

CHAPTER 1146ADMINISTRATION OF MENTAL HEALTH
AND DEVELOPMENTAL DISABILITIES SERVICES

H.F. 2430

AN ACT providing for the mental health and developmental disabilities commission to assume the duties of the state-county management committee and providing new rulemaking authority associated with those duties and including an applicability provision.

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

Section 1. Section 225C.5, subsection 1, Code 2001, is amended to read as follows:

1. A mental health and developmental disabilities commission is created as the state policy-making body for the provision of services to persons with mental illness, mental retardation or other developmental disabilities, or brain injury. The commission shall consist of ~~fifteen~~ sixteen voting 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, mental retardation or other developmental disabilities, and brain injury, 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. § 2689t(a) (1976) relative to a state mental health advisory council,~~ and so as to ensure adequate representation from persons with disabilities and individuals knowledgeable concerning disability services. The department shall provide staff support to the commission, and the commission may utilize staff support and other assistance provided to the commission by other persons. The commission shall meet at least four times per year. Members of the commission shall include the following persons who, at the time of appointment to the commission, are active members of the indicated groups:

- a. ~~Four~~ Three members shall be members of a county board of supervisors selected from nominees submitted by the county supervisor affiliate of the Iowa state association of counties.
- b. Two members shall be members of a mental health and developmental disabilities regional planning council selected from nominees submitted by the director.
- c. One member shall be ~~either~~ an active board member of a community mental health center or of a statewide association of persons with mental illness or of family members of persons with mental illness.
- d. One member shall be either¹ an active board member of an agency serving persons with mental retardation or of a statewide association for persons with mental retardation a developmental disability selected from nominees submitted by the Iowa association of community providers.
- e. One member shall be ~~an active member of a statewide organization for persons with a board member or employee of a provider of mental health or~~ developmental disabilities other than mental retardation services to children.
- f. One member shall be an active member of a statewide organization for persons with brain injury.
- f. Two members shall be administrators of the single entry point process established in accordance with section 331.440 selected from nominees submitted by the community services affiliate of the Iowa state association of counties.
- g. One member shall be selected from nominees submitted by the state's council of the association of federal, state, county, and municipal employees.
- h. Three members shall be service consumers or family members of service consumers. Of these members, one shall be a service consumer, one shall be a parent of a child service consumer, and one shall be a parent or other family member of a person admitted to and living at a state resource center.
- i. Two members shall be selected from nominees submitted by service advocates. Of these

¹ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §238, 262 herein

members, one shall be an active member of a statewide organization for persons with brain injury.

j. In addition to the voting members, the membership shall include four members of the general assembly with one member designated by each of the following: the majority leader of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives. A legislative member serves in an ex officio, nonvoting capacity and is eligible for per diem and expenses as provided in section 2.10.

Sec. 2. Section 225C.6, subsection 1, Code Supplement 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. q. Perform analyses and other functions associated with a redesign of the mental health and developmental disability services systems for adults and for children.

Sec. 3. Section 225C.6, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 3. If the executive branch creates a committee, task force, council, or other advisory body to consider mental health and developmental disabilities policy, services, or program options involving children or adult consumers, the commission is designated to receive and consider any report, findings, recommendations, or other work product issued by such body. The commission may address the report, findings, recommendations, or other work product in fulfilling the commission's functions and to advise the department, council on human services, governor, and general assembly concerning disability services.

Sec. 4. Section 229.24, subsection 3, unnumbered paragraph 1, Code 2001, is amended to read as follows:

If all or part of the costs associated with hospitalization of an individual under this chapter are chargeable to a county of legal settlement, the clerk of the district court shall provide to the county of legal settlement and to the county in which the hospitalization order is entered, in a form prescribed by the ~~council on human services pursuant to a recommendation of the state-county management committee established in section 331.438~~ mental health and developmental disabilities commission, the following information pertaining to the individual which would be confidential under subsection 1:

Sec. 5. Section 249A.12, subsection 5, paragraph a, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

~~The state-county management committee~~ mental health and developmental disabilities commission shall recommend to the department the actions necessary to assist in the transition of individuals being served in an intermediate care facility for persons with mental retardation, who are appropriate for the transition, to services funded under a medical assistance waiver for home and community-based services for persons with mental retardation in a manner which maximizes the use of existing public and private facilities. The actions may include but are not limited to submitting any of the following or a combination of any of the following as a request for a revision of the medical assistance waiver for home and community-based services for persons with mental retardation in effect as of June 30, 1996:

Sec. 6. Section 249A.12, subsection 5, paragraph b, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

In implementing the provisions of this subsection, ~~the state-county management committee~~ mental health and developmental disabilities commission shall consult with other states. The waiver revision request or other action necessary to assist in the transition of service provision from intermediate care facilities for persons with mental retardation to alternative programs shall be implemented by the department in a manner that can appropriately meet the needs of individuals at an overall lower cost to counties, the federal government, and the state. In addition, the department shall take into consideration significant federal changes to the medi-

cal assistance program in formulating the department's actions under this subsection. The department shall consult with the ~~state county management committee~~ mental health and developmental disabilities commission in adopting rules for oversight of facilities converted pursuant to this subsection. A transition approach described in paragraph "a" may be modified as necessary to obtain federal waiver approval. ~~The department shall report on or before January 2, 1997, to the general assembly regarding its actions under this subsection and any federal response, and shall submit an update upon receiving a federal response to the waiver request or other action taken which requires a federal response. If implementation of any of the provisions of this subsection does not require a federal waiver, the department shall implement the provisions in the fiscal year beginning July 1, 1996.~~

Sec. 7. Section 331.424A, subsection 1, Code Supplement 2001, is amended to read as follows:

1. For the purposes of this chapter, unless the context otherwise requires, "services fund" means the county mental health, mental retardation, and developmental disabilities services fund created in subsection 2. The county finance committee created in section 333A.2 shall consult with the ~~state county management committee~~ mental health and developmental disabilities commission in adopting rules and prescribing forms for administering the services fund.

Sec. 8. Section 331.438, subsection 1, paragraph c, Code Supplement 2001, is amended to read as follows:

c. "Qualified mental health, mental retardation, and developmental disabilities services" means the services specified on forms issued by the county finance committee following consultation with the ~~state county management committee~~ mental health and developmental disabilities commission.

Sec. 9. Section 331.438, subsection 4, paragraph a, Code Supplement 2001, is amended to read as follows:

a. ~~A The mental health and developmental disabilities commission shall state county management committee is created in the department of human services to make recommendations and take actions~~ for joint state and county planning, implementing, and funding of mental health, mental retardation, and developmental disabilities services, including but not limited to developing and implementing fiscal and accountability controls, establishing management plans, and ensuring that eligible persons have access to appropriate and cost-effective services.

Sec. 10. Section 331.438, subsection 4, paragraph b, Code Supplement 2001, is amended by striking the paragraph.

Sec. 11. Section 331.438, subsection 4, paragraph c, Code Supplement 2001, is amended to read as follows:

c. The ~~management committee~~ mental health and developmental disabilities commission shall do all of the following:

(1) Identify characteristics of the service system, including amounts expended, equity of funding among counties, funding sources, provider types, service availability, and equity of service availability among counties and among persons served.

(2) Assess the accuracy and uniformity of recordkeeping and reporting in the service system.

(3) Identify for each county the factors associated with inflationary growth of the service system.

(4) Identify opportunities for containing service system growth.

(5) ~~Make recommendations~~ Consider proposals for revising service system administrative rules.

(6) Consider provisions and adopt rules for counties to implement a single point of accountability to plan, budget, and monitor county expenditures for the service system. The provisions shall provide options for counties to implement the single point in collaboration with other counties.

(7) Develop criteria for annual county mental health, mental retardation, and developmental disabilities plans.

(8) ~~Make recommendations to the council on human services for~~ Adopt administrative rules identifying qualified mental health, mental retardation, and developmental disabilities service expenditures for purposes of state payment pursuant to subsection 1.

(9) ~~Make recommendations to the council on human services for administrative~~ Adopt rules for the county single entry point and clinical assessment processes required under section 331.440 and other rules necessary for the implementation of county management plans and expenditure reports required for state payment pursuant to section 331.439.

(10) Make Consider recommendations to improve the programs and cost effectiveness of state and county contracting processes and procedures, including strategies for negotiations relating to managed care. The recommendations ~~developed~~ implemented by the commission for the state and county regarding managed care shall include but are not limited to standards for limiting excess costs and profits, and for restricting cost shifting under a managed care system.

(11) Provide input, when appropriate, to the director of human services in any decision involving administrative rules which were ~~initially recommended~~ adopted by the ~~management committee~~ department of human services pertaining to the mental illness, mental retardation, and developmental disabilities services administered by counties.

(12) Identify the fiscal impact of existing or proposed legislation and administrative rules on state and county expenditures.

~~(13) No later than January 1, annually, submit a report to the governor, the general assembly, and the department of human services concerning the management committee's activities and findings.~~

~~(14) On or before December 1, 1994, submit to the governor and general assembly a methodology for the state and counties to move toward the goal of an equal partnership in the funding of mental health, mental retardation, and developmental disabilities services. The committee consideration of methodology options shall include an expenditure per consumer basis.~~

~~(15) Make recommendations to the mental health and developmental disabilities commission for~~

(13) Adopt administrative rules providing statewide standards and a monitoring methodology to determine whether cost-effective individualized services are available as required pursuant to section 331.439, subsection 1, paragraph "b".

~~(16) (14) Make Consider~~ recommendations ~~to the mental health and developmental disabilities commission for~~ and adopt administrative rules establishing statewide minimum standards for services and other support required to be available to persons covered by a county management plan under section 331.439.

~~(17) (15) Make Consider~~ recommendations ~~to the mental health and developmental disabilities commission and counties~~ for measuring and improving the quality of state and county mental health, mental retardation, and developmental disabilities services and other support.

Sec. 12. Section 331.439, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The state payment to eligible counties under this section shall be made as provided in sections 331.438 and 426B.2. A county is eligible for the state payment, as defined in section 331.438, for the fiscal year beginning July 1, 1996, and for subsequent fiscal years if the director of human services, in consultation with the ~~state county management committee~~ mental health and developmental disabilities commission, determines for a specific fiscal year that all of the following conditions are met:

Sec. 13. Section 331.439, subsection 1, paragraph b, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The county developed and implemented a county management plan for the county's mental health, mental retardation, and developmental disabilities services in accordance with the provisions of this paragraph "b". The plan shall comply with the administrative rules adopted for this purpose by the ~~council on human services~~ mental health and developmental disabilities commission and is subject to the approval of the director of human services in consultation with the ~~state-county management committee created in section 331.438~~ commission. The plan shall include a description of the county's service management provision for mental health, mental retardation, and developmental disabilities services. For mental retardation and developmental disabilities service management, the plan shall describe the county's development and implementation of a managed system of cost-effective individualized services and shall comply with the provisions of paragraph "d". The goal of this part of the plan shall be to assist the individuals served to be as independent, productive, and integrated into the community as possible. The service management provisions for mental health shall comply with the provisions of paragraph "c". A county is subject to all of the following provisions in regard to the county's management plan and planning process:

Sec. 14. Section 331.439, subsection 1, paragraph b, subparagraph (1), Code 2001, is amended to read as follows:

(1) The county shall have in effect an approved policies and procedures manual for the county's services fund. The county management plan shall be defined in the manual. The manual submitted by the county as part of the county's management plan for the fiscal year beginning July 1, 2000, as approved by the director of human services, shall remain in effect, subject to amendment. An amendment to the manual shall be submitted to the department of human services at least forty-five days prior to the date of implementation. Prior to implementation of any amendment to the manual, the amendment must be approved by the director of human services in consultation with the ~~state-county management committee~~ mental health and developmental disabilities commission.

Sec. 15. Section 331.439, subsection 1, paragraph c, subparagraph (2), unnumbered paragraph 1, Code 2001, is amended to read as follows:

~~The basis for determining whether a~~ A managed care system for mental health proposed by a county is comparable to a mental health managed care contractor approved by the department of human services shall include but is not limited to all of the following elements which shall be specified in administrative rules adopted by the ~~council on human services in consultation with the state-county management committee~~ mental health and developmental disabilities commission:

Sec. 16. Section 331.439, subsection 1, paragraph d, Code 2001, is amended to read as follows:

d. For mental retardation and developmental disabilities services management, the county must either develop and implement a managed system of care which addresses a full array of appropriate services and cost-effective delivery of services or contract with a state-approved managed care contractor or contractors. Any system or contract implemented under this paragraph shall incorporate a single entry point and clinical assessment process developed in accordance with the provisions of section 331.440. The elements of the county managed system of care ~~and the state-approved managed care contract or contracts~~ shall be specified in rules developed by the department of human services in consultation with the ~~state-county management committee~~ and adopted by the ~~council on human services~~ mental health and developmental disabilities commission.

Sec. 17. Section 331.439, subsection 3, paragraph b, Code 2001, is amended to read as follows:

b. Based upon information contained in county management plans and budgets and pro-

~~posals made by representatives of counties, the state-county management committee~~ mental health and developmental disabilities commission shall recommend an allowed growth factor adjustment to the governor by November 15 for the fiscal year which commences two years from the beginning date of the fiscal year in progress at the time the recommendation is made. The allowed growth factor adjustment shall address costs associated with new consumers of service, service cost inflation, and investments for economy and efficiency. In developing the service cost inflation recommendation, the ~~committee~~ commission shall consider the cost trends indicated by the gross expenditure amount reported in the expenditure reports submitted by counties pursuant to subsection 1, paragraph "a". The governor shall consider the ~~committee's~~ commission's recommendation in developing the governor's recommendation for an allowed growth factor adjustment for such fiscal year. The governor's recommendation shall be submitted at the time the governor's proposed budget for the succeeding fiscal year is submitted in accordance with chapter 8.

Sec. 18. Section 331.440, subsection 4, Code 2001, is amended to read as follows:

4. ~~The council on human services~~ mental health and developmental disabilities commission shall consider the recommendations of ~~the state-county management committee established in section 331.438~~ county representatives in adopting rules outlining standards and requirements for implementation of the single entry point and clinical assessment processes on the date required by subsection 2. The rules shall permit counties options in implementing the process based upon a county's consumer population and available service delivery system.

Sec. 19. Section 426B.4, Code 2001, is amended to read as follows:

426B.4 RULES.

~~The council on human services~~ mental health and developmental disabilities commission shall consult with ~~the state-county management committee created in section 331.438~~ county representatives and the director of human services in prescribing forms and adopting rules pursuant to chapter 17A to administer this chapter.

Sec. 20. Section 426B.5, subsection 2, paragraph c, Code Supplement 2001, is amended to read as follows:

c. A risk pool board is created. The board shall consist of two county supervisors, two county auditors, a member of ~~the state-county management committee created in section 331.438~~ mental health and developmental disabilities commission who was not appointed by the Iowa state association of counties is not a member of a county board of supervisors, a member of the county finance committee created in chapter 333A who is not an elected official, a representative of a provider of mental health or developmental disabilities services selected from nominees submitted by the Iowa association of community providers, and two single entry point process administrators, all appointed by the governor, and one member appointed by the director of human services. All members appointed by the governor shall be subject to confirmation by the senate. Members shall serve for three-year terms. A vacancy shall be filled in the same manner as the original appointment. Expenses and other costs of the risk pool board members representing counties shall be paid by the county of origin. Expenses and other costs of risk pool board members who do not represent counties shall be paid from a source determined by the governor. Staff assistance to the board shall be provided by the department of human services and counties. Actuarial expenses and other direct administrative costs shall be charged to the pool.

Sec. 21. CODE EDITOR DIRECTIVE. The Code editor shall amend the headnote to section 331.438 to remove the reference to "management committee" and instead reference the mental health and developmental disabilities commission or utilize other language as determined to be most appropriate by the Code editor.

Sec. 22. ADOPTED RULES. Notwithstanding the transfer in this Act of the authority to

adopt rules from the council on human services to the mental health and developmental disabilities commission, a rule adopted by the council on human services prior to July 1, 2002, shall remain in effect unless amended or repealed by the commission or pursuant to other executive or legislative branch action.

Sec. 23. COMMISSION TRANSITION. Effective November 1, 2002, the terms of all voting members of the mental health and developmental disabilities commission shall terminate. The governor shall appoint voting members to the mental health and developmental disabilities commission for terms commencing November 1, 2002, to reflect the requirements of section 225C.5, as amended by this Act, including but not limited to the requirement for staggered terms.

Sec. 24. RESIDENT ADVOCATE COMMITTEES — REPORT. The mental health and developmental disabilities commission in consultation with the state long-term care resident's advocate and the governor's developmental disabilities council shall submit a report to the general assembly by January 1, 2003, regarding the continuation of resident advocate committees for residential care facilities licensed to serve persons with mental illness or mental retardation.

Sec. 25. APPLICABILITY. The requirements of section 225C.6, subsection 3, as enacted by this Act, apply to the findings, report, recommendations, or other work product issued by a committee, task force, council, or other advisory body created prior to July 1, 2002.

Approved May 2, 2002

CHAPTER 1147

PROTECTION OF WILD ANIMALS

H.F. 2616

AN ACT relating to the time of possession of deer venison, increasing the minimum fine for unlawful taking, possessing, injuring, or transporting protected species and game, and subjecting violators to a penalty.

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

Section 1. Section 481A.32, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Whoever shall take, catch, kill, injure, destroy, have in possession, buy, sell, ship, or transport any frogs, fish, mussels, birds, their nests, eggs, or plumage, fowls, game, or animals or their fur or raw pelt in violation of the provisions of this chapter or of administrative rules of the commission or whoever shall use any device, equipment, seine, trap, net, tackle, firearm, drug, poison, explosive, or other substance or means, the use of which is prohibited by this chapter, or use the same at a time, place, or in a manner or for a purpose prohibited, or do any other act in violation of the provisions of this chapter or of administrative rules of the commission for which no other punishment is provided, is guilty of a simple misdemeanor and shall be assessed a minimum fine of ~~ten~~ twenty dollars for each offense.