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## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Sens. Johnson and Sykes

Erika Kramer, Attorney

### SUMMARY

#### Withdrawal from a joint-county 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.
  - Modifies the qualifications ADAMHS board members must have to hold a board seat by requiring one-half of board members to be current or former recipients of mental health or addition services, or to be the parents or other relatives of such a person.
- 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.

## **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.

## **Medicaid recipients**

- Requires OhioMHAS and the Ohio Department of Medicaid (ODM) to adopt rules establishing requirements and procedures for the exchange of Medicaid recipient data between ADAMHS boards and ODM.

## **Authority of ADAMHS boards**

- Requires ADAMHS boards to provide input and recommendations to OhioMHAS for provider applications or renewals or if a provider is being investigated if the board is aware of information that would be beneficial to the matter.
- Removes the current dispute resolution process required if a party to a contract with an ADAMHS board seeks to terminate the contract and instead requires the contract terms to include a process by which the board can terminate the contract early.
- Clarifies that although ADAMHS board contracts are exempt from state contract competitive bidding requirements, an ADAMHS board can choose to use a process for selecting and entering into contracts based on a competitive or other basis.
- 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.

## **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.
- Makes violation of the prohibition a first degree misdemeanor.
- 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.

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## DETAILED ANALYSIS

### Overview

Boards of alcohol, drug addiction, and mental health services (ADAMHS boards) are local boards that plan for mental health and addiction services locally and contract with providers for prevention, treatment, and recovery supports for individuals in need.<sup>1</sup> The bill makes changes to the composition and authority of those boards.

Current law requires an alcohol, drug addiction, and mental health service district to be established in any county, or combination of counties, with a population of 50,000 or more, subject to the approval of the Director of the Ohio Department of Mental Health and Addiction Services (OhioMHAS).<sup>2</sup> A service district comprised of one county is referred to as a “single-county district”; a service district comprised of more than one county is referred to as a “joint-county district.” Each service district must establish an ADAMHS board.

### Withdrawal from a joint-county district

The bill establishes additional requirements for the comprehensive plan a board of county commissioners must submit when requesting withdrawal from a joint-county district. 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.

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<sup>1</sup>[ADAMHS boards](#), also available by conducting a keyword search for “ADAMH boards” on OhioMHAS’ website: [mha.ohio.gov](http://mha.ohio.gov).

<sup>2</sup> R.C. 340.01(B).

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.<sup>3</sup>

## **ADAMHS board membership**

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.<sup>4</sup>

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.

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<sup>3</sup> R.C. 340.01(B).

<sup>4</sup> R.C. 340.02.

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.<sup>5</sup>

### **Appointment of board members**

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.<sup>6</sup>

### **Qualifications of board members**

The bill modifies qualification requirements ADAMHS board members must meet to hold a board seat. Under current law, the OhioMHAS Director must ensure that each board has the following:

- At least one member who is a clinician with experience in the delivery of mental health services;
- At least one member who is a person who has received or is receiving mental health services;
- At least one member who is a parent or other relative of a person who has received or is receiving mental health services;
- At least one member who is a clinician with experience in the delivery of addiction services<sup>7</sup>;
- At least one member who is a person who has received or is receiving addiction services; and
- At least one member who is a parent or other relative of a person who has received or is receiving addiction services.

The bill modifies the board-membership standards by requiring one-half of ADAMHS board members to meet at least one of the following qualifications: the member must be a

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<sup>5</sup> R.C. 340.02(A) and (B).

<sup>6</sup> R.C. 340.02(C).

<sup>7</sup> Both clinician requirements can be met by the same individual if the individual has the requisite experience.

person who has received or is receiving mental health services or addiction services or be the parent or relative of such a person. The bill makes all appointing authorities – both the OhioMHAS Director and boards of county commissioners – responsible for ensuring these membership requirements are met. The qualifications for the remaining one-half of a board’s members are no longer specified and, therefore, are subject to the discretion of the appointing authorities.<sup>8</sup>

### **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.<sup>9</sup>

### **Board duties**

The bill expands and modifies the duties of ADAMHS boards. First, regarding the existing duty that boards promote, arrange, and implement working agreements with social agencies, the bill specifies that the duty includes other government programs that provide public benefits, and that such agreements are to coordinate public benefits and improve the management and administration of the programs. Also, the bill clarifies that the existing reference to “social agencies” is a reference to social “service” agencies.

Second, the bill requires ADAMHS boards to provide input and recommendations to OhioMHAS when a service provider has submitted an application for initial certification or renewal or when a provider is being investigated by OhioMHAS. This is to occur if the board is aware of information that would be beneficial to the matter.<sup>10</sup>

### **Medicaid recipients**

The bill requires OhioMHAS and the Ohio Department of Medicaid (ODM) to adopt rules establishing requirements and procedures for the exchange of Medicaid recipient data between ADAMHS boards and ODM to (1) coordinate public benefits, (2) improve the management and administration of Medicaid and other public assistance programs offering addiction or mental health services, and (3) to ensure that the essential elements of a board’s continuum of care are available to persons seeking addiction or mental health services.<sup>11</sup>

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<sup>8</sup> R.C. 340.02(C).

<sup>9</sup> R.C. 340.02(C).

<sup>10</sup> R.C. 340.03.

<sup>11</sup> R.C. 340.035 and 5160.45.

## Executive director

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.<sup>12</sup>

## Contracts with providers

The bill removes the current dispute resolution process required if a party to a contract with an ADAMHS board seeks to terminate the contract. Current law requires ADAMHS boards to contract with facilities and providers relating to the provision of addiction services, mental health services, and recovery supports, and imposes a specific dispute resolution process that must be followed if a party to the contract proposes to not renew the contract. In place of the current dispute resolution process, the bill requires the contract terms to include a process by which the board can terminate the contract early for any cause the board considers necessary and a process by which a provider can appeal the board's decision.<sup>13</sup>

The bill clarifies that although current law exempts ADAMHS board contracts from state contract competitive bidding requirements, an ADAMHS board can choose to establish and use a process for selecting and entering into contracts on a competitive basis or any other basis the board considers appropriate.<sup>14</sup>

## Monthly reporting

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.

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>15</sup> The bill, however, eliminates the requirements that each ADAMHS board:

1. Acknowledge to OhioMHAS that the board has received and reviewed the information;
2. Use the information to determine whether any opioid and co-occurring drug addiction services and recovery supports are not meeting the needs of the alcohol, drug addiction, and mental health service district that the board serves; and

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<sup>12</sup> R.C. 340.04.

<sup>13</sup> R.C. 340.036(D).

<sup>14</sup> R.C. 340.036(E).

<sup>15</sup> R.C. 5119.362 and 5119.364, not in the bill.

3. Inform OhioMHAS of its determination.<sup>16</sup>

## County hub program reports

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 required 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.<sup>17</sup>

## Monitoring of recovery housing residences

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.<sup>18</sup>

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.<sup>19</sup>

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.<sup>20</sup>

## 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. Violation of this prohibition is a first degree misdemeanor.<sup>21</sup> The bill permits the

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<sup>16</sup> R.C. 340.20, repealed, with a conforming change in R.C. 5119.363.

<sup>17</sup> R.C. 340.30.

<sup>18</sup> R.C. 5119.39.

<sup>19</sup> R.C. 5119.01, with conforming changes in R.C. 340.01 and other sections.

<sup>20</sup> R.C. 340.034.

<sup>21</sup> R.C. 5119.392(A) and 5119.99.

OhioMHAS Director to seek a court order enjoining operation of any recovery housing residence in violation of the prohibition.<sup>22</sup>

Also beginning January 1, 2025, the bill prohibits:<sup>23</sup>

- 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. A violation is a first degree misdemeanor.
- 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 recovery housing 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. Copies of the forms may be provided to any accrediting organization that OhioMHAS accept for purposes of monitoring recovery housing residences.<sup>24</sup>

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.<sup>25</sup>

### **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 accrediting 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

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<sup>22</sup> R.C. 5119.392(B).

<sup>23</sup> R.C. 5119.395, 5119.396, and 5119.99.

<sup>24</sup> R.C. 5119.391(A), (B), and (D).

<sup>25</sup> R.C. 5119.391(C).

report must be made as soon as practicable, but not later than ten days after the adverse decision is made.<sup>26</sup>

### **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, information regarding any complaints, and any other information required by OhioMHAS. The registry must be available on OhioMHAS's website.<sup>27</sup>

### **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.<sup>28</sup>

The rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119). The bill exempts the rules from limitations in the law related to the adoption of regulatory restrictions in rules.<sup>29</sup>

### **Terminology regarding alcohol use disorder**

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 specifies that the disorder may be mild, moderate, or severe.<sup>30</sup>

The bill repeals an obsolete statute referring to alcohol treatment and control regions, which no longer exist.<sup>31</sup> 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.

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<sup>26</sup> R.C. 5119.393.

<sup>27</sup> R.C. 5119.394.

<sup>28</sup> R.C. 5119.397.

<sup>29</sup> R.C. 121.95 to 121.953, not in the bill.

<sup>30</sup> R.C. 5119.01, with conforming changes in other sections.

<sup>31</sup> R.C. 3720.041, repealed.

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## HISTORY

Action	Date
Introduced	04-05-23

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