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## **DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES**

### **Certification of addiction and mental health services**

- Authorizes the Ohio Department of Mental Health and Addiction Services (OhioMHAS) to specify by rule the mental health services and alcohol and drug addiction services that must be certified, makes failing to meet the certification requirement a crime, and eliminates a statutory list of specific types of alcohol and drug addiction services that must be certified by OhioMHAS.
- Eliminates an option to have a provider's certifiable services and supports accredited by a national accrediting organization in lieu of having OhioMHAS determine whether OhioMHAS's standards for certification have been satisfied; instead, requires providers to hold national accreditation as part of qualifying for certification by OhioMHAS.
- Creates an exemption to the above-described accreditation requirement for providers of prevention services.
- Establishes, in addition to the accreditation requirement, both of the following as conditions for certification: that an applicant (1) be adequately staffed and equipped to operate and (2) not have been subject to adverse action during the three-year period immediately preceding the application date.

### **ADAMHS board notification regarding community service providers**

- Permits an ADAMHS board to provide input and recommendations to OhioMHAS when an application for initial or renewed certification has been submitted or when a provider is being investigated, if the board is aware of information that would be beneficial to the matter.
- Requires OhioMHAS to notify the applicable ADAMHS board within 14 days of receipt of an initial or renewal application for certification and, upon the board's request, provide a copy of the application.
- Requires OhioMHAS to notify the ADAMHS board within 30 days if it refuses certification, refuses renewal, or revokes a certification.
- Requires OhioMHAS to notify the ADAMHS board within ten business days after initiating an investigation of a provider if the board requests that OhioMHAS investigate the provider.
- Requires OhioMHAS to notify the ADAMHS board within three business days if OhioMHAS begins an investigation for any other reason.
- In either event of an investigation, requires OhioMHAS to inform the board of the status and final disposition of the investigation, upon the board's request.

## **Statistics supplied by providers**

- Eliminates a criminal penalty for failure of a community addiction services provider or community mental health services provider to supply statistics and other information to OhioMHAS; instead, authorizes imposition of fines.

## **ADAMHS board contracts for services and supports**

- Authorizes a board of alcohol, drug addiction, and mental health services (ADAMHS board), when contracting with community addiction and mental health services providers, to contract with providers that are government entities, for-profit entities, or nonprofit entities.
- Authorizes entities that are contracted with to be faith-based.

## **ADAMHS board publishing of opioid treatment programs**

- Requires each ADAMHS board to annually update and publish on the board's website a list of all licensed opioid treatment programs operating within the board's district.

## **Withdrawal from a joint-county ADAMHS district**

- Requires a board of county commissioner's comprehensive plan for withdrawal from a joint-county alcohol, drug addiction, and mental health service district ("joint-county district") to include additional information about the new district and its continuation of services.
- Requires the Director of the Ohio Department of Mental Health and Addiction Services (OhioMHAS) to approve the comprehensive plan within one year from the date the board adopts the resolution to withdraw.

## **Composition and appointment of ADAMHS boards**

- Modifies the composition and appointment of boards of alcohol, drug addiction, and mental health services (ADAMHS boards) as follows:
  - Permits ADAMHS boards to have 18, 15, 14, 12, or 9 members, instead of only 18 or 14.
  - Expands the appointment authority of boards of county commissioners to two-thirds of ADAMHS board seats, and, proportionally reduces the appointment authority of the OhioMHAS Director to one-third of ADAMHS board seats.
- Permits the appointing authority to remove an ADAMHS board member at will, instead of for enumerated causes, and specifies that the pre-removal hearing be public.

## **ADAMHS board executive director**

- Clarifies that the current authority of an ADAMHS board to remove its executive director for cause applies at any time, contingent upon any written contract between the board and the executive director.

## **Reports involving ADAMHS boards**

- Eliminates the requirement that ADAMHS boards take certain actions based on data in monthly reports from community addiction services providers, made available to the boards by OhioMHAS.
- Removes obsolete provisions describing past local and statewide reports regarding each ADAMHS board's work on the existing county hub program to combat opioid addiction.

## **Exchange of Medicaid recipient information with ADAMHS boards**

- Requires OhioMHAS and ODM to adopt rules establishing requirements and procedures for the exchange of Medicaid recipient data between ADAMHS boards and ODM.
- Requires the data to be exchanged accordingly.
- Requires OhioMHAS and ODM to each submit a report with specified information regarding the data exchange requirements and procedures.

## **Conditions of licensure – hospitals and residential facilities**

- Requires a hospital or residential facility applicant, when applying for initial licensure or a renewal, to notify OhioMHAS of any adverse action taken against the applicant during the three-year period immediately preceding the application date.
- Establishes, as a condition of hospital and residential facility licensure, that an applicant be adequately staffed and equipped to operate.

## **Residential facility exemption from home health licensure**

- Exempts from existing home health licensing requirements a residential facility that is licensed by OhioMHAS.

## **Monitoring of recovery housing residences**

- Requires OhioMHAS to monitor the operation of recovery housing residences by either establishing a certification process through OhioMHAS or accepting accreditation, or its equivalent, from outside organizations specified in the bill.
- Beginning January 1, 2025, prohibits the operation of a recovery housing residence unless the residence is certified or accredited, as applicable, or actively in the process of obtaining certification or accreditation.
- Requires OhioMHAS to establish and maintain a registry of recovery housing residences.

## **Terminology regarding alcohol use disorder**

- Replaces Revised Code references to “alcoholism” with “alcohol use disorder”; eliminates references to “alcoholic.”
- Repeals an obsolete statute referring to alcohol treatment and control regions, which were abolished in 1990.

## **Behavioral health drug reimbursement program**

- Combines two drug reimbursement programs administered by OhioMHAS into one behavioral health drug reimbursement program.
- Expands the new combined program to provide reimbursement for certain drugs that are administered or dispensed to individuals who are confined in community-based correctional facilities, in addition to continuing reimbursement for drugs administered or dispensed to inmates of county jails.

## **Substance use disorder treatment in drug courts**

- Continues an OhioMHAS program to provide addiction treatment to persons with substance use disorders through drug courts with programs using medication-assisted treatment.
- Requires community addiction services providers to provide specified treatment to the program participants based on the individual needs of each participant.

## **Electroencephalogram (EEG) Combined Transcranial Magnetic Stimulation Program**

- Requires the Director of Mental Health and Addiction Services to continue the Electroencephalogram (EEG) Combined Transcranial Magnetic Stimulation Program, which previously has been administered as a pilot program by the Director jointly with the Director of Veterans Services.
- Expands the program's eligibility criteria.
- Specifies that the program's operation is contingent upon an appropriation by the General Assembly designated for that purpose.

## **Mental health crisis stabilization centers**

- Continues the requirement that ADAMHS boards establish and administer, in collaboration with the other ADAMHS boards that serve the same state psychiatric hospital region, six mental health crisis stabilization centers and substance use disorder stabilization centers.

## **Incompetency to stand trial**

- Allows a defendant to complete outpatient competency restoration at a jail that employs or contracts with OhioMHAS, a public or community health facility, or a psychiatrist or another mental health professional to provide treatment or continuing evaluation and treatment at a jail.
- Allows a defendant who the court orders to undergo treatment and evaluation to be committed to a jail that employs or contracts with OhioMHAS, a public or community health facility, or a psychiatrist or another mental health professional to provide treatment or continuing evaluation and treatment at a jail.

## Certification of addiction and mental health services

(R.C. 5119.35, 5119.36, 5119.367, and 5119.99; repealed R.C. 5119.361)

### Services that must be certified

In the case of mental health services, current law does not directly require the services to be certified by the state, and in the case of addiction services, only a specific set of services are subject to direct certification requirements with criminal penalties for failing to comply. Instead, current law bases the certification of “certifiable services and supports” on eligibility for government funding. These certifiable services and supports are described as mental health services, alcohol and drug addiction services, and the types of recovery supports specified in rules adopted by the Director of the Ohio Department of Mental Health and Addiction Services (OhioMHAS). The government funds involved are described as state funds, federal funds, or funds administered by an alcohol, drug addiction, and mental health services (ADAMHS) board.

In place of the existing enforcement system for certification of services, the bill requires a person or government entity, as a condition of providing a mental health service or alcohol and drug addiction service, to have the service certified by OhioMHAS if the Director has adopted rules specifying it as a service that must be certified. Adoption of the rules is permissive.

As part of authorizing the OhioMHAS Director to adopt rules specifying services that are subject to certification, the bill eliminates a statutory list of alcohol and drug addiction services that must be certified by OhioMHAS. The eliminated list consists of:

- Withdrawal management addiction services provided in a setting other than an acute care hospital;
- Addiction services provided in a residential treatment setting;
- Addiction services provided on an outpatient basis.

Current law contains two exemptions from certification of the services identified above. Those exemptions apply under the bill to the services that may be specified in rules as requiring certification. The bill also adds an exemption for federally qualified health centers and federally qualified health center look-alikes.

The bill eliminates an existing criminal penalty (fifth degree felony) for violating the certification requirement in existing law as described above, and does not impose a criminal penalty for violating the modified certification requirement in the bill. Instead, if the OhioMHAS Director determines that a person or government entity is violating the bill’s certification requirement, the Director may request, in writing, that the Attorney General petition an appropriate court of common pleas to enjoin the person or government entity from continuing to violate the certification requirement.

The bill maintains, with modifications, law establishing certification as a condition of eligibility for federal or state funds or funds administered by an ADAMHS board.

Any rules the OhioMHAS Director adopts to specify services that are required to be certified must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119).

## **Standards for certification**

### **Accreditation required**

The bill eliminates an option to have a provider's certifiable services and supports accredited by a national accrediting organization in lieu of having OhioMHAS determine whether its standards for certification have been satisfied. Instead, the bill requires providers to hold national accreditation as part of qualifying for certification by OhioMHAS. The bill specifies that OhioMHAS' certification standards apply to both initial certification and certification renewal. The bill creates an exemption from accreditation for providers of prevention services, which are planned strategies designed to reduce the likelihood of or delay the onset of mental, emotional, and behavioral disorders.<sup>218</sup> Under the bill, accreditation is optional for prevention services providers, but the requirements for certification by OhioMHAS otherwise apply.

Under the bill, instead of requiring the OhioMHAS Director to evaluate applicants to determine whether the applicant's certifiable services and supports satisfy the standards established by rules, the Director must determine whether the applicant meets the following:

- For an initial applicant, the applicant must be accredited by one of the following: the Joint Commission, the Commission on Accreditation of Rehabilitation Facilities, the Council on Accreditation, or any other national accrediting organization the Director considers appropriate. Under current law, accreditation is not required but is an option the Director must accept in lieu of determining if the applicant meets OhioMHAS standards for certification.
- For a renewal applicant, beginning October 1, 2025, the applicant must be accredited by one of the organizations identified above. Prior to that date, for the Director may follow current law to evaluate renewal applicants.
- For an initial applicant and a renewal applicant, in addition to being accredited, the applicant must meet both of the following:
  - The applicant and all owners and principals of the applicant must not have been subject to adverse action during the three-year period immediately preceding the date of application, see "**Adverse action**," below;
  - The applicant must be adequately staffed and equipped to provide services.

If the OhioMHAS Director determines that the applicant has paid any required certification fee (exemptions may apply for reasons specified by rule), that the applicant's accreditation is appropriate for the services and supports for which the applicant seeks initial or renewed certification, that the applicant has not been subject to adverse action and is adequately

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<sup>218</sup> O.A.C. 5122-29-20.

staffed and equipped as described above, and that the applicant meets any other requirements established by this section or rules, the Director must certify the services and supports or renew certification, as applicable. Subject to the on-site review authority described below, the Director must issue or renew the certification without further evaluation of the services and supports.

### **Review of accrediting organizations**

The OhioMHAS Director may review the accrediting organizations specified above to evaluate whether the accreditation standards and processes used by the organizations are consistent with service delivery models the Director considers appropriate. The Director may communicate to an accrediting organization any identified concerns, trends, needs, and recommendations.

### **On-site review**

The bill authorizes the OhioMHAS Director to conduct an on-site review or otherwise evaluate a community mental health services provider or community addiction services provider at any time based on cause, including complaints by or on behalf of persons receiving services and confirmed or alleged deficiencies brought to the Director's attention. An on-site review may be done in cooperation with an ADAMHS board that seeks to contract or has a contract with the applicant under law related to the board's community-based continuum of care. Any other evaluation must be in cooperation with such a board.

### **Information provided to Director**

The OhioMHAS Director must require a community mental health services provider and a community addiction services provider to notify the Director not later than ten days after any change in the provider's accreditation status.

The Director may require a provider to submit cost reports pertaining to the provider.

### **Adverse action**

The bill requires applicants for initial certification and renewal to notify OhioMHAS of any adverse action taken against the applicant, or any owner or principal of the applicant, within the three-year period immediately preceding the date of the application. The bill defines "adverse action" as an action by a state, provincial, federal, or other licensing or regulatory authority to deny, revoke, suspend, place on probation, or otherwise restrict a license, certification, or other approval to provide certifiable services and supports or an equivalent.

The notification must be provided to OhioMHAS within seven days of its receipt by the applicant, and must include a copy of the notice of adverse action received by the applicant.

As indicated above, to qualify for initial or renewed certification, OhioMHAS cannot have been notified, or otherwise be aware of, an adverse action as described above.

### **Certification exemption**

As detailed above relating to services that must be certified, the bill states that nothing in it should be construed to require a federally qualified health center or federally qualified health center look-alike to seek or obtain certification under the provisions described above.

## Rules

Under existing law, the OhioMHAS Director is required to adopt various rules relating to certification. In addition to all of the existing rules that must be adopted, the bill requires rules related to the following:

- Documentation that must be submitted as evidence of holding an appropriate accreditation;
- A process by which the Director may review the accreditation standards and processes used by the national accrediting organizations specified under the bill;
- Any reasons for which an applicant may be exempt from certification and renewal fees;
- Establishing a process by which the Director, based on deficiencies identified as a result of conducting an on-site review or otherwise evaluating a service provider, may take any range of correction actions, including revocation of the provider's certification.

## ADAMHS board notification regarding community service providers

(R.C. 340.03 and 5119.36)

The bill includes provisions requiring OhioMHAS to notify alcohol, drug addiction, and mental health services (ADAMHS) boards regarding action the Department takes relating to its certification of the services and supports of community addiction services providers and community mental health services providers. It also requires notification regarding OhioMHAS's investigations of providers. Current law does not address involvement by ADAMHS boards in the certification or investigation process.

### Certification

First, the bill permits an ADAMHS board to provide input and recommendations to OhioMHAS when an application for certification or the renewal of a certification has been submitted by a provider, if the board is aware of information that would be beneficial to OhioMHAS's consideration of the matter.

Second, the bill requires the OhioMHAS Director to inform the ADAMHS board serving the alcohol, drug addiction, and mental health service district in which the applicant's certifiable services and supports will be provided within 14 days of receipt of an initial or renewal application. Upon the request of the ADAMHS board, the Director must provide to the board a copy of the application.

Third, the bill requires the Director to notify the applicable ADAMHS board if a provider's certifiable services and supports cease to be certified for any reason. The notice must be given within 30 days after the certification ceases to be valid and must inform the board of the reason and date the certification became invalid. This requirement applies to a lapse in certification for any reason, including if the provider fails to renew the certification before the certification's expiration, the Director accepts the provider's surrender of the certification, or a final order is issued in a disciplinary action brought against the provider.

Finally, under the bill, the Director must notify the applicable ADAMHS board and provide the board opportunity to respond if the Director determines that the provider is out of compliance with the rules relating to certifiable services and supports or has been cited for a pattern of serious noncompliance or repeated violations of the statutes or rules.

## **Investigation**

The bill also includes notification requirements regarding provider investigations by OhioMHAS. If an ADAMHS board requests that OhioMHAS investigate a provider, OhioMHAS must initiate the investigation within ten business days after receiving the request. If the Department initiates an investigation for any other reason, it must notify the applicable ADAMHS board of the investigation and the reason for the investigation within three business days after initiating the investigation. Upon the request of the ADAMHS board, OhioMHAS must provide the board with information specifying the status of the investigation and the final disposition of the investigation.

## **Statistics supplied by providers**

(R.C. 5119.61 and 5119.99)

Related to a current law requirement that community addiction services providers and community mental health services providers supply, upon request of OhioMHAS, statistics and other information related to services provided, the bill eliminates a criminal penalty (fourth degree misdemeanor) for failure to supply those statistics.

Instead, the bill authorizes the OhioMHAS Director to fine a provider for a statistics violation. In determining whether to impose a fine, the Director must consider whether the provider has engaged in a pattern of noncompliance. The fines are \$1,000 for the first violation and \$2,000 for each subsequent violation. The Director must comply with the Administrative Procedure Act (R.C. Chapter 119) in imposing fines.

## **ADAMHS board contracts for services and supports**

(R.C. 340.036)

Current law requires each ADAMHS board to contract with community addiction services providers and community mental health services providers for addiction services, mental health services, and related recovery supports. Related to those contracts, the bill specifies that an ADAMHS board may contract with a government entity, for-profit entity, or nonprofit entity. Additionally, any such entity may be faith-based.

## **ADAMHS board publishing of opioid treatment programs**

(R.C. 340.08 and 5119.37)

The bill requires each ADAMHS board to annually update and publish on its website a list of all licensed opioid treatment programs operating within the board's district. The list is to be based on information obtained from (1) the federal Substance Abuse and Mental Health Services Administration's opioid treatment program directory, (2) an OhioMHAS-created resource directory, or (3) an OhioMHAS list maintained under existing law related to fines in certain drug trafficking cases that may be used to support eligible community addiction services providers.

## **Withdrawal from a joint-county ADAMHS district**

(R.C. 340.01)

The bill establishes additional requirements for the comprehensive plan a board of county commissioners must submit when requesting withdrawal from a joint-county district for alcohol, drug addiction, and mental health services. Currently, the board of county commissioners of any county in a joint-county district may request withdrawal from the service district by submitting to the OhioMHAS Director, the impacted ADAMHS board, and the boards of county commissioners of each county in the district a resolution requesting withdrawal from the district with a comprehensive plan for the withdrawal. The plan must provide for the equitable adjustment and division of all district services, assets, property, debts, and obligations.

The bill requires the comprehensive plan for withdrawal to include the following additional information:

- Proposed bylaws for the operation of the new district;
- A list of potential board members;
- A list of the behavioral health services available in the new district, including inpatient, outpatient, prevention, and housing services;
- A plan ensuring no disruption in behavioral health services in the new district; and
- Provision for employing an executive director of the new district.

It also sets a deadline by which the OhioMHAS Director must approve the comprehensive plan for withdrawal. Specifically, the plan must be approved within one year of the date the resolution to withdraw was adopted by the board of county commissioners.

## **ADAMHS board membership**

(R.C. 340.02(A) and (B) and 340.022)

The bill makes a number of changes relating to the composition and appointment of ADAMHS board members. As part of those changes, the bill includes associated revisions to eliminate outdated references to dates and prior versions of the statute and to make other adjustments related to statutory reorganization.

### **Number of board members**

The bill creates additional options for the size of ADAMHS boards, which currently can have 18 or 14 members, and allows the size of the boards to be later revised. Former law, which established ADAMHS boards with 18 members, was amended to permit the boards to elect to reduce to 14 members before September 30, 2013. To reduce size in a single-county district, an ADAMHS board was required to notify the board of county commissioners and receive that board's approval. In a joint-county district, a proposed reduction could not occur if the proposal was rejected by a majority of the boards of county commissioners. The ADAMHS board and the one or more boards of county commissioners were required to notify OhioMHAS of an election

to reduce to a 14-member board by January 1, 2014. If notice was timely provided, the ADAMHS board seats reduced from 18 to 14 by attrition as current members' terms expired.

Under the bill, a new ADAMHS board may be established with any of the following number of members:

- 18 members;
- 15 members;
- 14 members;
- 12 members; or
- 9 members.

Similarly, an ADAMHS board that exists on the bill's effective date can continue as an 18-member or 14-member board, or can elect to change to 18, 15, 14, 12, or 9 members.

In a single-county district, the size of the ADAMHS board is determined by the board of county commissioners of the county that constitutes the district. In a joint-county district, the size of the board is determined jointly by all of the boards of county commissioners that constitute the district.

To establish a new ADAMHS board or change the size of an existing ADAMHS board, the one or more relevant boards of county commissioners must adopt a resolution specifying the selected size and notify OhioMHAS of the selection. After the first determination, a resolution regarding an ADAMHS board's size cannot be adopted more than once every four calendar years. Before adopting a resolution to change the size of an ADAMHS board, the board or boards of county commissioners must send a representative to a meeting of the impacted ADAMHS board to solicit feedback about the matter and consider the feedback.

### **Appointment of board members**

(R.C. 340.02(C))

The bill expands the appointment authority of boards of county commissioners to two-thirds of ADAMHS board seats and, proportionally, reduces the appointment authority of the OhioMHAS Director to one-third of the seats. Under current law, the board or boards of county commissioners appoint ten members of 18-member ADAMHS boards and eight members of 14-member boards. The OhioMHAS Director appoints eight members of 18-member boards and six members of 14-member boards.

### **Removal of board members**

The bill permits the appointing authority to remove an ADAMHS board member at will, and it specifies that the pre-removal hearing must be public. Current law permits the appointing authority to remove a board member for neglect of duty, misconduct, or malfeasance in office.

## **ADAMHS board executive director**

(R.C. 340.04)

The bill specifies that the current authority of an ADAMHS board to remove its executive director for cause applies *at any time*, contingent upon any written contract between the board and the executive director.

## **Reports involving ADAMHS boards**

### **Monthly reports on waiting lists for addiction services**

(Repealed R.C. 340.20, with a conforming change in R.C. 5119.363)

The bill eliminates the current requirement that ADAMHS boards take certain actions based on data in monthly reports from community addiction services providers, made available to the boards by OhioMHAS. The required actions involve making a determination from the reports on whether any opioid and co-occurring drug addiction services and recovery supports are not meeting the needs of the ADAMHS board's service district.

Under current law, unchanged by the bill, a community addiction services provider must report monthly to OhioMHAS specified data and information regarding individuals on the provider's wait list. It further requires OhioMHAS to make the reports available electronically to ADAMHS boards, in a manner that provides information about an individual to the individual's ADAMHS board.<sup>219</sup>

### **County hub program reports**

(R.C. 340.30)

The bill removes outdated requirements pertaining to past reports on the county hub program to combat opioid addiction, but does not otherwise alter the operation of the program. The provisions being removed require that:

1. By January 1, 2020, each ADAMHS board submit a report to OhioMHAS summarizing the board's work on, and progress toward, addressing each of the purposes of the county hub program to combat opioid addiction, as enumerated under existing law; and

2. OhioMHAS aggregate the reports and submit a report of statewide data to the Governor and the General Assembly.

## **Exchange of Medicaid recipient information with ADAMHS boards**

(R.C. 340.035 and 5160.45)

The bill requires OhioMHAS and ODM, by December 31, 2024, to develop and implement standards and procedures for the exchange of Medicaid recipient information between ADAMHS

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<sup>219</sup> R.C. 5119.362 and 5119.364, not in the bill.

boards and ODM, to the fullest extent permitted by federal law. The information must be exchanged in accordance with those standards and procedures.

By March 31, 2025, each of the departments must prepare a report specifying how the respective department has met the information exchange requirements, the extent to which the department determined that information could be exchanged pursuant to federal law, and the reasoning supporting those determinations. Upon completion of its report, each department must submit the report to the General Assembly.

## **Conditions of licensure – hospitals and residential facilities**

(R.C. 5119.33, 5119.334, 5119.34, and 5119.343)

The bill revises the law governing the licensure of hospitals and residential facilities by OhioMHAS in several ways.

It requires an applicant, when applying for an initial hospital or residential facility license or a renewal, to notify OhioMHAS of any adverse action taken against the applicant during the three-year period immediately preceding the application date. Under the bill, an adverse action is an action by a state, provincial, federal, or other licensing or regulatory authority to deny, revoke, suspend, place on probation, or otherwise restrict a license, certificate, or other approval to operate a hospital or residential facility or practice a health care profession.

The bill allows an initial hospital or residential facility license to be issued only if OhioMHAS has not been notified or is not otherwise aware of an adverse action taken against the applicant during the three-year period. In the case of a residential facility applicant, the bill also includes a provision specifying that the initial license may be issued only if OhioMHAS has not been notified or is not otherwise aware of an adverse action taken against the applicant for resident abuse, neglect, or exploitation.

As part of requiring an applicant to notify OhioMHAS of an adverse action, the bill eliminates current law provisions generally prohibiting an applicant from seeking OhioMHAS licensure if the applicant has been the owner, operator, or manager of a residential facility for which a license to operate was revoked or for which renewal was refused during the two-year period preceding the date of application.

The bill also requires the holder of a hospital or residential facility license to notify OhioMHAS of any adverse action from a licensing or regulatory authority other than OhioMHAS not later than seven days after the holder receives notice of the adverse action.

The bill establishes – as a condition of hospital or residential facility licensure – that an applicant be adequately staffed and equipped to operate. In the case of a residential facility, it must be managed and operated by qualified persons, which is already required of a hospital under current law.

## **Residential facility exemption from home health licensure**

(R.C. 3740.01)

The bill exempts residential facilities that are licensed by OhioMHAS from licensure by the Ohio Department of Health (ODH) under the home health licensing law. It does so by specifying

that an OhioMHAS-licensed residential facility is not a home health agency and a person who operates an OhioMHAS-licensed residential facility on a self-employed basis is not a nonagency provider. Other exemptions in existing law that are continued include exemptions for residential facilities licensed by the Department of Developmental Disabilities and nursing homes and residential care facilities licensed by ODH.

## **Monitoring of recovery housing residences**

(R.C. 5119.39 to 5119.397 and 340.034; related changes in other sections)

The bill requires OhioMHAS to monitor the operation of recovery housing residences by either (1) certifying them or (2) accepting accreditation, or its equivalent, from the Ohio affiliate of the National Alliance for Recovery Residences, Oxford House, Inc., or another organization designated by OhioMHAS.

The bill defines “recovery housing residence” as a residence for individuals recovering from alcohol use disorder or drug addiction that provides an alcohol and drug-free living environment, peer support, assistance with obtaining alcohol and drug addiction services, and other recovery assistance for alcohol use disorder and drug addiction. Under existing law, recovery housing is generally regulated only to the extent that it is required to be included in the community-based continuum of care established by ADAMHS boards. The bill modifies that law by requiring recovery housing residences in the continuum of care to be certified or accredited, as applicable, under the bill.

### **Prohibitions**

The bill prohibits, beginning January 1, 2025, a person or government entity from operating a recovery housing residence unless the residence is (1) certified by OhioMHAS or accredited by one of the organizations identified above, as applicable, or (2) actively engaged in efforts to obtain certification or accreditation and has been in operation for not more than 18 months. The bill permits the OhioMHAS Director to request, in writing, that the Attorney General seek a court order enjoining operation of any recovery housing residence in violation of the prohibition.

Also beginning January 1, 2025, the bill prohibits:

- A person or government entity from advertising or representing a residence or building to be a recovery housing residence, sober living home, or similar substance free housing for individuals in recovery unless the residence is on the registry described below or is regulated by the Department of Rehabilitation and Correction as a halfway house or community residential center. There is not a criminal penalty associated with this prohibition, but the OhioMHAS Director may request, in writing, that the Attorney General seek a court order enjoining operation of any recovery housing residence in violation of the prohibition.
- A community addiction services provider or community mental health services provider from referring clients to a recovery housing residence unless it is on the registry described below on the date of the referral. There is not a criminal penalty associated with this

prohibition, but the OhioMHAS Director may refuse to renew or revoke its certification of a provider found to be in violation of this prohibition.

### **Required form**

The bill requires each person or government entity that will operate a recovery housing residence, including those already operating prior to the bill's effective date, to file with OhioMHAS a form with various information, including name and contact information, the date the residence was first occupied or will be occupied, and information related to any existing accreditation the residence has or is in the process of obtaining.

For any recovery housing residence that is operating before the bill's effective date, the form must be filed within 30 days of the bill's effective date. For a recovery housing residence that will begin operating on or after the bill's effective date, the form must be filed within 30 days after the first resident begins occupying the residence.

### **Complaints and investigations**

The bill requires OhioMHAS to establish a procedure to receive and investigate complaints from residents, staff, and the public regarding recovery housing residences. OhioMHAS may contract with one or more of the organizations identified above to fulfill some or all of the complaint and investigation procedure. Any such organization under contract must make investigation status reports to OhioMHAS regarding investigations. The reports must be made monthly. In addition, the contractor must report to OhioMHAS if the contractor makes an adverse decision regarding an accreditation accepted by OhioMHAS. The report must be made as soon as practicable, but not later than ten days after the adverse decision is made.

### **Registry of recovery housing residences**

OhioMHAS must establish and maintain a registry of recovery housing residences that are certified or accredited or are making efforts to obtain certification or accreditation within the bill's permitted timeframe. The registry must include information from the form described above that OhioMHAS chooses to include on the registry, information regarding any complaints that have been investigated and substantiated, and any other information required by OhioMHAS. The registry must be available on OhioMHAS's website.

### **Rules**

The bill authorizes the OhioMHAS Director to adopt rules to implement its monitoring of recovery housing residences. If OhioMHAS certifies recovery housing residences, the rules must establish requirements for initial certification and renewal, as well as grounds and procedures for disciplinary action.

The rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119).

## **Terminology regarding alcohol use disorder**

(R.C. 5119.01 with conforming changes in other sections; repealed R.C. 3720.041)

The bill replaces Revised Code references to “alcoholism” with “alcohol use disorder.” It also eliminates references to “alcoholic.” The bill defines alcohol use disorder as a medical condition characterized by an individual’s impaired ability to stop or control the individual’s alcohol use despite adverse social, occupational, or health consequences. It may be mild, moderate, or severe.

The bill repeals an obsolete statute referring to alcohol treatment and control regions, which no longer exist. These regions were abolished in 1990 when the current system of ADAMHS boards and districts was established and the former Department of Alcohol and Drug Addiction Services was created.

## **Behavioral health drug reimbursement program**

(R.C. 5119.19; repealed R.C. 5119.191)

The bill combines a psychotropic drug reimbursement program with another drug reimbursement program that is for drugs used in medication-assisted treatment (MAT) and drugs used in withdrawal management or detoxification. The combined program, still to be administered by OhioMHAS, is referred to as a “behavioral health drug reimbursement program.”

Similar to current law for the separate programs, the combined behavioral health drug reimbursement program reimburses counties for the cost of certain drugs administered or dispensed to inmates of county jails. The reimbursable drugs continue to be psychotropic drugs, drugs used in MAT, and drugs used in withdrawal management or detoxification. The combined program is more expansive than current law in that it also provides reimbursement for drugs administered or dispensed to individuals confined in community-based correctional facilities. Other details of the combined program are the same as those for each separate program under current law.

## **Substance use disorder treatment in drug courts**

(Section 337.60)

The bill continues a requirement that OhioMHAS conduct a program to provide substance use disorder (SUD) treatment, including MAT, withdrawal management and detoxification, and recovery supports, to persons who are eligible to participate in a MAT drug court program. OhioMHAS’s program is to be conducted in a manner similar to programs that were established and funded by the previous four main appropriations acts.

In conducting the program, OhioMHAS must collaborate with the Ohio Supreme Court, the Department of Rehabilitation and Correction, and any state agency that may be of assistance in accomplishing the program’s objectives. OhioMHAS also may collaborate with the local ADAMHS boards and local law enforcement agencies serving the county where a participating court is located.

OhioMHAS must conduct its program in collaboration with any counties in Ohio that are conducting MAT drug court programs. It also may conduct its program in collaboration with any other court with a MAT drug court program.

### **Selection of participants**

A MAT drug court program must select the participants for OhioMHAS's program. The participants are to be selected because of having a SUD. Those who are selected must be either (1) criminal offenders, including offenders under community control sanctions, or (2) involved in a drug or family dependency court. They must meet the legal and clinical eligibility criteria for the MAT drug court program and be active participants in that program or be under a community control sanction with the program's participating judge. After being enrolled, a participant must comply with all of the MAT drug court program's requirements.

### **Treatment**

Under OhioMHAS's program, only a community addiction services provider is eligible to provide SUD treatment, including any recovery supports. The provider must:

- Provide treatment based on an integrated service delivery model that consists of the coordination of care between a prescriber and the provider;
- Assess potential program participants to determine whether they would benefit from treatment and monitoring;
- Determine, based on the assessment, the treatment needs of the participants;
- Develop individualized goals and objectives for the participants;
- Provide access to the drug therapies that are included in the program's treatment;
- Provide other types of therapies, including psychosocial therapies, for both SUD and any co-occurring disorders;
- Monitor program compliance through the use of regular drug testing, including urinalysis, of the participants; and
- Provide access to time-limited recovery supports that are patient-specific and help eliminate barriers to treatment, such as assistance with housing, transportation, child care, job training, obtaining a driver's license or state identification card, and any other relevant matter.

Regarding the drug therapies included in the program's SUD treatment:

- A drug may be used only if it is (1) a drug that is federally approved for use in MAT, which involves treatment for alcoholism, drug addiction, or both, or (2) a drug that is federally approved for use in, or a drug in standard use for, mitigating alcohol or opioid withdrawal symptoms or assisting with detoxification;
- One or more drugs may be used, but each drug that is used must constitute either or both: (1) long-acting antagonist therapy or partial or full agonist therapy or (2) alpha-2 agonist therapy for withdrawal management or detoxification;

- If a partial or full agonist therapy is used, the program must provide safeguards, such as routine drug testing of participants, to minimize abuse and diversion.

## **Planning**

To ensure that funds appropriated to support OhioMHAS's program are used in the most efficient manner, with a goal of enrolling the maximum number of participants, the bill requires the Medicaid Director to develop plans in collaboration with major Ohio health care plans. However, there can be no prior authorizations or step therapy for program participants to have access to any drug included in the program's SUD treatment. The plans must ensure:

- The development of an efficient and timely process for review of eligibility for health benefits for all program participants;
- A rapid conversion to reimbursement for all health care services by the participant's health care plan following approval for coverage of health care benefits;
- The development of a consistent benefit package that provides ready access to and reimbursement for essential health care services, including primary health care, alcohol and opioid detoxification services, appropriate psychosocial services, drugs used in MAT, and drugs used in withdrawal management or detoxification; and
- The development of guidelines that require the provision of all treatment services, including medication, with minimal administrative barriers and within time frames that meet the requirements of individual patient care plans.

## **Electroencephalogram (EEG) Combined Transcranial Magnetic Stimulation Program**

(R.C. 5902.02 (renumbered to 5119.20); Sections 337.10, 337.160, and 512.10)

The bill requires the Director of Mental Health and Addiction Services to continue the Electroencephalogram (EEG) Combined Transcranial Magnetic Stimulation (TMS) Program. This program currently is administered as a pilot program by the Director jointly with the Director of Veterans Services. Under the bill, the Director of Veterans Services is no longer involved with the program.

The bill expands the program's eligibility criteria to include civilian employees of the U.S. Department of Defense and the Central Intelligence Agency and to include the spouse of any eligible individual. Under continuing law, the program is for veterans, first responders, and law enforcement officers, and eligible individuals must have substance use disorders, mental illness, sleep disorders, traumatic brain injuries, sexual trauma, post-traumatic stress disorder and accompanying comorbidities, concussions or other brain trauma, or other issues identified by the individual's qualified medical practitioner as issues that would warrant treatment under the program.

The bill specifies that the program's operation is contingent upon an appropriation by the General Assembly designated for that purpose. Therefore, the Director has no authority, or requirement, to operate the program without a current appropriation identified for its purposes.

The bill also makes the following changes to the program:

- Retains the requirement that TMS frequency pulses are tuned to the patient's physiology and biometric data, but removes the requirement that this be done at the time of each treatment using a pre and post TMS EEG.
- Authorizes each branch site to operate one or more portable units or EEG combined neuromodulation portable units. Current law states that each branch site may be a mobile unit or EEG combined neuromodulation portable unit.
- Requires that each individual who receives treatment under the program receive neurophysiological monitoring, monitoring for symptoms of substance use and mental health disorders, and access to counseling and wellness programming. Current law requires that each individual who receives treatment receive pre and post neurophysiological monitoring with EEG and automatic nervous systems assessments, daily checklists of symptoms of alcohol, opioid, or other substance use, and weekly medical counseling and wellness programming.
- Requires any individual who receives treatment at the clinical practice to be eligible for an additional EEG for every ten treatments, in addition to the minimum of two EEG required under current law.

## **Mental health crisis stabilization centers**

(Sections 337.40 and 337.130)

The bill continues a requirement that OhioMHAS allocate among ADAMHS boards, in each of FY 2024 and FY 2025, \$1.5 million for six mental health crisis stabilization centers and up to \$6.0 million in each fiscal year for substance use stabilization centers. Each board must use its allocation to establish and administer a stabilization center in collaboration with the other ADAMHS boards that serve the same state psychiatric hospital region. Alternatively, with approval of the OhioMHAS Director, boards may establish and administer crisis stabilization centers to serve individuals with substance use or mental health needs. At least one center must be located in each of the six state psychiatric hospital regions.

ADAMHS boards must ensure that each mental health crisis stabilization center complies with the following:

- It must admit individuals before and after they receive treatment and care at hospital emergency departments or freestanding emergency departments;
- It must admit individuals before and after they are confined in state correctional institutions, local correctional facilities, or privately operated and managed correctional facilities;
- It must have a Medicaid provider agreement;
- It must admit individuals who have been identified as needing the stabilization services provided by the center;

- It must connect individuals when they are discharged from the center with community-based continuum of care services and supports.

## **Incompetency to stand trial**

### **Outpatient competency restoration treatment**

(R.C. 2945.37 and 2945.38)

Under current law, if a defendant has not been charged with a felony offense or a misdemeanor offense of violence, or if the defendant has been charged with a misdemeanor offense of violence and the prosecutor has recommended specified procedures, and if after taking into consideration all relevant reports, information and other evidence, the trial court finds that the defendant is incompetent to stand trial, the trial court must dismiss the charges against the defendant or order the defendant to undergo outpatient competency restoration treatment.

The bill adds that the outpatient competency restoration treatment may be completed at a “jail” (means a jail, workhouse, minimum security jail, or other residential facility used for the confinement of alleged or convicted offenders that is operated by a political subdivision or combination of political subdivisions of this state) that employs or contracts with (1), (2), (3), or (4) below to provide treatment or continuing evaluation and treatment at a jail. Under continuing law, the outpatient competency restoration treatment may be completed at a facility operated by OhioMHAS as being qualified to treat mental illness, a public or community health mental facility, or in the care of a psychiatrist or other mental health professional.

### **Commitment to institution, facility, jail, or person**

Under current law, if the court finds that the defendant is incompetent to stand trial, and the court orders the defendant to undergo treatment or continuing evaluation, the order must specify that the defendant be committed to a specified location.

The bill adds that the defendant may be committed to a jail that employs or contracts with (1), (2), (3), or (4) below to provide treatment or continuing evaluation and treatment at a jail. Under continuing law, the defendant may be committed to one of the following: (1) the OhioMHAS for treatment or continuing evaluation and treatment at a hospital, facility, or agency as determined to be clinically appropriate, (2) a facility certified by the OhioMHAS as being qualified to treat mental illness, (3) a public or community mental health facility, or (4) a psychiatrist or another mental health professional for treatment or continuing evaluation and treatment.

### **References to program**

The bill removes references to the “director of the program” and adds references to the “director of the institution, facility, or jail or the person to which the defendant is committed.” The bill removes references to “program” and adds references to “location.”