ALLEGAN COUNTY, MICHIGAN

RESOLUTION AUTHORIZING PUBLIC HEARINGS ON THE ISSUE
OF THE CREATION OF A COMMUNITY MENTAL
HEALTH AUTHORITY

WHEREAS, the Allegan County Board of Commissioners is considering the creation of a Community Mental Health Authority pursuant to MCL 330.1205, and

WHEREAS, pursuant to MCL 330.1205 three public hearings must be held on the issue of the creation of a Community Mental Health Authority prior to the creation of the Authority, and

WHEREAS, MCL 330.1205 requires that the aforementioned public hearings be held in accordance with the Open Meetings Act, MCL 15.275 et seq.

NOW, THEREFORE, BE IT RESOLVED, that three public hearings be held on the issue of the creation of an Allegan County Community Mental Health Authority consistent with the draft resolution creating a mental health authority attached hereto on the following dates, times and locations:

1. ____________________

2. ____________________

3. ____________________

BE IT FURTHER RESOLVED, that the three public hearings be held in accordance with the requirements of the Open Meetings Act, MCL 15.175 et seq.

MOVED:

SUPPORTED:

CARRIED:
ALLEGAN COUNTY, MICHIGAN

RESOLUTION TO CREATE A
COMMUNITY MENTAL HEALTH AUTHORITY

WHEREAS, Act 258 of the Public Acts of 1974 as amended, commonly known as the Mental Health Code, was enacted among other things, to establish county community mental health programs; and

WHEREAS, said Code was enacted for the additional purpose delineating state and county financial responsibility for public mental health services; and

WHEREAS, pursuant to Section 116 (2) (b) of the Mental Health Code, it is the objective of the Department of Community Health to “shift the primary responsibility for the direct delivery of public mental health services from the State to a community mental health services program whenever the community mental health services program has demonstrated a willingness and capacity to provide an adequate and appropriate system of mental health services for the citizens of that service area”; and

WHEREAS, the Allegan County Board of Commissioners has determined that the mental health authority structure with powers and duties as provided in MCL 330.1205 would better serve the County’s residents by enhancing the effectiveness of mental health services; and

WHEREAS, this 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 15.275 et seq.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

I.
PURPOSE AND POWER

There is hereby created an Allegan County Community Mental Health Authority pursuant to the Mental Health Code, Section 205, MCL 330.1205. 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 existing Allegan County Community Mental Health Services Program is dissolved upon the effective date of the creation of the Authority. The following persons are hereby appointed as
Board Members of said Allegan County Community Mental Health Authority and shall serve in accordance with the provisions of the Michigan Mental Health Code for the terms noted:

<table>
<thead>
<tr>
<th>Name</th>
<th>Term Expiration</th>
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<tbody>
<tr>
<td>1. Cleon Duryea</td>
<td>March 31, 2003</td>
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<tr>
<td>4. Lloyd Miller</td>
<td>March 31, 2003</td>
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<td>5. Don Black</td>
<td>March 31, 2004</td>
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<tr>
<td>6. Flora Moore</td>
<td>March 31, 2004</td>
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<td>7. Joel Morales</td>
<td>March 31, 2004</td>
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<td>8. Richard Wiley</td>
<td>March 31, 2004</td>
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<td>9. Jon Campbell</td>
<td>March 31, 2005</td>
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<tr>
<td>10. Stephen Kastran</td>
<td>March 31, 2005</td>
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<tr>
<td>11. David Laudenslager</td>
<td>March 31, 2005</td>
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<tr>
<td>12. Patricia Pera</td>
<td>March 31, 2005</td>
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</tbody>
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II. DURATION AND TERMINATION

The duration of the existence of the Community Mental Health Authority shall continue in perpetuity until dissolved or terminated as hereinafter set forth.

Termination of the Authority may be accomplished by a resolution passed by a majority of the Allegan County Board of Commissioners. The date of termination shall be set by the County Board of Commissioners’ terminating resolution. If the terminating resolution made by the County Board of Commissioners would result in a termination of Allegan County’s participation in a community mental health program, then the date of termination shall be no sooner than one (1) year following receipt of notification by the Michigan Department of Community Health (hereinafter referred to as “Department”), unless the director of the Department consents to an earlier termination date. 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.

III. RETURN OF NET FINANCIAL ASSETS

As of December 31, 2002, the net financial assets in the Mental Health Special Revenue Fund shall be made available by Allegan County to the Authority and will be returned to Allegan County if the Authority is dissolved or terminated. All assets not
returned to Allegan County shall be transferred to the Community Mental Health Services program that replaces the Authority.

IV. 
TRANSFER OF CONTRACTS AND LEASES

All contracts regarding mental health services and leases for premises leased for mental health service sites and contracts/leases obligations, including financial payments, thereto will be transferred to the Community Mental Health Authority if applicable.

V. 
EMPLOYEES

An employee of the Community Mental Health Authority is not a County employee. Employees of the Authority are public employees. The Authority is the employer with regard to all laws pertaining to employee and employer rights, benefits and responsibilities. The Authority shall have complete power and authority to make all decisions related to employing, compensating, transferring or discharging necessary personnel subject to the provisions of the Authority’s personnel policies and the following restrictions.

Upon the creation of an Allegan County Community Mental Health Authority, the employees of the former community mental health services program are hereby transferred to the new authority and appointed as employees subject to all rights and benefits for one (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 one (1) year with respect to worker’s 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 as required by State law.

VI.
ASSETS, DEBTS AND OBLIGATIONS

All assets, debts and obligations of the former County Community Mental Health Services program including, but not limited to equipment, furnishings, supplies, cash, accumulated interest as applicable to any community mental health services funds currently held by the County and other personal property are hereby transferred to the Community Mental Health Authority.
VII.
PRIVILEGES AND IMMUNITIES

All the privileges and immunities from liability and exemptions from laws, ordinances and rules that are applicable to county community mental health agencies 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. The privileges, immunities and exemptions granted under this subdivision do not include the immunity granted to a county under subsection (6) of section 205 of the Mental Health Code.

VIII.
COMMUNITY MENTAL HEALTH AUTHORITY POWERS

In addition to other powers of a community mental health services program as set forth in the Mental Health Code, a community mental health authority has all of the following powers:

a) To fix and collect charges, rates, 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.

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 arrangement for recipients residing on the property.

   ii) Provide the recipients residing on the property or their legal guardians, if any, and opportunity to offer there 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) 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.

   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 non-revenue services 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.

 j) To determine the method and extent to which the Community Mental Health Authority establishes and the manner in which it secures and maintains any and all forms of insurance, including, but not limited to, group and/or separate insurances, and self-insurance and/or reinsurance, for the Authority's purposes and protection, as required by and/or otherwise permitted by law.

 k) All powers, duties, obligations, rights and protections not mentioned herein but otherwise provided by the Mental Health Code are included here by reference.
IX.
LOCAL MATCH

As long as the Mental Health Code requires an annual match of local funds to support a community mental health services program, the County Board of Commissioners shall include in its annual budget a single allocation to the Authority. Section 308(2a) of the Code limits the local match liability to the amount of local match used in the year the CMHSP became an authority. Section 308(2b) limits County match liability to that provided in fiscal year 1994-95 or the year the authority was created, whichever is greater. Therefore, the annual allocation shall not exceed the amount of funds provided by the County Board as match in its 2003 fiscal year which was $409,600.00. The annual allocation will be distributed by the County Board to the authority on no more than a quarterly basis provided the Authority submits a funding request in advance.

X.
PUBLIC BODY

The Authority shall be a public governmental body, subject to the Open Meetings Act, Act 267 of the Public Acts of 1976, as amended, being Sections 15.261 to 15.275 of the Michigan Compiled Laws, and the Freedom of Information Act, Act 442 of the Public Acts of 1976, as amended, being Sections 15.231 to 15.246 of the Michigan Compiled Laws, except for those documents produced as a part of the peer review process required in Section 143a of the Code and made confidential by Section 748(9) of the Code.

XI.
COUNTY LIABILITY

Allegan County in creating 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.

XII.
TAXES OR BONDS

The Allegan County Community Mental Health Authority shall not levy any type of tax or, except as provided in MCL 330.1205 subsection (10), (11), (12), and (13) of the Mental Health Code, issue any type of bond in its own name or financially obligate any unit of government other than itself.
XIII.
CONFLICT OF PROVISIONS

If there is any conflict between this resolution and the Mental Health Code, as existing or as subsequently amended, the Mental Health Code shall prevail, and those provisions of this agreement inconsistent therewith shall be deemed of no effect.

XIV.
FISCAL YEAR

The fiscal year of the Authority shall be October 1 to September 30.

XV.
DUTIES AND RESPONSIBILITIES OF THE AUTHORITY

The Allegan County Community Mental Health Authority shall:

a) Provide to the 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.

XVI.
AMENDMENTS

The Allegan County Board of Commissioners may amend this resolution at any time without holding a public hearing provided any such amendments shall be consistent with provision of the Mental Health Code, as existing or as subsequently amended and provided any amendment shall not be effective until it has been filed with the Michigan Secretary of State and with the Allegan County Clerk.

BE IT FURTHER RESOLVED, that County staff, including Mental Health staff are hereby authorized and directed to take the necessary steps to begin the transitioning of the county community mental health services program to Authority status.
BE IT FURTHER RESOLVED that this Resolution shall take effect on March 31, 2003 at 11:59 p.m., provided a copy of this Resolution has been filed with the Michigan Secretary of State and with the Allegan County Clerk.

BE IT FURTHER RESOLVED that this Resolution shall remain in full force and effect until modified or terminated by an appropriate Resolution of the County Board.

MOVED:
SUPPORTED:
CARRIED:

STATE OF MICHIGAN )
COUNTY OF ALLEGAN ) SS

I, Joyce A. Watts, Clerk of the Allegan County Board of Commissioners and Clerk of the County of Allegan, do hereby Certify that the above Resolution was duly adopted by said Board on March 13, 2003.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said County and Court in Allegan, Michigan, this 13th day of March, 2003.

______________________________
Joyce A. Watts, Clerk-Register

cc: Admin. – Finance – Mental Health