

## CHAPTER 496

## S.B. No. 633

An Act relating to community centers for mental health and mental retardation services, their administration, planning, and fees, to contracts for community-based services, and to confidentiality of records; amending the Texas Mental Health and Mental Retardation Act, as amended (Article 5547-201 et seq., Vernon's Texas Civil Statutes), by amending Sections 2.10, 2.12, 3.05, 3.07, and 3.14; Subsection (a) of Section 2.27; the title to Article 4, and Sections 4.01 through 4.04; and by adding Section 2.12B.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** Article 2 of the Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), is amended by amending Sections 2.10 and 2.12 and by adding a new Section 2.12B to read as follows:

"Section 2.10. **ADVISORY COMMITTEES.** The Board shall appoint a medical advisory committee, a *citizens' planning advisory committee*, and any other advisory committees it deems necessary to assist in the effective administration of the mental health and mental retardation programs of the Department. *The citizens' planning advisory committee shall advise the Department on all stages of the development and implementation of the Department's long-range strategic plan.* The Department may pay the members of any such committees and the members of any advisory committees, the creation of which is approved by the Board, for travel costs

incurred in connection with the exercise of their duties for the Department at rates authorized to be paid to state officers and employees under the provisions of the General Appropriations Act."

"Section 2.12. **EFFECTIVE ADMINISTRATION.** (a) The Commissioner is responsible for the effective administration of the programs and services of the Department.

"(b) The Commissioner shall, with the approval of the Board, establish within the Department an organizational structure which will promote the effective administration of this Act.

"(c) The Commissioner shall appoint the head of each facility or institution that is administered by the Department. The appointments are subject to the Board's approval. *The person appointed as head of a facility or institution serves at the pleasure of the Commissioner.*

"(d) *The Commissioner shall establish, for departmental personnel who are subject to Board approval, qualifications which balance clinical and programmatic knowledge and management experience.*

"(e) *The Commissioner shall establish qualifications for Assistant Deputy Commissioners which balance clinical and programmatic knowledge and management experience.*

"(f) *The Commissioner shall standardize qualifications for personnel positions throughout the Department. [The person appointed as head of a facility or institution serves at the pleasure of the Commissioner.]*"

"Section 2.12B. **LONG-RANGE PLAN.** (a) *The Department shall initiate a long-range plan of at least six years' length. The first plan shall be completed by January 1, 1986, and shall be updated every two years. The Department shall identify and project the costs related to implementation of elements of the plan. Every two years, assessment of the progress made toward achieving the goals identified in the plan shall be undertaken as a part of the budget preparation process. Each biennial budget request should be based on the results of this process with both new program funding and continuation funding based on demonstrated needs. The Department should develop and maintain an information data base appropriate to this planning effort.*

"(b) *The Department shall insure that the long-range plan includes at least the following elements:*

"(1) *statement of the mission, goals, and objectives of the Department;*

"(2) *quantifiable indicators of output and outcome;*

"(3) *identification of priority client populations;*

"(4) *identification of the minimum array of services necessary to address the needs of the priority client populations;*

"(5) *description of the appropriate use of facilities, including a plan for the future role of state hospitals and state schools with consideration to size, function, and specialization, and criteria for adding needed beds and phasing out uneconomical and unneeded beds;*

"(6) *description of the configuration of the service delivery system during the course of implementation of the long-range plan, including estimates of numbers of persons to be served in state facilities and community-based services and costs of the services; and*

"(7) *comprehensive needs assessment and resource inventory statewide."*

**SECTION 2.** Section 2.27, Texas Mental Health and Mental Retardation Act (Article 5547-202, Vernon's Texas Civil Statutes), is amended by amending Subsection (a) to read as follows:

"(a) For the purpose of confidentiality of client records, the facilities of the department, ~~and~~ ~~all~~ community centers for mental health and mental retardation services created pursuant to Article 3 of the Texas Mental Health and Mental Retardation Act as amended (Article 5547-203, Vernon's Texas Civil Statutes), other designated providers, and subcontractees of mental health and mental retardation services will be considered as component parts of one service delivery system within which client records may be exchanged without the consent of the client."

**SECTION 3.** Article 3 of the Texas Mental Health and Mental Retardation Act, as amended (Article 5547-203, Vernon's Texas Civil Statutes), is amended by amending Sections 3.05, 3.07, and 3.14 to read as follows:

"Section 3.05. **ADMINISTRATION.** (a) The board of trustees is responsible for the administration of community centers.

"(b) *The board of trustees shall develop policies consistent with the rules, regulations, and standards of the Department.*

"(c) *The board of trustees shall standardize qualifications for personnel positions for the community center consistent with those developed by the Commissioner in Subsection (f) of Section 2.12 of this Act."*

"Section 3.07. **EXECUTIVE DIRECTOR.** (a) The board of trustees shall appoint an executive [a] director for each community center. ~~[The board may delegate powers to the director subject to the policy direction of the board.]~~

*“(b) The executive director may have powers delegated by and subject to the policy direction of the board of trustees.”*

**“Section 3.14. FEES FOR SERVICES.** (a) A community center shall *charge reasonable fees to cover costs for services provided, except where prohibited by other service contracts or law* ~~provide services free of charge to indigent persons~~. ~~[It shall charge reasonable fees, to cover costs, for services provided to non/indigent persons.]~~ In collecting fees for the treatment of clients ~~[non/indigent persons]~~, a community center has the same rights, privileges, and powers granted by law to the Texas Department of Mental Health and Mental Retardation. The county or district attorney of counties where community centers are located shall, when requested by the executive director of a community center, represent the community center in the collection of fees for services provided ~~[non/indigent persons]~~.

*“(b) No person shall be denied services by a community center due to inability to pay for such services.”*

**SECTION 4.** Article 4 of the Texas Mental Health and Mental Retardation Act, as amended (Article 5547-204, Vernon’s Texas Civil Statutes), is amended by amending the title of the article and Sections 4.01, 4.02, 4.03, and 4.04 to read as follows:

**“Article 4. CONTRACTS FOR COMMUNITY-BASED SERVICES [STATE GRANTS IN AID]”**

**“Section 4.01. RULES AND REGULATIONS OF THE DEPARTMENT.** (a) The Department shall prescribe such rules, regulations and standards, not inconsistent with the Constitution and laws of this State, as it considers necessary and appropriate to insure adequate provision of *community-based* mental health and mental retardation services by community centers and other providers receiving contract funds as designated providers pursuant to Section 4.03 of this Act. *Each such contract shall contain a provision authorizing the Department to have unrestricted access to all facilities, records, data, and other information under the control of the designated provider or subcontractor of the designated provider as necessary to enable the Department to audit, monitor, and review all financial and programmatic activities and services associated with the contract.*

*“(b) Before any rule, regulation or standard is adopted the Department shall give notice and opportunity to interested persons to participate in the rule making.*

*“(c) The rules, regulations and standards adopted by the Department under this Section shall be filed with the Secretary of State and shall be published and available on request from the Secretary of State.*

*“(d) A copy of these rules shall be sent to each community center or other provider receiving contract funds as a designated provider pursuant to Section 4.03 of this Act* ~~[established in this State]~~.

**“Section 4.02. PLAN.** As soon as possible after its establishment the board of trustees of a community center shall submit to the Department:

*“(1) a copy of the contract between the participating local agencies, if applicable;*

*“(2) a plan within the projected financial, physical and personnel resources of the region to be served to develop and make available to the residents of the region an effective mental health or mental retardation services program, or both, through a community center or centers.*

**“Section 4.03. ELIGIBILITY FOR COMMUNITY-BASED SERVICES CONTRACTS [GRANTS IN AID].** (a) *The Department shall insure that at a minimum the following services are available in each service area:*

*“(1) 24-hour emergency screening and rapid crisis stabilization services;*

*“(2) community-based crisis residential service or hospitalization;*

*“(3) community-based assessments, including the development of interdisciplinary treatment plans and diagnosis and evaluation services;*

*“(4) family support services, including respite care; and*

*“(5) case management services.*

*“In addition, the Department shall arrange for appropriate community-based services to be available in each service area, including the assignment of a case manager, for all persons discharged from departmental facilities or institutions in need of aftercare services or continuum of care.*

*“(b) The Department shall identify and contract with one or more designated providers for each service area. Each designated provider shall provide, either directly or by subcontract, specific performance outcomes or services to address the needs of priority client populations as required by the Department and shall comply with the rules, regulations and standards established by the Department pursuant to Section 4.01 of this Act. Each designated provider shall coordinate its activities with those of other appropriate agencies providing care and treatment for individuals with drug or alcohol problems. In identifying a designated provider, the Department shall give*

preference to a community center located in a given service area established pursuant to Section 3.01 of this Act. If the Department is unable to negotiate a contract with a center to insure that specific required services for priority client populations are available in that service area, or if the Department determines that a center does not have the capacity to insure the availability of such services, the Department may contract with other local agencies or private providers or organizations to act as a designated provider for that service area.

“(c) The Department shall develop standards of care and mechanisms for monitoring the services provided by designated providers and their subcontractors. These standards shall be designated to insure that the quality of community-based services be consistent with the quality of care available in other departmental facilities and institutions. The Department shall specify performance standards including outcome measures for evaluating the compliance of a designated provider with the provisions of its contract to provide specific services to priority client populations. The Department shall evaluate the performance of each designated provider prior to any contract renewal. The Commissioner shall refuse to renew a contract with a designated provider and select other agencies, providers, or organizations to be the designated provider if an evaluation of the original provider's performance by the Department indicates an inability to insure the availability of the specific services to priority client populations required by the Department and the provisions of this Act.

“(d) The Department may include in the terms of its contract with a designated provider a requirement that some or all of the state funds be matched by local support. If such match is specified, it shall be uniformly required of all providers or contractors in the service area. Local support shall be in such proportions and amounts as may be determined by the Department. If such match is specified, it shall be uniformly required of all providers or contractors in the service area. For the purpose of calculating the local share of the operating costs of a community center or other designated provider, patient fee income, services, and facilities contributed by the designated provider may be counted as local support.

“(e) The Department shall establish a uniform fee collection policy which is the same for community centers and other designated providers which is equitable, provides for collections, and maximizes contributions to local revenue. (a) A community center is eligible to receive State grants/in/aid if it qualifies according to the rules and regulations of the Department. It is specifically provided; however, that the Department may require that such grants of State funds be matched by local support in such proportions and amounts as may be determined by the Department. For the purpose of calculating the local share of the operating costs of a community center, patient fee income, services, and facilities contributed by local community centers may be counted as local support. To further the purposes of this Act, the Department may allocate, according to methods approved by the Board, funds through contracts between the Department and centers for the performance of specific services required by the Department. If the Department is unable to negotiate contracts with a center or centers for the required services, the Department may use these funds to contract with other local agencies, private providers, state agencies, or facilities of the Department for the performance of the services if these providers comply with rules and standards of the Department. To facilitate the administration of such funds, the Department may make periodic allocations of such grants to community centers on the basis of operating budgets submitted to it by the community centers in such form as the Department may require, but shall, periodically during the fiscal period covered by such operating budgets, make such adjustments, upward or downward, as may be necessary equitably to apportion such operating costs between the State government and the community centers.

“[(b) The first priority for use of grants/in/aid to be expended for mental health services shall be for services directed to those individuals who are at significant risk of placement in a State facility. Individuals at significant risk of placement in a State facility shall include but not necessarily be limited to persons for whom emergency hospitalization warrants have been issued; persons for whom proceedings for temporary or indefinite commitment in a State facility have been initiated; and former State facility patients for whom the facility superintendent has recommended a continuing care plan. The Department shall develop standards to enforce this policy and may withhold grants/in/aid from any center found not to be in compliance with these standards.]

“Section 4.04. AUDITING PROCEDURES. The board of trustees of a community center or the administrative authority of a designated provider other than a community center, as a condition precedent to its receiving contract funds [further grants] under this Act, shall annually have its [the] accounts [of the center] audited by a Texas certified or public accountant licensed by the Texas State Board of Public Accountancy. Such audit shall meet at least the minimum requirements as shall be, and in such form as may be, prescribed by the

Department and approved by the State Auditor. A copy of each such annual audit, approved by the board of trustees of the community center or the administrative authority of the designated provider, shall be filed by the community center or designated provider with the Department on such date as the Department may specify. Where the board of trustees or administrative authority declines or refuses to approve the audit report, it shall nevertheless file with the said Department a copy of the audit report with its statement detailing its reasons for failure to approve the report. In addition to the copy furnished the Department, copies of each audit report shall be submitted to the Governor, the Legislative Budget Board and the Legislative Audit Committee. The Commissioner and the State Auditor, on behalf of the Department and the Legislative Audit Committee, respectively, shall have access to all vouchers, receipts, journals and other records as either may deem needed and appropriate for the review and analysis of audit reports."

**SECTION 5.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 10, 1985, by the following vote: Yeas 28, Nays 0; Senate concurred in House amendments on May 27, 1985, by the following vote: Yeas 31, Nays 0; passed the House, with amendments, on May 17, 1985, by the following vote: Yeas 132, Nays 2, one present not voting.

Approved: June 12, 1985

Effective: Immediately