

Regular Session, 2003

ACT No. 594

HOUSE BILL NO. 954

BY REPRESENTATIVES WINSTON, SCHWEGMANN, STRAIN, ERDEY,
MCVEA, NEVERS, AND POWELL AND SENATOR SCHEDLER

AN ACT

To amend and reenact R.S. 39:1533(A) and to enact Part IX-A of Chapter 1 of Title 28 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 28:382.1 and 771(E) and Chapter 16 of Title 28 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 28:851 through 856, and R.S. 36:254(H) and 258(H), relative to human services; to provide a statewide framework to govern the delivery of mental health, developmental disabilities, and addictive disorders services funded by appropriations from the state; to create the Florida Parishes Human Services Authority; to provide for powers, duties, and functions of the authority; to create a governing board and provide for membership, powers, duties, and functions; to provide for the transfer of certain powers, duties, and functions from the Department of Health and Hospitals to the authority; to provide for transfer of employees; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 28:382.1 and 771(E) are hereby enacted to read as follows:

§382.1. Framework for human services delivery; development; implementation

A. The secretary of the Department of Health and Hospitals shall develop a statewide framework to govern the delivery of mental health, developmental disabilities, and addictive disorders services funded by appropriations from the state.

(1) The framework shall be developed through a statewide planning process involving Jefferson Parish Human Services Authority, Capital Area Human Services District, Florida Parishes Human Services Authority, other human service districts or authorities, consumers, family members, advocates, nonstate providers and Department of Health and Hospitals offices in the fields of mental health, developmental disabilities, and addictive disorders.

(2) The framework shall be implemented through rules and regulations promulgated in accordance with the Administrative Procedure Act to be effective not later than July 1, 2004, with the exception of individual provider agreements or contracts as provided in Subsection B of this Section, which shall be implemented not later than July 1, 2005. Nothing in this Section shall be construed to preclude or impede the creation of human service districts or authorities prior to implementation of the statewide framework provided, however, that no functions or funds shall be transferred from the department to the authority nor services or programs performed by the authority prior to July 1, 2004.

B. The framework shall include a state human services plan that sets forth the exclusive means for the delivery of community-based mental health, developmental disability, and addictive disorders

services funded by appropriations from the state including but not limited to the following:

- (1) Vision and mission for the state human services system.
- (2) Definitions of eligible and priority populations.
- (3) Definitions of core and targeted services. Core services are minimum and essential services available to eligible populations in all urban and rural areas. Targeted services are mandated specialized services available to priority populations on a regional or statewide basis.
- (4) Standards for the geographic scope of service delivery, including that a human services district or authority be comprised of at least one Department of Health and Hospitals region.
- (5) Standards for processes of intake and access to institutional and community services.
- (6) Unified client record for services by disability and for individuals with co-occurring disorders, within the confidentiality statutes and federal HIPAA requirements.
- (7) Formal mechanisms for interagency coordination of services to children and adults with multiple public systems involvement and for coordination with the office of public health and the Medicaid program.
- (8) Statewide strategies for the provision of technical assistance on best practices in service delivery.
- (9) Statewide strategies for funding services, including but not limited to formulas for the equitable allocation of state appropriations and financial incentives for the development and use of community-based alternatives to mental health, developmental disabilities, and addictive disorders institutional services.

(10) Statewide monitoring of human services system performance, including minimum data set and systems required for reliable outcome measurement.

(11) Statewide monitoring to assure quality of care and protection of consumer rights in the delivery of services.

(12) Uniform budgeting and accounting requirements for funds appropriated by the state.

(13) Standards for provider agreements or contracts for services funded by appropriations from the state to assure compliance with the state human services plan and applicable state and federal law, rules, regulations, and court orders and provide remedies for correction of noncompliance and sanctions for failure to comply.

C. Notwithstanding the provisions of R.S. 36:257, the secretary may reorganize Department of Health and Hospitals agencies and offices, exclusive of Jefferson Parish Human Services Authority, Capital Area Human Services District, Florida Parishes Human Services Authority, and other human service districts and authorities, to support the transition of state roles and functions from direct service delivery to policy setting and contract monitoring of direct service delivery.

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§771. Office for addictive disorders; functions related to addictive disorders

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E. The services and programs as described in Subsections A and B, excluding the operation and management of any inpatient facility for developmental disabilities and mental health under the jurisdiction of

the department, shall be the responsibility of and shall be performed by the Florida Parishes Human Services Authority for the parishes of Livingston, St. Helena, St. Tammany, Tangipahoa, and Washington only. The department shall not be responsible for and shall not perform these services and programs in said parishes provided that if funds are not appropriated by the legislature for the authority to provide these services and programs in said parishes, the department shall continue to be responsible for and shall perform these services and programs in said parishes.

Section 2. Chapter 16 of Title 28 of the Louisiana Revised Statutes of 1950, comprised of R.S. 28:851 through 856, is hereby enacted to read as follows:

**CHAPTER 16. FLORIDA PARISHES HUMAN
SERVICES AUTHORITY**

§851. Definitions

As used in this Chapter and unless the context clearly requires otherwise:

(1) "Authority" means the Florida Parishes Human Services Authority.

(2) "Board" means the governing body of the authority.

(3) "Department" means the Department of Health and Hospitals.

(4) "Parishes" means the parishes of Livingston, St. Helena, St. Tammany, Tangipahoa, and Washington only.

§852. Florida Parishes Human Services Authority; creation; jurisdiction; domicile

A. The Florida Parishes Human Services Authority is hereby created as a special authority which, through its board, shall direct the operation and management of community-based programs and services relative to mental health, developmental disabilities and substance abuse services, including the Alcohol and Drug Unit and Fontainebleu Treatment Center, for the parishes of Livingston, St. Helena, St. Tammany, Tangipahoa, and Washington.

B. The domicile of the authority shall be Covington, Louisiana.

§853. Governing board; membership; appointment; terms; compensation

A. The authority shall be governed by a board of nine members. The board shall include three residents from the parish of St. Tammany; two residents each from the parishes of Livingston and Tangipahoa; and one resident each from the parishes of St. Helena and Washington.

B.(1) The members shall be appointed by the governing authority of each parish. All appointments shall require ratification by a plurality of the legislative delegation representing the five parishes which are included in the authority. The initial appointments shall be made no later than January 1, 2004.

(2) Parishes with two board members shall be represented by one practitioner and one advocate or consumer. Both shall have a history of involvement in one or more of the three areas of service. The advocates shall have demonstrated an active history of support and involvement in one or more of the services areas. Consumers shall

have received services in one or more of the three service areas provided by the authority.

(3) The appointments shall be professionals or active advocates in the fields of mental health, developmental disabilities, or substance abuse services.

C.(1) The initial terms of office for the appointees from the parish of St. Tammany shall be one, two, and three years, to be determined by the appointing authority. The initial terms of the appointees from the parishes of Livingston and Tangipahoa shall be one and three years, to be determined by the appointing authority. The initial terms of the appointees from the parishes of St. Helena and Washington shall be two years.

(2) All subsequent appointees shall serve terms of three years. No board member shall serve more than two consecutive three-year terms after his initial term.

D. The chairman shall be elected by the board for a term established under the board's bylaws.

E. Each board member shall serve without compensation but shall be reimbursed for expenses and mileage at the same rate set by the division of administration for state employees for each day in actual attendance at board meetings or for representing the board in an official board-approved activity.

F. No member of the board or of his immediate family shall own or have any interest or part in any public or private organization, business, company, or entity conducting business of any kind with the authority.

G. The board shall adopt bylaws to provide for the governance of the board within ninety days of being established. Such bylaws shall include but not be limited to:

(1) Procedures for the election of board officers, including terms of office and methods and grounds for removal.

(2) Procedures and grounds for the removal of any board member. Grounds for removal shall include conviction of a felony or may include failure to meet board attendance as provided in the bylaws.

H. Procedures for filling a vacancy created by the removal, resignation, or death of any board member prior to the end of the board member's term shall follow those used for initial appointments.

I. All members of the board and employees of the authority shall be subject to the Code of Governmental Ethics.

§854. Authority; functions, powers, and duties

A. The authority shall:

(1) Perform the functions which provide community-based services and continuity of care for the prevention, detection, treatment, rehabilitation, and follow-up care of mental and emotional illness. The operation of the Southeast Louisiana Hospital shall remain independent of the authority.

(2) Be responsible for community-based programs and functions relating to the care, diagnosis, training, treatment, case management, and education of the mentally retarded, the developmentally disabled, and the autistic.

(3) Perform residential and community-based functions relating to the care, diagnosis, training, treatment, and education of alcohol or drug abusers and the prevention of addictive disorders. The agreement

between the authority and the secretary shall provide for the gradual assumption of these community-based public health services which will be determined to be feasible through consultation with the office of public health.

(4) With the funding provided pursuant to R.S. 36:254(H), maintain services in Paragraphs (1) through (3) on at least the same level as the state maintains similar programs in other parishes or regions of the state.

(5) The provisions of Paragraphs (1) through (3) of this Subsection shall not include the following:

(a) Operation and management of Southeast Louisiana Hospital nor the Hammond Developmental Center.

(b) Operation, management, and performance of functions and services relating to the office of public health, Southeast Louisiana Hospital, nor the Hammond Developmental Center, including but not limited to regulatory function as performed by sanitarians and engineers within the office of public health pursuant to R.S. 40:4 through 10, R.S. 40:2701 et seq., Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950, R.S. 37:2101 et seq., the State Sanitary Code, and all other relevant federal and state law, rules, and regulations.

(c) Operation, management, and performance of functions and services relating to the Louisiana Vital Records Registry and the collection of vital statistics within the office of public health pursuant to R.S. 40:5, R.S. 40:32 through 79, R.S. 44:402, and R.S. 40:1299.35.6, including the Putative Father Registry and the vital records management information system.

(d) Operation, management, and performance of functions and services relating to laboratory analyses by the state division of laboratories with the office of public health in the area of personal and environmental health.

(e) Operation, management, and performance of functions and services relating to education provided by or authorized for any state or local education department or agency.

(f) Community-based functions which provide services and continuity of care for education, prevention, detection, treatment, rehabilitation, and follow-up care relating to personal health.

B. In addition to its function as provided in Subsection A of this Section, the authority shall have the following powers and duties:

(1) To have possession and operating control of, but not title to, all real and personal property owned by the state and dedicated to the provision of community-based mental health, developmental disabilities, and addictive disorders in the parishes transferred to the authority. The state shall continue to be responsible for the maintenance of those properties which are provided by the state on the effective date of this Chapter.

(2) To be contracted with and enter into contracts of every nature in compliance with this Chapter and other state laws.

(3) To acquire movable property by lease, purchase, donation, or otherwise and to obtain title to same in its own name. The authority may lawfully sell or dispose of the movable property. Inventory and other property records shall be the responsibility of the authority.

(4) To establish community-based mental health, developmental disabilities, and addictive disorder program policies in conformance with applicable state and federal laws and regulations.

(5) With the funding provided pursuant to R.S. 36:254(H), to maintain services in community-based mental health, developmental disabilities, and addictive disorders at least the same level as the state maintains similar programs in other parishes or regions of the state.

(6) To employ an executive director to oversee the operations of the authority and who will be responsible for the administration and management of all aspects of the authority. The director shall report periodically to the board as stipulated in the bylaws.

(7) To establish performance indicators to determine the quality of services delivered by the authority and to ensure that the quality of services delivered is higher than the quality of services previously delivered by the state.

C. The board shall collect or cause to be collected all monies due the authority for the provision of services pursuant to statutory requirements and any other form of contract or agreement by which the authority provides services and levies charges therefor. The authority may retain all federal funds, self-generated funds, and any funds collected under the Medical Assistance Program (Title XIX of the Social Security Act) in excess of funds provided in the General Appropriations Act which are collected for the provision of services.

D. The authority shall constitute a body corporate in law, with all of the powers of a corporation, including the power to sue and be sued. The authority shall also have all the powers and rights conferred by this Chapter and the power to perform any other act in its corporate

capacity and in its corporate name which is necessary and proper for effectuating the purposes for which the authority was created. The authority shall constitute an authority within the meaning of Article VI, Section 19 of the Constitution of Louisiana, shall be a political subdivision of the state, and enjoy all rights, powers, and privileges enjoyed by other political subdivisions of the state under the constitution and laws of the state, excluding the rights to incur long-term debt, issue bonds, and levy taxes and special assessments.

E.(1) The board shall submit an annual written report to the legislative delegation representing the five parishes included within the authority at least thirty days prior to each regular session. The report shall include the audited financial statements of the authority as required in R.S. 24:513. The report shall also include a summary of the utilization of traditional providers of mental health, developmental disabilities, and addictive disorder services in the parishes transferred to the authority.

(2) The board shall submit any additional reports or information to bona fide grantors or governmental bodies, upon written request.

F.(1) Notwithstanding any provision of state law to the contrary, the authority and the department shall share access to each other's client case records of clients for whom they both provide services, to the extent that access is not prohibited by any contrary provision of federal law or regulation.

(2) For the purposes of this Subsection, "case records" include social service records, medical services records, probation and parole records, records of foster care services, records and investigations on

abuse or neglect of children or adults, and records of child welfare services administered by the department.

§855. Functions; transferred

The secretary of the department and the board are hereby authorized to enter into all agreements necessary to transfer the functions and funds relative to the operation of community-based mental health, developmental disabilities, and addictive disorder services for the parishes of Livingston, St. Helena, St. Tammany, Tangipahoa, and Washington from the department to the authority. Such agreement shall be promulgated by the secretary of the department and the authority by rule in accordance with the Administrative Procedure Act. As part of the agreement, the board shall agree to make a good-faith effort to continue whenever possible to use providers within the authority who have traditionally provided community-based mental health, developmental disabilities, and addictive disorder services for the state.

§856. Employees; transferred

All employees engaged in the performance of duties relating to the functions of the programs and services transferred from the Department of Health and Hospitals to the authority are hereby transferred to the authority to carry out the functions of the authority and its programs and services and shall continue to perform their duties subject to applicable state civil service laws, rules, and regulations. All employees of the authority shall participate in and be covered by state services, systems, and programs for which provision is made in comprehensive liability, automobile, workers' compensation, and fire and extended coverage insurance and medical malpractice liability laws

as provided for in R.S. 39:1527 et seq. and R.S. 40:1299.39 et seq. The authority, including its contract service delivery employees, may participate in and be covered by the state program for medical malpractice notwithstanding the prohibition in R.S. 40:1299.39(A)(1)(b) and (M) to the contrary, provided that the authority or covered contract service delivery employee has paid the appropriate premium to the office of risk management. All employees of the authority shall be members of the state civil service system and the Louisiana State Employees' Retirement System.

Section 3. R.S. 36:254(H) and 258(H) are hereby enacted to read as follows:

§254. Powers and duties of the secretary of the Department of Health and Hospitals

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H.(1) The functions relative to the operation and management of community-based mental health, developmental disabilities, and addictive disorder services for the parishes of Livingston, St. Helena, St. Tammany, Tangipahoa, and Washington transferred in accordance with R.S. 28:851 et seq. shall be the responsibility of and shall be performed by the Florida Parishes Human Services Authority. If funds are not appropriated by the legislature for the authority to perform these functions in those parishes, the functions shall be the responsibility of and shall be performed by the department in those parishes.

(2) Funds appropriated by the legislature for the costs of providing those functions and services transferred from the department to the authority shall be included in the department budget and shall be transferred from the department to the authority in accordance with the

agreement between the secretary of the department and the authority.
The secretary shall provide for the inclusion of such funds in the
department budget request. Funding for the authority from such source
shall be at least at the same level and from the same means of financing
as provided for similar programs funded through the department budget
in other parishes or regions of the state.

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§258. Offices; purposes and functions

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H. Notwithstanding the provisions of Subsections C, D, and E,
the Florida Parishes Human Services Authority shall be responsible for
and shall perform the functions relative to the operation and
management of mental health, developmental disabilities, and addictive
disorder services for the parishes of Livingston, St. Helena, St.
Tammany, Tangipahoa, and Washington, and the department shall not
be responsible for nor perform such functions.

Section 4. R.S. 39:1533(A) is hereby amended and reenacted to read
as follows:

§1533. Self-Insurance Fund

A. There is hereby created in the Department of the Treasury a
special fund to be known as the "Self-Insurance Fund". The fund shall
consist of all premiums paid by state agencies under the state's risk
management program as established by this Chapter, the investment
income earned from such premiums and commissions retained as
provided by Title 39. This fund shall be used only for the payment of
losses incurred by state agencies under the self-insurance program,
premiums for insurance obtained through commercial carriers,

administrative expenses associated with the management of the state’s risk, law enforcement officers and firemen’s survivors benefits as provided for in R.S. 33:1981(C) and 2201(C), the payment of losses incurred by the Jefferson Parish Human Services Authority in accordance with R.S. 28:831(J), the payment of losses incurred by the Capital Area Human Services District in accordance with R.S. 46:2666, the payment of losses incurred by the Florida Parishes Human Services Authority in accordance with R.S. 28:856, and the funding of the legal services, such funds to be administered by the commissioner of administration.

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Section 5. The provisions of this Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____