

**CLINTON COUNTY, MICHIGAN  
RESOLUTION 2002-24  
CREATING A COMMUNITY MENTAL HEALTH AUTHORITY**

**WHEREAS**, Clinton County participates with Ingham County and Eaton County and has formed Clinton-Eaton-Ingham Community Mental Health to provide a Community Mental Health Program; and

**WHEREAS**, the Clinton County Board of Commissioners desires to improve the quality of mental health services to its residents; and

**WHEREAS**, pursuant to the Mental Health Code, MCL 330.1001 *et seq.* (hereinafter referred to as the "Act"), there is an option to create a Community Mental Health Authority with powers and duties as defined in Section 205, MCL 330.1205; and

**WHEREAS**, the Clinton County Board of Commissioners has determined that a creation of an Authority from the community mental health programs servicing Clinton, Eaton and Ingham Counties (hereinafter referred to collectively as "participating counties" or individually as "participating county") under the Mental Health Authority structure provided in MCL 330.1205 would better serve the County's residents by enhancing the effectiveness of mental health services; and

**WHEREAS**, the Clinton County Board of Commissioners has conducted three (3) separate public hearings on the issue of creation of a Community Mental Health Authority, with notice of the hearings given pursuant to the Open Meetings Act, being MCL 15.261 *et seq.*

**NOW, THEREFORE, BE IT RESOLVED THAT:**

A. Creation. There is hereby created the Clinton-Eaton-Ingham Community Mental Health Authority (hereinafter "Community Mental Health Authority" or "Authority") pursuant to the Mental Health Code, Section 205, MCL 330.1205, to carry out the requirements of the Mental Health Code upon completing all the statutory requirements. The existing Clinton-Eaton-Ingham Community Mental Health Program (hereinafter "Community Mental Health Program") is dissolved upon the effective date of the creation of the Authority.

B. Board Member Composition and Compensation. The Community Mental Health Board will consist of twelve (12) members, with membership divided among the Counties in proportion to each County's population. The composition of the Board shall be representative of providers of mental health services, recipients or consumers of mental health services, agencies and occupations having a working involvement with mental health services, and the general public. At least one-third (1/3) of the membership shall be primary consumers or family members, and of that one-third (1/3) at least two (2) members shall be primary consumers. All Board members shall be 18 years of age or older. Not more than four (4) members of the Board may be County Commissioners. Not more than one (1) County Commissioner may serve from both Clinton and Eaton Counties. Not more than two (2) County Commissioners may serve from Ingham County. No more than half of the total Board members may be state, county or local public officials. For purposes of this section, public officials are defined as persons serving in an elected or appointed public office or employment more than twenty (20) hours per week by an agency of federal, state, city or local government. A Board member shall have his/her place of residence in the County he/she represents. An employee of the MDCH, an employee of the County program, or an employee or representative of an agency having a contractual relationship with the County program may not be appointed, nor shall he/she serve on the Board.

The composition of the Board shall be as follows:

County	Population*	%	Member(s)
Clinton	64,753	15	2
Eaton	103,655	23	3
Ingham	279,320	62	7
Total	<u>447,728</u>	<u>100%</u>	<u>12</u>

\* Numbers based upon 2000 Census Population. The allocation of Board members shall be re-established, if necessary, subsequent to each decennial census.

The following persons are hereby appointed from Clinton County to the Authority Board and shall serve in accordance with the provisions of the Act for the terms noted:

	<u>Name</u>	<u>Term Expiration</u>
1.	Sara Clark Pierson	December 31, 2002
2.	Mark Egress	December 31, 2004

An Authority 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. The Authority Board shall seek reimbursement from the Michigan Department of Community Health subject to its rules and regulations for per diem payments made to the Authority Board pursuant to the Mental Health Code, Section 224, MCL 330.1224.

The Authority Board members shall be eligible for necessary other expenses and reimbursements as are received by any of the Clinton, Eaton or Ingham Board of Commissioners with respect to conferences, seminars and other Authority Board related activities.

Term of Board Membership, Vacancies, Removal from Office. The term of office of an Authority Board member shall be three (3) years from April 1 of the year of appointment. Vacancies shall be filled for unexpired terms in the same manner as original appointments. A Board member may be removed from office by the appointing County Board of Commissioners for either 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. Current members shall continue to serve the remainder of the appointed terms upon the terms and conditions set forth herein.

D. Purpose and Power. The purpose and power to be exercised by the Community Mental Health Authority shall be to comply with and carry out the provisions of the Mental Health Code. The Authority shall provide the following services to the residents of Clinton, Eaton, and Ingham Counties:

- (1) Prevention, consultation, coordination, education or information service;
- (2) Diagnostic service;
- (3) Emergency service;
- (4) In-patient service;
- (5) Out-patient service;

- (6) Partial hospitalization service;
- (7) Residential, shelter or protective care service;
- (8) Habilitation or rehabilitation service;
- (9) Any other service approved by the Michigan Department of Community Health (hereinafter "MDCH").

E. Duration and Termination. The duration of the Community Mental Health Authority shall be perpetual unless terminated as hereinafter provided. Termination may be accomplished by a resolution passed by a majority of any of the County Board of Commissioners participating in the Authority to the other participating Counties and the MDCH. The date of termination shall be set by the County Board of Commissioners' terminating resolution, but no sooner than one (1) year. If the terminating resolution made by the County Board of Commissioners would result in a termination of the County's participation in any and all community mental health program, then the date of termination shall be no sooner than one (1) year following receipt of notification by the MDCH, unless the director of the MDCH consents to an earlier termination. During the interim between notification and official termination, the Community Mental Health Authority program shall be maintained in good faith subject to the requirements of the Act.

F. Return of Net Financial Assets. In the event of termination of the Community Mental Health Authority, all net financial assets originally made available to the Authority by Clinton County shall be returned to Clinton County, which are not otherwise required to satisfy the obligation of the Authority. All assets not returned to Clinton County shall be transferred to the Community Mental Health Services program that replaces the Authority.

G. County Property. The Community Mental Health Authority shall be responsible for any and all costs, liabilities, and expenses associated with real or personal property purchased or leased by Ingham County or Eaton County for use by the Community Mental Health Authority, unless otherwise provided for differently in a negotiated lease agreement between the parties to the lease agreement which includes but is not limited to:

- (1) Agreement entered into between Ingham County and the Community Mental Health Board of Clinton-Eaton-Ingham Counties on March 29, 1989.
- (2) Agreement entered into between Ingham County, Ingham County Building Authority, and the Community Mental Health Board of Clinton-Eaton-Ingham Counties on February 11, 1997.
- (3) Agreement entered into between Eaton County and the Community Mental Health Board of Clinton-Eaton-Ingham Counties on August 7, 2000.
- (4) Agreement entered into between Agreement entered into between Ingham County, Ingham County Building Authority, and the Community Mental Health Board of Clinton-Eaton-Ingham Counties on September 19, 2000.

H. Employees of the Community Mental Health Authority. Upon the creation of the Authority, the employees of the former community mental health services program shall be transferred to the Authority and appointed as employees subject to all rights and benefits for one (1) year as required by State statute. Such employees of the Authority shall not be placed in a worse position by reason of the transfer for a period of one (1) year with respect to workers' compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other benefit that the employees enjoyed as employees of the former community mental health services program as required by State law. Employees who are transferred shall not by reason of the transfer have their accrued pension benefits or credits diminished as required by State law.

Upon the creation of the Authority, any collective bargaining agreements currently covering the employees of the former community mental health services program shall be assumed by the newly created Authority, and the Authority shall be bound by the provisions of those collective bargaining agreements. The formation of the Authority shall not adversely affect any existing rights and obligations contained in the existing collective bargaining agreements.

An employee of the Community Mental Health Authority is not a Clinton County employee. The Community Mental Health Authority is the employer with regard to all laws pertaining to employees and employee rights, benefits and responsibilities.

I. Transfer of Assets. Upon the effective date of the creation of the Community Mental Health Authority, all assets, debts and obligations of the existing Community Mental Health Program including, but not limited to, equipment, furnishings, supplies, cash, and other personal property, shall be transferred to the Authority. The Authority shall indemnify and hold harmless each County creating the Authority from any and all liability in regard thereto. The fixed assets to be transferred to the Clinton-Eaton-Ingham Community Mental Health Authority are valued at approximately \$24,178,192.00, as stated in the September 2001 audited Financial Statement. This fixed assets total will be adjusted to reflect the appraisal amounts for assets currently not valued.

All contracts regarding mental health services will be transferred to the Authority. The Authority may obtain a novation of contracts.

J. Privileges and Immunities from Liability. 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 the Mental Health Code, Section 205, MCL 330.1205.

K. Powers of the Community Mental Health Authority. In addition to other powers of a Community Mental Health Services program as set forth in the Act, the Authority has all of the following powers:

- (1) To fix and collect charges, rates, fees or other charges and to collect interest.
- (2) To make purchases and contracts.
- (3) To transfer, divide, or distribute assets, liabilities or contingent liabilities.
- (4) To accept gifts, grants or bequests that determine the manner in which those gifts, grants or bequests may be used consistent with the donor's request.
- (5) To acquire, own, operate, maintain, lease or sell real or personal property, including the power to determine the location of property purchased, leased, and/or operated. Before taking official action to sell residential property, however, the Authority shall implement a plan for alternative housing arrangements, subject to the requirements of MCL 330.1205(4)(e)(ii) and (iii).
- (6) Enter into contracts and agreements in the Authority's name.
- (7) Employ staff in the Authority's name.
- (8) Acquire, construct, manage, maintain, or operate buildings or improvements in the Authority's name.
- (9) Acquire, own, operate, maintain, lease or dispose of real or personal property in the Authority's name.

- (10) Incur debts, liabilities, or obligations in the Authority's name that do not constitute the debts, liabilities, or obligations of Clinton County.
- (11) Commence litigation and defend itself in litigation.
- (12) To invest funds in accordance with statutes regarding investments.
- (13) 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 workers' compensation. In addition, the Authority may set up reserve accounts for depreciation of capital assets and for expected future expenditures for an organization retirement plan.
- (14) 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 cost for some service units by spreading nonrevenue service unit costs to revenue-producing service unit costs with total charges not exceeding total cost. All revenue over cost generated in this manner shall be utilized to provide services to priority populations.

L. Duties and Responsibilities of the Community Mental Health Authority. In addition to other duties and responsibilities of the Community Mental Health Authority as set forth in the Act, the Authority shall do all of the following:

- (1) Examine and evaluate the mental health needs of Clinton, Eaton and Ingham Counties and the public and the public services necessary to meet those needs.
- (2) Provide to Clinton, Eaton and Ingham Counties and to MDCH 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.
- (3) Be responsible for all executive administration, personnel administration, finance, accounting and management information systems functions. The Authority may discharge the responsibility through direct staff or by contracting for services.
- (4) Provide to Clinton, Eaton, and Ingham County Board of Commissioners one hundred and thirty (130) calendar days advance written notice and/or obtain the approval of all three (3) boards of commissioners to enter into any agreement that would create a new legal entity pursuant to the Urban Cooperation Act, Public Act 7 of 1967, MCL 124.501 et seq.
- (5) Provide to Clinton, Eaton, and Ingham County Board of Commissioners, separately and/or jointly, as requested, any and all information related to the operations of the Authority and the Authority Board on a timely basis, unless prohibited from disclosure by law.

M. Funding.

The percentage of the total county funding request to be borne by each County shall be determined by the Authority Board, based upon the average of the quantity of services provided to the residents of each County over a number of periods.

Fiscal Year 2000 and Subsequent Year's Request: The Fiscal Year 2000 request and those of subsequent years (fiscal year as determined by the County) allocation percentages will be derived from the average of service allocation data for the three (3) most recent and completed Authority fiscal years (October through September).

The cost allocation percentages for all three (3) fiscal years will be based upon the volume of services used by the residents of each County and the cost of those services, by service type and client category.

Residency is determined using the following county of liability definition. The liable county is a person's county of residence when he or she last lived independently. (A person living with his or her family is considered to be living independently. A person living in an adult foster care home, hospital, nursing home, or jail is not considered to be living independently). This county remains the county of liability until an independent living situation is reestablished or at the time that the liable CMH, through an agreement with another CMH, changes the county of liability.

In the event, for any given year, the three (3) counties' contributions vary from the formula here agreed upon, the Authority Board shall use the proportionately greater amount received from a county or counties, including all State money received as a match for the proportionately greater amount, to serve only residents of the county or counties whose contributions were greater than that here agreed upon. In the event that any county does not appropriate its share as determined by the aforesaid method, services to that county shall be reduced by a quantity equal to the differences between the cost of the actual appropriation and the appropriation determined by the aforesaid methods. Further, the Authority Board shall identify a priority of services which shall be cut in this instance and inform the under-appropriating county of such planned service reductions.

The service and associated cost data used in the cost allocation formulas shall reflect only those services provided in accordance with the funding pattern for the periods from which the data are drawn. Services provided over and above those tied to the funding pattern as a result of a county contributing more than the proportion called for by the formula, shall not be used in determining the cost allocation basis.

N. Applicability of Open Meetings Act and Freedom of Information Act. To the extent required by law, the Community Mental Health Authority, as a public governmental body, shall be subject to the Open Meetings Act, Public Act 267 of 1976, MCL 15.261 et seq., and the Freedom of Information Act, Public Act 442 of 1976, MCL 15.231 et seq., except for those documents produced as a part of the Peer Review Process required by the Mental Health Code, Section 143a, MCL 330.1143a and made confidential by the Mental Health Code, Section 748(9), MCL 330.1748(9).

O. Conflict. If any provision of this Resolution conflicts with the Act, the Act shall control and supersede.

P. Additional Powers. All powers, duties, obligations, rights and protections not mentioned herein, but otherwise provided by the Act are included herein by reference.

Q. Liability. Clinton County is not liable for any intentional, negligent, or grossly negligent act or omission, for any financial affairs, or for any obligation of the Community Mental Health Authority, its Board, employees, representatives, or agents.

**BE IT FURTHER RESOLVED**, that this Resolution is not effective until consent is received from the Michigan Department of Community Health, this Resolution is filed with the Secretary of State and the Clinton County Clerk, which effective date is intended to be September 15, 2002.

STATE OF MICHIGAN  
COUNTY OF CLINTON

I, DIANE ZUKER, Clerk of the County of Clinton do hereby certify that the foregoing resolution was duly adopted by the Clinton County Board of Commissioners at the regular meeting held August 27, 2002 and is on file in the records of this office.

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Diane Zuker, Clinton County Clerk