



Ohio Revised Code

Section 4734.41 Establishing chemical dependency and mental illness monitoring program.

Effective: July 10, 2014

Legislation: House Bill 232 - 130th General Assembly

(A) As used in this section:

(1) "Chemical dependency" means either of the following:

(a) The chronic and habitual use of alcoholic beverages to the extent that the user no longer can control the use of alcohol or endangers the user's health, safety, or welfare or that of others;

(b) The use of a controlled substance as defined in section 3719.01 of the Revised Code, a harmful intoxicant as defined in section 2925.01 of the Revised Code, or a dangerous drug as defined in section 4729.01 of the Revised Code, to the extent that the user becomes physically or psychologically dependent on the substance, intoxicant, or drug or endangers the user's health, safety, or welfare or that of others.

(2) "Mental illness" means a recognized psychiatric or psychological condition, disorder, or syndrome that has been diagnosed by a psychiatrist, psychologist, licensed professional clinical counselor, or independent social worker as a condition, disorder, or syndrome that may pose a danger to the person diagnosed or others or may prevent the person from practicing the person's profession according to acceptable and prevailing standards of care.

(B) The state chiropractic board shall establish a chemical dependency and mental illness monitoring program. The program shall be made available to any individual under the board's jurisdiction who has a chemical dependency or mental illness and meets the board's eligibility requirements for admission to and continued participation in the program. The board shall develop the program and may designate a coordinator to administer it or enter into a contract for the program to be administered by another entity through a coordinator. The board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish standards and procedure for operating the program.



(C) Except as provided in division (D) of this section, all records of an individual's participation in the monitoring program, including medical records, chemical dependency records, and mental health records, shall be confidential, are not public records for the purposes of section 149.43 of the Revised Code, and are not subject to discovery by subpoena or admissible as evidence in any judicial proceeding. The program coordinator shall maintain all records as directed by the board.

(D) The monitoring program's coordinator may disclose records or information regarding an individual's progress and status of participation in the program to the disciplinary section of the board and to any person or government entity that the program participant authorizes in writing to be given the records or information.

In disclosing records or information under this division, the coordinator shall not include any record or information that is protected under section 5119.27 of the Revised Code or any federal statute or regulation that provides for the confidentiality of mental health or substance abuse records.

(E) In the absence of fraud or bad faith, the monitoring program's coordinator, the board and the board's employees and representatives are not liable for damages in any civil action as a result of disclosing records or information in accordance with division (D) of this section. In the absence of fraud or bad faith, any person reporting to the program an individual's chemical dependency or mental illness, or the progress or lack of progress of that individual with regard to treatment, is not liable for damages in any civil action as a result of the report.

(F) The board may abstain from taking formal disciplinary action under section 4734.31 of the Revised Code against an individual because of the individual's chemical dependency or mental illness, if the individual meets the eligibility requirements for admission into the monitoring program and all of the following occur:

- (1) The individual enters into a monitoring agreement with the coordinator of the program;
- (2) The individual complies with the terms and conditions for continued participation in the program, as specified in the monitoring agreement;



(3) The individual successfully completes the terms and conditions of the monitoring agreement, including the condition that the individual attain the ability to practice in accordance with acceptable and prevailing standards of care applicable to the practice of chiropractic.