



**OFFICE OF THE ATTORNEY GENERAL**  
STATE OF ILLINOIS

July 13, 1998

**Jim Ryan**  
ATTORNEY GENERAL

FILE NO. 98-011

MENTAL HEALTH:  
Funding of Services  
Administered by a Township

The Honorable Doris C. Karpiel  
Senate Majority Caucus Chairman  
State House, Room 123  
Springfield, Illinois 62706

The Honorable Douglas L. Hoeft  
State Representative, 66th District  
2136-O Stratton Building  
Springfield, Illinois 62706

Dear Senator Karpiel and Representative Hoeft:

I have your letters wherein you inquire whether a community mental health district organized by a township may provide funds for certain mental health programs which are administered by the township. For the reasons hereinafter stated, it is my opinion that a township and a community mental health board are authorized to enter into agreements for the funding and rendition of mental health services administered by either entity, and that the mental health board may properly expend funds pursuant thereto.

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Community mental health districts are organized pursuant to the provisions of the Community Mental Health Act (405 ILCS 20/0.01 et seq. (West 1996)), section 3e of which (405 ILCS 20/3e (West 1996)) provides, in part:

" \* \* \*

The community mental health board may:

(a) Enter into contracts for rendition or operation of services, facilities and educational programs;

(b) Arrange for the rendition of services and operation of facilities by other agencies of the governmental unit or county in which the governmental unit is located with the approval of the governing body;

\* \* \*

(h) Enter into joint agreements with other governmental units located within the geographical area of the board. Such agreements shall be written and shall provide for the rendition of services by the board to the residents of such governmental units. For this purpose, the board is authorized to accept local tax funds and funds made available to units of government through the Federal, State and Local Fiscal Assistance Act of 1972.

\* \* \*

(Emphasis added.)

Under the plain language of this section, a community mental health board is authorized to enter into agreements for the operation of facilities or mental health programs by agencies of the township in which it is located.

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With respect to townships, section 30-145 of the Township Code (60 ILCS 1/30-145 (West 1996)) permits the township electors to provide for mental health services when the township is not a part of a mental health district. In addition, section 85-13 of the Code (60 ILCS 1/85-13 (West 1996)) authorizes the town board to expend township funds either directly or pursuant to a cooperative agreement or contract for the ordinary and necessary maintenance and operating expenses of "health" programs, a term which would appear to encompass mental health, as well. Moreover, section 185-5 of the Township Code (60 ILCS 1/185-5 (West 1996)) provides, in part:

" \* \* \*

(a) A township may provide facilities or services for the benefit of its residents who are persons with a mental illness or developmental disability and who are not eligible to participate in any program conducted under Article 14 of the School Code, or a township may contract for those facilities or services with any privately or publicly operated entity that provides facilities or services either in or outside the township.

\* \* \*

"

The ensuing sections of article 185 of the Township Code provide that a referendum may be held to authorize the levy of a tax to fund mental health services and the appointment of a board of directors to support and manage such facilities and programs, but there is nothing therein which purports to make the provision of

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services under section 185-5 contingent upon such a tax being adopted.

Further, section 190-5 of the Township Code (60 ILCS 1/190-5 (West 1996)) provides:

"Agreements with community mental health board. The township board may enter into contractual agreements with a community mental health board having jurisdiction within the township. The agreements shall be written and shall provide for the rendition of services by the community mental health board to the residents of the township. For this purpose, the township board may expend its funds and any funds made available to it through the federal State and Local Assistance Act of 1972."

Section 190-10 of the Code (60 ILCS 1/190-10 (West 1996)) permits a township which is not part of a mental health district to expend funds for the provision of mental health services by mental health agencies approved by the Department of Human Services to township residents.

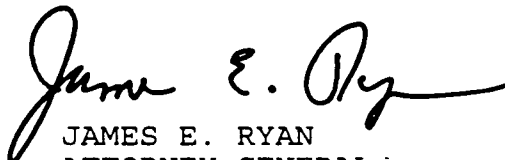
Sections 190-5 and 190-10 of the Township Code suggest a legislative preference for mental health programs to be administered by the mental health board, rather than the township, in townships in which a community mental health district has been established. It is apparently the recognition of this preference which has prompted your questions concerning the relationship between the powers of the mental health board and those of the township board. Nothing contained in sections 190-5, 190-10 or

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30-145 of the Code, however, purports to limit the township's authority under sections 85-13 and 185-5 to provide programs related to mental health directly. Considering all of these provisions together, it must be concluded that a township is authorized to provide mental health services to its residents directly, by contract with a community mental health board, or by a joint agreement with that board.

A community mental health board is specifically authorized to arrange for the rendition of mental health services by other governmental agencies. Further, a township is authorized to provide mental health services directly. Each governmental unit is authorized, both by the provisions cited and pursuant to the provisions of the Intergovernmental Cooperation Act (5 ILCS 220/1 et seq. (West 1996)), to enter into agreements with the other. Therefore, it is my opinion that a community mental health board has the authority to provide funding for mental health programs which are administered directly by the township in which it is located.

Sincerely,

  
JAMES E. RYAN  
ATTORNEY GENERAL