

AN ACT

relating to the appointment of a management team to manage and operate a community center for mental health or mental retardation services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (a) and (d), Section 534.038, Health and Safety Code, are amended to read as follows:

(a) The commissioner may appoint a manager or management team to manage and operate a community center if the commissioner finds that

~~(1)~~ the center or an officer or employee of the center:

(1) ~~(A)~~ intentionally, recklessly, or negligently failed to discharge the center's duties under a contract with the department;

(2) ~~(B)~~ misused state or federal money;

(3) ~~(C)~~ engaged in a fraudulent act, transaction, practice, or course of business;

(4) ~~(D)~~ endangers or may endanger the life, health, or safety of a person served by the center;

(5) ~~(E)~~ failed to keep fiscal records or maintain proper control over center assets as prescribed by Chapter 783, Government Code;

(6) ~~(F)~~ failed to respond to a deficiency in a

1 review or audit;

2 (7) [~~(G)~~] substantially failed to operate within the
3 functions and purposes defined in the center's plan; or

4 (8) [~~(H)~~] otherwise substantially failed to comply
5 with this subchapter or department rules [~~, and~~

6 [~~(2) contract sanctions and intervention with the~~
7 ~~local board of trustees failed to bring the center into compliance~~
8 ~~with the center's plan or contract]~~.

9 (d) The center may appeal the commissioner's decision to
10 appoint a manager or management team as prescribed by board rule.
11 The filing of a notice of appeal stays the appointment unless the
12 commissioner based the appointment on a finding under Subsection
13 (a)(2) or (4) [~~(a)(1)(D)~~].

14 SECTION 2. Subsections (b) and (c), Section 534.040, Health
15 and Safety Code, are amended to read as follows:

16 (b) The authority of the manager or management team
17 continues until [~~+~~

18 [~~(1)~~] the commissioner determines that the relevant
19 factors listed under Section 534.038(a) [~~534.038(a)(1)~~] no longer
20 apply [~~exist, or~~

21 [~~(2) the department cancels its contract with the~~
22 ~~center]~~.

23 (c) Following a determination under Subsection (b)
24 [~~(b)(1)~~], the commissioner shall terminate the authority of the
25 manager or management team and restore authority to manage and
26 operate the center to the center's authorized officers and
27 employees.

1 SECTION 3. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 464 passed the Senate on March 13, 2003, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendment on May 20, 2003, by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 464 passed the House, with amendment, on May 10, 2003, by the following vote: Yeas 143, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor