

**Subpart C. ADMINISTRATION AND FISCAL MANAGEMENT**

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**Notes of Decisions**

The provisions of 55 Pa. Code § 5403(a) do not require that a hearing officer review the assessment for the previous year. *Powell v. Department of Public Welfare*, 455 A.2d 1287 (Pa. Cmwlth. 1983).

The language of 55 Pa. Code § 5405.4 is mandatory and must be scrupulously followed. *Powell v. Department of Public Welfare*, 455 A.2d 1287 (Pa. Cmwlth. 1983).

The provisions of 55 Pa. Code § 5404.4 are not violative of due process requirements when an opportunity is provided to demonstrate the circumstances which would warrant abatement or modification. *Powell v. Department of Public Welfare*, 455 A.2d 1287 (Pa. Cmwlth. 1983).

Failure of a hearing officer to consider the issue of proration of liability for months in which a client is absent from the hospital, as provided in 55 Pa. Code § 5402.2, requires a remand for consideration of that issue. *Weiss v. Department of Public Welfare*, 465 A.2d 1319 (Pa. Cmwlth. 1983).

Inability to take one’s child on as many home visits and outings as in the past due to a liability assessment does not constitute extraordinary circumstances under 55 Pa. Code § 5405.31. *Weiss v. Department of Public Welfare*, 465 A.2d 1319 (Pa. Cmwlth. 1983).

**CHAPTER 4200. COUNTY BOARD AND  
PROGRAM ADMINISTRATION  
GENERAL PROVISIONS**

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**Authority**

The provisions of this chapter issued under section 201(2) of the Mental Health and Mental Retardation Act of 1966 (50 P. S. § 4201(2)).

**Source**

The provisions of this Chapter 4200 amended November 1, 1968, effective November 1, 1968, unless otherwise noted.

**GENERAL PROVISIONS****§ 4200.1. Purpose.**

The purpose of this chapter is to specify requirements for the county mental health and mental retardation board and the county mental health and mental retardation administrator.

**§ 4200.2. Applicability.**

This chapter applies to county mental health/mental retardation (MH/MR) programs.

**§ 4200.3. Legal base.**

The legal authority for this chapter is section 201(2) of the Mental Health and Mental Retardation Act of 1966 (50 P. S. § 4201(2)).

**§ 4200.4. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Act*—The Mental Health and Mental Retardation Act of 1966 (50 P. S. §§ 4101—4704).

*Administrator*—The county mental health and mental retardation administrator appointed by the local authorities.

*Board*—The county mental health and mental retardation board appointed by the local authorities.

*County*—A county or a first class city.

*Department*—The Department of Public Welfare of the Commonwealth.

*Facility*—A mental health establishment, hospital, clinic, institution, center, day care center or other organizational unit, or part thereof, which is devoted primarily to the diagnosis, treatment, care, rehabilitation or detention of mentally disabled persons.

*Local authorities*—The county commissioners of a county, or the city councils and the mayors of first class cities, or two or more of these acting in concert.

*Mental disability*—A mental illness, mental impairment, mental retardation, or mental deficiency, which so lessens the capacity of a person to use his customary self-control, judgment and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to be under care as provided in the act. The term includes conditions and terms heretofore defined as “insanity,” “unsoundness of mind,” “lunacy,” “mental disease,” “mental disorder,” “feebleminded,” “moron,” “idiot” and “imbecile.” The term shall not include senility, unless mental illness or mental retardation is superimposed.

*Mental retardation*—Subaverage general intellectual functioning which originates during the developmental period and is associated with impairment of maturation, learning or social adjustment.

*Nurse*—A person licensed by the State Board of Nursing to engage in the practice of professional nursing within the meaning of The Professional Nurse Law (63 P. S. §§ 211—225).

*Physician*—A physician licensed to practice in the Commonwealth.

*Program*—A mental health and mental retardation program established by the local authorities and includes a complex of services providing a continuum of care in the community for the mentally disabled.

*Psychiatrist*—A physician who by years of study, training and experience has achieved professional recognition and standing in the field of psychiatry.

*Psychologist*—A person who by years of study, training and experience has achieved professional recognition and standing in the field of clinical psychology.

*Secretary*—The Secretary of the Department.

*Social worker*—A person who by years of study, training, and experience has achieved professional recognition and standing in the field of social work.

### CONSTITUTION OF THE BOARD

#### § 4200.11. Single county board.

Except in counties of the first class where the board will be appointed, and members will hold office under the provisions of the city charter, the local authorities of a county shall appoint a board which must consist of 13 resident members constituted as follows:

- (1) One representative of the board of county commissioners.
- (2) At least two physicians, and where possible, one shall be a psychiatrist and the other a pediatrician.
- (3) There shall be appropriate representation drawn from the following groups:
  - (i) The professional fields of psychology, social work, nursing, education and religion.
  - (ii) Local citizens' organizations active in the field of mental health.
  - (iii) Local citizens' organizations active in the field of mental retardation.
  - (iv) Local health and welfare planning organizations.
  - (v) Local general hospitals.
  - (vi) Community groups whose membership represents the economically, socially, and culturally disadvantaged.
- (4) Appropriate representation shall be deemed to mean representation approved by the Secretary and shall include the following:
  - (i) At least two representatives from paragraph (3)(i).
  - (ii) At least one representative from paragraph (3)(ii) and (iii).
  - (iii) At least one from either paragraph (3)(iv) or (v).
  - (iv) At least one, two where possible, from paragraph (3)(vi).

#### Cross References

This section cites in 55 Pa. Code § 4200.11 (relating to single county board); and 55 Pa. Code § 4200.23 (relating to multipurpose board).

#### § 4200.12. Joint county board.

- (a) There shall be one representative of the board of county commissioners for each county participating and the remaining membership shall be divided among the counties participating substantially in proportion to population.
- (b) The formula to determine the number of representatives from each county when two or more counties are participating in concert shall be as follows:

- (1) Deduct the number of representatives of the boards of county commissioners from 13.
- (2) Determine the number of representatives that each county shall be entitled to by dividing the remaining membership among the participating counties in proportion to their populations.
- (3) Out of the number determined in subsection (b), assign two physicians to the Board in accordance with § 4200.11(2) (relating to single county board).
- (4) Out of the remaining number, assign representatives to the board in accordance with § 4200.11(3) and (4).

#### **Cross References**

This section cited in 55 Pa. Code § 4200.13 (relating to appointment of board members); and 55 Pa. Code § 4200.23 (relating to multipurpose board).

### **§ 4200.13. Appointment of board members.**

(a) Members shall be appointed for a period of 3 years. Of the members initially appointed, five shall be appointed for a period of 1 year, four for a period of 2 years, and the remaining four for a period of 3 years. Vacancies occurring in the membership of the board shall be filled by the local authorities for the unexpired period. The local authorities may remove a member of the board during his period of service for cause only. Unexcused failure to attend three consecutive meetings may be a cause.

(b) In the event that already established boards do not reflect the representation required in § 4200.12 (relating to joint county board), appointment to fill a vacancy must supply a deficiency in representation.

### **§ 4200.14. Notification to the Department.**

The local authorities shall notify the Department of the appointment of the board, the vacancies of the board, and removals from the board and shall submit the names of the members of the board appointed or removed, the professional and other groups they represent and other pertinent information regarding the board.

### **§ 4200.15. Officers.**

(a) The officers of the board shall be a chairman, a vice chairman, and a secretary. These officers shall be elected at the annual meeting.

(b) It shall be the duty of the chairman to preside at meetings of the board and generally to be responsible for directing the business of the board.

(c) It shall be the duty of the vice chairman to perform the duties of the chairman in his absence at regular board meetings and at special meetings only if the chairman is incapacitated.

(d) It shall be the duty of the secretary to keep a correct record of the meetings of the board and to be the custodian of the records and papers of the board

except those that are specifically assigned to others. He shall send one copy of the minutes of the meetings to the Department.

#### **DUTIES OF THE BOARD**

##### **§ 4200.21. Meetings.**

The boards shall meet at least once each quarter and may, by majority vote of the membership, establish more frequent regular meetings not exceeding 1 per month. A majority of the board members shall constitute a quorum.

##### **§ 4200.22. Special meetings.**

(a) Special meetings will be held on call of the chairman on at least 24 hour notice to members.

(b) It will be the duty of the chairman to call a special meeting within 3 days of the receipt of a written request to one-third or more of the members of the board.

(c) No business will be transacted at these meetings except that named in the call for the meeting.

##### **§ 4200.23. Multipurpose board.**

(a) With the approval of the Department, the local authorities may elect to assign functions of the board to a multipurpose board provided the latter has the representation specified in §§ 4200.11 and 4200.12 (relating to single county board and joint county board) insofar as possible.

(b) A multipurpose board may provide consultation in areas as child welfare, aging, and other human services in the health and welfare field.

##### **§ 4200.24. Powers and duties.**

The board shall have the power and its duty shall be:

(1) To review and evaluate mental health and mental retardation needs, services, facilities, and special problems in relation to the local health and welfare needs, services and programs.

(2) Except in cities of the first class, to recommend to local authorities not less than two persons for the position of administrator. Persons shall meet the standards of professional skill and experience as defined in § 4200.33 (relating to qualifications).

(3) To develop, together with the administrator, annual plans for the program.

(4) To make recommendations to the local authorities regarding the program and other matters relating to mental health and mental retardation services in the county, including purchase of service, contracts and funds required to implement the program.

- (5) To review performance under the program and to recommend a system of program evaluation. The system of program evaluation recommended by the board, in accordance with this section, will be on file with the administrator, the local authorities, and the Department.
- (6) To perform other functions as required.

**§ 4200.25. Reimbursement.**

Members of the board shall serve without compensation other than reimbursement for travel and other actual expenses incurred in connection with called meetings and other authorized work of the board.

**ADMINISTRATOR**

**§ 4200.31. Appointment.**

(a) Except in cities of the first class, where the administrator shall be appointed under the merit system, the local authorities shall appoint an administrator from a list of not less than two names submitted by the Board. Where two or more counties act in concert each county shall have one vote and the decision regarding the appointment shall be by a majority. If, 30 days after the board has submitted a list to the local authorities, and appointment has not been made because of a tie vote or other failure of the local authorities to make the appointment, the same shall be made by the Secretary after consultation with the local authorities. The appointment of the administrator, by whomever made, may be terminated by the local authorities, provided that no appointment made by the Secretary under this section shall be terminated without the approval of a majority of the board.

(b) The administrator shall be appointed only after the Secretary has approved the qualifications of the candidate to be appointed.

(c) The local authorities shall inform the Department immediately of the appointment of the administrator and of vacancies in the position of the administrator by termination of appointment, death, resignation or otherwise.

**§ 4200.32. Powers and duties.**

The administrator shall have the power and his duty shall be:

- (1) To administer the program.
- (2) To insure that mental health and mental retardation services required by this act are available.
- (3) To attend board meetings and to provide staff services to the board.
- (4) To make reports to the Department in form and containing the information as may be required.
- (5) To develop, together with the board annual plans for the program.

(6) To submit to local authorities annual plans and estimated costs for the provision of service, establishment and operation of facilities, and other related matters for review, approval and transmittal to the Department.

(7) To review and evaluate facilities and to cooperate with the Department in the maintenance of established standards.

(8) To maintain liaison with governmental and private community health and welfare agencies and organizations and State-operated facilities.

(9) To submit an annual report to the local authorities, the board and the Department reporting the activities of the program and his administration thereof.

(10) To analyze and evaluate mental health and mental retardation needs and services in the county and recommend improvements to the board and local authorities, conduct research studies and take steps and adopt measures as are necessary for the proper discharge of his duties.

(11) To designate a competent person on his staff to act for him during his absence.

(12) To designate facilities for the purposes of the act or as places of reception.

(13) To perform other functions as required.

#### **Cross References**

This section cited in 55 Pa. Code § 5221.32 (relating to county administrator).

### **§ 4200.33. Qualifications.**

The minimum requirements for the position of the administrator shall be 5 years' progressively responsible experience in fields as medicine, clinical psychology, social work, sociology, nursing, public health, education, hospital administration or public administration including 3 years' experience in the planning, development or administration of mental health or mental retardation services, and a bachelor's degree from an accredited college or university, supplemented by graduate study to the level of a master's degree. Appropriate experience may be substituted for the required graduate study on a year for year basis.

#### **Cross References**

This section cited in 55 Pa. Code § 4200.24 (relating to powers and duties).

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