

IC 12-21-2

Chapter 2. Director of Division

IC 12-21-2-1

Appointment

Sec. 1. The division shall be administered by a director appointed under IC 12-8-8.5-1.

As added by P.L.2-1992, SEC.15. Amended by P.L.160-2012, SEC.39.

IC 12-21-2-2

Application of IC 12-8-8.5

Sec. 2. IC 12-8-8.5 applies to the director.

As added by P.L.2-1992, SEC.15. Amended by P.L.160-2012, SEC.40.

IC 12-21-2-3

Duties

Sec. 3. The secretary or the secretary's designee shall do the following:

- (1) Organize the division, create the appropriate personnel positions, and employ personnel necessary to discharge the statutory duties and powers of the division or a bureau of the division.
- (2) Subject to the approval of the state personnel department, establish personnel qualifications for all deputy directors, assistant directors, bureau heads, and superintendents.
- (3) Subject to the approval of the budget director and the governor, establish the compensation of all deputy directors, assistant directors, bureau heads, and superintendents.
- (4) Study the entire problem of mental health, mental illness, and addictions existing in Indiana.
- (5) Adopt rules under IC 4-22-2 for the following:
 - (A) Standards for the operation of private institutions that are licensed under IC 12-25 for the diagnosis, treatment, and care of individuals with psychiatric disorders, addictions, or other abnormal mental conditions.
 - (B) Licensing or certifying community residential programs described in IC 12-22-2-3.5 for individuals with serious mental illness (SMI), serious emotional disturbance (SED), or chronic addiction (CA) with the exception of psychiatric residential treatment facilities.
 - (C) Certifying community mental health centers to operate in Indiana.
 - (D) Establish exclusive geographic primary service areas for community mental health centers. The rules must include the following:
 - (i) Criteria and procedures to justify the change to the

boundaries of a community mental health center's primary service area.

(ii) Criteria and procedures to justify the change of an assignment of a community mental health center to a primary service area.

(iii) A provision specifying that the criteria and procedures determined in items (i) and (ii) must include an option for the county and the community mental health center to initiate a request for a change in primary service area or provider assignment.

(iv) A provision specifying the criteria and procedures determined in items (i) and (ii) may not limit an eligible consumer's right to choose or access the services of any provider who is certified by the division of mental health and addiction to provide public supported mental health services.

(6) Institute programs, in conjunction with an accredited college or university and with the approval, if required by law, of the commission for higher education, for the instruction of students of mental health and other related occupations. The programs may be designed to meet requirements for undergraduate and postgraduate degrees and to provide continuing education and research.

(7) Develop programs to educate the public in regard to the prevention, diagnosis, treatment, and care of all abnormal mental conditions.

(8) Make the facilities of the Larue D. Carter Memorial Hospital available for the instruction of medical students, student nurses, interns, and resident physicians under the supervision of the faculty of the Indiana University School of Medicine for use by the school in connection with research and instruction in psychiatric disorders.

(9) Institute a stipend program designed to improve the quality and quantity of staff that state institutions employ.

(10) Establish, supervise, and conduct community programs, either directly or by contract, for the diagnosis, treatment, and prevention of psychiatric disorders.

(11) Adopt rules under IC 4-22-2 concerning the records and data to be kept concerning individuals admitted to state institutions, community mental health centers, or other providers.

(12) Compile information and statistics concerning the ethnicity and gender of a program or service recipient.

(13) Establish standards for services described in IC 12-7-2-40.6 for community mental health centers and other providers.

As added by P.L.2-1992, SEC.15. Amended by P.L.40-1994, SEC.28; P.L.142-1995, SEC.4; P.L.111-1997, SEC.3; P.L.215-2001, SEC.56;

P.L.79-2002, SEC.1; P.L.2-2007, SEC.163; P.L.99-2007, SEC.100; P.L.143-2011, SEC.14; P.L.160-2012, SEC.41; P.L.35-2016, SEC.56.

IC 12-21-2-4

Community programs; availability of services

Sec. 4. Subject to IC 12-26-2-9, the services provided under community programs under section 3(10) of this chapter must be available to any person upon a court order under IC 12-26.

As added by P.L.2-1992, SEC.15.

IC 12-21-2-5

Delegation of duties or powers; final decision on placement

Sec. 5. (a) Subject to subsections (b) and (c), the secretary may delegate statutory duties or powers of the division, a bureau of the division, the director, or other statutorily created personnel.

(b) If the secretary decides that a final decision is to be made concerning the placement of an individual with a mental illness in a mental health facility, the final decision must be made:

- (1) by the secretary, if the secretary is a licensed psychiatrist or licensed psychologist; or
- (2) by a licensed psychiatrist or licensed psychologist who is delegated the authority by the secretary;

in consultation with the patient's psychiatrist or psychologist.

(c) Subsection (b) does not apply to an initial placement designation made under IC 12-24-12-10(b).

As added by P.L.2-1992, SEC.15. Amended by P.L.25-2003, SEC.2; P.L.184-2003, SEC.12; P.L.99-2007, SEC.101; P.L.35-2016, SEC.57.

IC 12-21-2-6

Repealed

(Repealed by P.L.40-1994, SEC.83.)

IC 12-21-2-7

Contracts; powers; approval; requisites

Sec. 7. (a) The secretary may act for the division in entering into contracts for the disbursement of money and the providing of service.

(b) Before entering into a contract under this section, the secretary shall submit the contract to the attorney general for approval as to form and legality.

(c) A contract under this section must do the following:

- (1) Specify the services to be provided and the client populations to whom services must be provided.
- (2) Provide for a reduction in funding for the failure to comply with terms of the contract.

As added by P.L.2-1992, SEC.15. Amended by P.L.40-1994, SEC.29; P.L.39-2015, SEC.11.

IC 12-21-2-8

Development of comprehensive system of monitoring, evaluation, and quality assurance; contract determination; reimbursement; submission of contract to attorney general; contract requirements

Sec. 8. (a) The secretary or the secretary's designee shall develop a comprehensive system of monitoring, evaluation, and quality assurance for the services required by this chapter.

(b) The secretary shall determine to whom contracts are awarded, based on the following factors:

- (1) The continuity of services a contractor provides for patients.
- (2) The accessibility of a contractor's services to patients.
- (3) The acceptability of a contractor's services to patients.
- (4) A contractor's ability to focus services on building the self-sufficiency of the patient.

(c) This subsection applies to the reimbursement of contract payments to providers. Payments must be determined prospectively in accordance with generally accepted accounting principles and actuarial principles recognizing costs incurred by efficiently and economically operated programs that:

- (1) serve individuals with a mental illness or substance abuse patients; and
- (2) are subject to quality and safety standards and laws.

(d) Before entering into a contract under this section, the secretary or the secretary's designee shall submit the contract to the attorney general for approval as to form and legality.

(e) A contract under this section must do the following:

- (1) Specify:
 - (A) the work to be performed; and
 - (B) the patient populations to whom services must be provided.
- (2) Provide for a reduction in funding or termination of the contract for failure to comply with terms of the contract.
- (3) Require that the contractor meet the standards set forth in rules adopted by the division of mental health and addiction under IC 4-22-2.
- (4) Require that the contractor participate in the division's evaluation process.
- (5) For any service for which the division chooses to contract on a per diem basis, the per diem reimbursement shall be determined under subsection (c) for the contractor's reasonable cost of providing services.
- (6) In contracts with capitated payment provisions, provide that the contractor's cost of purchasing stop-loss insurance for the patient populations to be served in amounts and with limits customarily purchased by prepaid health care plans must be:
 - (A) included in the actuarial determination of the capitated payment amounts; or
 - (B) separately paid to the contractor by the division.

(7) Provide that a contract for enumerated services granted by the division under this section to an approved provider may not create or confer upon the provider liability or responsibility for care or services beyond those services supported by the contract.

As added by P.L.40-1994, SEC.30. Amended by P.L.215-2001, SEC.57; P.L.99-2007, SEC.102; P.L.143-2011, SEC.15; P.L.35-2016, SEC.58.

IC 12-21-2-9

Repealed

(Repealed by P.L.40-1994, SEC.85.)