



Ohio House Behavioral Health and Recovery Supports Committee

Proponent Testimony on Sub. HB 523

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Chairwoman Carruthers, Vice-Chair Pavliga, and members of the House Behavioral Health and Recovery Supports Committee thank you for this opportunity to submit testimony in support of Sub HB 523. My name is Cheri Walter, and I am the CEO of the Ohio Association of County Behavioral Health Authorities. We represent Ohio's Alcohol, Drug Addiction, and Mental Health Boards.

I want to start by expressing our gratitude to Representative Swearingen, the bill sponsor. As this bill was introduced, we had a number of questions and concerns. Representative Swearingen was willing to work with us on this measure and we appreciate all of the effort that he has put into the substitute version of the bill. With the changes before you today, the members of Ohio Association of County Behavioral Health Authorities voted to support the entirety of the bill. Our membership sees many positive and necessary changes to Ohio Revised Code 340, the authorizing statute for ADAMH Boards, in this bill. I am going to take a few minutes to walk through the purpose and process of boards identifying the need for these changes. You will hear from others today about why these changes are so important as we collectively work to ensure that Ohioans are able to access effective, efficient, and recovery-oriented mental health and substance use disorder treatment and supports in their communities.

One of Ohio's greatest strengths is the philosophy that we are a home rule state. Local citizens know best what their local communities need. In regard to mental health and substance use disorder services and recovery supports, local Alcohol, Drug Addiction, and Mental Health Boards are statutorily empowered to plan, develop, fund, administer and evaluate the local system of mental health and addiction services and supports. In order to do this in the best way possible, it is time to make some changes to the ADAMH Boards statutory operating authority, ORC 340.

Local ADAMHS Boards do not provide direct services, we plan for, develop, fund, administer, and contract for these services. In order to adequately assess, plan, and contract for the local needs of the local citizens, we need to be able to have access to real-time data on behavioral health services, including Medicaid. We need to know what services are occurring, where we are seeing increased demand, where there are gaps, and what the evolving needs are in local communities. We also need to have the ability to contract for services in a way that is flexible, accountable, and provides for an agreed upon due process for early termination of a contract.

Boards are uniquely positioned to rapidly identify changing community needs, respond to crisis situations, and serve as a catalyst for change, but to do so we need Chapter 340 updated to reflect today's realities in regard to data and contracting, and we believe that the changes to ORC 340 as proposed in Sub HB 523 will do just that.

As ADAMH Boards plan for, develop, fund, administer, and contract for services, they work with local individuals in recovery, family members, and other community partners to respond to local needs. It is for this reason that we support the change in Sub HB 523 that would require at least 50% of all Governing Board members to be individuals in recovery, or family members, and it would change the appointing authority to reflect local communities, by having two thirds of the appointments made by local county commissioners.

Lastly, as the entities on the ground in the local community, we believe that Boards have a good understanding of local needs and are in the best position to have information about the service providers operating in their local communities that may be of help with OhioMHAS' certification and investigation processes.

Over the past 24 months a committee of ADAMHS Boards has reviewed all of 340 and looked at those areas that we believe need to be changed now as we move forward into SFY 23. Over the past couple of years with the pandemic, we saw where not having good data, and not having the ability to be more flexible in our contracting process made responding to a quickly changing environment more difficult. These recommendations were taken to the OACBHA Membership as a whole and approved. Many of the recommendations we developed are now addressed in Sub HB 523.

As opposed to spending more time going over each section, I have included a brief overview of the changes in Sub HB 523 at the end of my written testimony. I believe you will hear more details about the specific reasons for these recommended changes from several of the individuals who will be testifying today.

Madam Chairwoman and members of the Committee, thank you for the opportunity to provide testimony today. Should you have any questions, I would be happy to answer them.

Summary of Sub. H.B. 523

Proposed Changes to Chapter 340

Withdrawal from Joint-County Boards

- Requires proposed plan for withdrawal from a joint-county board to include proposed bylaws, proposed list of board members, proposed list of services to be made available (including inpatient, outpatient, prevention and housing) provision for employment of an E.D and plan for ensuring no disruption in services.
- Requires Director of OhioMHAS to approve the plan within 1 year of the resolution to withdraw.

Board Composition

- Provides for county commissioners to decide board size with options of 9, 12, 14, 15 or 18 members (existing 18 and 14 member boards can change to 15, 12 or 9 members). In a joint-county district, all county commissioners must jointly determine board size.
- Before adopting a resolution to change board size, the county commissioners must send a representative to a meeting of the board to solicit feedback on the matter and must consider the feedback received.
- A change in board size may not occur more frequently than once every four calendar years.
- A decrease in board size will occur by not filling vacancies as they occur.
- No action is required of existing 18 and 14 member boards that will stay with the current number of members.

Appointments

- OhioMHAS appoints 1/3 of members and the commissioners appoint 2/3.
- The appointing authorities must ensure that, at all times, ½ of the Board is comprised of persons who are receiving/have received MH services, persons who are receiving/have received addiction services and the parents or other relatives of persons who are receiving/have received services.
- Newly established boards have staggered terms of 2, 3 and 4 years.
- Removes the prohibition on the family member of a county commissioner being an employee of the board.

Board Members

- After being informed in writing and afforded the opportunity for a public hearing, a board member may be removed by the appointing authority at will.

Contracting

- Removes the 120-day notice requirement in full.
- Requires contracts to include a process for early termination of the contract for any reason that the board determines termination is necessary that also provides a process for the provider to appeal the early termination.
- Adds language stating that a board can use any process it chooses for entering into contracts (competitive or otherwise).
- Makes the amendments to this section applicable only to contracts entered into, modified, or renewed on or after the effective date of the legislation.

Executive Directors

- Allows for an ED to be removed for cause, contingent upon any contract between the Board and the E.D. (current language also allows removal for cause without reference to a contract). A hearing before the board must still be afforded upon request.

Opiate Hub Reporting

- Removes the county opiate hub reporting requirement.

Wait List Reporting

- Repeals the wait list section (340.20) in its entirety.

Data Language

- Requires Boards to implement working agreements with other government programs that provide public benefits for the purpose of coordinating public benefits and improving the administration and management of the government programs.
- Requires OhioMHAS and ODM to establish requirements and procedures for the provision of Medicaid-recipient data to Boards for the purpose of coordinating public benefits, the administration and management of the programs and ensuring the essential elements of the board's continuum of care is available to recipients of BH services, as appropriate.

Board Input on Provider Certification and Investigations

- Requires Boards to provide input and recommendation to OhioMHAS regarding initial or renewal applications for certification and when provider is being investigated when they have information that would be beneficial to those determinations.

Proposed Change to OhioMHAS Statute

- Eliminates the requirement that OhioMHAS to establish rules applicable to Boards around the waiting list requirement. Does not change provider wait list requirements.

Proposed Change to Medicaid Statute Regarding Board Access to Data

- Excepts the disclosure of Medicaid recipient information made in accordance with the proposed 340 language from the general prohibition on disclosure.

Proposed Changes to Tax levy Statute

- Allows tax levies that were sought by county commissioners under 5705.221 on behalf of a Board to continue to be collected for the benefit of a newly expanded or contracted service district as long as the county remains a part of the district and any renewal or replacement of the levy lists the name of the newly expanded board.
- Provides that when a county withdraws from a joint-county district, a tax levy that was sought by the county commissioners under 5705.221 on behalf of Board, may continue in effect for a newly formed single board or as the county's contribution to a newly joined joint-county district if joined in the tax year after withdrawal.
- Requires the following when a county withdraws from a joint-county district that levies a tax under section 5705.19 (the section a joint-county board uses to seek a levy on its own) in the tax year that the withdrawal occurs and the board of county commissioners of the withdrawing county adopts a resolution proposing a tax that specifies that the first tax year the tax is to be levied by the board is the tax year after the year the joint-county Board's existing tax expires or is renewed or replaced:
 - the county auditor must certify to the county commissioners that the proposed tax is a renewal, renewal and decrease, or renewal and increase for the purpose of being identified as such in the proposed tax's election notice and ballot language under section 5705.25 of the Revised Code if the collections in the first year the tax is to be levied, calculated using only carryover property in the county as defined in ORC 319.301 of the Revised Code, is equal to, less than, or more than, respectively, the collections of the existing joint-county tax in the county in the last tax year such tax is to be levied in the county.
 - The required auditor's certification must be certified by the county commissioners to the board of elections and the election notice and ballot language must specify that the tax is a renewal, renewal and decrease, or renewal and increase as stated in the auditor's certification.
 - If the tax is approved by electors, the tax must be treated as a tax levied for the first time for the purpose of calculating the reduction under ORC 319.301.