
 435 governing board of a community service board is an individual who is trained or certified
 436 in finance or accounting; provided, however, that if after a reasonable effort at recruitment
 437 there is no person trained or certified in finance or accounting within the community
 438 service board area who is willing and able to serve, the county governing authority may
 439 consider for appointment any other person having a familiarity with financial or accounting
 440 practices.

441 (d) Each county in which the governing authority of the county is authorized to appoint
 442 members to the governing board of the community service board shall participate with the
 443 board in the operation of the program through the community service board. All
 444 contractual obligations, including but not limited to real estate leases, rentals, and other
 445 property agreements, other duties, rights, and benefits of the mental health, developmental
 446 disabilities, and addictive diseases service areas in existence on June 30, ~~2006~~ 2014, shall
 447 continue to exist along with the new powers granted to the community service boards
 448 effective July 1, ~~2006~~ 2014.

449 (e) Notwithstanding any other provision of this chapter, a community service board may
 450 be constituted in a method other than that outlined in subsection (b) of this Code section
 451 if:

452 (1) A board of health of a county desiring to be the lead county board of health for that
 453 county submits a written agreement to the former Division of Mental Health,
 454 Developmental Disabilities, and Addictive Diseases (now known as the Department of
 455 Behavioral Health and Developmental Disabilities) of the former Department of Human
 456 Resources before July 1, 1993, to serve as the community service board and to continue
 457 providing disability services in that county after July 1, 1994, and the governing authority
 458 for that county adopted a resolution stating its desire to continue the provision of
 459 disability services through its board of health after July 1, 1994, and submitted a copy of
 460 such resolution to the former division before July 1, 1993; or

461 (2)(A) The lead county board of health for a community mental health, mental
 462 retardation, and substance abuse service area, as designated by the former Division of
 463 Mental Health, Developmental Disabilities, and Addictive Diseases (now known as the
 464 Department of Behavioral Health and Developmental Disabilities) of the former
 465 Department of Human Resources on July 15, 1993, but which area excludes any county

466 which meets the requirements of paragraph (1) of this subsection, submitted a written
 467 agreement to the former division and to all counties within such service area to serve
 468 as the community service board for that area and to continue providing disability
 469 services after July 1, 1994, which agreement was submitted between July 31, 1993, and
 470 December 31, 1993; and

471 (B) Each county governing authority which is within the service area of a lead county
 472 board of health which has submitted an agreement pursuant to subparagraph (A) of this
 473 paragraph adopted a resolution stating its desire to continue the provision of disability
 474 services through such lead county board of health after July 1, 1994, and submitted a
 475 copy of that resolution to the former division, the regional board, and the lead county
 476 board of health between July 31, 1993, and December 31, 1993; and

477 (3) The lead county board of health qualifying as such under paragraph (1) or (2) of this
 478 subsection agrees in writing to appoint a director for mental health, mental retardation,
 479 and substance abuse other than the director of the county board of health as stipulated in
 480 Code Section 31-3-12.1, to appoint an advisory council on mental health, mental
 481 retardation, and substance abuse consisting of consumers, families of consumers, and
 482 representatives from each of the counties within the boundaries of the community service
 483 board, and to comply with all other provisions relating to the delivery of disability
 484 services pursuant to this chapter.

485 (f) If the conditions enumerated in subsection (e) of this Code section are not met prior to
 486 or on December 31, 1993, a community service board as provided in subsection (b) shall
 487 be established and appointed by January 31, 1994, to govern the provision of disability
 488 services within the boundaries of the community service board. Such community service
 489 board shall have the authority to adopt bylaws and undertake organizational and contractual
 490 activities after January 31, 1994; provided, however, that the community service board
 491 established pursuant to this Code section may not begin providing services to clients until
 492 July 1, 1994.

493 (g) If a community service board is established pursuant to paragraph (2) of subsection (e)
 494 of this Code section, such community service board must operate as established at least
 495 until June 30, 1996; provided, however, that in each fiscal year following June 30, 1996,
 496 the counties included under the jurisdiction of such a community service board may vote
 497 to reconstitute the community service board pursuant to the provisions of subsection (b)
 498 of this Code section by passage of a resolution by a majority of the county governing
 499 authorities within the jurisdiction of the community service board prior to January 1, 1997,
 500 or each year thereafter.

501 (h) The governing board of each ~~Each~~ community service board shall adopt bylaws and
 502 operational policies and guidelines in conformity with the provisions of this chapter. Those

503 bylaws shall address governing board appointment procedures, initial terms of governing
 504 board members, the staggering of terms, quorum, a mechanism for ensuring that consumers
 505 of disability services and family members of consumers constitute no less than 50 percent
 506 of the governing board members appointed pursuant to paragraphs (1) and (2) of subsection
 507 (b) of this Code section, and a mechanism for ensuring equitable representation of the
 508 various disability groups. A quorum for the transaction of any business and for the
 509 exercise of any power or function of the governing board of the community service board
 510 shall consist of a majority of the total number of filled governing board member positions
 511 appointed pursuant to subsection (b) of this Code section. A vote of the majority of such
 512 quorum shall be the act of the governing board of the community service board except
 513 where the bylaws of the community service board may require a greater vote. The regular
 514 term of office for each member of the governing board of a community service board
 515 ~~member~~ shall be three years. Vacancies on such governing board shall be filled in the same
 516 manner as the original appointment. For the purposes of this subsection, 'equitable
 517 representation of the various disability groups' shall mean that consumers and family
 518 members of such consumers who constitute no less than 50 percent of the governing board
 519 members holding membership pursuant to paragraphs (1) and (2) of subsection (b) of this
 520 Code section shall be appointed so as to assure that an equal number of such members to
 521 the fullest extent possible represents mental health, developmental disabilities, and
 522 addictive diseases interests.

523 (i) The governing board of each ~~Each~~ community service board which is composed of
 524 members who are appointed thereto by the governing authority of only one county shall
 525 have a minimum of ~~six~~ seven and no more than ~~13~~ nine members, not including any
 526 additional members appointed pursuant to ~~paragraph~~ paragraphs (2) and (3) of subsection
 527 (b) of this Code section, notwithstanding the provisions of subsection (b) of this Code
 528 section, which members in all other respects shall be appointed as provided in this Code
 529 section.

530 (j) No governing board member, officer, or employee of a community service board who
 531 has authority to take, direct others to take, recommend, or approve any personnel action
 532 shall take or threaten action against any employee of a community service board as a
 533 reprisal for making a complaint or disclosing information concerning the possible existence
 534 of any activity constituting fraud, waste, or abuse in or relating to the programs, operations,
 535 or client services of the ~~board to the board or~~ community service board, to the governing
 536 board of the community service board, to a member of the General Assembly, or to the
 537 department unless the complaint was made or the information was disclosed with the
 538 knowledge that it was false or with willful disregard for its truth or falsity. Any action

539 taken in violation of this subsection shall give the public employee a right to have such
540 action set aside in a proceeding instituted in the superior court.

541 (k) A member of a governing board of a community service board who after notice that
542 such member has failed to complete any required training prescribed by the department
543 pursuant to paragraph (6) of Code Section 37-1-20 continues such failure for 30 days may
544 be removed from office by the remaining members of the governing board of the
545 community service board.

546 (l) A member of a governing board of a community service board may resign from office
547 by giving written notice to the executive director of the community service board. The
548 resignation is irrevocable after delivery to such executive director but shall become
549 effective upon the date on which the notice is received or on the effective date given by the
550 member in the notice, whichever date is later. The executive director, upon receipt of the
551 resignation, shall give notice of the resignation to the remaining members of the governing
552 board of the community service board and to the chief executive officer or governing
553 authority of the county that appointed the member.

554 (m) The office of a member of a governing board of a community service board shall be
555 vacated upon such member's resignation, death, or inability to serve due to medical
556 infirmity or other incapacity, removal by the community service board as authorized in this
557 Code section, or upon such other reasonable condition as the community service board may
558 impose under its bylaws.

559 (n) Each member of the governing board of a community service board shall comply with
560 the code of ethics for members of boards, commissions, and authorities as set forth in Code
561 Section 45-10-3. A governing board member who fails to comply with such code may be
562 subject to removal from office by the remaining members of the governing board of the
563 community service board or by the commissioner as authorized in Code Section 37-2-10.
564 The governing board of the community service board shall revise the bylaws of the
565 community service board adopted in accordance with subsection (h) of this Code section
566 to reflect the requirements of this subsection.

567 (o) A member of the governing board of a community service board shall have a fiduciary
568 responsibility to avoid any conflict of interest in a manner that is consistent with the
569 declarations found in Code Section 45-10-2. When such governing board is to decide an
570 issue about which a member has an unavoidable conflict of interest, such member shall
571 absent herself or himself from not only the vote, but also from any deliberation on such
572 issue. Members of the governing board of a community service board shall not use their
573 positions to obtain employment with or contracts from the community service board, its
574 funding sources, or its suppliers of goods and services for themselves, family members, or
575 close associates. Should such member desire such employment, such member shall first

576 resign. No person who has served as a member of the governing board of a community
 577 service board may be employed by that community service board, either directly or by
 578 contract, until a period of at least two years has passed since the time such person served
 579 as a member of the governing board of that community service board. A governing board
 580 member or a member of the governing board member's family may obtain disability or
 581 health services from the community service board in the ordinary course of the community
 582 service board's provision of such disability or health services on the same terms and under
 583 the same conditions applicable to any member of the public. An individual governing
 584 board member shall not exercise individual authority over the community service board's
 585 operations, affairs, property, or personnel, except when such member's action is explicitly
 586 permitted by action of the governing board of the community service board by policy or
 587 by resolution. The governing board of the community service board shall revise the bylaws
 588 of the community service board adopted in accordance with subsection (h) of this Code
 589 section to reflect the requirements of this subsection.

590 (n) (p) A member of a governing board of a community service board may not enter upon
 591 the duties of office until such member takes the following oath of office:

592 STATE OF GEORGIA

593 COUNTY OF _____

594 I, _____, do solemnly swear or affirm that I will truly perform the
 595 duties of a member of the governing board of the _____ Community
 596 Service Board to the best of my ability.

597 I do further swear or affirm:

598 (1) That I am not the holder of any unaccounted for public money due this state or any
 599 political subdivision or authority thereof;

600 (2) That I am not the holder of any office of trust under the government of the United
 601 States, any other state, or any foreign state which I am by the laws of the State of Georgia
 602 prohibited from holding;

603 (3) That I am otherwise qualified to hold said office according to the Constitution and
 604 the laws of Georgia; and

605 (4) That I will support the Constitution of the United States and this state.

606 _____
 607 Signature of member of
 608 the governing board of the
 609 _____ Community Service Board

610 _____

611 Typed name of member of
612 the governing board of the
613 _____ Community Service Board

614 Sworn and subscribed
615 before me this _____ day
616 of _____, _____.
617 (SEAL)''

618 **SECTION 5.**

619 Said title is further amended by revising Code Section 37-2-6.1, relating to community
620 service boards program director, staff, budget facilities, powers and duties, and exemption
621 from state and local taxation, as follows:

622 "37-2-6.1.

623 (a) Each governing board of each community service board shall employ an executive
624 director to serve as its chief executive officer who and shall prescribe the duties thereof.
625 The selection of the executive director and all terms of compensation shall be set by the
626 governing board of each community service board and shall be subject to review and
627 approval by the commissioner prior to any offer of employment or at any point thereafter
628 where the terms of compensation are proposed to be substantially altered. Such contracts
629 shall be reviewed by the commissioner every five years. Further, the commissioner shall
630 be required to review and approve the selection of the executive director of each
631 community service board for adherence to minimum qualifications for the position as
632 prescribed by the department. The executive director shall direct the day-to-day operations
633 of the community service board. Such executive director shall be appointed and removed
634 by the community service board pursuant to this subsection and shall appoint other
635 necessary staff pursuant to an annual budget adopted by the board, which budget shall
636 provide for securing appropriate facilities, sites, and professionals necessary for the
637 provision of disability and health services. The Notwithstanding any other provision of law
638 to the contrary, the governing board of the community service board may delegate any
639 power, authority, duty, or function to its executive director or other staff. The executive
640 director or other staff is authorized to exercise any power, authority, duty, or function on
641 behalf of the governing board of the community service board.

642 (1) The executive director or any full-time or part-time employee of a community service
643 board shall have a responsibility to avoid any conflict of interest in a manner that is
644 consistent with the declarations found in Code Section 45-10-2. Such employees shall
645 not transact any business with that community service board as prohibited in Code
646 Section 45-10-23 unless any such transaction falls under the exceptions granted in Code

647 Section 45-10-25. Transactions that fall under such exceptions shall be disclosed to the
 648 governing board of the community service board in the manner as such governing board
 649 shall determine and yearly to the Georgia Government Transparency and Campaign
 650 Finance Commission as prescribed in Code Section 45-10-26. The governing board of
 651 the community service board shall promulgate policies and procedures governing
 652 executive director and employee conflicts of interest and establish a code of ethics for the
 653 executive director and employees of the community service board.

654 (b) Each governing board of a community service board or each community service board,
 655 under the jurisdiction of its governing board, shall perform duties, responsibilities, and
 656 functions and may exercise power and authority described in this subsection. ~~Each~~
 657 ~~program may exercise the following power and authority as follows:~~

658 (1) Each governing board of a community service board may shall adopt bylaws for the
 659 conduct of its affairs and the affairs of their respective community service boards;
 660 provided, however, that the governing board of a community service board shall meet at
 661 least quarterly, and that all such meetings and any bylaws shall be open to the public, as
 662 otherwise required under Georgia law;

663 (2) Each governing board of a community service board shall be required to review and
 664 approve the annual budget of the community service board and shall be required to
 665 establish the general policies related to such budget to be followed by the community
 666 service board;

667 (3) Each community service board shall provide an adequate range of disability services
 668 as prescribed by the department;

669 ~~(2)~~(4) Each community service board may make and enter into all contracts necessary
 670 and incidental to the performance of its duties and functions;

671 ~~(3)~~(5) Each community service board may acquire by purchase, gift, lease, or otherwise
 672 and may own, hold, improve, use, and sell, convey, exchange, transfer, lease, sublease,
 673 and dispose of real and personal property of every kind and character, or any interest
 674 therein, for its corporate purposes;

675 ~~(4)~~(6) Each community service board may contract to utilize the services of the
 676 Department of Administrative Services, the state auditor, or any other agency of state,
 677 local, or federal government;

678 ~~(5)~~(7) Each community service board may provide, either independently or through
 679 contract with appropriate state or local governmental entities, the following benefits to
 680 its employees, their dependents, and survivors, in addition to any compensation or other
 681 benefits provided to such persons:

682 (A) Retirement, pension, disability, medical, and hospitalization benefits, through the
 683 purchase of insurance or otherwise, but medical and hospitalization benefits may only

684 be provided through the Department of Community Health under the same conditions
 685 as provided for such benefits to state employees, and the Department of Community
 686 Health shall so provide if requested;

687 (B) Life insurance coverage and coverage under federal old age and survivors'
 688 insurance programs;

689 (C) Sick leave, annual leave, and holiday leave; and

690 (D) Any other similar benefits including, but not limited to, death benefits;

691 ~~(6)~~(8) Each community service board may cooperate with all units of local government
 692 in the counties where the community service board provides services as well as
 693 neighboring regions and with the programs of other departments, agencies, and regional
 694 commissions and regional planning boards;

695 ~~(7)~~(9) Each community service board shall establish and maintain a personnel program
 696 for its employees and fix the compensation and terms of compensation of its employees;
 697 provided, however, that each community service board shall comply with the provisions
 698 of Chapter 20 of Title 45, for so long as and to the extent that each employee of such
 699 board remains subject to the rules and regulations of the State Personnel Board or as
 700 otherwise provided by law;

701 ~~(8)~~(10) Each community service board may receive and administer grants, gifts,
 702 contracts, moneys, and donations for purposes pertaining to the delivery of disability
 703 services or of health services;

704 ~~(9)~~(11) Each community service board may establish fees for the provision of disability
 705 services or health services according to the terms of contracts entered into with the
 706 department, Department of Human Services, Department of Public Health, or Department
 707 of Community Health, as appropriate; provided, however, that all fees collected shall be
 708 used solely in accordance with the statutory nonprofit and public purposes of community
 709 service boards as prescribed in Article 1 of Chapter 2 of Title 37;

710 ~~(10)~~(12) Each community service board may accept appropriations, loans of funds,
 711 facilities, equipment, and supplies from local governmental entities in the counties where
 712 the community service board provides services;

713 ~~(11)~~(13) Each member of the governing board of a community service board may, upon
 714 approval of the executive director, receive reimbursement for actual expenses incurred
 715 in carrying out the duties of such office; provided, however, that such reimbursement
 716 shall not exceed the rates and allowances set for state employees by the Office of
 717 Planning and Budget or the mileage allowance for use of a personal car as that received
 718 by all other state officials and employees or a travel allowance of actual transportation
 719 cost if traveling by public carrier;

720 ~~(12)~~(14) Each governing board of a community service board shall elect a chairperson
 721 and vice chairperson from among its membership. The governing board members shall
 722 also elect a secretary and treasurer from among its membership or may designate the
 723 executive director of the community service board to serve in one or both offices. Such
 724 officers shall serve for such terms as shall be prescribed in the bylaws of the community
 725 service board or until their respective successors are elected and qualified. No governing
 726 board member shall hold more than one office of the governing board of a community
 727 service board; except that the same person may serve as secretary and treasurer. The
 728 bylaws of the governing board of a community service board shall provide for any other
 729 officers of such board and the means of their selection, the terms of office of the officers,
 730 and an annual meeting to elect officers;

731 ~~(13)~~(15) Each community service board may have a seal and alter it;

732 ~~(14)~~(16) Each community service board may establish fees, rates, rents, and charges for
 733 the use of facilities of the community service board for the provision of disability services
 734 or of health services, in accordance with the terms of contracts entered into with the
 735 department, Department of Human Services, Department of Public Health, or Department
 736 of Community Health, as appropriate;

737 ~~(15)~~(17) Each community service board may borrow money for any business purpose
 738 and may incur debt, liabilities, and obligations for any business purpose. A debt, liability,
 739 or obligation incurred by a community service board shall not be considered a debt,
 740 liability, or obligation of the state or any county or any municipality or any political
 741 subdivision of the state. A community service board may not borrow money as permitted
 742 by this Code section if the highest aggregate annual debt service requirements of the then
 743 current fiscal year or any subsequent year for outstanding borrowings of the community
 744 service board, including the proposed borrowing, exceed 15 percent of the total revenues
 745 of the community service board in its fiscal year immediately preceding the fiscal year
 746 in which such debt is to be incurred. Interest paid upon such borrowings shall be exempt
 747 from taxation by the state or its political subdivisions. A state contract with a community
 748 service board shall not be used or accepted as security or collateral for a debt, liability,
 749 or obligation of a community service board without the prior written approval of the
 750 commissioner;

751 ~~(16)~~(18) Each community service board, to the extent authorized by law and the contract
 752 for the funds involved, may carry forward without lapse fund balances and establish
 753 operating, capital, and debt reserve accounts from revenues and grants derived from state,
 754 county, and all other sources; and

755 ~~(17)~~(19) Each community service board may operate, establish, or operate and establish
 756 facilities deemed by the community service board as necessary and convenient for the

757 administration, operation, or provision of disability services or of health services by the
 758 community service board and may construct, reconstruct, improve, alter, repair, and equip
 759 such facilities to the extent authorized by state and federal law.

760 (c) Nothing shall prohibit a community service board from contracting with any county
 761 governing authority, private or other public provider, or hospital for the provision of
 762 disability services or of health services.

763 (d) Each community service board exists for nonprofit and public purposes, and it is found
 764 and declared that the carrying out of the purposes of each community service board is
 765 exclusively for public benefit and its property is public property. Thus, no community
 766 service board shall be required to pay any state or local ad valorem, sales, use, or income
 767 taxes.

768 (e) A community service board shall not have the power to tax, the power to issue general
 769 obligation bonds or revenue bonds or revenue certificates, or the power to financially
 770 obligate the state or any county or any municipal corporation.

771 (f) A community service board shall not operate any facility for profit. A community
 772 service board may fix fees, rents, rates, and charges that are reasonably expected to produce
 773 revenues, which, together with all other funds of the community service board, will be
 774 sufficient to administer, operate, and provide the following:

- 775 (1) Disability services or health services;
- 776 (2) The cost of acquiring, constructing, equipping, maintaining, repairing, and operating
 777 its facilities; and
- 778 (3) The creation and maintenance of reserves sufficient to meet principal and interest
 779 payments due on any obligation of the community service board.

780 (g) Each community service board may provide reasonable reserves for the improvement,
 781 replacement, or expansion of its facilities and services. Reserves under this subsection
 782 shall be subject to the limitations in paragraph (15) of subsection (b) of this Code section.

783 (h) Each county and municipal corporation of this state is authorized to convey or lease
 784 property of such county or municipal corporation to a community service board for its
 785 public purposes. Any property conveyed or leased to a community services board by a
 786 county or municipal corporation shall be operated by such community service board in
 787 accordance with this chapter and the terms of the community service board's agreements
 788 with the county or municipal corporation providing such conveyance or lease.

789 (i) Each community service board and any entity created or formed by such community
 790 service board pursuant to subsection (j) of this Code section shall keep books of account
 791 reflecting all funds received, expended, and administered by the community service board
 792 ~~which shall be independently audited annually in accordance with generally accepted~~
 793 accounting principles. The community service board and an entity created or formed by

794 such community service board, if any, pursuant to subsection (j) of this Code section shall
795 assure the inclusion in its annual audit any information or procedures required by the
796 department. The community service board and an entity created or formed by such
797 community service board, if any, pursuant to subsection (j) of this Code section shall rotate
798 audit firms at least once every five years. Copies of the annual audit and all findings shall
799 be submitted to the department and the governing board of the community service board,
800 or in the case of an entity created or formed by the community service board, if any, to the
801 governing board of the community service board, the governing board of such entity, and
802 the department within 60 days of completion of the audit.

803 (j) Subject to the approval of the commissioner and the governing board of the community
804 service board, a ~~A~~ community service board may create, form, or become a member of a
805 nonprofit corporation, limited liability company, or other nonprofit entity, the voting
806 membership of which shall be limited to community service boards, governmental entities,
807 nonprofit corporations, or a combination thereof, if such entity is created for purposes that
808 are within the powers of the community service board, for the cooperative functioning of
809 its members, or a combination thereof; provided, however, that no funds provided pursuant
810 to a contract between the department and the community service board may be used in the
811 formation or operation of the nonprofit corporation, limited liability company, or other
812 nonprofit entity. No community service board, whether or not it exercises the power
813 authorized by this subsection, shall be relieved of compliance with Chapter 14 of Title 50,
814 relating to open and public meetings, and Article 4 of Chapter 18 of Title 50, relating to
815 inspection of public records, unless otherwise provided by law. The provisions of this
816 subsection relating to the approval of the commissioner to the contrary notwithstanding,
817 nothing in this subsection shall prohibit a community service board from creating, forming,
818 or becoming a member of a national, regional, or state trade association or business league
819 as defined for tax exempt purposes by the United States Internal Revenue Service for the
820 benefit of member community service boards and similar organizations.

821 (k) No community service board shall employ or retain in employment, either directly or
822 indirectly through contract, any person who is receiving a retirement benefit from the
823 Employees' Retirement System of Georgia except in accordance with the provisions of
824 subsection (c) of Code Section 47-2-110; provided, however, that any such person who is
825 employed as of July 1, 2004, may continue to be employed.

826 (l) A community service board may join or form and operate, either directly or indirectly,
827 one or more networks of community service boards, disability or health service
828 professionals, and other providers of disability services or health services to arrange for the
829 provision of disability services or health services through such networks; to contract either
830 directly or through such networks with the Department of Community Health to provide

831 services to Medicaid beneficiaries; to provide disability services or health services in an
 832 efficient and cost-effective manner on a prepaid, capitation, or other reimbursement basis;
 833 and to undertake other disability or health services related managed care activities. For
 834 purposes of this subsection only and notwithstanding Code Section 33-3-3 or any other
 835 provision of law, a community service board shall be permitted to and shall comply with
 836 the requirements of Chapter 20A of Title 33 to the extent that such requirements apply to
 837 the activities undertaken by the community service board or by a community service board
 838 under this subsection or subsection (j) of this Code section. No community service board,
 839 whether or not it exercises the powers authorized by this subsection, shall be relieved of
 840 compliance with Article 4 of Chapter 18 of Title 50, relating to inspection of public
 841 records, unless otherwise provided by law. Any licensed health care provider shall be
 842 eligible to apply to become a participating provider under such a plan or network that
 843 provides coverage for health care, disability services, or health services which are within
 844 the lawful scope of the provider's license, but nothing in this Code section shall be
 845 construed to require any such plan or network to provide coverage for any specific health
 846 care, disability service, or health service."

847 **SECTION 6.**

848 Said title is further amended by revising Code Section 37-2-6.3, relating to the public body,
 849 debts, obligations, and liabilities, as follows:

850 "37-2-6.3.

851 (a) A community service board is a public body as provided in paragraph (1) of
 852 subsection (c) of Code Section 37-2-11.1.

853 (b) A community service board has the power to bring an action in its own name and, to
 854 the extent otherwise authorized by law and to the extent not immune from suit, may be
 855 sued in its own name. The state and the counties in which the community service board
 856 operates shall not be considered a party to or liable under any such litigation.

857 (c) The governing board of a community service board as well as the community service
 858 board itself shall be prohibited from bringing any action against the state.

859 ~~(c)~~(d) Debts, obligations, and liabilities of a community service board are not debts,
 860 obligations, or liabilities of the state or of the counties in which such board operates. A
 861 community service board is prohibited from entering into debts, obligations, or liabilities
 862 which are also debts, obligations, or liabilities of the state or of any county."

863 **SECTION 7.**

864 Said title is further amended by revising paragraph (2) of subsection (b) of Code Section
 865 37-2-6.5, relating to cessation of operations by community service board, notification, and

866 continuation of operations by successor board, county board of health, or outside manager,
867 as follows:

868 "(2) The department, with the approval of the commissioner, intends to redesignate the
869 boundaries of the community service board area served by such board pursuant to
870 paragraph (1) of subsection (b) of Code Section 37-2-3 by expanding the boundaries of
871 ~~an adjacent~~ a community service board area served by another community service board
872 to include the counties in the community service board area served by the community
873 service board that intends to cease operations so that the community service board
874 serving such ~~adjacent~~ area may assume responsibility for the provision of disability
875 services within such counties;"

876

SECTION 8.

877 Said title is further amended by revising Code Section 37-2-10, relating to the
878 commissioner's emergency powers upon failure of a community service board to establish
879 and administer programs, as follows:

880 "37-2-10.

881 (a) Notwithstanding any other provisions of the law, the commissioner with the
882 concurrence of the Governor is authorized to establish and administer community programs
883 on an emergency basis in the event one or more community service boards or their
884 respective governing boards fail to assume responsibility for the establishment and
885 implementation of an adequate range of disability services or to provide appropriate
886 disability services as determined by the department or substantially breach their contracts
887 with the department pursuant to this chapter.

888 (b) Upon notification by a governing board of a community service board of an inability
889 to provide an adequate range of disability services or to provide appropriate services, the
890 commissioner, with concurrence of the Governor, may:

891 (1) Assume responsibility for the administration and operation of all of the community
892 programs operated by or through such board and, in which case, the programs shall
893 become department programs; the department shall acquire the assets of the community
894 service board; ~~and~~ the community service board employees shall become employees of
895 the department; and the governing board of the community service board shall be
896 dissolved; or

897 (2) Assume responsibility for the administration and operation of one or more of the
898 community programs operated by or through such board, in which case, such program
899 or programs shall become a department program or programs; the department shall
900 acquire those assets of the community service board assigned to such program or
901 programs; and the employees of such program or programs shall become employees of

902 the department. Any community service board programs not transferred to the
 903 department shall continue to be operated by the governing board of the community
 904 service board and the employees for such programs shall remain community service
 905 board employees.

906 (c)(1) Notwithstanding any other provisions of the law, ~~in extenuating circumstances~~, the
 907 commissioner with the concurrence of the Governor is authorized to appoint a manager
 908 or management team to manage and operate the programs and services of the community
 909 service board if the commissioner finds that the community service board:

910 (A) Provides notice pursuant to Code Section 37-2-6.5 that ~~such~~ the community service
 911 board intends to cease operations;

912 (B) Intentionally, recklessly, or negligently failed to discharge its duties pursuant to a
 913 contract with the department;

914 (C) Misused state or federal funds;

915 (D) Engaged in a fraudulent act, transaction, practice, or course of business;

916 (E) Endangered the life, safety, or health of a consumer served by the community
 917 service board;

918 (F) Failed to keep fiscal records and maintain proper control over its assets;

919 (G) Failed to respond to a substantial deficiency in a review or audit;

920 (H) Otherwise substantially failed to comply with this chapter or the rules or standards
 921 of the department; or

922 (I) No longer has the fiscal ability to continue to provide contracted services and,
 923 without the intervention of the department, continued provision of disability services
 924 or health services to consumers in the service area is in immediate jeopardy.

925 (2) In order to carry out the provisions of paragraph (1) of this subsection, the
 926 commissioner shall give written notice to the governing board of the community service
 927 board regarding the appointment of a manager or management team and the
 928 circumstances on which the appointment is based. The governing board of the
 929 community service board shall be immediately suspended upon the appointment of a
 930 manager or management team by the commissioner. The commissioner may require the
 931 community service board to pay costs incurred by the manager or management team.

932 (3) Subject to the determination of the commissioner, a manager or management team
 933 appointed pursuant to this subsection may:

934 (A) Evaluate, redesign, modify, administer, supervise, or monitor a procedure,
 935 operation, or the management of the community service board;

936 (B) Hire, supervise, discipline, reassign, or terminate the employment of an employee
 937 of the community service board;

938 (C) Reallocate the resources and manage the assets of the community service board;

- 939 (D) Require that a financial transaction, expenditure, or contract for goods and services
 940 be approved by the manager or management team;
- 941 (E) Redesign, modify, or terminate a program or service of the community service
 942 board;
- 943 (F) Direct ~~the members of the community service board~~, the executive director, chief
 944 financial officer, or any other administrative or program manager, employee, or agent
 945 to take an action;
- 946 (G) Exercise a power, duty, authority, or function of the community service board or
 947 its governing board as authorized by this chapter;
- 948 (H) Recommend to the commissioner the removal of a member or members of the
 949 governing board of the community service board or the executive director of the
 950 community service board; and the provisions of any law to the contrary
 951 notwithstanding, the commissioner may remove such member or executive director
 952 from office. If the commissioner removes a member or members of the governing
 953 board of the community service board pursuant to this subparagraph, the member or
 954 members so removed shall be replaced pursuant to Code Section 37-2-6; and
- 955 (I) Report at least monthly to the commissioner on actions taken.
- 956 (4) A manager or management team appointed pursuant to this subsection may not use
 957 or dispose of any asset or funds contributed to the community service board by the
 958 governing authority of a county or municipal corporation without the approval of such
 959 governing authority.
- 960 (5) A manager or management team appoint pursuant to this subsection shall be free
 961 from all liability, joint or several, for the manager or management team's acts, omissions,
 962 and conduct and for the acts, omissions, and conduct of their duly constituted agents in
 963 the administration of the community service board or its programs. The state shall
 964 indemnify and save them, and each of them, harmless from the effects and consequences
 965 of their acts, omissions, and conduct in their official capacity, except to the extent that
 966 such effects and consequences shall result from their own willful misconduct.
- 967 ~~(5)(6)~~ (6) If a manager or management team is appointed pursuant to this Code section, the
 968 department may:
- 969 (A) Upon a determination that the conditions that gave rise to the appointment of a
 970 manager or management team pursuant to this subsection have been met and that such
 971 manager or management team is no longer necessary, terminate the authority delegated
 972 to such manager or management team and restore authority to the governing board of
 973 the community service board to manage and operate the services and programs of the
 974 community service board; or

975 (B) Operate and manage the programs of the community service board until such time
976 as arrangements can be made to secure one or more alternate service providers to
977 assume responsibility for the provision of services previously provided by the
978 community service board. If this option is exercised, the department shall petition the
979 appropriate superior court for appointment of a receiver pursuant to subsection (d) of
980 Code Section 37-2-6.5.

981 ~~(6)~~(7) Nothing in this subsection shall be construed to prohibit the department from
982 canceling a contract with a community service board."

983 **SECTION 9.**

984 This Act shall become effective upon its approval by the Governor or upon its becoming law
985 without such approval.

986 **SECTION 10.**

987 All laws and parts of laws in conflict with this Act are repealed.