

As Introduced

136th General Assembly

Regular Session

2025-2026

H. B. No. 58

Representatives Pizzulli, Jarrells

A BILL

To amend section 5119.393 and to enact sections 1
5119.398, 5119.399, 5119.3910, 5119.3911, 2
5119.3912, 5119.3913, 5119.3914, and 5119.3915 3
of the Revised Code to create a certificate of 4
need program for recovery housing residences. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 5119.393 be amended and sections 6
5119.398, 5119.399, 5119.3910, 5119.3911, 5119.3912, 5119.3913, 7
5119.3914, and 5119.3915 of the Revised Code be enacted to read 8
as follows: 9

Sec. 5119.393. (A) The Each recovery housing residence 10
shall be inspected annually by the board of alcohol, drug 11
addiction, and mental health services with jurisdiction over the 12
area where the residence is located. As soon as practicable, but 13
not later than ten days after completing an inspection, the 14
board shall report its findings to the department of mental 15
health and addiction services. 16

(B) The department shall establish a procedure to receive 17
~~and investigate~~ complaints from residents, staff, and the public 18
regarding recovery housing residences. The department may 19

contract with one or more of the organizations specified in 20
section 5119.39 of the Revised Code to fulfill some or all of 21
the functions associated with receiving ~~and investigating~~ 22
complaints. 23

~~(B) Any organization under contract with the department to 24
receive and investigate complaints shall make reports to the 25
department as follows: 26~~

~~(1) A complaint shall be investigated by the board of 27
alcohol, drug addiction, and mental health services with 28
jurisdiction over the area where the residence that is the 29
subject of the complaint is located. Not less than monthly, the 30
contractor board shall report the status of each pending 31
investigation and shall report the outcome of each investigation 32
that has been completed since the last report was made; 33~~

~~(2) As soon as practicable, but not later than ten days 34
after making an adverse decision, if a contractor's . 35~~

(C) For purposes of conducting the inspections and 36
investigations required by divisions (A) and (B) of this 37
section, a board may contract with individuals to serve as 38
inspectors and investigators. 39

(D) If an organization's accreditation or its equivalent 40
is accepted by the department for purposes of section 5119.39 of 41
the Revised Code, and the organization makes an adverse decision 42
based on the outcome of an inspection or investigation conducted 43
under division (A) or (B) of this section, the contractor- 44
organization shall report that decision to the department in a 45
manner prescribed by the department. The organization shall make 46
the report as soon as practicable, but not later than ten days, 47
after making an adverse decision. 48

<u>Sec. 5119.398. As used in sections 5119.398 to 5119.3915</u>	49
<u>of the Revised Code:</u>	50
<u>(A) "Applicant" means any person that submits an</u>	51
<u>application for a certificate of need and who is designated in</u>	52
<u>the application as the applicant.</u>	53
<u>(B) "Certificate of need" means a written approval granted</u>	54
<u>by the director of mental health and addiction services to an</u>	55
<u>applicant to authorize conducting a reviewable activity.</u>	56
<u>(C) "Service area" means the current and projected primary</u>	57
<u>and secondary service areas to which a recovery housing</u>	58
<u>residence is or will be providing recovery housing.</u>	59
<u>(D) "Primary service area" means the geographic region,</u>	60
<u>usually comprised of the Ohio zip code in which a recovery</u>	61
<u>housing residence is located and contiguous zip codes, from</u>	62
<u>which approximately seventy-five to eighty per cent of the</u>	63
<u>residence's residents originate or are expected to originate.</u>	64
<u>(E) "Secondary service area" means the geographic region,</u>	65
<u>usually comprised of Ohio zip codes not included in the primary</u>	66
<u>service area, excluding isolated exceptions, from which a</u>	67
<u>recovery housing residence's remaining residents currently</u>	68
<u>originate or are expected to originate.</u>	69
<u>(F) "Existing building that is operated as a recovery</u>	70
<u>housing residence" means a recovery housing residence that is</u>	71
<u>certified or otherwise authorized to operate in this state in</u>	72
<u>accordance with this chapter and meets either of the following:</u>	73
<u>(1) Is actively housing individuals;</u>	74
<u>(2) Has housed individuals for at least three hundred</u>	75
<u>sixty-five consecutive days within the twenty-four months</u>	76

immediately preceding the date a certificate of need application 77
is filed with the director. 78

(G) "Reviewable activity" means any of the activities 79
identified under section 5119.399 of the Revised Code as being 80
reviewable for purposes of the certificate of need program for 81
recovery housing residences. 82

(H) "Reviewability ruling" means a ruling issued by the 83
director as to whether a particular proposed project is or is 84
not a reviewable activity. 85

Sec. 5119.399. (A) The following activities are reviewable 86
under sections 5119.398 to 5119.3914 of the Revised Code: 87

(1) Establishment, development, or construction of a new 88
building that will be operated as a recovery housing residence; 89

(2) Replacement of an existing building that is operated 90
as a recovery housing residence or purchase or any other form of 91
acquisition of an existing building that will be operated as a 92
recovery housing residence; 93

(3) Renovation of or addition to an existing building that 94
is operated as a recovery housing residence that involves a 95
capital expenditure of five hundred thousand dollars or more, 96
not including expenditures for equipment, staffing, or 97
operational costs; 98

(4) An increase in bed capacity at a recovery housing 99
residence; 100

(5) Relocation of recovery housing residence beds from one 101
physical building or site to another, excluding relocation of 102
beds within a building or among buildings located on the same 103
site; 104

(6) Any failure to conduct a reviewable activity in 105
substantial accordance with the approved application for which a 106
certificate of need was granted, including a change in the site, 107
if the failure occurs within five years after implementation of 108
the reviewable activity for which the certificate was granted. 109

(B) The following are not subject to review under sections 110
5119.398 to 5119.3914 of the Revised Code: 111

(1) Acquisition of computer hardware or software; 112

(2) Acquisition of a telephone system; 113

(3) Construction or acquisition of parking facilities; 114

(4) Correction of cited deficiencies that are in violation 115
of federal, state, or local fire, building, or safety statutes, 116
ordinances, rules, or regulations; 117

(5) Continued operation on and after the effective date of 118
this section of a recovery housing residence that was 119
established and in operation prior to the effective date of this 120
section, as long as the continued operation does not involve any 121
of the activities described in division (A) of this section; 122

(6) Acquisition of an existing building that is operated 123
as a recovery housing residence that does not involve a change 124
in the number of beds; 125

(7) Mergers, consolidations, or other corporate 126
reorganizations of recovery housing residences that do not 127
involve a change in the number of beds; 128

(8) Construction, repair, or renovation of bathroom 129
facilities; 130

(9) Construction of laundry facilities, waste disposal 131

facilities, dietary department projects, heating and air 132
conditioning projects, and administrative offices; 133

(10) Removal of asbestos from a building. 134

Sec. 5119.3910. (A) The director of mental health and 135
addiction services shall administer a certificate of need 136
program for recovery housing residences in accordance with this 137
section, rules adopted pursuant to section 5119.3913 of the 138
Revised Code, and all of the following: 139

(1) The director shall issue rulings on whether a 140
particular proposed project is a reviewable activity. 141

(2) The director shall review applications for 142
certificates of need. 143

(3) If the project proposed in a certificate of need 144
application meets all of the applicable certificate of need 145
criteria for approval under rules adopted pursuant to section 146
5119.3913 of the Revised Code, the director shall grant a 147
certificate of need for all or part of the project that is the 148
subject of the application. The director may grant the 149
certificate with conditions that the holder of the certificate 150
is required to meet. 151

(4) During the period beginning with the granting of a 152
certificate of need and ending five years after implementation 153
of the reviewable activity for which the certificate was 154
granted, the director shall monitor the activities of the person 155
granted the certificate to determine whether the reviewable 156
activity is conducted in substantial accordance with the 157
certificate. 158

(B) The director's grant of a certificate of need does not 159
affect, and sets no precedent for, the director's decision to 160

grant or deny other applications for similar reviewable 161
activities. 162

Sec. 5119.3911. Each application for a certificate of need 163
shall be submitted to the director of mental health and 164
addiction services on forms and in the manner prescribed by the 165
director. The application shall include the information required 166
by rules adopted pursuant to section 5119.3913 of the Revised 167
Code. 168

An application also shall be accompanied by an application 169
fee, which is nonrefundable unless the director determines that 170
the application cannot be accepted. The amount of the fee shall 171
be established according to whichever of the following applies 172
in the case of the proposed project that is being reviewed under 173
the application: 174

(A) If the proposed project is based on a specific number 175
of resident beds, the fee is an amount that equals two hundred 176
fifty dollars for each bed. 177

(B) If the proposed project is not based on a specific 178
number of resident beds, the fee is an amount that the director 179
specifies according to rules adopted pursuant to section 180
5119.3913 of the Revised Code. 181

Sec. 5119.3912. (A) No person shall carry out a reviewable 182
activity unless a certificate of need for the activity has been 183
granted under section 5119.3910 of the Revised Code. No person 184
shall carry out any reviewable activity if a certificate of need 185
authorizing that activity has been withdrawn, is expired, or is 186
void under rules adopted pursuant to section 5119.3913 of the 187
Revised Code. 188

No person shall separate portions of any proposal for any 189

reviewable activity to evade the requirements of sections 190
5119.398 to 5119.3914 of the Revised Code. 191

No person granted a certificate of need shall carry out 192
the reviewable activity authorized by the certificate of need 193
other than in substantial accordance with the approved 194
application for the certificate of need. 195

(B) The director of mental health and addiction services 196
shall evaluate and may investigate evidence that appears to 197
demonstrate that any person has violated division (A) of this 198
section. If the director elects to conduct an investigation, the 199
director shall mail to the alleged violator by certified mail, 200
return receipt requested, a notice that an investigation is 201
underway. 202

The director or the director's designee may conduct a site 203
visit to investigate an alleged violation of division (A) of 204
this section. 205

Each investigation under this section shall be conducted 206
in a manner that protects resident confidentiality. Names or 207
other identifying information about any resident shall not be 208
made public without the written consent of the resident or the 209
resident's guardian, or, if the resident is a minor, the 210
resident's parent or guardian. 211

(C) In accordance with rules adopted under section 212
5119.3913 of the Revised Code, the director shall impose a civil 213
penalty on a person if the director determines that the person 214
has violated division (A) of this section. 215

Sec. 5119.3913. (A) The director of mental health and 216
addiction services shall adopt rules establishing procedures and 217
criteria for reviews of applications for certificates of need 218

and issuance, denial, or withdrawal of certificates of need. 219

(1) The criteria for reviews of applications for 220
certificates of need shall relate to the need for the reviewable 221
activity and shall pertain to all of the following: 222

(a) The impact of the reviewable activity on the cost and 223
quality of recovery housing in the relevant service area, 224
including the historical and projected utilization of the 225
services to which the application pertains and the effect of the 226
reviewable activity on utilization of other providers of similar 227
services; 228

(b) The quality of the services to be provided as a result 229
of the activity, as evidenced by the historical performance of 230
the persons that will be involved in providing the services and 231
by the provisions that are proposed in the application to ensure 232
quality, including adequate available personnel, available 233
ancillary and support services, available equipment, size and 234
configuration of physical space, and relations with other 235
providers; 236

(c) The impact of the reviewable activity on the 237
availability and accessibility of the type of services proposed 238
in the application to the population of the relevant service 239
area, and the level of access to the services proposed in the 240
application that will be provided to underserved individuals 241
such as recipients of public assistance; 242

(d) The activity's short-term and long-term financial 243
feasibility and cost-effectiveness, the impact of the activity 244
on the applicant's costs and charges, and a comparison of the 245
applicant's costs and charges with those of providers of similar 246
services in the applicant's proposed service area; 247

<u>(e) The advantages, disadvantages, and costs of</u>	248
<u>alternatives to the reviewable activity;</u>	249
<u>(f) The impact of the activity on all other providers of</u>	250
<u>similar services in the relevant service area, including the</u>	251
<u>impact on their utilization, market share, and financial status;</u>	252
<u>(g) The historical performance of the applicant and</u>	253
<u>related or affiliated parties in complying with previously</u>	254
<u>granted certificates of need and any applicable certification,</u>	255
<u>accreditation, or licensure requirements;</u>	256
<u>(h) The historical performance of the applicant and</u>	257
<u>related or affiliated parties in providing cost-effective</u>	258
<u>recovery housing;</u>	259
<u>(i) The special needs and circumstances of the applicant</u>	260
<u>or population proposed to be served by the proposed project,</u>	261
<u>including research activities, prevalence of conditions</u>	262
<u>necessitating recovery housing, unusual demographic</u>	263
<u>characteristics, cost-effective contractual affiliations, and</u>	264
<u>other special circumstances;</u>	265
<u>(j) The appropriateness of the zoning status of the</u>	266
<u>proposed site of the activity.</u>	267
<u>(2) The criteria for reviews of applications shall include</u>	268
<u>a formula for determining each county's need for recovery</u>	269
<u>housing residences and may include other formulas for</u>	270
<u>determining that need.</u>	271
<u>(B) The director shall adopt rules regarding all of the</u>	272
<u>following, in addition to the rules required by division (A) of</u>	273
<u>this section:</u>	274
<u>(1) A timeframe for issuing a ruling in response to a</u>	275

<u>request for a determination on whether a particular project is a</u>	276
<u>reviewable activity;</u>	277
<u>(2) A timeframe for granting or denying certificate of</u>	278
<u>need applications;</u>	279
<u>(3) Application fees that apply in the case of proposed</u>	280
<u>projects that are not based on a specific number of resident</u>	281
<u>beds;</u>	282
<u>(4) Information required to be submitted as part of a</u>	283
<u>certificate of need application;</u>	284
<u>(5) A process for revising a pending certificate of need</u>	285
<u>application, including permissible revisions and timeframe for</u>	286
<u>submitting them;</u>	287
<u>(6) A timeframe for commencing a project after a</u>	288
<u>certificate of need is approved and any requirements to</u>	289
<u>demonstrate reasonable progress;</u>	290
<u>(7) When a certificate of need can be withdrawn, expires,</u>	291
<u>or becomes void;</u>	292
<u>(8) The amount of any civil penalties to be imposed on</u>	293
<u>persons violating section 5119.3912 of the Revised Code;</u>	294
<u>(9) Timeframes and requirements for notices of appeal;</u>	295
<u>(10) Any other rules the director considers necessary to</u>	296
<u>carry out the purposes of sections 5119.398 to 5119.3914 of the</u>	297
<u>Revised Code.</u>	298
<u>(C) Rules adopted under this section shall be adopted in</u>	299
<u>accordance with Chapter 119. of the Revised Code.</u>	300
<u>Sec. 5119.3914. (A) All of the following may appeal to the</u>	301
<u>director of mental health and addiction services:</u>	302

(1) An applicant for a certificate of need regarding a 303
decision issued by the director to grant or deny a certificate 304
of need application; 305

(2) A person that requested a reviewability ruling 306
regarding a resulting ruling issued by the director; 307

(3) The holder of a certificate of need regarding a 308
decision issued by the director to withdraw a certificate of 309
need or to declare a certificate of need void; 310

(4) Any person determined by the director to have violated 311
section 5119.3912 of the Revised Code regarding that 312
determination or the penalties imposed. 313

(B) The appeal by the applicant or person shall be made in 314
accordance with Chapter 119. of the Revised Code, and the 315
director shall provide an adjudication hearing in accordance 316
with that chapter. The applicant or person that was a party to 317
and participated in an adjudication hearing conducted under this 318
division may appeal to the tenth district court of appeals the 319
decision issued by the director following the adjudication 320
hearing. 321

Sec. 5119.3915. The recovery housing residence fund is 322
created in the state treasury. The fund shall consist of 323
certificate of need application fees paid under section 324
5119.3911 of the Revised Code and penalties paid under section 325
5119.3912 of the Revised Code. The fund shall be used by boards 326
of alcohol, drug addiction, and mental health services to assist 327
with the costs incurred in conducting the inspections and 328
complaint investigations required by section 5119.393 of the 329
Revised Code. 330

Section 2. That existing section 5119.393 of the Revised 331

Code is hereby repealed.

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