

5122-25-01

**Applicability.**

(A) ~~The provisions of the rules contained in this chapter are applicable to each agency provider; providing mental health services that are funded by, or funding is being sought by, a community mental health board; is subject to department licensure according to section 5119.22 of the Revised Code; or that voluntarily requests certification. Any service contact(s) provided by an agency that is paid for in whole or in part by any community mental health board shall be subject to the provisions of this chapter.~~

(1) Providing mental health and addiction services that are funded by, or funding is being sought from:

(a) The Ohio medicaid program for community mental health or community addiction services.

(b) A board of alcohol, drug addiction, and mental health services.

(c) Federal or department block grant funding for certified services.

Any service contact provided by a provider that is paid for by the Ohio medicaid program for community mental health or community addiction services, or in whole or in part by any community mental health board of alcohol, drug addiction, and mental health service or federal or department block grant funding shall be subject to the provisions of this chapter.

(2) Subject to department certification as a driver intervention program, public or private.

(3) That voluntarily request certification.

(B) These rules do not diminish or enhance the authority of ~~community mental health boards~~ boards of alcohol, drug addiction, and mental health services to administer the community mental health or addiction treatment system pursuant to the Ohio Revised Code, and applicable federal law.

Effective: 02/01/2016

Five Year Review (FYR) Dates: 06/29/2015 and 02/01/2021

CERTIFIED ELECTRONICALLY

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Certification

12/17/2015

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Date

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Rule Amplifies: 5119.36  
Prior Effective Dates: 10-1-2003

5122-25-02

**Accreditation and deemed status.**

(A) ~~An agency~~ A provider seeking certification for one or more of the following services may attain appropriate behavioral health accreditation, which includes an accrediting body survey of the actual provision of services, prior to submitting an application for certification:

- (1) Behavioral health counseling and therapy service as defined in rule 5122-29-03 of the Administrative Code;
- (2) Mental health assessment service as defined in rule 5122-29-04 of the Administrative Code;
- (3) Pharmacologic management service as defined in rule 5122-29-05 of the Administrative Code;
- (4) Partial hospitalization service as defined in rule 5122-29-06 of the Administrative Code;
- (5) Crisis intervention mental health service as defined in rule 5122-29-10 of the Administrative Code;
- (6) Community psychiatric supportive treatment (CPST) service as defined in rule 5122-29-17 of the Administrative Code; ~~and/or~~
- (7) Intensive home based treatment (IHBT) service as defined in rule 5122-29-28 of the Administrative Code;-
- (8) Assertive community treatment (ACT) service as defined in rule 5122-29-29 of the Administrative Code;
- (9) Outpatient treatment program as defined in rule 5122-29-34 of the Administrative Code;
- (10) Sub-acute detoxification as defined in rule 5122-29-37 of the Administrative Code; or,
- (11) Prevention services as defined in rule 5122-29-20 of the Administrative Code.

(B) Behavioral health accreditation referenced in paragraph (A) of this rule shall be obtained from one or more of the following accrediting bodies, with the exception of sub-acute detoxification, which shall obtain accreditation in accordance with paragraph (D) of this rule:

- (1) ~~"The Joint Commission;"~~"The joint commission;
- (2) ~~"The Commission on Accreditation of Rehabilitation Facilities;"~~ Commission on accreditation of rehabilitation facilities; and/or
- (3) ~~"The Council on Accreditation."~~Council on accreditation; or,
- (4) Other behavioral health accreditation as determined by the director.

(C) A provider seeking certification for both alcohol and other drug (AoD) services and mental health services under deemed status must ensure the accrediting body reviews or accredits the provision of both AoD and mental health services.

(D) A provider seeking certification for acute hospital detoxification as defined in rule 5122-29-37 of the Administrative Code shall attain hospital accreditation and a provider seeking certification for sub-acute hospital detoxification may attain appropriate behavioral health accreditation from the joint commission, healthcare facilities accreditation program, DNV healthcare inc, or the commission on accreditation of rehabilitation facilities prior to submitting an application for certification.

~~(E)~~(E) The department may:

- (1) Add the names of other accrediting bodies to those listed in paragraph (B) and (D) of this rule if it determines that such bodies meet its accreditation requirements.
- (2) Likewise, the department may delete the names of accrediting bodies from those listed in paragraph (B) and (D) of this rule if it determines that such bodies no longer meet its accreditation requirements.

A provider accredited by a body the department chooses to delete from those listed in paragraph (B) and (D) of this rule shall remain certified until its current accreditation expires. If a provider wishes to retain certification after that time, it must attain accreditation from a body recognized by the department or undergo the non-deemed status certification process in accordance with rule 5122-25-03 of the Administrative Code.

~~(a) An agency accredited by a body the department chooses to delete from those listed in paragraph (B) of this rule shall remain certified until its current accreditation expires. If an agency wishes to retain certification after that time, it must attain accreditation from a body recognized by the department.~~

~~(D)~~(F) An agency provider granted deemed status in accordance with rule 5122-25-035122-25-04 of the Administrative Code shall maintain its accreditation throughout its term of certification. Should an agency provider choose to not submit a renewal application to its accrediting body, the agency provider shall immediately notify the department and will be subject to a full certification survey. A provider granted deemed status that fails to immediately notify the department that it did not submit a timely renewal application to its accrediting body may be subject to certification revocation in accordance with Chapter 119. of the Revised Code.

~~(E)~~(G) The agency provider shall inform the department, the appropriate community mental health boards, and local client advocacy groups in writing of its accreditation survey date(s)date at least thirty days prior to the beginning of a scheduled accreditation survey, or when the agency provider is given less than thirty days notice of a scheduled survey, within seven days of receiving notice from the accrediting body. An agency provider undergoing an unannounced or unscheduled accreditation survey shall inform the department within seven days after the conclusion of the unannounced or unscheduled accreditation survey.

(H) The department shall accept the provider's appropriate behavioral health accreditation or hospital accreditation, when applicable, as evidence of compliance with the services identified in Paragraphs (A) and (C) of this rule and Chapters 5122-26 to 5122-28 of the Administrative Code.

The following standards are exempted from the above statement:

(1) Rule 5122-26-13 of the Administrative Code (incident notification); and,

(2) Rule 5122-29-33 of the Administrative Code (health home service for persons with serious and persistent mental illness). This paragraph shall no longer be exempted from deemed status effective January 1, 2017.

(I) The department shall only grant deemed status for services which are accredited. The department may grant partial deemed status to a provider when:

(1) The provider has accreditation for some, but not all, of the services listed in paragraphs (A) and (C) of this rule; or,

(2) The agency is applying for certification to provide both AoD and mental health services, but the accrediting body has not reviewed or accredited the provision of both.

(J) The department shall accept a provider's accreditation, certification, or recognition as required by paragraph (F) of rule 5122-29-33 of the Administrative Code in lieu of promulgating standards for the provision of integrated physical health and

behavioral health care as part of the health home service for persons with serious and persistent mental illness rule.

(K) A provider applying for deemed status by the department must submit the most recent copy of the following:

(1) Each of the accrediting body's survey reports, and any modifications made to the survey report if applicable;

(2) Certificate, license or plaque awarded by the accrediting body; and,

(3) Accreditation award notification letter if requested by the department.

(L) A provider must notify the department within ten days of any change to its accreditation status, by providing a copy of the accreditation status change notification.

(1) Should a provider's accreditation status be granted as or modified to probation, stipulations, conditional, provisional, deferral, preliminary denial or other similar status, the department may ask for additional documentation until such time as full accreditation status is restored. Full accreditation status means the accrediting body has issued an accreditation decision of "accredited" or "accreditation" without additional conditions or modifiers other than three-year or one-year accreditation.

(2) Should a provider's accreditation be denied, suspended or revoked by the accrediting body, the department shall withdraw deemed status and the provider shall be subject to a full certification survey or certification revocation in accordance with Chapter 119. of the Revised Code.

(M) The department may conduct surveys or review documentation of a sample of providers having achieved appropriate behavioral health accreditation in order to evaluate whether the accreditation processes used by the organizations are consistent with service delivery models the director considers appropriate for mental health services. The department will communicate to an accrediting organization any identified concerns, trends, needs, and recommendations. The department shall have access to all records necessary to evaluate the accrediting body processes, but may not conduct a survey or request documentation under this paragraph for the purpose of determining compliance with certifications standards.

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8/23/2007, 7/1/2009, 7/1/2013

5122-25-03**Certification procedure for non-deemed status.**

(A) Any provider subject to or seeking certification shall apply to the department by filing an application.

(1) A provider that is not requesting deemed status by the department according to rule 5122-25-02 of the Administrative Code shall file an application that includes, but is not limited to:

(a) Identifying information including:

(i) Legal name as filed with the Ohio secretary of state, including any fictitious name ("doing business as") if applicable;

(ii) Addresses and telephone numbers at which the applicant operates and address for legal notice and correspondence. Each provider shall have at least one physical location that is certified. A location which would be considered the client's natural environment (e.g. school, home, job and family services agency) is not considered a site and need not be certified;

(iii) Governing structure;

(iv) Provider budget;

(v) Table of organization;

(vi) Name and e-mail address of executive director, chief executive officer, or president;

(vii) Name and e-mail address of designated provider contact person who shall be the primary contact on behalf of the provider;

(viii) Current and previous history of state agency licensure and certification;

(ix) Eligibility to apply for certification, as required in paragraph (A) of rule 5122-25-05 of the Administrative Code;

(x) Policies and procedures, plans and other documentation required by Chapters 5122-26 through 5122-29 of the Administrative Code;

(xi) List of qualified providers and supervisor according to Chapter 5122-29 and Chapter 3793 of the Administrative Code and the services they provide and/or supervise, and license number;

(xii) List of services according to Chapter 5122-29 and Chapter 3793 of the Administrative Code to be provided during the term of

certification:

(xiii) Number of beds for each alcohol and other drug (AoD) residential, halfway house treatment, and detoxification program location; and,

(xiv) A list of subcontracts with other providers or organizations that provide mental health services.

(b) Corporate information, including the following upon request of the department:

(i) A copy of the applicant's articles of incorporation and all amendments;

(ii) Identification of the statutory corporate agent for service; and,

(iii) If an out-of-state corporation, a copy of the certificate from the Ohio secretary of state, of registration to do business in Ohio.

Before requesting this information, the department shall first attempt to obtain the information from the Ohio secretary of state website.

(c) Copies of approved physical inspections, either initial or renewal, for each building owned or leased, including:

(i) A building inspection by a local certified building inspector or a certificate of occupancy issued by the department of industrial relations, to be re-inspected whenever there are major alterations or modifications to the building or facility. An additional building inspection shall be required for any major change in the use of space that would make the facility subject to review under different building code standards;

(ii) Annual approved fire inspection by a certified fire authority, or where there is none available, by the division of the state fire marshal of the department of commerce;

(iii) Water supply and sewage disposal inspection for facilities in which these systems are not connected with public services to certify compliance with rules of the department of health and any other state or local regulations, rules, codes or ordinances;

(iv) Boiler and elevator inspections, if applicable; and,

(v) Food service license or permit, if required by the department of health.

(d) Documentation of any existing waivers or variances from the department regarding the certification standards, and justification if the provider is seeking their renewal.

(e) Notification if the provider uses seclusion or restraint as defined in rule 5122-26-16 of the Administrative Code; and,

(f) If a provider is seeking certification for other mental health services as defined in rule 5122-29-27 of the Administrative Code, that are funded in whole or in part by a board, and for which there are no specific certification standards, the name of the service, a brief description of the service, and a letter of approval from the board shall be submitted.

(g) Driver intervention programs shall include:

(i) The total number of hours of operation, including the total number of program hours;

(ii) If services are provided at a camp, a copy of the "Permission to Operate a Camp" issued by the local county/city health department pursuant to rule 3701:25-43 of the Administrative Code.

(iii) If services are provided at a hotel or motel, a copy of the hotel/motel license from the division of the state fire marshal of the Ohio department of commerce will be accepted in lieu of a copy of a occupancy and use certificate and annual fire inspection.

(B) Upon receipt of an application, the department shall review the materials to determine if they are complete. If an application is incomplete, the department shall notify the applicant of corrections or additions needed, and may return the materials to the applicant.

Incomplete materials, including failure to pay the full certification fee, shall not be considered an application for certification, and return of the materials or failure to issue a certificate shall not constitute a denial of an application for certification.

(C) Following the department's acceptance of materials as a complete application, the department shall determine whether the applicant's services and activities meet certification standards. The process for the such a determination consists of one or both of the following:

(1) Review the application materials for compliance with Chapters 5122-26 through 5122-29 of the Administrative Code.

- (2) Schedule and conduct an on-site survey or otherwise evaluate the applicant's services and activities.
- (a) If conducting an on-site survey, the department shall send the provider a letter confirming the date of the on-site survey, and notify, in writing, the applicable board of the date of the on-site survey.
- (b) At least thirty days before a scheduled survey date, the applicant shall post notices of the survey date and of the opportunity for the public to participate in a public information interview during the survey. Such notices shall be posted in public areas, on bulletin boards near major entrances, and in treatment or residential areas of the applicant.
- (c) The department shall have access to all written, electronic and recorded records to verify compliance with certification standards as established by department rules. The department may conduct interviews with members of the provider's governing authority, staff, others in the community and clients with the client's permission.
- (d) Exit interviews with provider staff shall be conducted during routine initial and renewal on-site surveys
- (D) The department may conduct an on-site survey or otherwise evaluate a provider at any time based on cause, including complaints made by or on behalf of consumers and confirmed or alleged deficiencies brought to the attention of the director. The department may or may not notify a provider in advance of a survey conducted for cause.
- The department shall have access to all written, electronic and recorded records or media to verify compliance with certification standards as established by department rules. The department may conduct interviews with members of the provider's governing authority, staff, others in the community and clients with the client's permission.
- (E) An applicant that fails to comply with any or all of the certification standards applicable to the provider shall receive a written statement from the department citing items that are not in compliance.
- (1) This statement shall describe the deficiencies, actions needed for correction, and a time frame for the provider to submit a written plan of correction.
- (2) The provider's plan of correction shall describe the actions to be taken and shall specify a time frame for correction of deficiencies.
- (F) If a provider adds a service or activity subject to certification during the term of certification, the provider shall submit a description of the service or activity and

the list of qualified providers and supervisors, including license number and licensing or credentialing body. Upon determination by the department that the service or activity is in compliance with certification standards, including conducting an on-site survey, if indicated, the department will certify the provider to provide that service or activity.

(G) If a provider adds a new location during the term of certification, the provider shall submit the documentation required in paragraph (A)(1)(c) of this rule. Upon determination by the department that the site is in compliance with certification standards, the department will certify the agency provider to provide services at that location.

A provider may provide any currently certified mental health service, and AoD outpatient treatment and prevention services at any certified location. A provider's certification for AoD residential treatment in accordance with rule 5122-29-36 of the Administrative Code, acute, sub-acute or ambulatory detoxification in accordance with rule 5122-29-37 of the Administrative Code, and driver intervention program in accordance with rule 5122-29-12 of the Administrative Code is site specific.

(H) Each provider shall submit an application for certification renewal no fewer than sixty days prior to the expiration of the current certificate.

(I) A provider that has not previously notified the Department that it utilizes seclusion and restraint must do so and submit any documentation requested by the Department to verify its compliance with the Administrative Code prior to utilizing these measures. A provider shall not utilize seclusion restraint without written acknowledgement from the Department that it is authorized to do so.

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Certification

12/17/2015

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5122-25-04

**Certification procedure for deemed status.**

(A) Any ~~agency provider~~ subject to or seeking certification shall apply to the department by filing an application.

(1) ~~An agency~~ A provider that has received accreditation for one or more of the services in which it is seeking certification, and is applying for deemed status from the department according to rule 5122-25-03 of the Administrative Code shall file an application that includes:

(a) Identifying information including:

(i) Legal name as filed with the Ohio secretary of state, including any fictitious name ("doing business as") if applicable;

(ii) ~~Address(es)~~ Addressess and telephone ~~number(s)~~ numbers at which the applicant operates and address for legal notice and correspondence. Each provider shall have at least one physical site that is certified. A location which would be considered the client's natural environment (e.g. school, home, job and family services agency) is not considered a site and need not be certified;

(iii) Name and e-mail address of executive director, chief executive officer or president; and

(iv) Name and e-mail address of designated ~~agency provider~~ contact person who shall be the primary contact on behalf of the ~~agency provider~~;

(v) Current and previous history of state agency licensure and certification;

(vi) Eligibility to apply for certification;

~~(vii)~~ (vii) A list of services according to Chapter 5122-29 and Chapter 3793 of the Administrative Code to be provided during the term of certification; and

(viii) Number of beds for each alcohol and other drug (AoD) residential, halfway house treatment, and detoxification program location; and,

~~(ix)~~ (ix) A description of the ~~agency's~~ provider's purpose, mission and goals if ~~an agency a provider~~ is applying for its first certification.

- (b) Corporate information including the following upon request of the department. Before requesting this information, the department shall first attempt to obtain the information from the Ohio secretary of state website:
  - (i) Identification of the statutory corporate agent for service; and
  - (ii) If an out-of-state corporation, a copy of the certificate from the Ohio secretary of state, of registration to do business in Ohio.
- (c) For any site which has not been approved or accredited by the agency's provider's accrediting body, copies of approved physical inspections, either initial or renewal, for each building owned or leased, including:
  - (i) A building inspection by a local certified building inspector or a certificate of occupancy issued by the department of industrial relations, to be re-inspected whenever there are major alterations or modifications to the building or facility. An additional building inspection shall be required for any major change in the use of space that would make the facility subject to review under different building code standards;
  - (ii) Annual approved fire inspection, which shall be free of deficiencies, by a certified fire authority, or where there is none available, by the division of the state fire marshal of the department of commerce; ~~and~~
  - (iii) Water supply and sewage disposal inspection for facilities in which these systems are not connected with public services to certify compliance with rules of the department of health and any other state or local regulations, rules, codes or ordinances;
  - (iv) Boiler and elevator inspections, if applicable; and,
  - (v) Food service license or permit, if required by the department of health.
- (d) Documentation of any existing waivers or variances from the department regarding the certification standards, and justification if the agency provider is seeking their renewal.

- (e) Notification if the ~~agency provider~~ uses seclusion and/or restraint ~~or major aversive behavioral interventions in accordance with~~ as defined in rule 5122-26-16 of the Administrative Code.
  - (f) If ~~an agency~~ a provider is seeking certification for other mental health services as defined in rule 5122-29-27 of the Administrative Code, that are funded in whole or in part by a ~~community mental health~~ board, and for which there are no specific certification standards, the name of the service, a brief description of the service, and a letter of approval from the ~~community mental health~~ board shall be submitted.
  - (g) The documentation required in paragraph (K) of rule 5122-25-03~~5122-25-02~~ of the Administrative Code, unless it has already been submitted and deemed status approved by the department.
  - (h) ~~Documentation for consideration by ODMH of reciprocity with another state department's licensing, certification/licensure or approval requirements, in accordance with rule 5122-25-03 of the Administrative Code.~~
  - (~~i~~)(h) Documentation requested by ~~ODMH~~ the department for any service not included under the deemed status provision of rule ~~5122-25-03~~5122-25-02 of the Administrative Code.
- (2) ~~An agency that is not requesting deemed status by the department according to rule 5122-25-03 of the Administrative Code shall file an application that includes, but is not limited to:~~
- (a) ~~Identifying information including:~~
    - (i) ~~Legal name as filed with the Ohio secretary of state, including any fictitious name ("doing business as") if applicable;~~
    - (ii) ~~Address(es) and telephone number(s) at which the applicant operates and address for legal notice and correspondence;~~
    - (iii) ~~Governing structure;~~
    - (iv) ~~Agency budget;~~
    - (v) ~~Table of organization;~~
    - (vi) ~~Name and e-mail address of executive director, chief executive officer, or president;~~

- ~~(vii) Name and e-mail address of designated agency contact person who shall be the primary contact on behalf of the agency~~
  - ~~(viii) List of qualified providers according to Chapter 5122-29 of the Administrative Code and the services they provide;~~
  - ~~(ix) List of services according to Chapter 5122-29 of the Administrative Code to be provided during the term of certification; and~~
  - ~~(x) A list of subcontracts with other agencies or organizations that provide mental health services.~~
- ~~(b) Corporate information including the following upon request of the department. Before requesting this information, the department shall first attempt to obtain the information from the Ohio secretary of state website:~~
- ~~(i) A copy of the applicant's articles of incorporation and all amendments;~~
  - ~~(ii) Identification of the statutory corporate agent for service; and~~
  - ~~(iii) If an out-of-state corporation, a copy of the certificate from the Ohio secretary of state, of registration to do business in Ohio.~~
- ~~(c) Copies of approved physical inspections, either initial or renewal, for each building owned or leased, including:~~
- ~~(i) A building inspection by a local certified building inspector or a certificate of occupancy issued by the department of industrial relations, to be re-inspected whenever there are major alterations or modifications to the building or facility. An additional building inspection shall be required for any major change in the use of space that would make the facility subject to review under different building code standards;~~
  - ~~(ii) Annual approved fire inspection by a certified fire authority, or where there is none available, by the division of the state fire marshal of the department of commerce; and~~
  - ~~(iii) Water supply and sewage disposal inspection for facilities in which these systems are not connected with public services to certify compliance with rules of the department of health and any other state or local regulations, rules, codes or ordinances.~~
- ~~(d) Documentation of any existing waivers or variances from the department~~

~~regarding the certification standards, and justification if the agency is seeking their renewal.~~

~~(e) Notification if the agency uses seclusion and/or restraint or major aversive behavioral interventions in accordance with rule 5122-26-16 of the Administrative Code; and~~

~~(f) Documentation for consideration by ODMH of reciprocity with another state department's licensing, certification/licensure or approval requirements, in accordance with rule 5122-25-03 of the Administrative Code.~~

~~(g) If an agency is seeking certification for other mental health services as defined in rule 5122-29-27 of the Administrative Code, that are funded in whole or in part by a community mental health board, and for which there are no specific certification standards, the name of the service, a brief description of the service, and a letter of approval from the community mental health board shall be submitted.~~

(B) Upon receipt of an application, the department shall review the materials to determine if they are complete. If an application is incomplete, the department shall notify the applicant of corrections or additions needed, and/or may return the materials to the applicant. Incomplete materials, ~~including failure to pay the full certification fee,~~ shall not be considered an application for certification, and return of the materials or failure to issue a certificate shall not constitute a denial of an application for certification.

(C) Following the department's acceptance of materials as a complete application, ~~or while awaiting final payment of the full certification fee in accordance with rule 5122-25-08 of the Administrative Code,~~ the department shall determine whether the applicant's services and activities meet certification standards. The process for such a determination consists of the following:

(1) For ~~an agency~~ a provider applying for deemed status, the department shall review the application materials, and issue the certification for services covered under deemed status without further evaluation of the services, except that the department may conduct an on-site survey or otherwise evaluate the agency provider for cause, including complaints made by or on behalf of consumers and confirmed or alleged deficiencies brought to the attention of the department.

(2) For ~~an agency that has not been granted deemed status by the department according to rule 5122-25-03 of the Administrative Code,~~ services not included in a provider's deemed status approval, the department may schedule and conduct an on-site survey of ~~and/or~~ otherwise evaluate the applicant's

services and activities. ~~At least thirty days before a scheduled survey date, the applicant shall:~~

If conducting an on-site survey, the department shall send the provider a letter confirming the date of the on-site survey, and notify, in writing, the applicable board of the date of the on-site survey. At least thirty days before a scheduled survey date, the applicant shall post notices of the survey date and of the opportunity for the public to participate in a public information interview during the survey. Such notices shall be posted in public areas, on bulletin boards near major entrances, and in treatment or residential areas of the applicant.

The department shall have access to all written, electronic and recorded records to verify compliance with certification standards as established by department rules. The department may conduct interviews with members of the provider's governing authority, staff, others in the community and clients with the client's permission.

Exit interviews with provider staff shall be conducted during routine initial and renewal on-site surveys.

~~(a) Notify appropriate community mental health boards and local client advocacy groups in writing of the ODMH survey date; and~~

~~(b) Post notices of the ODMH survey date and of the opportunity for the public to participate in a public information interview during the survey. Such notices shall be posted in public areas, on bulletin boards near major entrances, and in treatment or residential areas of the applicant.~~

(D) The department may conduct an on-site survey or otherwise evaluate an agency a provider applying for or granted deemed status at any time based on cause, including complaints made by or on behalf of consumers and confirmed or alleged deficiencies brought to the attention of the director. The department may or may not notify a provider in advance of a survey conducted for cause.

The department shall have access to all written, electronic and recorded records or media to verify compliance with certification standards as established by department rules. The department may conduct interviews with members of the provider's governing authority, staff, others in the community and clients with the client's permission.

~~The department may conduct an on-site survey or otherwise evaluate an agency not applying for deemed status at the time of initial application or renewal in accordance with paragraph (C)(2) of this rule, at other times with appropriate notice, or at any time based on cause, including complaints made by or on behalf of~~

~~consumers and confirmed or alleged deficiencies brought to the attention of the director.~~

~~The department shall have access to all records necessary to verify compliance with certification standards applicable to the agency and may conduct interviews with staff, others in the community, and clients with client permission. When scheduling surveys, the department shall notify the appropriate mental health boards(s) and invite their participation, pursuant to division (A)(3) of section 340.03 of the Revised Code. Exit interviews with agency staff shall be conducted during routine initial and renewal on-site surveys.~~

- (E) An applicant that fails to comply with any or all of the certification standards applicable to the agency shall receive a written statement from the department citing items that are not in compliance.
- (1) This statement shall describe the deficiencies, actions needed for correction, and a time frame for the agency provider to submit a written plan of correction.
  - (2) The agency's provider's plan of correction shall describe the actions to be taken and shall specify a time frame for correction of deficiencies.
- (F) If ~~an agency a provider~~ adds a service or activity subject to certification during the term of certification, the agency provider shall submit:
- (1) For ~~an agency a provider~~ applying for deemed status, the documentation required in paragraph (K) of rule 5122-25-03~~5122-25-02~~ of the Administrative Code. Upon determination by the department that the agency provider has obtained appropriate behavioral health accreditation, the department will certify the agency provider to provide that service or activity.
  - (2) For ~~an agency a provider~~ not requesting deemed status, a description of the service or activity and the list of qualified providers and supervisors, including license number and licensing or credentialing body. Upon determination by the department that the service or activity is in compliance with certification standards, including conducting an on-site survey, if indicated, the department will certify the agency provider to provide that service or activity.
- (G) If ~~an agency a provider~~ adds a new location during the term of certification, the agency provider shall submit either the documentation required in paragraph (A)(1)(c) ~~or paragraph (A)(2)(e)~~ of this rule, or evidence that the site has been approved by its accrediting body. Upon determination by the department that the

site is in compliance with certification standards, the department will certify the agency provider to provide ~~any or all of its certified~~ services at that location.

An agency may provide any certified mental health service, alcohol and other drug outpatient treatment, and alcohol and other drug prevention services at any certified location. An agency's certification for alcohol and other drug residential treatment in accordance with rule 5122-29-36 of the Administrative Code, acute, sub-acute or ambulatory detoxification in accordance with rule 5122-29-37 of the Administrative Code, and driver intervention program in accordance with Chapter 5122-37 of the Administrative Code is site specific.

(H) Each agency shall submit an application for certification renewal no fewer than sixty days prior to the expiration of the current certificate.

(I) A provider that has not previously notified the Department that it utilizes seclusion and restraint must do so and submit any documentation requested by the Department to verify its compliance with the Administrative Code prior to utilizing these measures. A provider shall not utilize seclusion restraint without written acknowledgement from the Department that it is authorized to do so.

Effective: 02/01/2016

Five Year Review (FYR) Dates: 06/29/2015 and 02/01/2021

CERTIFIED ELECTRONICALLY

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Certification

12/17/2015

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Date

Promulgated Under: 119.03  
Statutory Authority: 5119.36  
Rule Amplifies: 5119.36  
Prior Effective Dates: 1/1/2004, 7/1/2009, 11/24/2011, 10/1/2012

5122-25-05

**Provisions of certification.**

(A) A provider seeking its first certification in one or more of the services identified below shall either have appropriate behavioral health or hospital accreditation as defined by rule 5122-25-02 of the Administrative Code, or provide the service a minimum of two months to at least ten different clients, prior to submitting an application for certification. At least five clients shall be active at the time of the certification survey.

- (1) Behavioral health counseling and therapy service as defined in rule 5122-29-03 of the Administrative Code;
- (2) Mental health assessment service as defined in rule 5122-29-04 of the Administrative Code;
- (3) Pharmacologic management service as defined in rule 5122-29-05 of the Administrative Code;
- (4) Partial hospitalization service as defined in rule 5122-29-06 of the Administrative Code;
- (5) Crisis intervention mental health service as defined in rule 5122-29-10 of the Administrative Code;
- (6) Community psychiatric supportive treatment (CPST) service as defined in rule 5122-29-17 of the Administrative Code;
- (7) Intensive home based treatment (IHBT) service as defined in rule 5122-29-28 of the Administrative Code;
- (8) Assertive community treatment (ACT) service as defined in rule 5122-29-29 of the Administrative Code;
- (9) Outpatient treatment program as defined in rule 5122-29-34 of the Administrative Code;
- (10) Sub-acute detoxification as defined in rule 5122-29-37 of the Administrative Code; or,
- (11) Prevention services as defined in rule 5122-29-20 of the Administrative Code.

(B) The department may issue one of three types of certificates to a provider, based upon its determination pursuant to either rule 5122-25-03 or rule 5122-25-04 of the Administrative Code:

- (1) A conditional certificate, which shall replace a full certificate during the term of probation, and which shall expire within one hundred twenty days of the date of issuance, to be used when:

- (a) Serious deficiencies are found during the department's determination of a provider's compliance with the certification standards; or
  - (b) The provider's documented corrective action is not approved by the department.
- (2) An interim certificate, which shall expire within ninety days after the date of issuance, to be used for emergency certification purposes or administrative reasons as determined by the department.
- (3) A full certificate specifying the term of certification, which shall not exceed three calendar years from the date of issuance by the department. This certificate shall remain in effect until it is renewed, terminated or revoked. It shall automatically terminate sixty days after the department notifies the provider of its failure to file an application for certification. The department shall issue a full certificate within thirty days of:
  - (a) Receipt of complete and compliant application materials; or
  - (b) Receipt of an acceptable plan of correction, as determined by the department.
- (C) A conditional, interim and full certificate is renewable, except that an interim certificate may be renewed only twice.
- (D) The certificate is valid only for the specified services.
- (E) A certificate is valid only at the locations specified on the certificate. A provider may provide any certified mental health service, alcohol and other drug (AoD) outpatient treatment, and AoD prevention services at any location listed on the provider's certificate. A provider's certification for AoD residential treatment in accordance with rule 5122-29-36 of the Administrative Code, acute, sub-acute or ambulatory detoxification in accordance with rule 5122-29-37 of the Administrative Code, and driver intervention program in accordance with Chapter 5122-29 of the Administrative Code is site specific and is limited to the site on the certificate.
- (F) A certificate is not transferable to any other location, provider site, building, corporation or other entity.
- (G) A provider shall produce the certificate for review upon request of a client or the department.
- (H) A provider shall immediately notify the department and the applicable alcohol and drug addiction services board or alcohol, drug addiction and mental health services board in writing of any changes in its operations that affect the provider's continued

compliance with the department's certification requirements.

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Date

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Rule Amplifies: 5119.36

5122-25-06

**Waivers and variances.**

- (A) The department may grant a waiver or variance from any certification standard, or portion thereof, for a period of time determined by the department, but that shall not exceed the expiration date of the current certificate. However, requests for waivers and variances that would adversely affect the quality of services or the health and safety of clients will not be granted.
- (B) ~~An agency~~ A provider shall submit a written request to the department for a waiver or variance. The written request shall state clearly the rationale and need for the requested waiver or variance.
- (1) Within thirty days of receipt of the written request, the department shall:
- (a) Provide a specific response to the request; or
  - (b) Provide an estimate to the ~~agency~~ provider of the timeframe in which the department will be able to provide a specific response to the request.

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Prior Effective Dates: 10-1-2003, 1-9-06

5122-25-07**Denial, revocation, and termination of certification.**

(A) The director may deny or revoke certification for one or more of the following reasons:

(1) The provider fails to comply with any certification standard for which it has not been granted deemed status in accordance with rule 5122-25-02 of the Administrative Code;

(2) The provider misuses or fails to properly account for the disbursement of state or federal funds;

(3) The provider provides false information or documentation to the department, Ohio medicaid, or a board;

(4) The provider permits an employee to falsify information on client records;

(5) The provider is aware of an employee who has abused or neglected a client and has failed to take appropriate disciplinary action to correct the situation;

(6) The provider fails to provide timely access to its records as requested by the department;

(7) Upon the renewal of a provider's conditional certificate issued in accordance with paragraph (A)(1) of rule 5122-25-05 of the administrative code; or,

(8) The provider:

(a) Loses accreditation as specified in paragraphs (A) and (C) of rule 5122-25-02 of the Administrative Code; or

(b) Fails to timely notify the department of its decision not to renew its accreditation; or,

(c) If the provider or principal in the provider has been convicted of medicaid fraud.

(B) The denial of an application for certification or the revocation of certification is subject to appeal under Chapter 119. of the Revised Code.

(C) Any provider which has had its certification revoked pursuant to this rule shall not be eligible to apply to the department for certification for at least five years from the date of revocation without the written consent of the department.

(D) Any provider which has been denied certification pursuant to this rule shall not be eligible to apply to the department for certification for at least three years from the date of denial without the written consent of the department.

(E) A certificate shall be considered terminated and invalid if the provider fails to reapply sixty days after the department notifies the provider of its failure to file an application for certification., voluntarily relinquishes the certificate, or goes out of business.

(F) Certificates shall be returned to the department upon denial, termination, revocation, or upon voluntarily discontinuing operation of the provider.

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12/17/2015

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Rule Amplifies: 5119.36

5122-25-08

**Certification fees.****(A) Deemed status**

Providers who have received deemed status pursuant to rule 5122-25-04 of the Administrative Code are subject to the following fee structure:

- (1) A provider applying for initial certification and deemed status that has obtained appropriate accreditation for all of the services in which it is seeking certification shall be exempt from paying a certification fee.
- (2) A provider applying for initial certification and deemed status which has obtained accreditation for some, but not all, of the services for which it is seeking certification shall pay a certification fee calculated based on only those non-accredited services which the provider is seeking certification.
- (3) When renewing certification, a provider with deemed status for some or all of its services shall pay a certification fee calculated based only those services which are non-accredited.
- (4) A provider granted deemed status choosing not to renew its accreditation for some or all of its services shall pay a certification fee within sixty days of notifying the department that it has chosen not to submit an application to renew its accreditation. The certification fee shall be based upon the non-accredited services and shall be prorated for the remainder of the provider's certification term.

**(B) Non-deemed status**

- (1) Initial certification: A provider not seeking deemed status shall pay the certification fee at the time of application.
- (2) A non-deemed status provider seeking to renew its certification shall pay a renewal fee at least sixty days prior to the expiration of its current certification.

**(C) Certification fee**

The certification fee shall be calculated based on the provider's total annual budget for services which are being certified, but which are not accredited, using table one:

Table 1 certification fee

<u>Annual budget for certified services:</u>	<u>Fee owed:</u>
<u>\$0 through \$75,000</u>	<u>\$0</u>
<u>\$75,001 through \$250,000</u>	<u>\$100</u>

<u>\$250,001 through \$500,000</u>	<u>\$1000</u>
<u>\$500,001 through \$1,500,000</u>	<u>\$2000</u>
<u>\$1,500,001 through \$3,000,000</u>	<u>\$3000</u>
<u>over \$3,000,000</u>	<u>\$4000</u>

- (1) Consumer operated services shall be exempt from the certification fee.
- (2) Providers shall be exempt from certification fees for the health home service during the period in which the provider is attempting to obtain accreditation as required by rule 5122-29-33 of the Administrative Code.
- (3) Driver intervention program providers may exclude the cost of housing from the annual budget when calculating certification fees.

(D) Additional services

(1) Non-deemed providers.

A non-deemed provider adding an additional service during the term of certification shall pay an additional certification fee based upon the annual budget of the new service for each occurrence of adding one or more additional service. The fee shall be calculated using table one of this rule and prorated for the remainder of the provider's certification term.

(2) Deemed providers.

A deemed provider adding an additional service during the term of certification shall pay an additional certification fee only for those additional services for which the provider is not accredited. The fee shall be calculated using table one of this rule and prorated for the remainder of the provider's certification term.

(E) A provider whose deemed status has been revoked in accordance with rule 5122-25-02 of the Administrative Code shall be assessed a certification fee in accordance with this rule, which shall be due within sixty days of the department revoking deemed status.

(F) The certification fee must be paid by the provider into the sale of goods and services fund created pursuant to section 5119.44 of the Revised Code.

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