

**17-43-303 Definition of "public funds" -- Responsibility for oversight of public funds --
Mental health programs and services.**

- (1) As used in this section, "public funds":
 - (a) means:
 - (i) federal money received from the department or the Department of Health; and
 - (ii) state money appropriated by the Legislature to the department, the Department of Health, a county governing body, or a local mental health authority for the purposes of providing mental health programs or services; and
 - (b) includes that federal and state money:
 - (i) even after the money has been transferred by a local mental health authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for the local mental health authority; and
 - (ii) while in the possession of the private provider.
- (2) Each local mental health authority is responsible for oversight of all public funds received by it, to determine that those public funds are utilized in accordance with federal and state law, the rules and policies of the department and the Department of Health, and the provisions of any contract between the local mental health authority and the department, the Department of Health, or a private provider. That oversight includes requiring that neither the contract provider, as described in Subsection (1), nor any of its employees:
 - (a) violate any applicable federal or state criminal law;
 - (b) knowingly violate any applicable rule or policy of the department or Department of Health, or any provision of contract between the local mental health authority and the department, the Department of Health, or the private provider;
 - (c) knowingly keep any false account or make any false entry or erasure in any account of or relating to the public funds;
 - (d) fraudulently alter, falsify, conceal, destroy, or obliterate any account of or relating to public funds;
 - (e) fail to ensure competent oversight for lawful disbursement of public funds;
 - (f) appropriate public funds for an unlawful use or for a use that is not in compliance with contract provisions; or
 - (g) knowingly or intentionally use public funds unlawfully or in violation of a governmental contract provision, or in violation of state policy.
- (3) A local mental health authority that knew or reasonably should have known of any of the circumstances described in Subsection (2), and that fails or refuses to take timely corrective action in good faith shall, in addition to any other penalties provided by law, be required to make full and complete repayment to the state of all public funds improperly used or expended.
- (4) Any public funds required to be repaid to the state by a local mental health authority pursuant to Subsection (3), based upon the actions or failure of the contract provider, may be recovered by the local mental health authority from its contract provider, in addition to the local mental health authority's costs and attorney's fees.

Amended by Chapter 80, 2004 General Session