



Ohio Revised Code

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

Effective: September 30, 2021

Legislation: House Bill 110

(A) A community mental health services provider applicant or community addiction services provider applicant that seeks certification of its certifiable services and supports shall submit an application to the director of mental health and addiction services. On receipt of the application, the director may conduct an on-site review and shall evaluate the applicant to determine whether its certifiable services and supports satisfy the standards established by rules adopted under this section. The director shall make the evaluation, and, if the director conducts an on-site review of the applicant, may make the review, in cooperation with a board of alcohol, drug addiction, and mental health services that seeks to contract with the applicant under section 340.036 of the Revised Code.

(B) Subject to section 5119.361 of the Revised Code, the director shall determine whether the certifiable services and supports of a community mental health services provider applicant or community addiction services provider applicant satisfy the standards for certification. If the director determines that an applicant's certifiable services and supports satisfy the standards for certification and the applicant has paid the fee required by this section, the director shall certify the certifiable services and supports.

No community mental health services provider shall be eligible to receive for its certifiable services and supports any state funds, federal funds, or funds administered by a board of alcohol, drug addiction, and mental health services, unless those certifiable services and supports have been certified by the director.

No person or government entity subject to section 5119.35 of the Revised Code or any other community addiction services provider shall be eligible to receive for its services described in that section or its other certifiable services and supports any state funds, federal funds, or funds administered by a board of alcohol, drug addiction, and mental health services, unless those services or other certifiable services and supports have been certified by the director.



(C) 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 submits false or misleading information as part of a certification application, renewal, or investigation.

(D) 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 that provides overnight accommodations, as provided in division (H) of this section, the order remains in effect during the pendency of those proceedings.

(E) If the director determines that a community mental health services provider applicant's or a community addiction services provider applicant's certifiable services and supports do not satisfy the standards for certification, 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 another 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.

(F) Each community mental health services provider applicant or community addiction services provider applicant seeking certification of its certifiable services and supports under this section 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.

(G) 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 a community mental health services provider applicant or



community addiction services provider 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.

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

(4) Set the amount of certification review fees;

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

(H)(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 (H)(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 receiving the notice specified in section 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.
- (I)(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.



(J) 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.

(K) 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.