



Ohio Revised Code

Section 5119.36 Certifying community mental health services or addiction services providers.

Effective: October 3, 2023

Legislation: House Bill 33

(A) A person or government entity that seeks initial certification of one or more certifiable services and supports, or that seeks to renew certification of one or more certifiable services and supports, shall submit an application to the director of mental health and addiction services. On receipt of the application, the director shall determine whether the standards established by divisions (B) and (C) of this section and any rules adopted under this section are satisfied or continue to be satisfied by the applicant. As part of the determination the director may conduct an on-site review of the applicant. In doing so, the director may conduct the review in cooperation with a board of alcohol, drug addiction, and mental health services that seeks to contract or has a contract with the applicant under section 340.036 of the Revised Code.

Not later than fourteen days after receipt of an initial or renewal application, the director shall inform the board of alcohol, drug addiction, and mental health services serving the alcohol, drug addiction, and mental health service district in which the applicant's certifiable services and supports will be provided of the receipt of the application. On the board's request, the director shall provide the board with a copy of the application.

Not later than thirty days after a provider's certification ceases to be valid for any reason, including the provider's failure to renew the certification prior to expiration, the director's acceptance of the provider's surrender of the certification, or the issuance of a final order for disciplinary action under division (G) or (M) of this section, the director shall provide notice to the applicable board of alcohol, drug addiction, and mental health services of the reason the certification ceased to be valid and the date it became invalid.

(B)(1) Except as provided in division (B)(4) of this section, beginning on the effective date of this amendment, an applicant seeking initial certification of certifiable services and supports shall be accredited by one or more national accrediting organizations specified in division (B)(3) of this section for certifiable services and supports for which national accreditation exists for such services



and supports or equivalent services and supports.

(2) Except as provided in division (B)(4) of this section, beginning October 1, 2025, an applicant seeking to renew certification of certifiable services and supports shall be accredited by one or more national accrediting organizations specified in division (B)(3) of this section for certifiable services and supports for which national accreditation exists for such services and supports or equivalent services and supports.

(3) For purposes of divisions (B)(1) and (2) of this section, the director shall accept appropriate accreditation of an applicant's certifiable services and supports from any of the following national accrediting organizations:

(a) The joint commission;

(b) The commission on accreditation of rehabilitation facilities;

(c) The council on accreditation;

(d) Any other national accrediting organization the director considers appropriate.

(4) The accreditation requirements of divisions (B)(1) and (2) of this section do not apply to an applicant seeking an initial or renewed certification to provide prevention services, as that term is defined in rules adopted under this section. For such applicants, accreditation is optional.

(C) In addition to meeting the accreditation standard set forth in division (B) of this section, an applicant seeking initial or renewed certification of one or more certifiable services and supports is eligible to receive the certification only if both of the following are the case, as determined by the director:

(1) The applicant has adequate staff and equipment to provide the certifiable services and supports;

(2) The department has not been notified under section 5119.367 of the Revised Code or is not otherwise aware that the applicant, or any owner or principal of the applicant, has been the subject of



an adverse action, as defined in that section, taken during the three-year period immediately preceding the date of application.

(D)(1) Except as provided in division (D)(2) of this section, if the director determines that an applicant has paid any required certification fee, that the applicant's accreditation of certifiable services and supports is current and appropriate for the services and supports for which the applicant is seeking initial or renewed certification, that the applicant meets the requirements of division (C) of this section, and that the applicant meets any other requirements established by this section or rules adopted under it, the director shall certify the services and supports or renew the certification of the services and supports, as applicable. Except as provided in division (J) of this section, the director shall issue or renew the certification without further evaluation of the services and supports.

(2) Prior to October 1, 2025, if an applicant that seeks to renew certification of certifiable services and supports is not accredited to provide those services and supports by one or more national accrediting organizations specified in division (B)(3) of this section, the director shall conduct an evaluation of the applicant to determine whether the applicant's certifiable services and supports satisfy the standards for certification. The evaluation is in addition to any on-site review conducted under division (A) of this section and shall be performed in cooperation with a board of alcohol, drug addiction, and mental health services that seeks to contract or has a contract with the applicant under section 340.036 of the Revised Code. If the director determines that an applicant has paid any required certification fee, that the applicant's certifiable services and supports satisfy the standards for renewed certification, that the applicant meets the requirements of division (C) of this section, and that the applicant meets any other requirements established by this section or the rules adopted under it, the director shall certify the certifiable services and supports.

(E) For purposes of the accreditation requirements of this section, both of the following apply:

(1) The director may review the accrediting organizations specified in division (B)(3) of this section to evaluate whether the accreditation standards and processes used by the organizations are consistent with service delivery models the director considers appropriate for mental health services, alcohol and drug addiction services, or physical health services. The director may communicate to an accrediting organization any identified concerns, trends, needs, and recommendations.



(2) The director shall 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 provider may notify the director by providing a copy of the relevant document the provider received from the accrediting organization.

(F) The director may require a community mental health services provider or a community addiction services provider to submit to the director cost reports pertaining to the provider.

(G) The director may refuse to certify certifiable services and supports, refuse to renew certification, or revoke certification if any of the following apply to an applicant for certification or the holder of the certification:

(1) The applicant or holder is not in compliance with rules adopted under this section.

(2) The applicant or holder has been cited for a pattern of serious noncompliance or repeated violations of statutes or rules during the current certification period or any previous certification period.

(3) The applicant or holder has been found to be in violation of section 5119.396 of the Revised Code;

(4) The applicant or holder submits false or misleading information as part of a certification application, renewal, or investigation.

(H) Proceedings initiated to deny applications to certify certifiable services and supports, to refuse to renew certification, or to revoke certification are governed by Chapter 119. of the Revised Code. If an order has been issued suspending admissions to a community addiction services provider, as provided in division (M) of this section, the order remains in effect during the pendency of those proceedings.

(I) The director may conduct an on-site review or otherwise evaluate a community mental health services provider or a community addiction services provider at any time based on cause, including complaints made by or on behalf of persons receiving mental health services or alcohol and drug



addiction services and confirmed or alleged deficiencies brought to the attention of the director. This authority does not affect the director's duty to conduct the inspections required by section 5119.37 of the Revised Code.

In conducting an on-site review under this division, the director may do so in cooperation with a board of alcohol, drug addiction, and mental health services that seeks to contract or has a contract with the applicant under section 340.036 of the Revised Code. In conducting any other evaluation under this division, the director shall do so in cooperation with such a board.

(J) If the director proposes to take action under division (G) of this section, the director shall notify the board of alcohol, drug addiction, and mental health services serving the alcohol, drug addiction, and mental health service district in which the certifiable services and supports will be or were provided, and provide the board opportunity to respond as specified in division (A) of this section with respect to initial or renewal applications.

When a final order is issued by the director under division (G) of this section, the director may request that the appropriate board of alcohol, drug addiction, and mental health services reallocate any funds for the certifiable services and supports the applicant was to provide to a community mental health services provider or community addiction services provider whose certifiable services and supports satisfy the standards. If the board does not reallocate such funds in a reasonable period of time, the director may withhold state and federal funds for the certifiable services and supports and allocate those funds directly to a community mental health services provider or community addiction services provider whose certifiable services and supports satisfy the standards.

(K) Each applicant seeking initial or renewed certification of its certifiable services and supports shall pay a fee for the certification required by this section, unless the applicant is exempt under rules adopted under this section. Fees shall be paid into the state treasury to the credit of the sale of goods and services fund created pursuant to section 5119.45 of the Revised Code.

(L) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall do all of the following:

(1) Subject to section 340.034 of the Revised Code, specify the types of recovery supports that are



required to be certified under this section;

(2) Establish certification standards for certifiable services and supports that are consistent with nationally recognized applicable standards and facilitate participation in federal assistance programs. The rules shall include as certification standards only requirements that improve the quality of certifiable services and supports or the health and safety of persons receiving certifiable services and supports. The standards shall address at a minimum all of the following:

- (a) Reporting major unusual incidents to the director;
- (b) Procedures for applicants for and persons receiving certifiable services and supports to file grievances and complaints;
- (c) Seclusion;
- (d) Restraint;
- (e) Requirements regarding the physical facilities in which certifiable services and supports are provided;
- (f) Requirements with regard to health, safety, adequacy, and cultural specificity and sensitivity;
- (g) Standards for evaluating certifiable services and supports;
- (h) Standards and procedures for granting full, probationary, and interim certification of the certifiable services and supports of an applicant;
- (i) Standards and procedures for revoking the certification of a community mental health services provider's or community addiction services provider's certifiable services and supports that do not continue to meet the minimum standards established pursuant to this section;
- (j) The limitations to be placed on a provider whose certifiable services and supports are granted probationary or interim certification;



(k) Development of written policies addressing the rights of persons receiving certifiable services and supports, including all of the following:

(i) The right to a copy of the written policies addressing the rights of persons receiving certifiable services and supports;

(ii) The right at all times to be treated with consideration and respect for the person's privacy and dignity;

(iii) The right to have access to the person's own psychiatric, medical, or other treatment records unless access is specifically restricted in the person's treatment plan for clear treatment reasons;

(iv) The right to have a client rights officer provided by the provider or board of alcohol, drug addiction, and mental health services advise the person of the person's rights, including the person's rights under Chapter 5122. of the Revised Code if the person is committed to the provider or board.

(l) Documentation that must be submitted as evidence of holding appropriate accreditation;

(m) A process by which the director may review the accreditation standards and process used by the national accrediting organizations specified in division (B)(3) of this section.

(3) Establish the process for certification of certifiable services and supports;

(4) Set the amount of initial and renewal certification fees and any reasons for which applicants may be exempt from the fees;

(5) Specify the type of notice and hearing to be provided prior to a decision on whether to reallocate funds;

(6) Establish a process by which the director, based on deficiencies identified as a result of conducting an on-site review or otherwise evaluating a community mental health services provider or community addiction services provider under division (I) of this section, may take any range of



correction actions, including revocation of the provider's certification.

(M)(1) The director may issue an order suspending admissions to a community addiction services provider that provides overnight accommodations if the director finds either of the following:

(a) The provider's certifiable services and supports are not in compliance with rules adopted under this section;

(b) The provider has been cited for more than one violation of statutes or rules during any previous certification period of the provider.

(2)(a) Except as provided in division (M)(2)(b) of this section, proceedings initiated to suspend admissions to a community addiction services provider that provides overnight accommodations are governed by Chapter 119. of the Revised Code.

(b) If a suspension of admissions is proposed because the director has determined that the provider has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of patients, the director may issue an order suspending admissions before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift the order for the suspension of admissions if the director determines that the violation that formed the basis for the order has been corrected.

(3) Appeals from proceedings initiated to order the suspension of admissions shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The provider may request a hearing not later than ten days after being served in accordance with sections 119.05 and 119.07 of the Revised Code.

(b) If a timely request for a hearing that includes the provider's current address is made, the hearing shall commence not later than thirty days after the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and



legal holidays, unless other interruptions are agreed to by the provider and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations with the department not later than ten days after the last of the following:

(i) The close of the hearing;

(ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;

(iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) The hearing examiner shall send a written copy of the report and recommendations, by certified mail, to the provider, or the provider's attorney, if applicable, not later than five days after the report is filed with the department.

(f) Not later than five days after receiving the report and recommendations, the provider may file objections with the department.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the department shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the department shall lift the order for the suspension of admissions if the department determines the violation that formed the basis for the order has been corrected.

(N)(1) In a proceeding initiated to suspend admissions to a community addiction services provider that provides overnight accommodations, to deny an application for certification of certifiable services and supports, to refuse to renew certification, or to revoke certification, the department may order the suspension, denial, refusal, or revocation regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(2) When the department issues an order suspending admissions to a community addiction services



provider that provides overnight accommodations, denies an application for certification of certifiable services and supports, refuses to renew certification, or revokes a certification, the department shall not grant an opportunity for submitting a plan of correction.

(O) The department of mental health and addiction services shall maintain a current list of community addiction services providers and shall provide a copy of the list to a judge of a court of common pleas who requests a copy for the use of the judge under division (H) of section 2925.03 of the Revised Code. The list shall identify each provider by its name, its address, and the county in which it is located.

(P) No person shall represent in any manner that a community mental health services provider's or community addiction services provider's certifiable services and supports are certified by the director if the certifiable services and supports are not so certified at the time the representation is made.

(Q) If a board of alcohol, drug addiction, and mental health services requests the department of mental health and addiction services to investigate a community mental health services provider or community addiction services provider pursuant to this section, the department shall initiate the investigation not later than ten business days after receipt of the request. If the department initiates an investigation of a community mental health services provider or community addiction services provider under this section for any other reason, the department shall notify the board of alcohol, drug addiction, and mental health services serving the applicable alcohol, drug addiction, and mental health service district of the investigation and the reason for the investigation not later than three business days after the investigation begins. On the board's request, the department shall provide the board with information specifying the status of the investigation and the final disposition of the investigation.