OPERATING PROCEDURES MANUAL

MAY 2007

APPROVED BY THE EXECUTIVE COMMITTEE ON MAY 12, 2006 AT 10:49AM
I. **Introduction**

In 2004, the New Mexico Legislature passed House Bill 271 creating an Act relating to behavioral health; establishing an Interagency Behavioral Health Purchasing Collaborative (“Collaborative”) and a Behavioral Health Planning Council (“Council”) that was passed and enacted into law. The Council members are appointed by the Governor. They are charged with advocating for adults, children and adolescents with serious mental illness or severe emotional neurological and behavioral disorders, including substance abuse and co-occurring disorders; and encouraging and supporting the development of a comprehensive, integrated, community-based behavioral health system of care.

II. **Scope**

The Behavioral Health Planning Council’s Operating Procedures encompass and regulate the responsibilities and activities of the Council. It is through this manual that the Council establishes the guidelines within which bylaws, the general Council and committees act to implement policy, advocacy and oversight.

III. **Vision**

“To be a potent voice for children, adults and families and the providers that serve them in New Mexico’s customer-centered, recovery and resiliency focused, coordinated, and quality behavioral health care system.”

IV. **Purpose**

The purpose of the Council is to serve as the statewide advisory structure for behavioral health in New Mexico.

V. **Code of Conduct**

All members of the Behavioral Health Planning Council shall abide by the terms of the New Mexico Governmental Conduct Act (Chapter 10, Article 16, Section 10-16-1, et seq., NMSA 1978) (See Appendix A. page 20)

VI. **Goals**

1. To develop and maintain an effective partnership with the Purchasing Collaborative
2. To monitor accountability of the Statewide Entity (SE) and Purchasing Collaborative
3. To develop, maintain, review and update annually an Operating Procedures Manual
4. To develop and maintain an effective partnership with local collaboratives
5. To operate within the scope of the matrix definitions as provided by the Secretary of Human Services

VII. Roles and Responsibilities of Membership

The Behavioral Health Planning Council replaces the Governor’s Mental Health Planning Council and act in accordance with Public Law 102-321 of the federal Public Health Service Act.

Council members will maintain appropriate and professional internal and external relationships. Those members found in violation of the New Mexico Governmental Conduct Act or the Behavioral Health Planning Council By-laws are subject to removal from.

A. Membership

The Council shall consist of the following members, all of who shall be appointed by and serve at the pleasure of the Governor:

1. consumers of behavioral health and substance abuse services
2. adults with serious mental illness
3. seniors
4. family members of adults with serious mental illness and of children with serious emotional or neurobiological disorders
5. persons with co-occurring disorders
6. Native American representatives
7. providers
8. advocates
9. State agency representatives from agencies responsible for providing services in the following areas:
   a. adult, children and adolescent mental health and substance abuse
   b. education and vocational rehabilitation
   c. criminal justice
   d. juvenile justice
   e. housing
   f. medicaid and social services
   g. health policy planning
   h. developmental disabilities planning and advocacy

Providers and state agency representatives together may not constitute more than forty-nine percent of the Council membership.
B. Officers

The Council shall have two officers, elected from and by the Council. These officers shall be the designated Chair and Vice-Chair.

1. Chair

The Chair shall be the principal executive officer of the Council and shall, in general, supervise all of the affairs of the Council in accordance with the Bylaws. He/she shall preside at all meetings of the Council. He/she shall sign any document authorized by the Council. The Chair shall establish subcommittees and be an ex-officio member of all subcommittees. With advice from the Council, the Chair shall appoint subcommittee members. He/she shall perform other duties as may be prescribed by the Council.

2. Vice-Chair

In the absence of the Chair, the Vice-Chair shall assume all rights and responsibilities of the Chair. Where such absence continues for one-half or more of the Chair’s term, a new Chair will be elected by the Council. The same procedure will be followed in the event of a vacancy in the position of Vice-chair.

The Chair and the Vice-chair shall be elected for a two-year term. They may serve no more than two consecutive terms.

C. Responsibilities

1. The Council shall advocate for adults, children and adolescents with serious mental illness or severe emotional, neurobiological and behavioral disorders, as well as those with substance abuse and co-occurring disorders. The Council will establish children and adult statewide education and training which supports consumer initiatives.

2. The Council shall report annually to the Governor and the Legislature on the adequacy and allocation of mental health services throughout the state. In addition, the Council will establish an annual behavioral health awareness day at the legislature.

3. The Council will advise and make recommendations to the Purchasing Collaborative and state agencies responsible for behavioral health services for children, adolescents and adults. A Council liaison will be assigned to attend the meetings of the Purchasing Collaborative as a non-voting member in order to report the activities and recommendations to the Purchasing Collaborative.
4. The Council will encourage and support the development of a comprehensive, integrated, community-based behavioral health system of care, including mental health, substance abuse, and services for persons with co-occurring disorders.

5. The Council will meet regularly and at the call of the Chair.

6. The Council will establish subcommittees as instituted by statute that will meet at least quarterly; and any other subcommittees to address specific issues as established by the Chair.

7. The Council shall review and make recommendations for the comprehensive mental health state block grant and the substance abuse block grant applications, the state plan for medicaid services and any other plan or application for federal or foundation funding for behavioral health services.

8. The Council will develop operating procedures.

9. The Council will develop a Behavioral Health Planning Council link on the state website for the general public.

D. Roles

1. Interagency Behavioral Health Purchasing Collaborative

The Interagency Behavioral Health Purchasing Collaborative ("Collaborative") consists of the Secretaries of Human Services, Health, Corrections, Children, Youth and Families, Finance and Administration, Labor, Public Education, Transportation; Agency on Aging and Long Term Services; Administrative Office of the Courts, Indian Affairs, Mortgage Finance Authority, Governor’s Committee on Concerns of the Handicapped, Developmental Disabilities Planning Council, Vocational Rehabilitation Division, Health Policy Commission; and the Governor’s Health Policy Coordinator, or their designees. The collaborative shall be chaired by the Secretary of Human Services with the respective Secretaries of Health and Children, Youth and Families Departments alternating annually as co-chairs.

   a. The Collaborative will provide a knowledge base and training for the Council as follows:

      (1) Request for Proposals (RFP)
      (2) Early Warning System
      (3) Scheduled report of deliverables
(4) Summary of RFP
(5) Performance requirements
(6) Claims payments

b. The Behavioral Health Design Work Group will provide to the Council:

(1) regular updates on decisions
(2) develop a mechanism to get answers to BHPC questions

c. The Behavioral Health Planning Council in coordination with the Collaborative will:

(1) Assign a representative as a non-voting member of the Purchasing Collaborative and its workgroups.
(2) Prioritize the information needed by the Council and develop a uniform reporting method.
(3) Develop a mechanism for obtaining process and outcome data from the Collaborative and the Statewide Entity.
(4) Develop an effective partnership with the Purchasing Collaborative and the Statewide Entity by conducting a retreat.

2. Statewide Entity

The Statewide Entity has been contracted by the Purchasing Collaborative to meet the behavioral health service needs and provider network capacity by transitioning from current multiple systems to one behavioral health delivery system for all New Mexicans.

a. The Behavioral Health Planning Council in coordination with the Purchasing Collaborative and the Statewide Entity will develop a mechanism for obtaining process and outcome data.

b. The Council will request that a Statewide Entity assign a representative to attend BHPC meetings.

c. The Council will provide a place on the agenda in order ensure that the Statewide Entity furnishes regular updates about decisions and activities at all Council meetings.

d. The Council will request that a Statewide Entity assign a representative to sit on each BHPC subcommittee.
e. The Council will develop an effective partnership with the Purchasing Collaborative and the Statewide Entity by conducting a retreat.

f. The Council will provide recommendations to the Statewide Entity through presentations to the Purchasing Collaborative.

VIII. Roles and Responsibilities of Committees

Subcommittees are established by statute and by the Council Chair in order to address specific issues. All subcommittees may include council members, non-council voting members, advocates, technical advisors and non-voting members appointed by the Chair for purposes of providing expertise necessary to the charge of the respective subcommittees. Membership in subcommittees will not exceed 25 members.

Subcommittees will be chaired by representatives of state agencies. All subcommittees shall make reports and recommendations to the Council. Reports are due to the state staff designee ten (10) days prior to the BHPC meeting.

Subcommittees will develop work plans to address the issues of the population base representative of the subcommittee: ie: Adult subcommittee addresses the adult behavioral health issues, etc. Work plans will be reviewed and revised on an on-going basis.

Subcommittees will report out on the work plan activities to the Behavioral Health Planning Council on a rotating basis: ie: once every six months. The report out schedule will be determined by the Executive Committee and placed on the agenda. Any items requiring action will be submitted to the Executive Committee within 48 hours of the Executive Committee meeting to be placed on the agenda as an Action Item.

Subcommittees are required to submit annual reports by the Executive Committee meeting date in August of each year.

Subcommittees will meet at least quarterly.

Long standing ad hoc subcommittees that can be integrated into the statutory subcommittees will sunset by December 31, 2006. If issues arise in a particular area and are not being addressed by the statutory subcommittee, the Chair will appoint members to ad hoc subcommittees to address said issues.

A. Executive Committee

1. The Executive Committee is composed of the Council Chair, Vice-chair, Chairs of statutory Council subcommittees. In addition, the following representatives selected from the Council shall serve on the Executive Committee:
a. A consumer  
b. A family member  
c. An advocate  
d. A provider  
e. A Native American representative  

2. The duties of the Executive Committee are to review information and develop the agenda for the full Council. The Executive Committee is empowered to request the presence of any subcommittee representative or any other persons relevant to decisions being made at its meetings.

3. At Executive Committee meetings, each Committee member who is present shall have one vote. All votes of the Executive Committee shall be recorded.

4. The Council may authorize the Executive Committee to act on its behalf.

B. Adult Subcommittee (Statutory)

The Adult Subcommittee shall be chaired by the Secretary of Health or a designee.

1. Mission Statement

To make recommendations to the Behavioral Health Planning Council regarding services for all citizens of New Mexico with behavioral health issues.

C. Medicaid Subcommittee (Statutory)

The Medicaid subcommittee shall be chaired by the secretary of human services or a designee, which may also serve as a subcommittee of the Medicaid Advisory Committee.

1. Mission

The mission of the Medicaid Subcommittee to the BH Planning Council is to educate and advise the Council and the Medicaid Advisory Committee on matters relating to behavioral health in New Mexico’s Medicaid program.
D. Children and Adolescent Subcommittee (Statutory)

The Child and Adolescent subcommittee shall be chaired by the secretary of children, youth and families or a designee.

1. Purpose Statement

The Children's Subcommittee of the Behavioral Health Planning Council serves to: advocate for families, children and adolescents with or at-risk of emotional, neurobiological and behavioral disorders, including substance abuse and co-occurring disorders; encourage and support the development of a comprehensive, integrated, culturally competent, high quality and timely community-based behavioral health system, which includes local collaboratives; and advise and make recommendations for increased and improved behavioral health service for families, children and adolescents.

E. Native American Subcommittee (Statutory)

The Native American Subcommittee shall be chaired by the Secretary of Indian Affairs Department or a designee.

1. Mission Statement

The mission of the Native American Subcommittee is to assure excellence in behavioral health services to all Native American people in New Mexico.

F. Substance Abuse Subcommittee (Statutory)

The Substance Abuse subcommittee shall be chaired by the secretary of health or a designee, which shall include DWI issues and shall include representation from local DWI councils.

1. Purpose Statement

The Substance Abuse Subcommittee of the Behavioral Health Council serves to provide guidance and recommendations regarding substance abuse/dependence prevention and treatment services for communities, families and individuals. The subcommittee is committed to the ongoing development of a system that recognizes substance abuse/dependence as a preventable and treatable illness for which high quality services are available.

G. Criminal Justice Subcommittee (Ad Hoc)

1. Mission Statement
The Criminal Justice Subcommittee of the Behavioral Health Planning Council will make recommendations for support and services for people with behavioral health issues in the criminal justice system.

H. Employment Subcommittee (Ad Hoc)

1. Vision Statement: EVERYONE CAN WORK WHO WANTS TO

I. Housing Subcommittee (Ad Hoc)

1. Mission Statement

The Housing Subcommittee of the Behavioral Health Planning Council will make recommendations and advocate for accessible and appropriate housing resources for all New Mexicans receiving behavioral health services.

J. Neurobehavioral Subcommittee (Ad Hoc)

1. Mission Statement

This subcommittee was formed to assure that the needs and concerns of New Mexicans with neurobehavioral disorders and co-occurring mental illness, substance abuse and/or challenging behaviors, and their families, are met as New Mexico’s behavioral health system is re-designed and changes are implemented. For the purposes of this subcommittee’s work, neurobehavioral disorders includes the following populations: persons with developmental disability, mental retardation, traumatic brain injury, deafness, hard of hearing, blindness, visual impairments, autism spectrum disorders and other neurodevelopmental disorders (i.e., ADHD, learning disability and seizure disorders).

K. Block Grant Subcommittee (Ad Hoc)

1. Mission Statement

To review and make recommendations for the community mental health services block grant and the substance abuse prevention and treatment block grant applications, the state plan for Medicaid services and any other plan or application for federal or foundation funding for behavioral health services.

IX. Council Operating Procedures

A. Role of State Staff

Staff support for the Council shall be provided by the Department of Health and the Children, Youth, and Families Department.
Staff support for the subcommittees shall be provided by the Collaborative as needed. Staff members will be non-voting members of the subcommittees. The Chair and Vice-chair of the Council are the persons authorized to request staff services or information from the Collaborative.

B. Council Meetings

The Council Chair shall preside at all BHPC meetings. The Executive committee shall develop the agenda for the all (full) Council meetings.

1. Call for Meetings
   a. Notice shall be given at least ten calendar days in advance of any regular meeting scheduled by the Council.
   b. Notice shall be given at least three (3) business days in advance of any special meeting.
   c. Notice shall be given at least twenty-four (24) hours or one business day in advance of any emergency meeting.

2. Frequency of Meetings
   a. No less than four (4) Council meetings will be held annually at the call of the Chair, in consultation with representatives of the Collaborative.
   b. Special or emergency meetings may be called by the Council Chair, at the request of at least five (5) Council members, or by the Co-Chairs of the Collaborative.

3. Time and Place of Meetings
   a. Notice of the date, time, place and general subject matter to be discussed at a regular meeting will be given to at least two major newspapers most frequently read by the constituency represented by the Council.

4. Travel and Per Diem Reimbursement
   a. Appointed Planning Council members, who are not state employees, and who are not otherwise being compensated, shall be reimbursed for travel and per diem expenses for participating in monthly Planning Council meetings and one Subcommittee meeting. Reimbursement for more than one Subcommittee meeting requires approval of the Executive Committee of the Behavioral Health Planning Council.
b. The Planning Council will use the Department of Finance and Administration (DFA) regulations and the Per Diem and Mileage Act as a guideline, as long as funds are available.

c. Reimbursements will be in the amount of the Planning Council's current stipend for the Planning Council meeting, plus round trip mileage. If a council member must travel over 100 miles to the Planning Council meeting and stays overnight in a hotel, per diem is allowed.

d. Members of the Planning Council can request reimbursement for mileage for one Subcommittee meeting. Round trip mileage is reimbursable at the Council's current rate. Per diem and stipend reimbursements will not be paid for Subcommittee meetings.

e. Reimbursement for participation in other meetings is only available for those who are appointed by the Chair person of the Behavioral health Planning Council. Other reimbursements in addition to the above policy must have approval of the Executive Committee.

5. Board Agenda

a. The Executive Committee shall develop the agenda for the meeting of the Council. Agenda items must be submitted forty-eight (48) hours prior to the meeting of the Executive Committee.

b. The Council will utilize a Consent Agenda by which recurrent and non-controversial board action items are organized apart from the rest of the agenda and approved by the Council such as subcommittee reports. If a Council member considers a specific item to need discussion, it will be removed from the Consent Agenda and placed on the regular agenda for the Council meeting.

c. The Consent Agenda will better utilize the Council meeting time by bundling items of business that can be voted on in one action; and help to ensure that the Council meetings focus on substantive topics that need discussion and approval.

d. In order for a Consent Agenda to be used effectively, the following will occur:
6. All subcommittee reports and agenda item requests will be submitted to the Executive Committee forty-eight hours prior to the meeting of the Executive Committee.

7. Subcommittee reports will be distributed to the Council membership ten (10) days prior to the Council meeting.

8. At the time in the regular agenda when there is to be action on the consent agenda, the Chair will first inquire whether there are any items that need to be removed from the consent agenda. If any member wishes an item to be removed, it must be removed and placed on the regular agenda for discussion and approval. This is done through a motion, second and vote/approval of the Council.

9. Minutes
   
   a. State staff will record, write and distribute the minutes of the Council meetings.
   b. Minutes will be approved at each Council meeting.

10. Voting
    
    a. A quorum of the Council shall consist of more than one half of the appointed membership of the Council.
    b. Each Council member or State agency proxy who is present shall have one vote at Council meetings.
    c. All votes of the Council shall be recorded.
APPENDIX A

Code of Conduct

CHAPTER 10 Public Officers and Employees

ARTICLE 16
Governmental Conduct

10-16-1. Short title.
Chapter 10, Article 16 NMSA 1978 may be cited as the "Governmental Conduct Act".

10-16-2. Definitions.
As used in the Governmental Conduct Act [Chapter 10, Article 16 NMSA 1978]:

A. "business means a corporation, partnership, sole proprietorship, firm, organization or individual carrying on a business;
B. "confidential information" means information that by law or practice is not available to the public;
C. "employment" means rendering of services for compensation in the form of salary as an employee;
D. "financial interest" means an interest held by an individual, his spouse or dependent minor children that is:
   (1) an ownership interest in business; or
   (2) any employment or prospective employment for which negotiations have already begun;
E. "official act" means an official decision, recommendation; approval, disapproval or other action that involves the use of discretionary authority;
F. "person means an individual or entity;
G. "public officer or employee" means any person who has been elected to appointed to or hired for any state office and who receives compensation in the form of salary or is eligible for per diem or mileage; but excludes legislators or judges;
H. "standards" means the conduct required by the Governmental Conduct Act; and
I. "substantial interest" means an ownership interest that is greater than twenty percent.

10-16-3. Ethical principles of public service; certain official acts prohibited; penalty.
A. A legislator, public officer or employee shall treat his government position as a public trust. He shall use the powers and resources of public office only to advance the
public interest and not to obtain personal benefits or pursue private interests incompatible with the public interest.

B. A legislator, public officer or employee shall conduct himself in a manner that justifies the confidence placed in him by the people, at all times maintaining the integrity and discharging ethically the high responsibilities of public service.

C. Full disclosure of real or potential conflicts of interest shall be a guiding principle for determining appropriate conduct. At all times reasonable efforts shall be made to avoid undue influence and abuse of office in public service.

D. No legislator, public officer or employee may request or receive, and no person may offer a legislator, public officer or employee, any money, thing of value or promise thereof that is conditioned upon or given in exchange for promised performance of an official act. Any person who knowingly and willfully violates the provisions of this subsection is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

10-16-4. Official act for personal financial interest prohibited; disqualification from official act; providing a penalty.

A. It is unlawful for a public officer or employee to take an official act for the primary purpose of directly enhancing his own financial interest or financial position. Any person who knowingly and willfully violates the provisions of this subsection is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

B. A public officer or employee shall disqualify himself from engaging in any official act directly affecting his financial interest.

C. If the public interest so requires, the governor may make an exception to Subsection B of this section for a public officer or employee by expressing the exception and the reasons for it in writing. The exception is effective when the public officer or employee files this writing with the secretary of state.

10-16-4.1. Honoraria prohibited.

No legislator, public officer or employee may request or receive an honorarium for a speech or service rendered that relates to the performance of public duties. For the purposes of this section, "honorarium" means payment of money, or any other thing of value in excess of one hundred dollars ($100), but does not include reasonable reimbursement for meals, lodging or actual travel expenses incurred in making the speech or rendering the service, or payment or compensation for services rendered in the normal course of a private business pursuit.
10-16-5. Repealed.

10-16-6. Confidential information.

No legislator, public officer or employee shall use confidential information acquired by virtue of his state employment or office for his or another's private gain.

10-16-7. Contracts involving public officers or employees.

A state agency shall not enter into any contract with a public officer or employee of the state or with a business in which the public officer or employee has a substantial interest unless the public officer or employee has disclosed his substantial interest and unless the contract is awarded pursuant to the Procurement Code [13-1-28 NMSA 1978]; provided that this section does not apply to a contract of official employment with the state or to contracts made pursuant to the provisions of the University Research Park Act [21-28-1 to 21-28-25 NMSA 1978].

10-16-8. Contracts involving former public officers or employees; representation of clients after government service.

A. A state agency shall not enter into a contract with, or take any action favorably affecting, any person or business that is:

1) represented personally in the matter by a person who has been a public officer or employee of the state within the preceding year if the value of the contract or action is in excess of one thousand dollars ($1,000) and the contract is a direct result of an official act by the public officer or employee; or

2) assisted in the transaction by a former public officer or employee of the state whose official act, while in state employment, directly resulted in the agency's making that contract or taking that action.

B. A former public officer or employee shall not represent a person in his dealings with the government on a matter in which the former public officer or employee participated personally and substantially while a public officer or employee.

C. For a period of one year after leaving government service or employment, a former public officer or employee shall not represent for pay a person before the government agency at which the former public officer or employee served or worked.

10-16-9. Contracts involving legislators; representation before state agencies.

A. A state agency shall not enter into any procurement contract for services, construction or items of personal property with a legislator or with a business in which the legislator has a substantial interest unless the legislator has disclosed his
substantial interest and unless the contract is awarded in accordance with the provisions of the Procurement Code [13-1-28 NMSA 1978].

B. A legislator shall not appear for, represent or assist another person in any matter before a state agency, unless without compensation or for the benefit of a constituent, except for legislators who are attorneys or other professional persons engaged in the conduct of their professions and, in those instances, the legislator shall refrain from references to his legislative capacity except as to matters of scheduling, from communications on legislative stationery and from threats or implications relating to legislative actions.

10-16-10. Repealed.

10-16-11. Codes of conduct.

A. By January 1, 1994, each elected statewide executive branch public officer shall adopt a general code of conduct for employees subject to his control. The New Mexico legislative council shall adopt a general code of conduct for all legislative branch employees. The general codes of conduct shall be based on the principles set forth in the Governmental Conduct Act [Chapter 10, Article 16 NMSA 1978].

B. Within thirty days after the general codes of conduct are adopted, they shall be given to and reviewed with all executive and legislative branch officers and employees. All new public officers and employees of the executive and legislative branches shall review the employees’ general code of conduct prior to or at the time of being hired.

C. The head of every executive and legislative agency and institution of the state may draft a separate code of conduct for all public officers and employees in that agency or institution. The separate agency code of conduct shall prescribe standards, in addition to those set forth in the Governmental Conduct Act [Chapter 10, Article 16 NMSA 1978] and the general codes of conduct for all executive and legislative branch public officers and employees, that are peculiar and appropriate to the function and purpose for which the agency or institution was created or exists. The separate codes, upon approval of the responsible executive branch public officer for executive branch public officers and employees or the New Mexico legislative council for legislative branch employees, govern the conduct of the public officers and employees of that agency or institution and, except for those public officers and employees removable only by impeachment, shall, if violated, constitute cause for dismissal, demotion or suspension. The head of each executive and legislative branch agency shall adopt ongoing education programs to advise public officers and employees about the codes of conduct. All codes shall be filed with the secretary of state and are open to public inspection.

D. Codes of conduct shall be reviewed at least once every four years. An amended code shall be filed as provided in Subsection C of this section.
E. All legislators shall attend a minimum of two hours of ethics continuing education and training biennially.

10-16-12. Repealed.

10-16-13. **Prohibited bidding.**

No state agency shall accept any bid from a person who directly or indirectly participated in the preparation of specifications on which the competitive bidding was held.

10-16-13.1 **Education and voluntary compliance.**

A. The secretary of state shall advise and seek to educate all persons required to perform duties under the Governmental Conduct Act [Chapter 10, Article 16 NMSA 1978] of those duties. This includes advising all those persons at least annually of that act's ethical principles.

B. The secretary of state shall seek first to ensure voluntary compliance with the provisions of the Governmental Conduct Act. A person who violates that act unintentionally or for good cause shall be given ten days' notice to correct the matter. Referrals for civil enforcement of that act shall be pursued only after efforts to secure voluntary compliance with that act have failed.

10-16-14. **Enforcement procedures.**

A. The secretary of state may refer suspected violations of the Governmental Conduct Act [Chapter 10, Article 16 NMSA 1978] to the attorney general, district attorney or appropriate state agency or legislative body for enforcement. If a suspected violation involves the office of the secretary of state, the attorney general may enforce that act. If a suspected violation involves the office of the attorney general, a district attorney may enforce that act.

B. Violation of the provisions of the Governmental Conduct Act by any legislator is grounds for discipline by the appropriate legislative body.

C. If the attorney general determines that there is sufficient cause to file a complaint against a public officer removable only by impeachment, he shall refer the matter to the house of representatives of the legislature. If within thirty days after the referral the house of representatives has neither formally declared that the charges contained in the complaint are not substantial nor instituted hearings on the complaint, the attorney general shall make public the nature of the charges, but he shall make clear that the merits of the charges have never been determined. Days during which the legislature is not in session shall not be included in determining the thirty-day period.
D. Violation of the provisions of the Governmental Conduct Act by any public officer or employee, other than those covered by Subsection C of this section, is grounds for discipline, including dismissal, demotion or suspension. Complaints against executive branch employees may be filed with the agency head and reviewed pursuant to the procedures provided in the Personnel Act [10-9-1 NMSA 1978]. Complaints against legislative branch employees may be filed with and reviewed pursuant to procedures adopted by the New Mexico legislative council. Complaints against judicial branch employees may be filed and reviewed pursuant to the procedures provided in the judicial personnel rules.

E. Subject to the provisions of this section, the Governmental Conduct Act may be enforced by the attorney general. Except as regards legislators or statewide elected officials, a district attorney in the county where a person resides or where a violation occurred may also enforce that act. Enforcement actions may include seeking civil injunctive or other appropriate orders.


10-16-16.[Recompiled.]

10-16-17.Criminal penalties.

Unless specified otherwise in the Governmental Conduct Act [Chapter 10, Article 16 NMSA 1978], any person who knowingly and willfully violates any of the provisions of that act is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than one year or both. Nothing in the Governmental Conduct Act shall preclude criminal prosecution for bribery or other provisions of law set forth in the constitution of New Mexico or by statute.

10-16-18.Enforcement; civil penalties.

A. If the secretary of state reasonably believes that a person committed, or is about to commit, a violation of the Governmental Conduct Act [Chapter 10, Article 16 NMSA 1978], the secretary of state shall refer the matter to the attorney general or a district attorney for enforcement.

B. The attorney general or a district attorney may institute a civil action in district court if a violation has occurred or to prevent a violation of any provision of the Governmental Conduct Act. Relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including an order for a civil penalty of two hundred fifty dollars ($250) for each violation not to exceed five thousand dollars ($5,000).
ARTICLE I. NAME

The organization referred to in this document shall be known as the BEHAVIORAL HEALTH PLANNING COUNCIL of NEW MEXICO, hereinafter referred to as the “Council.”

ARTICLE II. AUTHORITY

The Council is authorized in accordance with the HB 271 and with Public Law 102-321. It is intended to have an ongoing role and is advisory to the Interagency Behavioral Health Purchasing Collaborative, hereinafter referred to as the “Collaborative,” and to the Governor.

ARTICLE III. PURPOSE

The purpose of the Council is to serve as the single statewide advisory structure for behavioral health in New Mexico.

ARTICLE IV. DUTIES

Duties of the Council include, but are not limited to, the following:

A. To advise and make recommendations to the Collaborative and state agencies responsible for behavioral health services for children and adults, as those agencies are charged in Section 9-7-6.4 NMSA 1978.

B. To encourage and support the development of a comprehensive, integrated, community based behavioral health system of care, including mental health and substance abuse services, and services for persons with co-occurring disorders.

C. To serve as an advocate for adults, children and adolescents with serious mental illness or severe emotional, neurobiological, and behavioral disorders, as well as those with mental illness or emotional problems, including substance abuse and co-occurring disorders.

D. To meet regularly and at the call of the chair, who shall be selected by the Council membership from among its members.

E. To establish subcommittees, to meet at least quarterly, as follows:

1. a Medicaid subcommittee, chaired by the secretary of human services or a designee, which may also serve as a subcommittee of the Medicaid Advisory Committee;

2. a child and adolescent subcommittee, chaired by the secretary of children, youth and families or a designee;
3. an adult subcommittee, chaired by the secretary of health or a designee;

4. a substance abuse subcommittee, chaired by the secretary of health or a designee, which shall include DWI issues and shall include representation from local DWI Councils;

5. a Native American subcommittee; and

6. any other subcommittees as may be established by the chair of the Council to address specific issues. All subcommittees may include non-voting members appointed by the chair for purposes of providing expertise necessary to the charge of the respective subcommittees.

E. To review and make recommendations for the community mental health services block grant and the substance abuse prevention and treatment block grant applications, the state plan for Medicaid services and any other plan or application for federal or foundation funding for behavioral health services.

F. To report annually to the Governor and the legislature on the adequacy and allocation of mental health services throughout the state.

G. To replace the Governor's Mental Health Planning Council and act in accordance with Public Law 102-321 of the federal Public Health Service Act.

ARTICLE V. MEMBERSHIP

A. Composition

The Council shall consist of the following members, all of who shall be appointed by and serve at the pleasure of the Governor:

1. consumers of behavioral health and substance abuse services, as follows:
   a. adults with serious mental illness;
   b. seniors;
      a. family members of adults with serious mental illness and of children with severe emotional, neurobiological, and behavioral disorders; and
      b. persons with co-occurring disorders.

2. Native American representatives from a pueblo, an Apache tribe, the Navajo Nation and an urban Native American population;

3. providers;

4. state agency representatives responsible for:
   a. adult mental health and substance abuse;
   b. children's mental health and substance abuse;
   c. education;
   d. vocational rehabilitation;
e. criminal justice;
f. juvenile justice;
g. housing;
h. Medicaid and social services;
i. health policy planning;
j. developmental disabilities planning; and
k. disabilities issues and advocacy;

6. advocates; and

7. such other members as the Governor may appoint to ensure appropriate cultural and geographic representation.

Providers and state agency representatives together may not constitute more than forty-nine percent of the Council membership.

Non-governmental members shall be appointed by the Governor. Governmental members shall be state employees appointed by the Governor.

B. Terms for current non-governmental members will be staggered for each membership category and will not exceed four (4) years. Government members will continue to serve at the pleasure of the Governor.

C. Attendance and Vacancies

1. Attendance at scheduled Council meetings will be monitored by the Vice-chair. If a Council member misses two consecutive meetings without a valid excuse, the Vice-chair will notify the member that missing the next meeting may result in a request to the Governor that the member be removed from the Council and a new member be appointed.

2. Upon the occurrence of a vacancy, the Chair shall notify the Council and request recommendations for filling the vacancy. These recommendations will be forwarded to the Governor by the Chair for his/her consideration.

3. Vacancies shall be filled in the same manner as the original selection and by the provisions of Article V. - A.

4. A resignation of a member shall be submitted in writing to the Governor with a copy to the Chair of the Council.

5. A person appointed to fill an un-expired term shall be a member for the unexpired term of his/her predecessor.

6. The Governor may remove any member at his/her pleasure.

7. The Council, or its Executive Committee, may recommend to the Governor the removal of a member for cause. Cause includes:

   a. Conduct unbecoming a public official.
   b. Neglect of responsibilities assumed by a member or assigned by the Chair.
c. Failure to attend three meetings in one year, unless excused by the Chair.
d. Change in personal status, which alters the prescribed membership composition of the Council.

8. Only State agencies may designate individuals as proxies, provided that written notification from the agency Secretary/Director of such designation is received by the Chair.

ARTICLE VI. OFFICERS

A. The Council shall have two officers, elected from and by the Council. These officers shall be the designated Chair and Vice-chair.

B. Chair

The Chair shall be the principal executive officer of the Council and shall, in general, supervise all of the affairs of the Council in accordance with these Bylaws. He/she shall preside at all meetings of the Council. He/she shall sign any document authorized by the Council. The Chair shall establish subcommittees and be an ex-officio member of all subcommittees. With advice from the Council, the Chair shall appoint subcommittee members. He/she shall perform other duties as may be prescribed by the Council.

C. Vice-chair

In the absence of the Chair, the Vice-chair shall assume all rights and responsibilities of the Chair. Where such absence continues for one-half or more of the Chair’s term, a new Chair will be elected by the Council. The same procedure will be followed in the event of a vacancy in the position of Vice-chair.

D. Terms

The Chair and the Vice-chair shall be elected for a two-year term. They may serve no more than two consecutive terms.

ARTICLE VII. EXECUTIVE COMMITTEE

A. The Executive Committee reviews information and develops the agenda for the full Council. It shall be composed of the Chair, Vice-chair, Chairs of statutory Council subcommittees, and the following representatives selected from the Council: a consumer, a family member, an advocate, a provider, and a Native American representative. A majority vote of the Executive Committee shall be required for any decision making.

B. The Executive Committee is empowered to request the presence of any subcommittee representative or any other persons relevant to decisions being made at its meetings.

C. The Council may authorize the Executive Committee to act on its behalf.

ARTICLE VIII. SUBCOMMITTEES

A. Council members or State Agency proxies must Chair all subcommittees. All subcommittees shall make reports and recommendations to the Council. Non-members of
the Council may become voting members of subcommittees by appointment of the Council Chair with recommendation of the subcommittee Chair. The Council Chair, with the advice of the Council, may establish additional subcommittees as needed. Members of additional subcommittees shall elect their own Chair.

1. Voting Members:
   a) Should reflect the diversity of the Council membership,
   b) Can be either Council members or non-Council members as appointed by the Council Chair, and
   c) The maximum number of voting members may not exceed twenty-five (25).

2. Non-Voting Members can consist of interested parties, technical advisors, and State agency staff.

   B. At subcommittee meetings, each voting member of a subcommittee who is present shall have one vote.
   C. The Chair and Vice-Chair of each subcommittee may not both be State Agency representatives.
   D. The Vice-Chair shall be elected by a majority of the voting members of the subcommittee.
   E. With the approval of the subcommittee Chair, telephone participation may be authorized on a case-by-case basis for voting members.

ARTICLE IX. STAFF

A. Staff support for the Council shall be provided by the Department of Health and the Children, Youth and Families Department.

B. Staff support for the subcommittees shall be provided by the Collaborative as needed. Staff members will be non-voting members of the subcommittees. The Chair and Vice Chair of the Council are the persons authorized to request staff services or information from the Collaborative.

ARTICLE X. COUNCIL MEETINGS

A. All meetings shall be conducted as follows:

   1. Notice shall be given at least ten calendar days in advance of any regular meeting scheduled by the Council.
   2. Notice shall be given at least three business days in advance of any special meeting.
   3. Notice shall be given at least twenty-four hours or one business day in advance of any emergency meeting.
4. Notice of the date, time, place and general subject matter to be discussed at a regular meeting will be given to at least two major newspapers most frequently read by the constituency represented by the Council.

B. No less than four Council meetings will be held annually at the call of the Chair in consultation with representatives of the Collaborative. The Chair shall prepare an agenda two weeks prior to the regular meeting. The agenda shall be submitted to members for additions and comments. Special or emergency meetings may be called by the Council Chair, at the request of at least five Council members, or by the Co-Chairs of the Collaborative.

ARTICLE XI. VOTING

A. At Council meetings, each Council Member or State Agency proxy who is present shall have one vote.

B. At Executive Committee meetings, each Committee member who is present shall have one vote.

C. A quorum of the Council shall consist of more than one half of the appointed membership of the Council.

D. All votes of the Council and Executive Committee shall be recorded.

ARTICLE XII. ADOPTION AND AMENDMENTS OF BYLAWS

A. Adoption of Bylaws

These Bylaws shall be provided to the members of the Council two weeks before the meeting in which a vote is to be taken. Adoption shall require approval by a two-thirds (2/3) majority of the membership of the Council or State Agency proxies.

B. Amendments to Bylaws

These Bylaws may be amended by a two-thirds (2/3) majority of the membership of the Council or State Agency proxies. Proposed amendments shall be mailed to the membership of the Council two weeks before the meeting in which a vote is to be taken.

Proposed amendments shall be consistent with law.

ARTICLE XIII. CODE OF CONDUCT

All members of the Council and its staff shall be provided with a copy of the New Mexico Governmental Conduct Act (Section 10-16-1, et seq., NMSA 1978) and shall abide by its terms.

ARTICLE XIV. REIMBURSEMENT

A. Council members who are not state employees, and who are not otherwise being compensated, shall be reimbursed for travel and per diem expenses for Council meetings and Executive Committee meetings in accordance with the Per Diem and Mileage Act and
the Department of Finance and Administration (DFA) regulations, as long as funds are available.

B. Voting members of legislatively mandated subcommittees who are not state employees and who are not otherwise being compensated may be reimbursed travel and per diem expenses for attending subcommittee meetings in accordance with the Per Diem and Mileage Act and the Department of Finance and Administration (DFA) regulations, provided funds are available.

ARTICLE XV. PARLIAMENTARY AUTHORITY

A. Rules contained in Robert’s Rules of Order current edition shall serve as guidelines for the conduct of business by the Council, the Executive Committee and the Council Subcommittees.

B. The Chair/Vice-Chair may appoint a Parliamentarian to rule/advise on matters of Parliamentary procedure. The Parliamentarian shall serve at the pleasure of the Chair.

ARTICLE XVI. EFFECTIVE DATE

These Bylaws became effective upon their approval by the Council on __________________.

_____________________________________________________
Council Chair

Rev. 08/17/2004
APPENDIX C

DRAFT MATRIX OF ROLES

Last Updated 6-16-06

This section is a separate document as this may continue to be updated. As updates are made we will forward you the revised document.
APPENDIX D

House Bill 271
and
House Bill 259 (Amendment)

HB 271
AN ACT

RELATING TO BEHAVIORAL HEALTH; ESTABLISHING AN INTERAGENCY BEHAVIORAL HEALTH PURCHASING COLLABORATIVE AND A BEHAVIORAL HEALTH PLANNING COUNCIL; PRESCRIBING POWERS, DUTIES AND MEMBERSHIP; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2003.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. PURPOSE.--The purpose of creating a single interagency behavioral health purchasing collaborative is to develop a statewide system of behavioral health care that promotes the behavioral health and well-being of children, individuals and families; encourages a seamless system of care that is accessible and continuously available; and emphasizes prevention and early intervention, resiliency, recovery and rehabilitation.

Section 2. A new section of the Public Health Act is enacted to read:

"BEHAVIORAL HEALTH PLANNING COUNCIL CREATED--POWERS AND DUTIES--MEMBERSHIP.--There is created the "behavioral health planning council".

A. The council shall consist of the following members, all of whom shall be appointed by and serve at the pleasure of the governor:

(1) consumers of behavioral health services and consumers of substance abuse services, as follows:

   (a) adults with serious mental illness;
   (b) seniors;
   (c) family members of adults with serious mental illness and of children with serious emotional or neurobiological disorders;
   (d) persons with co-occurring disorders; and
   (e) Native American representatives from a pueblo, an Apache tribe, the Navajo Nation and an urban Native American population;

(2) providers;

(3) state agency representation from agencies responsible for:

   (a) adult mental health and substance abuse;
   (b) children's mental health and substance abuse;
   (c) education;
   (d) vocational rehabilitation;
   (e) criminal justice;
   (f) juvenile justice;
   (g) housing;
   (h) medicaid and social services;
   (i) health policy planning;
   (j) developmental disabilities planning; and
   (k) disabilities issues and advocacy;
(4) such other members as the governor may appoint to ensure appropriate cultural and geographic representation; and

(5) advocates.

B. Providers and state agency representatives together may not constitute more than forty-nine percent of the council membership.

C. The council shall:

(1) advocate for adults, children and adolescents with serious mental illness or severe emotional, neurobiological and behavioral disorders, as well as those with mental illness or emotional problems, including substance abuse and co-occurring disorders;

(2) report annually to the governor and the legislature on the adequacy and allocation of mental health services throughout the state;

(3) encourage and support the development of a comprehensive, integrated, community-based behavioral health system of care, including mental health and substance abuse services, and services for persons with co-occurring disorders;

(4) advise state agencies responsible for behavioral health services for children and adults, as those agencies are charged in Section 9-7-6.4 NMSA 1978;

(5) meet regularly and at the call of the chair, who shall be selected by the council membership from among its members;

(6) establish subcommittees, to meet at least quarterly, as follows:

(a) a medicaid subcommittee, chaired by the secretary of human services or a designee, which may also serve as a subcommittee of the medicaid advisory committee;

(b) a child and adolescent subcommittee, chaired by the secretary of children, youth and families or a designee;

(c) an adult subcommittee, chaired by the secretary of health or a designee

(d) a substance abuse subcommittee, chaired by the secretary of health or a designee, which shall include DWI issues and shall include representation from local DWI councils; and

(e) other subcommittees as may be established by the chair of the council to address specific issues. All subcommittees may include nonvoting members appointed by the chair for purposes of providing expertise necessary to the charge of the respective subcommittee;

(7) review and make recommendations for the comprehensive mental health state block grant and the substance abuse block grant applications, the state plan for medicaid services and any other plan or application for federal or foundation funding for behavioral health services; and

(8) replace the governor's mental health planning council and act in accordance with Public Law 102-321 of the federal Public Health Service Act."

Section 3. Section 9-2A-8 NMSA 1978 (being Laws 1992, Chapter 57, Section 8, as amended) is amended to read:

"9-2A-8. DEPARTMENT—ADDITIONAL DUTIES.—In addition to other duties provided by law or assigned to the department by the governor, the department shall:

A. develop priorities for department services and resources based on state policy and national best-practice standards and local considerations and priorities;

B. strengthen collaboration and coordination in state and local services for children, youth and families by integrating critical functions as appropriate, including service delivery and contracting for services across divisions and related agencies;

C. develop and maintain a statewide database, including client tracking of services for children, youth and families"
D. develop standards of service within the department that focus on prevention, monitoring and outcomes;

E. analyze policies of other departments that affect children, youth and families to encourage common contracting procedures, common service definitions and a uniform system of access;

F. enact regulations to control disposition and placement of children under the Children's Code, including regulations to limit or prohibit the out-of-state placement of children, including those who have developmental disabilities or emotional, neurobiological or behavioral disorders, when in-state alternatives are available;

G. develop reimbursement criteria for licensed child care centers and licensed home providers establishing that accreditation by a department-approved national accrediting body is sufficient qualification for the child care center or home provider to receive the highest reimbursement rate paid by the department;

H. assume and implement responsibility for children's mental health and substance abuse services in the state, coordinating with the human services department and the department of health;

I. assume and implement the lead responsibility among all departments for domestic violence services;

J. implement prevention and early intervention as a departmental focus;

K. conduct biennial assessments of service gaps and needs and establish outcome measurements to address those service gaps and needs, including recommendations from the governor's children's cabinet and the children, youth and families advisory committee; and

L. ensure that behavioral health services provided, including mental health and substance abuse services for children, adolescents and their families, shall be in compliance with requirements of Section 9-7-6.4 NMSA 1978."

Section 4. Section 9-3-5 NMSA 1978 (being Laws 1977, Chapter 257, Section 6, as amended) is amended to read:

"9-3-5. SECRETARY--DUTIES AND GENERAL POWERS.--

A. The secretary of corrections is responsible to the governor for the operation of the corrections department. It is his duty to manage all operations of the department and to administer and enforce the laws with which he or the department is charged.

B. To perform his duties, the secretary has every power expressly enumerated in the laws, whether granted to the secretary of the department or any division of the department, except where authority conferred upon any division is explicitly exempted from the secretary's authority by statute. In accordance with these provisions, the secretary shall:

(1) except as otherwise provided in the Corrections Department Act, exercise general supervisory and appointing authority over all department employees, subject to any applicable personnel laws and regulations;

(2) delegate authority to subordinates as he deems necessary and appropriate, clearly delineating such delegated authority and the limitations thereto;

(3) organize the department into those organizational units he deems will enable it to function most efficiently, subject to any provisions of law requiring or establishing specific organizational units;

(4) within the limitations of available appropriations and applicable laws, employ and fix the compensation of those persons necessary to discharge his duties;

(5) take administrative action by issuing orders and instructions, not inconsistent with the law, to assure implementation of and compliance with the provisions of law for whose administration or execution he is responsible and to enforce those orders and instructions by appropriate administrative action or actions in the courts;
(6) conduct research and studies that will improve the operations of the department and the provision of services to the citizens of the state;
(7) provide courses of instruction and practical training for employees of the department and other persons involved in the administration of programs with the objective of improving the operations and efficiency of administration;
(8) prepare an annual budget of the department;
(9) provide cooperation, at the request of heads of administratively attached agencies, in order to:
       (a) minimize or eliminate duplication of services and jurisdictional conflicts;
       (b) coordinate activities and resolve problems of mutual concern; and
       (c) resolve by agreement the manner and extent to which the department shall provide budgeting, record-keeping and related clerical assistance to administratively attached agencies;
(10) appoint, with the governor's consent, a "director" for each division. These appointed positions are exempt from the provisions of the Personnel Act. Persons appointed to these positions shall serve at the pleasure of the secretary;
(11) give bond as provided in the Surety Bond Act. The department shall pay the costs of the bonds; and
(12) require performance bonds of such department employees and officers as he deems necessary, as provided in the Surety Bond Act. The department shall pay the costs of the bonds.

C. The secretary may apply for and receive, with the governor's approval, in the name of the department any public or private funds, including United States government funds, available to the department to carry out its programs, duties or services.

D. Where functions of departments overlap or a function assigned to one department could better be performed by another department, a secretary may recommend appropriate legislation to the next session of the legislature for its approval.

E. The secretary may make and adopt such reasonable and procedural rules and regulations as may be necessary to carry out the duties of department and its divisions. No rule or regulation promulgated by the director of any division in carrying out the functions and duties of the division shall be effective until approved by the secretary. Unless otherwise provided by statute, no regulation affecting any person or agency outside the department shall be adopted, amended or repealed without a public hearing on the proposed action before the secretary or a hearing officer designated by him. The public hearing shall be held in Santa Fe unless otherwise permitted by statute. Notice of the subject matter of the regulation, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed regulation, proposed amendment or repeal of an existing regulation may be obtained shall be published once at least thirty days prior to the hearing date in a newspaper of general circulation and mailed at least thirty days prior to the hearing date to all persons who have made a written request for advance notice of hearing. All rules and regulations shall be filed in accordance with the State Rules Act.

F. Behavioral health services, including mental health and substance abuse services, provided by the department for persons under the department's supervision shall be in compliance with the requirements of Section 9-7-6.4 NMSA 1978."

Section 5. Section 9-7-3 NMSA 1978 (being Laws 1977, Chapter 253, Section 3, as amended) is amended to read:
"9-7-3. PURPOSE.--The purpose of the Department of Health Act is to establish a single, unified department to administer the laws and exercise the functions relating to health
formerly administered and exercised by organizational units of state government, including the state health agency, the scientific laboratory system and an appropriate allocation of administrative support services of the health and social services department and the hospital and institutions department. All public health and scientific laboratory functions formerly performed by the health and environment department shall be performed by the department. Behavioral health services, including mental health and substance abuse services, provided by or through the department shall be subject to the direction of the secretary and the provisions of Section 9-7-6.4 NMSA 1978."

Section 6. Section 9-7-6.1 NMSA 1978 (being Laws 1999, Chapter 270, Section 1) is amended to read:

"9-7-6.1. BEHAVIORAL HEALTH SERVICES—POWERS AND DUTIES OF THE DEPARTMENT OF HEALTH.—Subject to appropriation, the department shall:
A. contract for behavioral health treatment and support services, including mental health, alcoholism and other substance abuse services;
B. establish standards for the delivery of behavioral health services, including quality management and improvement, performance measures, accessibility and availability of services, utilization management, credentialing and recredentialing, rights and responsibilities of providers, preventive behavioral health services, clinical treatment and evaluation and the documentation and confidentiality of client records;
C. ensure that all behavioral health services, including mental health and substance abuse services, provided, contracted for or approved are in compliance with the requirements of Section 9-7-6.4 NMSA 1978;
D. assume responsibility for and implement adult mental health and substance abuse services in the state coordinating with the human services department and the children, youth and families department;
E. establish criteria for determining individual eligibility for behavioral health services; and
F. maintain a management information system in accordance with standards for reporting clinical and fiscal information."

Section 7. Section 9-7-6.2 NMSA 1978 (being Laws 1999, Chapter 270, Section 2) is amended to read:

"9-7-6.2. CONTRACT ELIGIBILITY.—Subject to the provisions of Section 9-7-6.4 NMSA 1978, the department may enter into contracts for behavioral health services with municipalities, counties, state institutions of higher education, tribal or pueblo governments or organizations, regional provider service networks or private nonprofit or for-profit corporations authorized to do business in New Mexico."

Section 8. A new section of the Department of Health Act, Section 9-7-6.4 NMSA 1978, is enacted to read:

"9-7-6.4. INTERAGENCY BEHAVIORAL HEALTH PURCHASING COLLABORATIVE.—
A. There is created the "interagency behavioral health purchasing collaborative", consisting of the secretaries of human services, health, corrections, children, youth and families, finance and administration, labor, public education and transportation; the directors of the state agency on aging, the administrative office of the courts, the New Mexico office of Indian affairs, the New Mexico mortgage finance authority, the governor's committee on concerns of the handicapped, the developmental disabilities planning council, the vocational rehabilitation division the public education department and the New Mexico health policy commission; and the governor's health policy coordinator, or their designees. The collaborative shall be chaired by
the secretary of human services with the respective secretaries of health and children, youth and families alternating annually as co-chairs.

B. The collaborative shall meet regularly and at the call of either co-chair and shall:

1. identify behavioral health needs statewide, with an emphasis on that hiatus between needs and services set forth in the department of health's gap analysis and in on-going needs assessments, and develop a master plan for statewide delivery of services;
2. give special attention to regional differences, including cultural, rural, frontier, urban and border issues;
3. inventory all expenditures for behavioral health, including mental health and substance abuse;
4. plan, design and direct a statewide behavioral health system, ensuring both availability of services and efficient use of all behavioral health funding, taking into consideration funding appropriated to specific affected departments; and
5. contract for operation of one or more behavioral health entities to ensure availability of services throughout the state.

C. The plan for delivery of behavioral health services shall include specific service plans to address the needs of infants, children, adolescents, adults and seniors as well as to address workforce development and retention and quality improvement issues. The plan shall be revised every two years and shall be adopted by the department of health as part of the statewide health plan.

D. The plan shall take the following principles into consideration, to the extent practicable and within available resources:

1. services should be individually centered and family focused based on principles of individual capacity for recovery and resiliency;
2. services should be delivered in a culturally responsive manner in a home or community-based setting, where possible;
3. services should be delivered in the least restrictive and most appropriate manner;
4. individualized service planning and case management should take into consideration individual and family circumstances, abilities and strengths and be accomplished in consultation with appropriate family, caregivers and other persons critical to the individual's life and well-being;
5. services should be coordinated, accessible, accountable and of high quality;
6. services should be directed by the individual or family served to the extent possible;
7. services may be consumer or family provided, as defined by the collaborative;
8. services should include behavioral health promotion, prevention, early intervention, treatment and community support; and
9. services should consider regional differences, including cultural, rural, frontier, urban and border issues.

E. The collaborative shall seek and consider suggestions of Native American representatives from Indian nations, tribes, pueblos and the urban Indian population, located wholly or partially within New Mexico, in the development of the plan for delivery of behavioral health services.

Section 9. Section 9-7-11.2 NMSA 1978 (being Laws 1991, Chapter 139, Section 2, as amended) is amended to read:
9-7-11.2. NEW MEXICO HEALTH POLICY COMMISSION CREATED--COMPOSITION--DUTIES.--

A. There is created the "New Mexico health policy commission", which is administratively attached to the department of finance and administration.

B. The New Mexico health policy commission shall consist of eight members appointed by the governor with the advice and consent of the senate to reflect the ethnic, economic, geographic and professional diversity of the state. No member of the commission shall have a pecuniary or fiduciary interest in the health services industry for three years preceding his appointment to the commission. Two members shall be appointed for one-year terms, three members shall be appointed for two-year terms, three members shall be appointed for three-year terms and all subsequent appointments shall be made for three-year terms.

C. The New Mexico health policy commission shall meet at the call of the chairman and shall meet not less than quarterly. The chairman shall be elected from among the members of the commission. Members of the New Mexico health policy commission shall not be paid but shall receive per diem and mileage expenses as provided in the Per Diem and Mileage Act.

D. The New Mexico health policy commission shall establish task forces as needed to make recommendations to the commission on various health issues. Task force members may include individuals who have expertise or a pecuniary or fiduciary interest in the health services industry. Voting members of a task force may receive mileage expenses if they:

1. are members who represent consumer interests;
2. are individuals who were not appointed to represent the views of the organization or agency for which they work; or
3. represent an organization that has a policy of not reimbursing travel expenses of employees or representatives for travel to meetings.

E. The New Mexico health policy commission shall:

1. develop a plan for and monitor the implementation of the state's health policy;
2. obtain and evaluate information from a broad spectrum of New Mexico's society to develop and monitor the implementation of the state's health policy;
3. obtain and evaluate information relating to factors that affect the availability and accessibility of health services and health care personnel in the public and private sectors;
4. perform needs assessments on health personnel, health education and recruitment and retention and make recommendations regarding the training, recruitment, placement and retention of health professionals in underserved areas of the state;
5. prepare and publish an annual report describing the progress in addressing the state's health policy and planning issues. The report shall include a work plan of goals and objectives for addressing the state's health policy and planning issues in the upcoming year;
6. distribute the annual report to the governor, appropriate state agencies and interim legislative committees and interested parties;
7. establish a process to prioritize recommendations on program development, resource allocation and proposed legislation;
8. provide information and analysis on health issues;
9. serve as a catalyst and synthesizer of health policy in the public and private sectors;
10. respond to requests by the executive and legislative branches of government; and
(11) ensure that any behavioral health projects, including those relating to mental health and substance abuse, are conducted in compliance with the requirements of Section 9-7-6.4 NMSA 1978."

Section 10. Section 9-8-6 NMSA 1978 (being Laws 1977, Chapter 252, Section 7, as amended) is amended to read:

"9-8-6. SECRETARY--DUTIES AND GENERAL POWERS.--

A. The secretary is responsible to the governor for the operation of the department. It is his duty to manage all operations of the department and to administer and enforce the laws with which he or the department is charged.

B. To perform his duties, the secretary has every power expressly enumerated in the laws, whether granted to the secretary or the department or any division of the department, except where authority conferred upon any division is explicitly exempted from the secretary's authority by statute. In accordance with these provisions, the secretary shall:

(1) except as otherwise provided in the Human Services Department Act, exercise general supervisory and appointing authority over all department employees, subject to any applicable personnel laws and regulations;

(2) delegate authority to subordinates as he deems necessary and appropriate, clearly delineating such delegated authority and the limitations thereto;

(3) organize the department into those organizational units he deems will enable it to function most efficiently, subject to any provisions of law requiring or establishing specific organizational units;

(4) within the limitations of available appropriations and applicable laws, employ and fix the compensation of those persons necessary to discharge his duties;

(5) take administrative action by issuing orders and instructions, not inconsistent with the law, to assure implementation of and compliance with the provisions of law for whose administration or execution he is responsible and to enforce those orders and instructions by appropriate administrative action in the courts;

(6) conduct research and studies that will improve the operations of the department and the provision of services to the citizens of the state;

(7) provide courses of instruction and practical training for employees of the department and other persons involved in the administration of programs with the objective of improving the operations and efficiency of administration;

(8) prepare an annual budget of the department;

(9) provide cooperation, at the request of heads of administratively attached agencies, in order to:

(a) minimize or eliminate duplication of services and jurisdictional conflicts;

(b) coordinate activities and resolve problems of mutual concern;

and

(c) resolve by agreement the manner and extent to which the department shall provide budgeting, record-keeping and related clerical assistance to administratively attached agencies;

(10) appoint, with the governor's consent, a "director" for each division. These appointed positions are exempt from the provisions of the Personnel Act. Persons appointed to these positions shall serve at the pleasure of the secretary, except as provided in Section 9-8-9 NMSA 1978;

(11) give bond in the penal sum of twenty-five thousand dollars ($25,000) and require directors to each give bond in the penal sum of ten thousand dollars ($10,000) conditioned upon the faithful performance of duties as provided in the Surety Bond Act. The department shall pay the costs of these bonds; and
(12) require performance bonds of such department employees and officers as he deems necessary as provided in the Surety Bond Act. The department shall pay the costs of these bonds.

C. The secretary may apply for and receive, with the governor's approval, in the name of the department, any public or private funds, including United States government funds, available to the department to carry out its programs, duties or services.

D. Where functions of departments overlap or a function assigned to one department could better be performed by another department, the secretary may recommend appropriate legislation to the next session of the legislature for its approval.

E. The secretary may make and adopt such reasonable and procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions. No rule or regulation promulgated by the director of any division in carrying out the functions and duties of the division shall be effective until approved by the secretary unless otherwise provided by statute. Unless otherwise provided by statute, no regulation affecting any person or agency outside the department shall be adopted, amended or repealed without a public hearing on the proposed action before the secretary or a hearing officer designated by him. The public hearing shall be held in Santa Fe unless otherwise permitted by statute. Notice of the subject matter of the regulation, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed regulation, proposed amendment or repeal of an existing regulation may be obtained shall be published once at least thirty days prior to the hearing date in a newspaper of general circulation and mailed at least thirty days prior to the hearing date to all persons who have made a written request for advance notice of hearing.

F. In the event the secretary anticipates that adoption, amendment or repeal of a rule or regulation will be required by a cancellation, reduction or suspension of federal funds or order by a court of competent jurisdiction:

   (1) if the secretary is notified by appropriate federal authorities at least sixty days prior to the effective date of such cancellation, reduction or termination of federal funds, the department is required to promulgate regulations through the public hearing process to be effective on the date mandated by the appropriate federal authority; or

   (2) if the secretary is notified by appropriate federal authorities or court less than sixty days prior to the effective date of such cancellation, reduction or suspension of federal funds or court order, the department is authorized without a public hearing to promulgate interim rules or regulations effective for a period not to exceed ninety days. Interim regulations shall not be promulgated without first providing a written notice twenty days in advance to providers of medical or behavioral health services and beneficiaries of department programs. At the time of the promulgation of the interim rules or regulations, the department shall give notice of the public hearing on the final rules or regulations in accordance with Subsection E of this section.

G. If the secretary certifies to the secretary of finance and administration and gives contemporaneous notice of such certification through the human services register that the department has insufficient state funds to operate any of the programs it administers and that reductions in services or benefit levels are necessary, the secretary may engage in interim rulemaking. Notwithstanding any provision to the contrary in the State Rules Act, interim rulemaking shall be conducted pursuant to Subsection E of this section, except:

   (1) the period of notice of public hearing shall be fifteen days;

   (2) the department shall also send individual notices of the interim rulemaking and of the public hearing to affected providers and beneficiaries;

   (3) rules and regulations promulgated pursuant to the provisions of this subsection shall be in effect not less than five days after the public hearing;
(4) rules and regulations promulgated pursuant to the provisions of this subsection shall not be in effect for more than ninety days; and
(5) if final rules and regulations are necessary to replace the interim rules and regulations, the department shall give notice of intent to promulgate final rules and regulations at the time of notice herein. The final rules and regulations shall be promulgated not more than forty-five days after the public hearing and filed in accordance with the State Rules Act.

H. At the time of the promulgation of the interim rules or regulations, the department shall give notice of the public hearing on the final rules or regulations in accordance with Subsection E of this section.

I. The secretary shall ensure that any behavioral health services, including mental health and substance abuse services, provided, contracted for or approved are in compliance with the requirements of Section 9-7-6.4 NMSA 1978.

J. All rules and regulations shall be filed in accordance with the State Rules Act."

Section 11. Section 22-14-8 NMSA 1978 (being Laws 1967, Chapter 16, Section 197, as amended by Laws 1993, Chapter 226, Section 31 and also by Laws 1993, Chapter 229, Section 2) is amended to read:

"22-14-8. VOCATIONAL REHABILITATION DIVISION--POWERS--DUTIES.--The vocational rehabilitation division of the public education department shall:
A. provide vocational rehabilitation to qualified individuals;
B. administer any state plan or federal aid funds relating to vocational rehabilitation;
C. cooperate and make agreements with public or private agencies to establish or to maintain a vocational rehabilitation program;
D. enter into reciprocal agreements with other states to provide vocational rehabilitation;
E. accept gifts or grants to be used for vocational rehabilitation;
F. enforce regulations for the administration of laws relating to vocational rehabilitation;
G. conduct research and compile statistics relating to vocational rehabilitation;
and
H. ensure that behavioral health services, including mental health and substance abuse services, provided, contracted for or approved are in compliance with the requirements of Section 9-7-6.4 NMSA 1978."

Section 12. Section 34-9-3 NMSA 1978 (being Laws 1959, Chapter 162, Section 3, as amended) is amended to read:

"34-9-3. DIRECTOR--DUTIES.--The director of the administrative office of the courts shall, under the supervision and direction of the supreme court:
A. supervise all matters relating to administration of the courts;
B. examine fiscal matters and the state of the dockets of the courts, secure information as to the courts' need of assistance and prepare and transmit to the supreme court statistical data and reports as to the business of the courts;
C. submit to the supreme court and to the legislature by January 30 of each year a report of the activities of the administrative office of the courts and of the state of business of the courts, including the statistical data submitted to the supreme court pursuant to Subsection B of this section, and the director's recommendations. This report is a public document;
D. deal with the problems of finance of those courts supported by legislative appropriation and be concerned with adequate but economical financing of each of these courts and the equitable distribution of available funds among them. For this purpose, the director shall
receive, adjust and approve proposed budgets submitted by these courts prior to submission of the budgets to the State Budget Division of the Department of Finance and Administration for inclusion in the executive budget. The district courts of all counties within a judicial district shall be included within a single budget. Budget proposals shall be submitted by the courts at the time and in the form prescribed by the director;

E. perform other duties in aid of the administration of justice and the administration and dispatch of the business of the courts as directed by the supreme court. The courts shall comply with all requests of the director for information; and

F. encourage that any behavioral health services, including mental health and substance abuse services, funded, provided, contracted for or approved by the office be in compliance with the requirements of Section 9-7-6.4 NMSA 1978."

Section 13. A new section of the Mortgage Finance Authority Act is enacted to read:

"DUTIES--BEHAVIORAL HEALTH.--The authority shall:

A. appoint a representative to both the behavioral health planning council and the interagency behavioral health purchasing collaborative; and

B. ensure that any behavioral health services, including mental health and substance abuse services, and any housing provided for consumers of those services, that are provided, contracted for or approved by the authority are in compliance with requirements of Section 9-7-6.4 NMSA 1978."

Section 14. Section 67-3-8 NMSA 1978 (being Laws 1967, Chapter 226, Section 7, as amended) is amended to read:

"67-3-8. POWERS AND DUTIES OF SECRETARY.--The secretary shall:

A. serve as the chief staff officer of the state transportation commission and shall be responsible to the commission for the operations and management of the work of the department;

B. organize the department in such a manner as to properly conduct the work of the department;

C. establish six highway construction districts with the approval of the state transportation commission. The secretary shall designate a district engineer in each construction district to supervise and manage the operations of the district. The district engineer shall be a professional engineer. The authority and responsibility for the actual construction for all construction projects within the district shall be delegated to the district engineer. District engineers shall attend state transportation commission meetings;

D. in accordance with the provisions of the Personnel Act, employ such assistants and employees as may be required for the efficient operation of the department, each of whom shall possess all the qualifications that may be prescribed for such position; provided that, notwithstanding the provisions of the Personnel Act, no more than five division directors shall be covered by and subject to the Personnel Act;

E. observe, administer and enforce the provisions of law now existing or hereafter enacted that pertain to the state highways, the state transportation commission or the department; and

F. ensure that any behavioral health services, including mental health and substance abuse services, provided, contracted for or approved are in compliance with the requirements of Section 9-7-6.4 NMSA 1978."

Section 15. STATE AGENCY ON AGING--SUCCESSOR AGENCY--DUTY.--The state agency on aging, or a successor agency, shall appoint the secretary or the secretary's designee to serve as a member of the interagency behavioral health purchasing collaborative and shall ensure that any behavioral health services, including mental health and substance abuse
services funded, provided, contracted for or approved, are in compliance with the requirements of Section 9-7-6.4 NMSA 1978.

Section 16. NEW MEXICO OFFICE OF INDIAN AFFAIRS--SUCCESSOR AGENCY--DUTY.--The New Mexico office of Indian affairs, or a successor agency, shall appoint the secretary or the secretary's designee to serve as a member of the interagency behavioral health purchasing collaborative and shall ensure that all behavioral health services, including mental health and substance abuse services funded, provided, contracted for or approved by the commission, are in compliance with the requirements of Section 9-7-6.4 NMSA 1978.

Section 17. PUBLIC EDUCATION DEPARTMENT.--The public education department shall appoint the secretary of public education or the secretary's designee to serve as a member of the interagency behavioral health purchasing collaborative and shall ensure that any behavioral health services, including mental health and substance abuse services funded, provided, contracted for or approved, are in compliance with the requirements of Section 9-7-6.4 NMSA 1978.

Section 18. REPEAL.--Section 24-1-26 NMSA 1978 (being Section 1) is repealed. Laws 2003, Chapter 59 HB 271
HB 259 (Amendment)
AN ACT

RELATING TO BEHAVIORAL HEALTH; PROVIDING FOR A NATIVE AMERICAN SUBCOMMITTEE; AMENDING A SECTION OF NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 24-1-28 NMSA 1978 (being Laws 2004, Chapter 46, Section 2) is amended to read:

"24-1-28. BEHAVIORAL HEALTH PLANNING COUNCIL CREATED—POWERS AND DUTIES—MEMBERSHIP.—There is created the "behavioral health planning council".

A. The council shall consist of the following members, all of whom shall be appointed by and serve at the pleasure of the governor:

1) consumers of behavioral health services and consumers of substance abuse services, as follows:

   a) adults with serious mental illness;
   b) seniors;
   c) family members of adults with serious mental illness and of children with serious emotional or neurobiological disorders; and
   d) persons with co-occurring disorders;

2) Native American representatives from a pueblo, an Apache tribe, the Navajo Nation and an urban Native American population;

3) providers;

4) state agency representation from agencies responsible for:

   a) adult mental health and substance abuse;
   b) children's mental health and substance abuse;
   c) education;
   d) vocational rehabilitation;
   e) criminal justice;
   f) juvenile justice;
   g) housing;
   h) medicaid and social services;
   i) health policy planning;
   j) developmental disabilities planning; and
   k) disabilities issues and advocacy;

5) such other members as the governor may appoint to ensure appropriate cultural and geographic representation; and

6) advocates.

B. Providers and state agency representatives together may not constitute more than forty-nine percent of the council membership.

C. The council shall:

1) advocate for adults, children and adolescents with serious mental illness or severe emotional, neurobiological and behavioral disorders, as well as those with mental illness or emotional problems, including substance abuse and co-occurring disorders;

2) report annually to the governor and the legislature on the adequacy and allocation of mental health services throughout the state;

3) encourage and support the development of a comprehensive, integrated, community-based behavioral health system of care, including mental health and substance abuse services, and services for persons with co-occurring disorders;
(4) advise state agencies responsible for behavioral health services for children and adults, as those agencies are charged in Section 9-7-6.4 NMSA 1978;
(5) meet regularly and at the call of the chair, who shall be selected by the council membership from among its members;
(6) establish subcommittees, to meet at least quarterly, as follows:
   (a) a Medicaid subcommittee, chaired by the secretary of human services or a designee, which may also serve as a subcommittee of the Medicaid advisory committee;
   (b) a child and adolescent subcommittee, chaired by the secretary of children, youth and families or a designee;
   (c) an adult subcommittee, chaired by the secretary of health of a designee;
   (d) a substance abuse subcommittee, chaired by the secretary of health or a designee, which shall include DWI issues and shall include representation from local DWI councils;
   (e) a Native American subcommittee, chaired by the secretary of Indian affairs or a designee; and
   (f) other subcommittees as may be established by the chair of the council to address specific issues. All subcommittees may include nonvoting members appointed by the chair for purposes of providing expertise necessary to the charge of the respective subcommittee;
(7) review and make recommendations for the comprehensive mental health state block grant and the substance abuse block grant applications, the state plan for Medicaid services and any other plan or application for federal or foundation funding for behavioral health services; and
(8) replace the governor’s mental health planning council and act in accordance with Public Law 102-321 of the federal Public Health Service Act." HB 259
APPENDIX E

PUBLIC LAW 102-321

TITLE XIX BLOCK GRANTS

This is a separate document from the Operating Procedures Manual and follows this page.