DIVERSION LAW (Senate Bill 859) FACT SHEET

- Senate Bill 859, Diversion Law, was passed in 1997 as a component of evidence to be submitted to Federal Court in North Carolina’s request for relief from the oversight of a Special Master and to dismiss the Thomas S. Class Action Lawsuit. SB 859 is intended to demonstrate North Carolina’s commitment to preventing state psychiatric hospital admissions for individuals with an intellectual disability (mental retardation). Other DD diagnoses (e.g. Autism) do NOT apply.

- Diversion Law prohibits the admission of individuals with mental retardation, or suspected mental retardation, and a co-occurring mental illness, to state psychiatric hospitals with limited exceptions. The limited exceptions to Diversion Law are:

  1. Court committed persons who have been charged with a violent crime and have been found incapable to proceed to trial (HB-95)

  2. Court committed persons who have been found not guilty by reason of insanity

  3. Respondents who are so extremely dangerous as to pose a serious threat to others in the community or to other patients in community hospitals, as determined by the Division.

  4. Respondents who are so gravely disabled by both multiple disorders and medical fragility or multiple disorders and deafness that alternative care is inappropriate, as determined by the Division.

- Diversion Law exceptions do not include dangerousness to self or property.

- Diversion Law does not change the responsibility of the examiner to determine whether or not the person meets criteria for involuntary commitment nor does it allow the Division or the LME to make that determination.

- Diversion Law does indicate where a person with mental retardation may be admitted pursuant to an involuntary commitment.

- When the person being committed has mental retardation, the LME is responsible for assisting with arranging admission to a non-State hospital.

- Requesting an Exception to SB 859, allowing a person with mental retardation to be admitted to a State hospital, must be a last resort after all other (non-State hospital) options have been exhausted.

- Exceptions must be granted by the Director of the Division of MHIDD/SAS or his designee(s). The Director’s designees are authorized individuals from each of the state’s LMEs. For Alliance Behavioral Healthcare, those individuals are: Sean Schreiber, Suzanne Davis-Marens, Anna Heule, Darlene Toney, and Andrea Kinnaugh. All of whom can be reached at 919-651-8400, and by FAX 919-237-7130. The after-hours fax number is 919-560-7377.
A New Multi-County Area Authority Merging The Durham Center and Wake LME

Durham Offices: 414 East Main Street, Durham, NC 27701 • (919) 560-7200
Wake Offices: 401 East Whitaker Mill Road, Raleigh, NC 27608 • (919) 856-6400
Corporate offices moving July 2012 to 4600 Emperor Boulevard, Durham, NC 27703