

CHAPTER 78  
MENTAL HEALTH, RETARDATION AND  
DEVELOPMENTAL DISABILITIES

S. F. 572

AN ACT relating to the administration and financing of mental health and mental retardation services, and providing effective dates.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. NEW SECTION. FINDINGS AND PURPOSE. The general assembly finds that community-based care, provided in many parts of the state by highly autonomous community mental health and mental retardation service providers working cooperatively with state mental health and mental retardation facilities, is meeting most mental health and mental retardation service needs of those Iowans to whom this care is available. However, the general assembly recognizes that heavy reliance on property tax funding for mental health and mental retardation services has restricted uniform availability of this care. Consequently, greater efforts should be made to assure close coordination and continuity of care for those persons receiving publicly supported mental health and mental retardation services in Iowa. It is the purpose of sections 1 through 20 of this Act to continue and to strengthen the mental health and mental retardation services now available in the state of Iowa, to make these services conveniently available to all persons in this state upon a reasonably uniform financial basis, and to assure the continued high quality of these services.

Sec. 2. NEW SECTION. DEFINITIONS. As used in sections 1 through 20 of this Act:

1. "Commission" means the mental health and mental retardation commission.
2. "Commissioner" means the commissioner of social services.
3. "Department" means the department of social services.
4. "Division" means the division of mental health, mental retardation, and developmental disabilities of the department of social services.
5. "Director" means the director of the division of mental health, mental retardation, and developmental disabilities of the department of social services.
6. "Comprehensive services" means the mental health services mandated by the Community Mental Health Centers Amendments of 1975, 42 U.S.C. sec. 2689 (1976, Supp. II, 1978, and Supp. III, 1979), and the mental retardation services delineated in the annual state mental retardation plan.

Sec. 3. NEW SECTION. DIVISION OF MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES--STATE MENTAL HEALTH AUTHORITY.

1. The division is designated the state mental health authority as defined in 42 U.S.C. sec. 201(m)(1976) for the purpose of directing the benefits of the National Mental Health Act, 42 U.S.C. sec. 201 et seq. This

designation does not preclude the board of regents from authorizing or directing any institution under its jurisdiction to carry out educational, prevention and research activities in the areas of mental health and mental retardation. The division may contract with the board of regents or any institution under the board's jurisdiction to perform any of these functions.

2. The division is designated the state developmental disabilities agency for the purpose of directing the benefits of the Developmental Disabilities Services and Facilities Construction Act, 42 U.S.C. sec. 6001 et seq.

3. The division is administered by the director. The director of the division shall be qualified in the general field of mental health or mental retardation services, and preferably in both fields. The director shall have at least five years of experience as an administrator in one or both of these fields.

Sec. 4. NEW SECTION. DIRECTOR'S DUTIES.

1. The director shall:

a. Prepare and administer state mental health and mental retardation plans for the provision of comprehensive services within the state and prepare and administer the state developmental disabilities plan. The director shall consult with the state department of health, the board of regents or a body designated by the board for that purpose, the office for planning and programming or a body designated by the director of the office for that purpose, the department of public instruction, the department of substance abuse, the department of job service and any other appropriate governmental body, in order to facilitate coordination of services provided to mentally ill, mentally retarded, and developmentally disabled persons in this state. The state mental health and mental retardation plans shall be consistent with the state health plan, shall be prepared in consultation with the state health coordinating council, and shall incorporate county mental health and mental retardation plans.

b. Assist county coordinating boards in developing a program for community mental health and mental retardation services within the state based on the need for comprehensive services, and the services offered by existing public and private facilities, with the goal of providing comprehensive services to all persons in this state who need them.

c. Emphasize the provision of outpatient services by community mental health centers and local mental retardation providers as a preferable alternative to inpatient hospital services.

d. Encourage and facilitate coordination of services with the objective of developing and maintaining in the state a mental health and mental retardation service delivery system to provide comprehensive services to all persons in this state who need them, regardless of the place of residence or economic circumstances of those persons.

e. Encourage and facilitate applied research and preventive educational activities related to causes and appropriate treatment for mental illness and mental retardation. The director may designate, or enter into agreements with, private or public agencies to carry out this function.

f. Promote coordination of community-based services with those of the state mental health institutes and hospital-schools.

g. Administer state programs regarding the care, treatment, and supervision of mentally ill or mentally retarded persons, except the programs administered by the state board of regents.

h. Administer and control the operation of the state institutions established by chapters 222 and 226, and any other state institutions or facilities providing care, treatment, and supervision to mentally ill or mentally retarded persons, except the institutions and facilities of the state board of regents.

i. Administer the state community mental health and mental retardation services fund established by section 7 of this Act.

j. Act as compact administrator with power to effectuate the purposes of interstate compacts on mental health.

k. Establish and maintain a data collection and management information system oriented to the needs of patients, providers, the department, and other programs or facilities.

l. Prepare a division budget and reports of the division's activities.

m. Advise the merit employment commission on recommended qualifications of all division employees.

n. Establish suitable agreements with other state agencies to encourage appropriate care and to facilitate the coordination of mental health, mental retardation, and developmental disabilities services.

o. Provide consultation and technical assistance to patients' advocates appointed pursuant to section 229.19, in cooperation with the judicial system and the care review committees appointed for county care facilities pursuant to section 135C.25.

p. Provide consultation and technical assistance to patients' advocates appointed pursuant to section 222.59.

q. Provide technical assistance to agencies and organizations, to aid them in meeting standards which are established, or with which compliance is required, under statutes administered by the director, including but not limited to chapters 227 and 230A.

r. Recommend and enforce minimum accreditation standards for the maintenance and operation of community mental health centers under section 230A.16.

s. In cooperation with the state department of health, recommend and enforce minimum standards under section 34 of this Act for the care of and services to mentally ill and mentally retarded persons residing in county care facilities.

t. In cooperation with the state department of health, recommend minimum standards for the maintenance and operation of public or private facilities offering services to mentally ill or mentally retarded persons, which are not subject to licensure by the department or the state department of health.

2. The director may:

a. Apply for, receive, and administer federal aids, grants, and gifts for purposes relating to mental health, mental retardation, and developmental disabilities services or programs.

b. Establish mental health and mental retardation services for all institutions under the control of the commissioner of social services and

establish an autism unit, following mutual planning with and consultation from the medical director of the state psychiatric hospital, at an institution or a facility administered by the director to provide psychiatric and related services and other specific programs to meet the needs of autistic persons as defined in Acts of the Sixty-ninth General Assembly, 1981 Session, Senate File 130, section 424, subsection 13, paragraph b, subparagraph 2, and to furnish appropriate diagnostic evaluation services.

c. Establish and supervise suitable standards of care, treatment, and supervision for mentally ill and mentally retarded persons in all institutions under the control of the commissioner of social services.

d. Appoint professional consultants to furnish advice on any matters pertaining to mental health and mental retardation. The consultants shall be paid as provided by an appropriation of the general assembly.

Sec. 5. NEW SECTION. MENTAL HEALTH AND MENTAL RETARDATION COMMISSION.

1. A mental health and mental retardation commission is established as the state policy-making body for the provision of mental health and mental retardation services, consisting of fifteen members appointed to three-year staggered terms by the governor and subject to confirmation by the senate. Commission members shall be appointed on the basis of interest and experience in the fields of mental health or mental retardation, in a manner so that, if possible, the composition of the commission will comply with the requirements of the Community Mental Health Centers Amendments of 1975, 42 U.S.C. sec. 2689t(a)(1976) relative to a state mental health advisory council, and so as to insure adequate representation from both the mental health and mental retardation fields. Four members of the commission shall be members of county boards of supervisors at the time of their appointment to the commission. Two members of the commission shall be members of county mental health and mental retardation coordinating boards at the time of their appointment to the commission. One member of the commission shall either be an active board member of a community mental health center or an active member of the Iowa mental health association at the time of appointment to the commission. One member of the commission shall be an active member of either a community mental retardation agency or the Iowa association for retarded citizens at the time of appointment to the commission.

2. The three-year terms shall begin and end as provided in section 69.19. Vacancies on the commission shall be filled as provided in section 2.32. A member shall not be appointed for more than two consecutive three-year terms.

3. Members of the commission shall qualify by taking the oath of office prescribed by law for state officers. At its first meeting of each year, the commission shall organize by electing a chairperson and a vice chairperson for terms of one year. Commission members are entitled to forty dollars per diem and reimbursement for actual and necessary expenses incurred while engaged in their official duties, to be paid from funds appropriated to the department.

Sec. 6. NEW SECTION. DUTIES OF COMMISSION.

1. The commission shall:

a. Advise the director on administration of the overall state plans for comprehensive services.

b. Adopt necessary rules pursuant to chapter 17A which relate to mental health and mental retardation programs and services.

c. Adopt standards for accreditation of community mental health centers and comprehensive community mental health programs recommended under section 230A.16.

d. Adopt standards for the care of and services to mentally ill and mentally retarded persons residing in county care facilities recommended under section 34 of this Act.

e. Adopt standards for the delivery of mental health and mental retardation services by the division, and for the maintenance and operation of public or private facilities offering services to mentally ill or mentally retarded persons, which are not subject to licensure by the department or the state department of health, and review the standards employed by the department or the state department of health for licensing facilities which provide services to the mentally ill or mentally retarded persons.

f. Assure that proper appeal procedures are available to persons aggrieved by decisions, actions, or circumstances relating to accreditation.

g. Award grants from the special allocation of the state community mental health and mental retardation services fund pursuant to section 11 of this Act, as well as other moneys that become available to the division for grant purposes.

h. Review and rank applications for federal mental health grants prior to submission to the appropriate federal agency.

i. Annually submit to the governor and the general assembly:

(1) A report concerning the activities of the commission.

(2) Recommendations formulated by the commission for changes in law and for changes in the rules adopted by the auditor of state under section 10 of this Act.

j. Beginning not later than January 1, 1985, and continuing once every two years thereafter, submit to the governor and the general assembly an evaluation of:

(1) The extent to which mental health and mental retardation services stipulated in the state plans are actually available to persons in each county in the state.

(2) The cost effectiveness of the services being provided by each of the state mental health institutes established under chapter 226 and state hospital-schools established under chapter 222.

(3) The cost effectiveness of programs carried out by randomly selected providers receiving money from the state community mental health and mental retardation services fund established under section 7 of this Act.

k. Advise the director, the council on social services, the governor, and the general assembly on budgets and appropriations concerning mental health and mental retardation services.

1. Meet with the state developmental disabilities planning council at least twice a year for the purpose of coordinating mental health, mental retardation, and developmental disabilities planning and funding.

2. Notwithstanding section 217.3, subsection 6, the commission may adopt the rules authorized by subsection 1, pursuant to chapter 17A, without prior review and approval of those rules by the council on social services.

Sec. 7. NEW SECTION. STATE COMMUNITY MENTAL HEALTH AND MENTAL RETARDATION SERVICES FUND ESTABLISHED.

1. A state community mental health and mental retardation services fund is established in the office of the treasurer of state, which shall consist of the amounts appropriated to the fund by the general assembly for each fiscal year. Before completion of the department's budget estimate as required by section 8.23, the department shall determine and include in the estimate the amount which should be appropriated to the fund for the forthcoming fiscal period in order to implement the purpose stated in section 1 of this Act.

2. The state community mental health and mental retardation services fund for each fiscal year shall be divided into two parts, the general allocation and the special allocation. The general allocation is equal to eighty percent and the special allocation is equal to twenty percent of the total appropriation.

Sec. 8. NEW SECTION. DISTRIBUTION OF GENERAL ALLOCATION. A county is entitled to receive annually from the general allocation of the state community mental health and mental retardation services fund a share computed by a formula prescribed pursuant to section 9 of this Act, subject to the requirements of section 10 of this Act. As soon after July 1 of each year as reasonably possible, the director shall certify to the state comptroller the amount to which a county is entitled from the general allocation and the comptroller shall issue warrants in the amounts certified, drawn upon the general allocation in favor of the respective counties. A county shall place the money so received in the county mental health and institutions fund, and shall expend it in the same fiscal year in which it is received and only for the purposes authorized by Acts of the Sixty-ninth General Assembly, 1981 Session, Senate File 130, section 424, subsection 13, paragraph a, subparagraphs (1), (2), and (3), and paragraphs b, c, d, and g.

If a county has not established or is not affiliated with a community mental health center under chapter 230A, the county shall expend a portion of the money received from the general allocation to contract with a community mental health center to provide mental health services to the county's residents. If such a contractual relationship is unworkable or undesirable, the commission may waive the expenditure requirement. However, if the commission waives the requirement, the commission shall address the specific concerns of the county and shall attempt to facilitate the provision of mental health services to the county's residents through an affiliation agreement or other means.

Sec. 9. NEW SECTION. FORMULA FOR DISTRIBUTION OF GENERAL ALLOCATION.

1. The general allocation of the state community mental health and mental retardation services fund shall be distributed to insure that each county participates in the distribution of the funds, to recognize past efforts made by individual counties to support state institutional and community-based services for mentally ill and mentally retarded persons, and to recognize both individual counties as entities and the distribution of the state population across counties.

2. In distributing the general allocation, each county shall receive an amount equal to the sum of the following two factors:

a. Fifty percent of the general allocation divided by a factor of ninety-nine.

b. Fifty percent of the general allocation multiplied by a factor equal to that county's proportionate share of the total state population.

Sec. 10. NEW SECTION. REQUIREMENTS OF COUNTIES RECEIVING GENERAL ALLOCATION MONEY.

1. A county is entitled to receive money from the general allocation of the state community mental health and mental retardation services fund in any fiscal year in an amount determined by section 9 of this Act, if that county:

a. Raised by county levy and expended for mental health and mental retardation services, in the preceding fiscal year, an amount of money at least equal to the amount so raised and expended for those purposes during the fiscal year beginning July 1, 1980.

(1) With reference to the fiscal year beginning July 1, 1980, money "raised by county levy and expended for mental health and mental retardation services" means the total amount levied and expended by the county under Acts of the Sixty-ninth General Assembly, 1981 Session, Senate File 130, section 424, subsection 13 as the subsection read at the time that levy was made, adjusted by a procedure prescribed by rules, which shall be adopted by the auditor of state in consultation with the director, to exclude expenditures other than mental health and mental retardation expenditures which the county made in that fiscal year from the proceeds of that levy.

(2) With reference to a fiscal year beginning on or after July 1, 1981, money "raised by county levy and expended for mental health and mental retardation services" means the total amount of money expended by the county from the county mental health and institutions fund for the purposes authorized by Acts of the Sixty-ninth General Assembly, 1981 Session, Senate File 130, section 424, subsection 13, paragraph a, subparagraphs (1), (2), and (3), and paragraphs b, c, d, and g, exclusive of state money received from the general allocation of the state community mental health and mental retardation services fund and of any third party reimbursement to the county.

(3) A county shall, as soon as reasonably possible after January 1, 1982, begin preparations to adopt and shall by January 1, 1984, implement an accounting and financial reporting procedure for recording expenditures for mental health and mental retardation services, in conformity with rules, which shall be adopted by the auditor of state in consultation with the director and a committee representing appropriate county officials. It is the intent of this subparagraph that the Seventieth General Assembly, at its 1984 Session, reconsider the requirements of paragraph a of this subsection with a view to possible adjustments to more precisely measure each county's financial effort in support of mental health and mental retardation services.

b. Submits or joins other counties in submitting, prior to September 15 of each year, an application for a share of the general allocation for the succeeding fiscal year which is in conformity with subsection 2.

2. An application may be filed by a county or jointly by two or more counties. The application shall consist of:

a. An annual plan to improve or maintain availability and accessibility of comprehensive services to residents of the county or counties, which is found by the director to be in substantial compliance with the requirements of sections 1 through 20 of this Act. The annual plan is in substantial compliance with those requirements if it:

(1) Indicates that the services for which the county or counties intend to use general allocation money are comprehensive services or other services mandated or authorized by law, and are offered by accredited or licensed providers where accreditation or licensure standards are applicable.

(2) Demonstrates the availability and accessibility of comprehensive services by establishing or maintaining formal agreements for purchase of services or grant relationships with providers of services, and by extending eligibility for those services to all residents of the county or counties who are unable to assume the full cost of their care.

(3) Demonstrates effective implementation of an annual plan submitted by the county or counties under this subsection for the preceding fiscal year.

b. Evidence that each county is in compliance with subsection 1, paragraph a.

3. Each application shall be for a period of at least one year and shall be acted upon as soon as reasonably possible by the director, who shall notify the applicant county or counties of the action on the application no later than November 1 of the year in which the application is submitted. Money from the general allocation shall be disbursed on a quarterly basis to the counties entitled to the money under section 9 of this Act and this section. Counties receiving the money shall submit quarterly financial and plan status reports in the manner prescribed by the director.

4. A county shall return to the treasurer of state, no later than September 30 of each year, for placement in the general allocation of the state community mental health and mental retardation services fund, an amount equal to the amount by which expenditures by the county under Acts of the Sixty-ninth General Assembly, 1981 Session, Senate File 130, section 424, subsection 13, paragraph a, subparagraphs (1), (2), and (3), and paragraphs b, c, d, and g during the fiscal year ending the preceding June 30 were less than the total of that county's share of the general allocation of the state community mental health and mental retardation services fund for that preceding fiscal year.

Sec. 11. NEW SECTION. SPECIAL ALLOCATION. The special allocation of the state community mental health and mental retardation services fund shall be used by the director to administer grants-in-aid, awarded by the commission, to counties, combinations of counties, or their designees to provide to persons in a particular county or area one or more new or expanded community-based mental health or mental retardation services, or to continue those new or expanded services in a subsequent year, in furtherance of the purpose stated in section 1 of this Act. A grant may be made on terms providing for its use by the county or other grantee over a period of time greater than one year, but the entire grant shall be made from money available in the special allocation for the fiscal year during which the grant is made, and the director shall not obligate funds which the director anticipates will be



appropriated in any future fiscal year. Each grant shall be made on terms and conditions agreed to by the director and the grantee. In awarding grants, priority shall be given to proposed projects that enhance deinstitutionalization and provide accessible comprehensive services to geographical areas of the state which do not have those services or which have experienced reductions in those services due to the elimination of programs no longer funded. A proposed project which will offer services other than comprehensive services may be considered for a special allocation grant if the relevancy of the project to the needs of mentally ill and mentally retarded persons is demonstrated to the satisfaction of the commission.

Sec. 12. NEW SECTION. PARTIAL REIMBURSEMENT TO COUNTIES FOR LOCAL INPATIENT MENTAL HEALTH CARE AND TREATMENT.

1. A county which pays, from county funds budgeted under Acts of the Sixty-ninth General Assembly, 1981 Session, Senate File 130, section 424, subsection 13, paragraphs d and g, the cost of care and treatment of a mentally ill person who is admitted pursuant to a preliminary diagnostic evaluation under sections 15 through 18 of this Act for treatment as an inpatient of a hospital facility, other than a state mental health institute, which has a designated mental health program and is a hospital accredited by the accreditation program for hospital facilities of the joint commission on accreditation of hospitals, is entitled to reimbursement from the state for a portion of the daily cost so incurred by the county. However, a county is not entitled to reimbursement for a cost incurred in connection with the hospitalization of a person who is eligible for medical assistance under chapter 249A, or who is entitled to have care or treatment paid for by any other third party payor, or who is admitted for preliminary diagnostic evaluation under sections 15 through 18 of this Act. The amount of reimbursement for the cost of treatment of a local inpatient to which a county is entitled, on a per-patient-per-day basis, is an amount equal to twenty percent of the average of the state mental health institutes' individual average daily patient costs in the most recent calendar quarter for the program in which the local inpatient would have been served if the patient had been admitted to a state mental health institute.

2. A county may claim reimbursement by filing with the director a claim in a form prescribed by the director by rule. Claims may be filed on a quarterly basis, and when received shall be verified as soon as reasonably possible by the director. The director shall certify to the state comptroller the amount to which each county claiming reimbursement is entitled, and the comptroller shall issue warrants to the respective counties drawn upon funds appropriated by the general assembly for the purpose of this section. A county shall place funds received under this section in the county mental health and institutions fund. If the appropriation for a fiscal year is insufficient to pay all claims arising under this section, the comptroller shall prorate the funds appropriated for that year among the claimant counties so that an equal proportion of each county's claim is paid in each quarter for which proration is necessary.

\*\*\*Sec. 13. NEW SECTION. STATE PAYMENT FOR PERSONS WITH NO COUNTY OF LEGAL SETTLEMENT. If a person receives community-based mental health or mental retardation services and has no county of legal settlement or the person's legal settlement is unknown, as determined under sections 252.16 and 252.17, and if neither that person nor another person legally chargeable with that person's support is able to pay for the services, the state shall pay the costs of the services.\*\*\*

Sec. 14. NEW SECTION. AUTHORITY OF DIRECTOR TO LEASE FACILITIES. The director may enter into agreements under which a facility or portion of a facility administered by the director is leased to a department or division of state government, a county or group of counties, or a private nonprofit corporation organized under chapter 504A. A lease executed under this section shall require that the lessee use the leased premises to deliver either comprehensive services or other services normally delivered by the lessee.

Sec. 15. NEW SECTION. PRELIMINARY DIAGNOSTIC EVALUATION.

1. Except in cases of medical emergency, a person shall be admitted to a state mental health institute as an inpatient only after a preliminary diagnostic evaluation by a community mental health center or by an alternative diagnostic facility has confirmed that the admission is appropriate to the person's mental health needs, and that no suitable alternative method of providing the needed services in a less restrictive setting or in or nearer to the person's home community is currently available. The policy established by this section shall be implemented in the manner and to the extent prescribed by sections 16, 17, and 18 of this Act. However, notwithstanding the mandatory language requiring preliminary diagnostic evaluations in this section and sections 16, 17, and 18 of this Act, preliminary diagnostic evaluations shall not be required until the fiscal year for which the general assembly has appropriated moneys to the state community mental health and mental retardation services fund under section 7 of this Act.

2. As used in this section and sections 16, 17, and 18 of this Act, the term "medical emergency" means a situation in which a prospective patient is received at a state mental health institute in a condition which, in the opinion of the chief medical officer, or that officer's physician designee, requires the immediate admission of the person notwithstanding the policy stated in subsection 1.

Sec. 16. NEW SECTION. COUNTY IMPLEMENTATION OF EVALUATIONS. The board of supervisors of a county shall, no later than July 1, 1982, require that the policy stated in section 15 of this Act be followed with respect to admission of persons from that county to a state mental health institute. A community mental health center which is supported, directly or in affiliation with other counties, by that county shall perform the preliminary diagnostic evaluations for that county, unless the performance of the evaluations is not covered by the agreement entered into by the county and the center under section 230A.12, and the center's director certifies to the board of supervisors that the center does not have the capacity to perform the evaluations, in which case the board of supervisors shall proceed under section 18 of this Act.

Sec. 17. NEW SECTION. REFERRALS FOR EVALUATION.

1. The chief medical officer of a state mental health institute, or that officer's physician designee, shall advise a person residing in that county who applies for voluntary admission, or a person applying for the voluntary admission of another person who resides in that county, in accordance with section 229.41, that the board of supervisors has implemented the policy stated in section 15 of this Act, and shall advise that a preliminary diagnostic evaluation of the prospective patient be sought from the appropriate community mental health center or alternative diagnostic facility, if that has not already been done. This subsection does not apply when voluntary admission is sought in accordance with section 229.41 under circumstances which, in the opinion of the chief medical officer or that officer's physician designee, constitute a medical emergency.

2. The clerk of the district court in that county shall refer a person applying for authorization for voluntary admission, or for authorization for voluntary admission of another person, in accordance with section 229.42, to the appropriate community mental health center or alternative diagnostic facility for the preliminary diagnostic evaluation unless the applicant furnishes a written statement from that center or facility which indicates that the evaluation has been performed and that the person's admission to a state mental health institute is appropriate. This subsection does not apply when authorization for voluntary admission is sought under circumstances which, in the opinion of the chief medical officer or that officer's physician designee, constitute a medical emergency.

3. Judges of the district court in that county or the judicial hospitalization referee appointed for that county shall so far as possible arrange for a physician on the staff of or designated by the appropriate community mental health center or alternative diagnostic facility to perform a prehearing examination of a respondent required under section 229.8, subsection 3, paragraph b.

4. The chief medical officer of a state mental health institute shall promptly submit to the appropriate community mental health center or alternative diagnostic facility a report of the voluntary admission of a patient under the medical emergency clauses of subsections 1 and 2. The report shall explain the nature of the emergency which necessitated the admission of the patient without a preliminary diagnostic evaluation by the center or alternative facility.

Sec. 18. NEW SECTION. ALTERNATIVE DIAGNOSTIC FACILITY. If a county is not served by a community mental health center having the capacity to perform the required preliminary diagnostic evaluations, the board of supervisors shall arrange for the evaluations to be performed by an alternative diagnostic facility for the period until the county is served by a community mental health center with the capacity to provide that service. An alternative diagnostic facility may be the outpatient service of a state mental health institute or any other mental health facility or service able to furnish the requisite professional skills to properly perform a preliminary diagnostic evaluation of a person whose admission to a state mental health institute is being sought or considered on either a voluntary or an involuntary basis.

Sec. 19. NEW SECTION. COUNTY MENTAL HEALTH AND MENTAL RETARDATION COORDINATING BOARD.

1. A county board of supervisors, independently or in conjunction with one or more other county boards of supervisors, shall either establish a county or joint county mental health and mental retardation coordinating board or constitute the board or the joint boards of supervisors as the ex officio county mental health and mental retardation coordinating board. If a separate county mental health and mental retardation coordinating board is established, it shall be composed of persons who have demonstrated a concern for mental health and mental retardation services and its size shall be determined by the board or joint boards of supervisors. One or more county supervisors may be named to serve on a separate county mental health and mental retardation coordinating board. If the board or joint boards of supervisors serve ex officio as the county mental health and mental retardation coordinating board, it shall establish an advisory board composed of persons who have demonstrated a concern for mental health and mental retardation services, and who are not governmental officials, to advise the coordinating board with respect to the coordinating board's functions under subsection 2.

2. A county or joint county mental health and mental retardation coordinating board shall:

a. Develop a plan for the provision of mental health and mental retardation services in the county or counties represented by the membership of the board, consistent with the state mental health and mental retardation plans; however, the plan shall only be valid if approved by the county board or boards of supervisors.

b. Distribute, after a county assessment of needed services and available resources, no more than sixty percent of the county's or counties' share of the general allocation of the state community mental health and mental retardation services funds for either mental health or mental retardation services.

c. Prepare an annual fiscal accounting of the use of state moneys appropriated through the state community mental health and mental retardation services fund for use in the respective counties.

d. Nominate potential recipients of grant money made available from or through the director for development of mental health or mental retardation services.

Sec. 20. NEW SECTION. FUTURE STATUS OF DIVISION. The provisions of this Act are repealed effective July 1, 1986. The First Session of the Seventy-first General Assembly meeting in the year 1985 shall review the activities and performance of the division and shall not later than July 1, 1985 make a determination concerning the status and duties of the division.

The program evaluation division of the legislative fiscal bureau shall conduct a program evaluation of the performance of the division and the efficacy of this Act, and provide recommendations and make a final report to the general assembly by January 1, 1985.

An interim committee consisting of members of the senate and house of representatives shall be established to study and evaluate the performance of

the division, the efficacy of this Act, and the recommendations of the final report of the program evaluation division of the legislative fiscal bureau during the 1985 legislative interim. The committee shall evaluate the division's contributions to the development of uniform and accessible comprehensive services, the division's success in achieving the objectives established in the state mental health and mental retardation plans, the effectiveness of the funding mechanisms established by this Act, the division's contribution to the development of community services and to deinstitutionalization of inappropriately institutionalized persons, the division's activity in coordinating the provision of mental health and mental retardation services with other state and local agencies providing or funding services to mentally ill or mentally retarded persons, and other criteria deemed important by the interim committee.

Sec. 21. Section 217.2, Code 1981, is amended to read as follows:

217.2 COUNCIL ON SOCIAL SERVICES. There is hereby created within the department of social services a council on social services which shall act in a policy-making and advisory capacity on matters within the jurisdiction of the department. The council shall consist of ~~five~~ seven members appointed by the governor subject to confirmation by the senate. Appointments shall be made on the basis of interest in public affairs, good judgment, and knowledge and ability in the field of social services. Appointments shall be made to provide a diversity of interest and point of view in the membership and without regard to religious opinions or affiliations. Members of the council shall serve for six-year staggered terms.

Each term shall commence and end as provided by section 69.19.

All members of the council shall be electors of the state of Iowa. No more than ~~three~~ four members shall belong to the same political party and no more than two members shall, at the time of appointment, reside in the same congressional district. At least one member of the council shall be a member of a county board of supervisors at the time of appointment to the council. Vacancies occurring during a term of office shall be filled in the same manner as the original appointment for the balance of the unexpired term subject to confirmation by the senate.

Sec. 22. Section 217.6, unnumbered paragraph 2, Code 1981, is amended to read as follows:

The department of social services may be initially divided into the following divisions of responsibility: The division of child and family services, the division of mental health, mental retardation, and developmental disabilities, the division of administration, the division of corrections and the division of planning, research and statistics.

Sec. 23. Chapter 217, Code 1981, is amended by adding the following new section after section 217.9:

NEW SECTION. DIRECTOR OF DIVISION OF MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES. The director of the division of mental health, mental retardation, and developmental disabilities shall be qualified as provided in section 3, subsection 3 of this Act. The director's duties are enumerated in section 4 of this Act.

Sec. 24. Section 218.3, subsection 2, Code 1981, is amended to read as follows:

2. The director of the division of mental health, mental retardation, and developmental disabilities of the department of social services ~~shall--have~~ has primary authority and responsibility relative to the following institutions: Glenwood State Hospital-School, Woodward State Hospital-School, Mental Health Institute, Cherokee, Iowa, Mental Health Institute, Clarinda, Iowa, Mental Health Institute, Independence, Iowa and Mental Health Institute, Mount Pleasant, Iowa.

Sec. 25. Section 218.9, unnumbered paragraph 1, Code 1981, is amended to read as follows:

The director of the division of mental health, mental retardation, and developmental disabilities of the department of social services, subject to the approval of the commissioner of ~~such~~ the department, shall appoint the superintendents of the state hospital-schools for the mentally retarded and the mental health institutes.

Sec. 26. Section 218A.2, Code 1981, is amended to read as follows:

218A.2 ADMINISTRATOR. Pursuant to ~~said~~ the compact, the director of the division of mental health, mental retardation, and developmental disabilities of the department of social services shall be the compact administrator ~~and who,--acting--jointly--with--like--officers--of--other--party--states,--shall--have--power--to--promulgate--rules--and--regulations--to--carry--out--more--effectively--the--terms--of--the--compact.~~ The compact administrator ~~is--hereby--authorized, empowered--and--directed--to~~ may co-operate with all departments, agencies, and officers of ~~and--in--the--government--of~~ this state and its subdivisions in facilitating the proper administration of the compact and of any supplementary agreement ~~or--agreements~~ entered into by this state ~~thereunder~~ under the compact.

Sec. 27. Section 221.1, Code 1981, is amended to read as follows:

221.1 STATE AGENCY. The director of mental health, mental retardation, and developmental disabilities of the state department of social services is ~~hereby~~ designated as the single state agency to act as the administrative agency to provide for the continuation of comprehensive planning to combat mental retardation.

Sec. 28. Section 221.2, Code 1981, is amended to read as follows:

221.2 STAFF. The division of mental health, mental retardation, and developmental disabilities of the state department of social services shall employ the staff necessary for the purposes of interpretation, evaluation, and dissemination of Iowa's Comprehensive Plan to Combat Mental Retardation and to carry on needed research.

Sec. 29. Section 221.3, Code 1981, is amended to read as follows:

221.3 AIDS AND GRANTS RECEIVED. The director of mental health, mental retardation, and developmental disabilities of the state department of social services ~~is--authorized--and--empowered--to~~ may apply for and receive federal aids, grants, and gifts for purposes relating to mental retardation.

Sec. 30. Section 222.2, subsection 3, Code 1981, is amended to read as follows:

3. "Director" or "state director" means the director of the division of mental health, mental retardation, and developmental disabilities of the department of social services.

Sec. 31. Section 226.47, Code 1981, is amended to read as follows:

226.47 "DIRECTOR" DEFINED. For the purpose of this chapter "director" or "state director" ~~shall--mean~~ means the director of the division of mental health, mental retardation, and developmental disabilities of the department of social services.

Sec. 32. Section 227.2, Code 1981, is amended to read as follows:

227.2 INSPECTION.

1. ~~Said--state-direector~~ The commissioner of public health shall make, or cause to be made, at least ~~two-inspections~~ one licensure inspection each year of every county care facility. Either the director or the commissioner of public health, in cooperation with each other, upon receipt of a complaint or for good cause, may make, or cause to be made, a review of a county care facility or of any other private and or county institution wherein where mentally ill or mentally retarded persons are--kept.---Such reside. A licensure inspection or a review shall be made by the-state--director--or--by some a competent and disinterested person appointed-by-him---inspectors-shall be--persons-who-are who is acquainted with and interested in the handling-and care of mental-patients-and mentally ill and mentally retarded persons. The objective of a licensure inspection or a review shall be an evaluation of the programming and treatment provided by the facility. After each licensure inspection of a county care facility, the person who made the inspection shall be--required-to-consult-and-advise consult with the county authorities on plans and practices that will improve the care given patients and shall make such recommendations to the state director and the commissioner of public health for ee-ordinating coordinating and improving the relationships between the stewards administrators of county care facilities, the state director, the commissioner of public health, the superintendents of hospitals state mental health institutes and hospital-schools, community mental health centers, and other ee-operating cooperating agencies, as-will-make-fer to cause improved and more satisfactory care of patients. Written A written report as--to-such-inspections of each licensure inspection of a county care facility under this section shall be filed with the state director and the commissioner of public health and shall embrace include:

1 a. The capacity of ~~said~~ the institution for the care of patients residents.

2 b. The number, and sex, ages, and primary diagnoses of the patients ~~kept-therein~~ residents.

3--~~The-arrangement,-method-of-construction,-and-adaptability-of-buildings for-the-purposes-intended-~~

4--~~The--condition-of-buildings-as-to-sewerage,-ventilation,-light,-heat, cleanliness,-means-of-water-supply,-fire-escapes,-and-fire-protecttion-~~

5 c. The care of patients residents, their food, clothing, medical treatment plan, and employment, and opportunity for recreational activities and for productive work intended primarily as therapeutic activity.

6 d. The number, ~~kind~~ job classification, sex, duties, and salaries of all employees.

7 e. The cost to the state or county of maintaining ~~mentally-ill-patients therein,--separate--from--the--cost--of--maintaining--sane--paupers~~ residents in a county care facility.

8 f. The recommendations given to and received from county authorities on methods and practices that will improve the conditions under which the county care facility is operated.

9. ~~Such~~ g. Any failure to comply with standards adopted under section 34 of this Act for care of mentally ill and mentally retarded persons in county care facilities, which is not covered in information submitted pursuant to paragraphs a through f, and any other matters as which the commissioner of public health, in consultation with the state director, may require.

2. A copy of the written report prescribed by subsection 1 shall be furnished to the county board of supervisors, to the county mental health and mental retardation coordinating board or to its advisory board if the county board of supervisors constitutes ex officio the coordinating board, to the administrator of the county care facility inspected and to its care review committee, and to the commission on the aging.

3. The state department of health shall inform the director of an action by the department to suspend, revoke, or deny renewal of a license issued by the state department of health to a county care facility, and the reasons for the action.

4. In addition to the ~~afesaid~~ licensure inspections required or authorized by this section, the state director shall ~~make-er~~ cause to be made an inspection evaluation of each ~~county-care-facility-where--mental--patients--are--kept~~ person cared for in a county care facility at least once each year by a ~~competent-psychiatrist-employed-by-the-state-hospital--in--the--hospital-district--where--the--county--care--facility--is--located~~ one or more qualified mental health, mental retardation, or medical professionals, whichever is appropriate.

a. It is the responsibility of the state to secure the annual evaluation for each person who is on convalescent leave or who has not been discharged from a state mental health institute. It is the responsibility of the county to secure the annual evaluation for all other mentally ill persons in the county care facility.

b. It is the responsibility of the state to secure the annual evaluation for each person who is on leave and has not been discharged from a state hospital-school. It is the responsibility of the county to secure the annual evaluation for all other mentally retarded persons in the county care facility.

c. It is the responsibility of the county to secure an annual evaluation of each resident of a county care facility to whom neither paragraph a nor paragraph b is applicable.

5. ~~Such-inspection~~ The evaluations required by subsection 4 shall include an examination of each ~~mental-patient~~ person which shall reveal the patient's person's condition of mental and physical health and the likelihood of improvement or discharge and ~~such~~ other recommendations concerning the care



of patients those persons as the ~~inspector~~ evaluator deems pertinent. One copy of ~~said-inspection-report~~ the evaluation shall be filed with the state director, ~~one copy mailed to the county board of supervisors~~ and one copy ~~mailed to the steward~~ shall be filed with the administrator of the county care facility inspected.

Sec. 33. Section 227.3, Code 1981, is amended to read as follows:

227.3 PATIENTS RESIDENTS TO HAVE HEARING. The inspector conducting any licensure inspection or review under section 227.2 shall give each patient resident an opportunity to converse with him the inspector out of the hearing of any officer or employee of the institution, and shall fully investigate all complaints and report the result ~~thereof~~ in writing to said the state director. The state director before acting on said the report adversely to the institution, shall give the persons in charge ~~thereof~~ a copy of ~~such~~ the report and an opportunity to be heard.

Sec. 34. Chapter 227, Code 1981, is amended by adding after section 227.3 the following new section:

NEW SECTION. STANDARDS FOR CARE OF MENTALLY ILL AND MENTALLY RETARDED PERSONS IN COUNTY CARE FACILITIES. The director, in cooperation with the state department of health, shall recommend, and the mental health and mental retardation commission shall adopt standards for the care of and services to mentally ill and mentally retarded persons residing in county care facilities. The objective of the standards is to insure that mentally ill and mentally retarded residents of county care facilities are not only adequately fed, clothed, and housed, but are also offered reasonable opportunities for productive work and recreational activities suited to their physical and mental abilities and offering both a constructive outlet for their energies and, if possible, therapeutic benefit. When recommending standards under this section, the director shall designate an advisory committee representing administrators of county care facilities, county coordinating boards, and county care facility care review committees to assist in the establishment of standards.

Sec. 35. Section 227.6, Code 1981, is amended to read as follows:

227.6 REMOVAL OF PATIENTS RESIDENTS. ~~Said-state-director, in case of failure if a county care facility fails to comply with his rules, is authorized to~~ and standards adopted under this chapter, the director may remove all said mentally ill and mentally retarded persons kept cared for in such--institutions the county care facility at public expense, to the proper state hospital mental health institute or hospital-school, or to some private or county institution or hospital for the care of the mentally ill or mentally retarded that has complied with the rules prescribed by said the state director,--such. The removal of patients residents, if to a state hospital,--to mental health institute or hospital-school, shall be made by an attendant or attendants sent from the state-hospital institute or hospital-school. If a female resident is removed under ~~the-provisions-of~~ this section, at least one attendant shall be a female of the same sex. If the director finds that the needs of mentally ill and mentally retarded residents of any other county or private institution are not being adequately met, those residents may be removed from that institution upon order of the director, in consultation with the commissioner of public health.

Sec. 36. Section 227.19, Code 1981, is amended to read as follows:

227.19 "DIRECTOR" DEFINED. For the purpose of this chapter "director" or "state director" ~~shall--mean~~ means the director of the division of mental health, mental retardation, and developmental disabilities of the department of social services.

Sec. 37. Section 229.15, subsection 3, Code 1981, is amended to read as follows:

3. When a patient has been placed in a facility other than a hospital pursuant to section 229.14, subsection 4, a report on the patient's condition and prognosis shall be made to the court which so placed the patient, at least once every six months, unless the court authorizes annual reports. ~~The~~ A report shall be submitted within fifteen days ~~following--the--inspection,~~ required--by--section--227-27--of after the facility in which the patient has been placed is evaluated as required by section 227.2, subsection 4. The court may in its discretion waive the requirement of an additional report between the annual evaluations. If the director exercises the authority to remove residents from a county care facility or other county or private institution under section 227.6, the director shall promptly notify each court which placed in that facility any resident so removed.

Sec. 38. Section 230.20, unnumbered paragraph 1, subsection 1, unnumbered paragraph 1, subsection 2, and subsection 3, are amended to read as follows:

The superintendent of each state hospital for the mentally ill established by section 226.1, or his designee, shall ~~on-the-tenth-day-of--July,--October,~~ January-and-April-of-each-year for each semiannual period, which shall either begin January 1 or July 1, compute the amounts which are due the state from each county for services rendered by the hospital to patients chargeable to those counties, and shall bill the counties quarterly under subsection 4. Each hospital's charges for services rendered in a ~~particular--quarter~~ semiannual period shall be based on that hospital's expenditures during the immediately preceding ~~quarter~~ semiannual period, and shall be computed as follows:

The expenditures of the hospital during ~~the-preceding-calendar-quarter~~ a semiannual period shall be separately computed by program in accordance with generally accepted accounting procedures. In so doing, the superintendent or ~~his~~ the superintendent's designee shall not include any of the following:

2. The total patient days of service provided during ~~the-preceding calendar-quarter~~ a semiannual period shall be identified and accumulated for each program for which expenditures are separately computed under subsection 1 of this section.

3. The total expenditure during ~~the--preceding--calendar--quarter~~ a semiannual period computed for each program pursuant to subsection 1 shall be divided by the total patient days of service provided during the ~~calendar quarter~~ semiannual period by that program, determined pursuant to subsection 2, to derive the average daily patient cost for each program.

Sec. 39. Section 230.20, subsection 5, Code 1981, is amended to read as follows:

5. An individual statement shall be prepared for a patient on or before the fifteenth day of the month next succeeding the month in which that

patient leaves the hospital, and a general statement shall be prepared at least quarterly for each county to which charges are made under this section. Except as otherwise required by sections 125.33 and 125.34 the general statement shall list the name of each patient chargeable to that county who was served by the hospital during the preceding month or calendar quarter and the amount due on account of each patient, and the county shall be billed for ~~one-hundred~~ eighty percent of the stated charge for each patient, ~~unless otherwise specified in the current appropriation for support of the state hospitals~~ this subsection. The statement prepared for each county shall be certified by the superintendent of the hospital to the state comptroller and a duplicate statement shall be mailed to the auditor of that county.

Sec. 40. Section 230.34, Code 1981, is amended to read as follows:

230.34 "DIRECTOR" DEFINED. As used in this chapter, "director" or "state director" means the director of the division of mental health, mental retardation, and developmental disabilities of the department of social services.

Sec. 41. Section 230A.1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, Senate File 130, section 1029, is amended to read as follows:

230A.1 ESTABLISHMENT AND SUPPORT OF COMMUNITY MENTAL HEALTH CENTERS. A county or affiliated counties ~~having a total or combined population of thirty-five thousand or more,~~ by action of the board or boards of supervisors, with approval of the ~~fewa~~ director of the division of mental health authority, mental retardation, and developmental disabilities, may establish a community mental health center under this chapter to serve the county or counties. In establishing the community mental health center, the board of supervisors of each county involved may make a single nonrecurring expenditure from the county fund specified in section 424, subsection 13 of ~~this Act~~ Acts of the Sixty-ninth General Assembly, 1981 Session, Senate File 130, in an amount ~~not exceeding two hundred fifty dollars per thousand population or major fraction thereof in the county, but an expenditure shall not be made under this section by any county which has prior to July 1, 1974, expended funds to assist in establishment of a community mental health center under section 230.24, third paragraph, Code 1966 or Code 1971, or section 230.24, second paragraph, Code 1973~~ determined by the board. This section does not limit the authority of the board or boards of supervisors of any county or group of counties, ~~which prior to July 1, 1974, established or joined in establishing a community mental health center in a manner consistent with the requirements of section 230A.3,~~ to continue to expend money from the county funds fund specified in this section to support operation of the center, and to form agreements with the board of supervisors of any additional county for that county to join in supporting and receiving services from or through the center.

Sec. 42. Section 230A.16, Code 1981, is amended to read as follows:

230A.16 ESTABLISHMENT OF STANDARDS. The ~~fewa~~ director of the division of mental health authority, with approval of the committee on mental hygiene and subject to the provisions of chapter 17A, mental retardation, and developmental disabilities shall ~~formulate and adopt and may from time to~~

~~time-revise~~ recommend and the mental health and mental retardation commission shall adopt standards for community mental health centers and comprehensive community mental health programs, with the overall objective of ensuring that each center and each affiliate providing services under contract with a center furnishes high quality mental health services within a framework of accountability to the community it serves. The standards shall be in substantial conformity with those of the psychiatric committee of the joint committee on accreditation of hospitals and other recognized national standards for evaluation of psychiatric facilities unless in the judgment of the Iowa director of the division of mental health authority, mental retardation, and developmental disabilities, with approval of the ~~committee on-mental-hygiene~~ mental health and mental retardation commission, there are sound reasons for departing from such standards. When ~~formulating--or~~ revising recommending standards under this section, the Iowa director of the division of mental health authority, mental retardation, and developmental disabilities shall designate an advisory committee representing boards of directors and professional staff of community mental health centers to assist in the formulation or revision of standards. At least a simple majority of the members of the advisory committee shall be lay representatives of community mental health center boards of directors. At least one member of the advisory committee shall be a member of a county board of supervisors. The standards ~~established~~ recommended under this section shall include requirements that each community mental health center established or operating as authorized by section 230A.1 shall:

1. Maintain and make available to the public a written statement of the services it offers to residents of the county or counties it serves, and employ or contract for services with affiliates employing specified minimum numbers of professional personnel possessing specified appropriate credentials to assure that the services offered are furnished in a manner consistent with currently accepted professional standards in the field of mental health.

2. Unless it is governed by a board of trustees elected or selected under sections 230A.5 and 230A.6, be governed by a board of directors which adequately represents interested professions, consumers of the center's services, socioeconomic, cultural, and age groups, and various geographical areas in the county or counties served by the center.

3. ~~The~~ Arrange for the financial condition and transactions of ~~each the~~ community mental health center ~~shall to~~ be audited once each year by the auditor of state, ~~provided, however, that~~. However, in lieu of an audit by state accountants, the local governing body of a community mental health center organized under ~~the terms of this chapter in case it elects to do so,~~ may contract with or employ certified public accountants to conduct ~~such the~~ audit, pursuant to the applicable terms and conditions prescribed by sections 11.18 and 11.19 and audit format prescribed by the auditor of state. Copies of each audit shall be furnished by the accountant employed to the Iowa director of the division of mental health authority, mental retardation, and developmental disabilities, and the board of supervisors supporting the audited community mental health center.

4. Adopt and implement procedural rules ensuring that no member of the center's board of directors, or board of trustees receives from the center information which identifies or is intended to permit the members of the board to identify any person who is a client of that center.

Sec. 43. Section 230A.17, Code 1981, is amended to read as follows:

230A.17 REVIEW AND EVALUATION. The ~~committee-on-mental-hygiene~~ director of the division of mental health, mental retardation, and developmental disabilities may review and evaluate any community mental health center upon ~~its-own-motion-or-upon~~ the recommendation of the Iowa mental health authority and mental retardation commission, and ~~the-committee~~ shall do so upon the written request of the center's board of directors, its chief medical or administrative officer, or the board of supervisors of any county from which the center receives public funds. The cost of the review shall be paid by the Iowa division of mental health authority, mental retardation, and developmental disabilities.

Sec. 44. Section 230A.18, Code 1981, is amended to read as follows:

230A.18 REPORT OF REVIEW AND EVALUATION. Upon completion of a review made pursuant to section 230A.17, the reviewing-team review shall submit-its findings be submitted to the board of directors and chief medical or administrative officer of the center in-such-manner-as-the-team-members-deem most-appropriate. If the reviewing-team review concludes that the center fails to meet any of the standards established pursuant to section 230A.16, subsection 1, and that the response of the center to this finding is unsatisfactory, these conclusions shall be reported to the ~~committee-on-mental-hygiene~~ mental health and mental retardation commission which may forward the conclusions to the board of directors of the center and request an appropriate response within a-reasonable-period-of-time thirty days. If no response is received within a-reasonable-period-of-time thirty days, or if the response is unsatisfactory, the committee commission may as-its-ultimate sanction call this fact to the attention of the board of supervisors of the county or counties served by the center, and in doing so shall indicate what corrective steps have been recommended to the center's board of directors.

Sec. 45. Section 234.36, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, Senate File 130, section 1033, is amended to read as follows:

234.36 WHEN COUNTY TO PAY FOSTER CARE COSTS. Each county shall pay from the county fund specified in section 424, subsection 13, paragraph e of this Act Acts of the Sixty-ninth General Assembly, 1981 Session, Senate File 130, the cost of foster care for a child placed by a court as provided in section 232.50 or section 232.99. However, in any fiscal year for which the general assembly appropriates state funds to pay for foster care for children placed by courts under these sections 232.50 and 232.99, the county is responsible for these costs only when the funds so appropriated to the department for that fiscal year have been exhausted. The rate of payment by the county or the state under this section shall be that fixed by the department of social services pursuant to section 234.38.

Sec. 46. Chapter 262, Code 1981, is amended by adding the following new section:

NEW SECTION. EDUCATION, PREVENTION, AND RESEARCH PROGRAMS IN MENTAL HEALTH AND MENTAL RETARDATION. The division of mental health, mental retardation, and developmental disabilities may contract with the board of regents or any institution under the board's jurisdiction to establish and maintain programs of education, prevention, and research in the fields of mental health and mental retardation. The board may delegate responsibility for these programs to the state psychiatric hospital, the university hospital, or any other appropriate entity under the board's jurisdiction.

Sec. 47. Section 347.14, subsection 8, Code 1981, is amended to read as follows:

8. In counties having a population of one hundred thirty-five thousand inhabitants or over, establish a psychiatric department in connection with said the hospital to provide for ~~temporary~~ admission of patients for observation, examination, diagnosis and treatment, ~~which admission shall be for a period of not more than sixty days.~~

Sec. 48. Acts of the Sixty-ninth General Assembly, 1981 Session, Senate File 130, section 424, subsection 13, is amended to read as follows:

13. A county mental health and institutions fund. ~~Amounts received from the state mental aid fund shall be credited to the county mental--health--and institutions--fund.~~ The board shall make appropriations from the county mental health and institutions fund for all of the following and for no other purposes:

a. Charges which the county is obligated by statute to pay for:

(1) Care and treatment of patients by a state mental health institute.

(2) Care and treatment of patients by either of the state hospital-schools or by any other facility established under chapter 222.

(3) Care and treatment of patients ~~by the psychiatric hospital at Iowa City under chapter 225.~~

(4) Care and treatment of persons at the alcoholic treatment center at Oakdale or facilities as provided in chapter 125. However, the county may require that an admission to a center or other facility shall be reported to the board within five days by the center or facility offering treatment as a condition of the payment of county funds for that admission.

(5) Care of children admitted or committed to the Iowa juvenile home at Toledo.

(6) Clothing, transportation, and medical or other services provided persons attending the Iowa braille and sight-saving school, the Iowa school for the deaf, or the state hospital-school for severely handicapped children at Iowa City, for which the county becomes obligated to pay pursuant to sections 263.12, 269.2, and 270.5 through 270.7.

b. Any portion which the board deems advisable of the cost of ~~psychiatric examination--and--treatment--of--persons--in--need--thereof--or--of~~ professional evaluation, treatment, training, habilitation, and care of persons who are mentally retarded, autistic ~~children~~ persons, or persons who are afflicted by any other developmental disability, at a suitable public or private facility providing inpatient or outpatient care in the county. As used in this subsection:

(1) "Developmental disability" has the meaning assigned that term by 42 U.S.C. sec. 6001(7) (1976, Supp. II, 1978, and Supp. III, 1979).

(2) "Autistic ~~children~~ persons" means persons, regardless of age, with severe communication and behavior disorders that became manifest during the early stages of childhood development and that are characterized by a severely disabling inability to understand, communicate, learn, and participate in social relationships. "Autistic ~~children~~ persons" includes but is not limited to those persons afflicted by infantile autism, profound aphasia, and childhood psychosis.

~~The board may require a public or private facility as a condition of payment from county funds to furnish the board with a statement of the income and assets, and the township or city and county of legal residence of each person receiving services under this section. However, the facility shall not disclose to anyone the name or address of a person receiving services for which commitment is not required, without the permission of that person.~~

c. The cost of care and treatment of persons placed in the county hospital, county care facility, a health care facility as defined in section 135C.1, subsection 4, or any other public or private facility:

(1) In lieu of admission or commitment to a state mental health institute, hospital-school, or other facility established pursuant to chapter 222.

(2) Upon discharge, removal, or transfer from a state mental health institute or state hospital-school or other institution established pursuant to chapter 222.

d. ~~A contribution which the board makes to the~~ Amounts budgeted by the board for the costs of establishment and initial operation of a community mental health center in the manner and subject to the limitations provided by state law.

e. Foster care and related services provided under court order to a child who is under the jurisdiction of the juvenile court.

f. Expenses required to be paid by the county for the care, admission, commitment, and transportation of mentally ill patients in state hospitals.

~~Parents or other persons may voluntarily reimburse the county or state for the reasonable cost of caring for an individual patient in a county or state facility.~~

g. Amounts budgeted by the board for mental health services or mental retardation services furnished to persons on either an outpatient or inpatient basis, to a school or other public agency, or to the community at large, by a community mental health center or other suitable facility located in or reasonably near the county, provided that services paid for with the fund shall meet the standards of the mental health and mental retardation commission and be consistent with the annual plan for services approved by the board.

The board, at the time of levying other taxes, shall estimate the amount necessary to meet the expenses authorized by this section which it is anticipated that the county will incur in the coming year, and levy a tax sufficient to raise the amount needed. The tax shall be computed and spread as a single levy, but the board of supervisors shall determine and enter of

record the respective separate amounts budgeted for payment from county tax revenues under paragraphs a through g. The proceeds of the tax shall be credited to the county mental health and institutions fund, and used only for the purposes prescribed by this section. If a county fails to levy a tax sufficient to meet the expenses which the county is required to pay, or which the board chooses to pay, from the county mental health and institutions fund, the deficiency shall be met by transfer of funds from the county general fund to the county mental health and institutions fund.

The board of supervisors may require a public or private facility, as a condition of receiving payment from county funds for services it has provided, to furnish the board with a statement of the income, assets, and township or city and county of legal residence of each person who has received services from that facility for which payment has been made from county funds under this section. However, the facility shall not disclose to anyone the name or street or route address of any person receiving services for which commitment is not required, without first obtaining that person's written permission.

Parents or other persons may voluntarily reimburse the county or state for the reasonable cost of caring for a patient or an inmate in a county or state facility.

Sec. 49. Sections 225B.1, 225B.2, 225B.3, and 225B.8, Code 1981, are repealed effective July 1, 1981; chapter 225B, Code 1977, is repealed effective January 1, 1982; however, the Iowa mental health authority shall continue to be governed by chapter 225B, Code 1977, until January 1, 1982. Sections 225B.4 through 225B.7, Code 1981, are repealed effective July 1, 1982.

Sec. 50. Sections 217.10, 217.11, and 217.12, Code 1981, are repealed effective January 1, 1982; however, the division of mental health resources of the department of social services shall continue to be governed by sections 217.10, 217.11, and 217.12, Code 1981, until January 1, 1982.

Sec. 51. Sections 227.16, 227.17 and 227.18, Code 1981, are repealed effective July 1, 1982.

Sec. 52. The effective dates of the provisions of this Act are as follows:

1. This section and sections 5, 12, 13, 21, 49, 53, and 54 of this Act take effect July 1, 1981.

2. Notwithstanding the permanent provisions of section 5 of this Act, the governor shall appoint the initial members of the mental health and mental retardation commission on or after July 1, 1981, and shall complete the appointments no later than October 1, 1981. Of the initial appointees to the mental health and mental retardation commission, the governor shall designate five members to serve two-year terms, five members to serve three-year terms, and five members to serve special four-year terms. The initial terms shall begin as soon as the members are appointed but shall end, as provided in section 69.19, as if the fixed terms began on May 1, 1981. As soon as practicable after appointment of its members, the commission shall organize. Its duty prior to January 1, 1982, is to perform the functions of the state mental health advisory council and to advise the commissioner of social



services and the director of the division of mental health resources of the department of social services on preparations to implement this Act.

The governor shall appoint the two new members of the council on social services pursuant to section 217.2 for appropriately staggered terms which shall begin on July 1, 1981, and end, as provided in section 69.19, as if the fixed terms began on May 1, 1981. The member of a county board of supervisors appointed as a member of the council on social services shall be paid expenses provided in section 217.4.

3. Sections 1, 2, 3, 4, 6, 14, 19, 50, and 55 of this Act take effect January 1, 1982.

4. Sections 7 through 11, 15 through 18, 39, 45, 48, and 51 of this Act take effect July 1, 1982. However, a county or counties shall submit prior to September 15, 1981 an application for a share of the general allocation for the 1982-1983 fiscal year, and the division shall notify the applicant county or counties of its action on the application on or before November 1, 1981, as required by section 10 of this Act. However, a county shall, as soon as reasonably possible after January 1, 1982, begin preparations to adopt state auditor's accounting procedures.

5. All sections not governed by the foregoing provisions of this section are effective January 1, 1982.

Sec. 53. There is appropriated from the general fund of the state for each fiscal year of the biennium beginning July 1, 1981, and ending June 30, 1983, to the department of social services three hundred seventy thousand (370,000) dollars, or so much thereof as is necessary for reimbursement to counties for local inpatient mental health care and treatment as provided in section 12 of this Act.

Sec. 54. Any funds appropriated to the state mental health advisory council for the fiscal period beginning July 1, 1981, and ending June 30, 1983, shall be transferred, effective July 1, 1981, to the division of mental health, mental retardation, and developmental disabilities of the department of social services for use by the mental health and mental retardation commission or the division.

Sec. 55. Any funds appropriated to the Iowa mental health authority for the fiscal period beginning January 1, 1982, and ending June 30, 1983, shall be transferred, effective January 1, 1982 to the division of mental health, mental retardation, and developmental disabilities of the department of social services for use by the division.

Approved June 20, 1981, except the item designated as Section 13 herein which I hereby disapprove for the reasons set forth in my veto message delivered to the Secretary of State this same date, the original of which is attached hereto.

ROBERT D. RAY  
Governor

The Honorable Mary Jane Odell  
Secretary of State  
State Capitol Building  
L O C A L

Dear Madam Secretary:

I hereby transmit Senate File 572, an act relating to the administration and financing of mental health and mental retardation services, and providing effective dates.

Senate File 572 is approved June 20, 1981, with the following exception which I hereby disapprove.

I am unable to approve the item designated in the act as Section 13 which reads as follows:

Sec. 13. NEW SECTION. STATE PAYMENT FOR PERSONS WITH NO COUNTY OF LEGAL SETTLEMENT. If a person receives community-based mental health or mental retardation services and has no county of legal settlement or the person's legal settlement is unknown, as determined under sections 252.16 and 252.17, and if neither that person nor another person legally chargeable with that person's support is able to pay for the services, the state shall pay the costs of the services.

This action is made necessary for three reasons:

- This section requires a state appropriation in excess of \$200,000. However, the legislature did not act to appropriate those monies to the Department of Social Services to assume that financial responsibility.
- This section provides an open-ended appropriation with no limitations on the state's financial liability.
- This section expands the state's financial responsibility for services outside of the range currently provided to state mental health patients.

Presently, the state pays for county mental health services for those individuals who do not have a county of legal settlement if they are leaving a mental health institution or a state hospital-school. This section would extend the state's financial liability for all individuals with no county of legal settlement, regardless of the location of their earlier treatment. This could result in a significant drain on state finances at a time when the state budget is extremely tight. Indeed, I have been forced to make across-the-board cuts to many existing state programs, and the General Assembly has made additional cuts in order to ensure a balanced state budget.

It may be appropriate that in the future the state assume financial responsibility for all people who need mental health treatment, have no county of legal settlement, and cannot pay for the services. However, there is reason to believe that those who sought this expansion of state financial responsibility at this time were not fully aware of the dollar impact of that extension on the state budget. As a result, no appropriation to carry out the provisions of this section was made by the General Assembly. The state cannot assume this responsibility now, but the General Assembly can consider such an extension in the future when our state budget allows for it.

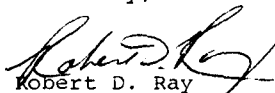
In addition, Section 13 provides an open-ended appropriation which includes no limit on the extension of the state's financial responsibility for these mental health patients. At this time of budget restrictions, we cannot afford to sign a blank check for state support of these mental health services.

Finally, it is important to note that Section 13 anticipates an expansion of state responsibility for mental health services which are not currently provided to existing state patients. Many of these services will not be fully defined until the Mental Health and Mental Retardation Commission begins operation on January 1, 1982. Providing state responsibility for services that have yet to be defined is premature. It would be best to wait until the Commission is fully established before any extension of existing mental health services is provided in the law.

In summary, while it may be wise for the state in the future to assume the cost of community-based mental health and mental retardation services for people who have no county of legal settlement and are not able to pay for those services themselves, the state's current budget constraints do not allow for such an extension of financial responsibility at this time. The legislature extended the services but did not appropriate the monies necessary to fund these services. In addition, the open-ended nature of the appropriation and the failure to adequately define the services to be provided warrant an item veto of Section 13 of this bill.

For the above reasons, I hereby disapprove this item in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of Senate File 572 are hereby approved as of this date.

Sincerely,

  
ROBERT D. RAY  
Governor

## CHAPTER 79

### MENTAL HEALTH INSTITUTE SUPERINTENDENT

S. F. 409

AN ACT relating to the qualifications of the superintendent of a state mental health institute.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 226.2, Code 1981, is amended to read as follows:

226.2 QUALIFICATIONS OF SUPERINTENDENT. ~~The--superintendent--of--each hospital--shall--be--either--a--qualified--hospital--administrator--or--a--physician--of acknowledged--skill--and--ability--in--his--profession--and--authorized--to--practice medicine--in--this--state--No~~ The superintendent of each institute must be qualified by experience and training in the administration of human service programs. A physician may shall not serve as both superintendent and business manager. When-a A hospital administrator or other person qualified