
DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES

Recovery housing

- Defines "recovery housing" to include housing for individuals recovering from alcoholism as well as drug addiction.
- Modifies the criteria of ownership and operation of recovery housing.

ADAMHS board advocacy

- Expressly authorizes boards of alcohol, drug addiction, and mental health services (ADAMHS boards) to advocate on behalf of Medicaid recipients enrolled in Medicaid managed care organizations and Medicaid-eligible individuals, any of whom have been identified as needing addiction or mental health services.

Prohibition on discriminatory practices

- Prohibits an ADAMHS board or community addiction or mental health services provider from discriminating in the provision of addiction and mental health services, in employment, or under a contract based on religion or age (in addition to race, color, creed, sex, national origin, or disability, as specified in continuing law).

Joint state plan to improve access

- Eliminates certain requirements relating to a joint state plan designed to improve access to alcohol and drug addiction services for individuals a public children services agency identifies as being in need of those services.

Confidentiality of records

- Eliminates the confidentiality of specified mental health records identifying a patient who has been deceased for 50 years or longer.

Service provider noncompliance

- Permits the Department of Mental Health and Addiction Services (ODMHAS) to suspend the admission of patients to a hospital treating mentally ill persons or a community addiction services provider offering overnight accommodations under certain circumstances.
- Authorizes ODMHAS to refuse to renew a hospital's license to treat the mentally ill for specified reasons.



Residential facilities

- Amends the definition of "residential facility" to create different classes of residential facilities based on the size of the facility and the types of services offered by the facility.
- Expands the reasons ODMHAS may suspend admissions to a residential facility, refuse to issue or renew, or revoke a facility's license.
- Modifies the requirements regarding the operation of residential facilities.

Rules

- Modifies ODMHAS's rule-making authority.

Social Security Residential State Supplement eligibility

- Makes changes to the eligibility requirements for the Residential State Supplement Program.
- Limits the referral requirements under the Residential State Supplement Program.
- Removes the requirement that ODMHAS maintain a waiting list for the Residential State Supplement Program.
- Permits the Department of Medicaid to (1) determine whether an applicant meets eligibility requirements and (2) notify each denied applicant of the applicant's right to a hearing.

Probate court reimbursement

- Requires a probate court to send a certified copy of the commitment order to the mentally ill person's county of residence in order for the committing court to be reimbursed for its expenses instead of sending the court's transcript of proceedings under former law.

Office of Support Services Fund

- Renames the "Office of Support Services Fund" used by ODMHAS to be the "Ohio Pharmacy Services Fund."

Drug court pilot program

- Creates a medication-assisted drug court program to provide addiction treatment to persons who are offenders in the criminal justice system and are dependent on opioids, alcohol, or both.



- Requires certified community addiction services providers to provide specified treatment to the participants in the program based on the individual needs of each participant.
- Requires a research institute to prepare a report on the program's findings and to submit the report to the Governor and other specified persons.

Bureau of Recovery Services

- Transfers the Bureau of Recovery Services in the Department of Rehabilitation and Correction to ODMHAS.

Technical changes

- Makes technical corrections in provisions governing the duties of ADAMHS boards, ODMHAS, and community addiction and mental health services providers.

Recovery housing

(R.C. 340.01 and 340.034; Section 812.40)

Under continuing law, recovery housing must be included in the array of treatment services and support services for all levels of opioid and co-occurring drug addiction. The act defines "recovery housing" to include housing for individuals recovering from alcoholism as well as drug addiction. Under the act, a "residential facility" is a publicly or privately operated home or facility that falls into one of three categories (see "**Residential facility definition**," below).

The act replaces the prohibition against recovery housing being owned and operated by a residential facility with an exemption for recovery housing from Ohio Department of Mental Health and Addiction Services (ODMHAS) residential facility licensure requirements.

The act modifies the authority of a board of alcohol, drug addiction, and mental health services (an ADAMHS board) to own recovery housing if the board determines that there is a need to assume ownership and operation of the recovery housing in an emergency as a last resort. The act instead permits board ownership if the board determines there is a need for the board to assume the ownership and operation, and board ownership and operation is in the best interest of the community.



In addition, the act permits an ADAMHS board to own and operate recovery if the board utilizes local funds in the development, purchase, or operation of the recovery housing.

The act removes the express authority that recovery housing may be owned and operated by a community addiction services provider or other local nongovernmental organization.

These provisions take effect September 15, 2016.

ADAMHS board advocacy

(R.C. 340.035)

The act expressly authorizes ADAMHS boards to advocate on behalf of Medicaid recipients enrolled in Medicaid managed care organizations and Medicaid-eligible individuals, any of whom have been identified as needing addiction or mental health services. ADAMHS boards were not prohibited from engaging in this type of advocacy; the act codifies what the boards could already do.

Prohibition on discriminatory practices

(R.C. 340.12)

The act prohibits an ADAMHS board or community addiction or mental health services provider from discriminating in the provision of addiction and mental health services, in employment, or under a contract on the basis of religion or age. Those practices are prohibited under continuing law on the basis of race, color, creed, sex, national origin, or disability.

Joint state plan to improve access

(R.C. 5119.161)

The act eliminates two requirements relating to a joint state plan administered by ODMHAS, in conjunction with the Ohio Department of Job and Family Services (ODJFS), to improve access to alcohol and drug addiction services for individuals a public children services agency identifies as being in need of those services. First, the act eliminates the requirement that the plan address the need and manner for sharing information and include a request for an appropriation to pay for alcohol and drug addiction services for caregivers of at-risk children. Second, the act eliminates the requirement that ODMHAS and ODJFS submit a biennial report to the Governor and certain other public officials of the progress made under the plan.



Confidentiality of mental health records

(R.C. 5119.28 and 5122.31)

The act sets a time limit with respect to the confidentiality of mental health records in certain circumstances. First, the act specifies that all records and reports pertaining to an individual's mental health condition maintained in connection with services certified by ODMHAS, or hospitals or facilities licensed or operated by ODMHAS, that identifies the individual are no longer confidential once the individual has been deceased for 50 years or longer. Second, the act specifies that all certificates, applications, records, and reports from a hospitalization or commitment due to mental illness that directly or indirectly identify an individual are no longer confidential once the individual has been deceased for 50 years or longer.

Service provider noncompliance

(R.C. 5119.33 and 5119.36; conforming changes in R.C. 5119.99)

Suspension

The act permits ODMHAS to suspend the admission of patients to a hospital treating mentally ill persons or a community addiction services provider offering overnight accommodations if it finds either of the following:

- (1) That the hospital or provider is not in compliance with ODMHAS rules;
- (2) The hospital or provider was cited for repeated violations during previous license or certification periods.

Refusal to renew

The act also permits ODMHAS to refuse to renew, in addition to revoke under continuing law, a hospital's license to treat the mentally ill for any of the following reasons:

- (1) The hospital is no longer a suitable place for the care or treatment of mentally ill persons.
- (2) The hospital refuses to be subject to ODMHAS inspection or on-site review.
- (3) The hospital has failed to furnish humane, kind, and adequate treatment and care.
- (4) The hospital fails to comply with the ODMHAS licensure rules.



Licensing and operation of residential facilities

(R.C. 5119.34; conforming changes in R.C. 340.03, 340.05, 5119.341, 5119.41, and 5123.19)

"Residential facility" definition

The act replaces the definition of "residential facility" with a new definition that creates different classes of publicly or privately operated residential facilities based on the size of the facility and the types of services offered by the facility. These classes parallel groups included under former law, with the major difference being the removal of the requirement of a referral.

- **Class one facilities** provide accommodations, supervision, personal care services, and mental health services for one or more unrelated adults with mental illnesses, or one or more unrelated children or adolescents with severe emotional disturbances.
- **Class two facilities** provide accommodations, supervision, and personal care services to (1) one or two unrelated persons with mental illness, (2) one or two unrelated adults who are receiving Residential State Supplement payments, and (3) three to 16 unrelated adults.
- **Class three facilities** provide room and board for five or more unrelated adults with mental illness.

The act removes from continuing law's exclusions from the definition of "residential facility" the exclusion of certified alcohol or drug addiction services. The act also excludes from the definition the residence of a relative or guardian of a person with mental illness and an institution maintained, operated, managed, and governed by ODMHAS for the hospitalization of mentally ill persons.

Under former law, "residential facility" meant a publicly or privately operated home or facility that provided one of the following:

(1) Accommodations, supervision, personal care services, and community mental health services for one or more unrelated adults with mental illness or severe mental disabilities or to one or more unrelated children and adolescents with a serious emotional disturbance or who were in need of mental health services who were referred by or were receiving community mental health services from a community mental health services provider, hospital, or practitioner.

(2) Accommodations, supervision, and personal care services to any of the following: (a) one or two unrelated persons with mental illness or persons with severe mental disabilities who were referred by or are receiving mental health services from a



community mental health services provider, hospital, or practitioner, (b) one or two unrelated adults who were receiving Residential State Supplement payments, or (c) three to 16 unrelated adults.

(3) Room and board for five or more unrelated adults with mental illness or severe mental disability who were referred by or are receiving community mental health services from a community mental health services provider, hospital, or practitioner.

Residential facility suspensions and licensure discipline

Additionally, the act expands the reasons ODMHAS may suspend admissions to a residential facility, refuse to issue or renew, or revoke a facility's license to also include:

(1) The facility has been cited for a pattern of serious noncompliance or repeated violations during the current licensing period or a pattern of serious noncompliance during the previous licensing period.

(2) ODMHAS finds that an applicant or licensee submitted false or misleading information as part of an application, renewal, or investigation.

An ODMHAS suspension remains in effect during the pendency of licensure proceedings.

Rules

(R.C. 5119.34 and 5119.36)

The act changes ODMHAS's rule-making authority:

The act requires ODMHAS to adopt rules establishing procedures for conducting background investigations of nonresidential occupants of residential facilities who may have direct access to facility residents. Under former law, criminal records checks were only required for prospective or current operators, employees, and volunteers.

The act also removes ODMHAS' duty to adopt rules governing procedures for obtaining an affiliation agreement between a residential facility and a community mental health services provider.

Finally, in the provision requiring ODMHAS to adopt rules establishing certification standards for mental health services and addiction services, the act replaces references to "conditional" certifications for addiction service and mental health service providers with "probationary and interim" certifications. These rules address standards



and procedures for granting these types of certifications and the limitations to be placed on a provider that is granted such a certification.

Social Security Residential State Supplement eligibility

(R.C. 5119.41 and 5119.411 (repealed))

The act makes three changes to the eligibility requirements for the Social Security Residential State Supplement Program. First, the act removes from the list of residences eligible for the residential state supplement an apartment or room certified and approved under Ohio law to provide community mental health housing services. Second, the act permits an individual residing in a living arrangement housing more than 16 individuals to be eligible for the Program if the ODMHAS Director waives the size limitation with respect to that individual (and an individual with such a waiver as of October 1, 2015, remains eligible for the Program as long as the individual remains in that living arrangement). Third, the act removes the eligibility requirement that a residential state supplement administrative agency have determined that an individual's living environment is appropriate for the individual's needs.

The act also limits the referral requirements so that a residential state supplement administrative agency must refer an enrolled individual for an assessment with a community mental health services provider only if the agency is aware that the individual has mental health needs. Former law required the agency to refer an individual for an assessment if the individual was eligible for Social Security payments, Supplemental Security Income payments, or Social Security Disability insurance benefits because of a mental disability.

The act removes the requirement that ODMHAS maintain a waiting list for the Residential State Supplement Program.

The act also changes the authority under which the ODMHAS Director adopts rules for the Program from R.C. 111.15 rules to Administrative Procedure Act (APA) rules.

Finally, the act permits the Department of Medicaid, in addition to the county department of job and family services, to (1) determine whether an applicant meets eligibility requirements and (2) notify each denied applicant of the applicant's right to a hearing. Under former law, only the county department could engage in those activities. In addition, the hearing is to be held under the general ODJFS appeals procedure, rather than under the APA as under former law.



Probate court reimbursement for fees for commitment of mentally ill

(R.C. 5122.36)

The act changes the documents required to be sent by a probate court that is ordering the hospitalization of a mentally ill person whose temporary residence is in that court's county in order for the ordering court's fees and expenses for such hospitalization to be paid by the county of the person's legal residence. Under the act, the ordering court must send to the probate court of the person's county of legal residence a certified copy of the ordering court's commitment order. Former law required the ordering court to send a certified transcript of all proceedings in the ordering court. The act requires the receiving court to enter and record the commitment order and provides that the certified commitment order is prima facie evidence of the person's residence.

Office of Support Services Fund

(R.C. 5119.44)

The act renames the "Office of Support Services Fund" used by ODMHAS to be the "Ohio Pharmacy Services Fund."

Medication-assisted treatment (MAT) drug court program

(Section 331.90)

Under the act, ODMHAS is required to conduct a program to provide addiction treatment, including medication-assisted treatment, to persons who are offenders within the criminal justice system who are eligible to participate in a medication-assisted treatment (MAT) drug court program. Participants in the program are to be selected because of their dependence on opioids, alcohol, or both. In conducting the program, ODMHAS is required to collaborate with the Ohio Supreme Court, the Department of Rehabilitation and Correction, and any state agency that ODMHAS determines may be of assistance in accomplishing the objectives of the program. ODMHAS also may collaborate with the ADAMHS board that serves the county in which a participating court is located and with the local law enforcement agencies serving that county.

"Medication-assisted treatment (MAT) drug court program" means a session of a common pleas court, municipal court, or county court, or any division of these courts, that holds initial or final certification from the Ohio Supreme Court as a specialized docket program for drugs. ODMHAS is required to conduct the pilot program in those courts of Allen, Clinton, Crawford, Cuyahoga, Franklin, Gallia, Hamilton, Hardin, Hocking, Jackson, Marion, Mercer, Montgomery, Summit, and Warren counties that are



conducting MAT drug court programs. However, if any of these counties do not have a court conducting a MAT drug court program, ODMHAS must conduct the program in a court that is conducting a MAT drug court program in another county.

Selection of participants

A MAT drug court program must select criminal offenders to participate in the program who meet the legal and clinical eligibility criteria for the MAT drug court program and who are active participants in the program. The total number of offenders participating in the program at any time is limited to 1,500, subject to available funding, except that ODMHAS may authorize additional persons to participate in circumstances that it considers to be appropriate. After being enrolled in a MAT drug court program, a participant must comply with all of the program's requirements.

Treatment provided

Only a community addiction services provider is eligible to provide treatment in a certified drug court program. The community addiction services provider is required to do all of the following:

(1) Provide treatment based on an integrated service delivery model that consists of the coordination of care between a prescriber and the provider;

(2) Conduct professional, comprehensive substance abuse and mental health diagnostic assessments of a person under consideration as a program participant, to determine whether the person would benefit from substance abuse treatment and monitoring;

(3) Determine, based on the above assessment, the treatment needs of the participants served by the provider;

(4) Develop individualized goals and objectives for the participants served by the provider;

(5) Provide access to long-lasting antagonist therapies, partial agonist therapies, or both, that are included in the program's medication-assisted treatment;

(6) Provide other types of therapies, including psychosocial therapies, for both substance abuse and any disorders that are considered by the provider to be co-occurring disorders;

(7) Monitor program compliance through the use of regular drug testing, including urinalysis, of the participants being served by the provider.



A "prescriber" is any of the following individuals who are authorized by law to prescribe drugs or dangerous drugs or drug therapy related devices in the course of the individual's professional practice: a dentist; a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe drugs and therapeutic devices; an optometrist; a physician authorized to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery; a physician assistant; or a veterinarian.¹³⁴

In the case of medication-assisted treatment provided under the program, all of the following conditions apply:

- A drug may only be used if the drug has been approved by the U.S. Food and Drug Administration for use in treating dependence on opioids, alcohol, or both, or for preventing relapse into the use of opioids, alcohol, or both.
- One or more drugs may be used, but each drug that is used must constitute long-acting antagonist therapy or partial agonist therapy.
- If a drug constituting partial agonist therapy is used, the program is required to provide safeguards to minimize abuse and diversion of the drug, including such safeguards as routing drug testing of program participants.

Planning

In order to ensure that funds appropriated to support the MAT drug court program are used in the most efficient manner with a goal of enrolling the maximum number of participants, the Medicaid Director with major Ohio healthcare plans is required to develop plans consistent with (1) to (4), below. There may be no prior authorizations or step therapy for medication-assisted treatment for participants in the MAT drug court program. The plans must ensure all of the following:

(1) The development of an efficient and timely process for review of eligibility for health benefits for all offenders selected to participate in the MAT drug court program;

(2) A rapid conversion to reimbursement for all healthcare services by the participant's health insurance company following approval for coverage of healthcare benefits;

¹³⁴ R.C. 4729.01(I), not in the act.



(3) The development of a consistent benefit package that provides ready access to and reimbursement for essential healthcare services including primary healthcare, alcohol and opiate detoxification services, appropriate psychosocial services, and medication for long-acting injectable antagonist therapies and partial agonist therapies;

(4) The development of guidelines that require the provision of all treatment services, including medication, with minimal administrative barriers and within a timeframe that meets the requirements of individual patient care plans.

Report on pilot addiction treatment program

The act requires a research institution to prepare a report on the findings obtained from the addiction treatment pilot program established by Section 327.120 of H.B. 59 of the 130th General Assembly. The report must include data derived from the drug testing and performance measures used in the program. The research institution must complete its report by December 31, 2015. The institution, upon its completion of the report, must submit the report to the Governor, Chief Justice of the Ohio Supreme Court, President of the Senate, Speaker of the House, ODMHAS, Department of Rehabilitation and Correction, and any other state agency that ODMHAS collaborates with in conducting the program.

Report on MAT drug court program

ODMHAS is required, by September 29, 2015, to select a research institution with experience in evaluating multiple court systems across jurisdictions in both rural and urban regions. The research institution is required to have demonstrated experience evaluating the use of agonist and antagonist medication assisted treatment in drug courts, a track record of scientific publications, experience in health economics, and ethical and patient selection and consent issues. The institution also is required to have an internal institutional review board.

The institution is required to prepare a report of the findings obtained from the MAT drug court program that includes data derived from the drug testing and performance measures used in the program. The research institution is required to complete its report not later than June 30, 2017. Upon completion, the institution is required to submit the report to the Governor, Chief Justice of the Supreme Court, President of the Senate, Speaker of the House of Representatives, ODMHAS, Department of Rehabilitation and Correction, and any other state agency that ODMHAS collaborates with in conducting the program.

Bureau of Recovery Services

(Section 331.100)

On June 30, 2015, the act abolishes the Bureau of Recovery Services (BRS) in the Department of Rehabilitation and Correction and transfers all of its functions, assets, and liabilities to ODMHAS. Any BRS business that is not completed by the Department of Rehabilitation and Correction on that date must be subsequently completed by ODMHAS; ODMHAS is the successor to BRS.

Beginning on the date of transfer, any rules, orders, and determinations pertaining to BRS continue in effect until modified or rescinded by ODMHAS. Additionally, any reference to BRS is deemed to refer to ODMHAS or its director, as appropriate.

The act requires all BRS employees be transferred to ODMHAS and retain their positions and benefits, subject to the layoff provisions pertaining to state employees under continuing law.

Finally, the act specifies both of the following:

(1) No right, obligation, or remedy is lost or impaired by the transfer, and must be administered by ODMHAS.

(2) No pending proceeding is affected by the transfer, and must be prosecuted or defended in the name of ODMHAS or its director.

Technical changes

(R.C. 121.372, 340.03, 340.04, 340.07, 340.15, 737.41, 2151.3514, 2925.03, 2929.13, 2935.33, 2951.041, 2981.12, 2981.13, 4511.191, 5107.64, 5119.01, 5119.10, 5119.11, 5119.186, 5119.21, 5119.23, 5119.25, 5119.31, 5119.36, 5119.361, 5119.365, 5119.61, and 5119.94)

The act makes technical corrections in provisions governing the duties of ADAMHS boards, ODMHAS, and community addiction and mental health services providers, as well as conforming changes associated with the technical changes. A number of the corrections are related to the consolidation of the Ohio Department of Mental Health and Ohio Department of Alcohol and Addiction Services in H.B. 59 of the 130th General Assembly, the main appropriations act for fiscal years 2014 and 2015. The act also replaces incorrect references to "involuntary commitment" with references to "court-ordered treatment."¹³⁵

¹³⁵ See S.B. 43 of the 130th General Assembly.

