



Ohio Legislative Service Commission

Bill Analysis

Bob Bennett

Sub. H.B. 369

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(As Re-referred to H. Finance and Appropriations)

Reps. Sprague, Antonio, Boose, Buchy, Butler, Letson, Patterson, Scherer, Sears, Sheehy, Smith, Wachtmann

BILL SUMMARY

- Requires, beginning one year after the bill's effective date, that each board of alcohol, drug addiction, and mental health services (ADAMHS board) establish, to the extent resources are available, a full spectrum of care for all levels of treatment services for opioid and co-occurring drug addiction.
- Requires the Ohio Department of Mental Health and Addiction Services (ODMHAS) to assist an ADAMHS board with the full spectrum of care for ODMHAS-approved treatment services for opioid and co-occurring drug addiction and, to the extent it has available resources, support the full spectrum of care on a single ADAMHS district or a multi-district basis.
- Requires that the full spectrum of care include at least ambulatory and subacute detoxification, nonintensive and intensive outpatient services, peer mentoring, residential treatment services, 12-step approaches, medication-assisted treatment, and recovery housing.
- Requires ODMHAS to withhold all of an ADAMHS board's allocated funds if the board fails to make the full spectrum of care available in its service district.
- Establishes certain requirements and options for the recovery housing that each ADAMHS board is to include in the full spectrum of care.
- Exempts recovery housing that is part of an ADAMHS board's full spectrum of care from licensure or certification by ODMHAS.
- Earmarks state funds to be used in fiscal year 2015 by ODMHAS (1) to provide state funds to ADAMHS boards for the capital costs of recovery housing, (2) to provide

state funds to ADAMHS boards for the first two years of operating expenses of recovery housing, and (3) for the organization of a recovery housing network.

- Requires each community alcohol and drug addiction services provider, beginning one year after the bill's effective date, to maintain, in an aggregate form, a waiting list of applicants who need certain alcohol and drug addiction services but have not begun to receive the treatment services within five days of application because the provider lacks an available slot.
- Requires each provider to notify an individual on the waiting list when the provider has a slot available for the individual and, if the individual does not contact the provider about the slot, to contact the individual to determine why the individual did not contact the provider and to assess whether the individual still needs the treatment service.
- Requires each provider to report certain information monthly about the waiting lists to each ADAMHS board that serves the county or counties in which the provider provides alcohol and drug addiction services.
- Requires each ADAMHS board to compile monthly on an aggregate basis the information the board receives that month from the providers and to determine specified information about denied applications for certain treatment services.
- Requires each ADAMHS board to report monthly to ODMHAS (1) the information the board compiles from the reports it receives from the providers, (2) the information about denied applications, and (3) all other information the ODMHAS Director requires in rules.
- Requires ODMHAS to make the reports it receives from ADAMHS boards available on ODMHAS's website and in a manner that presents the information on statewide and county-level basis.
- Permits, beginning one year after the bill's effective date, the continuum of care that ADAMHS boards establish for other services to include subacute detoxification.
- Beginning one year after the bill's effective date, gives an ADAMHS board, when it receives a notice from ODMHAS that the board is out of compliance with statutory requirements, the option to submit to ODMHAS evidence of corrective action the board took to achieve compliance.
- Requires the ODMHAS Director, effective one year after the bill's effective date, to adopt rules to (1) streamline the intake procedures used by the providers when accepting and beginning to serve new patients and (2) enable providers to retain



patients as active patients even though the patients last received services more than 30 days before resumption of services.

- Requires that the rules (1) be modeled on the intake and resumption of service procedures used by primary care physicians and (2) facilitate the exchange of information about patients between providers and primary care physicians.
- Appropriates funds to the Ohio Department of Rehabilitation and Correction (ODRC) to be used to defray a portion of the annual payroll costs associated with the employment of up to two separate and distinct full-time, or full-time equivalent, specialized docket staff members by eligible courts of common pleas, municipal courts, and county courts.
- Requires ODRC to use up to 1% of the appropriation to pay the costs it incurs in administering its duties under this provision of the bill.

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CONTENT AND OPERATION

Opioid and co-occurring drug addiction treatment duties of local behavioral health boards

The bill establishes requirements regarding services available from boards of alcohol, drug addiction, and mental health services (ADAMHS boards). The requirements take effect one year after the bill's effective date.¹

Full spectrum of care

Current law requires each ADAMHS board to establish, to the extent resources are available, a continuum of care that provides for prevention, treatment, support, and

¹ Section 3.



rehabilitation services and opportunities. The Ohio Department of Mental Health and Addiction Services (ODMHAS) is required to assist any county with the provision of ODMHAS-approved services within the continuum of care. To the extent it has available resources, ODMHAS must support the continuum of care on an ADAMHS board district or multi-district basis.

The bill requires an ADAMHS board to establish, to the extent resources are available, a full spectrum of care for all levels of treatment services for opioid and co-occurring drug addiction and a continuum of care for other services. ODMHAS must assist a county with (1) the full spectrum of care for all levels of ODMHAS-approved treatment services for opioid and co-occurring drug addiction made available in the county by the ADAMHS board serving the county and (2) the continuum of care for other ODMHAS-approved services that the ADAMHS board makes available in the county. ODMHAS also must, to the extent it has available resources, support the full spectrum of care and continuum of care on a single ADAMHS district or a multi-district basis.²

Current law provides that the categories in an ADAMHS board's continuum of care may include the following services: inpatient, residential, outpatient treatment, intensive and other supports, recovery support, and prevention and wellness management. The bill permits the continuum of care also to include subacute detoxification.³

The bill requires that the full spectrum of care for all levels of treatment services for opioid and co-occurring drug addiction include at least ambulatory and subacute detoxification, nonintensive and intensive outpatient services, peer mentoring, residential treatment services, 12-step approaches, medication-assisted treatment, and recovery housing. "Medication-assisted treatment" is defined as alcohol and drug addiction services that are accompanied by medication approved by the U.S. Food and Drug Administration for the treatment of drug addiction, prevention of relapse of drug addiction, or both. The bill defines "recovery housing" as housing for individuals recovering from drug addiction that provides an alcohol and drug-free living environment, peer support, assistance with obtaining drug addiction services, and other drug addiction recovery assistance. (See "**Recovery housing**," below.)

The bill requires each ADAMHS board to make available in its service district the treatment services for opioid and co-occurring drug addiction included in the full spectrum of care. However, a treatment service consisting of subacute detoxification or

² R.C. 340.03, 340.09, 5119.21, and 5119.23.

³ R.C. 340.09(D).



residential treatment services for opioid and co-occurring drug addiction is not required to be available in the board's service district if the board has a contract with one or more providers of such services located in other service districts. The treatment services for opioid and co-occurring drug addiction included in the full spectrum of care must be made available in a manner that ensures that service recipients are able to access the services they need for opioid and co-occurring drug addiction in an integrated manner and without delay when changing or obtaining additional treatment services for such addiction. A treatment service for opioid and co-occurring drug addiction is not to be excluded from the full spectrum of care on the basis that the service previously failed.⁴

ADAMHS board budgets

Current law requires each ADAMHS board to submit to ODMHAS a report of receipts and expenditures (i.e., a budget) for all federal, state, and local money the board expects to receive. The bill requires that the budget identify funds the ADAMHS board has available for the treatment services for opioid and co-occurring drug addiction that the bill requires be included in its full spectrum of care. Current law permits ODMHAS to withhold all or part of the funds allocated to an ADAMHS board if ODMHAS disapproves all or part of the board's budget. The bill requires ODMHAS to withhold all of an ADAMHS board's allocated funds if ODMHAS disapproves the board's budget because the board fails to identify funds the board has available for opioid and co-occurring drug addiction treatment services.⁵

Current law permits the ODMHAS Director, in whole or in part, to withhold funds otherwise to be allocated to an ADAMHS board if the board's use of state and federal funds fails to comply with its ODMHAS-approved budget. The bill requires the Director to withhold all funds to be allocated to an ADAMHS board if the board fails to make the full spectrum of care for opioid and co-occurring drug addiction available in its service district.⁶

Recovery housing

Requirements and options

The bill establishes the following requirements and options for the recovery housing that each ADAMHS board is to include in the full spectrum of care for all levels of treatment services for opioid and co-occurring drug addiction:

⁴ R.C. 340.01(A)(2) and 340.09(A) and (C).

⁵ R.C. 340.08(A)(1), 340.15, and 5119.22(G)(1).

⁶ R.C. 340.08(A)(4) and 5119.25.



(1) The recovery housing must be owned and operated by a community alcohol and drug addiction services provider or other local nongovernmental organization (including a peer-run recovery organization), as appropriate to the needs of the ADAMHS board's service district.

(2) The recovery housing must have protocols for administrative oversight, quality standards, and policies and procedures (including house rules) for its residents to which the residents must agree to adhere.

(3) Individuals recovering from opioid or co-occurring drug addiction must have priority in admission to the recovery housing, but an individual recovering from other drug addictions may be admitted if an available slot is not needed for an individual recovering from opioid or co-occurring drug addiction.

(4) Family members of the recovery housing's residents may reside in the recovery housing to the extent the recovery housing's protocols permit.

(5) The recovery housing is not to limit a resident's duration of stay to an arbitrary or fixed amount of time and, instead, each resident's duration of stay must be determined by the resident's needs, progress, and willingness to abide by the recovery housing's protocols, in collaboration with the recovery housing's owner, and, if appropriate, in consultation and integration with another community alcohol and drug addiction services provider.⁷

Recovery housing that is part of an ADAMHS board's full spectrum of care is exempt from licensure or certification by ODMHAS, including certification as a community addiction services provider and licensure as a residential facility.⁸

Earmark of funds for capital costs, operating expenses, and network

The bill eliminates earmarks of funds that the General Assembly, in Am. Sub. H.B. 59 of the 130th General Assembly (the main operating budget for fiscal years 2014 and 2015), appropriated to ODMHAS for community behavioral health. Specifically, the bill eliminates (1) a \$30 million earmark for ADAMHS boards to provide mental health services and (2) a \$17.5 million earmark for ADAMHS boards to be used for addiction services, including medication, treatment programs, and counseling.⁹ Instead, the bill earmarks \$25 million of those funds to be used in fiscal year 2015 by ODMHAS (1) to provide state funds to ADAMHS boards for the capital costs of recovery housing, (2) to provide

⁷ R.C. 340.092.

⁸ R.C. 340.092(F) and 5119.34.

⁹ Section 4.



state funds to ADAMHS boards for the first two years of operating expenses of recovery housing, and (3) for the organization of a recovery housing network. ODMHAS is required to prioritize the earmarks for counties that have no recovery housing on the effective date of this provision of the bill.¹⁰

Regarding the fiscal year 2015 funding for the capital costs of recovery housing, the bill requires ODMHAS to pay a certain amount of such costs and ADAMHS boards to pay the remaining amount. Except for the ADAMHS boards serving Cuyahoga, Franklin, Hamilton, Lucas, Mahoning, Montgomery, Stark, and Summit counties, ODMHAS is to pay 90% of such costs and the board is to pay the remaining 10% unless the board cannot afford to pay 10% (in which case ODMHAS is to pay 100%). The following applies to the ADAMHS boards serving Cuyahoga, Franklin, Hamilton, Lucas, Mahoning, Montgomery, Stark, and Summit counties:

(1) If recovery housing exists in the county on the effective date of this provision of the bill, ODMHAS and the ADAMHS board are both to pay 50% of the capital costs of additional recovery housing.

(2) If no recovery housing exists in the county on that date, ODMHAS is to pay 90% and the ADAMHS board is to pay the remaining 10% of the capital costs of recovery housing, except that if the board cannot afford to pay 10%, ODMHAS must pay 100%.

Regarding the fiscal year 2015 funding for the operating expenses of recovery housing, ODMHAS is required to pay 90% of such expenses for the first two years that recovery housing is operated in a county if ODMHAS pays 100% of the capital costs for the recovery housing in that county.

Regarding the fiscal year 2015 funding for the organization of a recovery housing network, ODMHAS is required to enter into a three-year contract with a nongovernmental organization under which the organization organizes a network of recovery housing in Ohio that has (1) an Internet-based database of recovery housing available in Ohio, (2) a resource hub for recovery housing providers that assists the providers' development and operation efforts and enables providers to connect with other recovery housing providers in Ohio and other states for the purpose of shared learning, (3) quality standards for recovery housing and a peer-review process that uses the standards to endorse individual recovery housing sites, and (4) a system that monitors data that can be used to determine outcomes for recovery housing.

¹⁰ Section 5.



Waiting lists and reports

The bill requires each community alcohol and drug addiction services provider to do both of the following in accordance with rules the ODMHAS Director must adopt:

(1) Maintain, in an aggregate form, a waiting list of each individual who has (a) been documented as needing alcohol and drug addiction services due to an opioid or co-occurring drug addiction, (b) applied to the provider for a treatment service included in the full spectrum of care for all levels of treatment for opioid and co-occurring drug addiction, and (c) not begun to receive the treatment services within five days of the individual's application for the services because the provider lacks an available slot for the individual;

(2) Notify an individual included on the provider's waiting list when the provider has a slot available for the individual and, if the individual does not contact the provider about the slot within a period of time to be specified in the ODMHAS Director's rules, contact the individual to determine why the individual did not contact the provider and to assess whether the individual still needs the treatment service.¹¹

A community alcohol and drug addiction services provider also is required monthly to report certain information about the waiting lists to each ADAMHS board that serves the county or counties in which the provider provides alcohol and drug addiction services. If a provider provides the services in more than one county and those counties are served by different ADAMHS boards, the provider must provide separate reports to each of the boards that serve the counties in which the provider provides the services. The report provided to an ADAMHS board is to be specific to the county or counties the board serves and not include information for individuals residing in other counties. The reports are to be made in accordance with rules the ODMHAS Director is to adopt. Specifically, providers are to report all of the following:

(1) An unduplicated count of all individuals who reside in a county that the ADAMHS board serves and were included on the provider's waiting list as of the last day of the immediately preceding month and each type of treatment service for which they were waiting;

(2) The total number of days all such individuals had been on the provider's waiting list as of the last day of the immediately preceding month;

¹¹ R.C. 340.20(A)(1) and (2) and 5119.221.



(3) The last known types of residential settings, identified at a minimum as either institutional or noninstitutional, in which all such individuals resided as of the last day of the immediately preceding month;

(4) The number of all such individuals who did not contact the provider after receiving, during the immediately preceding month, notices about the provider having slots available for the individuals, and the reasons the contacts were not made;

(5) The number of all such individuals who withdrew, in the immediately preceding month, their applications for the treatment services, each type of treatment service for which those individuals had applied, and the reasons the applications were withdrawn;

(6) All other information specified in the ODMHAS Director's rules.¹²

In submitting a report to an ADAMHS board, a community alcohol and drug addiction services provider must maintain the confidentiality of all individuals for whom information is included in the report. If the report is provided to an ADAMHS board that serves more than one county, the information included in the report is to be presented in a manner that is broken down for each of the counties the board serves.¹³

The bill establishes requirements for ADAMHS boards receiving the reports from community alcohol and drug addiction services providers. An ADAMHS board is to do both of the following monthly in accordance with rules the ODMHAS Director is to adopt:

(1) Compile on an aggregate basis the information the board receives that month from the providers;

(2) Determine the number of applications for a treatment service included in the full spectrum of care for all levels of treatment services for opioid and co-occurring drug addiction that the board received in the immediately preceding month and that the board denied that month, each type of treatment service so denied, and the reasons for the denials.¹⁴

An ADAMHS board also is required to report certain information to ODMHAS monthly in accordance with rules the ODMHAS Director is to adopt. Specifically, the board must report (1) the information the board compiles from the reports it receives

¹² R.C. 340.20(A)(3) and (C)(2) and 5119.221.

¹³ R.C. 340.20(C)(1) and (3).

¹⁴ R.C. 340.201(A)(1) and (2) and 5119.221.



from community alcohol and drug addiction services providers, (2) the information about denied applications for treatment services included in the full spectrum of care for opioid and co-occurring drug addiction, and (3) all other information the ODMHAS Director's rules require. The information must be reported to ODMHAS in an electronic format, in a manner that maintains the confidentiality of all individuals for whom information is included in the report, and in a manner that presents the information about such individuals by their counties of residence.¹⁵

The bill requires ODMHAS to make the reports it receives from ADAMHS boards available on ODMHAS's website. The information contained in the reports is to be presented on the website on statewide and county-level bases. The information on the website is to be updated monthly after the boards submit new reports to ODMHAS.¹⁶

ODMHAS withholding funds from ADAMHS boards

Current law permits the ODMHAS Director to withhold all or part of the funds otherwise allocated to an ADAMHS board if the board fails to comply with statutory requirements. As discussed above, the bill requires the ODMHAS Director to withhold all of such funds from a board that fails to make the full spectrum of care for all levels of treatment services for opioid and co-occurring drug addiction available in the board's service district as the bill requires.¹⁷

Continuing law requires the ODMHAS Director to issue a notice of noncompliance and identify the action necessary to achieve compliance. Under current law, an ADAMHS board has ten days from receipt of the notice to present its position that it is in compliance. The bill gives a board the option of submitting to the Director within that ten-day period evidence of corrective action the board took to achieve compliance (rather than presenting its position that it is in compliance). Current law requires the Director or the designee to hold a hearing within ten days of receipt of the board's position that it is in compliance. Under the bill, the Director or designee also must hold a hearing within ten days of receiving evidence of the board's corrective action. The purpose of the hearing under current law is, in part, to determine that either assistance is rejected or the board is unable to achieve compliance. The bill provides that the hearing's purpose is, in part, to determine that either assistance is rejected or the board is unable, *or has failed*, to achieve compliance.

¹⁵ R.C. 340.201(A)(3) and (B) and 5119.221.

¹⁶ R.C. 5119.222.

¹⁷ R.C. 5119.25(A).



If it is determined from a hearing that an ADAMHS board has not achieved compliance, the Director is permitted under current law to allocate all or part of the funds it withholds from the board to a public or private agency to provide the community mental health or community addiction service for which the board is not in compliance. The bill specifies that such withheld funds may be allocated to one or more community mental health services providers or community addiction services providers to provide the services for which the board is not in compliance.¹⁸ Continuing law defines "community mental health services provider" as an agency, association, corporation, individual, or program that provides ODMHAS-certified community mental health services.¹⁹ Continuing law defines "community addiction services provider" as an agency, association, corporation, individual, or program that provides ODMHAS-certified community alcohol, drug addiction, or gambling addiction services.²⁰

These provisions of the bill take effect one year after the bill's effective date.²¹

Intake and resumption of services procedures

The bill requires the ODMHAS Director, effective one year after the bill's effective date, to adopt rules in accordance with the Administrative Procedure Act (R.C. Chapter 119.) to do both of the following:

(1) Streamline the intake procedures used by a community alcohol and drug addiction services provider accepting and beginning to serve a new patient, including procedures regarding intake forms and questionnaires;

(2) Enable a community alcohol and drug addiction services provider to retain a patient as an active patient even though the patient last received services from the provider more than 30 days before resumption of services so that the patient and provider do not have to repeat the intake procedures.²²

The rules must model the intake and resumption of service procedures on the procedures used by primary care physicians. The rules also must facilitate the exchange

¹⁸ R.C. 5119.25(C).

¹⁹ R.C. 5119.01(A)(8).

²⁰ R.C. 5119.01(A)(7).

²¹ Section 3.

²² R.C. 5119.362(A); Section 3.

of information about patients between community alcohol and drug addiction services providers and primary care physicians.²³

Specialized docket staff payroll costs

The bill appropriates funds to the Ohio Department of Rehabilitation and Correction (ODRC) to be used to defray a portion of the annual payroll costs associated with the employment of up to two separate and distinct full-time, or full-time equivalent, specialized docket staff members by a court of common pleas, municipal court, or county court, including a juvenile court or family court that has, or anticipates having, a family dependency treatment court.²⁴ For a court to be eligible for the funds, all of the following must apply:

(1) The court must have received the Ohio Supreme Court's certification for a specialized docket that targets participants with a drug addiction or dependency.

(2) The specialized docket staff members must have received training for, or education in, alcohol and other drug addiction, abuse, and recovery and have demonstrated, before or within 90 days of being hired, competencies in fundamental alcohol and other drug addiction, abuse, and recovery, including an understanding of (a) alcohol and other drug treatment and recovery, (b) how to engage a person in treatment and recovery, and (c) other health care systems, social service systems, and the criminal justice system.

(3) Subsequent to the certification of its specialized docket, the court must meet any additional criteria that the Ohio Supreme Court determines are necessary and appropriate to determining funding eligibility, including the Court's adoption and utilization of best practices.

The amount that an eligible court may receive for specialized docket staff members is the lesser of (1) 65% of certain payroll costs or (2) \$50,700. The payroll costs are the lesser of (1) the actual annual compensation and fringe benefits paid to those staff members proportionally reflecting their time allocated for specialized docket duties or (2) \$78,000. A county auditor is required to certify, for any court that serves the same county and is applying for or receiving state funds for specialized docket staff members, information needed to determine the court's eligibility for, and the amount of, the state funds. The certification is to be made to ODRC and in accordance with applicable rules, guidelines, or procedures adopted by ODRC. ODRC must disburse the

²³ R.C. 5119.362(B).

²⁴ Sections 6 and 7.



state funds in quarterly installments to the appropriate counties and municipalities in which the eligible courts are located.

The bill requires ODRC to use up to 1% of the appropriation to pay the costs it incurs in administering its duties under this provision of the bill. ODRC is permitted to adopt rules, guidelines, and procedures as necessary to carry out those duties.

HISTORY

ACTION	DATE
Introduced	12-03-13
Reported, H. Health & Aging	03-12-14
Re-referred to H. Finance & Appropriations	03-18-14

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