

**ALCOHOL, DRUG ADDICTION & MENTAL HEALTH SERVICES OF CUYAHOGA COUNTY**

**POLICY STATEMENT**

**SUBJECT: APPEAL OF BOARD DECISION**

**EFFECTIVE DATE: September 26, 2018**

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**PURPOSE**

To provide a method to appeal any decision made by the Alcohol, Drug Addiction and Mental Health Services Board of Cuyahoga County (ADAMHS BOARD) Board of Directors.

**POLICY**

It is the policy of the ADAMHS BOARD to provide a forum for an entity or individual, with whom the ADAMHS BOARD contracts, to appeal a Board of Directors' (BOD) decision. Any appeal shall be made in accordance with the procedures and timelines described in this Policy. The ADAMHS BOARD BOD encourages resolution of disputes utilizing mediation and negotiation whenever possible and at progressive levels of the ADAMHS BOARD organizational chart.

ADAMHS BOARD decisions may be changed or rescinded at the conclusion of an appeal of a Board decision as described in this Policy. Therefore, an entity shall not be deemed to be subjected to an "adverse determination" against it until or unless the entity has exhausted the ADAMHS BOARD appeal process as described in this Policy.

**PROCEDURE**

**PROCEDURE IN CASE OF PROPOSED TERMINATION OR  
NON-RENEWAL OF PROVIDER CONTRACT**

**A. WRITTEN NOTICE REQUIRED:**

In accordance with R.C. 340.036, in the case that either the Board or the provider proposes to terminate, non-renew, or make substantial changes to an existing contract for the provision of community addiction or mental health services, the party intending to terminate, non-renew or make such changes must give the other party written notice no later than one hundred and twenty days before the expiration date of the contract.

**B. MEDIATION AND NEGOTIATION:**

During the first sixty days of the one hundred twenty-day notice period, both parties shall attempt to resolve any dispute through good faith collaboration and negotiation in order to continue to provide services to persons in need.

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### **C. THIRD-PARTY DISPUTE RESOLUTION:**

If the dispute has not been resolved sixty days before the expiration date of the contract, either party may notify the Ohio Department of Mental Health and Addiction Services of the unresolved dispute. The Ohio Director of Mental Health and Addiction Services may require both parties to submit the dispute to a third party with the cost to be shared by the board and the facility or community mental health agency. The third party shall issue to the board, the facility or agency, and the department recommendations on how the dispute may be resolved twenty days prior to the expiration date of the contract, unless both parties agree to a time extension.

### **PROCEDURE IN OTHER CASES**

#### **A. NOTICE OF DISPUTE:**

1. Within seven (7) working days of BOD's decision or vote, Appealing Party shall provide written notification of "intent to appeal" to the ADAMHS BOARD Chief Executive Officer and the ADAMHS BOARD Chairperson.
2. The written notification shall be sent through U.S. Certified Mail, return receipt requested.
3. The written notification shall include documentation regarding the following:
  - i. the reasons for requesting an appeal;
  - ii. how the ADAMHS BOARD BOD decision being appealed affects the party and/or its interests; and,
  - iii. the specific issues to be addressed.

#### **B. MEDIATION AND/OR NEGOTIATION PHASE:**

1. Within ten (10) working days of receipt of written notification of "intent to appeal," ADAMHS BOARD CEO shall hold a mediation and/or negotiation meeting with Appealing Party.
2. Appealing Party will identify participants, including its recorder, if any, to attend the preliminary mediation/negotiations meeting
3. Board staff will be represented by the CEO and/or his designated staff.
4. The ADAMHS BOARD CEO shall timely notify the ADAMHS BOARD Chair of the results of this phase.

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### **C. ADAMHS BOARD BOD APPEALS COMMITTEE LEVEL REVIEW:**

If Appealing Party is not satisfied with the outcome of the Mediation and/or Negotiation Phase and desires to continue with an appeal, the Appealing Party shall notify the ADAMHS BOARD CEO and the ADAMHS BOARD BOD Chairperson, within five (5) days of the mediation/negotiation meeting, of its intent to proceed to the ADAMHS BOARD BOD Appeals Committee.

#### **1. Formation of Appeals Committee:**

- i. ADAMHS BOARD BOD Chairperson shall appoint five (5) BOD members to create an ad hoc Appeals Committee. Three (3) BOD members shall constitute a quorum.
- ii. ADAMHS BOARD BOD Chairperson shall appoint one of the five (5) BOD Appeals Committee members to serve as the Chair of that Committee.

#### **2. Appeals Committee Process:**

- i. The Appeals Committee Chair shall establish the necessary procedural guidelines for processing the appeal or resolution in accordance with this Policy which shall incorporate the following provisions, as a minimum:
  - a. All parties shall submit five (5) copies of a position statement to the Appeals Committee Chair and one copy to the other party.
  - b. Within its notice of "intent to proceed," the Appealing Party shall provide a written request to the Appeals Committee Chair for a hearing, if so desired. If no hearing is requested, the Appeals Committee may, in its discretion, make its decision based upon submitted documentation only or may choose to hold a hearing with the parties.
  - c. If a hearing is needed or requested, the Appeals Committee Chair shall schedule the hearing date.
  - d. Regarding the hearing, the Appeals Committee Chair shall:
    - (1) Determine the length of time each party will have to present information and answer questions;
    - (2) Determine whether and when additional written documentation shall be submitted to the Chair and other party;
  - e. Within seven (7) working days after the hearing, or if no hearing is held, within seven (7) working days after the Appeals Committee formally considers the appeal, the Appeals Committee Chair shall submit a written report to the ADAMHS BOARD BOD.

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Such report shall provide advice to the Board on whether to accept, reverse or modify the CEO’s proposed resolution of the appeal. The Chairperson shall present the committee’s findings and recommendations to the full Board at a regular General Meeting of the ADAMHS BOARD.

- f. The Appeals Committee Chair may share final recommendation with both parties prior to full Board meeting.

D. BOARD OF DIRECTORS REVIEW AND DECISION

- 1. The Board of Directors shall accept the findings and recommendations of the Appeals Committee unless, by a super-majority vote of two-thirds of the occupied board positions, the ADAMHS BOARD BOD votes to reverse or modify, in whole or in part, the findings and recommendations of the Appeals Committee. The Board may also, by majority vote, give further instruction to the Appeals Committee or ADAMHS BOARD CEO.
2. This appeal process shall not exceed ninety (90) days from the date of receipt of the “intent to appeal,” unless agreed to by both parties in writing. Neither party shall be compelled or required to agree to an extension of the appeal process.

Appendix: Not applicable
Reference: ORC 340.036
Supersedes and retires: “Appeal of Board Decision” adopted March 25, 2015.

/s/ Rev. Benjamin F. Gohlstin, Sr.

/s/ Scott S. Osiecki

Rev. Benjamin F. Gohlstin, Sr., Board Chair

Scott S. Osiecki, CEO

9/26/18

09/21

Approval Date

Review Date