

**MENTAL HEALTH CODE (EXCERPT)**  
**Act 258 of 1974**

CHAPTER 2  
COUNTY COMMUNITY MENTAL HEALTH PROGRAMS

**330.1200 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.**

**Compiler's note:** The repealed section pertained to definitions.

**330.1200a "Charter county" defined.**

Sec. 200a. As used in this chapter, "charter county" means a home rule county created under Act No. 293 of the Public Acts of 1966, being sections 45.501 to 45.525 of the Michigan Compiled Laws.

**History:** Add. 1995, Act 290, Eff. Mar. 28, 1996.

**330.1201 Rules.**

Sec. 201. The department shall promulgate rules which provide for the certification of children's diagnostic and treatment services. The rules shall require at least all of the following:

(a) Children's diagnostic and treatment services shall facilitate hospitalization, if hospitalization is necessary.

(b) Children's diagnostic and treatment services shall facilitate treatment.

(c) Children's diagnostic and treatment services shall be staffed by persons trained or experienced in providing mental health services to minors.

**History:** Add. 1984, Act 186, Imd. Eff. July 3, 1984.

**Administrative rules:** R 330.1001 et seq. of the Michigan Administrative Code.

**330.1202 Community mental health services programs; state support; determination of private health insurer, Medicaid, or Medicare eligibility; billing.**

Sec. 202. (1) The state shall financially support, in accordance with chapter 3, community mental health services programs that have been established and that are administered according to the provisions of this chapter.

(2) A community mental health services program shall determine an individual's eligibility for a private health insurer, Medicaid, or Medicare and shall bill the private health insurer, Medicaid, or Medicare first before expending money from the state general fund for providing treatment and services under this act to that individual.

**History:** 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2016, Act 320, Eff. Feb. 14, 2017.

**330.1204 Community mental health services program as county community mental health agency, community mental health organization, or community mental health authority; official county agency; procedures and policies; establishment or administration of program by county with city having population of at least 500,000.**

Sec. 204. (1) Except as provided in subsection (4), a community mental health services program established under this chapter shall be a county community mental health agency, a community mental health organization, or a community mental health authority. A county community mental health agency is an official county agency. A community mental health organization or a community mental health authority is a public governmental entity separate from the county or counties that establish it.

(2) Procedures and policies for a community mental health organization or a community mental health authority shall be set by the board of the community mental health services program. Procedures and policies for a county community mental health agency shall be set by the board of commissioners or boards of commissioners as prescribed in this subsection. If a county community mental health services agency represents a single county, the county's board of commissioners shall determine the procedures and policies that shall be applicable to the agency. If a county community mental health services agency represents 2 or more counties, the boards of commissioners of the represented counties shall by agreement determine the procedures and policies that shall be applicable to the agency. In a charter county with an elected county executive, the county executive shall determine the procedures and policies that shall be applicable to the agency.

(3) The procedures and policies for multicounty community mental health services programs shall not take effect until at least 3 public hearings on the proposed procedures and policies have been held.

(4) Beginning October 1, 2013, in order to qualify for state support under section 202, if a single county

that has situated totally within that county a city having a population of at least 500,000 establishes or administers a community mental health services program, that community mental health services program must be established and administered as a community mental health authority as specified under section 205. Any operational changes made by the community mental health agency that will require a financial commitment from the community mental health authority established as a result of the provisions of this subsection shall be made in consultation with the department director.

**History:** 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2012, Act 376, Eff. Mar. 28, 2013.

### **330.1204a Creation of community mental health organization by two or more counties; creation of community mental health organization by one or more counties and institution of higher education; compliance of county.**

Sec. 204a. (1) Two or more counties may organize and operate a community mental health services program by creating a community mental health organization under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(2) One or more counties and an institution of higher education in this state that has the authority to grant a baccalaureate degree, has a medical school, has its main facility in a city having a population of at least 100,000 but no more than 500,000, and is located in a county initiating the formation of a community mental health organization under this subsection may organize and operate a community mental health services program by creating a community mental health organization under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(3) Subsequent to the formation of a community mental health organization under subsection (2), a county that joins or merges with that community mental health organization shall comply with all of the following:

(a) The manner of employing, compensating, transferring, or discharging necessary personnel is subject to the provisions of the applicable civil service and merit systems and the following restrictions:

(i) An employee of a community mental health organization is a public employee.

(ii) A community mental health organization and its employees are subject to the provisions of 1947 PA 336, MCL 423.201 to 423.217.

(b) At the time a community mental health organization is expanded under this subsection, the employees of the former community mental health services program shall be transferred to the community mental health organization and appointed as employees who shall retain all the rights and benefits for 1 year. An employee of the community mental health organization shall not, by reason of the transfer, be placed in a worse position for a period of 1 year with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or another benefit that the employee had as an employee of the former community mental health services program. A transferred employee's accrued benefits or credits shall not be diminished by reason of the transfer.

(c) If a former county community mental health services program was the designated employer or participated in the development of a collective bargaining agreement, the community mental health organization assumes and is bound by the existing collective bargaining agreement. The expansion of a community mental health organization does not adversely affect existing rights or obligations contained in the existing collective bargaining agreement. For the purposes of this subsection, "participation in the development of a collective bargaining agreement" means that a representative of the community mental health services program actively participated in bargaining sessions with the employer representative and union or was consulted during the bargaining process.

**History:** Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2000, Act 130, Imd. Eff. May 31, 2000.

### **330.1204b Regional entity.**

Sec. 204b. (1) A combination of community mental health organizations or authorities may establish a regional entity by adopting bylaws that satisfy the requirements of this section. A community mental health agency may combine with a community mental health organization or authority to establish a regional entity if the board of commissioners of the county or counties represented by the community mental health agency adopts bylaws that satisfy the requirements of this section. All of the following shall be stated in the bylaws establishing the regional entity:

(a) The purpose and power to be exercised by the regional entity to carry out the provisions of this act, including the manner by which the purpose shall be accomplished or the power shall be exercised.

(b) The manner in which a community mental health services program will participate in governing the regional entity, including, but not limited to, all of the following:

(i) Whether a community mental health services program that subsequently participates in the regional entity may participate in governing activities.

(ii) The circumstances under which a participating community mental health services program may withdraw from the regional entity and the notice required for that withdrawal.

(iii) The process for designating the regional entity's officers and the method of selecting the officers. This process shall include appointing a fiscal officer who shall receive, deposit, invest, and disburse the regional entity's funds in the manner authorized by the bylaws or the regional entity's governing body. A fiscal officer may hold another office or other employment with the regional entity or a participating community mental health services program.

(c) The manner in which the regional entity's assets and liabilities shall be allocated to each participating community mental health services program, including, at a minimum, all of the following:

(i) The manner for equitably providing for, obtaining, and allocating revenues derived from a federal or state grant or loan, a gift, bequest, grant, or loan from a private source, or an insurance payment or service fee.

(ii) The method or formula for equitably allocating and financing the regional entity's capital and operating costs, payments to reserve funds authorized by law, and payments of principal and interest on obligations.

(iii) The method for allocating any of the regional entity's other assets.

(iv) The manner in which, after the completion of its purpose as specified in the regional entity's bylaws, any surplus funds shall be returned to the participating community mental health services programs.

(d) The manner in which a participating community mental health services program's special fund account created under section 226a shall be allocated.

(e) A process providing for strict accountability of all funds and the manner in which reports, including an annual independent audit of all the regional entity's receipts and disbursements, shall be prepared and presented.

(f) The manner in which the regional entity shall enter into contracts including a contract involving the acquisition, ownership, custody, operation, maintenance, lease, or sale of real or personal property and the disposition, division, or distribution of property acquired through the execution of the contract.

(g) The manner for adjudicating a dispute or disagreement among participating community mental health services programs.

(h) The effect of a participating community mental health service program's failure to pay its designated share of the regional entity's costs and expenses, and the rights of the other participating community mental health services programs as a result of that failure.

(i) The process and vote required to amend the bylaws.

(j) Any other necessary and proper matter agreed to by the participating community mental health services programs.

(2) Except as otherwise stated in the bylaws, a regional entity has all of the following powers:

(a) The power, privilege, or authority that the participating community mental health services programs share in common and may exercise separately under this act, whether or not that power, privilege, or authority is specified in the bylaws establishing the regional entity.

(b) The power to contract with the state to serve as the medicaid specialty service prepaid health plan for the designated service areas of the participating community mental health services programs.

(c) The power to accept funds, grants, gifts, or services from the federal government or a federal agency, the state or a state department, agency, instrumentality, or political subdivision, or any other governmental unit whether or not that governmental unit participates in the regional entity, and from a private or civic source.

(d) The power to enter into a contract with a participating community mental health service program for any service to be performed for, by, or from the participating community mental health services program.

(e) The power to create a risk pool and take other action as necessary to reduce the risk that a participating community mental health services program otherwise bears individually.

(3) A regional entity established under this section is a public governmental entity separate from the county, authority, or organization that establishes it.

(4) All the privileges and immunity from liability and exemptions from laws, ordinances, and rules provided under section 205(3)(b) to county community mental health service programs and their board members, officers, and administrators, and county elected officials and employees of county government are retained by a regional entity created under this section and the regional entity's board members, officers, agents, and employees.

(5) A regional entity shall provide an annual report of its activities to each participating community mental health services program.

(6) The regional entity's bylaws shall be filed with the clerk of each county in which a participating community mental health services program is located and with the secretary of state, before the bylaws take effect.

(7) If a regional entity assumes the duties of a participating community mental health services program or contracts with a private individual or entity to assume the duties of a participating community mental health services program, the regional entity shall comply with all of the following:

(a) The manner of employing, compensating, transferring, or discharging necessary personnel is subject to the provisions of the applicable civil service and merit systems and the following restrictions:

(i) An employee of a regional entity is a public employee.

(ii) A regional entity and its employees are subject to 1947 PA 336, MCL 423.201 to 423.217.

(b) At the time a regional entity is established under this section, the employees of the participating community mental health services program who are transferred to the regional entity and appointed as employees shall retain all the rights and benefits for 1 year. If at the time a regional entity is established under this section a participating community mental health services program ceases to operate, the employees of the participating community mental health services program shall be transferred to the regional entity and appointed as employees who shall retain all the rights and benefits for 1 year. An employee of the regional entity shall not, by reason of the transfer, be placed in a worse position for a period of 1 year with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or another benefit that the employee had as an employee of the participating community mental health services program. A transferred employee's accrued benefits or credits shall not be diminished by reason of the transfer.

(c) If a participating community mental health services program was the designated employer or participated in the development of a collective bargaining agreement, the regional entity assumes and is bound by the existing collective bargaining agreement. Establishing a regional entity does not adversely affect existing rights or obligations contained in the existing collective bargaining agreement. For the purposes of this subsection, "participation in the development of a collective bargaining agreement" means that a representative of the participating community mental health services program actively participated in bargaining sessions with the employer representative and union or was consulted during the bargaining process.

**History:** Add. 2002, Act 594, Imd. Eff. Oct. 17, 2002.

### **330.1205 Community mental health authority.**

Sec. 205. (1) A county community mental health agency or a community mental health organization that is certified by the department under section 232a may become a community mental health authority as provided in this section through an enabling resolution adopted by the board of commissioners of each creating county after at least 3 public hearings held in accordance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The resolution is considered adopted if it is approved by a majority of the commissioners elected and serving in each county creating the authority. The enabling resolution is not effective until it has been filed with the secretary of state and with the county clerk of each county creating the authority. If any provision of the enabling resolution conflicts with this act, this act supersedes the conflicting provision.

(2) All of the following shall be stated in the enabling resolution:

(a) The purpose and the power to be exercised by the community mental health authority shall be to comply with and carry out the provisions of this act.

(b) The duration of the existence of the community mental health authority and the method by which the community mental health authority may be dissolved or terminated by itself or by the county board or boards of commissioners. These provisions shall comply with section 220.

(c) The manner in which any net financial assets originally made available to the authority by the participating county or counties will be returned or distributed if the authority is dissolved or terminated. All other remaining assets, net of liabilities, shall be transferred to the community mental health services program or programs that replace the authority.

(d) The liability of the community mental health authority for costs associated with real or personal property purchased or leased by the county for use by the community mental health services program to the extent necessary to discharge the financial liability if desired by the county or counties.

(e) The manner of employing, compensating, transferring, or discharging necessary personnel subject to the provisions of applicable civil service and merit systems, and the following restrictions:

(i) Employees of a community mental health authority are public employees. A community mental health authority and its employees are subject to 1947 PA 336, MCL 423.201 to 423.217.

(ii) Upon the creation of a community mental health authority, the employees of the former community mental health services program shall be transferred to the new authority and appointed as employees subject to all rights and benefits for 1 year. Such employees of the new community mental health authority shall not be placed in a worse position by reason of the transfer for a period of 1 year with respect to workers'

compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other benefit that the employee enjoyed as an employee of the former community mental health services program. Employees who are transferred shall not by reason of the transfer have their accrued pension benefits or credits diminished.

(iii) If the former county community mental health agency or community mental health organization was the designated employer or participated in the development of a collective bargaining agreement, the newly established community mental health authority shall assume and be bound by the existing collective bargaining agreement. The formation of a community mental health authority shall not adversely affect any existing rights and obligations contained in the existing collective bargaining agreement. For purposes of this provision, participation in the development of a collective bargaining agreement means that a representative of the community mental health agency or organization actively participated in bargaining sessions with the employer representative and union or was consulted with during the bargaining process.

(f) Any other matter consistent with this act that is necessary to assure operation of the community mental health authority as agreed upon by the creating county or counties.

(3) If a county community mental health agency or a community mental health organization becomes a community mental health authority pursuant to this section, both of the following apply:

(a) All assets, debts, and obligations of the county community mental health agency or community mental health organization, including, but not limited to, equipment, furnishings, supplies, cash, and other personal property, shall be transferred to the community mental health authority.

(b) All the privileges and immunities from liability and exemptions from laws, ordinances, and rules that are applicable to county community mental health agencies or community mental health organizations and their board members, officers, and administrators, and county elected officials and employees of county government are retained by the authority and the board members, officers, agents, and employees of an authority created under this section.

(4) In addition to other powers of a community mental health services program as set forth in this act, a community mental health authority has all of the following powers, whether or not they are specified in the enabling resolution:

(a) To fix and collect charges, rates, rents, fees, or other charges and to collect interest.

(b) To make purchases and contracts.

(c) To transfer, divide, or distribute assets, liabilities, or contingent liabilities, unless the community mental health authority is a single-county community mental health services program and the county has notified the department of its intention to terminate participation in the community mental health services program. During the interim period between notification by a county under section 220 of its intent to terminate participation in a multi-county community mental health services program and the official termination of that participation, a community mental health authority's power under this subdivision is subject to any agreement between the community mental health authority and the county that is terminating participation, if that agreement is consistent with the enabling resolution that created the authority.

(d) To accept gifts, grants, or bequests and determine the manner in which those gifts, grants, or bequests may be used consistent with the donor's request.

(e) To acquire, own, operate, maintain, lease, or sell real or personal property. Before taking official action to sell residential property, however, the authority shall do all of the following:

(i) Implement a plan for alternative housing arrangements for recipients residing on the property.

(ii) Provide the recipients residing on the property or their legal guardians, if any, an opportunity to offer their comments and concerns regarding the sale and planned alternatives.

(iii) Respond to those comments and concerns in writing.

(f) To do the following in its own name:

(i) Enter into contracts and agreements.

(ii) Employ staff.

(iii) Acquire, construct, manage, maintain, or operate buildings or improvements.

(iv) Subject to subdivision (e), acquire, own, operate, maintain, lease, or dispose of real or personal property, unless the community mental health authority is a single-county mental health services program and the county has notified the department of its intention to terminate participation in the community mental health services program. During the interim period between notification by a county under section 220 of its intent to terminate participation in a multi-county community mental health services program and the official termination of that participation, a community mental health authority's power under this subdivision is subject to any agreement between the community mental health authority and the county that is terminating participation, if that agreement is consistent with the enabling resolution that created the authority.

(v) Incur debts, liabilities, or obligations that do not constitute the debts, liabilities, or obligations of the

creating county or counties.

(vi) Commence litigation and defend itself in litigation.

(g) To invest funds in accordance with statutes regarding investments.

(h) To set up reserve accounts, utilizing state funds in the same proportion that state funds relate to all revenue sources, to cover vested employee benefits including, but not limited to, accrued vacation, health benefits, the employee payout portion of accrued sick leave, if any, and worker's compensation. In addition, an authority may set up reserve accounts for depreciation of capital assets and for expected future expenditures for an organizational retirement plan.

(i) To develop a charge schedule for services provided to the public and utilize the charge schedule for first and third-party payers. The charge schedule may include charges that are higher than costs for some service units by spreading nonrevenue service unit costs to revenue-producing service unit costs with total charges not exceeding total costs. All revenue over cost generated in this manner shall be utilized to provide services to priority populations.

(5) In addition to other duties and responsibilities of a community mental health services program as set forth in this act, a community mental health authority shall do all of the following:

(a) Provide to each county creating the authority and to the department a copy of an annual independent audit performed by a certified public accountant in accordance with governmental auditing standards issued by the comptroller of the United States.

(b) Be responsible for all executive administration, personnel administration, finance, accounting, and management information system functions. The authority may discharge this responsibility through direct staff or by contracting for services.

(6) A county that has created a community mental health authority is not liable for any intentional, negligent, or grossly negligent act or omission, for any financial affairs, or for any obligation of a community mental health authority, its board, employees, representatives, or agents. This subsection applies only to county government.

(7) A community mental health authority shall not levy any type of tax or, except as provided in subsection (13), issue any type of bond in its own name or financially obligate any unit of government other than itself.

(8) An employee of a community mental health authority is not a county employee. The community mental health authority is the employer with regard to all laws pertaining to employee and employer rights, benefits, and responsibilities.

(9) As a public governmental body, a community mental health authority is subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, except for those documents produced as a part of the peer review process required in section 143a and made confidential by section 748(9).

(10) A community mental health authority may borrow money to finance or refinance the purchase of real property or tangible personal property of the authority. These contractual obligations shall be secured by a mortgage on the real property or a security interest or other lien on the tangible personal property. These contractual obligations shall be for not longer than the useful life of the collateral and shall be authorized by resolution approved by a majority of the community mental health board. A mortgage given by a community mental health authority to finance the purchase of real property under this subsection is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(11) A community mental health authority may enter into an installment purchase agreement for the purchase or refinancing of tangible personal property for public purposes. The installment purchase agreement for the purchase of tangible personal property shall not be for a longer term than the useful life of the tangible personal property. The installment purchase agreements described in this subsection are not subject to the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The total of all outstanding installment purchase agreements under this subsection shall not exceed 1% of the taxable value of all property located within the area served by that community mental health authority.

(12) If a community mental health authority has financed the purchase of property in a substantially similar manner to that as described in subsection (10) or (11), prior to the effective date of the amendatory act that added this subsection, that purchase is ratified as if it was made under subsection (10) or (11).

(13) A community mental health authority may borrow money and issue notes by resolution of a majority vote of its governing board, which notes shall not exceed 20% of the previous year's annual income and shall mature not more than 18 months from the date of their issuance. Notes shall be issued for the purpose of meeting the expenses of the community mental health authority, including the expenses of operation and maintenance of its facilities, and payments due to its contracted service providers. The resolution authorizing the issuance of the notes shall provide for the pledge of income and revenues of the community mental health authority for the payment of the notes, and may also provide for a special sinking fund into which there may

be paid, as collected, a sufficient fund from the revenues of the community mental health authority to retire both the principal of and interest on the notes at or before maturity. The resolution may also authorize 1 or more officers or board members of the authority to provide for the mortgage, pledge, or grant of security interests or other liens in other assets of the community mental health authority as additional security for the payment of notes. Notes issued by a community mental health authority under this subsection are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 2000, Act 228, Imd. Eff. June 27, 2000;—Am. 2002, Act 343, Imd. Eff. May 23, 2002.

### **330.1206 Community mental health services program; purpose; services.**

Sec. 206. (1) The purpose of a community mental health services program shall be to provide a comprehensive array of mental health services appropriate to conditions of individuals who are located within its geographic service area, regardless of an individual's ability to pay. The array of mental health services shall include, at a minimum, all of the following:

(a) Crisis stabilization and response including a 24-hour, 7-day per week, crisis emergency service that is prepared to respond to persons experiencing acute emotional, behavioral, or social dysfunctions, and the provision of inpatient or other protective environment for treatment.

(b) Identification, assessment, and diagnosis to determine the specific needs of the recipient and to develop an individual plan of services.

(c) Planning, linking, coordinating, follow-up, and monitoring to assist the recipient in gaining access to services.

(d) Specialized mental health recipient training, treatment, and support, including therapeutic clinical interactions, socialization and adaptive skill and coping skill training, health and rehabilitative services, and pre-vocational and vocational services.

(e) Recipient rights services.

(f) Mental health advocacy.

(g) Prevention activities that serve to inform and educate with the intent of reducing the risk of severe recipient dysfunction.

(h) Any other service approved by the department.

(2) Services shall promote the best interests of the individual and shall be designed to increase independence, improve quality of life, and support community integration and inclusion. Services for children and families shall promote the best interests of the individual receiving services and shall be designed to strengthen and preserve the family unit if appropriate. The community mental health services program shall deliver services in a manner that demonstrates they are based upon recipient choice and involvement, and shall include wraparound services when appropriate.

**History:** 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

**Administrative rules:** R 330.1001 et seq. of the Michigan Administrative Code.

### **330.1207 Diversion from jail incarceration.**

Sec. 207. Each community mental health services program shall provide services designed to divert persons with serious mental illness, serious emotional disturbance, or developmental disability from possible jail incarceration when appropriate. These services shall be consistent with policy established by the department.

**History:** Add. 1995, Act 290, Eff. Mar. 28, 1996.

### **330.1207a Persons entering criminal justice system; collaborative program to provide mental health treatment and assistance; interagency agreement; rules; funds.**

Sec. 207a. (1) Not later than October 1, 2014, each county shall have a written interagency agreement in place for a collaborative program to provide mental health treatment and assistance, if permitted by law and considered appropriate, to persons with serious mental illness who are considered at risk for 1 or more of the following:

(a) Entering the criminal justice system.

(b) Not receiving needed mental health treatment services during a period of incarceration in a county jail.

(c) Not receiving needed mental health treatment services upon release or discharge from incarceration in a county jail.

(d) Being committed to the jurisdiction of the department of corrections.

(2) Parties to the interagency agreement referenced in subsection (1) shall include, at a minimum, all of the following:

- (a) The county sheriff's department.
- (b) The county prosecutor's office.
- (c) The community mental health services program that provides services in that county.
- (d) The county board of commissioners.

(e) A district court judge who serves in that county or, if there is more than 1 district in the county, a district court judge who serves in the county who is designated either by the chief judge of a district court within that county or a chief judge with authority over a district court in that county.

(f) A circuit court judge who serves in that county who is designated either by the chief judge of the circuit court or by a chief judge with authority over the circuit court in that county.

(3) The interagency agreement referenced in subsection (1) shall, at a minimum, cover all of the following areas:

- (a) Guidelines for program eligibility.
- (b) Interparty communication and coordination.
- (c) Day-to-day program administration.
- (d) Involvement of service consumers, family members, and other stakeholders.
- (e) How the program shall work with local courts.
- (f) How the program shall address potential participants before and after criminal charges have been filed.
- (g) Resource sharing between the parties to the interagency agreement.
- (h) Screening and assessment procedures.
- (i) Guidelines for case management.
- (j) How the program described in subsection (1) will work with county jails.
- (k) Criteria for completing the program described in subsection (1).
- (l) Mental health treatment services that are available through the program described in subsection (1).
- (m) Procedures for first response to potential cases, including response to crises.
- (n) How the administrators of the program described in subsection (1) will report the program's actions and outcomes to the public.

(4) A county that has a written interagency agreement referenced in subsection (1) in place on the effective date of the amendatory act that added this section may maintain that interagency agreement, but must ensure that its interagency agreement contains all of the provisions described in subsection (3).

(5) The department, the state court administrative office, and parties to the interagency agreement may establish additional policies and procedures to be included in the county interagency agreement required under this section.

(6) The department may promulgate rules to implement this section according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(7) A county is not required to provide funds for the program described in subsection (1). In implementing the provisions of this section, a county is required to expend funds for the program described in subsection (1) only to the extent appropriated annually by the legislature for the program.

**History:** Add. 2014, Act 28, Imd. Eff. Mar. 6, 2014.

### **330.1207b Provision of mental health services to county jail inmates; use of state general fund/general purpose dollars by community mental health services program.**

Sec. 207b. If a community mental health services program has entered into an agreement with a county or county sheriff to provide mental health services to the inmates of the county jail, the department shall not prohibit the use of state general fund/general purpose dollars by community mental health services programs to provide mental health services to inmates of the county jail.

**History:** Add. 2014, Act 29, Imd. Eff. Mar. 6, 2014.

### **330.1208 Individuals to which service directed; priorities; denial of service prohibited.**

Sec. 208. (1) Services provided by a community mental health services program shall be directed to individuals who have a serious mental illness, serious emotional disturbance, or developmental disability.

(2) Services may be directed to individuals who have other mental disorders that meet criteria specified in the most recent diagnostic and statistical manual of mental health disorders published by the American psychiatric association and may also be directed to the prevention of mental disability and the promotion of mental health. Resources that have been specifically designated to community mental health services programs for services to individuals with dementia, alcoholism, or substance use disorder or for the prevention of mental disability and the promotion of mental health shall be utilized for those specific purposes.

(3) Priority shall be given to the provision of services to individuals with the most severe forms of serious

mental illness, serious emotional disturbance, and developmental disability. Priority shall also be given to the provision of services to individuals with a serious mental illness, serious emotional disturbance, or developmental disability in urgent or emergency situations.

(4) An individual shall not be denied a service because an individual who is financially liable is unable to pay for the service.

**History:** 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1978, Act 166, Imd. Eff. May 26, 1978;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

### **330.1209 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.**

**Compiler's note:** The repealed section pertained to notifying county program of admittance of individual to state facility.

### **330.1209a Prerelease plan for community placement and aftercare services; development; contracting for services; advance notice of patient release; release plan; postrelease plan; disclosure of information.**

Sec. 209a. (1) The appropriate community mental health services program, with the assistance of the state facility or licensed hospital under contract with a community mental health services program, or the state facility shall develop an individualized prerelease plan for appropriate community placement and a prerelease plan for aftercare services appropriate for each resident. If possible, the resident shall participate in the development of a prerelease plan. In developing a prerelease plan for a minor, the community mental health services program shall include all of the following in the planning process if possible:

- (a) The minor, if the minor is 14 years of age or older.
- (b) The parent or guardian of the minor.
- (c) Personnel from the school and other agencies.

(2) If the responsible community mental health services program cannot locate suitable aftercare service with a residential component or an alternative to hospitalization in its service area, but the service is available from another service provider, the responsible community mental health service program may contract for the provision of services. The service shall be located as close to the individual's place of residence as possible.

(3) If a recipient of inpatient services provided through a community mental health services program is to be released, the licensed hospital under contract with a community mental health services program or a state facility shall provide the responsible community mental health services program with advance notice of an individual's anticipated release from patient care. The community mental health services program shall offer prerelease planning services and develop a release plan in cooperation with the individual unless the individual refuses this service.

(4) If a recipient of inpatient services provided through a community mental health services program is released before a prerelease plan can be completed, the community mental health services program shall offer to assist the recipient in the development of a postrelease plan within 10 days after release.

(5) Unless covered by contractual agreement, disclosure of information about the individual by the state facility or licensed hospital shall be made to those individuals involved in the development of the prerelease or postrelease plan or current individual plan of services, but shall be limited to the following:

- (a) Home address, gender, date of discharge or planned date of discharge, any transfer, and medication record.
- (b) Other information necessary to determine financial and social service needs, program needs, residential needs, and medication needs.

**History:** Add. 1980, Act 409, Imd. Eff. Jan. 8, 1981;—Am. 1984, Act 186, Imd. Eff. July 3, 1984;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

### **330.1209b Placement of individual in supervised community living arrangement; prerelease and postrelease planning; plan for community placement and aftercare services; sending department aggregate data upon request; list of services not provided.**

Sec. 209b. (1) Before an individual is placed in a supervised community living arrangement, such as a foster home, group care home, nursing home, or other community-based setting, the prerelease or postrelease planning for the individual shall involve the individual, the individual's legal guardian if a guardian has been appointed; any family member, friend, advocate, and professional the recipient chooses; the parents of a minor individual; the state facility or licensed hospital; the residential care provider, if such a provider has been selected; and, with the consent of the individual, the appropriate local and intermediate school systems and the department of social services, if appropriate. In each case, the community mental health services program shall produce in writing a plan for community placement and aftercare services that is sufficient to meet the needs of the individual and shall document any lack of available community services necessary to

implement the plan.

(2) Each community mental health services program, as requested, shall send to the department aggregate data, which includes a list of services that were indicated on prerelease or postrelease plans, but which could not be provided.

**History:** Add. 1980, Act 409, Imd. Eff. Jan. 8, 1981;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

### **330.1209d Review of outcomes, programs, treatment, and community services rendered in community settings; standards.**

Sec. 209d. Each community mental health services program regularly shall review the outcomes for recipients as a result of programs, treatment, and community services rendered to individuals in community settings and shall ensure that services are provided consistently with the standards of the department.

**History:** Add. 1980, Act 409, Imd. Eff. Jan. 8, 1981;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

### **330.1210 Community mental health services program; election to establish; coordination of services.**

Sec. 210. (1) Any single county or any combination of adjoining counties may elect to establish a community mental health services program by a majority vote of each county board of commissioners.

(2) A department-designated community mental health entity shall coordinate the provision of substance use disorder services in its region and shall ensure services are available for individuals with substance use disorder.

**History:** 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

### **330.1212 Board; establishment; appointment of members; county with city having population of at least 500,000; vacancy; board member as governmental employee or contractor.**

Sec. 212. (1) Upon electing to establish a community mental health services program, the county or combination of counties shall establish a 12-member community mental health services board, except as provided in section 214, 219, or 222(2) or (5). Except as provided in subsection (2), each board of commissioners shall by a majority vote appoint the board members from its county. Recommended appointments to the board shall be made annually following the organizational meeting of the board of commissioners.

(2) When a single county establishes a community mental health services program and totally situated within that county is a city having a population of at least 500,000, the 12 board members shall be appointed to the board as follows:

(a) Six board members appointed by a majority vote of the county board of commissioners from a list of nominees submitted by the county executive of that county. Two board members appointed under this subdivision must be primary consumers or family members of primary consumers. Upon notification that the list provided under this subdivision does not meet with the county board of commissioners' approval, the county executive of that county shall submit another list to the county board of commissioners with 6 different nominees.

(b) Six board members appointed by the county board of commissioners from a list of nominees submitted by the mayor of the city having a population of at least 500,000 that is totally situated within that county. Two board members appointed under this subdivision must be primary consumers or family members of primary consumers. Upon notification that the list provided under this subdivision does not meet with the county board of commissioners' approval, the mayor of the city having a population of at least 500,000 that is totally situated within that county shall submit another list to the county board of commissioners with 6 different nominees.

(3) When a single county establishes a community mental health services program and totally situated within that county is a city having a population of at least 500,000, the 12 board members shall be appointed to the board as the appointments of current board members expire.

(4) When a vacancy occurs on a board that has members appointed under subsection (2), the vacancy shall be filled in the same manner as the board member being replaced was appointed.

(5) A board member appointed under subsection (2) shall not be an employee or contractor of any of the following:

- (a) The city or county described in subsection (2).
- (b) The state.
- (c) The federal government.
- (d) A community mental health authority.

**History:** 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1986, Act 265, Imd. Eff. Dec. 9, 1986;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2012, Act 376, Eff. Mar. 28, 2013.

### **330.1214 Board; county representation.**

Sec. 214. When a single county establishes a board, all board members shall be representatives of that county. When a combination of counties establishes a board, unless otherwise agreed to by each of the participating counties, the board memberships shall be divided among the counties in proportion to each county's population, except that each county is entitled to at least 1 board membership.

**History:** 1974, Act 258, Eff. Aug. 6, 1975;—Am. 2000, Act 21, Imd. Eff. Mar. 13, 2000.

### **330.1216 Repealed. 2012, Act 376, Mar. 28, 2013.**

**Compiler's note:** The repealed section pertained to appointment of board members in county with city having population of at least 500,000.

### **330.1218 Joining established services program.**

Sec. 218. Any county that adjoins a county having an established community mental health services program may elect, by a majority vote of its board of commissioners, to join that established community mental health services program. The joining must be approved by the board of commissioners of each county already participating in the established community mental health services program, and the joining shall become effective on January 1 following the date of final approval. Upon the joining, the board of the established community mental health services program shall be dissolved, and a new board shall be appointed in the manner provided in sections 212 and 214.

**History:** 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

### **330.1219 Merger of services programs; appointment of members to new board; compliance with MCL 330.1212, 330.1214, and 330.1222.**

Sec. 219. (1) A county having an established community mental health services program may elect to merge with an established community mental health services program in an adjoining county. A merger shall be approved by a majority vote of the board of commissioners of each participating county, and becomes effective on the first day of January, April, July, or October immediately following the date of final approval. The merger and creation of a community mental health authority shall be in accordance with this section and section 205.

(2) The board of commissioners of each participating county may elect by a majority vote to appoint 1 or more of the community mental health services board members to the new board, even if that action would result in a size or composition of the board that is different than that provided for in sections 212, 214, and 222.

(3) If the board of commissioners of 1 or more participating counties does not agree to permit appointment of members to the new board in the manner provided in subsection (2), the new board shall be appointed in the manner provided in sections 212, 214, and 222.

(4) A new board that is different in size or composition than that provided for in section 212, 214, or 222 shall be brought into compliance with those sections not later than 3 years after the date of merger.

**History:** Add. 1986, Act 265, Imd. Eff. Dec. 9, 1986;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997.

### **330.1220 Services program; termination of participation; notice.**

Sec. 220. Termination of a county's participation in a community mental health services program, whether that participation is singular or joint, may be accomplished by an official notification from the county's board of commissioners to the department and the other concerned county boards of commissioners or, in a charter county, by an official notification from the county's board of commissioners upon a request from the county executive. The date of termination shall be 1 year following the receipt of notification by the department, unless the director of the department consents to an earlier termination. In the interim between notification and official termination, the county's participation in the community mental health services program shall be maintained in good faith.

**History:** 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

### **330.1221 Repealed. 1990, Act 263, Eff. Jan. 1, 1993.**

**Compiler's note:** The repealed section pertained to powers and duties of governing board of county human services or human resources department and repeal of section.

### **330.1222 Board; composition; residence of members; exclusions; approval of contract;**

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**exception; size of board in excess of MCL 330.1212; compliance.**

Sec. 222. (1) The composition of a community mental health services board shall be representative of providers of mental health services, recipients or primary consumers of mental health services, agencies and occupations having a working involvement with mental health services, and the general public. At least 1/3 of the membership shall be primary consumers or family members, and of that 1/3 at least 1/2 of those members shall be primary consumers. All board members shall be 18 years of age or older.

(2) Not more than 4 members of a board may be county commissioners, except that if a board represents 5 or more counties, the number of county commissioners who may serve on the board may equal the number of counties represented on the board, and the total of 12 board memberships shall be increased by the number of county commissioners serving on the board that exceeds 4. In addition to an increase in board memberships related to the number of county commissioners serving on a board that represents 5 or more counties, board memberships may also be expanded to more than the total of 12 to ensure that each county is entitled to at least 2 board memberships, which may include county commissioners from that county who are members of the board if the board represents 5 or more counties. Not more than 1/2 of the total board members may be state, county, or local public officials. For purposes of this section, public officials are defined as individuals serving in an elected or appointed public office or employed more than 20 hours per week by an agency of federal, state, city, or local government.

(3) A board member shall have his or her primary place of residence in the county he or she represents.

(4) An individual shall not be appointed to and shall not serve on a board if he or she is 1 or more of the following:

(a) Employed by the department or the community mental health services program.

(b) A party to a contract with the community mental health services program or administering or benefiting financially from a contract with the community mental health services program, except for a party to a contract between a community mental health services program and a regional entity or a separate legal or an administrative entity created by 2 or more community mental health services programs under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, or under 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536.

(c) Serving in a policy-making position with an agency under contract with the community mental health services program, except for an individual serving in a policy-making position with a joint board or commission established under 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536, or a regional entity to provide community mental health services.

(5) If a board member is an employee or independent contractor in other than a policy-making position with an agency with which the board is considering entering into a contract, the contract shall not be approved unless all of the following requirements are met:

(a) The board member shall promptly disclose his or her interest in the contract to the board.

(b) The contract shall be approved by a vote of not less than 2/3 of the membership of the board in an open meeting without the vote of the board member in question.

(c) The official minutes of the meeting at which the contract is approved contains the details of the contract including, but not limited to, names of all parties and the terms of the contract and the nature of the board member's interest in the contract.

(6) Subsection (5) does not apply to a board member who is an employee or independent contractor in other than a policy-making position with a joint board or commission established under 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536, a separate legal or administrative entity established under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, a combination of municipal corporations joined under 1951 PA 35, MCL 124.1 to 124.13, or a regional entity to provide community mental health services.

(7) In order to meet the requirement under subsection (1) related to the appointment of primary consumers and family members without terminating the appointment of a board member serving on March 28, 1996, the size of a board may exceed the size prescribed in section 212. A board that is different in size than that prescribed in section 212 shall be brought into compliance within 3 years after the appointment of the additional board members.

**History:** 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2002, Act 596, Imd. Eff. Dec. 3, 2002;—Am. 2003, Act 278, Imd. Eff. Jan. 8, 2004.

**330.1224 Board; terms of members; vacancy; removal from office; compensation; expenses.**

Sec. 224. The term of office of a board member shall be 3 years from April 1 of the year of appointment, except that of the members first appointed, 4 shall be appointed for a term of 1 year, 4 for 2 years, and 4 for 3 years. A vacancy shall be filled for an unexpired term in the same manner as an original appointment. A board member may be removed from office by the appointing board of commissioners for neglect of official duty or

misconduct in office after being given a written statement of reasons and an opportunity to be heard on the removal. A board member shall be paid a per diem no larger than the highest per diem for members of other county advisory boards set by the county board of commissioners and be reimbursed for necessary travel expenses for each meeting attended. The mileage expense fixed by the county board of commissioners shall not exceed the mileage reimbursement as determined by the state officers compensation commission. A board member shall not receive more than 1 per diem payment per day regardless of the number of meetings scheduled by the board for that day.

**History:** 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1976, Act 348, Imd. Eff. Dec. 21, 1976;—Am. 1977, Act 88, Imd. Eff. Aug. 2, 1977;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2012, Act 376, Eff. Mar. 28, 2013.

### **330.1226 Board; powers and duties; appointment of executive director; reimbursement to program providing assisted outpatient treatment services.**

Sec. 226. (1) The board of a community mental health services program shall do all of the following:

(a) Annually conduct a needs assessment to determine the mental health needs of the residents of the county or counties it represents and identify public and nonpublic services necessary to meet those needs. Information and data concerning the mental health needs of individuals with developmental disability, serious mental illness, and serious emotional disturbance shall be reported to the department in accordance with procedures and at a time established by the department, along with plans to meet identified needs. It is the responsibility of the community mental health services program to involve the public and private providers of mental health services located in the county or counties served by the community mental health program in this assessment and service identification process. The needs assessment shall include information gathered from all appropriate sources, including community mental health waiting list data and school districts providing special education services.

(b) Annually review and submit to the department a needs assessment report, annual plan, and request for new funds for the community mental health services program. The standard format and documentation of the needs assessment, annual plan, and request for new funds shall be specified by the department.

(c) In the case of a county community mental health agency, obtain approval of its needs assessment, annual plan and budget, and request for new funds from the board of commissioners of each participating county before submission of the plan to the department. In the case of a community mental health organization, provide a copy of its needs assessment, annual plan, request for new funds, and any other document specified in accordance with the terms and conditions of the organization's inter-local agreement to the board of commissioners of each county creating the organization. In the case of a community mental health authority, provide a copy of its needs assessment, annual plan, and request for new funds to the board of commissioners of each county creating the authority.

(d) Submit the needs assessment, annual plan, and request for new funds to the department by the date specified by the department. The submission constitutes the community mental health services program's official application for new state funds.

(e) Provide and advertise a public hearing on the needs assessment, annual plan, and request for new funds before providing them to the county board of commissioners.

(f) Submit to each board of commissioners for their approval an annual request for county funds to support the program. The request shall be in the form and at the time determined by the board or boards of commissioners.

(g) Annually approve the community mental health services program's operating budget for the year.

(h) Take those actions it considers necessary and appropriate to secure private, federal, and other public funds to help support the community mental health services program.

(i) Approve and authorize all contracts for the provision of services.

(j) Review and evaluate the quality, effectiveness, and efficiency of services being provided by the community mental health services program. The board shall identify specific performance criteria and standards to be used in the review and evaluation. These shall be in writing and available for public inspection upon request.

(k) Subject to subsection (3), appoint an executive director of the community mental health services program who meets the standards of training and experience established by the department.

(l) Establish general policy guidelines within which the executive director shall execute the community mental health services program.

(m) Require the executive director to select a physician, a registered professional nurse with a specialty certification issued under section 17210 of the public health code, 1978 PA 368, MCL 333.17210, or a licensed psychologist to advise the executive director on treatment issues.

(2) A community mental health services program may do all of the following:

- (a) Establish demonstration projects allowing the executive director to do 1 or both of the following:
    - (i) Issue a voucher to a recipient in accordance with the recipient's plan of services developed by the community mental health services program.
    - (ii) Provide funding for the purpose of establishing revolving loans to assist recipients of public mental health services to acquire or maintain affordable housing. Funding under this subparagraph shall only be provided through an agreement with a nonprofit fiduciary.
  - (b) Carry forward any surplus of revenue over expenditures under a capitated managed care system. Capitated payments under a managed care system are not subject to cost settlement provisions of section 236.
  - (c) Carry forward the operating margin up to 5% of the community mental health services program's state share of the operating budget for the fiscal years ending September 30, 2009, 2010, and 2011. As used in this subdivision, "operating margin" means the excess of state revenue over state expenditures for a single fiscal year exclusive of capitated payments under a managed care system. In the case of a community mental health authority, this carryforward is in addition to the reserve accounts described in section 205(4)(h).
  - (d) Pursue, develop, and establish partnerships with private individuals or organizations to provide mental health services.
  - (e) Share the costs or risks, or both, of managing and providing publicly funded mental health services with other community mental health services programs through participation in risk pooling arrangements, reinsurance agreements, and other joint or cooperative arrangements as permitted by law.
  - (f) Enter into agreements with other providers or managers of health care or rehabilitative services to foster interagency communication, cooperation, coordination, and consultation. A community mental health services program's activities under an agreement under this subdivision shall be consistent with the provisions of section 206.
- (3) In the case of a county community mental health agency, the initial appointment by the board of an individual as executive director is effective unless rejected by a 2/3 vote of the county board of commissioners within 15 calendar days.
- (4) A community mental health services program that has provided assisted outpatient treatment services during a fiscal year may be eligible for reimbursement if an appropriation is made for assisted outpatient treatment services for that fiscal year. The reimbursement described in this subsection is in addition to any funds that the community mental health services program is otherwise eligible to receive for providing assisted outpatient treatment services.

**History:** 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1986, Act 149, Imd. Eff. July 2, 1986;—Am. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997;—Am. 1998, Act 417, Imd. Eff. Dec. 22, 1998;—Am. 2000, Act 273, Imd. Eff. July 7, 2000;—Am. 2002, Act 595, Imd. Eff. Oct. 17, 2002;—Am. 2004, Act 497, Eff. Mar. 30, 2005;—Am. 2009, Act 103, Imd. Eff. Sept. 30, 2009;—Am. 2014, Act 266, Eff. Sept. 29, 2014.

### **330.1226a Board; special fund account.**

Sec. 226a. A community mental health services program board may create a special fund account to receive recipient fees and third-party reimbursements for services rendered. In the case of a county community mental health agency, approval of the board of commissioners of each participating county is necessary before creation of the special fund account. Receipts into the fund shall be recorded by source of payment and by type of service rendered, and a report regarding this information shall be submitted on a quarterly basis to the department. Money in the special fund account shall be used only for matching state funds or for the provision of community mental health services.

**History:** Add. 1980, Act 423, Eff. Mar. 31, 1981;—Am. 1984, Act 107, Imd. Eff. May 24, 1984;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

### **330.1227 School-to-community transition services.**

Sec. 227. Each community mental health services program shall participate in the development of school-to-community transition services for individuals with serious mental illness, serious emotional disturbance, or developmental disability. This planning and development shall be done in conjunction with the individual's local school district or intermediate school district as appropriate and shall begin not later than the school year in which the individual student reaches 16 years of age. These services shall be individualized. This section is not intended to increase or decrease the fiscal responsibility of school districts, community mental health services programs, or any other agency or organization with respect to individuals described in this section.

**History:** Add. 1995, Act 290, Eff. Mar. 28, 1996.

### **330.1228 Board; contracts.**

Sec. 228. Subject to the provisions of this chapter, a board is authorized to enter into contracts for the purchase of mental health services and property lease arrangements with private or public agencies or individuals. A board may enter into a contract with any facility or entity of the department with the approval of the director of the department.

**History:** 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

### **330.1230 Services program; executive director as chief executive and administrative officer; terms and conditions of employment.**

Sec. 230. The executive director of a community mental health services program shall function as the chief executive and administrative officer of the program and shall execute and administer the program in accordance with the approved annual plan and operating budget, the general policy guidelines established by the board, the applicable governmental procedures and policies, and the provisions of this act. The executive director has the authority and responsibility for supervising all employees. The terms and conditions of an executive director's employment, including tenure of service, shall be as mutually agreed to by the board and the executive director and shall be specified in a written contract.

**History:** 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

### **330.1231 Medical director; appointment; duties.**

Sec. 231. The executive director shall appoint a medical director who is a psychiatrist. The medical director shall advise the executive director on medical policy and treatment issues.

**History:** Add. 1995, Act 290, Eff. Mar. 28, 1996.

### **330.1232 Services program; review of annual plan, needs assessment, request for funds, annual contract, and budget; eligibility for state support; allocation of funds.**

Sec. 232. The department shall review each community mental health services program's annual plan, needs assessment, request for funds, annual contract, and operating budget and approve or disapprove state funding in whole or in part. Eligibility for state financial support shall be contingent upon an approved contract and operating budget and certification in accordance with section 232a. Prior to the beginning of each state fiscal year, the department shall allocate state appropriated funds to the community mental health service programs in accordance with the approved contracts and budgets.

**History:** 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

### **330.1232a Certification and review process standards; rules; compliance; waiver; plan to correct items of noncompliance; duration of certification; review of recipient rights system; notification of changes affecting certification; denial of certification; provisional certification; suspension, denial, or revocation of certification; appeal; review; actions by department; financial liability; community mental health authority status as voluntary.**

Sec. 232a. (1) Subject to section 114a, the department shall promulgate rules to establish standards for certification and the certification review process for community mental health services programs. The standards shall include but not be limited to all of the following:

(a) Matters of governance, resource management, quality improvement, service delivery, and safety management.

(b) Promotion and protection of recipient rights.

(2) After reviewing a community mental health services program, the department shall notify a program that substantially complies with the standards established under this section that it is certified by the department.

(3) The department may waive the certification review process in whole or in part and consider the community mental health services program to be in substantial compliance with the standards established under this section if the program has received accreditation from a national accrediting organization recognized by the department that includes review of matters described in subsection (1)(a).

(4) If the department certifies a community mental health services program despite some items of noncompliance with the standards established under this section, the notice of certification shall identify the items of noncompliance and the program shall correct the items of noncompliance. The department shall require the community mental health board to submit a plan to correct items of noncompliance before recertification or sooner at the discretion of the department.

(5) Certification is effective for 3 years and is not transferable. Requests for recertification shall be submitted to the department at least 6 months before the expiration of certification. Certification remains in effect after the submission of a renewal request until the department conducts a review and makes a

redetermination.

(6) The department shall conduct an annual review of each community mental health services program's recipient rights system to ensure compliance with standards established under subsection (1)(b). An on-site review shall be conducted once every 3 years.

(7) The community mental health services program shall promptly notify the department of any changes that may affect continued certification.

(8) The department may deny certification if the community mental health services program cannot demonstrate substantial compliance with the standards established under this section.

(9) In lieu of denying certification, the department may issue a provisional certification for a period of up to 6 months upon receiving a plan of correction submitted by the community mental health services board. The department shall provide a copy of the review and the approved plan of correction to the board of commissioners of each county that established the county community mental health agency or created the community mental health organization or community mental health authority. A provisional certification may be extended, but the entire provisional period shall not exceed 1 year. The department shall conduct an on-site review to determine the community mental health services program's compliance with the plan of correction at least 30 days before the expiration of the provisional certification. A provisional certification automatically expires either on its original expiration date or the expiration date of the extension granted.

(10) If a community mental health services program is denied certification, fails to comply with an approved plan of correction before the expiration of a provisional certification, or fails to comply substantially with the standards established under this section, the department shall notify the community mental health services board and the board of commissioners of each county that established the agency or created the organization or authority of the department's intention to suspend, deny, or revoke certification. The notice shall be sent by certified mail and shall set forth the particular reasons for the proposed action and offer an opportunity for a hearing with the director of the department's division that manages contracts with community mental health services programs. If it desires a hearing, the community mental health services board shall request it in writing within 60 days after receipt of the notice. The department shall hold the hearing not less than 30 days or more than 60 days from the date it receives the request for a hearing.

(11) The director of the department's division that manages contracts with community mental health services programs shall make a decision regarding suspension, denial, or revocation of certification based on evidence presented at the hearing or on the default of the community mental health services board. A copy of the decision shall be sent by certified mail within 45 days after the close of the hearing to the community mental health services board and to the board of commissioners of each county that established the agency or created the organization or authority.

(12) A community mental health services board may appeal a decision made under subsection (11) as provided in chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287.

(13) During the period of certification, the department may conduct an unannounced review of a certified community mental health services program. The department shall conduct an unannounced review of a certified community mental health services program in response to information that raises questions regarding recipient health or safety. If the department finds based on its review that the community mental health services program does not substantially comply with the standards established under this section, the department shall provide notice and a hearing under subsections (10) and (11).

(14) If a community mental health services program fails to obtain or retain certification as a result of the department's review, has exhausted the time period for provisional certification, is not engaged in the process of appeal or appeal has been unsuccessful, and if no agreement has been reached by the department with the community mental health services program to assure certification compliance within a specified time period, the department shall within 90 days do both of the following:

(a) Cancel the state funding commitment to the community mental health services board.

(b) Utilize the funds previously provided to the community mental health services board to do 1 or more of the following:

(i) Secure services from other providers of mental health services that the department has determined can operate in substantial compliance with the standards established under this section and continue the delivery of services within the county or counties.

(ii) Provide the service.

(15) If state funding is canceled under subsection (14) and the community mental health services program is an authority created under section 205, the county or counties that created the authority are financially liable only for the local match formula established for the authority under chapter 3. If state funding is canceled under subsection (14) and the community mental health services program is a county community mental health agency or a community mental health organization, the county or counties that established the

agency are financially liable for local match for all services contractually or directly provided by the department to residents of the county or counties in accordance with chapter 3.

(16) The department shall not utilize the certification process under this section to require a community mental health services program to become a community mental health authority. Except as provided in section 204(4), community mental health authority status is voluntary as provided in section 205.

**History:** Add. 1995, Act 290, Eff. Mar. 28, 1996;—Am. 2012, Act 376, Eff. Mar. 28, 2013.

**Administrative rules:** R 330.1001 et seq. of the Michigan Administrative Code.

### **330.1232b Specialty prepaid health plans.**

Sec. 232b. (1) The department shall establish standards for community mental health services programs designated as specialty prepaid health plans under the medicaid managed care program described in section 109f of the social welfare act, 1939 PA 280, MCL 400.109f. The standards established under this section shall reference applicable federal regulations related to medicaid managed care programs and specify additional state requirements for specialty prepaid health plans. The standards established under this section shall be published in a departmental bulletin or by an updating insert to a departmental manual.

(2) As a condition for contracting and for receiving payment under the medicaid managed care program, a community mental health services program designated as a specialty prepaid health plan shall certify both of the following:

(a) That the program is in substantial compliance with the standards promulgated by the department and with applicable federal regulations.

(b) That the program has established policies and procedures to monitor compliance with the standards promulgated by the department and with applicable federal regulations and to ensure program integrity.

(3) The department shall conduct an annual review of all community mental health services programs designated as specialty prepaid health plans to verify the declarations made by the community mental health services program and to monitor compliance with the standards promulgated for specialty prepaid health plans and with applicable federal regulations. The annual review process established under this section shall be published in a departmental bulletin or by an updating insert to a departmental manual.

(4) The department may conduct separate reviews of a specialty prepaid health plan in response to beneficiary complaints, financial status considerations, or health and safety concerns.

(5) Contracts with specialty prepaid health plans shall indicate the sanctions that the department may invoke if it makes a determination that a specialty prepaid health plan is not in substantial compliance with promulgated standards and with established federal regulations, that the specialty prepaid health plan has misrepresented or falsified information reported to the state or to the federal government, or that the specialty prepaid health plan has failed substantially to provide necessary covered services to recipients under the terms of the contract. Sanctions may include intermediate actions including, but not limited to, a monetary penalty imposed on the administrative and management operation of the specialty prepaid health plan, imposition of temporary state management of a community mental health services program operating as a specialty prepaid health plan, or termination of the department's medicaid managed care contract with the community mental health services program.

(6) Before imposing a sanction on a community mental health services program that is operating as a specialty prepaid health plan, the department shall provide that specialty prepaid health plan with timely written notice that explains both of the following:

(a) The basis and nature of the sanction.

(b) The opportunity for a hearing to contest or dispute the department's findings and intended sanction, prior to the imposition of the sanction. A hearing under this section is subject to the provisions governing a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, unless otherwise agreed to in the specialty prepaid health plan contract.

**History:** Add. 2002, Act 597, Imd. Eff. Dec. 3, 2002.

### **330.1234 Services program; review of proposed contract and operating budget; criteria.**

Sec. 234. In reviewing a community mental health services program's proposed contract and operating budget for the purpose of approval or disapproval, in whole or in part, or in making an allocation of state appropriated funds to a community mental health services program, the department shall consider:

(a) The state's mental health needs.

(b) The annual plan and needs assessment of the community mental health services program.

(c) The state's need for a reasonable degree of statewide standardization and control of services.

(d) The community mental health services program's need for a reasonable degree of flexibility and freedom to design, staff, and administer services in a manner that the program considers appropriate to its

situation.

(e) The community mental health services program's need for a reasonable expectation that services meeting an essential mental health need and that are appropriately designed and executed will receive continuing state financial support within the constraint of state funds actually appropriated by the legislature.

(f) The demonstrated relevancy, quality, effectiveness, and efficiency of the community mental health services program's services.

(g) The adequacy of the community mental health services program's accounting for the expenditure of state funds.

**History:** 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

### **330.1236 Services program; review of expenditures; withdrawal of funds.**

Sec. 236. At intervals during the year, the department shall review the expenditures of each community mental health services program, and if the department determines that funds that have been allocated to a program are not needed by that program, the department may, with the concurrence of the board, withdraw the funds. Funds so withdrawn may be reallocated by the department to other community mental health services programs. The department may withdraw funds that have been allocated to a community mental health services program when the funds are being expended in a manner not provided for in the approved contract and operating budget. The department shall establish standards related to the frequency and timing of expenditure reviews described in this section.

**History:** 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

### **330.1238 Review of actions involving disapproval of proposed contract and operating budget, allocation of funds, or withdrawal of funds; consultation.**

Sec. 238. If an executive director or a board specifically so requests, any action by the department involving a disapproval of a community mental health services program's proposed contract and operating budget, in whole or in part, or involving an allocation of funds to a community mental health services program or a withdrawal of funds from a community mental health services program, shall be reviewed in consultation with the affected executive director or board before the action is considered a final action. In any consultation, the representative of the community mental health services program shall be afforded a full opportunity to present his or her position.

**History:** 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

### **330.1240 Expenditures eligible for state financial support.**

Sec. 240. All expenditures by a community mental health services program necessary to execute the program shall be eligible for state financial support, except those excluded under section 242. Expenditures necessary to carry out the responsibilities and duties of a community mental health services program include expenditures for staff training and staff education and for mental health research when those expenditures are necessary or appropriate to the execution of the program.

**History:** 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

### **330.1241 Adult foster care facilities; expenses eligible for state financial support.**

Sec. 241. Expenditures for the maintenance and repair of adult foster care facilities owned or leased by a community mental health services program are eligible for state financial support. Expenses incurred in renovating an adult foster care facility that is leased or owned by a community mental health services program are also eligible for state financial support if the expenses are incurred for 1 or more of the following purposes:

(a) To correct physical plant deficiencies cited by the department of social services under state licensing rules.

(b) To purchase and install fire safety equipment or make physical plant changes that measurably assure a reasonable level of fire protection for all of the residents who live in the facility.

(c) To correct physical plant deficiencies in accordance with state and federal certification standards.

(d) To restore the facility to its prelease condition, if the facility's lease contains a clause stipulating that renovation is the lessee's responsibility at the time the lease expires or is terminated.

**History:** Add. 1995, Act 290, Eff. Mar. 28, 1996.

### **330.1242 Expenditures ineligible for state financial support.**

Sec. 242. The following expenditures by a community mental health services program are not eligible for state financial support except as permitted under section 241 or by the department:

(a) The construction, purchase, remodeling, or any similar capital cost of a building or facility, except that such cost is eligible for state financial support on an annual expense basis in an amount equal to a fair rental value of the space or building being utilized.

(b) The capital cost of equipment or similar items in an amount greater than that established by the department.

(c) Any cost item that does not represent or constitute a real or actual expenditure by the community mental health services program except to expend from a reserve account established by the board, as provided in section 205.

(d) That part of any expenditure that is obviously and manifestly extravagant in relation to its specific objective and context.

(e) Any category of expenditure or any portion of any category of expenditure, the ineligibility of which the department determines is necessary and appropriate to assure the reasonable use of state funds or to assure a legitimate interest of the state, and which determination is in accord with the intent and provisions of this chapter. Subject to section 114a, this subdivision shall be effectuated by rules promulgated by the department.

**History:** 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

**Administrative rules:** R 330.1001 et seq. of the Michigan Administrative Code.

### **330.1244 Additional powers and duties of department.**

Sec. 244. In addition to the duties and powers elsewhere provided in this chapter, the department shall do all of the following:

(a) Seek to develop and establish arrangements and procedures for the effective coordination and integration of state services and community mental health services programs.

(b) Review and evaluate, at times and in a manner the department considers appropriate, the relevancy, quality, effectiveness, and efficiency of community mental health services programs. In developing or operating its community mental health services program information system, the department shall not collect any information that would make it possible to identify by name any individual who receives a service from a community mental health services program. Any such information in the possession of the department before August 6, 1974 shall not be disclosed by the department.

(c) Provide technical consultative services to counties seeking to establish or improve a community mental health services program, and provide other technical consultative services to community mental health services programs as the department considers feasible and appropriate.

(d) Audit, or cause to be audited, the expenditure of state funds by community mental health services programs. Copies of audit reports shall be forwarded to the auditor general.

(e) Subject to section 114a, promulgate rules it considers necessary or appropriate to implement the objectives and provisions of this chapter.

**History:** 1974, Act 258, Eff. Aug. 6, 1975;—Am. 1980, Act 423, Eff. Mar. 31, 1981;—Am. 1986, Act 289, Imd. Eff. Dec. 22, 1986;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

**Administrative rules:** R 330.1001 et seq. of the Michigan Administrative Code.

### **330.1245 Granting staff privileges to psychiatrists.**

Sec. 245. The directors of psychiatric hospitals operated by the department may grant staff privileges to psychiatrists employed by or under contract with a community mental health services program under guidelines established by the hospital's governing body if requested by the executive director of the program. Staff privileges authorized under this section include the admission, treatment, and discharge of patients admitted from that program's service area. The credentials committee of the medical staff of the hospital shall review the credentials of all applicants for staff privileges and recommend to the hospital director the approval or disapproval of the granting of staff privileges to the applicant. Denial of a request for staff privileges may be appealed by the executive director to the hospital's governing board.

**History:** Add. 1986, Act 289, Imd. Eff. Dec. 22, 1986;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

### **330.1246 Repealed. 1995, Act 290, Eff. Mar. 28, 1996.**

**Compiler's note:** The repealed section pertained to Michigan conference of county community mental health programs.