

# Legal References for Behavioral Health Partners

## Introduction:

Transforming the behavioral health service system in Idaho is a collaborative process involving state entities, the Behavioral Health Planning Council and Regional Behavioral Health Boards. There are a variety of legal requirements, both state and federal, that shape the framework from which this system operates. Included in this document are contextual titles and citations to law (and descriptions) that relate to these requirements.

## Behavioral Health Planning Council

### Composition:

*Mental Health Block Grant:* Title 42 §300x-3 requires that states have a State Mental Health Planning Council.

- a. The code establishes membership requirements including: state mental health, education, vocational rehabilitation, criminal justice, housing and social services; public and private entities concerned with mental health services/consumers; adults with serious mental illnesses who are or who have received services; families of such adults; and families of children with emotional disturbance.
- b. The code requires that families of children with emotional disturbances be sufficiently represented to ensure their issues are addressed.
- c. The code requires that no more than 50% of the membership be individuals who are state employees or providers of mental health services.

*Substance Abuse Block Grant:* The Substance Abuse Prevention and Treatment Block Grant does not require states to have a planning council.

### Purpose & Function

*Mental Health Block Grant:* US Code Title 42 §300x-3b establishes three duties for the planning council. They are:

- a. Review mental health block grant plans and submit to the state their recommendations for modification of the plan
- b. Serve as an advocate for adults with serious mental illness and children with emotional disturbance
- c. Annually monitor, review and evaluate the allocation and adequacy of mental services within the state.

*Substance Abuse Block Grant:* The Substance Abuse Prevention and Treatment Block Grant does not require states to have a planning council.

## Block Grants

### Public Comment Period

US Code Title 42 §300x-51 of the block grant requires states make the Mental Health and Substance Abuse block grant applications and reports available for public comment.

(This has been done by posting the document on the Substance Use Disorder and Mental Health webpages on the Department of Health and Welfare website.)

### Spending Requirements

*Mental Health Block Grant:* (Section 1911 of Title XIX, Part B, Subpart I and III of the Public Health Service Act )

- a. Requires Idaho to maintain expenditures on children's mental health services at a level of not less than combined State and Block Grant expenditure of \$6,366,200.
- b. Requires Idaho to maintain expenditure of state funds at a level not less than the average of the previous 2 year expenditure periods (currently \$21,003,950).
- c. Prohibits the expenditure of mental health block grant funds on the following: inpatient services; to make cash payments to recipients of services; to purchase, construct, or permanently improve any building or other facility, or purchase major medical equipment; to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or, to provide financial assistance to any entity which is not a public or nonprofit private entity.

*Substance Abuse Block Grant:*( Section 1921 of Title XIX, Part B, Subpart II and III of the Public Health Service Act )

- a. Not less than 20% of the award be spent on primary prevention services (approximately \$1,700,000).
- b. Not less than \$635,000 be spent on specialized services for pregnant women and women with dependent children.
- c. Maintain expenditure of state funds at a level not less than the average of the previous 2 year expenditure periods (currently \$18,161,066 - includes DHW, DOC, DJC, ODP and Judicial expenditures)
- d. Prohibits the expenditure of substance abuse block grant funds for the following: inpatient hospital services; to make cash payments to intended recipients of services; to purchase, construct, or permanently improve any building or other facility, or purchase major medical equipment; to satisfy any requirement for the expenditure of non-federal funds as a condition for the receipt of federal funds; or, to provide financial assistance to any entity other which is not a public or nonprofit private entity.

### Program Requirements

*Mental Health Block Grant* (Section 1911 of Title XIX, Part B, Subpart I and III of the Public Health Service Act )

- a. Requires states to establish a comprehensive community-based mental health services system.
- b. Requires states to provide mental health services to children with emotional disturbance.
- c. Requires states to develop community-based services in rural areas.

*Substance Abuse Block Grant:* (Section 1911 of Title XIX, Part B, Subpart I and III of the Public Health Service Act)

- a. Requires states to continuously improve access to prevention and treatment services.
- b. Requires states to provide primary prevention services utilizing each of the designated strategies listed below:
  - 1. Information Dissemination;
  - 2. Parent and Youth Education;
  - 3. Alcohol/Drug-Free Alternative Activities;
  - 4. Problem Identification and referral;
  - 5. Community-based Processes including community coalitions;
  - 6. Environmental strategies designed to change community norms/values/behaviors.
- c. Requires states to provide specialized services to pregnant women and women with dependent children including medical care for the women and children as specified under the block grant.
- d. Requires states to provide treatment services to intravenous drug abusers including priority access to treatment services.
- e. Requires states to screen on all treatment clients for TB and refer to medical care as indicated.
- f. Requires states to provide pregnant women with access to treatment services within 48 hours of request for services.
- g. US Code Title 42 §300x-53(b), 45 C.F.R. §96.132(e) and 42 C.F.R. Part 2 require states to establish an effective system to protect patient records from inappropriate disclosure.
- h. US Code Title 42 §300x-65 requires that faith-based organizations are eligible for block grant funding. It requires faith-based organizations to serve all persons regardless of their religious beliefs and prohibits them from using block grant funds to support inherently religious activities. It also establishes that treatment participants have the right to request services be provided by a secular agency.

## Behavioral Health Authority

### *Idaho Statute, Title 39, Chapter 3, Alcoholism and Intoxication Treatment Act*

- 1. Identifies the Department of Health and Welfare as the state agency responsible for establishing minimum standards for substance use disorder treatment facilities.
- 2. Authorizes the Department to certify such facilities.

### *Idaho Statute, Title 39, Chapter 31, Regional Behavioral Health Services*

- 1. Designates the Department of Health and Welfare as the state's Mental Health Authority.
- 2. Designates the Department of Health and Welfare as the state's Substance Use Disorder Authority.
- 3. Establishes the Idaho Behavioral Health Cooperative, identifies membership and duties.
- 4. Establishes the State Behavioral Health Planning Council, membership composition and duties.

5. Requires Regional Behavioral Health Centers be established throughout the state.
6. Details behavioral health services to be offered.
7. Establishes Regional Behavioral Health Boards, board composition and duties.