

Compliance In a Nutshell



Clients' Rights & Grievances

This fact sheet is intended to provide information to Alcohol, Drug Addiction and Mental Health (ADAMH) Boards as a membership service of the Ohio Association of County Behavioral Health Authorities (OACBHA). The information is of a general nature and should not be construed as legal advice. ADAMH Boards should seek the advice of legal counsel for specific legal problems or questions.

Applicable Definitions (O.A.C. 5122:2-1-02 and O.A.C. 5122-26-18):

- **Grievance:** A written complaint initiated either verbally or in writing by a client or by any other person or provider on behalf of a client regarding denial or abuse of any client's rights.
- **Client Advocate:** The individual designated by a community mental health or addiction services provider or ADAMH Board with responsibility for assuring compliance with the client rights and grievance procedure rule as implemented within each provider or Board. Client advocate has the same meaning as client rights officer or client rights specialist.

What does statute require of ADAMH Boards with respect to clients' rights and grievances?

Section 340.02 of the Revised Code requires Boards to:

- (B) Ensure that the rights of persons receiving any elements of the community-based continuum of care are protected;
- (C) Ensure that persons receiving any elements of the community-based continuum of care are able to utilize grievance procedures applicable to the elements.

What grievance procedures must be followed by ADAMH Boards?

O.A.C. 5122:2-1-02(D) is the Board Client Rights and Grievance Procedures. The following is a summary of what is required by the rule:

- Boards must ensure that each of their contract providers have a grievance procedure in place that meets the requirements of the Provider Client Rights and Grievance Procedure Rule (O.A.C. 5122-26-18).
- Boards must establish a procedure for addressing client rights complaints, including, when applicable, complaints received on behalf of a resident of a residential facility. The procedure must include:
 - A provision for accessing provider information relevant to the complaint
 - Time limits for a resolution of the grievance, not to exceed 21 working days from date of the filing
 - Provision for written notification and explanation of the resolution to be provided to the client, or the griever if other than the client with the client's authorization
 - Statement that griever has the option to further grieve with any of all of the following:
 - ▶ OhioMHAS
 - ▶ Disability Rights Ohio (Ohio's statutorily designated protection and advocacy system)
 - ▶ U.S. Department of Health and Human Services
 - ▶ Appropriate licensing or regulatory boards and contact info
 - Provision for providing relevant information to above organizations upon request if grievance is initiated
 - Boards may fulfill responsibilities using own staff or through agreement with outside staff, agencies, providers or organizations
 - ▶ Must assure prompt accessibility of client advocate
 - ▶ Utilization of outside persons must be clearly explained to clients, applicants and grievors
- **Additional Requirements**
 - Boards must keep records of each grievance received, subject of the grievance and resolution
 - Records must be available for OhioMHAS review upon request
 - Must annually summarize records to include number and types of grievances received and resolution status

What is the difference between a complaint and a grievance?

A complaint is made verbally. A grievance is a written complaint. If a complaint is submitted in writing, the board must process the grievance in accordance with the requirements of the board grievance rule. A client voicing a complaint can be informed that a verbal complaint can often be addressed more quickly than a formal written grievance but the client may still choose to file a written grievance.

What is required for residential facilities?

Residential facilities have their own Resident Rights and Grievance rules (O.A.C. 5122-30-22 and 22.1) but the procedure that Boards must comply with when a complaint about a resident of a licensed facility is received is the same as for service providers.

For residential facilities, it is important to note that O.R.C. 5119.34(J) gives Boards and providers the authority to enter a residential facility under certain conditions:

- (J) The following may enter a residential facility at any time:
- (2) Employees of an ADAMHS board under either of the following circumstances:
 - (a) When a resident of the facility is receiving services from a community mental health services provider under contract with that ADAMHS board or another ADAMHS board;
 - (b) When authorized by section 340.05 of the Revised Code (see section 340.05 below).
- (3) Employees of a community mental health services provider under either of the following circumstances:
 - (a) When the provider has a person receiving services residing in the facility;
 - (b) When the provider is acting as an agent of an ADAMHS board other than the board with which it is under contract.

What if an ADAMH Board does not have a contract with a provider that is the subject of a complaint?

At the July 2021 New Board CRO Training, OhioMHAS instructed ADAMH Boards that receive a complaint concerning providers with which the Board does not contract for the provision of services to forward the complaint or refer the complainant to OhioMHAS unless the complaint alleges abuse or neglect that the Board is otherwise required to investigate.

What does Chapter 340 require when a Board receives a complaint alleging abuse and/or neglect?

Regardless of whether an allegation of abuse or neglect is made verbally or in writing, Chapter 340 requires the following:

340.03(A)(2) Investigate, or request another agency to investigate, any complaint alleging abuse or neglect of any person receiving addiction services, mental health services, or recovery supports from a community addiction services provider or community mental health services provider, 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.

340.05 If a community addiction services provider or community mental health services provider 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 licensed under section 5119.34 of the Revised Code, the provider 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. 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.

What else must be submitted to OhioMHAS?

O.R.C. 340.08(E) requires submission of annual reports to OhioMHAS however the corresponding requirement in the Board's grievance procedure rule was rescinded and OhioMHAS no longer requires these reports. OhioMHAS may still request this information at any time pursuant to the rule.