

ENROLLED ORIGINAL

*Codification
District of
Columbia
Official Code*

AN ACT

2001 Edition

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To establish the Department of Mental Health as a separate Cabinet-level agency, subordinate to the Mayor, to describe the functions and responsibilities of the Department, to provide for the appointment of the Director of the Department and to describe the Director's duties and powers, to enumerate the rights of consumers, to establish procedures for the protection of those rights, and to make conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,
That this act may be cited as the "Mental Health Service Delivery Reform Act of 2001".

**New Chapter
11A,
Title 7**

TITLE I. DEPARTMENT OF MENTAL HEALTH ESTABLISHMENT

Sec. 101. Short title.

**New
§ 7-1131.01**

This title may be cited as the "Department of Mental Health Establishment Amendment Act of 2001".

Sec. 102. Definitions.

**New
§ 7-1131.02**

For the purposes of this title, the term:

(1) "Children or youth with mental health problems" means persons under 18 years of age, or persons under 22 years of age and receiving special education, youth, or child welfare services, who:

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

(B)(i) Demonstrate either functional impairments or symptoms that significantly disrupt their academic or developmental progress or family and interpersonal

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relationships; or

(ii) Have an emotional disturbance causing problems so severe as to require significant mental health intervention.

(2) "Consumers of mental health services" means adults, children, or youth who seek or receive mental health services or mental health supports funded or regulated by the Department.

(3) "Core services agency" means a community-based provider of mental health services and mental health supports that is certified by the Department and that acts as a clinical home for consumers of mental health services by providing a single point of access and accountability for diagnostic assessment, medication-somatic treatment, counseling and psychotherapy, community support services, and access to other needed services.

(4) "Court" means the Superior Court of the District of Columbia.

(5) "Cultural competence" means the ability of a provider to deliver mental health services and mental health supports in a manner that effectively responds to the languages, values, and practices present in the various cultures of the provider's consumers of mental health services.

(6) "Department" means the Department of Mental Health.

(7) "Director" means the Director of the Department of Mental Health.

(8) "District" means the District of Columbia.

(9) "DSM-IV" means the most recent version of the Diagnostic and Statistical Manual of Mental Disorders.

(10) "DSM-IV 'V' Codes" means "V" codes as defined in the most recent version of the Diagnostic and Statistical Manual of Mental Disorders.

(11) "Hospital" means a public or private institution, or part thereof, operating in the District and licensed to provide inpatient care and certified to provide treatment for persons suffering from physical or mental illness.

(12) "ICD-9-CM" means the most recent version of the International Classification of Diseases Code Manual.

(13) "Individual Plan of Care" means the individualized service plan for a child or youth with or at risk of mental health problems, including processes for the appropriate transition of youth receiving mental health services and mental health supports from the system of care for children, youth, and their families into the system of care for adults.

(14) "Individual Recovery Plan" means the individualized service plan for a person with mental illness.

(15) "Joint consent" means a process established by the Department to enable all participating providers to rely on a single form in which a consumer of mental health services consents to the use of his or her protected mental health information by participating providers in the Department's organized health care arrangement, for the purposes of delivering treatment, obtaining payment for services and supports rendered, and performing certain administrative operations, such as quality assurance, utilization review, accreditation, and oversight.

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(16) "Medical Assistance Administration" means the division of the District's Department of Health responsible for administering the District's Medical Assistance Program.

(17) "Medical Assistance Program" and "Medicaid Program" mean the program described in the Medicaid State Plan and administered by the Medical Assistance Administration pursuant to section 1(b) of An Act To enable the District of Columbia to receive Federal financial assistance under title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02(b)), and title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. § 1396 *et seq.*).

(18) "Mental health services" means the services funded or regulated by the Department for the purpose of addressing mental illness or mental health problems.

(19) "Mental health supports" means the supports funded or regulated by the Department for the purpose of addressing mental illness or mental health problems.

(20) "Organized health care arrangement," means an organized system of health care in which more than one provider participates, and in which the participating providers hold themselves out to the public as participating in a joint arrangement, and either:

(A) Participate in joint activities that include utilization review under the Medical Records Act of 1978, effective September 29, 1978 (D.C. Law 2-112; D.C. Official Code § 44-801 *et seq.*), in which health care decisions by participating providers are reviewed by other participating providers or by a third party on their behalf; or

(B) Participate in quality assessment and improvement activities under the Medical Records Act of 1978, effective September 29, 1978 (D.C. Law 2-112; D.C. Official Code § 44-801 *et seq.*), in which mental health services or mental health supports provided by participating providers are assessed by other participating providers or by a third party on their behalf.

(21) "Participating provider" means a provider of mental health services or mental health supports that, through participation in the joint consent promulgated by the Department pursuant to section 114(6), joins the organized health care arrangement created by the Department.

(22) "Partnership Council" means the council appointed by the Director pursuant to section 110 to advise him or her with respect to departmental matters.

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

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

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

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seizure disorders, unless those exceptions co-occur with another diagnosable mental illness; and

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

(ii) Are 22 years of age or over.

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

(26) "Protected mental health information" means information regulated by the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1201.01 *et seq.*).

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

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

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

(28) "Regulate" means all non-professional certification, licensing, monitoring, and related functions, except fire inspections, food service inspections, the issuance of building permits and certificates of occupancy, all inspections relating to these permits and certificates, and all responsibilities under section 1 of An Act To enable the District of Columbia to receive Federal financial assistance under title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02).

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

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

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(31) "System of care for children, youth, and their families" means a community support system for children or youth with mental health problems and their families, which is developed through collaboration in the administration, financing, resource allocation, training, and delivery of services across all appropriate public systems. Each child's or youth's mental health services and mental health supports are based on a single, child- and youth-centered, and family-focused Individual Plan of Care, encompassing all necessary and appropriate services and supports, which may be delivered by both public and private entities. Prevention, early intervention, and mental health services and mental health supports to meet individual and special needs are delivered in natural, nurturing, and integrated environments, recognize the importance of and support for the maintenance of enduring family relationships, and are planned and developed within the District and as close to the child's or youth's home as possible so that families need not relinquish custody to secure treatment for their children and youth.

Sec. 103. Establishment and purposes of the Department of Mental Health.

New
§ 7-1131.03

(a) There is established as a separate cabinet-level Department, subordinate to the Mayor, the Department of Mental Health.

(b) The Department shall be the successor in interest to the Commission on Mental Health Services, established by Mayor's Reorganization Plan No. 3 of 1986, effective January 3, 1987 (D.C. Official Code, Vol. 1), and Mayor's Order No. 88-168, effective July 13, 1988, and under receivership in the case of *Dixon, et al. v. Williams, et al.*, C.A. No. 74-285 (NHJ), in the United States District Court for the District of Columbia.

(c) The provisions of this title are intended to be construed in a manner consistent with all outstanding orders of the United States District Court in *Dixon, et al. v. Williams, et al.*, including the Final Plan adopted by the District Court in its April 2, 2001 order.

(d) The Department shall have as its purposes:

(1) Developing a system of care for adults that is integrated to the maximum practicable extent with other public systems in the District, including but not limited to addiction treatment and prevention, criminal justice, education, health, housing, income maintenance, and vocational rehabilitation;

(2) Developing a system of care for children, youth, and their families that is integrated to the maximum practicable extent with other public systems in the District, including but not limited to addiction treatment and prevention, child welfare, criminal justice, developmental services, education, health, housing, income maintenance, juvenile justice, and vocational rehabilitation;

(3) Ensuring that persons with mental illness and children or youth with mental health problems are treated in the most integrated setting that can be accommodated, consistent with individual needs and public safety;

(4) Fostering the development of high quality, comprehensive, cost effective, and culturally competent mental health services and mental health supports, based on recognized local needs, especially for persons with serious mental illness and children or

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youth with serious emotional disturbances;

(5) Promoting mental health and public awareness of mental health issues;

(6) Ensuring that services provided to mental health consumers meet standards established by the Department pursuant to section 114(2)-(5) for the operation of mental health services and mental health supports;

(7) Developing and implementing strategies to eliminate barriers and improve access to mental health services and mental health supports for consumers of mental health services; and

(8) Ensuring the participation of consumers, families, employees, providers, and advocates of mental health services and mental health supports in the planning, delivery, monitoring, and evaluation of these services and supports.

(e) In assessing or meeting the service needs of consumers of mental health services, the Department shall not discriminate against consumers based upon their eligibility or non-eligibility for Medicaid, Medicare, or private insurance coverage.

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

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

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

Sec. 104. Powers and duties of the Department of Mental Health.

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

(1) Plan, develop, coordinate, and monitor comprehensive and integrated mental health systems of care for adults and for children, youth, and their families in the District, so as to maximize utilization of mental health services and mental health supports and to assure that services for priority populations identified in the Department's annual plan are funded within the Department's appropriations or authorizations by Congress and are available;

(2) Arrange for all authorized, publicly funded mental health services and mental health supports for the residents of the District, whether operated directly by, or through contract with, the Department;

(3) Make grants, pay subsidies, purchase services, and provide reimbursement for mental health services and mental health supports;

(4) Arrange for, or if necessary directly provide, inpatient mental health services for all persons identified to the Department who meet criteria for admission for such

New
§ 7-1131.04

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services;

(5) Directly operate a hospital to provide inpatient mental health services, and seek to achieve and maintain the hospital's certification by the Health Care Financing Administration;

(6) Directly operate one core services agency, for 3 years from the effective date of this act or longer, as needed, to address the community mental health needs of the residents of the District;

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

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

(A) Subchapter I-A of Chapter 28 of Title 47 of the District of Columbia Official Code;

(B) Subchapter I-B of Chapter 28 of Title 47 of the District of Columbia Official Code; and

(C) The Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501 *et seq.*);

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

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

(11) Serve as the "Compact Administrator" under Article X of the Interstate Compact on Mental Health as set forth in the Interstate Compact on Mental Health Act, approved April 26, 1972 (86 Stat. 126; D.C. Official Code § 7-1101 *et seq.*);

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

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

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(14) Independent of the District of Columbia Office of Personnel but consistent with the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), serve as the personnel authority for all employees of the Department, including exercising full authority to hire, retain, and terminate personnel, and to establish their compensation and reimbursement consistent with the District's wage grade and non-wage grade schedules and the Congressionally-approved budget;

(15) Independent of the District of Columbia Office of Contracting and Procurement, exercise procurement authority to carry out the purposes of the Department, including contracting and contract oversight. The Department shall exercise this authority consistent with the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 *et seq.*), except with regard to the powers and duties outlined in section 105(a), (b), (c), and (e) of that act (D.C. Official Code § 2-301.05(a), (b), (c), and (e));

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

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

Sec. 105. Appointment and duties of Director.

New
§ 7-1131.05

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

(1) Serve as the chief executive officer of the Department, organizing the Department for its efficient operation, including creating offices within the Department as necessary, and exercising any other powers necessary and appropriate to implement the provisions of the law;

(2) Hire, retain, and terminate such personnel as appropriate to perform the functions of the Department consistent with the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*);

(3) Establish, through contracts and memoranda of agreement or understandings with governmental bodies, public and private agencies, institutions, and organizations, systems of care for adults, and for children, youth, and their families, as well as for other identified priority populations;

(4) Establish priorities for the delivery of mental health services and mental health supports, and develop plans for the operation and coordination of core services agencies and other providers, so as to encourage the development and expansion of preventive, rehabilitative, and consultative mental health services and mental health supports

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with an emphasis on continuity of care;

(5) In accordance with the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), issue and enforce all rules and regulations necessary and appropriate to the proper accomplishment of the mental health duties and functions imposed by this title;

(6) Execute contracts on behalf of the Department;

(7) Coordinate with the activities of the State Mental Health Planning Council, established pursuant to section 1914 of the Public Health Service Act, approved July 10, 1992 (106 Stat. 382; 42 U.S.C. § 300x-3) and Mayor's Order 88-261, effective December 14, 1988; and

(8)(A) Publish an annual plan describing how the Department intends to provide or arrange for systems of care for adults and for children, youth, and their families and to serve the needs of priority populations; and

(B) In developing the annual plan, hold public forums in the community to solicit the input of residents of the District with regard to the need for present or additional mental health services and mental health supports.

Sec. 106. Appointment and duties of Chief Financial Officer.

New
§ 7-1131.06

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

(1) Be qualified by experience and training to carry out accounting, budgeting, and financial management functions;

(2) Directly report to, be ultimately responsible to, and be under the supervisory direction of the District’s CFO, through the Director;

(3) Engage in the accounting, budgeting, and financial management functions authorized by the District’s CFO;

(4) Serve as a member of the Department’s management team;

(5) Advocate for and advance the policy objectives of the Director, to the extent consistent with the Department CFO’s ultimate responsibility to and supervisory control by the District’s CFO; and

(6) Be subject to evaluation, discipline, and transfer by the District’s CFO, in collaboration with the Director.

Sec. 107. Appointment and duties of Chief Clinical Officer.

New
§ 7-1131.07

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

(1) Advising the Director on standards, quality assurance, risk management, and clinical practice;

(2) Advising the Director on a full range of services and functions, including but not limited to clinical services, service needs, and program development; and

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(3) Coordinating the treatment of persons committed to the care of the Department by the court pursuant to D.C. Official Code § 21-545.

Sec. 108. Appointment and duties of General Counsel.

New
§ 7-1131.08

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

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

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

(3) Be subject to all applicable provisions of Title VIII-B of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective April 20, 1999 (D.C. Law 12-260; D.C. Official Code § 1-608.51 *et seq.*);

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

(5) Advocate vigorously for the Director's position on legal issues, and if such advocacy poses a conflict with a legal position of the Corporation Counsel, seek exemption from the Corporation Counsel's supervision as to that position, in accordance with section 855(b) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective April 20, 1999 (D.C. Law 12-260; D.C. Official Code § 1-608.55(b)); and

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

Sec. 109. Appointment and duties of Consumer and Family Affairs Officer.

New
§ 7-1131.09

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

(1) Ensuring the involvement of consumers of mental health services and their family members in the design, implementation, and evaluation of mental health services and mental health supports;

(2) Serving as a liaison to consumers of mental health services and their family members and personal representatives; and

(3) Promoting the protection of the rights of consumers of mental health services.

Sec. 110. Partnership Council.

New
§ 7-1131.10

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

(b) The membership of the Partnership Council shall represent the range of interests

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

Sec. 111. System of Mental Health Care Sub-Council.

New
§ 7-1131.11

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

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

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

Sec. 112. Transfer of functions, property, and personnel.

New
§ 7-1131.12

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

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(b) All real and personal property, positions, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the powers, duties, functions, and operations of the “Compact Administrator” of the Interstate Compact on Mental Health as set forth in the Interstate Compact on Mental Health Act, approved April 26, 1972 (86 Stat. 126; D.C. Official Code § 7-1101 *et seq.*), shall become the property of the Department on the effective date of this act.

(c) All positions, real and personal property, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the powers, duties, functions, and operations of the Department of Health in regulating mental health facilities, mental health services, and mental health supports, shall be transferred to the Department no later than September 30, 2001, in accordance with the terms of the memoranda of agreement executed pursuant to section 104(17).

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

(e) Every employee of the Commission on Mental Health Services shall be transferred to the Department. An employee transferred to the Department shall be transferred in the same classification he or she held at the Commission on Mental Health Services or other department at the time of the transfer. Subject to the District's authority to convert them to the Management Supervisory Service and the Legal Service consistent with the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), transferred employees shall retain all rights and privileges related to their individual pay and benefits, including retirement status, so long as the employee is continuously employed by the Department or the District government, including any applicable rights and privileges provided for in section 7 of the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (98 Stat. 3375; D.C. Official Code § 44-906).

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

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

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(A) Training persons who directly provide mental health services or mental health supports to consumers of mental health services through their employment by a community residence facility;

(B) Certifying that the admission of consumers of mental health services to a mental health community facility is medically necessary;

(C) Making determinations under 22 DCMR § 3826.3;

(D) Receiving written admission criteria under 22 DCMR § 3827.3;

(E) Receiving written reasons for denials of admission under 22 DCMR § 3827.5; and

(F) Licensing mental health community residential facilities as required by 22 DCMR § 3800.5; and

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

(A) Certifying providers of mobile community outreach treatment team services;

(B) Operating one mobile community outreach treatment team;

(C) Authorizing admission and assignment of consumers of mental health services to mobile community outreach treatment teams; and

(D) Granting approvals and waivers.

(g) The following rules and regulations pertaining to the licensing, certification, and delivery of mental health services and mental health supports shall remain in full force and effect until the Department of Mental Health promulgates standards and procedures in accordance with section 114(2)-(4):

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

(A) Certifying Medicaid day treatment programs for consumers of mental health services; and

(B) Granting approvals and waivers;

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

(A) Certifying providers of freestanding mental health clinics;

(B) Determining the qualifications of administrators of freestanding mental health clinics; and

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

- (A) Certifying residential treatment centers for children and youth; and
- (B) Certifying that the admission of consumers of mental health services to residential treatment centers is medically necessary.

Sec. 113. Prosecution and representation by Corporation Counsel.

New
§ 7-1131.13

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

Sec. 114. Rules.

New
§ 7-1131.14

No later than October 1, 2001, and in accordance with the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code § 1-1501 *et seq.*), the Department shall issue rules establishing:

- (1) Definitions for priority populations, including, but not limited to persons with serious mental illness and children or youth with serious emotional disturbance;
- (2) Standards for the operation of mental health services and mental health supports, including, but not limited to requirements regarding:
 - (A) Qualifications of providers, except those who are required to operate under professional licenses pursuant to subchapter I-A and I-B of Chapter 28 of Title 47 of the District of Columbia Official Code;
 - (B) Accessibility, availability, appropriateness, and cultural competence of the delivery of mental health services and mental health supports; and
 - (C) Protections for consumers of mental health services that are consistent with title II and other applicable law;
- (3) Standards and procedures for internal and external monitoring and evaluation of the delivery of mental health services and mental health supports, including, but not limited to standards and procedures for granting certification or full or conditional licensure to providers of mental health services or mental health supports, and limitations on providers of mental health services or mental health supports that are granted conditional licensure;
- (4) Standards and procedures for revoking the certifications or licenses, other than professional licenses, of providers of mental health services or mental health supports

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who do not continue to meet the standards established by the Department, and procedures for facilitating the ongoing delivery of mental health services and mental health supports to consumers of such providers;

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

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

(6) A joint consent for the use of protected mental health information by participating providers that is consistent with 45 C.F.R. Parts 160 and 164 and the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1201.01 *et seq.*).

Sec. 115. Approval of Medicaid State Plan Amendment.

**New
§ 7-1131.15**

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

Sec. 116. Conforming amendments.

(a) The District of Columbia Government Comprehensive Personnel Merit Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended as follows:

(1) Section 301(q) (D.C. Official Code § 1-603.01(17)) is amended as follows:

**Amend
§ 1-603.01**

(A) Paragraph (14)(C) is repealed.

(B) Paragraph (49) is amended by striking the word “and” at the end.

(C) Paragraph (50) is amended by striking the period at the end and inserting a semicolon in its place.

(D) A new paragraph (51) is added to read as follows:

“(51) Department of Mental Health;”.

(2) Section 406(b) (D.C. Official Code § 1-604.06(b)) is amended as follows:

**Amend
§ 1-604.06**

(A) Paragraph (16) is amended by striking the word “and” at the end.

(B) Paragraph (17) is amended by striking the period at the end and inserting the phrase “; and” in its place.

(C) A new paragraph (18) is added to read as follows:

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“(18) For employees of the Department of Mental Health, the personnel authority is the Director of the Department of Mental Health.”.

(3) Section 2021 (D.C. Official Code § 1-620.21) is amended as follows:

**Amend
§ 1-620.21**

(A) Paragraphs (2) and (3) are repealed.

(B) Strike the phrase “Department or the Commission” wherever it appears and insert the phrase “Department of Human Services or the Department of Mental Health” in its place.

(C) Strike the phrase “Department or Commission” wherever it appears and insert the phrase “Department of Mental Health or Department of Human Services” in its place.

(4) Section 2022 (D.C. Official Code § 1-620.22) is amended as follows:

**Amend
§ 1-620.22**

(A) Strike the phrase “Department and Commission” wherever it appears and insert the phrase “Department of Mental Health and Department of Human Services” in its place.

(B) Strike the phrase “Department and the Commission” wherever it appears and insert the phrase “Department of Mental Health and the Department of Human Services” in its place.

(5) Section 2023 (D.C. Official Code § 1-620.23) is amended as follows:

**Amend
§ 1-620.23**

(A) Strike the phrase “Department or Commission” wherever it appears and insert the phrase “Department of Mental Health or Department of Human Services” in its place.

(B) Strike the phrase “Department’s or Commission’s” and insert the phrase “Department of Mental Health’s or Department of Human Services” in its place.

(6) Section 2024 (D.C. Official Code § 1-620.24) is amended by striking the phrase “Department or Commission” and inserting the phrase “Department of Mental Health or Department of Human Services” in its place.

**Amend
§ 1-620.24**

(7) Section 2025(b) (D.C. Official Code § 1-620.25(b)) is amended to read as follows:

**Amend
§ 1-620.25**

“(b) The program shall cover all Department of Mental Health and Department of Human Services employees, including management, and shall be implemented as a single program of each Department.”.

(b) Section 320 of the District of Columbia Procurement Practices Act of 1985, effective April 15, 1997 (D.C. Law 11-259; D.C. Official Code § 2-303.20), is amended by adding a new subsection (o) to read as follows:

**Amend
§ 2-303.20**

“(o) Notwithstanding section 105(a), (b), (c), and (e), the Director of the Department of Mental Health shall exercise procurement authority to carry out the purposes of the Department, including contracting and contract oversight, consistent with the other provisions of this act.”.

(c) Section 3a(3)(F) of the District of Columbia Right to Overnight Shelter Act of 1984, effective March 6, 1991 (D.C. Law 8-197; D.C. Official Code § 4-702.01(c)(6)), is amended by striking the phrase “Commission on Mental Health Services” and inserting the

**Amend
§ 4-702.01**

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phrase "Department of Mental Health" in its place.

(d) Section 5(b)(2) of the Department of Public Health Establishment Act of 1992, effective March 13, 1993 (D.C. Law 9-182; D.C. Official Code § 7-154(b)(2)), is amended by striking the phrase "Commissioner of Mental Health Services" and inserting the phrase "Director of the Department of Mental Health" in its place.

**Amend
§ 7-154**

(e) Section 3 of the Interstate Compact on Mental Health Act, approved April 26, 1972 (86 Stat. 130; D.C. Official Code § 7-1102), is amended by striking the phrase "the Mayor of the District of Columbia is hereby authorized and empowered to designate an officer who shall be the Compact Administrator and who," and inserting the phrase "the Director of the Department of Mental Health shall be the Compact Administrator and," in its place.

**Amend
§ 7-1102**

(f) The District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1201.01 *et seq.*), is amended as follows:

(1) Section 101 (D.C. Official Code § 7-1201.01) is amended as follows:

(A) A new paragraph (h-1) is added to read as follows:

**Amend
§ 7-1201.01**

"(h-1) "Joint consent" means a process established by the Department of Mental Health pursuant to section 114(6) of the Department of Mental Health Establishment Amendment Act of 2001, passed on 2nd reading on July 10, 2001 (Enrolled version of Bill 14-136), to enable all participating providers to rely on a single form in which a consumer of mental health services consents to the use of his or her protected mental health information by participating providers in the Department of Mental Health's organized health care arrangement, for the purposes of delivering treatment, obtaining payment for services and supports rendered, and performing certain administrative operations, such as quality assurance, utilization review, accreditation, and oversight."

(B) A new paragraph (k-1) is added to read as follows:

"(k-1) "Organized health care arrangement" means an organized system of health care in which more than one provider participates, and in which the participating providers hold themselves out to the public as participating in a joint arrangement, and either:

"(1) Participate in joint activities that include utilization review under the Medical Records Act of 1978, effective September 29, 1978 (D.C. Law 2-112; D.C. Official Code § 44-801 *et seq.*), in which health care decisions by participating providers are reviewed by other participating providers or by a third party on their behalf; or

"(2) Participate in quality assessment and improvement activities under the Medical Records Act of 1978, effective September 29, 1978 (D.C. Law 2-112; D.C. Official Code § 44-801 *et seq.*), in which mental health services or mental health supports provided by participating providers are assessed by other participating providers or by a third party on their behalf."

(C) A new paragraph (k-2) is added to read as follows:

"(k-2) "Participating provider" means a provider of mental health services or mental health supports who, through participation in the joint consent promulgated by the Department of Mental Health pursuant to section 114(6) of the Department of Mental Health

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Establishment Amendment Act of 2001, passed on 2nd reading on July 10, 2001 (Enrolled version of Bill 14-136), joins the organized health care arrangement created by the Department of Mental Health."

(D) Subsection (j) (D.C. Official Code § 7-1201.01(10)) is amended by adding after the word "infirmary" the phrase ", provider as defined in section 102(27) of the Department of Mental Health Establishment Amendment Act of 2001, passed on 2nd reading on July 10, 2001 (Enrolled version of Bill 14-136),".

**Amend
§ 7-1201.01**

(2) Section 202 (D.C. Official Code § 7-1202.02) is amended as follows:

**Amend
§ 7-1202.02**

(A) Subsection (a)(5) is amended by striking the period and inserting the phrase "and the date on which the authorization will expire, which shall be no longer than 60 days from the date of authorization." in its place.

(B) Subsection (b) is repealed.

(3) Section 207 (D.C. Official Code § 7-1202.07) is amended as follows:

**Amend
§ 7-1202.07**

(A) Subsection (a) is amended by adding after the phrase "a valid authorization" the phrase ", or for participating providers, a joint consent, ".

(B) Subsection (b) is amended by adding after the phrase "a valid authorization," the phrase "or for participating providers, a joint consent, ".

(4) Section 301 (D.C. Official Code § 7-1203.01) is amended as follows:

**Amend
§ 7-1203.01**

(A) The heading is amended by striking the phrase "Facility." And inserting the phrase "Facility or to Participating Providers." in its place.

(B) Strike the phrase "Mental health information" and insert the phrase "(a) Mental health information" in its place.

(C) A new subsection (b) is added to read as follows:

"(b) Mental health information may be disclosed by participating providers to other participating providers when and to the extent necessary to facilitate the delivery of mental health services and mental health supports to the consumer."

(5) Section 303(a) (D.C. Official Code § 7-1203.03(a)) is amended by adding after the phrase "public health, " the phrase "the Department of Mental Health, a provider as defined in section 102(27) of the Department of Mental Health Establishment Amendment Act of 2001, passed on 2nd reading on July 10, 2001 (Enrolled version of Bill 14-136),".

**Amend
§ 7-1203.03**

(6) Section 401 (D.C. Official Code § 7-1204.01) is amended by striking the period at the end and inserting the phrase "or by order of the court." in its place.

**Amend
§ 7-1204.01**

(g) Chapter 5 of Title 21 of the District of Columbia Official Code is amended as follows:

(1) Section 21-521 is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department of Mental Health" in its place.

**Amend
§ 21-521**

(2) Section 21-541(a) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department of Mental Health" in its place.

**Amend
§ 21-541**

(3) Section 21-546 is amended by striking the phrase "Department of Human Services" wherever it appears and inserting the phrase "Department of Mental Health" in its place.

**Amend
§ 21-546**

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(h) Section 7 of the Sex Offender Registration Act of 1999, effective July 11, 2000 (D.C. Law 13-137; D.C. Official Code § 22-4006), is amended as follows:

**Amend
§ 22-4006**

(1) The heading is amended by striking the phrase “Commission on Mental Health Services” and inserting the phrase “Department of Mental Health” in its place.

(2) Subsection (a) is amended by striking the phrase “Commission on Mental Health Services” wherever it appears and inserting the phrase “Department of Mental Health” in its place.

(3) Subsection (b) is amended by striking the phrase “Commission on Mental Health Services” and inserting the phrase “Department of Mental Health” in its place.

(4) Subsection (c) is amended by striking the phrase “Commission on Mental Health Services” and inserting the phrase “Department of Mental Health” in its place.

(5) Subsection (d) is amended by striking the phrase “Commission on Mental Health Services” and inserting the phrase “Department of Mental Health” in its place.

(i) The Health Services Planning Program Re-establishment Act of 1996, effective April 9, 1997 (D.C. Law 11-191; D.C. Official Code § 44-401 *et seq.*), is amended as follows:

(1) Section 2 (D.C. Official Code § 44-401) is amended as follows:

**Amend
§ 44-401**

(A) Paragraph (5) is repealed.

(B) A new paragraph (7A) is added to read as follows:

"(7A) "Director of the Department of Mental Health" means the Director of the Department of Mental Health established by section 105 of the Department of Mental Health Establishment Amendment Act of 2001, passed on 2nd reading on July 10, 2001 (Enrolled version of Bill 14-136)."

(C) Paragraph (12) is amended by striking the phrase "mental health" and inserting the phrase "inpatient mental health services" in its place.

(2) Section 4(c)(9) (D.C. Official Code § 44-403(c)(9)) is amended by striking the phrase "Commissioner of Mental Health Services" and inserting the phrase "Director of the Department of Mental Health" in its place.

**Amend
§ 44-403**

(3) Section 8(b) (D.C. Official Code § 44-407(b)) is amended as follows:

**Amend
§ 44-407**

(A) Paragraph (7) is amended by striking the word “and” at the end.

(B) Paragraph (8) is amended by striking the period at the end and inserting the phrase “; and” in its place.

(C) A new paragraph (9) is added to read as follows:

"(9) For a period of one year, commencing on the effective date of the Department of Mental Health Establishment Amendment Act of 2001, passed on 2nd reading on July 10, 2001 (Enrolled version of Bill 14-136), any increase in the licensed psychiatric bed capacity by a private general hospital, psychiatric hospital, other specialty hospital or rehabilitation facility holding a certificate of need to operate psychiatric beds. The health care facility shall provide the Department of Mental Health with a copy of the letter of notice required by SHPDA for projects exempt from certificate of need review."

(j) Section 2(a) of the Mental Health Services Client Enterprise Establishment Act of

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1998, effective April 13, 1999 (D.C. Law 12-226; D.C. Official Code § 44-921(a)), is amended by striking the phrase “Commission on Mental Health Services” wherever it appears and inserting the phrase “Department of Mental Health” in its place.

**Amend
§ 44-921**

(k) Section 2(3) of the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999 (D.C. Law 12-238; D.C. Official Code § 44-551(3)), is amended by adding the phrase “mental health rehabilitation” before the phrase “services in an intermediate care facility for the mentally retarded.”

**Amend
§ 44-551**

(l) Section 47-2851.03a(k)(1)(B)) of the District of Columbia Official Code is amended by adding a new sentence at the end to read as follows: "For any Hospital-Psychiatric, both this endorsement and the master business license shall be issued by the Department of Mental Health."

**Amend
§ 47-
2851.03a**

Sec. 117. Abolishment of Commission on Mental Health Services.

The Commission on Mental Health Services, established by Mayor’s Reorganization Plan No. 3 of 1986, effective January 3, 1987, and Mayor’s Order No. 88-168, effective July 13, 1988, is abolished.

**Note,
Part B,
Subchapter
VII,
Chapter 15
Title 1**

Sec. 118. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

TITLE II. CONSUMER RIGHTS

**New Chapter
12A,
Title 7**

Sec. 201. Short title.

This title may be cited as the “Mental Health Consumers' Rights Protection Act of 2001”.

**New
§ 7-1231.01**

Sec. 202. Definitions.

For the purposes of this title, the term:

**New
§ 7-1231.02**

(1) "Abuse" means any knowing, reckless, or intentional act or omission by a provider that causes or is likely to cause or contribute to, or which caused or is likely to have caused or contributed to, injury, death, or financial exploitation of a consumer.

(2) "Attorney-in-fact" means a person provided with a consumer's durable power of attorney for health care in accordance with D.C. Official Code § 21-2205(a).

(3) “Capacity” means the ability to understand and appreciate the nature and consequences of the proposed treatment, including the benefits and risks of, and alternatives to, the proposed treatment, and to make and communicate a decision regarding the proposed treatment.

(4) "Consumers" means adults, children, or youth who seek or receive mental health services or mental health supports in the District of Columbia under Chapter 5 of Title 21 of the District of Columbia Official Code, without regard to voluntary, non-protesting, or

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involuntary status.

(5) "Court" means the Superior Court of the District of Columbia.

(6) "Declaration of advance instructions" means a statement of a consumer's treatment preferences, including his or her informed choice to accept or forego particular mental health services and mental health supports.

(7) "Department of Mental Health" or "Department" means the Department of Mental Health established pursuant to the Department of Mental Health Establishment Amendment Act of 2001, passed on 2nd reading on July 10, 2001 (Enrolled version of Bill 14-136).

(8) "Director" means the Director of the Department of Mental Health.

(9) "Drug used as a restraint" means a medication that is used in addition to or in place of the consumer's regular, prescribed drug regimen to control extreme behavior during an emergency, but does not include medications that comprise the consumer's regular, prescribed medical regimen and that are part of the consumer's service plan, even if their purpose is to control ongoing behavior.

(10) "Emancipated minor" means any minor who is living separate and apart from his or her parent(s) or legal guardian, with or without the consent of the parent(s) or legal guardian and regardless of the duration of such separate residence, and who is managing his or her own personal and financial affairs, regardless of the source or extent of the minor's income.

(11) "Emergency" means a situation in which a consumer is experiencing a mental health crisis and in which the immediate provision of mental health treatment is, in the written opinion of the attending physician, necessary to prevent serious injury to the consumer or others.

(12) "Grievance" means a description by any individual of his or her dissatisfaction with the Department or other provider, including the denial or abuse of any consumer right or protection provided in this title or in other law.

(13) "IDEA" means the Individuals with Disabilities Education Act, approved June 4, 1997 (111 Stat. 37; 20 U.S.C. § 1400 *et seq.*).

(14) "Individual Plan of Care" means the individualized service plan for the care of a child or youth with or at risk of mental health problems, including processes for the appropriate transition of youth receiving mental health services and mental health supports from the system of care for children, youth, and their families into the system of care for adults.

(15) "Individual Recovery Plan" means the individualized service plan for the treatment of a person with mental illness.

(16) "Mental health services" means services delivered in the District of Columbia for the purpose of addressing mental illness or mental health problems.

(17) "Mental health supports" means supports delivered in the District of Columbia for the purpose of addressing mental illness or mental health problems.

(18) "Minor" means a person under 18 years of age, but shall not include a

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person who is an emancipated minor or who is married.

(19) "Neglect" means any act or omission by a provider which causes or is likely to cause or contribute to, or which caused or is likely to have caused or contributed to, the injury, death, or financial exploitation of a consumer.

(20) "Physical restraint" means any mechanical device, material, or equipment attached or adjacent to the consumer's body, or any manual method, that the consumer cannot easily remove and that restricts his or her freedom of movement or normal access to his or her body.

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

(A) Is duly licensed or certified to provide mental health services or mental health supports in the District of Columbia; or

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

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

(23) "Restraint" means either a physical restraint or a drug that is being used as a restraint.

(24) "Seclusion" means any involuntary confinement of a consumer alone in a room or an area from which the consumer is either physically prevented from leaving or from which the consumer is led to believe he or she cannot leave at will.

(25) "Service plan" means an Individual Plan of Care or Individual Recovery Plan as defined in this section.

(26) "Substantial change" means a significant change in the type of mental health services or mental health supports being delivered to the consumer, a change in the consumer's service provider, or a change in the consumer's primary service location, but shall not include:

(A) Changes in the routine day-to-day care of the consumer;

(B) Routine or periodic changes or adjustments in the consumer's regular, prescribed drug regimen;

(C) Changes relating to the consumer's routine or minor medical care needs;

(D) Formulation of the consumer's initial service plan; or

(E) Changes specifically contemplated in a service plan regarding which the personal representative has already received notification.

(27) "Substitute health care decision-maker" means an individual authorized to make decisions about an incapacitated consumer's health care treatment pursuant to D.C.

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Official Code § 21-2210(a).

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

(29) "System of care for children, youth, and their families" means a community support system for children or youth with mental health problems and their families, which is developed through collaboration in the administration, financing, resource allocation, training, and delivery of services across all appropriate public systems. Each child's or youth's mental health services and mental health supports are based on a single, child- and youth-centered, and family-focused Individual Plan of Care, encompassing all necessary and appropriate services and supports, which may be delivered by both public and private entities. Prevention, early intervention, and mental health services and mental health supports to meet individual and special needs are delivered in natural, nurturing, and integrated environments, recognize the importance of and support for the maintenance of enduring family relationships, and are planned and developed within the District and as close to the child's or youth's home as possible so that families need not relinquish custody to secure treatment for their children and youth.

Sec. 203. Forensic consumers.

New
§ 7-1231.03

Nothing in this title is intended to abridge the rights of persons committed to the care of the Department by order of the court in a criminal proceeding.

Sec. 204. Conditions of mental health service delivery.

New
§ 7-1231.04

(a) The Department and other providers shall, at all times, treat consumers with consideration and respect for the consumer's dignity, autonomy, and privacy. Respectful treatment shall also be extended to the consumer's family members, personal representative, attorney-in-fact, and guardian.

(b) Consumers shall have access to mental health services and mental health supports free of discrimination on the basis of race, color, religion, national origin, language, culture, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, and place of residence.

(c) Consumers shall be free from physical, emotional, sexual, or financial abuse,

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neglect, harassment, coercion, and exploitation when seeking or receiving mental health services and mental health supports.

(d) Consumers shall receive their individual mental health services and mental health supports in the least restrictive, most integrated setting appropriate to their individual needs.

(e) Consumers in residential, day, or inpatient treatment programs shall have the following additional rights, consistent with the health and safety of the consumer and others:

(1) Free communication with, and reasonable visitation by, their attorneys, attorneys-in-fact, clergy, family members, significant others, personal representatives, and guardians;

(2) Access to telephones to make and receive confidential calls, including free local calls and reasonable access to free long distance calls for indigent consumers, and assistance in calling if requested and needed;

(3)(A) Opportunities to communicate by sealed, uncensored mail or otherwise with officials in the Department, their attorneys, the court, and their personal physicians or qualified psychologists;

(B) All mail or communications other than those referred to in subparagraph (A) of this paragraph may be read only if there is reason to believe, documented in the consumer's clinical record, that such mail or communications contains items, information, or substances which may be harmful to the consumer or others. In such cases, the provider shall notify the consumer of the action taken with regard to the correspondence and the reason therefor. Incoming mail not delivered to the consumer in accordance with this subsection shall be returned to the sender; and

(C) Writing materials and postage stamps shall be made available for use by consumers, and upon request, the provider shall assist the consumer in writing, addressing, and posting letters and other documents;

(4) Freedom to wear their own clothes and to keep and use personal possessions, including toilet articles, unless a physician determines and documents in the consumer's clinical record that specific limitations on these rights are necessary for a clinical purpose;

(5) Freedom to maintain their personal appearance, including head and body hair, in a reasonable manner according to personal taste, unless it adversely affects the health or safety of the consumer or others;

(6) Access to reasonable individual storage space for private use;

(7) Freedom to engage in or abstain from the practice of religion, and freedom from harassment aimed at encouraging the consumer to engage in the religious practices of the provider or other consumers;

(8) Reasonable opportunities for social interaction with members of either sex, unless such interaction is specifically limited or withheld under a consumer's service plan because, in the written opinion of the consumer's physician or qualified psychologist, permitting the consumer to interact freely with others presents a substantial risk of serious harm to the consumer or others or will substantially preclude effective treatment of the

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consumer; and

(9) Reasonable opportunities for regular physical exercise and freedom to go outdoors at regular and frequent intervals.

Sec. 205. Service planning.

**New
§ 7-1231.05**

(a) Consumers shall have the right to meaningful participation in the development of their service plans, as well as the opportunity to participate in planning for their transition from one provider to another. Such service planning shall include the right to be informed about one's own condition and legal status, and of proposed or current services, treatment, therapies, or other available alternatives. In the course of service planning, no individual mental health service or mental health support shall be conditioned upon agreement to accept another service or support.

(b) Beginning at least one year before a consumer transitions into the system of care for adults, or sooner if required under applicable law such as IDEA, a youth's Individual Plan of Care shall be revised to include a statement regarding the needed transition services for the youth, including, if appropriate, a statement of the interagency responsibilities or any needed linkages with other services and supports.

(c) The opportunities for participation in service planning described in this section shall extend to the consumer's family members or personal representative if the consumer so requests orally or in writing. Family members or personal representatives who are participating in the consumer's service planning, and to whom the consumer has authorized the release of information in accordance with the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1201.01 *et seq.*), shall be notified whenever there is a substantial change in the consumer's services or placement.

(d) The consumer may revoke his or her consent to the participation or authorization for notification described in subsection (c) of this section at any time.

(e) The Department, or other providers as appropriate, shall be responsible for ensuring that a consumer's service plan is implemented.

Sec. 206. Durable power of attorney for health care; declaration of advance instructions for mental health treatment.

**New
§ 7-1231.06**

(a) All consumers may execute a durable power of attorney for health care in accordance with Chapter 22 of Title 21 of the District of Columbia Official Code. The durable power of attorney for health care may include a statement of the consumer's mental health treatment preferences, which shall be honored by his or her attorney-in-fact in accordance with D.C. Official Code § 21-2206(c)(1), or by any substitute health care decision-maker in accordance with D.C. Official Code § 21-2210(b). The consumer's treatment preferences shall be followed by the Department or other provider, except for good cause as documented in the consumer's clinical records, and shall never be overridden for the convenience of the Department or other provider.

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(b) For purposes of informing a substitute health care decision-maker about his or her mental health treatment preferences pursuant to D.C. Official Code § 21-2210(b), a consumer may execute a declaration of advance instructions regarding his or her informed choice to accept or forego particular mental health services and mental health supports. A substitute health care decision-maker shall act in accordance with the consumer's treatment preferences as expressed in the consumer's declaration of advance instructions. The consumer's treatment preferences shall be followed by the Department or other provider, except for good cause as documented in the consumer's clinical records, and shall never be overridden for the convenience of the Department or other provider.

(c) The existence of a consumer's durable power of attorney for health care or declaration of advance instructions for mental health treatment shall not affect his or her right to make decisions about the receipt of particular mental health services and mental health supports when he or she is capable of making such decisions.

(d)(1) The consumer shall provide for delivery of his or her durable power of attorney for health care or declaration of advance instructions for mental health treatment to his or her providers, attorney-in-fact, family members, and personal representative.

(2) If the consumer is comatose, incompetent, or otherwise incapacitated, any other person may deliver the durable power of attorney for health care or declaration of advance instructions for mental health treatment to the consumer's physician or to any health care provider serving the consumer.

(3) Any provider who is notified of the consumer's durable power of attorney for health care or declaration of advance instructions for mental health treatment shall promptly make the durable power of attorney or declaration a part of the consumer's clinical records.

(4) Any provider who has been notified of the existence of a consumer's durable power of attorney for health care or declaration of advance instructions for mental health treatment shall make reasonable efforts to obtain the durable power of attorney or declaration for the purpose of assisting an attorney-in-fact or substituted decision-maker in making decisions about the particular mental health services and mental health supports to be provided to the consumer pursuant to Chapter 22 of Title 21 of the District of Columbia Official Code.

Sec. 207. Consent to mental health services and mental health supports.

**New
§ 7-1231.07**

(a) Except in accordance with the procedure described in subsection (c)(3) of this section or as otherwise provided by law, no mental health services or mental health supports shall be provided absent a consumer's informed consent. In seeking a consumer's informed consent, the Department or other provider shall present the consumer with information about the proposed services or supports, including their purpose, side effects, and potential risks and benefits, as well as information about feasible alternative treatments.

(b) If, after providing such information, the consumer's physician is of the opinion that the consumer is incapable of making a decision regarding the provision of particular mental

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health services and mental health supports, the physician shall seek certification of the consumer's incapacitation in accordance with Chapter 22 of Title 21 of the District of Columbia Official Code.

(c) If a consumer is certified as incapacitated in accordance with D.C. Official Code § 21-2204, his or her physician shall seek to obtain consent to the provision of particular mental health services and mental health supports as follows:

(1) If the physician is aware that the consumer has executed a durable power of attorney for health care pursuant to D.C. Official Code § 21-2205, and the consumer's attorney-in-fact is available and willing to make a decision pursuant to D.C. Official Code § 21-2206 about the provision of particular mental health services and mental health supports, the physician shall seek to obtain consent from the attorney-in-fact. Except in an emergency as described in subsection (c)(3)(A) of this section or as otherwise provided by law, only those particular mental health services and mental health supports to which the attorney-in-fact consents shall be provided;

(2) If the attending physician is unaware that the consumer has executed a durable power of attorney for health care, if the consumer's attorney-in-fact is unavailable or unwilling to make a decision about the provision of particular mental health services and mental health supports, or if no durable power of attorney for health care has been executed by the consumer, the consumer's physician shall seek to obtain consent from a substitute health care decision-maker in accordance with D.C. Official Code § 21-2210. Except in an emergency as described in subsection (c)(3)(A) of this section or as otherwise provided by law, only those particular mental health services and mental health supports to which the substitute health care decision-maker consents shall be provided;

(3) If no attorney-in-fact or substitute health care decision-maker is available and willing to make a decision about the provision of particular mental health services and mental health supports, no mental health services or mental health supports shall be provided until a decision is made by a guardian sought and appointed by the court pursuant to D.C. Official Code § 21-2041 to provide such services and supports, except:

(A) In an emergency, when it is the written opinion of the attending physician that delay in obtaining the consent of the consumer, the attorney-in-fact, or a substitute health care decision-maker is likely to result in serious injury to the consumer or others, and mental health services and mental health supports are delivered only to the extent necessary to terminate the emergency; or

(B) After the conclusion of the administrative procedure set forth in section 208.

(4) If, following 30 days from the date of certification of the consumer's incapacitation under this section, a consumer continues to be incapacitated for purposes of making a particular health care decision, and there remains no attorney-in-fact or substitute decision-maker available to make a decision about the delivery of particular mental health services and mental health supports to the consumer, the Department, or other provider as appropriate, shall seek the appointment of a guardian for the consumer in accordance with

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subchapter V of Chapter 20 of Title 21 of the District of Columbia Official Code.

(d) Family members and personal representatives to whom the consumer has authorized release of information in accordance with the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1201.01 *et seq.*), shall be notified as soon as possible whenever mental health services and mental health supports are provided without the consent of the consumer pursuant to subsection (c)(3) of this section.

(e) Electroconvulsive treatment shall not be administered to a consumer without the consumer's own informed and written consent unless authorized by an order of the court issued in accordance with D.C. Official Code § 21-2047(c)(2), and with D.C. Official Code § 21-2211(b).

Sec. 208. Administration of medication.

New
§ 7-1231.08

(a) Except as provided in this section, no consumer shall be administered medication for the purpose of mental health treatment without his or her informed consent. In seeking a consumer's informed consent, the Department or other provider shall present the consumer with information about the proposed medication, including the purpose for its administration, possible side effects, and its potential risks and benefits, as well as information about feasible alternative treatments.

(b) If a consumer has been certified as incapacitated for purposes of making a health care decision in accordance with D.C. Official Code § 21-2204, his or her attorney-in-fact or substitute health care decision-maker may consent to the administration of medication only in accordance with the consumer's treatment preferences as expressed in his or her durable power of attorney for health care or declaration of advance instructions for mental health treatment. This preference may be overridden only after the procedures set forth in subsection (c) of this section are followed.

(c) Except in an emergency or in the absence of an attorney-in-fact or substitute health care decision-maker who is available and willing to make a decision about the administration of medication for the purpose of mental health treatment, a provider may administer medication to the incapacitated consumer only after receiving approval for such action through an administrative procedure established by the Department in accordance with the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*). The administrative procedure established by the Department shall include, at a minimum:

- (1) Written and oral notice to the consumer of available advocacy services;
- (2) The right to a meeting convened by a neutral party within the Department for the purpose of reviewing the necessity for involuntary administration of medication;
- (3) The right of the consumer to not less than 48 hours prior notice of any such meeting;
- (4) The right of the consumer to be present and have representation during any such meeting;

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(5) The opportunity, at the meeting, for the consumer and his or her representative to present information and to discuss the necessity of medication with the physician seeking to administer it;

(6) A written decision by the neutral party, within a period of time established by the Department, regarding whether the medication may be administered over the objection of the consumer. This decision shall be valid for no more than 30 days if it authorizes the involuntary administration of medication;

(7) The right to appeal the decision of the neutral party to an independent panel consisting of 3 persons appointed by the Director and convened within 72 hours. The members of the panel shall not be affiliated with the individual consumer, the provider, or the physician seeking to administer the medication, but shall include:

(A) A board-certified psychiatrist;

(B) A licensed practitioner; and

(C) A consumer, or if unavailable, a consumer advocate; and

(8) The right to have any decision of a neutral party that is appealed to the panel stayed pending a determination by the panel regarding whether the decision should stand or be overturned.

(d) A consumer's refusal to consent to medication on the basis of a valid religious objection shall not be overridden absent a specific court order requiring the provider to administer the medication.

(e) Family members and personal representatives to whom the consumer has authorized release of information in accordance with the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1201.01 *et seq.*), shall be notified whenever a provider involuntarily administers medication pursuant to subsections (c) or (d) of this section.

(f) The neutral party, and members of the panel and their employers, shall be immune from suit for any claim arising from any good faith act or omission under this section.

Sec. 209. Freedom from seclusion and restraint.

New
§ 7-1231.09

(a) Consumers have the right to be free from seclusion and restraint of any form that is not medically necessary or that is used as a means of coercion, discipline, convenience, or retaliation by staff.

(b) Seclusion or restraint may only be used by:

(1) Hospitals when administering inpatient services;

(2) Residential treatment facilities licensed pursuant to section 948 of Title 29 of the District of Columbia Municipal Regulations (Standards for Participation of Residential Treatment Centers for Children and Youth); and

(3) Mental health crisis emergency programs certified by the Department, if rules authorizing such use are promulgated by the Department.

(c) Seclusion or restraint can be used only in an emergency when:

(1) The use of seclusion or restraint is, in the written opinion of the attending

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physician, necessary to prevent serious injury to the consumer or others;

(2) Less restrictive interventions have been considered and determined to be ineffective to prevent serious injury to the consumer or others; and

(3) Pursuant to the written order of the attending physician, which shall never be written as a standing order or on an as-needed basis, and which must be followed by consultation with the consumer's treating physician as soon as possible if the order was not written by the consumer's treating physician.

(d) Any use of seclusion or restraint shall be:

(1) Implemented in the least restrictive manner possible;

(2) Implemented in accordance with safe and appropriate seclusion or restraint techniques;

(3) Continually assessed, monitored, and reevaluated; and

(4) Ended at the earliest possible time.

(e) All staff having direct consumer contact must have ongoing education and training in the proper and safe use of seclusion and restraint techniques and in alternative methods for handling behavior, symptoms, and situations that traditionally have been treated through the use of seclusion or restraint.

(f) Any consumer to whom seclusion or restraint is applied must be seen by his or her attending or treating physician within one hour after the initiation of the seclusion or restraint. The physician shall evaluate the continued need for seclusion or restraint, and upon expiration of the original order, may renew the original order only within the following durational limitations:

(1) Four hours for adults;

(2) Two hours for children and adolescents 9 to 17 years of age; and

(3) One hour for children under 9 years of age.

(g) No use of seclusion or restraint may extend beyond a 24-hour period.

(h) Seclusion and restraint may not be used simultaneously unless the consumer is:

(1) Continually monitored face-to-face by an assigned staff member; or

(2) Continually monitored by an assigned staff member using both video and audio equipment that is in close proximity to the consumer.

(i) Providers must report to the Department any death that occurs while a consumer is secluded or restrained and any death that could reasonably have been the result of the use of seclusion or restraint.

(j) The Department shall establish standards for the use of seclusion and restraint that minimize circumstances giving rise to the use of seclusion and restraint and that maximize safety when seclusion or restraint is used. The standards shall:

(1) Require that provider staff receive effective, ongoing, competency-based education and training on:

(A) Understanding and appropriately responding to the underlying bases for behaviors exhibited by consumers;

(B) The use of de-escalation and other non-physical intervention

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techniques;

(C) The safe use of seclusion and restraint; and

(D) The staff's own behaviors and how their behaviors can escalate or diffuse the behaviors of consumers;

(2) Require adequate staff levels and configurations, based on a variety of factors, including the physical environment, consumer diagnoses, co-occurring conditions, acuity levels, and age or developmental status of consumers;

(3) Establish a post-seclusion and post-restraint process for use by providers, which shall include debriefings with the consumer, the consumer's family members or personal representatives if the consumer so consents, and staff about the events giving rise to the incident and how collection of that information will help prevent recurrences. The process shall include counseling for the consumer and staff for any trauma that may have resulted from the use of seclusion or restraint; and

(4) Require providers to establish a performance improvement program, which shall include, at a minimum, the collection and analysis of relevant data for reducing the occurrence of emergency situations that precipitate the use of seclusion and restraint and for increasing its safety when used.

Sec. 210. Information privacy.

New
§ 7-1231.10

(a) Consumers shall be informed of their right to access their mental health information records and may request correction of inaccurate information contained in the records in accordance with the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1201.01 *et seq.*).

(b) Information and records about a consumer's mental health services and mental health supports shall be treated confidentially in accordance with the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1201.01 *et seq.*).

Sec. 211. Evaluation of mental health services and supports.

New
§ 7-1231.11

Consumers shall have an opportunity to participate in periodic evaluation of mental health services and mental health supports, including evaluation of providers. The opportunity shall extend to members of the consumer's family or personal representative.

Sec. 212. Grievances.

New
§ 7-1231.12

(a) The Department shall, in accordance with the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), promulgate rules that:

(1) Require providers to adopt a policy and procedure regarding the timely review and resolution of grievances brought to the provider by its consumers. All grievances resolved in this manner shall be reduced to writing and reported to the Department in a manner established by the Department; and

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(2) Establish a process for the resolution of grievances, which shall include, at a minimum:

(A) The opportunity for any person to file a grievance with the Department regarding mental health services or mental health supports or violations of or limitations on consumer rights or protections provided by this title or other applicable law. Unless a grievance involves an allegation of abuse or neglect of a consumer, a grievance filed by a third party may be reviewed only if the consumer so consents;

(B) Assistance for any consumer who needs help in filing his or her grievance, orally or in writing;

(C) The right of all consumers to be represented throughout the grievance process;

(D) Definite time frames for each stage of the grievance resolution process, including expedited review for any grievance alleging abuse or neglect;

(E) A requirement that mental health services and mental health supports continue without limitation, reduction, or termination pending the resolution of a grievance regarding those services or supports;

(F) Requirements for education and assistance to consumers, provider staff, and third parties about consumer rights and the grievance resolution system; and

(G) Prohibitions on retaliatory actions such as reprisal, restraint, interference, coercion, or discrimination by the Department or other providers against persons who file grievances.

(b)(1) Any grievance filed with the Department shall receive a prompt and impartial review through the Director or the Director's designee, who shall refer the grievance to an external reviewer in accordance with rules established by the Department.

(2) The external reviewer shall conduct a simple and immediate examination of the grievance as follows:

(A) The external reviewer shall facilitate informal resolution of the grievance; or

(B) If such informal resolution is not possible, the external reviewer shall make a determination either sustaining or denying the grievance, which shall include recommendations for remedying the grievance, as appropriate.

(3) The external reviewer shall conduct his or her examination of the grievance in accordance with rules established by the Department, and shall document the outcome of the external review process through a written report submitted to the Director and the parties.

(4) Any party who is dissatisfied with the outcome of the external review process may request a fair hearing, which shall meet the requirements of a contested case proceeding under section 10 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-509).

(c) Nothing in this section shall be construed to restrict or limit the rights, procedures, and remedies available under federal or local laws protecting the rights of adults or children

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or youth with mental disabilities. If an aggrieved party files suit in a court of law in pursuit of such otherwise available remedies, action on any related grievance filed by the aggrieved party with the Department shall be stayed pending a final decision by the court.

Sec. 213. Retention of civil rights.

**New
§ 7-1231.13**

Consumers shall be presumed legally competent and retain all civil rights, unless otherwise limited by order of the court. As used in this section, the term "civil rights" shall include, but not be limited to, the rights to:

- (1) Contract;
- (2) Hold a professional, occupational, or motor vehicle driver's license;
- (3) Marry or obtain a divorce, annulment, or dissolution of marriage;
- (4) Make a will;
- (5) Hold or dispose of property;
- (6) Vote;
- (7) Sue and be sued;
- (8) Serve on a jury; and
- (9) Enjoy all benefits and privileges guaranteed by law.

Sec. 214. Consent of youth receiving mental health services or mental health supports.

**New
§ 7-1231.14**

(a) Except for those minors hospitalized pursuant to the emergency provisions in subchapter III of Chapter 5 of Title 21 of the District of Columbia Official Code, or pursuant to an order of commitment under D.C. Official Code § 21-545 or D.C. Official Code § 16-2315, § 16-2320, or § 16-1321, no minor may be admitted for inpatient mental health services absent the consent of a parent or legal guardian.

(b)(1) A provider may deliver outpatient mental health services and mental health supports other than medication to a minor who is voluntarily seeking such services without parental or guardian consent if the provider determines that:

- (A) The minor is knowingly and voluntarily seeking the services; and
- (B) Provision of the services is clinically indicated for the minor's well-being.

(2) Mental health services and mental health supports provided to a minor without the consent of a parent or guardian pursuant to subsection (b)(1) of this section shall be limited to a period of 90 days. At the end of the 90-day period, the provider shall either:

(A) Make a new determination pursuant to subsection (b)(1) of this section that provision of services to the minor without parental or guardian consent is voluntarily sought by the minor and continues to be clinically indicated;

(B) Terminate the services; or

(C) With the consent of the minor, notify the parent(s) or guardian to obtain consent to provide further outpatient services.

(3) The provider shall fully document the reasons for its determinations

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regarding delivery of mental health services to minors, and shall include such documentation in the minor's clinical record.

(4) A provider may conduct an initial interview of a minor who appears to be voluntarily seeking outpatient mental health services and mental health supports without parental or guardian consent or involvement in order to determine whether the criteria of subsection (b)(1) of this section are satisfied.

(c)(1) Subject to the provisions in section 208, and absent an emergency, a hospital providing inpatient mental health services to a minor who is under 16 years of age may not administer psychotropic medication to the minor without the consent of a parent or guardian or the authorization of the court;

(2) A minor who is 16 years of age or older may consent to the administration of psychotropic medications, without the consent of a parent or guardian or the authorization of the court, only under the following circumstances:

(A) When the minor's parent(s) or guardian is not reasonably available to make a decision regarding the administration of psychotropic medication and the treating physician determines that the minor has capacity to consent, consistent with section 208, and that such medications are clinically appropriate;

(B) When requiring consent of the minor's parent(s) or guardian would have a detrimental effect on the minor, and a determination is made by both the treating physician and a non-treating psychiatrist who is not an employee of the provider that the minor has capacity to consent, consistent with section 208, and that such medications are clinically indicated;

(C) When the minor's parent(s) or guardian refuses to give such consent, and a determination is made by both the treating physician and a non-treating psychiatrist who is not an employee of the provider that the minor has capacity to consent, consistent with section 208, and that such medications are clinically indicated. Notice of the provider's decision to administer medications pursuant to this subsection shall be provided to the parent(s) or guardian in writing.

Sec. 215. Enforcement.

Rights and protections provided in this title shall not be construed to create new causes of action for monetary damages beyond those that currently exist in federal and local law.

**New
§ 7-1231.15**

Sec. 216. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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TITLE III. EFFECTIVE DATE

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Official Code § 47-392.03(a)), a 60-day period of Congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia