

Chapter 340: ALCOHOL, DRUG ADDICTION, AND MENTAL HEALTH SERVICES

340.01 Alcohol, drug addiction, and mental health service district.

(A) As used in this chapter, "addiction," "addiction services," "alcohol and drug addiction services," "community addiction services provider," "community mental health services provider," "gambling addiction services," "mental health services," and "mental illness" have the same meanings as in section 5119.01 of the Revised Code.

(B) An alcohol, drug addiction, and mental health service district shall be established in any county or combination of counties having a population of at least fifty thousand to provide addiction services and mental health services. With the approval of the director of mental health and addiction services, any county or combination of counties having a population of less than fifty thousand may establish such a district. Districts comprising more than one county shall be known as joint-county districts.

The board of county commissioners of any county participating in a joint-county district may submit a resolution requesting withdrawal from the district together with a comprehensive plan or plans that are in compliance with rules adopted by the director of mental health and addiction services under section 5119.22 of the Revised Code , and that provide for the equitable adjustment and division of all services, assets, property, debts, and obligations, if any, of the joint-county district to the board of alcohol, drug addiction, and mental health services, to the boards of county commissioners of each county in the district, and to the directors. No county participating in a joint-county service district may withdraw from the district without the consent of the director of mental health and addiction services nor earlier than one year after the submission of such resolution unless all of the participating counties agree to an earlier withdrawal. Any county withdrawing from a joint-county district shall continue to have levied against its tax list and duplicate any tax levied by the district during the period in which the county was a member of the district until such time as the levy expires or is renewed or replaced.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

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340.011 Interpretation and construction.

(A) This chapter shall be interpreted to accomplish all of the following:

- (1) Establish a unified system of treatment for mentally ill persons and persons with addictions;
- (2) Establish a community support system available for every alcohol, drug addiction, and mental health service district;
- (3) Protect the personal liberty of mentally ill persons so that they may be treated in the least restrictive environment;
- (4) Encourage the development of high quality, cost effective, and comprehensive services, including culturally sensitive services;

(5) Foster the development of comprehensive community mental health services, based on recognized local needs, especially for severely mentally disabled children, adolescents, and adults;

(6) Ensure that services provided meet minimum standards established by the director of mental health and addiction services;

(7) Promote the delivery of high quality and cost-effective addiction and mental health services;

(8) Promote the participation of persons receiving mental health services and addiction services in the planning, delivery, and evaluation of these services.

(B) Nothing in Chapter 340., 5119., or 5122. of the Revised Code shall be construed as requiring a board of county commissioners to provide resources beyond the total amount set forth in a budget and statement of services to be provided by the alcohol, drug addiction, and mental health services board, as developed and submitted under section 340.08 of the Revised Code.

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340.02 Organization of board of alcohol, drug addiction, and mental health services.

(A) For each alcohol, drug addiction, and mental health service district, there shall be appointed a board of alcohol, drug addiction, and mental health services consisting of eighteen members or fourteen members. Should the board of alcohol, drug addiction, and mental health services elect to remain at eighteen members, as provided under section 340.02 of the Revised Code as it existed immediately prior to the date of this amendment, the board of alcohol, drug addiction, and mental health services and the board of county commissioners shall not be required to take any action. Should the board of alcohol, drug addiction, and mental health services elect a recommendation to become a fourteen-member board, that recommendation must be approved by the board of county commissioners of the county in which the alcohol, drug addiction, and mental health district is located in order for the transition to a fourteen-member board to occur. Not later than September 30, 2013, each board of alcohol, drug addiction, and mental health services wishing to become a fourteen-member board shall notify the board of county commissioners of that recommendation. Failure of the board of county commissioners to take action within thirty days after receipt of the recommendation shall be deemed agreement by the board of county commissioners to transition to a fourteen-member board of alcohol, drug addiction, and mental health services. Should the board of county commissioners reject the recommendation, the board of county commissioners shall adopt a resolution stating that rejection within thirty days after receipt of the recommendation. Upon adoption of the resolution, the board of county commissioners shall meet with the board of alcohol, drug addiction, and mental health services to discuss the matter. After the meeting, the board of county commissioners shall notify the department of mental health and addiction services of its election not later than January 1, 2014. In a joint-county district, a majority of the boards of county commissioners must not reject the recommendation of a joint-county board to become a fourteen-member board in order for the transition to a fourteen-member board to occur. Should the joint-county district have an even number of counties, and the boards of county commissioners of these counties tie in terms of whether or not to accept the recommendation of the alcohol, drug addiction, and mental health services board, the recommendation of the alcohol, drug addiction, and mental health service board to become a fourteen-member board shall prevail. The election shall be final. Failure to provide notice of its election to the department on or before January 1, 2014, shall constitute an election to continue to operate as an eighteen-member board, which election shall also be final. If an existing board provides timely notice of its election to transition to operate as a fourteen-member board, the number of board members may decline from eighteen to fourteen by attrition as current members' terms expire. However, the composition of the board must reflect the requirements set forth in this section for fourteen-member boards. For all boards, half of the members shall be interested in mental health services and half of

the members shall be interested in alcohol , drug, or gambling addiction services. All members shall be residents of the service district. The membership shall, as nearly as possible, reflect the composition of the population of the service district as to race and sex.

(B) For boards operating as eighteen-member boards, the director of mental health and addiction services shall appoint eight members of the board and the board of county commissioners shall appoint ten members. For boards operating as fourteen-member boards, the director of mental health and addiction services shall appoint six members of the board and the board of county commissioners shall appoint eight members. In a joint-county district, the county commissioners of each participating county shall appoint members in as nearly as possible the same proportion as that county's population bears to the total population of the district, except that at least one member shall be appointed from each participating county.

(C) The director of mental health and addiction services shall ensure that at least one member of the board is a clinician with experience in the delivery of mental health services, at least one member of the board is a person who has received or is receiving mental health services paid for by public funds , at least one member of the board is a parent or other relative of such a person

, at least one member of the board is a clinician with experience in the delivery of addiction services, at least one member of the board is a person who has received or is receiving addiction services paid for by public funds, and at least one member of the board is a parent or other relative of such a person. A single member who meets both qualifications may fulfill the requirement for a clinician with experience in the delivery of mental health services and a clinician with experience in the delivery of addiction services.

(D) No member or employee of a board of alcohol, drug addiction, and mental health services shall serve as a member of the board of any provider with which the board of alcohol, drug addiction, and mental health services has entered into a contract for the provision of services or facilities. No member of a board of alcohol, drug addiction, and mental health services shall be an employee of any provider with which the board has entered into a contract for the provision of services or facilities. No person shall be an employee of a board and such a provider unless the board and provider both agree in writing.

(E) No person shall serve as a member of the board of alcohol, drug addiction, and mental health services whose spouse, child, parent, brother, sister, grandchild, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law serves as a member of the board of any provider with which the board of alcohol, drug addiction, and mental health services has entered into a contract for the provision of services or facilities. No person shall serve as a member or employee of the board whose spouse, child, parent, brother, sister, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law serves as a county commissioner of a county or counties in the alcohol, drug addiction, and mental health service district.

(F) Each year each board member shall attend at least one inservice training session provided or approved by the department of mental health and addiction services.

(G) For boards operating as eighteen-member boards, each member shall be appointed for a term of four years, commencing the first day of July, except that one-third of initial appointments to a newly established board, and to the extent possible to expanded boards, shall be for terms of two years, one-third of initial appointments shall be for terms of three years, and one-third of initial appointments shall be for terms of four years. For boards operating as fourteen-member boards, each member shall be appointed for a term of four years, commencing the first day of July, except that four of the initial appointments to a newly established board, and to the extent possible to expanded boards, shall be for terms of two years, five initial appointments shall be for terms of three years, and five initial appointments shall be for terms of four years. No member shall serve more than two consecutive four-year terms under the same appointing authority. A member may serve for three consecutive terms under the same appointing authority only if one of the terms is for less than two years. A member who has served two consecutive four-year terms or three consecutive

terms totaling less than ten years is eligible for reappointment by the same appointing authority one year following the end of the second or third term, respectively.

When a vacancy occurs, appointment for the expired or unexpired term shall be made in the same manner as an original appointment. The appointing authority shall be notified by certified mail of any vacancy and shall fill the vacancy within sixty days following that notice.

Any member of the board may be removed from office by the appointing authority for neglect of duty, misconduct, or malfeasance in office, and shall be removed by the appointing authority if the member is barred by this section from serving as a board member. The member shall be informed in writing of the charges and afforded an opportunity for a hearing. Upon the absence of a member within one year from either four board meetings or from two board meetings without prior notice, the board shall notify the appointing authority, which may vacate the appointment and appoint another person to complete the member's term.

Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties, as defined by rules of the department of mental health and addiction services.

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340.021 County alternatives for providing alcohol and drug addiction services.

(A) In an alcohol, drug addiction, and mental health service district where the board of county commissioners has established an alcohol and drug addiction services board, the community mental health board established under former section 340.02 of the Revised Code shall serve as the entity responsible for providing mental health services in the county. A community mental health board has all the powers, duties, and obligations of a board of alcohol, drug addiction, and mental health services with regard to mental health services. An alcohol and drug addiction services board has all the powers, duties, and obligations of a board of alcohol, drug addiction, and mental health services with regard to addiction services. Any provision of the Revised Code that refers to a board of alcohol, drug addiction, and mental health services with regard to mental health services also refers to a community mental health board and any provision that refers to a board of alcohol, drug addiction, and mental health services with regard to alcohol and drug addiction services also refers to an alcohol and drug addiction services board.

An alcohol and drug addiction services board shall consist of eighteen members or fourteen members, at the election of the board. Not later than January 1, 2014, each alcohol and drug addiction services board shall notify the department of mental health and addiction services of its election to operate as an eighteen-member board or to operate as a fourteen-member board. The election shall be final. Failure to provide notice of its election to the department on or before January 1, 2014, shall constitute an election to continue to operate as an eighteen-member board. If an existing board provides timely notice of its election to operate as a fourteen-member board, the number of board members may decline from eighteen to fourteen by attrition as current members' terms expire. However, the composition of the board must reflect the requirements set forth in this section and in applicable provisions of section 340.02 of the Revised Code for fourteen-member boards. For boards operating as eighteen-member boards, six members shall be appointed by the director of mental health and addiction services and twelve members shall be appointed by the board of county commissioners. The director of mental health and addiction services shall ensure that at least one member of the board is a person who has received or is receiving services for alcohol, drug, or gambling addiction paid for with public funds, at least one member is a parent or relative of such a person, and at least one member is

a clinician with experience in the delivery of addiction services. The membership of the board shall, as nearly as possible, reflect the composition of the population of the service district as to race and sex. Members shall be residents of the service district and shall be interested in alcohol , drug, or gambling addiction services. Requirements for membership, including prohibitions against certain family and business relationships, and terms of office shall be the same as those for members of boards of alcohol, drug addiction, and mental health services.

A community mental health board shall consist of eighteen members or fourteen members, at the election of the board. Not later than January 1, 2014, each community mental health board shall notify the department of mental health and addiction services of its election to operate as an eighteen-member board or to operate as a fourteen-member board. The election shall be final. Failure to provide notice of its election to the department on or before January 1, 2014, shall constitute an election to continue to operate as an eighteen-member board. If an existing board provides timely notice of its election to operate as a fourteen-member board, the number of board members may decline from eighteen to fourteen by attrition as current members' terms expire. However, the composition of the board must reflect the requirements set forth in this section and in applicable provisions of section 340.02 of the Revised Code for fourteen-member boards. For boards operating as eighteen-member boards, six members shall be appointed by the director of mental health and addiction services and twelve members shall be appointed by the board of county commissioners. The director of mental health and addiction services shall ensure that at least one member of the board is a person who has received or is receiving mental health services paid for with public funds, at least one member is a parent or relative of such a person, and at least one member is a clinician with experience in the delivery of mental health services. The membership of the board as nearly as possible shall reflect the composition of the population of the service district as to race and sex. Members shall be residents of the service district and shall be interested in mental health services. Requirements for membership, including prohibitions against certain family and business relationships, and terms of office shall be the same as those for members of boards of alcohol, drug addiction, and mental health services.

(B)

(1) If a board of county commissioners subject to division (A) of this section did not adopt a final resolution providing for a board of alcohol, drug addiction, and mental health services on or before July 1, 2007, the board of county commissioners may establish a board of alcohol, drug addiction, and mental health services on or after the effective date of this amendment. To establish the board, the board of county commissioners shall adopt a resolution providing for the board's establishment. The composition of the board, the procedures for appointing members, and all other matters related to the board and its members are subject to section 340.02 of the Revised Code, with the following exceptions:

(a) For initial appointments to the board, the county's community mental health board and alcohol and drug addiction services board shall jointly recommend members of those boards for reappointment and shall submit the recommendations to the board of county commissioners and the director of mental health and addiction services.

(b) To the greatest extent possible, the appointing authorities shall appoint the initial members from among the members jointly recommended under division (B)(1)(a) of this section.

(2) If a board of alcohol, drug addiction, and mental health services is established pursuant to division (B)(1) of this section, the board has the same rights, privileges, immunities, powers, and duties that were possessed by the county's community mental health board and alcohol and drug addiction services board. When the board is established, all property and obligations of the community mental health board and alcohol and drug

addiction services board shall be transferred to the board of alcohol, drug addiction, and mental health services.

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340.022 [Repealed].

Repealed by 130th General Assembly File No. 25, HB 59, §105.01, eff. 9/29/2013.

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340.03 Board of alcohol, drug addiction, and mental health services - powers and duties.

(A) Subject to rules issued by the director of mental health and addiction services after consultation with relevant constituencies as required by division (A)(10) of section 5119.21 of the Revised Code, the board of alcohol, drug addiction, and mental health services shall:

(1) Serve as the community addiction and mental health services planning agency for the county or counties under its jurisdiction, and in so doing it shall:

(a) Evaluate the need for facilities and community addiction and mental health services;

(b) In cooperation with other local and regional planning and funding bodies and with relevant ethnic organizations, assess the community addiction and mental health needs, evaluate strengths and challenges, and set priorities for community addiction and mental health services, including treatment and prevention. When the board sets priorities for the operation of addiction services, the board shall consult with the county commissioners of the counties in the board's service district regarding the services described in section 340.15 of the Revised Code and shall give priority to those services, except that those services shall not have a priority over services provided to pregnant women under programs developed in relation to the mandate established in section 5119.17 of the Revised Code;

(c) In accordance with guidelines issued by the director of mental health and addiction services after consultation with board representatives, annually develop and submit to the department of mental health and addiction services a community addiction and mental health services plan listing community addiction and mental health services needs, including the needs of all residents of the district currently receiving inpatient services in state-operated hospitals, the needs of other populations as required by state or federal law or programs, the needs of all children subject to a determination made pursuant to section 121.38 of the Revised Code , and priorities for facilities and community addiction and mental health services during the period for which the plan will be in effect.

In alcohol, drug addiction, and mental health service districts that have separate alcohol and drug addiction services and community mental health boards, the alcohol and drug addiction services board shall submit a community addiction services plan and the community mental health board shall submit a community mental health services plan. Each board shall consult with its counterpart in developing its plan and address the interaction between the local addiction services and mental health services systems and populations with regard to needs and priorities in developing its plan.

The department shall approve or disapprove the plan, in whole or in part, according to the criteria developed pursuant to section 5119.22 of the Revised Code. Eligibility for state and federal funding shall be contingent upon an approved plan or relevant part of a plan.

If a board determines that it is necessary to amend a plan that has been approved under this division , the board shall submit a proposed amendment to the director. The director may approve or disapprove all or part of the amendment. The director shall inform the board of the reasons for disapproval of all or part of an amendment and of the criteria that must be met before the amendment may be approved. The director shall provide the board an opportunity to present its case on behalf of the amendment. The director shall give the board a reasonable time in which to meet the criteria, and shall offer the board technical assistance to help it meet the criteria.

The board shall operate in accordance with the plan approved by the department.

(d) Promote, arrange, and implement working agreements with social agencies, both public and private, and with judicial agencies.

(2) Investigate, or request another agency to investigate, any complaint alleging abuse or neglect of any person receiving services from a community addiction or mental health services provider certified under section 5119.36 of the Revised Code or alleging abuse or neglect of a resident receiving addiction services or with mental illness or severe mental disability residing in a residential facility licensed under section 5119.34 of the Revised Code. If the investigation substantiates the charge of abuse or neglect, the board shall take whatever action it determines is necessary to correct the situation, including notification of the appropriate authorities. Upon request, the board shall provide information about such investigations to the department.

(3) For the purpose of section 5119.36 of the Revised Code, cooperate with the director of mental health and addiction services in visiting and evaluating whether the services of a community addiction or mental health services provider satisfy the certification standards established by rules adopted under that section;

(4) In accordance with criteria established under division (E) of section 5119.22 of the Revised Code, conduct program audits that review and evaluate the quality, effectiveness, and efficiency of services provided through its community addiction and mental health contracted services and submit its findings and recommendations to the department of mental health and addiction services;

(5) In accordance with section 5119.34 of the Revised Code, review an application for a residential facility license and provide to the department of mental health and addiction services any information about the applicant or facility that the board would like the department to consider in reviewing the application;

(6) Audit, in accordance with rules adopted by the auditor of state pursuant to section 117.20 of the Revised Code, at least annually all programs and services provided under contract with the board. In so doing, the board may contract for or employ the services of private auditors. A copy of the fiscal audit report shall be provided to the director of mental health and addiction services, the auditor of state, and the county auditor of each county in the board's district.

(7) Recruit and promote local financial support for addiction and mental health services from private and public sources;

(8)

(a) Enter into contracts with public and private facilities for the operation of facility services and enter into contracts with public and private community addiction and mental health service providers for the provision of community addiction and mental health services . The board may not contract with a residential facility subject to section 5119.34 of the Revised Code unless the facility is licensed by the director of mental health and addiction services and may not contract with a community addiction or mental health services provider to provide community addiction or mental health services unless the services are certified by the director of mental health and addiction services under section 5119.36 of the Revised Code. Section 307.86 of the Revised Code does not apply to contracts entered into under this division. In contracting with a community

addiction or mental health services provider, a board shall consider the cost effectiveness of services provided by that provider and the quality and continuity of care, and may review cost elements, including salary costs, of the services to be provided. A utilization review process may be established as part of the contract for services entered into between a board and a community addiction or mental health services provider. The board may establish this process in a way that is most effective and efficient in meeting local needs.

If either the board or a facility or community addiction or mental health services provider with which the board contracts under this division proposes not to renew the contract or proposes substantial changes in contract terms, the other party shall be given written notice at least one hundred twenty days before the expiration date of the contract. During the first sixty days of this one hundred twenty-day period, both parties shall attempt to resolve any dispute through good faith collaboration and negotiation in order to continue to provide services to persons in need. If the dispute has not been resolved sixty days before the expiration date of the contract, either party may notify the department of mental health and addiction services of the unresolved dispute. The director may require both parties to submit the dispute to a third party with the cost to be shared by the board and the facility or provider. The third party shall issue to the board, the facility or provider, and the department recommendations on how the dispute may be resolved twenty days prior to the expiration date of the contract, unless both parties agree to a time extension. The director shall adopt rules establishing the procedures of this dispute resolution process.

(b) With the prior approval of the director of mental health and addiction services, a board may operate a facility or provide a community addiction or mental health service as follows, if there is no other qualified private or public facility or community addiction or mental health services provider that is immediately available and willing to operate such a facility or provide the service:

(i) In an emergency situation, any board may operate a facility or provide a community addiction or mental health service in order to provide essential services for the duration of the emergency;

(ii) In a service district with a population of at least one hundred thousand but less than five hundred thousand, a board may operate a facility or provide a community addiction or mental health service for no longer than one year;

(iii) In a service district with a population of less than one hundred thousand, a board may operate a facility or provide a community addiction or mental health service for no longer than one year, except that such a board may operate a facility or provide a community addiction or mental health service for more than one year with the prior approval of the director and the prior approval of the board of county commissioners, or of a majority of the boards of county commissioners if the district is a joint-county district.

The director shall not give a board approval to operate a facility or provide a community addiction or mental health service under division (A)(8)(b)(ii) or (iii) of this section unless the director determines that it is not feasible to have the department operate the facility or provide the service.

The director shall not give a board approval to operate a facility or provide a community addiction or mental health service under division (A)(8)(b)(iii) of this section unless the director determines that the board will provide greater administrative efficiency and more or better services than would be available if the board contracted with a private or public facility or community addiction or mental health services provider.

The director shall not give a board approval to operate a facility previously operated by a person or other government entity unless the board has established to the director's satisfaction that the person or other government entity cannot effectively operate the facility or that the person or other government entity has requested the board to take over operation of the facility. The director shall not give a board approval to provide a community addiction or mental health service previously provided by a community addiction or mental health services provider unless the board has established to the director's satisfaction that the

provider cannot effectively provide the service or that the provider has requested the board take over providing the service.

The director shall review and evaluate a board's operation of a facility and provision of community addiction or mental health service under division (A)(8)(b) of this section.

Nothing in division (A)(8)(b) of this section authorizes a board to administer or direct the daily operation of any facility or community addiction or mental health services provider, but a facility or provider may contract with a board to receive administrative services or staff direction from the board under the direction of the governing body of the facility or provider.

(9) Approve fee schedules and related charges or adopt a unit cost schedule or other methods of payment for contract services provided by community addiction or mental health services providers in accordance with guidelines issued by the department as necessary to comply with state and federal laws pertaining to financial assistance;

(10) Submit to the director and the county commissioners of the county or counties served by the board, and make available to the public, an annual report of the services under the jurisdiction of the board, including a fiscal accounting;

(11) Establish, to the extent resources are available, a continuum of care, which provides for prevention, treatment, support, and rehabilitation services and opportunities. The essential elements of the continuum include, but are not limited to, the following components in accordance with section 5119.21 of the Revised Code:

(a) To locate persons in need of addiction or mental health services to inform them of available services and benefits;

(b) Assistance for persons receiving services to obtain services necessary to meet basic human needs for food, clothing, shelter, medical care, personal safety, and income;

(c) Addiction and mental health services, including, but not limited to, outpatient, residential, partial hospitalization, and, where appropriate, inpatient care;

(d) Emergency services and crisis intervention;

(e) Assistance for persons receiving services to obtain vocational services and opportunities for jobs;

(f) The provision of services designed to develop social, community, and personal living skills;

(g) Access to a wide range of housing and the provision of residential treatment and support;

(h) Support, assistance, consultation, and education for families, friends, persons receiving addiction or mental health services, and others;

(i) Recognition and encouragement of families, friends, neighborhood networks, especially networks that include racial and ethnic minorities, churches, community organizations, and community employment as natural supports for persons receiving addiction or mental health services;

(j) Grievance procedures and protection of the rights of persons receiving addiction or mental health services;

(k) Community psychiatric supportive treatment services, which includes continual individualized assistance and advocacy to ensure that needed services are offered and procured.

(12) Establish a method for evaluating referrals for involuntary commitment and affidavits filed pursuant to section 5122.11 of the Revised Code in order to assist the probate division of the court of common pleas in determining whether there is probable cause that a respondent is subject to involuntary hospitalization and what alternative treatment is available and appropriate, if any;

(13) Designate the treatment services, provider, facility, or other placement for each person involuntarily committed to the board pursuant to Chapter 5122. of the Revised Code . The board shall provide the least restrictive and most appropriate alternative that is available for any person involuntarily committed to it and shall assure that the listed services submitted and approved in accordance with division (B) of section 340.08 of the Revised Code are available to severely mentally disabled persons residing within its service district. The board shall establish the procedure for authorizing payment for services, which may include prior authorization in appropriate circumstances. The board may provide for services directly to a severely mentally disabled person when life or safety is endangered and when no community mental health services provider is available to provide the service.

(14) Ensure that apartments or rooms built, subsidized, renovated, rented, owned, or leased by the board or a community addiction or mental health services provider have been approved as meeting minimum fire safety standards and that persons residing in the rooms or apartments are receiving appropriate and necessary services, including culturally relevant services, from a community addiction or mental health services provider. This division does not apply to residential facilities licensed pursuant to section 5119.34 of the Revised Code.

(15) Establish a mechanism for obtaining advice and involvement of persons receiving publicly funded addiction or mental health services on matters pertaining to addiction and mental health services in the alcohol, drug addiction, and mental health service district;

(16) Perform the duties required by rules adopted under section 5119.22 of the Revised Code regarding referrals by the board or mental health services providers under contract with the board of individuals with mental illness or severe mental disability to residential facilities as defined in division (A)(9)(b)(iii) of section 5119.34 of the Revised Code and effective arrangements for ongoing mental health services for the individuals. The board is accountable in the manner specified in the rules for ensuring that the ongoing mental health services are effectively arranged for the individuals.

(B) The board shall establish such rules, operating procedures, standards, and bylaws, and perform such other duties as may be necessary or proper to carry out the purposes of this chapter.

(C) A board of alcohol, drug addiction, and mental health services may receive by gift, grant, devise, or bequest any moneys, lands, or property for the benefit of the purposes for which the board is established, and may hold and apply it according to the terms of the gift, grant, or bequest. All money received, including accrued interest, by gift, grant, or bequest shall be deposited in the treasury of the county, the treasurer of which is custodian of the alcohol, drug addiction, and mental health services funds to the credit of the board and shall be available for use by the board for purposes stated by the donor or grantor.

(D) No board member or employee of a board of alcohol, drug addiction, and mental health services shall be liable for injury or damages caused by any action or inaction taken within the scope of the board member's official duties or the employee's employment, whether or not such action or inaction is expressly authorized by this section or any other section of the Revised Code, unless such action or inaction constitutes willful or wanton misconduct. Chapter 2744. of the Revised Code applies to any action or inaction by a board member or employee of a board taken within the scope of the board member's official duties or employee's employment. For the purposes of this division, the conduct of a board member or employee shall not be

considered willful or wanton misconduct if the board member or employee acted in good faith and in a manner that the board member or employee reasonably believed was in or was not opposed to the best interests of the board and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful.

(E) The meetings held by any committee established by a board of alcohol, drug addiction, and mental health services shall be considered to be meetings of a public body subject to section 121.22 of the Revised Code.

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340.031 Inspecting mental health residential facilities - acquiring property.

A board of alcohol, drug addiction, and mental health services may:

(A) Inspect any residential facility licensed under section 5119.34 of the Revised Code and located in its district;

(B) Acquire, convey, lease, or enter into a contract to purchase, lease, or sell property for community addiction and mental health services and related purposes, and enter into loan agreements, including mortgages, for the acquisition of such property.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Effective Date: 10-10-1989

340.032 Executive director.

The board of alcohol, drug addiction, and mental health services shall employ a qualified mental health or addiction services professional with experience in administration or a professional administrator with experience in mental health or addiction services to serve as executive director of the board and shall prescribe the director's duties.

The board shall fix the compensation of the executive director. In addition to such compensation, the director shall be reimbursed for actual and necessary expenses incurred in the performance of the director's official duties. The board, by majority vote of the full membership, may remove the director for cause, upon written charges, after an opportunity has been afforded the director for a hearing before the board on request.

The board may delegate to its executive director the authority to act in its behalf in the performance of its administrative duties.

As used in this section, "mental health professional" and "addiction services professional" mean an individual who is qualified to work with mentally ill persons or persons receiving addiction services, pursuant to standards established by the director of mental health and addiction services under Chapter 5119. of the Revised Code.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Effective Date: 10-10-1989

340.033 [Repealed].

Repealed by 130th General Assembly File No. 25, HB 59, §105.01, eff. 9/29/2013.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 03-18-1999

340.04 Executive director of board - powers and duties.

In addition to such other duties as may be lawfully imposed, the executive director of a board of alcohol, drug addiction, and mental health services shall:

- (A) Serve as executive officer of the board and subject to the prior approval of the board for each contract, execute contracts on its behalf;
- (B) Supervise services and facilities provided, operated, contracted, or supported by the board to the extent of determining that services and facilities are being administered in conformity with this chapter and rules of the director of alcohol and drug addiction services mental health and addiction services;
- (C) Provide consultation to addiction and mental health services providers providing services supported by the board;
- (D) Recommend to the board the changes necessary to increase the effectiveness of addiction and mental health services and other matters necessary or desirable to carry out this chapter;
- (E) Employ and remove from office such employees and consultants in the classified civil service and, subject to the approval of the board, employ and remove from office such other employees and consultants as may be necessary for the work of the board, and fix their compensation and reimbursement within the limits set by the salary schedule and the budget approved by the board;
- (F) Encourage the development and expansion of preventive, treatment, rehabilitative, and consultative services in the field of addiction and mental health services with emphasis on continuity of care;
- (G) Prepare for board approval an annual report of the services and facilities under the jurisdiction of the board, including a fiscal accounting of all services;
- (H) Conduct such studies as may be necessary and practicable for the promotion of mental health, promotion of addiction services, and the prevention of mental illness, emotional disorders, and addiction ;
- (I) Authorize the county auditor, or in a joint-county district the county auditor designated as the auditor for the district, to issue warrants for the payment of board obligations approved by the board, provided that all payments from funds distributed to the board by the department of mental health and addiction services are in accordance with the budget submitted pursuant to section 340.08 of the Revised Code, as approved by the department of mental health and addiction services.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Effective Date: 10-10-1989

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Effective Date: 10-10-1989

340.05 Complaint alleging abuse or neglect of individual in a residential care facility.

A community addiction or mental health services provider that receives a complaint alleging abuse or neglect of an individual with mental illness or severe mental disability, or an individual receiving addiction services, who resides in a residential facility as defined in division (A)(9)(b) of section 5119.34 of the Revised Code shall report the complaint to the board of alcohol, drug addiction, and mental health services serving the alcohol, drug addiction, and mental health service district in which the residential facility is located. A board of alcohol, drug addiction, and mental health services that receives such a complaint or a report from a community addiction or mental health services provider of such a complaint shall report the complaint to the director of mental health and addiction services for the purpose of the director conducting an investigation under section 5119.34 of the Revised Code. The board may enter the facility with or without the director and, if the health and safety of a resident is in immediate danger, take any necessary action to protect the resident. The board's action shall not violate any resident's rights specified in rules adopted by the department of mental health and addiction services under section 5119.34 of the Revised Code. The board shall immediately report to the director regarding the board's actions under this section.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Amended by 129th General Assembly File No. 127, HB 487, §101.01, eff. 9/10/2012.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 7/1/2011.

Effective Date: 2001 HB283 09-05-2001

340.06 [Repealed].

Repealed by 130th General Assembly File No. 25, HB 59, §105.01, eff. 9/29/2013.

Effective Date: 10-10-1989

340.07 Appropriating money in accordance with comprehensive community addiction and mental health services budget.

The board of county commissioners of any county participating in an alcohol, drug addiction, and mental health service district or joint-county district, upon receipt from the board of alcohol, drug addition, and mental health services of a resolution so requesting, may appropriate money to such board for the operation, lease, acquisition, construction, renovation, and maintenance of addiction or mental health services providers and facilities in accordance with the comprehensive community addiction and mental health services budget approved by the department of mental health and addiction services pursuant to section 340.08 of the Revised Code.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Effective Date: 10-10-1989

340.08 [Repealed].

Repealed by 129th General Assembly File No.28, HB 153, §105.01, eff. 7/1/2011.

340.08 Duties of board of alcohol, drug addiction, and mental health services.

In accordance with rules or guidelines issued by the director of mental health and addiction services, each board of alcohol, drug addiction, and mental health services shall do all of the following:

(A) Submit to the department a report of receipts and expenditures for all federal, state, and local moneys the board expects to receive;

(1) The report shall identify funds the board and public children services agencies in the board's service district have available to fund jointly the services described in section 340.15 of the Revised Code.

(2) The board's proposed budget for expenditures of state and federal funds distributed to the board by the department shall be deemed an application for funds, and the department shall approve or disapprove the budget for these expenditures. The department shall inform the board of the reasons for disapproval of the budget for the expenditure of state and federal funds and of the criteria that must be met before the budget may be approved. The director shall provide the board an opportunity to present its case on behalf of the submitted budget. The director shall give the board a reasonable time in which to meet the criteria and shall offer the board technical assistance to help it meet the criteria.

If a board determines that it is necessary to amend a budget that has been approved under this section, the board shall submit a proposed amendment to the director. The director may approve or disapprove all or part of the amendment. The director shall inform the board of the reasons for disapproval of all or part of the amendment and of the criteria that must be met before the amendment may be approved. The director shall provide the board an opportunity to present its case on behalf of the amendment. The director shall give the board a reasonable time in which to meet the criteria and shall offer the board technical assistance to help it meet the criteria.

(3) The director of mental health and addiction services, in whole or in part, may withhold funds otherwise to be allocated to a board of alcohol, drug addiction, and mental health services under Chapter 5119. of the Revised Code if the board's use of state and federal funds fails to comply with the approved budget, as it may be amended with the approval of the department.

(B) Submit to the department a statement identifying the services described in section 340.09 of the Revised Code the board intends to make available. The board shall include crisis intervention services for individuals in emergency situations and services required pursuant to section 340.15 of the Revised Code, and the board shall explain the manner in which the board intends to make such services available. The list of services shall be compatible with the budget submitted pursuant to division (A) of this section. The department shall approve or disapprove the proposed listing of services to be made available. The department shall inform the board of the reasons for disapproval of the listing of proposed services and of the criteria that must be met before listing of proposed services may be approved. The director shall provide the board an opportunity to present its case on behalf of the submitted listing of proposed services. The director shall give the board a reasonable time in which to meet the criteria and shall offer the board technical assistance to help it meet the criteria.

(C) Enter into a continuity of care agreement with the state institution operated by the department of mental health and addiction services and designated as the institution serving the district encompassing the board's service district. The continuity of care agreement shall outline the department's and the board's

responsibilities to plan for and coordinate with each other to address the needs of board residents who are patients in the institution, with an emphasis on managing appropriate hospital bed day use and discharge planning. The continuity of care agreement shall not require the board to provide services other than those on the list of services submitted by the board and approved by the department pursuant to division (B) of this section.

(D) In conjunction with the department of mental health and addiction services, operate a coordinated system for tracking and monitoring persons found not guilty by reason of insanity and committed pursuant to section 2945.40 of the Revised Code who have been granted a conditional release and persons found incompetent to stand trial and committed pursuant to section 2945.39 of the Revised Code who have been granted a conditional release. The system shall do all of the following:

(1) Centralize responsibility for the tracking of those persons;

(2) Provide for uniformity in monitoring those persons;

(3) Provide a mechanism to allow prompt rehospitalization, reinstitutionalization, or detention when a violation of the conditional release or decompensation occurs.

(E) Submit to the department a report summarizing complaints and grievances received by the board concerning the rights of persons seeking or receiving services, investigations of complaints and grievances, and outcomes of the investigations.

(F) Provide to the department information to be submitted to the community addiction and mental health information system or systems established by the department under Chapter 5119. of the Revised Code.

(G) Annually, and upon any change in membership, submit to the department a list of all current members of the board of alcohol, drug addiction, and mental health services, including the appointing authority for each member, and the member's specific qualification for appointment pursuant to section 340.02 or 340.021 of the Revised Code, if applicable.

(H) Submit to the department other information as is reasonably required for purposes of the department's operations, service evaluation, reporting activities, research, system administration, and oversight.

Added by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Repealed by 129th General Assembly File No.28, HB 153, §105.01, eff. 7/1/2011.

340.09 State reimbursement for services.

(A) The department of mental health and addiction services shall provide assistance to any county for the operation of boards of alcohol, drug addiction, and mental health services , the provision of services approved by the department within the continuum of care, the provision of approved support functions, and the partnership in, or support for, approved continuum of care-related activities from funds appropriated for that purpose by the general assembly .

(B) Categories in the continuum of care may include the following:

(1) Inpatient;

(2) Residential;

- (3) Outpatient treatment;
 - (4) Intensive and other supports;
 - (5) Recovery support;
 - (6) Prevention and wellness management.
- (C) Support functions may include the following:
- (1) Consultation;
 - (2) Research;
 - (3) Administrative;
 - (4) Referral and information;
 - (5) Training;
 - (6) Service and program evaluation .

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Effective Date: 04-10-1990; 2006 HB699 03-29-2007

340.091 Contract with community mental health services provider for residential state supplement payment recipients.

Each board of alcohol, drug addiction, and mental health services shall contract with a community mental health services provider under division (A) (8)(a) of section 340.03 of the Revised Code for the provider to do all of the following in accordance with rules adopted under section 5119.22 of the Revised Code for an individual referred to the provider under division (D)(2) of section 5119.41 of the Revised Code:

- (A) Assess the individual and, if the provider determines that the environment in which the individual will be living while receiving residential state supplement payments is appropriate for the individual's needs, issue a recommendation to the referring residential state supplement administrative agency that the referring agency should conclude that the living environment is appropriate when it makes its determination regarding the appropriateness of the environment;
- (B) Provide ongoing monitoring to ensure that listed services submitted and approved under division (B) of section 340.08 of the Revised Code are available to the individual;
- (C) Provide discharge planning to ensure the individual's earliest possible transition to a less restrictive environment.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Amended by 129th General Assembly File No.127, HB 487, §101.01, eff. 6/11/2012.

Amended by 129th General Assembly File No.28, HB 153, §101.01, eff. 7/1/2011.

Effective Date: 2001 HB283 09-05-2001

340.10 County auditor is auditor and fiscal officer of alcohol, drug addiction, and mental health service district or joint-county district.

The county auditor or, in a joint-county alcohol, drug addiction, and mental health service district, the auditor of the county, the treasurer of which has been designated in the agreement between the counties of the district as custodian of the community addiction and mental health services funds , is hereby designated as the auditor and fiscal officer of an alcohol, drug addiction, and mental health service district or joint-county district. State funds allocated for the support of a service district shall be paid to the county treasurer or, in a joint-county district, to the treasurer of that county designated in the agreement as custodian of the community addiction and mental health services funds and authorized to make payments from such funds on order of the county auditor and on recommendation of the board of alcohol, drug addiction, and mental health services, or the executive director of the board when authorized by the board. The auditor shall submit to the board a detailed monthly statement of all receipts, disbursements, and ending balances for the community addiction and mental health services funds.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Effective Date: 10-10-1989

340.11 Liability insurance.

A board of alcohol, drug addiction, and mental health services may procure a policy or policies of insurance insuring board members or employees of the board or providers with which the board contracts against liability arising from the performance of their official duties. If the liability insurance is unavailable or the amount a board has procured or is able to procure is insufficient to cover the amount of a claim, the board may indemnify a board member or employee as follows:

(A) For any action or inaction in the capacity of board member or employee or at the request of the board, whether or not the action or inaction is expressly authorized by this or any other section of the Revised Code, if both of the following apply:

(1) The board member or employee acted in good faith and in a manner that the board member or employee reasonably believed was in or was not opposed to the best interests of the board;

(2) With respect to any criminal action or proceeding, the board member or employee had no reason to believe the board member's or employee's conduct was unlawful.

(B) Against any expenses, including attorneys' fees, the board member or employee actually and reasonably incurs as a result of a suit or other proceeding involving the defense of any action or inaction in the capacity of board member or employee or at the request of the board, or in defense of any claim, issue, or matter raised in connection with the defense of such an action or inaction, to the extent that the board member or employee is successful on the merits or otherwise.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Amended by 129th General Assembly File No.28, HB 153, §101.01, eff. 7/1/2011.

Effective Date: 10-10-1989

340.12 Discrimination prohibited - affirmative action program.

No board of alcohol, drug addiction, and mental health services or any addiction or mental health services provider under contract with such a board shall discriminate in the provision of services under its authority, in employment, or contract on the basis of race, color, creed, sex, national origin, or disability.

Each board and each community addiction or mental health services provider shall have a written affirmative action program. The affirmative action program shall include goals for the employment and effective utilization of, including contracts with, members of economically disadvantaged groups as defined in division (E)(1) of section 122.71 of the Revised Code in percentages reflecting as nearly as possible the composition of the alcohol, drug addiction, and mental health service district served by the board. Each board and provider shall file a description of the affirmative action program and a progress report on its implementation with the department of mental health and addiction services.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Effective Date: 10-10-1989; 2006 HB699 03-29-2007

340.13 Setting aside contracts for bidding by minority business enterprises only.

(A) As used in this section :

(1) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code.

(2) "EDGE business enterprise" has the same meaning as in section 123.152 of the Revised Code.

(B) Any minority business enterprise that desires to bid on a contract under division (C) of this section shall first apply to the equal employment opportunity coordinator in the department of administrative services for certification as a minority business enterprise. Any EDGE business enterprise that desires to bid on a contract under division (D) of this section shall first apply to the equal employment opportunity coordinator of the department of administrative services for certification as an EDGE business enterprise. The coordinator shall approve the application of any minority business enterprise or EDGE business enterprise that complies with the rules adopted under section 122.71 or 123.152 of the Revised Code, respectively. The coordinator shall prepare and maintain a list of minority business enterprises and EDGE business enterprises certified under those sections.

(C) From the contracts to be awarded for the purchases of equipment, materials, supplies, or services, other than contracts entered into under section 340.03 of the Revised Code, each board of alcohol, drug addiction, and mental health services shall select a number of contracts with an aggregate value of approximately fifteen per cent of the total estimated value of contracts to be awarded in the current fiscal year. The board shall set aside the contracts so selected for bidding by minority business enterprises only. The bidding procedures for such contracts shall be the same as for all other contracts awarded under section 307.86 of the Revised Code, except that only minority business enterprises certified and listed pursuant to division (B) of this section shall be qualified to submit bids.

(D) To the extent that a board is authorized to enter into contracts for construction, the board shall strive to attain a yearly contract dollar procurement goal the aggregate value of which equals approximately five per cent of the aggregate value of construction contracts for the current fiscal year for EDGE business enterprises only.

(E)

(1) In the case of contracts set aside under division (C) of this section, if no bid is submitted by a minority business enterprise, the contract shall be awarded according to normal bidding procedures. The board shall

from time to time set aside such additional contracts as are necessary to replace those contracts previously set aside on which no minority business enterprise bid.

(2) If a board, after having made a good faith effort, is unable to comply with the goal of procurement for contracting with EDGE business enterprises pursuant to division (D) of this section, the board may apply in writing, on a form prescribed by the department of administrative services, to the director of mental health and addiction services for a waiver or modification of the goal.

(F) This section does not preclude any minority business enterprise or EDGE business enterprise from bidding on any other contract not specifically set aside for minority business enterprises or subject to procurement goals for EDGE business enterprises.

(G) Within ninety days after the beginning of each fiscal year, each board shall file a report with the department of mental health and addiction services that shows for that fiscal year the name of each minority business enterprise and EDGE business enterprise with which the board entered into a contract, the value and type of each such contract, the total value of contracts awarded under divisions (C) and (D) of this section, the total value of contracts awarded for the purchases of equipment, materials, supplies, or services, other than contracts entered into under section 340.03 of the Revised Code, and the total value of contracts entered into for construction.

(H) Any person who intentionally misrepresents self as owning, controlling, operating, or participating in a minority business enterprise or an EDGE business enterprise for the purpose of obtaining contracts or any other benefits under this section shall be guilty of theft by deception as provided for in section 2913.02 of the Revised Code.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Effective Date: 10-10-1989

340.14 [Repealed].

Repealed by 130th General Assembly File No. 25, HB 59, §105.01, eff. 9/29/2013.

Effective Date: 10-10-1989

340.15 Referral of parent, guardian, or custodian of child at imminent risk of being abused or neglected.

(A) A public children services agency that identifies a child by a risk assessment conducted pursuant to section 5153.16 of the Revised Code as being at imminent risk of being abused or neglected because of an addiction of a parent, guardian, or custodian of the child to a drug of abuse or alcohol shall refer the child's addicted parent, guardian, or custodian and, if the agency determines that the child needs alcohol or other drug addiction services, the child to a community addiction services provider certified by the department of mental health and addiction services under section 5119.36 of the Revised Code. A public children services agency that is sent a court order issued pursuant to division (B) of section 2151.3514 of the Revised Code shall refer the addicted parent or other caregiver of the child identified in the court order to a community addiction services provider certified by the department of mental health and addiction services under section 5119.36 of the Revised Code. On receipt of a referral under this division and to the extent funding identified under division (A)(1) of section 340.08 of the Revised Code is available, the provider shall provide the following services to the addicted parent, guardian, custodian, or caregiver and child in need of addiction services:

- (1) If it is determined pursuant to an initial screening to be needed, assessment and appropriate treatment;
- (2) Documentation of progress in accordance with a treatment plan developed for the addicted parent, guardian, custodian, caregiver, or child;
- (3) If the referral is based on a court order issued pursuant to division (B) of section 2151.3514 of the Revised Code and the order requires the specified parent or other caregiver of the child to submit to alcohol or other drug testing during, after, or both during and after, treatment, testing in accordance with the court order.
- (B) The services described in division (A) of this section shall have a priority as provided in the addiction and mental health services plan and budget established pursuant to sections 340.03 and 340.08 of the Revised Code. Once a referral has been received pursuant to this section, the public children services agency and the addiction services provider shall, in accordance with 42 C.F.R. Part 2, share with each other any information concerning the persons and services described in that division that the agency and provider determine are necessary to share. If the referral is based on a court order issued pursuant to division (B) of section 2151.3514 of the Revised Code, the results and recommendations of the addiction services provider also shall be provided and used as described in division (D) of that section. Information obtained or maintained by the agency or provider pursuant to this section that could enable the identification of any person described in division (A) of this section is not a public record subject to inspection or copying under section 149.43 of the Revised Code.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Effective Date: 03-18-1999

340.16 Rules for children referred by public children services agency to board.

The department of mental health and addiction services and the department of medicaid shall adopt rules that establish requirements and procedures for prior notification and service coordination between public children services agencies and boards of alcohol, drug addiction, and mental health services when a public children services agency refers a child in its custody to a board for services funded by the board. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Effective Date: 09-05-2001; 10-01-2005