

OPINION NO. 92-052**Syllabus:**

1. A private agency that operates a shelter for runaway minors, as defined in R.C. 5119.64, is subject to the provisions of R.C. 5119.64-.68 and the rules adopted by a board of alcohol, drug addiction, and mental health services pursuant to R.C. 5119.66, regardless of whether the shelter is licensed by or subject to regulation or oversight by any other governmental entity.
2. A board of alcohol, drug addiction, and mental health services established under R.C. 340.02, is required by R.C. 5119.64, R.C. 5119.65, and R.C. 5119.66 to adopt and enforce rules governing shelters for runaways operated by any person, organization, or public or private agency except the children services board or county department of human services which has assumed the administration of child welfare.

To: Donald W. White, Clermont County Prosecuting Attorney, Batavia, Ohio

By: Lee Fisher, Attorney General, September 30, 1992

You have requested an opinion regarding the scope of the authority of a county alcohol, drug addiction and mental health services board (ADAMH board) pursuant to R.C. 5119.64-.68 governing facilities for runaway children. A private agency in your county operates a crisis center for the stated purpose of alleviating the problems of runaway and homeless youth, ages 8-17. Services provided include, *inter alia*, temporary shelter for a maximum of thirty days, counselling, and a crisis phone line. The crisis center is also licensed as a group home by the Ohio Department of Youth Services (DYS). A high percentage of the youth occupying the crisis center are placed or referred by the juvenile court or by the county children's services. The center receives federal funding pursuant to 42 U.S.C. §5701 *et seq.* and is required to comply with federal programming requirements in order to receive funding. The private agency suggests that regulation and oversight by the above governmental entities is sufficient to except the crisis center from the regulatory authority of the ADAMH board. You specifically ask whether R.C. 5119.66 requires the county ADAMH board to regulate the crisis center described in your request and the attached materials.

Statutory Provisions

R.C. 5119.66 provides that every ADAMH board "shall adopt rules governing shelters for runaways, reflecting the intent of Title III of the 'Juvenile Justice and Delinquency Prevention Act of 1974,' 88 Stat. 1109, 42 U.S.C.A. 5701, as amended, and regulations adopted thereunder." The ADAMH board "is responsible for the enforcement of applicable federal requirements and rules of the board adopted under section 5119.66 of the Revised Code for the safety and effectiveness of facilities and programs of shelters for runaways located in the county." R.C. 5119.64. Further, "[n]o person, organization, or public or private agency shall operate a shelter for runaway minors, *except the children services board or county department of human services which has assumed the administration of child welfare,*" unless the operator complies with R.C. 5119.64-.68 and the rules adopted thereunder by the ADAMH board of the district where the shelter is located. R.C. 5119.65(A) (emphasis added).

A shelter for runaways is defined at R.C. 5119.64(B) as "a facility that offers to provide and does provide to the public, crisis short-term counseling and temporary emergency housing for runaway minors." A runaway minor is "any minor...who is separated from a person having responsibility for his care or education, and appears to be in need of emergency housing and other services." R.C. 5119.64(A).

The Crisis Center is a "Shelter for Runaways" Subject to ADAMH Board Regulation

A. Exclusion from Regulation is Limited in Scope

Based on the description of the crisis center provided in your request, the center would be a "shelter for runaways" within the scope of the provisions discussed above. The center is not operated by either a children services board or a county department of human services, which are the only operators that are excluded from the obligation to comply with the ADAMH board regulations. R.C. 5119.65(A). Accordingly, although, as you indicate, the center is also subject to varying degrees of oversight by DYS, children's services, juvenile court, and the federal government, the center nevertheless would not fall within the statutory exception provided by R.C. 5119.65(A). *See generally State ex rel. Boda v. Brown*, 157 Ohio St. 368, 372, 105 N.E.2d 643, 646 (1952) (express listing of a class of persons or things implies an exclusion of all others).

B. Statutory Scheme Contemplates Involvement of State and Federal Agencies that are not Listed in Exclusion from Regulation

As noted above, the private agency operating the shelter involved in your question has suggested that the involvement of other governmental agencies with the shelter should exempt it from ADAMH board regulation. Examination of the statutory scheme of R.C. 5119.64-.68 indicates that state and federal agencies in addition to children services boards or county departments of human services are likely to be involved with shelters for runaways. Nonetheless, the statutes provide no exception from ADAMH board regulation for shelters because of the involvement of these other agencies. For example, R.C. 5119.65(A) expressly requires even public agencies to comply with ADAMH board rules. If DYS itself operated a group home that functioned as a shelter for runaways, DYS would be subject to regulation by the ADAMH board. It follows that licensure of the crisis center as a group home by DYS does not except the center from regulation.

Further, R.C. 5119.68 requires the ADAMH board annually to send lists of shelters in the county to the juvenile court and children services board or county department of human services. This requirement enables the juvenile court and the county agency responsible for child welfare to place or refer youth to the listed shelters with the assurance that the shelters are under ADAMH board supervision. Clearly it would not be reasonable to conclude that the fact that youth are placed or referred by these governmental entities and are subject to continued supervision by such entities was intended to except the shelters from ADAMH board regulation.

In addition, R.C. 5119.66 provides that the ADAMH board rules are to reflect "the intent of Title III of the 'Juvenile Justice and Delinquency Prevention Act of 1974'...and regulations adopted thereunder." The provisions of Title III, known as the Runaway and Homeless Youth Act, are codified at 42 U.S.C. §5701 *et seq.* This Act is designed to provide assistance to states and other public and private entities to provide temporary shelter and counselling services for runaway and homeless youth. To this end, 42 U.S.C. §5711(a) provides that "[t]he Secretary [of Health and Human Services] shall make grants to public and private entities (and combinations of such entities) to establish and operate...local runaway and homeless youth centers...." These grants are available to an applicant only if the Secretary of

Health and Human Services has determined that the applicant's plan is in compliance with the service standards set out in 42 U.S.C. 5712(b), 42 U.S.C. 5713.

Because R.C. 5119.64 requires the ADAMH board to enforce the rules adopted under R.C. 5119.66 to all shelters in the county, the effect is to implement the federal standards for all shelters for runaways in Ohio, whether these shelters participate in the federal grant program or not. Because, however, the Runaway and Homeless Youth Act is primarily a funding mechanism intended to provide an incentive for public and private development of such shelters, it is apparent that many shelters will in fact be operated by federal grant recipients pursuant to service plans approved by the Secretary of Health and Human Services. Nonetheless, the General Assembly provided no exception from state regulation for such shelters even though they have federally approved plans. Accordingly, the fact that the crisis center you describe is funded through the Runaway and Homeless Youth Act does not except it from regulation by the ADAMH board.

Conclusion

It is, therefore, my opinion, and you are hereby advised that:

1. A private agency that operates a shelter for runaway minors, as defined in R.C. 5119.64, is subject to the provisions of R.C. 5119.64-.68 and the rules adopted by a board of alcohol, drug addiction, and mental health services pursuant to R.C. 5119.66, regardless of whether the shelter is licensed by or subject to regulation or oversight by any other governmental entity.
2. A board of alcohol, drug addiction, and mental health services established under R.C. 340.02, is required by R.C. 5119.64, R.C. 5119.65, and R.C. 5119.66 to adopt and enforce rules governing shelters for runaways operated by any person, organization, or public or private agency except the children services board or county department of human services which has assumed the administration of child welfare.