

5122:2-1-05 **Community mental health board operation of mental health services, ~~programs~~, or facilities.**

(A) The purpose of this rule is to establish the requirements and procedures for department of mental health authorization of a community mental health board to operate a mental health service, ~~program~~, or facility.

(B) The provisions of this rule apply to any mental health service, ~~program~~ or activity specified in divisions (A) to ~~(O)~~ (S) of section 340.09 of the Revised Code, ~~and defined by rule 5122:2-1-01 of the Administrative Code~~, or to any facility in which such services, ~~programs~~, activities are provided, and which operate under contract with the community mental health board.

(C) Definitions

(1) "~~Commissioner~~" means ~~the commissioner of mental health facilities and services, and is a synonymous term for "chief of the division of mental health facilities and services" as used in division (G) of section 340.03 of the Revised Code.~~

(1) "Director" means the chief executive and administrative officer of the Ohio department of mental health.

(2) "Emergency" means the imminent risk of a severe disruption or discontinuation of direct client services. For example, the sudden and unanticipated loss of funding or the loss of key staff may create a severe disruption or discontinuation of services.

(3) "Facility" means a building, structure or other improvement, equipment, and real property and interests in real property.

(4) "Operation of services, ~~programs~~, or facilities" means decision making or control and influence over decision making in the management or performance of a service, ~~program~~ or facility.

(D) Section 340.03 of the Revised Code requires that mental health services ~~and programs~~ be delivered by agencies under contract with a community mental health board. Services ~~and programs~~ may be directly provided by a community mental health board only in the exceptional circumstances described in section 340.03 of the Revised Code.

(E) In any size service district, a board may operate a mental health service, ~~program~~ or facility in an emergency to provide essential services upon the prior approval of the ~~commissioner~~ director. The request for approval shall include:

- (1) Evidence of the existence of the emergency as defined in paragraph (C)(2) of this rule.
 - (2) Evidence that there is no other feasible method for providing the service; ~~program~~ or facility.
 - (3) The projected time period during which the board intends to operate the service; ~~program~~ or facility.
 - (4) Assurance of the prompt development of a plan for ensuring that another agency will assume responsibility for operating the service; ~~program~~ or facility within one year.
 - (5) The operating plan for board provision of the service; ~~program~~, or facility.
- (F) In any service district with a population of at least one hundred thousand but less than five hundred thousand, the board may operate a mental health service ~~program~~ or facility under the following conditions:
- (1) There is no other qualified private or public agency that is immediately available and willing to operate such service; ~~program~~ or facility.
 - (2) It is not feasible for the department of mental health to operate the facility or provide the service.
 - ~~(2)~~(3) Approval of the ~~commissioner~~ director shall be sought and obtained prior to the board undertaking the operation of the service; ~~program~~ or facility. The request for approval shall include:
 - (a) Evidence that there is no other agency qualified, available, and willing to provide the service; ~~program~~ or facility. This shall include a demonstration that all existing agencies have been reviewed in regard to qualifications, availability, and willingness.
 - (b) The operating plan for board provision of the service; ~~program~~ or facility.
 - (c) An operating plan demonstrating the ability of the board to continue to fulfill its mandated tasks and responsibilities as specified in section 340.03 of the Revised Code.
 - (d) A plan for ensuring that another agency will assume responsibility for

operating the service,~~program~~ or facility within one year.

~~(3)~~(4) The ~~program~~, service or facility may be operated by the board for no longer than one year.

(G) In any service district with a population of less than one hundred thousand, the board may operate a mental health service,~~program~~, or facility under the following conditions:

(1) The board operation of the service,~~program~~ or facility must result in both greater administrative efficiency and more or better services ~~or programs~~ than would ~~contract operation~~ be available if the board contracted with a private or public facility or community mental health agency.

(2) It is not feasible for the department of mental health to operate the facility or provide the service.

(3) Approval of the director shall be sought and obtained prior to the board undertaking the operation of the service or facility. The request for approval shall include the information in (4)(b) of this paragraph.

~~(2)~~(4) A board may operate a service,~~program~~ or facility for no more than a year ~~more than one year only if unless~~ approved by:

(a) The board of county commissioners in a single county district or the approval of the majority of boards of county commissioners in a joint-county district; and

(b) The ~~commissioner~~ director. The request for approval of the ~~commissioner~~ director shall contain the following:

(i) Evidence that board operation of the service,~~program~~, or facility is consistent with and aids in achieving objectives as stated in the annual comprehensive community mental health plan required by section 340.03 of the Revised Code,

(ii) Evidence that board operation of the service,~~program~~, or facility achieves greater administrative efficiency in the provision of that service,~~program~~ or facility,

(iii) Evidence that board operation of the service,~~program~~ or facility improves the quality of services offered or increases the amount

of services offered.

- (iv) The operating plan for board provision of the service, ~~program~~ or facility.
- (v) An operating plan demonstrating the ability of the board to continue to fulfill its mandated tasks and ~~responsibilities~~ responsibilities as specified in section 340.03 of the Revised Code.
- (vi) ~~If the board requests approval to operate, for more than one year, a service, program or facility previously operated by a contract agency, a demonstration:~~
 - (a) ~~That the agency is unable to effectively operate the service; or~~
 - (b) ~~That the agency has requested the board to take over operation of the service, program or facility.~~

(H) The director shall not give a board approval to operate a facility previously operated by a person or other government entity unless the board has established to the director's satisfaction that the person or other government entity cannot effectively operate the facility or that the person or other government entity has requested the board to take over operation of the facility. The director shall not give a board approval to provide a community mental health service previously provided by a community mental health agency unless the board has established to the director's satisfaction that the agency cannot effectively provide the service or that the agency has requested the board take over providing the service.

~~(H)~~(I) Nothing in this rule authorizes a board to administer or direct the daily operation of any contract agency or its facilities, ~~programs~~ or services. An agency may contract with a board for agency administrative services or staff direction to be provided by the board under the direction of the agency board. Such contractual arrangements must be clearly described in the approved board comprehensive annual plan as required by section 340.03 of the Revised Code.

~~(H)~~(J) Any board which operates a service, ~~program~~, or facility under the provisions of this rule shall comply with all requirements and standards as specified in rules of the department promulgated pursuant to Chapter 119. of the Revised Code which are applicable to contract agencies.

~~(H)~~(K) The ~~commissioner~~ director shall notify the requesting board of approval or disapproval in writing within sixty days of department receipt of all required evidence, assurances, and plans as specified in paragraph ~~(E)~~, (F), or (G) of this rule. If a board submits a request to operate a facility or mental health service in an

emergency in accordance with paragraph (E) of this rule, the director shall notify the requesting board of approval or disapproval within fourteen days of department receipt of all required evidence, assurances and plans, or the director shall notify the requesting board of the date by which the department expects to issue a response. The time frame for response shall take into consideration the nature of the emergency and the projected date identified by the board to begin operation of services or a facility, and shall not exceed sixty day of receipt of all required evidence, assurances and plans as specified in paragraph (E) of this rule. The ~~commissioner~~ director shall periodically review and evaluate any board operation of a mental health service, ~~program~~, or facility.

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CERTIFIED ELECTRONICALLY

Certification

04/05/2012

Date

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