SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Children and Families Committee

BILL: PCS/SB 1286

INTRODUCER: Committee on Children and Families and Senator Lynn

SUBJECT: Substance Abuse and Mental Health Corporation

DATE: March 14, 2006 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Goltry	Whiddon	CF	**Pre-meeting**
2.			HC	
3.				
4.				
5.				
6.				

I. Summary:

Proposed Committee Substitute for Senate Bill 1286 revises the duties of the Florida Substance Abuse and Mental Health Corporation, modifies membership requirements to include primary consumers, and delays the repeal of the corporation's authorizing statute until the year 2011.

The bill amends s. 394.66, F.S., modifying legislative intent regarding community substance abuse and mental health services to include intent that the publicly funded system of services focus on recovery and resiliency and provide continuity of care for persons released from state correctional facilities into the community.

This PCS substantially amends the following sections of the Florida Statutes: 394.655, 394.66.

II. Present Situation:

The Florida Substance Abuse and Mental Health Corporation was created by the 2003 Legislature to help ensure the achievement of the Legislature's intent "to provide substance abuse and mental health services that are coordinated and consistent throughout the state, that reflect the current state of knowledge regarding quality and effectiveness, and that are responsive to service recipients and the needs of communities in this state."[1]

The creation of the corporation was the culmination of a number of initiatives that addressed the need for a focal point for independent oversight, policy and budget analysis, and consumer participation in the public substance abuse and mental health service delivery system. The most significant of these initiatives immediately prior to the creation of the corporation was the

[1] s. 394.655(1), F.S.

Florida Commission on Mental Health and Substance Abuse (MHSA). In its final report in 2001, the commission found that "a new leadership function is required to better comprehend and manage the overall MHSA system. This leadership will rely on new information technologies and improved science to understand the interaction of the disparate parts of our MHSA system and to provide a forum within which all interested parties can craft a comprehensive strategy to improve the public's behavioral health."[2] The commission recommended that a statewide coordinating council be created and charged with leadership of the overall system, including the production of a statewide strategy for mental health and substance abuse services.

In addition to the report of the Commission on MHSA, a legislative proposal to create a separate department of mental health and substance abuse was further impetus for the creation of a single point of accountability for substance abuse and mental health services in the state.[3] The interest in a separate department generated from a long-standing frustration among consumers, families, and providers over the perceived lack of priority for substance abuse and mental health services within the Department of Children and Family Services (DCF). The basic organizational structure of DCF was inherited from its predecessor, the Department of Health and Rehabilitative Services (DHRS). When it was created during the reorganization of state government in 1976, DHRS was based on the concept of "integrated services" which provided for decentralized control and separate operations, program planning, and local administration, which had the effect of disempowering leadership within specific program areas. The perceived loss of authority over program development was felt more acutely in community substance abuse and mental health services as these services had never been provided directly by the department but were contracted through local community provider agencies. The decentralized structure supported this model, but it also had the effect of creating a patchwork of programs, inequitable funding levels, and inconsistent program design across the state.

Other factors cited by advocates for the creation of the corporation included:

- Decreasing appropriations for substance abuse and mental health services resulting in a downward trend in per capita funding for services when adjusted for inflation;
- A growing focus on narrow target populations, shifting from a community prevention – education – treatment model to supporting only state priorities and crisis response because of insufficient resources and a shift in funding mechanisms;
- The perception among stakeholders that there was lack of a sense of direction and mission in the system;
- An inconsistency and lack of efficiency in regulatory and administrative functions.[4]

The corporation is organized as a not-for-profit corporation under ch. 617, F.S., and, as required by the statute, is not a unit or entity of state government. It is located in DCF for administrative purposes but is not subject to the supervision or control of the department or any other executive agency. Although not a government agency, the corporation and any committees it forms are subject to the provisions of ch. 119, F.S., relating to public records and ch. 286, F.S., pertaining to public meetings. The statute directs that a contract is to be developed between the corporation and DCF and that funding for the corporation is to be appropriated in a special category. Since its

[2] Florida Commission on Mental Health and Substance Abuse, Legislative Briefing, January 2001.
[3] Senate Bill 700, 2003.
[4] Robert Constantine, Ph.D., Minutes, Florida Substance Abuse and Mental Health Corporation, March 12, 2004.

creation, no funds have been appropriated for the corporation and the cost of staff, travel, and expenses for its operation have been paid from the Program Management and Compliance budget category in the Substance Abuse Program and Mental Health Program as authorized through proviso language in the General Appropriations Act.

The corporation is directed to exercise certain responsibilities including reviewing and assessing the collection and analysis of needs assessment data, reviewing the status of the publicly funded mental health and substance abuse systems, and recommending policy to improve service coordination and effectiveness. The corporation is to provide mechanisms for stakeholders to provide input regarding system management, recommend priorities for service expansion, recommend strategies for improving system performance through review of system data, submit budget recommendations to the departments, monitor and forecast manpower needs, and work with DCF and the educational system to establish policies that will ensure the state has the personnel it needs to continuously implement and improve its services.

The corporation has 12 members appointed by the President of the Senate, the Speaker of the House of Representatives, and the Governor. The Governor designates a member to be Chair, and the Secretary of DCF, the Secretary of AHCA, and a representative of local government serve as ex-officio members. Members represent a diverse constituency including experts in the fields of mental health and substance abuse, former clients or family members of former clients served by public mental health and substance abuse programs, community and business leaders, the criminal justice system, and community-based care providers. The corporation currently has two staff, an executive director and staff assistant. Both positions are Other Personal Services (OPS) employees of DCF. As directed by statute the corporation has developed memoranda of understanding with DCF and AHCA and has coordinated with other agencies and entities that provide, purchase, or fund substance abuse and mental health programs and services.

Beginning December 1, 2004, the corporation is directed to annually evaluate and report to the Legislature and the Governor regarding the status of the state's publicly funded substance abuse and mental health systems. All public sector agencies that deliver or contract for substance abuse or mental health services are directed to cooperate with the development of this annual report. As a part of the annual report, the corporation and DCF must report whether or not both parties are complying with the terms of the contract in a manner that is consistent with the goals and purposes of the corporation and in the best interest of the state. The corporation has submitted both reports on time. The reports have made recommendations relating to integrated data systems, managed care, Medicaid reform, funding of services and supports, equity funding, drug courts, suicide prevention, and system transformation.[5]

The legislation that created the corporation required that the Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Auditor General conduct an evaluation of the extent to which the corporation had carried out its responsibilities and submit an initial report in February 2005 and a final report in February 2006. It also provided for repeal of the corporation's authorizing statute on October 1, 2006, unless it was reviewed and re-enacted by the Legislature.

[5] Florida Substance Abuse and Mental Health Corporation, Annual Reports, 2004 and 2005.

In their 2005 interim report, OPPAGA found that the corporation had "addressed its legislative directive to analyze the transition of Medicaid recipients to managed care for behavioral health. The corporation's annual report included many related recommendations pertaining to access to care, quality of care, administration, and financial requirements. However, the corporation did not work closely with other state agencies that are part of the substance abuse and mental health systems to improve the coordination, quality, and efficiency of the systems. Of its eight designated responsibilities, the corporation fully addressed one by providing a forum for stakeholder involvement. . . . While the corporation's work during 2004 evinces useful beginning steps, unless the corporation demonstrates value to the state by more fully addressing its statutory responsibilities during 2005, it will be difficult to justify its continued existence."[6]

The report recommended that the corporation expand its focus to all state agencies that fund, purchase, or provide substance abuse and mental health services, complete memoranda of agreement with these agencies, develop processes to analyze data on programs, develop needs assessment data, analyze performance data across agencies to determine the quality of services and outcomes, provide cost projections, make recommendations to the Legislature, Governor, and state agencies to assist in developing legislative budget requests.[7]

Chapter 2003-279, L.O.F., requires the final OPPAGA report to address four questions:

- To what extent has the corporation worked with state agencies to create integrated substance abuse and mental health systems?
- To what degree has the corporation met its statutory responsibilities?
- To what extent has the corporation improved substance abuse and mental health system outcomes?
- Should the Substance Abuse and Mental Health Corporation be continued?

The draft OPPAGA report indicates that during its second year of operation, the corporation improved its outreach to state agencies and more fully addressed its statutory responsibilities but that it continues to "focus its policy recommendations only on the Department of Children and Families (DCF) and Agency for Health Care Administration (AHCA) and needs to address all agencies in the substance abuse and mental heath systems."[8] The report noted that the corporation had been instrumental in improving data collection and analysis between DCF and AHCA. Although the corporation's work has not had a substantive impact on state mental health and substance abuse system outcomes, the report states that the corporation can "play a needed role for the state by providing independent analyses of the state's substance abuse and mental health systems. . . . Accordingly, the corporation should be given more time and be continued beyond its October 2006 sunset date." [9] However, OPPAGA recommends that the Legislature consider narrowing the corporation's focus to improving interagency coordination issues and provide a specific set of goals, which would improve the corporation's effectiveness. Additionally, the corporation could play a useful role in solving interagency coordination issues

[6] Office of Program Policy Analysis and Government Accountability, Report 05-17 *The Substance Abuse and Mental Health Corporation Has Not Addressed Its Responsibility Fully*, March 2005.
[7] Ibid.
[8] Office of Program Policy Analysis and Government Accountability, DRAFT Report 06=xx, *Substance Abuse and Mental Health Corporation Made Progress But Needs More Narrow Focus*, March 2006.
[9] Ibid.

by serving as a forum for the agencies involved in the substance abuse and mental health systems to resolve these issues.

In 2005, DCF applied for a federal grant to support funding for "transformation" of the mental health service delivery system. The grant was a result of the President's New Freedom Commission on Mental Health which called for a fundamental transformation of how mental health care is delivered in the United States. This transformation would focus on the principles of recovery and resiliency and would be provided through a system that is consumer and family centered, "geared to give consumers real and meaningful choices about treatment options and providers – not oriented to the requirements of bureaucracies."[10] The corporation was integrally involved in the development of the application and had a major role in the planned implementation of the activities proposed in the grant. Although Florida was not one of the states selected for funding, the work toward transforming the state's substance abuse and mental health system to one that is focused on recovery and resiliency has been carried forward by the corporation.

An essential element of system transformation is the involvement of consumers and their families in the planning, implementation, and evaluation of the service delivery system. Goal 2 of the New Freedom Commission's six major goals is "Mental Health Care is Consumer and Family Driven. Within that goal, the commission's recommendation was to "involve consumers and families fully in orienting the mental health system toward recovery."[11] Involvement of primary consumers of mental health service directly in system planning, evaluation, and service provision has been slow to evolve, in contrast to involvement of consumers of substance abuse services. Substance abuse treatment has a rich history of peer support and direct involvement of consumers in treatment planning and delivery which has evolved from its origin in Alcoholics Anonymous. Although Florida has made strides in consumer involvement in system planning efforts, transforming the system to one which is focused on "recovery" will require a policy commitment at all levels. In recently released findings on the nation's health care system for serious mental illness, the Nation's Voice on Mental Illness (NAMI) reported "In its response to NAMI's survey, Florida listed consumer/family involvement in advisory boards as a positive example of Florida's efforts to engage stakeholders. But in interviews for this report, stakeholders suggest great inconsistency in family/consumer involvement in advisory boards: Only 25 percent of the 32 boards include family/consumer representation."[12]

Section 394.66, F.S., provides legislative intent for substance abuse and mental health services relating to the system of care in the community and publicly funded services.

III. Effect of Proposed Changes:

The Proposed Committee Substitute revises the duties of the corporation requiring that it direct efforts to improve interagency coordination of substance abuse and mental health service to

[10] The President's New Freedom Commission on Mental Health, *Achieving the Promise: Transforming Mental Health Care in America*, Final Report, July 2003.
[11] Ibid, page 37.
[12] NAMI, Grading the States 2006: A Report on America's Health Care System for Serious Mental Illness, March 2006, http://www.nami.org/gtstemplate.cfm?section=grading_the_states&template=/ContentManagement/ContentDisplay.cfm&ContentID=30862.

ensure that the services promote recovery and resiliency-based systems of care and promote system transformation by providing mechanisms for input on system management from stakeholders. The current responsibilities of the corporation are condensed from eight to four, which are:

- Identify systemic substance abuse and mental health service needs for recovery and resiliency-based systems of care,
- Identify specific substance abuse and mental health service needs for recovery and resiliency-based systems of care, for each state agency that funds, purchases, or provides such services, including preparing budget recommendations to be submitted to the appropriate departments for consideration in the development of their legislative budget requests and providing copies to the Governor, the President of the Senate, and the Speaker of the House of Representative for their consideration,
- Facilitate improved interagency coordination and collaboration among state agencies that fund, purchase, or provide substance abuse or mental health services to support recovery and resiliency-based systems of care, and
- Identify impediments to implementing recovery and resiliency-based systems of care for substance abuse and mental health programs.

The PCS also amends membership requirements of the corporation to require that primary consumers and family members of primary consumers be specified as the consumer representatives on the corporation. Primary consumers are defined as individuals who voluntarily self identify as a person who is currently or has in the past received mental health or substance abuse services from any public or private provider or agency and who can articulate shared experiences such as stigmatization, use of psychotropic medications, suicidal ideation, seclusion/restraint, benefit eligibility, trauma, or violence history similar to other persons who have received services and who voluntarily acts as an advocate for improvement of mental health or substance abuse services either through their vocation or avocation.

Section 394.66, F.S., is amended to add to the legislative intent in Part IV of Chapter 394, F.S., the intent that DCF implement a recovery and resiliency based substance abuse and mental health service delivery system, that the goal of services and supports is recovery, and that continuity of care for persons with serious and persistent mental illnesses must include such persons being released from state correctional facilities as well as state treatment facilities.

The PCS delays the repeal of s. 394.655, F.S., until the year 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Subsection (2) of s. 394.655, F.S., provides that the corporation and any committees it forms are subject to the provisions of ch. 119, F.S., relating to public records and

ch. 286, F.S., pertaining to public meetings. The corporation advertises meetings and publishes minutes on its website at: www.samhcorp.org.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

No new funds have been appropriated to support the corporation. Since its creation in 2003, proviso language has authorized up to $250,000 from the Department of Children and Family Services, Program Management and Compliance budget category in the Substance Abuse Program and the Mental Health Program to be used to support the corporation. These funds are used to support two staff positions, travel and per diem expenses for staff and corporation members, and office expenses.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.