
DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES

Suspending admissions and taking action against a license

- Authorizes the Ohio Department of Mental Health and Addiction Services (OhioMHAS) Director to suspend admissions at the following facilities without a hearing if there is a pattern of serious noncompliance or a violation creates a substantial health and safety risk: residential facilities, certain community addiction services providers, and hospitals for mentally ill persons.
- Specifies a process for appeals when admissions are suspended without a prior hearing.
- Regarding suspending admissions, denying an application, or refusing to renew or revoking a license or certification, (1) authorizes OhioMHAS to take action regardless of whether deficiencies have been corrected at the time of the hearing and (2) prohibits it from permitting an opportunity for submitting a plan of correction.

Certifiable services and supports

- Specifies reasons the OhioMHAS Director may refuse to certify, renew, or revoke certifiable services and supports provided by a community mental health or addiction services provider.
- Eliminates requirements that the Director (1) identify areas of noncompliance for an applicant who does not satisfy certification standards and (2) provide applicants with reasonable time to demonstrate compliance.

Licensing boards and confidential treatment and monitoring programs

- Supports new or existing confidential treatment and monitoring programs offered by occupational licensing boards for healthcare workers with mental health or substance use disorders, including by allowing boards to contract with certain monitoring organizations to administer the programs.

Confidentiality of substance use disorder records

- Modifies existing requirements for maintaining confidentiality of records regarding drug treatment programs and services that are licensed or certified by OhioMHAS.
- Establishes confidentiality requirements based on federal law and applies them to federally assisted programs for substance use disorder treatment.
- Requires that the disclosure of any confidential information comply with the federal requirements.

Opioid treatment programs

- Lengthens the term of a license to operate an opioid treatment program (OTP) to two years, except that the OhioMHAS Director can continue to require annual licensure for an OTP if the Director has concerns about the OTP's compliance record.
- Requires OhioMHAS to inspect all community addiction services providers licensed to operate OTPs at least biennially, as opposed to annually.
- Permits a community addiction services provider to employ an individual who receives medication-assisted treatment from the provider.

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.
- Modifies the program by authorizing services to be included for withdrawal management or detoxification, including drugs used in providing those services.
- Requires community addiction services providers to provide specified treatment to the participants in the program based on the individual needs of each participant.

County jails reimbursed for substance use treatment drugs

- Establishes a program to reimburse counties for the cost of drugs used in providing county jail inmates with medication-assisted treatment and withdrawal management or detoxification services related to drug or alcohol use.

Pilot to dispense controlled substances in lockable containers

- Requires OhioMHAS to operate a two-year pilot program to dispense schedule II controlled substances in lockable or tamper-evident containers.

ADAMHS board composition and appointment (PARTIALLY VETOED)

- Establishes options for the size of an alcohol, drug addiction, and mental health services (ADAMHS) board that results from the OhioMHAS Director granting approval in calendar year 2021 or 2022 for a county with a population between 70,000 and 80,000 to withdraw from a joint-county alcohol, drug addiction, and mental health service district.
- Provides that an ADAMHS board established from that withdrawal must consist of 18 members or 14 members.
- Would have permitted the ADAMHS board that is established to consist of seven to nine members (VETOED).
- Would have permitted an ADAMHS board that already was formed to continue as an 18-member or 14-member board, or, within six months, choose to reduce to between seven and nine members (VETOED).

- Would have specified the number of members to be appointed by the OhioMHAS Director and the board of county commissioners for the ADAMHS boards described above (VETOED).
- Provides that if a county with a population between 35,000 and 45,000 joins an existing alcohol, drug addiction, and mental health service district during the two-year period beginning June 30, 2021, the ADAMHS board serving that district may expand from 14 to 18 members.
- Permits the ADAMHS board to make such an election for one year from the date the county joins the joint-county district.

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.
- Requires the establishment and administration, in collaboration with the other ADAMHS boards that serve the same state psychiatric hospital region, acute substance use disorder stabilization centers.

Suspending admissions and taking action against a license

(R.C. 5119.33, 5119.34, and 5119.36)

Suspending admissions

The Ohio Department of Mental Health and Addiction Services (OhioMHAS) has the authority to suspend admissions at the following: hospitals that receive mentally ill persons, residential facilities, and community addiction services providers that provide overnight accommodations. The act specifies that proceedings initiated to suspend admissions and appeals are generally governed by the Administrative Procedure Act (R.C. Chapter 119). However, if the OhioMHAS Director determines that the facility has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of patients or residents, the Director may suspend admissions without a hearing. The order suspending admissions must be lifted if the Director determines the violation that formed the basis for the order has been corrected.

When admissions are suspended without a hearing, all of the following apply to an appeal of that order:

- The facility may request a hearing not later than ten days after receiving the notice;
- A requested hearing must commence within 30 days and continue uninterrupted on business days unless the parties agree otherwise;

- If the hearing is conducted by a hearing examiner, the examiner must file a report and recommendations with OhioMHAS within ten days after the later of the hearing ending, a transcript being received, or briefs being received;
- A written copy of the report and recommendations must be sent by certified mail to the facility or the facility's attorney within five days of the report being filed with OhioMHAS;
- The facility may file objections within five days of receiving the report;
- OhioMHAS must issue an order approving, modifying, or disapproving the report and recommendations within 15 days of it being filed by the hearing examiner;
- OhioMHAS must lift the order suspending admissions if it determines that the violation that formed the basis for the order has been corrected.

Procedures

The act specifies that in proceedings to suspend admissions, or to deny an application, refuse to renew, or revoke a license or certification, OhioMHAS may take those actions regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing. When OhioMHAS issues an order related to those proceedings or actions it may not permit an opportunity for submitting a plan of correction.

The act also makes changes regarding hospitals that receive mentally ill persons, residential facilities, and community mental health and addiction services providers, to specify that proceedings initiated to deny applications for licenses or certification, to refuse to renew, or to revoke those licenses or certifications are governed by the Administrative Procedure Act. If an order suspending admissions has been issued, it remains in effect during the pendency of the proceedings.

Certifiable services and supports

(R.C. 5119.36 and 5119.99)

Under continuing law, OhioMHAS certifies certifiable services and supports provided by community mental health services providers and community addiction services providers. The act specifies that the OhioMHAS Director may refuse to certify those services and supports, refuse to renew certification, or revoke certification if any of the following apply:

- The applicant or certification holder is not in compliance with OhioMHAS rules;
- The applicant or holder has been cited for a pattern of serious noncompliance or repeated violations of statutes or rules during the current or any previous certification period;
- The applicant or holder submits false or misleading information as part of a certification application, renewal, or investigation.

Also regarding certification, the act eliminates requirements that the Director (1) identify areas of noncompliance for an applicant who does not satisfy certification standards and (2) provide applicants with reasonable time to demonstrate compliance.

Licensing boards and confidential treatment and monitoring programs

(Section 337.40)

The act earmarks funding to be used to expand existing or support new confidential treatment and monitoring programs offered by occupational licensing boards to licensed healthcare workers with mental health or substance use disorders. It also authorizes an occupational licensing board to contract with a monitoring organization to administer a confidential treatment and monitoring program, but only if the organization meets all of the following requirements:

1. Is organized as a not-for-profit entity and exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code;
2. Contracts with or employs to serve as the organization's medical director an individual who is an Ohio-licensed physician or has training and expertise in addiction medicine or psychiatry; and
3. Contracts with or employs one or more individuals licensed by the State Board of Psychology, the Chemical Dependency Professionals Board, and the Counselor, Social Worker, and Marriage and Family Therapist Board as necessary for the organization's operation.

Confidentiality of substance use disorder records

(R.C. 5119.27)

The act modifies requirements for maintaining confidentiality of records or information regarding drug treatment programs and services that are licensed or certified by OhioMHAS. In their place, the act establishes confidentiality requirements based on federal law and applies those requirements to records or information regarding federally assisted programs for substance use disorder treatment. The act requires the disclosure of any confidential information to comply with the federal requirements.

As part of updating the confidentiality requirements, when referring to programs used within the criminal justice system, the act replaces references to "rehabilitation in lieu of conviction" with "intervention in lieu of conviction."

Opioid treatment programs

(R.C. 5119.37; Section 337.200)

License expiration

The act generally extends the license period for opioid treatment programs (OTPs) to two years, from the previous period of one year. In conjunction with that change, it requires OhioMHAS to inspect all community addiction services providers licensed to operate OTPs at least biennially, as opposed to annually.

The act provides an exception to biennial licensure if the OhioMHAS Director has concerns about an OTP's compliance record. In that case, the Director may stipulate annual licensure.

Employees

The act permits a community addiction services provider to employ an individual who receives medication-assisted treatment from the provider. Such employment was previously prohibited.

Substance use disorder treatment in drug courts

(Section 337.60)

The act continues a requirement that OhioMHAS conduct a program to provide substance use disorder treatment, including medication-assisted treatment and recovery supports, to persons who are eligible to participate in a medication-assisted treatment (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 three main appropriations acts. The act, however, modifies the program by also permitting the program to include services for withdrawal management or detoxification, including drugs used for those services.

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 board of alcohol, drug addiction, and mental health services 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 substance use disorder. Those who are selected must be either (1) criminal offenders, including offenders under community control sanctions, or (2) involved in a family drug or 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. The total number of participants in OhioMHAS's program at any time is limited to 1,500, subject to available funding. OhioMHAS may authorize additional participants in circumstances it considers appropriate. 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 substance use disorder 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 substance use disorder 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 substance use disorder treatment, the following apply:

- A drug may be used only if it is (1) a drug that is federally approved for use in medication-assisted treatment, 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 act 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 substance use disorder 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 medication-assisted treatment, 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.

County jails reimbursed for substance use treatment drugs

(R.C. 5119.191)

The act creates an OhioMHAS-administered program to reimburse counties for the cost of drugs administered or dispensed to county jail inmates for treatment related to drug and alcohol use or addiction. It applies to drugs used in medication-assisted treatment and drugs used in withdrawal management or detoxification. OhioMHAS must allocate funds to each county for reimbursement based on factors it considers appropriate.

Drugs used in medication-assisted treatment must be federally approved for that purpose, which applies to alcoholism, drug addiction, or both. Drugs used in withdrawal management or detoxification also must be federally approved, or in standard use for, mitigating opioid or alcohol withdrawal symptoms or assisting with detoxification. The act specifies that the drugs include oral, injectable, long-acting, or extended-release forms of full agonists, partial agonists, antagonists, and, in the case of drugs used in withdrawal management or detoxification, alpha-2 adrenergic agonists. Each county must ensure that inmates have access to any such prescribed drugs that are covered under Medicaid's fee-for-service component.

The OhioMHAS Director is permitted to adopt rules to implement the program. The rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119).

Pilot to dispense controlled substances in lockable containers

(Sections 337.205 and 337.40)

The act requires OhioMHAS to operate a pilot program under which participating pharmacies dispense schedule II controlled substances in pill form in lockable containers or tamper-evident containers. The pilot is to be operated for the earlier of two years or until appropriated funds – \$1 million in each fiscal year – are expended.

The act defines "lockable container" as a container that (1) has "special packaging," which is generally defined under federal law as packaging designed to be significantly difficult for children to open, but not difficult for normal adults to use,¹¹² and (2) can be unlocked

¹¹² "Poison Prevention Packaging Act of 1970," 15 U.S.C. 1471.

physically using a key, or physically or electronically using a code or password. “Tamper evident container” is defined by the act as a container that has special packaging and displays a visual sign in the event of unauthorized entry or displays the time the container was last opened.

Pharmacy participation and reimbursement

Any pharmacy may volunteer to participate in the pilot program. Participating pharmacies are required to dispense schedule II controlled substances in lockable or tamper-evident containers unless the patient or an individual acting on the patient’s behalf requests otherwise.

OhioMHAS must reimburse pharmacies for expenses incurred in participating in the pilot program, including a dispensing fee to be determined by OhioMHAS. Expenses a pharmacy incurs for the containers cannot be charged to a patient, an individual acting on behalf of the patient, or a health insurer or other third-party payer.

Report

The act requires OhioMHAS to prepare a report at the conclusion of the pilot program and submit it to the General Assembly. In preparing the report, OhioMHAS must contract with a third-party research organization to assess whether a measured decrease in diversion of schedule II controlled substances occurred regarding drugs dispensed through the program as compared to those dispensed outside of the program.

Qualified immunity

The act grants immunity from liability to pharmacists, pharmacist delegates, and pharmacies for actions taken in good faith in accordance with the act. The qualified immunity applies to damages in a civil action, criminal prosecution, and professional disciplinary action.

Rules

OhioMHAS may adopt rules to administer the pilot program. The rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119).

ADAMHS boards

Board size after withdrawing from a joint-county district (PARTIALLY VETOED)

(R.C. 340.022)

The act establishes provisions regarding the composition of, and appointment of members for, certain boards of alcohol, drug addiction, and mental health services (ADAMHS boards). The provisions apply if the OhioMHAS Director approves, between January 1, 2021, and December 31, 2022, a board of county commissioners of a county with a population between 70,000 and 80,000 (according to 2010 federal census data) to withdraw from a joint-county alcohol, drug addiction, and mental health service district. In this circumstance, the board of county commissioners is to determine the size of the ADAMHS board that results from the withdrawal.

- A board established on or after the date the Director grants approval to withdraw can consist of 18 members or 14 members, as determined by the board of county commissioners. The Governor vetoed provisions that would have permitted a board of county commissioners to establish a seven- to nine-member board.
- The Governor vetoed provisions that would have required a board existing immediately before the withdrawal was approved to continue as an 18- or 14-member board or be reduced to between seven and nine members.

Regarding a newly established ADAMHS board following the withdrawal, initial appointments must be staggered among the members as equally as possible with terms of two years, three years, and four years. Regarding a previously existing ADAMHS board, the Governor vetoed provisions that would have permitted the board of county commissioners, within six months after the Director approved the withdrawal, to make an election to reduce the board's size. Before exercising the option to reduce, the board of county commissioners would have been required to notify the ADAMHS board and provide an opportunity for the ADAMHS board to participate in a public hearing, in accordance with Ohio's open meetings law. The reduction would have occurred by attrition as vacancies occurred.

Composition and appointment of members (VETOED)

The Governor vetoed provisions that would have required the OhioMHAS Director to appoint four members of an 18-member board, three members of a 14-member board, and two members of a seven- to nine-member board. In turn, the board of county commissioners would have been required to appoint 14 members of an 18-member board, 11 members of a 14-member board, and the remaining members of a seven- to nine-member board.

As part of these appointments, the OhioMHAS Director and the board of county commissioners would have been required to ensure that:

1. At least one member of the board is a person who has received or is receiving mental health services or is a parent or other relative of such a person; and
2. At least one member of the board is a person who has received or is receiving addiction services or is the parent or guardian of such a person.

Board size after joining a joint-county district

The act also includes provisions permitting an ADAMHS board meeting certain criteria to expand its membership. If a county with a population between 35,000 and 45,000 (according to 2010 federal census data) joins an alcohol, drug addiction, and mental health service district between June 30, 2021, and June 30, 2023, the act permits a 14-member ADAMHS board serving that district to expand its membership to 18 members. The board's option to expand from 14 to 18 members is available for only one year, beginning on the date the county joins the joint-county service district. The act specifies that the additional ADAMHS board members are to be appointed in the same manner as provided by continuing law for other ADAMHS boards.

Mental health crisis stabilization centers

(Sections 337.40 and 337.130)

The act continues a requirement, first established for the FY 2019-FY 2020 biennium, that OhioMHAS allocate among ADAMHS boards, in each of FY 2022 and FY 2023, \$1.5 million for six mental health crisis 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. At least one center must be located in each of the six state psychiatric hospital regions.

ADAMHS boards must ensure that each 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.