

HEALTH AND SAFETY CODE CHAPTER 534. COMMUNITY SERVICES

HEALTH AND SAFETY CODE

TITLE 7. MENTAL HEALTH AND MENTAL RETARDATION

SUBTITLE A. TEXAS DEPARTMENT OF MENTAL HEALTH AND MENTAL
RETARDATION

CHAPTER 534. COMMUNITY SERVICES

SUBCHAPTER A. COMMUNITY CENTERS

Sec. 534.001. ESTABLISHMENT. (a) A county, municipality, hospital district, school district, or an organizational combination of two or more of those local agencies may establish and operate a community center.

(b) In accordance with this subtitle, a community center may be:

(1) a community mental health center that provides mental health services;

(2) a community mental retardation center that provides mental retardation services; or

(3) a community mental health and mental retardation center that provides mental health and mental retardation services.

(c) A community center is:

(1) an agency of the state, a governmental unit, and a unit of local government, as defined and specified by Chapters 101 and 102, Civil Practice and Remedies Code;

(2) a local government, as defined by Section 791.003, Government Code;

(3) a local government for the purposes of Chapter 2259, Government Code; and

(4) a political subdivision for the purposes of Chapter 172, Local Government Code.

(d) A community center may be established only if:

(1) the proposed center submits to the department a copy of the contract between the participating local agencies, if applicable;

(2) the department approves the proposed center's plan to develop and make available to the region's residents an effective mental health or mental retardation program, or both,

through a community center that is appropriately structured to include the financial, physical, and personnel resources necessary to meet the region's needs; and

(3) the department determines that the center can appropriately, effectively, and efficiently provide those services in the region.

(e) A community center operating under this subchapter may operate only for the purposes and perform only the functions defined in the center's plan. The board by rule shall specify the elements that must be included in a plan and shall prescribe the procedure for submitting, approving, and modifying a center's plan.

(f) Each function performed by a community center under this title is a governmental function if the function is required or affirmatively approved by any statute of this state or of the United States or by a regulatory agency of this state or of the United States duly acting under any constitutional or statutory authority vesting the agency with such power. Notwithstanding any other law, a community center is subject to Chapter 554, Government Code.

(g) An entity is, for the purpose of operating a psychiatric center, a governmental unit and a unit of local government under Chapter 101, Civil Practice and Remedies Code, and a local government under Chapter 102, Civil Practice and Remedies Code, if the entity:

(1) is not operated to make a profit;

(2) is created through an intergovernmental agreement between a community mental health center and any other governmental unit; and

(3) contracts with the community mental health center and any other governmental unit that created it to operate a psychiatric center.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.07, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 601, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 835, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1420, Sec. 8.276, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 198, Sec. 2.82, eff. Sept. 1, 2006.

Sec. 534.0015. PURPOSE AND POLICY. (a) A community center created under this subchapter is intended to be a vital component in a continuum of services for persons in this state who are mentally ill or mentally retarded.

(b) It is the policy of this state that community centers strive to develop services for persons who are mentally ill or mentally retarded, and may provide requested services to persons with a chemical dependency, that are effective alternatives to treatment in a large residential facility.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 6.08, eff. Aug. 30, 1993.

Sec. 534.002. BOARD OF TRUSTEES FOR CENTER ESTABLISHED BY ONE LOCAL AGENCY. The board of trustees of a community center established by one local agency is composed of:

(1) the members of the local agency's governing body;
or

(2) not fewer than five or more than nine qualified voters who reside in the region to be served by the center and who are appointed by the local agency's governing body.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.09, eff. Aug. 30, 1993.

Sec. 534.003. BOARD OF TRUSTEES FOR CENTER ESTABLISHED BY AT LEAST TWO LOCAL AGENCIES. (a) The board of trustees of a community center established by an organizational combination of local agencies is composed of not fewer than five or more than 13 members.

(b) The governing bodies of the local agencies shall appoint the board members either from among the membership of the governing bodies or from among the qualified voters who reside in the region to be served by the center.

(c) When the center is established, the governing bodies shall enter into a contract that stipulates the number of board members and the group from which the members are chosen. They may renegotiate or amend the contract as necessary to change the:

(1) method of choosing the members; or

(2) membership of the board of trustees to more accurately reflect the ethnic and geographic diversity of the local service area.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.10, eff. Aug. 30, 1993; Acts 2003, 78th Leg., ch. 198, Sec. 2.200, eff. Sept. 1, 2003.

Sec. 534.004. PROCEDURES RELATING TO BOARD OF TRUSTEES MEMBERSHIP. (a) The local agency or organizational combination of local agencies that establishes a community center shall prescribe:

(1) the application procedure for a position on the board of trustees;

(2) the procedure and criteria for making appointments to the board of trustees;

(3) the procedure for posting notice of and filling a vacancy on the board of trustees; and

(4) the grounds and procedure for removing a member of the board of trustees.

(b) The local agency or organizational combination of local agencies that appoints the board of trustees shall, in appointing the members, attempt to reflect the ethnic and geographic diversity of the local service area the community center serves. The local agency or organizational combination shall include on the board of trustees one or more persons otherwise qualified under this chapter who are consumers of the types of services the center provides or who are family members of consumers of the types of services the center provides.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.11, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 1187, Sec. 12, eff. Sept. 1, 1999.

Sec. 534.005. TERMS; VACANCIES. (a) Appointed members of the board of trustees who are not members of a local agency's governing body serve staggered two-year terms. In appointing the

initial members, the appointing authority shall designate not less than one-third or more than one-half of the members to serve one-year terms and shall designate the remaining members to serve two-year terms.

(b) A vacancy on a board of trustees composed of qualified voters is filled by appointment for the remainder of the unexpired term.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.12, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 1187, Sec. 13, eff. Sept. 1, 1999.

Sec. 534.006. TRAINING. (a) The board by rule shall establish:

(1) an annual training program for members of a board of trustees administered by the professional staff of that community center, including the center's legal counsel; and

(2) an advisory committee to develop training guidelines that includes representatives of advocates for persons with mental illness or mental retardation and representatives of boards of trustees.

(b) Before a member of a board of trustees may assume office, the member shall attend at least one training session administered by that center's professional staff to receive information relating to:

(1) the enabling legislation that created the community center;

(2) the programs the community center operates;

(3) the community center's budget for that program year;

(4) the results of the most recent formal audit of the community center;

(5) the requirements of Chapter 551, Government Code, and Chapter 552, Government Code;

(6) the requirements of conflict of interest laws and other laws relating to public officials; and

(7) any ethics policies adopted by the community center.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 6.13, eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(82), (88), eff. Sept. 1, 1995.

Sec. 534.0065. QUALIFICATIONS; CONFLICT OF INTEREST; REMOVAL. (a) As a local public official, a member of the board of trustees of a community center shall uphold the member's position of public trust by meeting and maintaining the applicable qualifications for membership and by complying with the applicable requirements relating to conflicts of interest.

(b) A person is not eligible for appointment as a member of a board of trustees if the person or the person's spouse:

(1) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the community center by contract or other method; or

(2) uses or receives a substantial amount of tangible goods or funds from the community center, other than:

(A) compensation or reimbursement authorized by law for board of trustees membership, attendance, or expenses; or

(B) as a consumer or as a family member of a client or patient receiving services from the community center.

(c) The primary residence of a member of the board of trustees must be in the local service area the member represents.

(d) A member of the board of trustees is subject to Chapter 171, Local Government Code.

(e) A member of the board of trustees may not:

(1) refer for services a client or patient to a business entity owned or controlled by a member of the board of trustees, unless the business entity is the only business entity that provides the needed services within the jurisdiction of the community center;

(2) use a community center facility in the conduct of a business entity owned or controlled by that member;

(3) solicit, accept, or agree to accept from another person or business entity a benefit in return for the member's decision, opinion, recommendation, vote, or other exercise of

discretion as a local public official or for a violation of a duty imposed by law;

(4) receive any benefit for the referral of a client or a patient to the community center or to another business entity;

(5) appoint, vote for, or confirm the appointment of a person to a paid office or position with the community center if the person is related to a member of the board of trustees by affinity within the second degree or by consanguinity within the third degree; or

(6) solicit or receive a political contribution from a supplier to or contractor with the community center.

(f) Not later than the date on which a member of the board of trustees takes office by appointment or reappointment and not later than the anniversary of that date, each member shall annually execute and file with the community center an affidavit acknowledging that the member has read the requirements for qualification, conflict of interest, and removal prescribed by this chapter.

(g) In addition to any grounds for removal adopted under Section 534.004(a), it is a ground for removal of a member of a board of trustees if the member:

(1) violates Chapter 171, Local Government Code;

(2) is not eligible for appointment to the board of trustees at the time of appointment as provided by Subsections (b) and (c);

(3) does not maintain during service on the board of trustees the qualifications required by Subsections (b) and (c);

(4) violates a provision of Subsection (e);

(5) violates a provision of Section 534.0115; or

(6) does not execute the affidavit required by Subsection (f).

(h) If a board of trustees is composed of members of the governing body of a local agency or organizational combination of local agencies, this section applies only to the qualifications for and removal from membership on the board of trustees.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 6.13, eff. Aug. 30, 1993.

Sec. 534.007. PROHIBITED ACTIVITIES BY FORMER OFFICERS OR EMPLOYEES; OFFENSE. (a) A former officer or employee of a community center who ceases service or employment with the center may not represent any person or receive compensation for services rendered on behalf of any person regarding a particular matter in which the former officer or employee participated during the period of employment, either through personal involvement or because the case or proceeding was a matter within the officer's or employee's official responsibility.

(b) This section does not apply to:

(1) a former employee who is compensated on the last date of service or employment below the amount prescribed by the General Appropriations Act for salary group 17, Schedule A, or salary group 9, Schedule B, of the position classification salary schedule; or

(2) a former officer or employee who is employed by a state agency or another community center.

(c) Subsection (a) does not apply to a proceeding related to policy development that was concluded before the officer's or employee's service or employment ceased.

(d) A former officer or employee of a community center commits an offense if the former officer or employee violates this section. An offense under this section is a Class A misdemeanor.

(e) In this section:

(1) "Participated" means to have taken action as an officer or employee through decision, approval, disapproval, recommendation, giving advice, investigation, or similar action.

(2) "Particular matter" means a specific investigation, application, request for a ruling or determination, proceeding related to the development of policy, contract, claim, charge, accusation, arrest, or judicial or other proceeding.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1999, 76th Leg., ch. 1187, Sec. 14, eff. Sept. 1, 1999.

Sec. 534.008. ADMINISTRATION BY BOARD. (a) The board of

trustees is responsible for the effective administration of the community center.

(b) The board of trustees shall make policies that are consistent with the department's rules and standards.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.14, eff. Aug. 30, 1993.

Sec. 534.009. MEETINGS. (a) The board of trustees shall adopt rules for the holding of regular and special meetings.

(b) Board meetings are open to the public to the extent required by and in accordance with Chapter 551, Government Code.

(c) The board of trustees shall keep a record of its proceedings in accordance with Chapter 551, Government Code. The record is open for public inspection in accordance with that law.

(d) The board of trustees shall send to the department and each local agency that appoints the members a copy of the approved minutes of board of trustees meetings by:

(1) mailing a copy appropriately addressed and with the necessary postage paid using the United States postal service; or

(2) another method agreed to by the board of trustees and the local agency.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.15, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(84), eff. Sept. 1, 1995.

Sec. 534.010. EXECUTIVE DIRECTOR. (a) The board of trustees shall appoint an executive director for the community center.

(b) The board of trustees shall:

(1) adopt a written policy governing the powers that may be delegated to the executive director; and

(2) annually report to each local agency that appoints the members the executive director's total compensation and benefits.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.16, eff. Aug. 30,
1993.

Sec. 534.011. PERSONNEL. (a) The executive director, in accordance with the policies of the board of trustees, shall employ and train personnel to administer the community center's programs and services. The community center may recruit those personnel and contract for recruiting and training purposes.

(b) The board of trustees shall provide employees of the community center with appropriate rights, privileges, and benefits.

(c) The board of trustees may provide workers' compensation benefits.

(d) The board of trustees shall prescribe the number of employees and their salaries. The board of trustees may choose to set salaries and benefits in compliance with a market analysis or internal salary study. If an internal salary study is used, the board of trustees shall conduct the study in accordance with the guidelines established by the commissioner.

(e) Instead of using a market analysis or internal salary study to establish salaries and benefits, the board of trustees may use the state position classification plan and the General Appropriations Act to determine the appropriate classification and relative compensation of officers and employees. The board of trustees may pay salaries in amounts less than those provided by the General Appropriations Act. For a position not on the classification plan, the board of trustees shall set the compensation according to guidelines adopted by the commissioner. The board of trustees may petition the department for approval to exclude a position from the position classification plan and to provide a stated salary for that position that exceeds the amount prescribed by the General Appropriations Act for the classified position.

(f) During a management audit of a community center, the department is entitled to confirm the method the center used to determine salaries and benefits.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.17, eff. Aug. 30,
1993.

Sec. 534.0115. NEPOTISM. (a) The board of trustees or executive director may not hire as a paid officer or employee of the community center a person who is related to a member of the board of trustees by affinity within the second degree or by consanguinity within the third degree.

(b) An officer or employee who is related to a member of the board of trustees in a prohibited manner may continue to be employed if the person began the employment not later than the 31st day before the date on which the member was appointed.

(c) The officer or employee or the member of the board of trustees shall resign if the officer or employee began the employment later than the 31st day before the date on which the member was appointed.

(d) If an officer or employee is permitted to remain in employment under Subsection (b), the related member of the board of trustees may not participate in the deliberation of or voting on an issue that is specifically applicable to the officer or employee unless the issue affects an entire class or category of employees.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 6.18, eff. Aug. 30,
1993.

Sec. 534.012. ADVISORY COMMITTEES. (a) The board of trustees may appoint committees, including medical committees, to advise the board of trustees on matters relating to mental health and mental retardation services.

(b) Each committee must be composed of at least three members.

(c) The appointment of a committee does not relieve the board of trustees of the final responsibility and accountability as provided by this subtitle.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.19, eff. Aug. 30,
1993.

Sec. 534.013. COOPERATION OF DEPARTMENT. The department shall provide assistance, advice, and consultation to local agencies, boards of trustees, and executive directors in the planning, development, and operation of a community center.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 534.014. BUDGET; REQUEST FOR FUNDS. (a) Each community center shall annually provide to each local agency that appoints members to the board of trustees a copy of the center's:

- (1) approved fiscal year operating budget;
- (2) most recent annual financial audit; and
- (3) staff salaries by position.

(b) The board of trustees shall annually submit to each local agency that appoints the members a request for funds or in-kind assistance to support the center.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 6.20, eff. Aug. 30, 1993.

Sec. 534.015. PROVISION OF SERVICES. (a) The board of trustees may adopt rules to regulate the administration of mental health or mental retardation services by a community center. The rules must be consistent with the purposes, policies, principles, and standards prescribed by this subtitle.

(b) The board of trustees may contract with a local agency or a qualified person or organization to provide a portion of the mental health or mental retardation services.

(c) With the commissioner's approval, the board of trustees may contract with the governing body of another county or municipality to provide mental health and mental retardation services to residents of that county or municipality.

(d) A community center may provide services to a person who voluntarily seeks assistance or who has been committed to that center.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 534.0155. FOR WHOM SERVICES MAY BE PROVIDED.

(a) This subtitle does not prevent a community center from providing services to a person with chemical dependency or to a person with a mental disability, as that term is defined by Section 535.001.

(b) A community center may provide those services by contracting with a public or private agency in addition to the department.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 6.21, eff. Aug. 30, 1993. Amended by Acts 1993, 73rd Leg., ch. 646, Sec. 7(a), eff. Aug. 30, 1993.

Sec. 534.016. SCREENING AND CONTINUING CARE SERVICES.

(a) A community center shall provide screening services for a person who requests voluntary admission to a department facility for persons with mental illness and for a person for whom proceedings for involuntary commitment to a department facility have been initiated.

(b) A community center shall provide continuing mental health and physical care services for a person referred to the center by a department facility and for whom the facility superintendent has recommended a continuing care plan.

(c) Services provided under this section must be consistent with the department's rules and standards.

(d) The commissioner may designate a facility other than the community center to provide the screening or continuing care services if:

(1) local conditions indicate that the other facility can provide the services more economically and effectively; or

(2) the commissioner determines that local conditions may impose an undue burden on the community center.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 534.017. FEES FOR SERVICES. (a) A community center shall charge reasonable fees for services the center provides, unless prohibited by other service contracts or law.

(b) The community center may not deny services to a person because of inability to pay for the services.

(c) The community center has the same rights, privileges, and powers for collecting fees for treating patients and clients that the department has by law.

(d) The county or district attorney of the county in which the community center is located shall represent the center in collecting fees when the center's executive director requests the assistance.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.22, eff. Aug. 30, 1993.

Sec. 534.0175. TRUST EXEMPTION. (a) If a client is the beneficiary of a trust that has an aggregate principal of \$250,000 or less, the corpus or income of the trust is not considered to be the property of the client or the client's estate and is not liable for the client's support. If the aggregate principal of the trust exceeds \$250,000, only the portion of the corpus of the trust that exceeds that amount and the income attributable to that portion are considered to be the property of the client or the client's estate and are liable for the client's support.

(b) To qualify for the exemption provided by Subsection (a), the trust and the trustee must comply with the requirements prescribed by Sections 552.018 and 593.081.

Added by Acts 1993, 73rd Leg., ch. 166, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 1020, Sec. 1, eff. June 15, 2001.

Sec. 534.018. GIFTS AND GRANTS. A community center may accept gifts and grants of money, personal property, and real property to use in providing the center's programs and services.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.23, eff. Aug. 30, 1993.

Sec. 534.019. CONTRIBUTION BY LOCAL AGENCY. A participating local agency may contribute land, buildings, facilities, other real and personal property, personnel, and funds

to administer the community center's programs and services.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.23, eff. Aug. 30, 1993.

Sec. 534.020. ACQUISITION AND CONSTRUCTION OF PROPERTY AND FACILITIES BY COMMUNITY CENTER. (a) A community center may purchase or lease-purchase real and personal property and may construct buildings and facilities.

(b) The board of trustees shall require that an appraiser certified by the Texas Appraiser Licensing and Certification Board conduct an independent appraisal of real estate the community center intends to purchase. The board of trustees may waive this requirement if the purchase price is less than the value listed for the property by the local appraisal district and the property has been appraised by the local appraisal district within the preceding two years. A community center may not purchase or lease-purchase property for an amount that is greater than the property's appraised value unless:

(1) the purchase or lease-purchase of that property at that price is necessary;

(2) the board of trustees documents in the official minutes the reasons why the purchase or lease-purchase is necessary at that price; and

(3) a majority of the board approves the transaction.

(c) The board of trustees shall establish in accordance with relevant department rules competitive bidding procedures and practices for capital purchases and for purchases involving department funds or required local matching funds.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.23, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 646, Sec. 8, eff. Aug. 30, 1993.

Sec. 534.021. APPROVAL AND NOTIFICATION REQUIREMENTS.

(a) A community center must receive from the department prior written approval to acquire real property, including a building, if the acquisition involves the use of department funds or local funds

required to match department funds. In addition, for acquisition of nonresidential property, the community center must notify each local agency that appoints members to the board of trustees not later than the 31st day before it enters into a binding obligation to acquire the property.

(b) A community center must notify the department and each local agency that appoints members to the board of trustees not later than the 31st day before it enters into a binding obligation to acquire real property, including a building, if the acquisition does not involve the use of department funds or local funds required to match department funds. The commissioner, on request, may waive the 30-day requirement on a case-by-case basis.

(c) The board shall adopt rules relating to the approval and notification process.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1993, 73rd Leg., ch. 646, Sec. 9(a), eff. Sept. 1, 1993.

Sec. 534.022. FINANCING OF PROPERTY AND IMPROVEMENTS.

(a) To acquire or to refinance the acquisition of real and personal property, to construct improvements to property, or to finance all or part of a payment owed or to be owed on a credit agreement, a community center may contract in accordance with Subchapter A, Chapter 271, Local Government Code, or issue, execute, refinance, or refund bonds, notes, obligations, or contracts. The community center may secure the payment of the bonds, notes, obligations, or contracts with a security interest in or pledge of its revenues or by granting a mortgage on any of its properties.

(a-1) For purposes of Subsection (a), "revenues" includes the following, as those terms are defined by Section 9.102, Business & Commerce Code:

- (1) an account;
- (2) a chattel paper;
- (3) a commercial tort claim;
- (4) a deposit account;
- (5) a document;

- (6) a general intangible;
- (7) a health care insurance receivable;
- (8) an instrument;
- (9) investment property;
- (10) a letter-of-credit right; and
- (11) proceeds.

(b) Except as provided by Subsection (f), the community center shall issue the bonds, notes, or obligations in accordance with Chapters 1201 and 1371, Government Code. The attorney general must approve before issuance:

(1) notes issued in the form of public securities, as that term is defined by Section 1201.002, Government Code;

(2) obligations, as that term is defined by Section 1371.001, Government Code; and

(3) bonds.

(c) A limitation prescribed in Subchapter A, Chapter 271, Local Government Code, relating to real property and the construction of improvements to real property, does not apply to a community center.

(d) The board shall review the issuance of bonds or notes under this section and for each issuance shall make a finding of whether the proceeds are to be expended on projects or purchases that are related to the provision of services. Not later than November 1 of each year, the board shall submit to the Legislative Budget Board, the Governor's Office of Budget and Planning, and the state auditor a report that describes the use and amount of proceeds derived from bonds and notes issued by community centers in the preceding fiscal year.

(e) A county or municipality acting alone or two or more counties or municipalities acting jointly pursuant to interlocal contract may create a public facility corporation to act on behalf of one or more community centers pursuant to Chapter 303, Local Government Code. Such counties or municipalities may exercise the powers of a sponsor under that chapter, and any such corporation may exercise the powers of a corporation under that chapter (including but not limited to the power to issue bonds). The corporation may exercise its powers on behalf of community centers in such manner as

may be prescribed by the articles and bylaws of the corporation, provided that in no event shall one community center ever be liable to pay the debts or obligation or be liable for the acts, actions, or undertakings of another community center.

(f) The board of trustees of a community center may authorize the issuance of an anticipation note in the same manner, using the same procedure, and with the same rights under which an eligible school district may authorize issuance under Chapter 1431, Government Code, except that anticipation notes issued for the purposes described by Section 1431.004(a)(2), Government Code, may not, in the fiscal year in which the attorney general approves the notes for a community center, exceed 50 percent of the revenue anticipated to be collected in that year.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.24, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 161, Sec. 1, eff. May 16, 1993; Acts 1995, 74th Leg., ch. 821, Sec. 11, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1420, Sec. 8.277, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 826, Sec. 1, eff. September 1, 2005.

Sec. 534.031. SURPLUS PERSONAL PROPERTY. The department may transfer, with or without reimbursement, ownership and possession of surplus personal property under the department's control or jurisdiction to a community center for use in providing mental health or mental retardation services.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 534.032. RESEARCH. A community center may engage in research and may contract for that purpose.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 534.033. LIMITATION ON DEPARTMENT CONTROL AND REVIEW.

(a) It is the intent of the legislature that the department limit its control over, and routine reviews of, community center programs to those programs that:

(1) use department funds or use required local funds

that are matched with department funds;

(2) provide core or required services;

(3) provide services to former clients or patients of a department facility; or

(4) are affected by litigation in which the department is a defendant.

(b) The department may review any community center program if the department has reason to suspect that a violation of a department rule has occurred or if the department receives an allegation of patient or client abuse.

(c) The department may determine whether a particular program uses department funds or uses required local matching funds.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.27, eff. Aug. 30, 1993.

Sec. 534.035. REVIEW, AUDIT, AND APPEAL PROCEDURES.

(a) The department by rule shall establish review, audit, and appeal procedures for community centers. The procedures must ensure that reviews and audits are conducted in sufficient quantity and type to provide reasonable assurance that a community center has adequate and appropriate fiscal controls.

(b) In a community center plan approved under Section 534.001, the center must agree to comply with the review and audit procedures established under this section.

(c) If, by a date prescribed by the commissioner, the community center fails to respond to a deficiency identified in a review or audit to the satisfaction of the commissioner, the department may sanction the center in accordance with board rules.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 6.28, eff. Aug. 30, 1993. Amended by Acts 1999, 76th Leg., ch. 1209, Sec. 8, eff. Sept. 1, 1999.

Sec. 534.036. FINANCIAL AUDIT. (a) The department shall prescribe procedures for financial audits of community centers. The department shall develop the procedures with the assistance of

the state agencies and departments that contract with community centers. The department shall coordinate with each of those state agencies and departments to incorporate each agency's financial and compliance requirements for a community center into a single audit that meets the requirements of Section 534.068. Before prescribing or amending the procedures, the department shall set a deadline for those state agencies and departments to submit to the department proposals relating to the financial audit procedures. The procedures must be consistent with any requirements connected with federal funding received by the community center. The department may not implement the procedures without the approval of the Health and Human Services Commission.

(b) Each state agency or department that contracts with a community center shall comply with the procedures developed under this section.

(c) The department shall develop protocols for a state agency or department to conduct additional financial audit activities of a community center. A state agency or department may not conduct additional financial audit activities of a community center without the approval of the Health and Human Services Commission.

(d) Expired.

Added by Acts 1997, 75th Leg., ch. 869, Sec. 2, eff. Sept. 1, 1997.

Sec. 534.037. PROGRAM AUDIT. (a) The department shall coordinate with each state agency or department that contracts with a community center to prescribe procedures based on risk assessment for coordinated program audits of the activities of a community center. The department may not implement the procedures without the approval of the Health and Human Services Commission. The procedures must be consistent with any requirements connected with federal funding received by the community center.

(b) A program audit of a community center must be performed in accordance with procedures developed under this section.

(c) This section does not prohibit a state agency or department or an entity providing funding to a community center from investigating a complaint against or performing additional

contract monitoring of a community center.

(d) A program audit under this section must evaluate:

(1) the extent to which the community center is achieving the desired results or benefits established by the legislature or by a state agency or department;

(2) the effectiveness of the community center's organizations, programs, activities, or functions; and

(3) whether the community center is in compliance with applicable laws.

(e) Expired.

Added by Acts 1997, 75th Leg., ch. 869, Sec. 3, eff. Sept. 1, 1997.

Sec. 534.038. APPOINTMENT OF MANAGER OR MANAGEMENT TEAM.

(a) The commissioner may appoint a manager or management team to manage and operate a community center if the commissioner finds that the center or an officer or employee of the center:

(1) intentionally, recklessly, or negligently failed to discharge the center's duties under a contract with the department;

(2) misused state or federal money;

(3) engaged in a fraudulent act, transaction, practice, or course of business;

(4) endangers or may endanger the life, health, or safety of a person served by the center;

(5) failed to keep fiscal records or maintain proper control over center assets as prescribed by Chapter 783, Government Code;

(6) failed to respond to a deficiency in a review or audit;

(7) substantially failed to operate within the functions and purposes defined in the center's plan; or

(8) otherwise substantially failed to comply with this subchapter or department rules.

(b) The department shall give written notification to the center and local agency or combination of agencies responsible for making appointments to the local board of trustees regarding:

(1) the appointment of the manager or management team;

and

(2) the circumstances on which the appointment is based.

(c) The commissioner may require the center to pay costs incurred by the manager or management team.

(d) The center may appeal the commissioner's decision to appoint a manager or management team as prescribed by board rule. The filing of a notice of appeal stays the appointment unless the commissioner based the appointment on a finding under Subsection (a)(2) or (4).

Added by Acts 1999, 76th Leg., ch. 1520, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2003, 78th Leg., ch. 839, Sec. 1, eff. Sept. 1, 2003.

Sec. 534.039. POWERS AND DUTIES OF MANAGEMENT TEAM.

(a) As the commissioner determines for each appointment, a manager or management team appointed under Section 534.038 may:

(1) evaluate, redesign, modify, administer, supervise, or monitor a procedure, operation, or the management of a community center;

(2) hire, supervise, discipline, reassign, or terminate the employment of a center employee;

(3) reallocate a resource and manage an asset of the center;

(4) provide technical assistance to an officer or employee of the center;

(5) require or provide staff development;

(6) require that a financial transaction, expenditure, or contract for goods and services must be approved by the manager or management team;

(7) redesign, modify, or terminate a center program or service;

(8) direct the executive director, local board of trustees, chief financial officer, or a fiscal or program officer of the center to take an action;

(9) exercise a power or duty of an officer or employee of the center; or

(10) make a recommendation to the local agency or combination of agencies responsible for appointments to the local board of trustees regarding the removal of a center trustee.

(b) The manager or management team shall supervise the exercise of a power or duty by the local board of trustees.

(c) The manager or management team shall report monthly to the commissioner and local board of trustees on actions taken.

(d) A manager or management team appointed under this section may not use an asset or money contributed by a county, municipality, or other local funding entity without the approval of the county, municipality, or entity.

Added by Acts 1999, 76th Leg., ch. 1520, Sec. 1, eff. Sept. 1, 1999.

Sec. 534.040. RESTORING MANAGEMENT TO CENTER. (a) Each month, the commissioner shall evaluate the performance of a community center managed by a manager or team appointed under Section 534.038 to determine the feasibility of restoring the center's management and operation to a local board of trustees.

(b) The authority of the manager or management team continues until the commissioner determines that the relevant factors listed under Section 534.038(a) no longer apply.

(c) Following a determination under Subsection (b), the commissioner shall terminate the authority of the manager or management team and restore authority to manage and operate the center to the center's authorized officers and employees.

Added by Acts 1999, 76th Leg., ch. 1520, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2003, 78th Leg., ch. 839, Sec. 2, eff. Sept. 1, 2003.

SUBCHAPTER B. COMMUNITY-BASED SERVICES

Sec. 534.052. RULES AND STANDARDS. (a) The board shall adopt rules, including standards, the board considers necessary and appropriate to ensure the adequate provision of community-based mental health and mental retardation services through a local mental health or mental retardation authority under this subchapter.

(b) The department shall send a copy of the rules to each

local mental health or mental retardation authority or other provider receiving contract funds as a local mental health or mental retardation authority or designated provider.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.29, eff. Aug. 30, 1993.

Sec. 534.053. REQUIRED COMMUNITY-BASED SERVICES. (a) The department shall ensure 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 services 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;

(5) case management services;

(6) medication-related services, including medication clinics, laboratory monitoring, medication education, mental health maintenance education, and the provision of medication; and

(7) psychosocial rehabilitation programs, including social support activities, independent living skills, and vocational training.

(b) The department shall arrange for appropriate community-based services, including the assignment of a case manager, to be available in each service area for each person discharged from a department facility who is in need of care.

(c) To the extent that resources are available, the department shall:

(1) ensure that the services listed in this section are available for children, including adolescents, as well as adults, in each service area;

(2) emphasize early intervention services for children, including adolescents, who meet the department's definition of being at high risk of developing severe emotional

disturbances or severe mental illnesses; and

(3) ensure that services listed in this section are available for defendants required to submit to mental health treatment under Article 17.032 or Section 5(a) or 11(d), Article 42.12, Code of Criminal Procedure.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 4.021, eff. Sept. 1, 1993.

Sec. 534.0535. JOINT DISCHARGE PLANNING. (a) The board shall adopt, and the department shall enforce, rules that require continuity of services and planning for patient or client care between department facilities and local mental health or mental retardation authorities.

(b) At a minimum, the rules must require joint discharge planning between a department facility and a local mental health or mental retardation authority before a facility discharges a patient or client or places the patient or client on an extended furlough with an intent to discharge.

(c) The local mental health or mental retardation authority shall plan with the department facility and determine the appropriate community services for the patient or client.

(d) The local mental health or mental retardation authority shall arrange for the provision of the services if department funds are to be used and may subcontract with or make a referral to a local agency or entity.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 6.30, eff. Aug. 30, 1993.

Sec. 534.054. DESIGNATION OF PROVIDER. (a) The department shall identify and contract with a local mental health or mental retardation authority for each service area to ensure that services are provided to patient and client populations determined by the department. A local mental health or mental retardation authority shall ensure that services to address the needs of priority populations are provided as required by the department and shall comply with the rules and standards adopted

under Section 534.052.

(b) Repealed by Acts 1997, 75th Leg., ch. 869, Sec. 5, eff. Sept. 1, 1997.

(c) The department may contract with a local agency or a private provider or organization to act as a designated provider of a service if the department:

(1) cannot negotiate a contract with a local mental health or mental retardation authority to ensure that a specific required service for priority populations is available in that service area; or

(2) determines that a local mental health or mental retardation authority does not have the capacity to ensure the availability of that service.

(d) Repealed by Acts 1997, 75th Leg., ch. 869, Sec. 5, eff. Sept. 1, 1997.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.31, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 821, Sec. 12, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 869, Sec. 5, eff. Sept. 1, 1997.

Sec. 534.055. CONTRACTS FOR CERTAIN COMMUNITY SERVICES.

(a) A mental health or mental retardation authority and a private provider shall use a contract designed by the department as a model contract for the provision of services at the community level for persons with mental retardation or mental illness, including residential services, if the contract involves the use of state funds or funds for which the state has oversight responsibility.

(b) The department shall design one or more model contracts and shall retain copies of each model contract in the central office of the department.

(c) A model contract must:

(1) require that the services provided by the private provider be based on the patient's or client's individual treatment plan;

(2) provide that a community-based residential facility that is a family home as defined in Chapter 123, Human Resources Code may house only a person with a disability as defined

in Section 123.002, Human Resources Code;

(3) prohibit the use of the facility for purposes such as restitution centers, homes for substance abusers, or halfway houses; and

(4) outline a dispute resolution procedure.

(d) The department shall design a competitive procurement or similar system that a mental health or mental retardation authority shall use in awarding an initial contract under this section.

(e) The system must require that each mental health or mental retardation authority:

(1) ensure public participation in the authority's decisions regarding whether to provide or to contract for a service;

(2) make a reasonable effort to give notice of the intent to contract for services to each potential private provider in the local service area of the authority; and

(3) review each submitted proposal and award the contract to the applicant that the authority determines has made the lowest and best bid to provide the needed services.

(f) Each mental health or mental retardation authority, in determining the lowest and best bid, shall consider any relevant information included in the authority's request for bid proposals, including:

(1) price;

(2) the ability of the bidder to perform the contract and to provide the required services;

(3) whether the bidder can perform the contract or provide the services within the period required, without delay or interference;

(4) the bidder's history of compliance with the laws relating to the bidder's business operations and the affected services and whether the bidder is currently in compliance;

(5) whether the bidder's financial resources are sufficient to perform the contract and to provide the services;

(6) whether necessary or desirable support and ancillary services are available to the bidder;

(7) the character, responsibility, integrity, reputation, and experience of the bidder;

(8) the quality of the facilities and equipment available to or proposed by the bidder;

(9) the ability of the bidder to provide continuity of services; and

(10) the ability of the bidder to meet all applicable written departmental policies, principles, and regulations.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.32, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 821, Sec. 13, eff. Sept. 1, 1995.

Sec. 534.056. COORDINATION OF ACTIVITIES. A local mental health or mental retardation authority shall coordinate its activities with the activities of other appropriate agencies that provide care and treatment for persons with drug or alcohol problems.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.33, eff. Aug. 30, 1993.

Sec. 534.057. RESPITE CARE. (a) The board shall adopt rules relating to the provision of respite care and shall develop a system to reimburse providers of in-home respite care.

(b) The rules must:

(1) encourage the use of existing local providers;

(2) encourage family participation in the choice of a qualified provider;

(3) establish procedures necessary to administer this section, including procedures for:

(A) determining the amount and type of in-home respite care to be authorized;

(B) reimbursing providers;

(C) handling appeals from providers;

(D) handling complaints from recipients of in-home respite care;

(E) providing emergency backup for in-home

respite care providers; and

(F) advertising for, selecting, and training in-home respite care providers; and

(4) specify the conditions and provisions under which a provider's participation in the program can be canceled.

(c) The board shall establish service and performance standards for department facilities and designated providers to use in operating the in-home respite care program. The board shall establish the standards from information obtained from the families of patients and clients receiving in-home respite care and from providers of in-home respite care. The board may obtain the information at a public hearing or from an advisory group.

(d) The service and performance standards established by the board under Subsection (c) must:

(1) prescribe minimum personnel qualifications the board determines are necessary to protect health and safety;

(2) establish levels of personnel qualifications that are dependent on the needs of the patient or client; and

(3) permit a health professional with a valid Texas practitioner's license to provide care that is consistent with the professional's training and license without requiring additional training unless the board determines that additional training is necessary.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 534.058. STANDARDS OF CARE. (a) The department shall develop standards of care for the services provided by a local mental health or mental retardation authority and its subcontractors under this subchapter.

(b) The standards must be designed to ensure that the quality of the community-based services is consistent with the quality of care available in department facilities.

(c) In conjunction with local mental health or mental retardation authorities, the department shall review the standards biennially to determine if each standard is necessary to ensure the quality of care.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.34, eff. Aug. 30, 1993.

Sec. 534.059. CONTRACT COMPLIANCE FOR LOCAL AUTHORITIES.

(a) The department shall evaluate a local mental health or mental retardation authority's compliance with its contract to ensure the provision of specific services to priority populations.

(b) If, by a date set by the commissioner, a local mental health or mental retardation authority fails to comply with its contract to ensure the provision of services to the satisfaction of the commissioner, the department may impose a sanction as provided by the applicable contract rule until the dispute is resolved. The department shall notify the authority in writing of the department's decision to impose a sanction.

(c) A local mental health or mental retardation authority may appeal the department's decision to impose a sanction on the authority. The board by rule shall prescribe the appeal procedure.

(d) The filing of a notice of appeal stays the imposition of the department's decision to impose a sanction except when an act or omission by a local mental health or mental retardation authority is endangering or may endanger the life, health, welfare, or safety of a person.

(e) While an appeal under this section is pending, the department may limit general revenue allocations to a local mental health or mental retardation authority to monthly distributions.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.35, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 1209, Sec. 9, eff. Sept. 1, 1999.

Sec. 534.060. PROGRAM AND SERVICE MONITORING AND REVIEW OF LOCAL AUTHORITIES.

(a) The department shall develop mechanisms for monitoring the services provided by a local mental health or mental retardation authority.

(b) The department shall review the program quality and program performance results of a local mental health or mental retardation authority in accordance with a risk assessment and evaluation system appropriate to the authority's contract

requirements. The department may determine the scope of the review.

(c) A contract between a local mental health or mental retardation authority and the department must authorize the department to have unrestricted access to all facilities, records, data, and other information under the control of the authority as necessary to enable the department to audit, monitor, and review the financial and program activities and services associated with department funds.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.36, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 869, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1209, Sec. 10, eff. Sept. 1, 1999.

Sec. 534.0601. COORDINATED PROGRAM AUDITS OF LOCAL AUTHORITIES. (a) The department shall coordinate with each agency or department of the state that contracts with a local mental health or mental retardation authority to prescribe procedures for a coordinated program audit of the authority. The procedures must be:

(1) consistent with the requirements for the receipt of federal funding by the authority; and

(2) based on risk assessment.

(b) A program audit must evaluate:

(1) the extent to which a local mental health or mental retardation authority is achieving the results or benefits established by an agency or department of the state or by the legislature;

(2) the effectiveness of the authority's organization, program, activities, or functions; and

(3) the authority's compliance with law.

(c) A program audit of a local mental health or mental retardation authority must be performed in accordance with the procedures prescribed under this section.

(d) The department may not implement a procedure for a program audit under this section without the approval of the Health and Human Services Commission.

(e) This section does not prohibit an agency, department, or other entity providing funding to a local mental health or mental retardation authority from investigating a complaint against the authority or performing additional contract monitoring of the authority.

Added by Acts 1999, 76th Leg., ch. 1209, Sec. 11, eff. Sept. 1, 1999.

Sec. 534.0602. FINANCIAL AUDITS OF LOCAL AUTHORITIES.

(a) The department shall prescribe procedures for a financial audit of a local mental health or mental retardation authority. The procedures must be consistent with requirements for the receipt of federal funding by the authority.

(b) The department shall develop the procedures with the assistance of each agency or department of the state that contracts with a local mental health or mental retardation authority. The department shall incorporate each agency's or department's financial or compliance requirements for an authority into a single audit that meets the requirements of Section 534.068.

(c) Before prescribing or amending a procedure under this section, the department must set a deadline for agencies and departments of the state that contract with local mental health and mental retardation authorities to submit proposals relating to the procedure.

(d) An agency or department of the state that contracts with a local mental health or mental retardation authority must comply with a procedure developed under this section.

(e) The department may not implement a procedure under this section without the approval of the Health and Human Services Commission.

Added by Acts 1999, 76th Leg., ch. 1209, Sec. 11, eff. Sept. 1, 1999.

Sec. 534.0603. ADDITIONAL FINANCIAL AUDIT ACTIVITY.

(a) The department shall develop protocols for an agency or department of the state to conduct additional financial audit activities of a local mental health or mental retardation

authority.

(b) An agency or department of the state may not conduct additional financial audit activities relating to a local mental health or mental retardation authority without the approval of the Health and Human Services Commission.

(c) This section, and a protocol developed under this section, do not apply to an audit conducted under Chapter 321, Government Code.

Added by Acts 1999, 76th Leg., ch. 1209, Sec. 11, eff. Sept. 1, 1999.

Sec. 534.061. PROGRAM AND SERVICE MONITORING AND REVIEW OF CERTAIN COMMUNITY SERVICES. (a) The department shall develop mechanisms for periodically monitoring the services of a provider who contracts with a local mental health or mental retardation authority to provide services for persons with mental retardation or mental illness at the community level, including residential services, if state funds or funds for which the state has oversight responsibility are used to pay for at least part of the services.

(b) The local mental health or mental retardation authority shall monitor the services to ensure that the provider is delivering the services in a manner consistent with the provider's contract.

(c) Each provider contract involving the use of state funds or funds for which the state has oversight responsibility must authorize the local mental health or mental retardation authority or the authority's designee and the department or the department's designee to have unrestricted access to all facilities, records, data, and other information under the control of the provider as necessary to enable the department to audit, monitor, and review the financial and program activities and services associated with the contract.

(d) The department may withdraw funding from a local mental health or mental retardation authority that fails to cancel a contract with a provider involving the use of state funds or funds for which the state has oversight responsibility if:

(1) the provider is not fulfilling its contractual

obligations; and

(2) the authority has not taken appropriate action to remedy the problem in accordance with board rules.

(e) The board by rule shall prescribe procedures a local mental health or mental retardation authority must follow in remedying a problem with a provider.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1999, 76th Leg., ch. 1209, Sec. 12, eff. Sept. 1, 1999.

Sec. 534.063. PEER REVIEW ORGANIZATION. The department shall assist a local mental health or mental retardation authority in developing a peer review organization to provide self-assessment of programs and to supplement department reviews under Section 534.060.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.37, eff. Aug. 30, 1993.

Sec. 534.064. CONTRACT RENEWAL. The commissioner may refuse to renew a contract with a local mental health or mental retardation authority and may select other agencies, entities, or organizations to be the local mental health or mental retardation authority if the department's evaluation of the authority's performance indicates that the authority cannot ensure the availability of the specific services to priority populations required by the department and this subtitle.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.38, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 821, Sec. 14, eff. Sept. 1, 1995.

Sec. 534.065. RENEWAL OF CERTAIN CONTRACTS FOR COMMUNITY SERVICES. (a) A mental health or mental retardation authority shall review a contract scheduled for renewal that:

(1) is between the authority and a private provider;

(2) is for the provision of mental health or mental retardation services at the community level, including residential

services; and

(3) involves the use of state funds or funds for which the state has oversight responsibility.

(b) The mental health or mental retardation authority may renew the contract only if the contract meets the criteria provided by Section 533.016.

(c) The mental health or mental retardation authority and private provider shall negotiate a contract renewal at arms length and in good faith.

(d) This section applies to a contract renewal regardless of the date on which the original contract was initially executed.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1995, 74th Leg., ch. 821, Sec. 15, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1187, Sec. 15, eff. Sept. 1, 1999.

Sec. 534.066. LOCAL MATCH REQUIREMENT. (a) The department shall include in a contract with a local mental health or mental retardation authority a requirement that some or all of the state funds the authority receives be matched by local support in an amount or proportion jointly agreed to by the department and the authority's board of trustees and based on the authority's financial capability and its overall commitment to other mental health or mental retardation programs, as appropriate.

(b) The department shall establish, for community services divisions of department facilities that provide community-based services required under this subchapter, a local match requirement that is consistent with the requirements applied to other local mental health or mental retardation authorities.

(c) Patient fee income, third-party insurance income, services and facilities contributed by the local mental health or mental retardation authority, contributions by a county or municipality, and other locally generated contributions, including local tax funds, may be counted when calculating the local support for a local mental health or mental retardation authority. The department may disallow or reduce the value of services claimed as support.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.38, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 821, Sec. 16, eff. Sept. 1, 1995.

Sec. 534.067. FEE COLLECTION POLICY. The department shall establish a uniform fee collection policy for all local mental health or mental retardation authorities that is equitable, provides for collections, and maximizes contributions to local revenue.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.38, eff. Aug. 30, 1993.

Sec. 534.0675. NOTICE OF DENIAL, REDUCTION, OR TERMINATION OF SERVICES. The board by rule, in cooperation with local mental health and mental retardation authorities, consumers, consumer advocates, and service providers, shall establish a uniform procedure that each local mental health or mental retardation authority shall use to notify consumers in writing of the denial, involuntary reduction, or termination of services and of the right to appeal those decisions.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 6.38, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 646, Sec. 11, eff. Aug. 30, 1993.

Sec. 534.068. AUDITS. (a) As a condition to receiving funds under this subtitle, a local mental health and mental retardation authority other than a state facility designated as an authority must annually submit to the department a financial and compliance audit prepared by a certified public accountant or public accountant licensed by the Texas State Board of Public Accountancy. To ensure the highest degree of independence and quality, the local mental health or mental retardation authority shall use an invitation-for-proposal process as prescribed by the department to select the auditor.

(b) The audit must meet the minimum requirements as shall be, and be in the form and in the number of copies as may be, prescribed by the department, subject to review and comment by the state auditor.

(c) The local mental health or mental retardation authority shall file the required number of copies of the audit report with the department by the date prescribed by the department. From the copies filed with the department, copies of the report shall be submitted to the governor and Legislative Budget Board.

(d) The local mental health or mental retardation authority shall either approve or refuse to approve the audit report. If the authority refuses to approve the report, the authority shall include with the department's copies a statement detailing the reasons for refusal.

(e) The commissioner and state auditor have access to all vouchers, receipts, journals, or other records the commissioner or auditor considers necessary to review and analyze the audit report.

(f) The department shall annually submit to the governor, Legislative Budget Board, and Legislative Audit Committee a summary of the significant findings identified during the department's reviews of fiscal audit activities.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 6.39, eff. Aug. 30, 1993.

Sec. 534.069. CRITERIA FOR PROVIDING FUNDS FOR START-UP COSTS. (a) The board by rule shall develop criteria to regulate the provision of payment to a private provider for start-up costs associated with the development of residential and other community services for persons with mental illness or mental retardation.

(b) The criteria shall provide that start-up funds be awarded only as a last resort and shall include provisions relating to:

- (1) the purposes for which start-up funds may be used;
- (2) the ownership of capital property and equipment obtained by the use of start-up funds; and
- (3) the obligation of the private provider to repay the start-up funds awarded by the department by direct repayment or by providing services for a period agreed to by the parties.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 534.070. USE OF PROSPECTIVE PAYMENT FUNDS. (a) Each mental health or mental retardation authority that receives prospective payment funds shall submit to the department a quarterly report that clearly identifies how the provider or program used the funds during the preceding fiscal quarter.

(b) The board by rule shall prescribe the form of the report, the specific information that must be included in the report, and the deadlines for submitting the report.

(c) The department may not provide prospective payment funds to a mental health or mental retardation authority that fails to submit the quarterly reports required by this section.

(d) In this section "prospective payment funds" means money the department prospectively provides to a mental health or mental retardation authority to provide community services to certain persons with mental retardation or mental illness.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 534.071. ADVISORY COMMITTEE. A local mental health or mental retardation authority may appoint a committee to advise its governing board on a matter relating to the oversight and provision of mental health and mental retardation services. The appointment of a committee does not relieve the authority's governing board of a responsibility prescribed by this subtitle.

Added by Acts 1999, 76th Leg., ch. 1209, Sec. 13, eff. Sept. 1, 1999.

SUBCHAPTER C. HEALTH MAINTENANCE ORGANIZATIONS

Sec. 534.101. HEALTH MAINTENANCE ORGANIZATION CERTIFICATE OF AUTHORITY. (a) One or more community centers may create or operate a nonprofit corporation pursuant to the laws of this state for the purpose of accepting capitated or other at-risk payment arrangements for the provision of services designated in a plan approved by the department under Subchapter A.

(b) Before a nonprofit corporation organized or operating under Subsection (a) accepts or enters into any capitated or other at-risk payment arrangement for services designated in a plan approved by the department under Subchapter A, the nonprofit

corporation must obtain the appropriate certificate of authority from the Texas Department of Insurance to operate as a health maintenance organization pursuant to Chapter 843, Insurance Code.

(c) Before submitting any bids, a nonprofit corporation operating under this subchapter shall disclose in an open meeting the services to be provided by the community center through any capitated or other at-risk payment arrangement by the nonprofit corporation. Notice of the meeting must be posted in accordance with Sections 551.041, 551.043, and 551.054, Government Code. The department shall verify that the services provided under any capitated or other at-risk payment arrangement are within the scope of services approved by the department in each community center's plan required under Subchapter A.

(d) The board of the nonprofit corporation shall:

(1) provide for public notice of the nonprofit corporation's intent to submit a bid to provide or arrange services through a capitated or other at-risk payment arrangement through placement as a board agenda item on the next regularly scheduled board meeting that allows at least 15 days' public review of the plan; and

(2) provide an opportunity for public comment on the services to be provided through such arrangements and on the consideration of local input into the plan.

(e) The nonprofit corporation shall provide:

(1) public notice before verification and disclosure of services to be provided by the community center through any capitated or other at-risk payment arrangements by the nonprofit corporation;

(2) an opportunity for public comment on the community center services within the capitated or other at-risk payment arrangements offered by the nonprofit corporation;

(3) published summaries of all relevant documentation concerning community center services arranged through the nonprofit corporation, including summaries of any similar contracts the nonprofit corporation has entered into; and

(4) public access and review of all relevant documentation.

(f) A nonprofit corporation operating under this subchapter:

(1) is subject to the requirements of Chapters 551 and 552, Government Code;

(2) shall solicit public input on the operations of the nonprofit corporation and allow public access to information on the operations, including services, administration, governance, revenues, and expenses, on request unless disclosure is expressly prohibited by law or the information is confidential under law; and

(3) shall publish an annual report detailing the services, administration, governance, revenues, and expenses of the nonprofit corporation, including the disposition of any excess revenues.

Added by Acts 1997, 75th Leg., ch. 835, Sec. 2, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 1229, Sec. 2, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1276, Sec. 10A.530, eff. Sept. 1, 2003.

Sec. 534.102. LAWS AND RULES. A nonprofit corporation created or operated under this subchapter that obtains and holds a valid certificate of authority as a health maintenance organization may exercise the powers and authority and is subject to the conditions and limitations provided by this subchapter, Chapter 843, Insurance Code, the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), and rules of the Texas Department of Insurance.

Added by Acts 1997, 75th Leg., ch. 835, Sec. 2, eff. Sept. 1, 1997.
Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 10A.531, eff. Sept. 1, 2003.

Sec. 534.103. APPLICATION OF LAWS AND RULES. A health maintenance organization created and operating under this subchapter is governed as, and is subject to the same laws and rules of the Texas Department of Insurance as, any other health maintenance organization of the same type. The commissioner of insurance may adopt rules as necessary to accept funding sources other than the sources specified by Section 843.405, Insurance

Code, from a nonprofit health maintenance organization created and operating under this subchapter, to meet the minimum surplus requirements of that section.

Added by Acts 1997, 75th Leg., ch. 835, Sec. 2, eff. Sept. 1, 1997.

Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 10A.532, eff. Sept. 1, 2003.

Sec. 534.104. APPLICATION OF SPECIFIC LAWS. (a) A nonprofit health maintenance organization created under Section 534.101 is a health care provider that is a nonprofit health maintenance organization created and operated by a community center for purposes of Section 84.007(e), Civil Practice and Remedies Code. The nonprofit health maintenance organization is not a governmental unit or a unit of local government, for purposes of Chapters 101 and 102, Civil Practice and Remedies Code, respectively, or a local government for purposes of Chapter 791, Government Code.

(b) Nothing in this subchapter precludes one or more community centers from forming a nonprofit corporation under Chapter 162, Occupations Code, to provide services on a risk-sharing or capitated basis as permitted under Chapter 844, Insurance Code.

Added by Acts 1997, 75th Leg., ch. 835, Sec. 2, eff. Sept. 1, 1997.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.802, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 10A.533, eff. Sept. 1, 2003.

Sec. 534.105. CONSIDERATION OF BIDS. The department shall give equal consideration to bids submitted by any entity, whether it be public, for-profit, or nonprofit, if the department accepts bids to provide services through a capitated or at-risk payment arrangement and if the entities meet all other criteria as required by the department.

Added by Acts 1997, 75th Leg., ch. 835, Sec. 2, eff. Sept. 1, 1997.

Sec. 534.106. CONDITIONS FOR CERTAIN CONTRACTS. A contract between the department and a health maintenance organization formed

by one or more community centers must provide that the health maintenance organization may not form a for-profit entity unless the organization transfers all of the organization's assets to the control of the boards of trustees of the community centers that formed the organization.

Added by Acts 1999, 76th Leg., ch. 1187, Sec. 16, eff. Sept. 1, 1999.