

## APPENDIX A

### OHIO REVISED CODE CHAPTER 340

#### **§ 340.01 Alcohol, drug addiction, and mental health service district**

(A) As used in this chapter, "alcohol and drug addiction services" and "alcohol and drug addiction programs" have the same meanings as in section 3793.01 of the Revised Code.

(B) An alcohol, drug addiction, and mental health service district shall be established in any county or combination of counties having a population of at least fifty thousand to provide alcohol and drug addiction services and mental health services. With the approval of the directors of mental health and alcohol and drug addiction services, any county or combination of counties having a population of less than fifty thousand may establish such a district. Districts comprising more than one county shall be known as joint-county districts.

The board of county commissioners of any county participating in a joint-county district may submit a resolution requesting withdrawal from the district together with a comprehensive plan or plans that are in compliance with rules adopted by the director of mental health under section 5119.61 of the Revised Code and rules adopted by the department of alcohol and drug addiction services under section 3793.05 of the Revised Code, and that provide for the equitable adjustment and division of all services, assets, property, debts, and obligations, if any, of the joint-county district to the board of alcohol, drug addiction, and mental health services, to the boards of county commissioners of each county in the district, and to the directors. No county participating in a joint-county service district may withdraw from the district without the consent of the directors of mental health and alcohol and drug addiction services nor earlier than one year after the submission of such resolution unless all of the participating counties agree to an earlier withdrawal. Any county withdrawing from a joint-county district shall continue to have levied against its tax list and duplicate any tax levied by the district during the period in which the county was a member of the district until such time as the levy expires or is renewed or replaced.

#### **§ 340.011 Interpretation and construction of provisions**

- (A) This chapter shall be interpreted to accomplish all of the following:
- (1) Establish a unified system of treatment for mentally ill persons;
  - (2) Establish a community support system available for every alcohol, drug addiction, and mental health service district;
  - (3) Protect the personal liberty of mentally ill persons so that they may be treated in the least restrictive environment;
  - (4) Encourage the development of high quality, cost effective, and comprehensive services, including culturally sensitive services;
  - (5) Foster the development of comprehensive community mental health services, based on recognized local needs, especially for severely mentally disabled children, adolescents, and adults;
  - (6) Ensure that services provided meet minimum standards established by the director of mental health or the department of alcohol and drug addiction services;
  - (7) Promote the delivery of high quality and cost-effective alcohol and drug addiction services;
  - (8) Promote the participation of consumers of mental health services and alcohol and drug addiction services in the planning, delivery, and evaluation of these services.
- (B) Nothing in Chapter 340, 3793, 5119, or 5122 of the Revised Code shall be construed as requiring a board of county commissioners to provide resources beyond the total amount set forth in a community mental health plan, as developed and submitted under section 340.03 of the Revised Code, to provide the services listed in section 340.09 of the Revised Code, and nothing in those chapters shall be construed as requiring a board of county commissioners to provide resources beyond the total amount set forth in a plan for alcohol and drug addiction services, prepared and submitted in accordance with sections 340.033 and 3793.05 of the Revised Code, to provide alcohol and drug addiction services.

#### **§ 340.02 Board of Alcohol, drug addiction and mental health services; appointment and organization**

As used in this section, "mental health professional" means a person who is qualified to work with mentally ill persons, pursuant to standards established by the director of mental health under section 5119.611 of the Revised Code.

For each alcohol, drug addiction, and mental health service district there shall be appointed a board of alcohol, drug addiction, and mental health services of eighteen members. Members shall be residents of the district and shall be interested in mental health programs and facilities or in alcohol or drug addiction programs.

The director of mental health shall appoint four members of the board, the director of alcohol and drug addiction services shall appoint four members, and the board of county commissioners shall appoint ten members. In a joint-county district the county commissioners of each participating county shall appoint members in as nearly as possible the same proportion as that county's population bears to the total population of the district, except that at least one member shall be appointed from each participating county.

The director of mental health shall ensure that at least one member of the board is a psychiatrist and one member of the board is a mental health professional. One member of the board may be a voting member of the citizen's advisory council of an institution under the control of the department of mental health which serves a hospital district in which one or more counties in the service district is located. If the appointment of a psychiatrist is not possible, as determined under rules adopted by the director, a licensed physician may be appointed in place of the psychiatrist. If the appointment of a licensed physician is not possible, the director of mental health may waive the requirement that the psychiatrist or licensed physician be a resident of the service district and appoint a psychiatrist or licensed physician from a contiguous county. The membership of the board shall, as nearly as possible, reflect the composition of the population of the service district as to race and sex. The director of mental health shall ensure that at least one member of the board is a person who has received or is receiving mental health services paid for by public funds and at least one member is a parent or other relative of such a person.

The director of alcohol and drug addiction services shall ensure that at least one member of the board is a professional in the field of alcohol or drug addiction services and one member of the board is an advocate for persons receiving treatment for alcohol or drug addiction. Of the members appointed by the director of alcohol and drug addiction services, at least one shall be a person who has received or is receiving services for alcohol or drug addiction and at least one member shall be a parent or other relative of such a person.

No member or employee of a board of alcohol, drug addiction, and mental health services shall serve as a member of the board of any agency with which the board of alcohol, drug addiction, and mental health services has entered into a contract for the provision of services or facilities. No member of a board of alcohol, drug addiction, and mental health services shall be an employee of any agency with which the board has entered into a contract for the provision of services or facilities. No person shall be an employee of a board and such an agency unless the board and agency both agree in writing.

No person shall serve as a member of the board of alcohol, drug addiction, and mental health services whose spouse, child, parent, brother, sister, grandchild, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law serves as a member of the board of any agency with which the board of alcohol, drug addiction, and mental health services has entered into a contract for the provision of services or facilities. No person shall serve as a member or employee of the board whose spouse, child, parent, brother, sister, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law serves as a county commissioner of a county or counties in the alcohol, drug addiction, and mental health service district.

Each year each board member shall attend at least one in-service training session provided or approved by the department of mental health or the department of alcohol and drug addiction services. Such training sessions shall not be considered to be regularly scheduled meetings of the board.

Each member shall be appointed for a term of four years, commencing the first day of July, except that one-third of initial appointments to a newly established board, and to the extent possible to expanded boards, shall be for terms of two years, one-third for terms of three years, and one-third for terms of four years. No member shall serve more than two consecutive four-year terms. A member may serve for three consecutive terms only if one of the terms is for less than two years. A member who has served two consecutive four-year terms or three consecutive terms totaling less than ten years is eligible for reappointment one year following the end of the second or third term, respectively.

When a vacancy occurs, appointment for the expired or unexpired term shall be made in the same manner as an original appointment. The appointing authority shall be notified by certified mail of any vacancy and shall fill the vacancy within sixty days following such notice.

Any member of the board may be removed from office by the appointing authority for neglect of duty, misconduct, or malfeasance in office, and shall be removed by the appointing authority if the member's spouse, child, parent, brother, sister, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law serves as a county commissioner of a county or counties in the service district or serves as a member or employee of the board of an agency with which the board of alcohol, drug

addiction, and mental health services has entered a contract for the provision of services or facilities. The member shall be informed in writing of the charges and afforded an opportunity for a hearing. Upon the absence of a member within one year from either four board meetings or from two board meetings without prior notice, the board shall notify the appointing authority, which may vacate the appointment and appoint another person to complete the member's term.

Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties, as defined by rules of the departments of mental health and alcohol and drug addiction services.

#### **§ 340.021 Alcohol and drug addiction services board in certain counties**

(A) In an alcohol, drug addiction, and mental health service district comprised of a county with a population of two hundred fifty thousand or more on the effective date of this section, the board of county commissioners shall, within thirty days of the effective date of this section, establish an alcohol and drug addiction services board as the entity responsible for providing alcohol and drug addiction services in the county, unless, prior to that date, the board adopts a resolution providing that the entity responsible for providing the services is a board of alcohol, drug addiction, and mental health services. If the board of county commissioners establishes an alcohol and drug addiction services board, the community mental health board established under former section 340.02 of the Revised Code shall serve as the entity responsible for providing mental health services in the county. A community mental health board has all the powers, duties, and obligations of a board of alcohol, drug addiction, and mental health services with regard to mental health services. An alcohol and drug addiction services board has all the powers, duties, and obligations of a board of alcohol, drug addiction, and mental health services with regard to alcohol and drug addiction services. Any provision of the Revised Code that refers to a board of alcohol, drug addiction, and mental health services with regard to mental health services also refers to a community mental health board and any provision that refers to a board of alcohol, drug addiction, and mental health services with regard to alcohol and drug addiction services also refers to an alcohol and drug addiction services board.

An alcohol and drug addiction services board shall consist of eighteen members, six of whom shall be appointed by the director of alcohol and drug addiction services and twelve of whom shall be appointed by the board of county commissioners. Of the members appointed by the director, one shall be a person who has received or is receiving services for alcohol or drug addiction, one shall be a parent or relative of such a person, one shall be a professional in the field of alcohol or drug addiction services, and one shall be an advocate for persons receiving treatment for alcohol or drug addiction. The membership of the board shall, as nearly as possible, reflect the composition of the population of the service district as to race and sex. Members shall be residents of the service district and shall be interested in alcohol and drug addiction services. Requirements for membership, including prohibitions against certain family and business relationships, and terms of office shall be the same as those for members of boards of alcohol, drug addiction, and mental health services.

(B) A community mental health board shall consist of eighteen members, six of whom shall be appointed by the director of mental health and twelve of whom shall be appointed by the board of county commissioners. Of the members appointed by the director, one shall be a person who has received or is receiving mental health services, one shall be a parent or relative of such a person, one shall be a psychiatrist or a physician, and one shall be a mental health professional. The membership of the board as nearly as possible shall reflect the composition of the population of the service district as to race and sex. Members shall be residents of the service district and shall be interested in mental health services. Requirements for membership, including prohibitions against certain family and business relationships, and terms of office shall be the same as those for members of boards of alcohol, drug addiction, and mental health services.

#### **§ 340.022 Standing Committee on alcohol and drug addiction services**

(A) In each alcohol, drug addiction, and mental health service district, other than a district in which an alcohol and drug addiction services board is established pursuant to section 340.021 of the Revised Code, the board of alcohol, drug addiction, and mental health services shall establish a standing committee on alcohol and drug addiction services.

(B) The standing committee shall consist of the following eight members:

- (1) Four board members who were appointed by the director of alcohol and drug addiction services or are professionals in the field of alcohol or drug addiction services or advocates for persons receiving treatment for alcohol or drug addiction;

- (2) Two board members selected by the board;
- (3) Two residents of the service district who are not members of the board but are qualified, pursuant to section 340.02 of the Revised Code, to serve as members of the board. Of the two members appointed under division (B)(3) of this section, one shall be a person who has received or is receiving services for alcohol or drug addiction, and one shall be a parent or other relative of such a person. These two members shall be appointed by the board to four-year terms of office as committee members and may be reappointed to not more than one subsequent term of office.

(C) The standing committee shall meet at least three times a year and shall make recommendations to the board on the following matters:

- (1) The plan to be submitted to the department of alcohol and drug addiction services under sections 340.033 and 3793.05 of the Revised Code;
- (2) The board's annual budget for alcohol and drug addiction services;
- (3) Alcohol and drug addiction programs to be funded by the board;
- (4) Guidelines for the evaluation of alcohol and drug addiction programs.

The standing committee shall adopt recommendations by a majority vote of its members and shall present recommendations to the board for consideration at a regularly scheduled meeting of the board.

### **§ 340.03 Duties of board**

(A) Subject to rules issued by the director of mental health after consultation with relevant constituencies as required by division (A)(11) of section 5119.06 of the Revised Code, with regard to mental health services, the board of alcohol, drug addiction, and mental health services shall:

- (1) Serve as the community mental health planning agency for the county or counties under its jurisdiction, and in so doing it shall:
  - (a) Evaluate the need for facilities and community mental health services;
  - (b) In cooperation with other local and regional planning and funding bodies and with relevant ethnic organizations, assess the community mental health needs, set priorities, and develop plans for the operation of facilities and community mental health services;
  - (c) In accordance with guidelines issued by the director of mental health after consultation with board representatives, develop and submit to the department of mental health, no later than six months prior to the conclusion of the fiscal year in which the board's current plan is scheduled to expire, a community mental health plan listing community mental health needs, including the needs of all residents of the district now residing in state mental institutions and severely mentally disabled adults, children, and adolescents; all children subject to a determination made pursuant to section 121.38 of the Revised Code; and all the facilities and community mental health services that are or will be in operation or provided during the period for which the plan will be in operation in the service district to meet such needs.

The plan shall include, but not be limited to, a statement of which of the services listed in section 340.09 of the Revised Code the board intends to provide or purchase, an explanation of how the board intends to make any payments that it may be required to pay under section 5119.62 of the Revised Code, a statement of the inpatient and community-based services the board proposes that the department operate, an assessment of the number and types of residential facilities needed, and such other information as the department requests, and a budget for moneys the board expects to receive. The board shall also submit an allocation request for state and federal funds. Within sixty days after the department's determination that the plan and allocation request are complete, the department shall approve or disapprove the plan and request, in whole or in part, according to the criteria developed pursuant to section 5119.61 of the Revised Code. The department's statement of approval or disapproval shall specify the inpatient and the community-based services that the department will operate for the board. Eligibility for financial support shall be contingent upon an approved plan or relevant part of a plan.

If the director disapproves all or part of any plan, the director shall inform the board of the reasons for the disapproval and of the criteria that must be met before the plan may be approved. The director shall provide the board an opportunity to present its case on behalf of the plan. The director shall give the board a reasonable time in which to meet the criteria, and shall offer the board technical assistance to help it meet the criteria.

If the approval of a plan remains in dispute thirty days prior to the conclusion of the fiscal year in which the board's current plan is scheduled to expire, the board or the director may request that the dispute be submitted to a mutually agreed upon third-party mediator with the cost to be shared by the board and the

department. The mediator shall issue to the board and the department recommendations for resolution of the dispute. Prior to the conclusion of the fiscal year in which the current plan is scheduled to expire, the director, taking into consideration the recommendations of the mediator, shall make a final determination and approve or disapprove the plan, in whole or in part.

If a board determines that it is necessary to amend a plan or an allocation request that has been approved under division (A)(1)(c) of this section, the board shall submit a proposed amendment to the director. The director may approve or disapprove all or part of the amendment. If the director does not approve all or part of the amendment within thirty days after it is submitted, the amendment or part of it shall be considered to have been approved. The director shall inform the board of the reasons for disapproval of all or part of an amendment and of the criteria that must be met before the amendment may be approved. The director shall provide the board an opportunity to present its case on behalf of the amendment. The director shall give the board a reasonable time in which to meet the criteria, and shall offer the board technical assistance to help it meet the criteria.

The board shall implement the plan approved by the department.

(d) Receive, compile, and transmit to the department of mental health applications for state reimbursement;

(e) Promote, arrange, and implement working agreements with social agencies, both public and private, and with judicial agencies.

(2) Investigate, or request another agency to investigate, any complaint alleging abuse or neglect of any person receiving services from a community mental health agency as defined in section 5122.01 of the Revised Code, or from a residential facility licensed under section 5119.22 of the Revised Code. If the investigation substantiates the charge of abuse or neglect, the board shall take whatever action it determines is necessary to correct the situation, including notification of the appropriate authorities. Upon request, the board shall provide information about such investigations to the department.

(3) For the purpose of section 5119.611 of the Revised Code, cooperate with the director of mental health in visiting and evaluating whether the services of a community mental health agency satisfy the certification standards established by rules adopted under that section;

(4) In accordance with criteria established under division (G) of section 5119.61 of the Revised Code, review and evaluate the quality, effectiveness, and efficiency of services provided through its community mental health plan and submit its findings and recommendations to the department of mental health;

(5) In accordance with section 5119.22 of the Revised Code, review applications for residential facility licenses and recommend to the department of mental health approval or disapproval of applications;

(6) Audit, in accordance with rules adopted by the auditor of state pursuant to section 117.20 of the Revised Code, at least annually all programs and services provided under contract with the board. In so doing, the board may contract for or employ the services of private auditors. A copy of the fiscal audit report shall be provided to the director of mental health, the auditor of state, and the County Auditor of each county in the board's district.

(7) Recruit and promote local financial support for mental health programs from private and public sources;

(8)(a) Enter into contracts with public and private facilities for the operation of facility services included in the board's community mental health plan and enter into contracts with public and private community mental health agencies for the provision of community mental health services listed in section 340.09 of the Revised Code and included in the board's community mental health plan. Contracts with community mental health agencies are subject to section 5119.611 of the Revised Code. section 307.86 of the Revised Code does not apply to contracts entered into under this division. In contracting with a community mental health agency, a board shall consider the cost effectiveness of services provided by that agency and the quality and continuity of care, and may review cost elements, including salary costs, of the services to be provided. A utilization review process shall be established as part of the contract for services entered into between a board and a community mental health agency. The board may establish this process in a way that is most effective and efficient in meeting local needs. In the case of a contract with a community mental health facility described in division (B) of section 5111.022 of the Revised Code to provide services established by division (A) of that section, the contract shall provide for the facility to be paid in accordance with the contract entered into between the departments of job and family services and mental health under division (E) of that section and any rules adopted under division (A) of section 5119.61 of the Revised Code.

If either the board or a facility or community mental health agency with which the board contracts under division (A)(8)(a) of this section proposes not to renew the contract or proposes substantial changes in contract terms, the other party shall be given written notice at least one hundred twenty days before the expiration date of the contract. During the first sixty days of this one hundred twenty-day period, both parties shall attempt to resolve any dispute through good faith collaboration and negotiation in order to continue to provide services to

persons in need. If the dispute has not been resolved sixty days before the expiration date of the contract, either party may notify the department of mental health of the unresolved dispute. The director may require both parties to submit the dispute to a third party with the cost to be shared by the board and the facility or community mental health agency. The third party shall issue to the board, the facility or agency, and the department recommendations on how the dispute may be resolved twenty days prior to the expiration date of the contract, unless both parties agree to a time extension. The director shall adopt rules establishing the procedures of this dispute resolution process.

(b) With the prior approval of the director of mental health, a board may operate a facility or provide a community mental health service as follows, if there is no other qualified private or public facility or community mental health agency that is immediately available and willing to operate such a facility or provide the service:

- (i) In an emergency situation, any board may operate a facility or provide a community mental health service in order to provide essential services for the duration of the emergency;
- (ii) In a service district with a population of at least one hundred thousand but less than five hundred thousand, a board may operate a facility or provide a community mental health service for no longer than one year;
- (iii) In a service district with a population of less than one hundred thousand, a board may operate a facility or provide a community mental health service for no longer than one year, except that such a board may operate a facility or provide a community mental health service for more than one year with the prior approval of the director and the prior approval of the board of county commissioners, or of a majority of the boards of county commissioners if the district is a joint-county district.

The director shall not give a board approval to operate a facility or provide a community mental health service under division (A)(8)(b)(ii) or (iii) of this section unless the director determines that it is not feasible to have the department operate the facility or provide the service.

The director shall not give a board approval to operate a facility or provide a community mental health service under division (A)(8)(b)(iii) of this section unless the director determines that the board will provide greater administrative efficiency and more or better services than would be available if the board contracted with a private or public facility or community mental health agency.

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.

The director shall review and evaluate a board's operation of a facility and provision of community mental health service under division (A)(8)(b) of this section.

Nothing in division (A)(8)(b) of this section authorizes a board to administer or direct the daily operation of any facility or community mental health agency, but a facility or agency may contract with a board to receive administrative services or staff direction from the board under the direction of the governing body of the facility or agency.

(9) Approve fee schedules and related charges or adopt a unit cost schedule or other methods of payment for contract services provided by community mental health agencies in accordance with guidelines issued by the department as necessary to comply with state and federal laws pertaining to financial assistance;

(10) Submit to the director and the county commissioners of the county or counties served by the board, and make available to the public, an annual report of the programs under the jurisdiction of the board, including a fiscal accounting;

(11) Establish, to the extent resources are available, a community support system, which provides for treatment, support, and rehabilitation services and opportunities. The essential elements of the system include, but are not limited to, the following components in accordance with section 5119.06 of the Revised Code:

- (a) To locate persons in need of mental health services to inform them of available services and benefits mechanisms;
- (b) Assistance for clients to obtain services necessary to meet basic human needs for food, clothing, shelter, medical care, personal safety, and income;
- (c) Mental health care, including, but not limited to, outpatient, partial hospitalization, and, where appropriate, inpatient care;

- (d) Emergency services and crisis intervention;
- (e) Assistance for clients to obtain vocational services and opportunities for jobs;
- (f) The provision of services designed to develop social, community, and personal living skills;
- (g) Access to a wide range of housing and the provision of residential treatment and support;
- (h) Support, assistance, consultation, and education for families, friends, consumers of mental health services, and others;
- (i) Recognition and encouragement of families, friends, neighborhood networks, especially networks that include racial and ethnic minorities, churches, community organizations, and meaningful employment as natural supports for consumers of mental health services;
- (j) Grievance procedures and protection of the rights of consumers of mental health services;
- (k) Case management, which includes continual individualized assistance and advocacy to ensure that needed services are offered and procured.

(12) Designate the treatment program, agency, or facility for each person involuntarily committed to the board pursuant to Chapter 5122 of the Revised Code and authorize payment for such treatment. The board shall provide the least restrictive and most appropriate alternative that is available for any person involuntarily committed to it and shall assure that the services listed in section 340.09 of the Revised Code are available to severely mentally disabled persons residing within its service district. The board shall establish the procedure for authorizing payment for services, which may include prior authorization in appropriate circumstances. The board may provide for services directly to a severely mentally disabled person when life or safety is endangered and when no community mental health agency is available to provide the service.

(13) Establish a method for evaluating referrals for involuntary commitment and affidavits filed pursuant to section 5122.11 of the Revised Code in order to assist the probate division of the court of common pleas in determining whether there is probable cause that a respondent is subject to involuntary hospitalization and what alternative treatment is available and appropriate, if any;

(14) Ensure that apartments or rooms built, subsidized, renovated, rented, owned, or leased by the board or a community mental health agency have been approved as meeting minimum fire safety standards and that persons residing in the rooms or apartments are receiving appropriate and necessary services, including culturally relevant services, from a community mental health agency. This division does not apply to residential facilities licensed pursuant to section 5119.22 of the Revised Code.

(15) Establish a mechanism for involvement of consumer recommendation and advice on matters pertaining to mental health services in the alcohol, drug addiction, and mental health service district;

(16) Perform the duties under section 3722.18 of the Revised Code required by rules adopted under section 5119.61 of the Revised Code regarding referrals by the board or mental health agencies under contract with the board of individuals with mental illness or severe mental disability to adult care facilities and effective arrangements for ongoing mental health services for the individuals. The board is accountable in the manner specified in the rules for ensuring that the ongoing mental health services are effectively arranged for the individuals.

(B) The board shall establish such rules, operating procedures, standards, and bylaws, and perform such other duties as may be necessary or proper to carry out the purposes of this chapter.

(C) A board of alcohol, drug addiction, and mental health services may receive by gift, grant, devise, or bequest any moneys, lands, or property for the benefit of the purposes for which the board is established, and may hold and apply it according to the terms of the gift, grant, or bequest. All money received, including accrued interest, by gift, grant, or bequest shall be deposited in the treasury of the county, the treasurer of which is custodian of the alcohol, drug addiction, and mental health services funds to the credit of the board and shall be available for use by the board for purposes stated by the donor or grantor.

(D) No board member or employee of a board of alcohol, drug addiction, and mental health services shall be liable for injury or damages caused by any action or inaction taken within the scope of the board member's official duties or the employee's employment, whether or not such action or inaction is expressly authorized by this section, section 340.033, or any other section of the Revised Code, unless such action or inaction constitutes willful or wanton misconduct. Chapter 2744 of the Revised Code applies to any action or inaction by a board member or employee of a board taken within the scope of the board member's official duties or employee's employment. For the purposes of this division, the conduct of a board member or employee shall not be considered willful or wanton misconduct if the board member or employee acted in good faith and in a manner that the board member or employee reasonably

believed was in or was not opposed to the best interests of the board and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful.

(E) The meetings held by any committee established by a board of alcohol, drug addiction, and mental health services shall be considered to be meetings of a public body subject to section 121.22 of the Revised Code.

**§ 340.031 Inspection of residential facilities; acquisition of property**

A board of alcohol, drug addiction, and mental health services may:

(A) Inspect any residential facility licensed under section 5119.22 of the Revised Code and located in its district, pursuant to a contract with the department of mental health;

(B) Acquire, convey, lease, or enter into a contract to purchase, lease, or sell property for community mental health and alcohol and drug addiction services and related purposes, and enter into loan agreements, including mortgages, for the acquisition of such property.

**§ 340.032 Executive Director, compensation, expenses and removal**

The board of alcohol, drug addiction, and mental health services shall employ a qualified mental health or alcohol or drug addiction services professional with experience in administration or a professional administrator with experience in mental health or alcohol or drug addiction services to serve as executive director of the board and shall prescribe the director's duties.

The board shall fix the compensation of the executive director. In addition to such compensation, the director shall be reimbursed for actual and necessary expenses incurred in the performance of his official duties. The board, by majority vote of the full membership, may remove the director for cause, upon written charges, after an opportunity has been afforded him for a hearing before the board on request.

The board may delegate to its executive director the authority to act in its behalf in the performance of its administrative duties.

**§ 340.033 Duties of board as planning agency for alcohol and drug addiction services; contracts with programs**

(A) The board of alcohol, drug addiction, and mental health services shall serve as the planning agency for alcohol and drug addiction services for the county or counties in its service district. In accordance with procedures and guidelines established by the department of alcohol and drug addiction services, the board shall do all of the following:

- (1) Assess alcohol and drug addiction service needs and evaluate the need for alcohol and drug addiction programs;
- (2) According to the needs determined under division (A)(1) of this section, set priorities and develop plans for the operation of alcohol and drug addiction programs in cooperation with other local and regional planning and funding bodies and with relevant ethnic organizations;
- (3) Submit the plan for alcohol and drug addiction services required by section 3793.05 of the Revised Code to the department and implement the plan as approved by the department;
- (4) Provide to the department information to be included in the information system established by the department under section 3793.04 of the Revised Code;
- (5) Enter into contracts with alcohol and drug addiction programs for the provision of alcohol and drug addiction services;
- (6) Review and evaluate alcohol and drug addiction programs in the district, and conduct program audits;
- (7) Prepare and submit to the department an annual report of the alcohol and drug addiction programs in the district;
- (8) Receive, compile, and transmit to the department applications for funding;
- (9) Promote, arrange, and implement working agreements with public and private social agencies and with judicial agencies;
- (10) Investigate, or request another agency to investigate, any complaint alleging abuse or neglect of any person receiving services from an alcohol or drug addiction program;

- (11) Establish a mechanism for the involvement of persons receiving services in, and obtaining their advice on, matters pertaining to alcohol or drug addiction services;
- (12) Recruit and promote local financial support, from private and public sources, for alcohol and drug addiction programs;
- (13) Approve fee schedules and related charges, adopt a unit cost schedule, or adopt other methods of payment for services provided by programs under contract pursuant to division (A)(5) of this section, in accordance with guidelines established by the department under section 3793.04 of the Revised Code.

(B) In accordance with rules adopted by the auditor of state pursuant to section 117.20 of the Revised Code, at least annually the board shall audit all alcohol and drug addiction programs provided under contract with the board. The board may contract with private auditors for the performance of these audits. A copy of the fiscal audit report shall be provided to the director of alcohol and drug addiction services, the auditor of state, and the County Auditor of each county in the board's district.

(C) In contracting with a program under division (A)(5) of this section, a board shall consider the cost effectiveness of services provided by the program and the program's quality and continuity of care. The board may review cost elements, including salary costs, of the services provided by the program.

A utilization review process shall be established as part of the contract for services. The board may establish this process in any way that it considers to be the most effective and efficient in meeting local needs.

(D) If either the board or a program with which it contracts pursuant to division (A)(5) of this section proposes not to renew the contract or proposes substantial changes in contract terms on renewal of the contract, it shall give the other party to the contract written notice at least one hundred twenty days before the expiration date of the contract. During the first sixty days of this period, both parties shall attempt to resolve any dispute through good faith collaboration and negotiation in order that services to persons in need will be continued. If the dispute is not resolved during this time, either party may notify the department of alcohol and drug addiction services. The department may require both parties to submit the dispute to a mutually agreed upon third party with the cost to be shared by the board and the program. At least twenty days before the expiration of the contract, unless the board and the program agree to an extension, the third party shall issue to the board, program, and department, its recommendations for resolution of the dispute.

The department shall adopt rules pursuant to Chapter 119. of the Revised Code establishing procedures for this dispute resolution process.

(E) Section 307.86 of the Revised Code does not apply to contracts entered into pursuant to division (A)(5) of this section.

(F)(1) With the prior approval of the department, a board of alcohol, drug addiction, and mental health services may operate an alcohol or drug addiction program as follows if there is no qualified program that is immediately available, willing to provide services, and able to obtain certification under Chapter 3793. of the Revised Code:

(a) In an emergency situation, any board may operate a program in order to provide essential services for the duration of the emergency;

(b) In a service district with a population of at least one hundred thousand but less than five hundred thousand, a board may operate a program for no longer than one year;

(c) In a service district with a population of less than one hundred thousand, a board may operate a program for no longer than one year, except that such a board may operate a program for longer than one year with the prior approval of the department and the prior approval of the board of county commissioners, or of a majority of the boards of county commissioners if the district is a joint-county district.

(2) The department shall not give a board its approval to operate a program under division (F)(1)(c) of this section unless it determines that the board's program will provide greater administrative efficiency and more or better services than would be available if the board contracted with a program for provision of the services.

(3) The department shall not give a board its approval to operate a program previously operated by a public or private entity unless the board has established to the department's satisfaction that the entity cannot effectively operate the program, or that the entity has requested the board to take over operation of the program.

(4) The department shall review and evaluate the operation of each program operated by a board under this division.

(5) Nothing in this division authorizes a board to administer or direct the daily operation of any program other than a program operated by the board under this division, but a program may contract with a board to receive administrative services or staff direction from the board under the direction of the governing body of the program.

(G) If an investigation conducted pursuant to division (A)(10) of this section substantiates a charge of abuse or neglect, the board shall take whatever action it determines is necessary to correct the situation, including notification of the appropriate authorities. On request, the board shall provide information about such investigations to the department.

(H) When the board sets priorities and develops plans for the operation of alcohol and drug addiction programs under division (A)(2) of this section, the board shall consult with the county commissioners of the counties in the board's service district regarding the services described in section 340.15 of the Revised Code and shall give a priority to those services, except that those services shall not have priority over services provided to pregnant women under programs developed in relation to the mandate established in section 3793.15 of the Revised Code. The plans shall identify funds the board and public children services agencies in the board's service district have available to fund jointly the services described in section 340.15 of the Revised Code.

#### **§ 340.04 Duties of executive director**

In addition to such other duties as may be lawfully imposed, the executive director of a board of alcohol, drug addiction, and mental health services shall:

(A) Serve as executive officer of the board and subject to the prior approval of the board for each contract, execute contracts on its behalf;

(B) Supervise services and facilities provided, operated, contracted, or supported by the board to the extent of determining that programs are being administered in conformity with this chapter and rules of the director of mental health and the department of alcohol and drug addiction services;

(C) Provide consultation to agencies, associations, or individuals providing services supported by the board;

(D) Recommend to the board the changes necessary to increase the effectiveness of mental health services and alcohol and drug addiction services and other matters necessary or desirable to carry out this chapter;

(E) Employ and remove from office such employees and consultants in the classified civil service and, subject to the approval of the board, employ and remove from office such other employees and consultants as may be necessary for the work of the board, and fix their compensation and reimbursement within the limits set by the salary schedule and the budget approved by the board;

(F) Encourage the development and expansion of preventive, treatment, rehabilitative, and consultative programs in the field of mental health with emphasis on continuity of care;

(G) Prepare for board approval an annual report of the programs under the jurisdiction of the board, including a fiscal accounting of all services;

(H) Conduct such studies as may be necessary and practicable for the promotion of mental health and the prevention of mental illness, emotional disorders, and addiction to alcohol and drugs;

(I) Authorize the County Auditor, or in a joint-county district the County Auditor designated as the auditor for the district, to issue warrants for the payment of board obligations approved by the board, provided that all payments are in accordance with the comprehensive community mental health plan, as approved by the department of mental health, or with the alcohol and drug addiction services plan as approved by the department of alcohol and drug addiction services.

#### **§ 340.05 Report or complaint of abuse or neglect of adult care facility resident**

A mental health agency that receives a complaint under section 3722.17 of the Revised Code alleging abuse or neglect of an individual with mental illness or severe mental disability who resides in an adult care facility shall report the complaint to the board of alcohol, drug addiction, and mental health services serving the alcohol, drug addiction, and mental health service district in which the adult care facility is located. A board of alcohol, drug addiction, and mental health services that receives such a complaint or a report from a mental health agency of such a complaint shall report the complaint to the director of health for the purpose of the director conducting an investigation under section 3722.17 of the Revised Code. The board may enter the adult care facility with or without the director and, if the health and safety of a resident is in immediate danger, take any necessary action to protect the resident. The board's action shall not violate any resident's rights under section 3722.12 of the Revised Code and rules adopted by the public health council under that chapter. The board shall immediately report to the director regarding the board's actions under this section.

#### **§ 340.06 Administration of existing facilities**

Mental health clinics and child guidance homes financed partly by state funds as of June 30, 1967 shall continue to be administered by the board which was responsible for their administration on that date, except that such boards shall administer such clinics and homes only if they are approved for contractual services by the board of alcohol, drug addiction, and mental health services serving the county or counties served by the clinic or home in accordance with rules of the director of mental health.

Boards administering other existing facilities or programs becoming a part of a community mental health program and boards formed to administer facilities and programs established pursuant to this chapter may continue to operate such facilities or programs subject to the approval of the board of alcohol, drug addiction, and mental health services and rules of the director.

#### **§ 340.07 Appropriation of money for facilities and programs**

The board of county commissioners of any county participating in an alcohol, drug addiction, and mental health service district or joint-county district, upon receipt from the board of alcohol, drug addiction, and mental health services of a resolution so requesting, may appropriate money to such board for the operation, lease, acquisition, construction, renovation, and maintenance of mental health services, programs, and facilities for mentally ill and emotionally disturbed persons in accordance with the comprehensive community mental health plan or for alcohol and drug addiction programs in accordance with the alcohol and drug addiction services plan.

#### **§ 340.08 Director to distribute funds to boards; overpayments**

The community mental health plan prepared pursuant to division (A)(1)(c) of section 340.03 of the Revised Code constitutes an application for funds from the department of mental health. The director of mental health shall distribute funds to the board pursuant to section 5119.62 of the Revised Code. The director shall review the budgets and expenditures of the various facilities and community mental health agencies receiving funds periodically during the year. The director may charge against the county or counties any overpayment of state funds allocated to the program, and the county or counties shall reimburse the treasurer of state the amount of the overpayment if the overpayment exceeds the total moneys allocated to but not yet received by the county or counties.

#### **§ 340.09 Services required for state reimbursement**

The department of mental health shall provide assistance to any county for the operation of boards of alcohol, drug addiction, and mental health services and the provision of the following services from funds appropriated for that purpose by the general assembly:

- (A) Outpatient;
- (B) Inpatient;
- (C) Partial hospitalization;
- (D) Rehabilitation;
- (E) Consultation;
- (F) Mental health education and other preventive services;
- (G) Emergency;
- (H) Research;
- (I) Administrative;
- (J) Referral and information;
- (K) Residential;

- (L) Training;
- (M) Substance abuse;
- (N) Service and program evaluation;
- (O) Community support system;
- (P) Case management;
- (Q) Residential housing;
- (R) Other services approved by the board and the director of mental health.

**§ 340.091 Contract with agency concerning residential state supplement payment recipients**

Each board of alcohol, drug addiction, and mental health services shall contract with a community mental health agency under division (A)(8)(a) of section 340.03 of the Revised Code for the agency to do all of the following in accordance with rules adopted under section 5119.61 of the Revised Code for an individual referred to the agency under division (C)(2) of section 173.35 of the Revised Code:

- (A) Assess the individual to determine whether to recommend that a PASSPORT administrative agency determine that the environment in which the individual will be living while receiving residential state supplement payments is appropriate for the individual's needs and, if it determines the environment is appropriate, issue the recommendation to the PASSPORT administrative agency;
- (B) Provide ongoing monitoring to ensure that services provided under section 340.09 of the Revised Code are available to the individual;
- (C) Provide discharge planning to ensure the individual's earliest possible transition to a less restrictive environment.

**§ 340.10 Auditor and fiscal officer; method of payment of state funds**

The County Auditor or, in a joint-county alcohol, drug addiction, and mental health service district, the auditor of the county, the treasurer of which has been designated in the agreement between the counties of the district as custodian of the community mental health funds and alcohol and drug addiction services funds, is hereby designated as the auditor and fiscal officer of an alcohol, drug addiction, and mental health service district or joint-county district. State funds allocated for the support of a service district shall be paid to the county treasurer or, in a joint-county district, to the treasurer of that county designated in the agreement as custodian of the community mental health funds and authorized to make payments from such funds on order of the County Auditor and on recommendation of the board of alcohol, drug addiction, and mental health services, or the executive director of the board when authorized by the board. The auditor shall submit to the board a detailed monthly statement of all receipts, disbursements, and ending balances for the community mental health funds.

**§ 340.11 Insurance against liability for board members and employees**

(A) A board of alcohol, drug addiction, and mental health services may procure a policy or policies of insurance insuring board members or employees of the board or agencies with which the board contracts against liability arising from the performance of their official duties. If the liability insurance is unavailable or the amount a board has procured or is able to procure is insufficient to cover the amount of a claim, the board may indemnify a board member or employee as follows:

- (1) For any action or inaction in his capacity as a board member or employee or at the request of the board, whether or not the action or inaction is expressly authorized by this or any other section of the Revised Code, if:
  - (a) The board member or employee acted in good faith and in a manner that he reasonably believed was in or was not opposed to the best interests of the board; and
  - (b) With respect to any criminal action or proceeding, the board member or employee had no reason to believe his conduct was unlawful.
- (2) Against any expenses, including attorneys' fees, the board member or employee actually and reasonably incurs as a result of a suit or other proceeding involving the defense of any action or inaction in his capacity as a board member or employee or at the request of the board, or in defense of any claim, issue, or matter raised in connection with the defense of such an action or inaction, to the extent that the board member or employee is successful on the merits or otherwise.

(B) The board may utilize up to that per cent of its budget as approved by the department of mental health to purchase insurance and to pool with funds of other boards of alcohol, drug addiction, and mental health services, as

provided in division (E) of section 5119.62 of the Revised Code, to pay expenditures for utilization of state hospital facilities that exceed the amount allocated to the board under the formula developed under that section.

**§ 340.12 Discrimination prohibited; affirmative action program**

No board of alcohol, drug addiction, and mental health services or any agency, corporation, or association under contract with such a board shall discriminate in the provision of services under its authority, in employment, or contract on the basis of race, color, sex, creed, disability, national origin, or the inability to pay.

Each board, each community mental health agency, and each alcohol and drug addiction program shall have a written affirmative action program. The affirmative action program shall include goals for the employment and effective utilization of, including contracts with, members of economically disadvantaged groups as defined in division (E)(1) of section 122.71 of the Revised Code in percentages reflecting as nearly as possible the composition of the alcohol, drug addiction, and mental health service district served by the board. Each board, agency, and program shall file a description of the affirmative action program and a progress report on its implementation with the department of mental health or the department of alcohol and drug addiction services.

**§ 340.13 Minority business enterprise contract set aside**

(A) As used in this section, "minority business enterprise" has the same meaning as in division (E)(1) of section 122.71 of the Revised Code.

(B) Any minority business enterprise that desires to bid on a contract under division (C) or (D) of this section shall first apply to the equal employment opportunity coordinator in the department of administrative services for certification as a minority business enterprise. The coordinator shall approve the application of any minority business enterprise that complies with the rules adopted under section 122.71 of the Revised Code. The coordinator shall prepare and maintain a list of minority business enterprises certified under this section.

(C) From the contracts to be awarded for the purchases of equipment, materials, supplies, or services, other than contracts entered into under section 340.03 or 340.033 of the Revised Code, each board of alcohol, drug addiction, and mental health services shall select a number of contracts with an aggregate value of approximately fifteen per cent of the total estimated value of contracts to be awarded in the current fiscal year. The board shall set aside the contracts so selected for bidding by minority business enterprises only. The bidding procedures for such contracts shall be the same as for all other contracts awarded under section 307.86 of the Revised Code, except that only minority business enterprises certified and listed under division (B) of this section shall be qualified to submit bids.

(D) To the extent that a board is authorized to enter into contracts for construction, the board shall set aside a number of contracts the aggregate value of which equals approximately five per cent of the aggregate value of construction contracts for the current fiscal year for bidding by minority business enterprises only. The bidding procedures for the contracts set aside for minority business enterprises shall be the same as for all other contracts awarded by the board, except that only minority business enterprises certified and listed under division (B) of this section shall be qualified to submit bids.

(E) In the case of contracts set aside under divisions (C) and (D) of this section, if no bid is submitted by a minority business enterprise, the contract shall be awarded according to normal bidding procedures. The board shall from time to time set aside such additional contracts as are necessary to replace those contracts previously set aside on which no minority business enterprise bid.

(F) This section does not preclude any minority business enterprise from bidding on any other contract not specifically set aside for minority business enterprises.

(G) Within ninety days after the beginning of each fiscal year, each board shall file a report with the department of mental health that shows for that fiscal year the name of each minority business enterprise with which the board entered into a contract, the value and type of each such contract, the total value of contracts awarded under divisions (C) and (D) of this section, the total value of contracts awarded for the purchases of equipment, materials, supplies, or services, other than contracts entered into under section 340.03 of the Revised Code, and the total value of contracts entered into for construction.

(H) Any person who intentionally misrepresents himself as owning, controlling, operating, or participating in a minority business enterprise for the purpose of obtaining contracts or any other benefits under this section shall be guilty of theft by deception as provided for in section 2913.02 of the Revised Code.

#### **§ 340.14 Department to assist county boards**

The department of alcohol and drug addiction services shall provide assistance to any county for the operation of boards of alcohol, drug addiction, and mental health services and the provision of alcohol and drug addiction services from funds appropriated for that purpose by the general assembly.

#### **§ 340.15 Referral of parent or other caregiver of at risk child**

(A) A public children services agency that identifies a child by a risk assessment conducted pursuant to section 5153.16 of the Revised Code as being at imminent risk of being abused or neglected because of an addiction of a parent, guardian, or custodian of the child to a drug of abuse or alcohol shall refer the child's addicted parent, guardian, or custodian and, if the agency determines that the child needs alcohol or other drug addiction services, the child to an alcohol and drug addiction program certified by the department of alcohol and drug addiction services under section 3793.06 of the Revised Code. A public children services agency that is sent a court order issued pursuant to division (B) of section 2151.3514 of the Revised Code shall refer the addicted parent or other caregiver of the child identified in the court order to an alcohol and drug addiction program certified by the department of alcohol and drug addiction services under section 3793.06 of the Revised Code. On receipt of a referral under this division and to the extent funding identified under division (A) of section 340.033 of the Revised Code is available, the program shall provide the following services to the addicted parent, guardian, custodian, or caregiver and child in need of alcohol or other drug services:

- (1) If it is determined pursuant to an initial screening to be needed, assessment and appropriate treatment;
- (2) Documentation of progress in accordance with a treatment plan developed for the addicted parent, guardian, custodian, caregiver, or child;
- (3) If the referral is based on a court order issued pursuant to division (B) of section 2151.3514 of the Revised Code and the order requires the specified parent or other caregiver of the child to submit to alcohol or other drug testing during, after, or both during and after, treatment, testing in accordance with the court order.

(B) The services described in division (A) of this section shall have a priority as provided in the alcohol and drug addiction services plan established pursuant to section 340.033 of the Revised Code. Once a referral has been received pursuant to this section, the public children services agency and the alcohol or drug addiction program shall, in accordance with 42 C.F.R. Part 2, share with each other any information concerning the persons and services described in that division that the agency and program determine are necessary to share. If the referral is based on a court order issued pursuant to division (B) of section 2151.3514 of the Revised Code, the results and recommendations of the alcohol and drug addiction program also shall be provided and used as described in division (D) of that section. Information obtained or maintained by the agency or program pursuant to this section that could enable the identification of any person described in division (A) of this section is not a public record subject to inspection or copying under section 149.43 of the Revised Code.

#### **§ 340.16 Children referred by public children services agency**

Not later than ninety days after the effective date of this section, the department of mental health and the department of job and family services shall adopt rules that establish requirements and procedures for prior notification and service coordination between public children services agencies and boards of alcohol, drug addiction, and mental health services when a public children services agency refers a child in its custody to a board for services funded by the board. The rules shall be adopted in accordance with Chapter 119 of the Revised Code.

The department of mental health and department of job and family services shall collaborate in formulating a plan that delineates the funding responsibilities of public children services agencies and boards of alcohol, drug addiction, and mental health services for services provided under section 5111.022 of the Revised Code to children in the custody of public children services agencies. The departments shall complete the plan not later than ninety days after the effective date of this section.