

5122-26-01

**Purpose.**

The purpose of this chapter is to state the requirements for written policies and procedures for operation of ~~agencies~~ providers that provide alcohol and other drug or mental health services and activities.

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12/17/2015

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5122-26-02

**Applicability.**

~~The provisions of the rules contained in this chapter are applicable to each agency subject to certification by the department.~~

(A) The provisions of the rules contained in this chapter are applicable to each provider:

(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 according to section 5119.38 of the Revised Code.

(3) That voluntarily request certification.

(B) These rules do not diminish or enhance the authority of community mental health 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.

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5122-26-03

**Governing body and governance.**

(A) Each ~~agency~~ provider shall have a leadership structure. The leadership structure shall identify who is responsible for:

(1) Governance;

(2) ~~Agency~~ Provider administration, i.e. planning, management and operational activities; and,

(3) Provision of ~~clinical~~ services.

(B) Each corporation for non-profit shall have a governing body. For the purposes of this rule, governing body shall have the same meaning as governing board. The governing body shall guide, plan and support the achievement of the ~~agency's~~ provider's mission, vision and goals. The governing body shall develop written by-laws, a code of regulation, or policies for the following:

(1) Selection of members of the governing body. The composition of the governing body shall reflect the demographics of the community it serves;

(2) Provisions for orienting new members of the board of directors;

~~(2)~~(3) The number of members of the governing body needed for a quorum;

~~(3)~~(4) Terms of office for the members of the governing body; and,

~~(4)~~(5) Provisions guarding against the development of, and prohibiting the existence of, a conflict of interest between a governing body member and the ~~agency~~provider.

(C) The governing body shall:

(1) Provide for orientation of its new members, including providing information about governing structure, duties, responsibilities and operations of the organization;

(2) Provide financial oversight and approve the annual budget and plan for services;

(3) Conduct meetings of the governing body at least quarterly, which shall include:

(a) Review an annual summary of quality assurance and risk management

activities and document governing body actions taken as a result of this review; ~~and~~

(b) Approve the quality assurance plan;

~~(b)~~(c) Review an annual summary of client rights activities and document governing body actions taken as a result of this review.

(4) Maintain minutes of meetings of the governing body including, but not limited to:

(a) Date, time and place of the meeting;

(b) Names of members who attended; and

(c) Topics discussed and actions taken.

(5) Establish procedures for selecting the chief executive officer, ~~or~~ executive director or equivalent;

(6) Establish duties and responsibilities of the executive director;

(7) Select the executive director;

(8) Conduct an annual review and evaluation of the executive director;

(9) Identify responsibility for leadership in the absence of the executive director;

(10) Establish, review and update as necessary the ~~agency's~~provider's policies, and document that this review has occurred. The policies shall be reviewed in accordance with the schedule established by the ~~agency's~~provider's national accrediting body, if applicable, or a minimum of every five years;

(11) Ensure adequate malpractice and liability insurance protection for its corporate membership, governing body, advisory board if applicable, ~~agency~~ provider and ~~agency~~ provider staff, and review such protection annually;

(12) Ensure that opportunity is offered for input regarding the planning, evaluation, delivery, and operation of ~~mental health~~ certified services, which shall include but not be limited to the opportunity to participate in the activities of or participate on the governing body, advisory groups, committees, or other

~~agency provider~~ bodies, to:

- (a) Persons who are receiving or have received ~~mental health~~ certified services, and their family members; and
  - (b) Persons who collectively represent a wide range of community interests and demographic characteristics of the service district in categories such as race, ethnicity, primary spoken language, gender and socio-economic status;
- (13) Ensure that the hours of operation for services and/or activities accommodate the needs of persons served, their families and significant others; and,
- (14) Ensure that all services provided and employment practices are in accordance with non-discrimination provisions of all applicable federal laws and regulations.
- (D) A government ~~agency provider~~ shall identify its governance structure for the purpose of meeting the requirements of this rule. Each ~~agency provider~~ which is not a corporation for non-profit and therefore not subject to the provisions of paragraphs (B) and (C) of this rule shall have a written description of its governance structure, and identify whether the owner shall assume sole responsibility for the activities required in this rule, or whether the ~~agency provider~~ is governed by a governing body, board of directors, or other governance body. ~~Agency Provider~~ governance shall:
- (1) Provide financial oversight and develop an annual budget and plan for services;
  - (2) At least annually:
    - (a) Review ~~an~~ a summary of quality assurance and risk management activities and document governing body actions taken as a result of this review; and
    - (b) Approve the annual quality assurance plan; and,
    - ~~(b)(c)~~ Review client rights activities and document governing body actions taken as a result of this review;
  - (3) Establish duties and responsibilities of the executive director, chief executive officer or equivalent;

- (4) Select the executive director;
  - (5) Conduct an annual review and evaluation of the executive director;
  - (6) Identify responsibility for leadership in the absence of the executive director;
  - (7) Establish, review and update as necessary the agency's provider's policies, and document that this review has occurred. The policies shall be reviewed in accordance with the schedule established by the agency's provider's national accrediting body, if applicable, or a minimum of every five years;
  - (8) Ensure adequate malpractice and liability insurance protection for its corporate membership, advisory board if applicable, agency provider and agency provider staff, and review such protection annually;
  - (9) Ensure that opportunity is offered for input regarding the planning, evaluation, delivery, and operation of mental health and addiction services, which shall include but not be limited to the opportunity to participate in the activities of or participate on the governing body, advisory groups, committees, or other agency provider bodies, to
    - (a) Persons who are receiving or have received mental health and addiction services, and their family members; and
    - (b) Persons who collectively represent a wide range of community interests and demographic characteristics of the surrounding community, such as race, ethnicity, primary spoken language, gender, and socio-economic status;
  - (10) Ensure that the hours of operation for services and/or activities accommodate the needs of persons served, their families and significant others; and
  - (11) Ensure that all services provided and employment practices are in accordance with non-discrimination provisions of all applicable federal laws and regulations.
- (E) Each agency provider shall maintain a written table of organization or organization chart which documents the lines of responsibility of:
- (1) Governing body, if applicable;

- (2) Executive director;
- (3) Administrative leadership; and
- (4) Clinical oversight.

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5122-26-04                    **Policy and procedure manual.**

- (A) Each ~~agency~~ provider shall develop a written manual of policies and procedures regarding all services and activities of the ~~agency~~provider.
- (B) The policy and procedure manual shall be available for review by staff, persons served and their family and significant others.

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5122-26-06

**Human resources management.**

(A) The purpose of this rule is to ensure that each agency provider has a human resources management program, and develops written personnel policies and procedures which include the provisions of this rule.

(B) In addition to the definitions in rule 5122-24-01 of the Administrative Code, the following definition shall apply to this rule:

"Personnel" means any paid or unpaid person, volunteer, contract worker, student intern or other person who is a part of an agency's provider's workforce, including but not limited to those who perform management, clinical, operations, clerical, or other functions in support of the agency's provider's mission, vision and goals. Contract worker does not include an individual or company with whom the agency provider contracts to perform occasional maintenance such as lawn care, snow removal, painting, etc. Staff or employee shall have the same meaning as personnel.

(C) Each agency provider shall ensure that it has the necessary staff to support the agency's provider's mission, vision and goals, and to provide services to persons served.

Clinical services shall be under the supervision of an individual who is eligible to provide services as set forth in rule 5122-29-30 of the Administrative Code, and who has demonstrated experience, competency, and education in the area supervised, i.e. substance abuse, mental health or dual diagnosis.

(D) Each agency provider shall ensure that its personnel policies and procedures include the following provisions:

(1) Prohibit discrimination in employment, training, job duties, compensation, evaluation, promotion, and any other term or condition of employment based on race, ethnicity, age, color, religion, gender, national origin, sexual orientation, physical or mental handicap, developmental disability, genetic information, human immunodeficiency virus status, or in any manner prohibited by local, state or federal laws;

(2) Describe a formal process to express and process employee grievances;

(3) Prohibit sexual harassment;

~~(3)~~(4) Establish recruitment and hiring practices;

~~(4)~~(5) Establish skills, qualifications and competencies required for each position, based on mission of organization, services provided and characteristics and

needs of population(s) served. The ~~agency~~ provider shall maintain a written job description for each position.

All personnel for whom licensure is required by law shall maintain current licensure by the appropriate body in the state of Ohio, and shall practice only within the scope of their license.

- ~~(5)~~(6) Verify staff credentials, including licensure, certification or registration, education, and experience;
- ~~(6)~~(7) Develop and maintain a staff orientation program, which shall include training on:
- (a) Employee and client safety, including safety procedures in rule 5122-26-12 of the Administrative Code;
  - (b) ~~Agency's~~Provider's mission, vision and goals;
  - (c) Characteristics of the population served;
  - (d) Sensitivity to cultural diversity;
  - (e) ~~Agency~~ Provider policies and procedures, including personnel policies, and those specific to individual job duties;
  - (f) Confidentiality policy;
  - (g) Reporting abuse and neglect policy and procedures; and,
  - (h) Client rights and grievance policy and procedures.
- ~~(7)~~(8) Ensure direct service and supervisory staff participate in staff development education and training. Training may be provided by direct supervision, attendance at conferences and workshops internal and external to the ~~agency~~provider, on-line training, educational coursework, etc. Training shall:
- (a) Maintain or increase competency;
  - (b) Include topics specific to population served; and

(c) Ensure culturally competent provision of service.

~~(8)~~(9) Ensure each staff providing direct services receives regularly scheduled and documented supervision appropriate to his/her/their skill level and job duties, and in accordance with the requirements of his/her/their license, certificate or registration, if applicable.

Supervision may be provided in individual and group sessions, including supervisor participation in treatment plan meetings.

~~(9)~~(10) Evaluate staff performance at a frequency required by its accrediting body, if applicable, or for an agency provider without behavioral health accreditation, annually.

The agency provider shall establish a system and frequency for evaluating volunteers, based on job duties, scope of responsibility, and frequency of service.

(11) Standards of acceptable behavior for all employees.

(12) Termination of employment.

(13) Procedure that states that employment applicants shall be informed that the provider follows the rules and regulations governing fair employment practices, that the applicant's right to privacy shall be respected, and that the results of inquiries shall be treated in confidence by the provider.

(E) Each provider serving children or adolescents shall have a policy which states the following:

(1) Each employee utilized in positions which are responsible for the direct care or supervision of children or adolescents shall be at least eighteen years of age.

(2) A prospective employee, volunteer or student intern shall not have pled guilty to nor been convicted of any of the offenses listed in paragraph (I) of rule 5101:2-5-09 of the Administrative Code. A prospective employee, adult volunteer or student intern convicted of or who has pleaded guilty to an offense listed in paragraph (I) of rule 5101:2-5-09 of the Administrative Code may be hired by a provider if the conditions as provided in paragraph (H) of rule 5102:2-5-09 of the Administrative Code have been met.

(3) The provider shall require that criminal records checks on employees, volunteers and student interns be conducted by the bureau of criminal identification and investigation (BCII) and, if the prospective employee does not demonstrate that they have been a resident of Ohio for the preceding five

years, by the federal bureau of investigation (FBI).

~~(E)~~(F) A copy of the written personnel policies and procedures shall be available to each employee. Employees shall be notified of changes in personnel policies and procedures. The provider shall establish written procedures for notifying employees of such changes.

~~(F)~~(G) Personnel files.

(1) The ~~agency~~ provider shall maintain a person file on each staff person, who shall have access to ~~his/her~~ their own personnel file.

(2) Personnel files shall be stored in such a manner as to maintain the privacy of each staff person. ~~Agency~~ Provider policies shall describe who shall have access to the various information contained within the file.

(3) Each personnel file shall include the following content:

(a) Identifying information and emergency contacts;

(b) Application for employment or resume;

(c) Verification of credentials from professional regulatory boards in Ohio, if applicable, including either electronic verifications or copies of current professional licenses, certifications, or registration;

(d) Documentation of education, experience and training;

(e) Verification of references, if required for position;

(f) Notification of hire, to include start date and position;

~~(f)~~(g) Job or position description, to include job title and:

(i) Supervisor to whom the person holding this position is responsible.

(ii) Duties or responsibilities.

(iii) Minimum qualifications for the position (knowledge and skills).

(iv) Credentials and academic requirements, if applicable.

(v) Positions supervised by person holding this position, if applicable

~~(g)~~(h) Compensation documentation, if applicable;

(i) For providers which provide alcohol and other drug services, documentation that the employee has reviewed and agreed to abide by the federal regulations on the confidentiality of alcohol and drug abuse patient records (Title 42, Code of Federal Regulations, part 2).

~~(h)~~(j) Performance evaluations;

~~(i)~~(k) Documentation of orientation;

(l) Documentation to reflect that the employee has received a copy of the policies and procedures identified in paragraph (D)(7) of this rule and has agreed to abide by each of them;

~~(j)~~(m) Documentation of on-going training, as required by position, state law and agency policy;

~~(k)~~(n) Commendations or awards, if applicable; and

~~(l)~~(o) Disciplinary actions, if applicable.

~~(G)~~(H) The agency provider shall have policies and written procedures for handling cases of staff neglect and abuse of persons served, and documentation that each employee has received a copy of these policies and procedures.

~~(H)~~(I) The agency provider shall have a policy that appropriate disciplinary action, up to and including dismissal from employment, shall be taken regarding any employee misconduct or criminal conviction that bears a direct and substantial relationship to that employee's position.

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5122-26-08

**Confidentiality.**

- (A) This rule describes the minimum written policies and procedures for maintaining confidentiality in accordance with applicable federal and state laws and regulations; including, but not limited to, 42 C.F.R. part 2, confidentiality of alcohol and drug abuse client records, and the health insurance portability and accountability act of 1996.
- (B) A provider staff person's access to an individual client's records, treatment information, diagnosis or other protected information is limited to access and disclosure in accordance with applicable federal and state laws and regulations.
- (C) Storage of client records shall be in accordance with all applicable federal and state laws and regulations.

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5122-26-08.1      **Security of clinical records systems.**

(A) Each provider shall have policies and procedures addressing the security of its clinical records system.

(B) If a provider maintains electronic health records (EHRs) it must be a system or module that is certified in accordance with the Public Health Service Act (PHSA) Title XXX and also comply with section 3701.75 of the Revised Code.

The provider must be able to produce paper copies of client records upon legally valid requests.

(C) Policies and procedures for providers maintaining a computer-based clinical records system shall include consideration of the following components:

(1) Authentication - providing assurance regarding the identity of a user and corroboration that the source of data is as claimed;

(2) Authorization - the granting of rights to allow each user to access only the functions, information, and privileges required by their duties;

(3) Integrity - ensuring that information is changed only in a specific and authorized manner. Data, program, system and network integrity are all relevant to consideration of computer and system security;

(4) Audit trails - creating immediately and concurrently with user actions a chronological record of activities occurring in the system;

(5) Disaster recovery - the process for restoring any loss of data in the event of fire, vandalism, disaster, or system failure;

(6) Data storage and transmission - physically locating, maintaining and exchanging data; and

(7) Electronic signatures - a code consisting of a combination of letters, numbers, characters, or symbols that is adopted or executed by an individual as that individual's electronic signature; a computer-generated signature code created for an individual; or an electronic image of an individual's handwritten signature created by using a pen computer. Client record systems utilizing electronic signatures shall comply with section 3701.75 of the Revised Code.

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5122-26-09

**Agency Provider service plan.**

- (A) The purpose of this rule is to ensure that the agency provider plans and develops services to meet the needs of the population served.
- (B) The agency provider shall define in writing its mission, vision and goals.
- (C) The agency provider shall develop a written description of each service provided, which shall include:
- (1) The description of the service, including services provided under each level of care, if applicable;
  - (2) Schedule of the days the service is available, and hours of operation;
  - (3) Needs and characteristics of the population served;
  - (4) Goals and scope of service; and,
  - (5) Description of services which are offered through referral or affiliations with other providers, and the responsibilities of each ~~agency~~ or provider.
- (D) The agency provider shall revise and update the service description when any of the information required in paragraph (C) of this rule changes.
- (E) The agency provider service plan shall be available for review by persons served, their family, significant others and the public.

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5122-26-11

**AffiliationContinuity of care agreements.**

~~(A) Each agency shall ensure that any residential facility subject to licensure by the department in which persons served by the agency reside is affiliated with a mental health agency or the local community mental health board.~~

~~(B)~~(A) Each agency provider designated by the ~~community mental health~~ board to screen, refer, ~~and/or~~ admit persons to a state-operated psychiatric hospital shall have a signed continuity of care agreement describing the roles and responsibilities of the ~~community mental health~~ board, hospital, agency and department.

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5122-26-12

**Environment of care and safety.**

- (A) The purpose of this rule is to ensure that each agency maintains a clean, safe, appropriate environment which supports the provision of quality ~~mental health~~ certified services and minimizes the risk of harm to clients, staff, visitors, and others.
- (B) Each ~~agency~~ provider shall designate the personnel who are responsible for implementing and oversight of the provisions of this rule.
- (C) Each ~~agency~~ provider shall develop written policies and procedures to address emergency situations, including:
- (1) Fire, including the requirement that fire exit doors shall remain unlocked and clearly marked unless a variance has been granted by a certified authority of the division of state fire marshal of the department of commerce;
  - (2) Bomb threat;
  - (3) Natural disaster;
  - (4) Utility outage or malfunction, e.g. a gas leak; and
  - (5) Other potential threats which may be applicable based upon location, e.g. nuclear power plant leak.
- (D) Each ~~agency~~ provider shall have posted evacuation plans, conduct emergency drills and evaluate the effectiveness of the drill to ascertain the need for performance improvement:
- (1) Fire drills shall be conducted at least once every twelve months at each provider location offering services on a less than twenty-four hour/day basis. Residential, halfway house, sub-acute and acute detoxification providers shall conduct fire drills at least quarterly. A driver intervention program location is exempt from the provisions of this paragraph unless other services or programs are also available at the location.
  - (2) The ~~agency~~ provider shall evaluate and determine the need to conduct other drills, and the frequency. This shall be included in its policies and procedures.
- (E) Each ~~agency~~ provider shall have written policies and procedure, which incorporate any applicable local, state or federal laws for:

- (1) Safe handling, storage and disposal of hazardous materials.
  - (2) Safe handling and disposal of infectious waste materials, including applicable specifications of the occupational health and safety administration and the Ohio department of health.
  - (3) Infection control, including applicable specifications of the occupational health and safety administration and the Ohio department of health.
  - (4) Prohibiting the use of unvented kerosene, gas or oil heaters.
  - ~~(4)~~(5) Hazardous areas of the agency provider.
- (F) The agency's provider's policies and procedures shall include the requirement that each staff receives training during orientation on the safety procedures identified in paragraphs (C), (D) and (E) of this rule. The agency provider shall identify in its policies and procedures the need for on-going training on each emergency or safety procedure, and the frequency of such training.
- (G) Each agency provider shall meet local, state and federal laws regarding accessibility:
- Whenever it identifies a structural or other barrier which limits access to or within the building, the agency provider shall develop a plan to remove the barrier.
- (H) The agency provider shall conduct regular safety inspections at least every six months, or more often as identified by the agency's provider's policies and procedure or its accrediting body. Inspections shall include attention to:
- (1) Physical structure;
  - (2) Electrical systems;
  - (3) Heating and cooling systems;
  - (4) Warning devices, e.g. exit lights, alarm systems, etc.;
  - (5) Fire and carbon monoxide detection systems;
  - ~~(5)~~(6) Fire suppression equipment;

~~(6)~~(7) Lighting;

~~(7)~~(8) Food preparation areas, if applicable; and

~~(8)~~(9) Any other areas or systems as needed and identified in agency provider policies and procedures.

Driver intervention programs provided at motels, hotels, or camps are exempt from the inspection requirements of this paragraph.

(I) Each agency provider shall ensure it obtains inspections and permits in accordance with local, state or federal laws.

(1) At a minimum, the agency provider shall obtain the following inspections every twelve months:

(a) Approved fire ~~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, to include testing of fire alarm systems.

(b) 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.

(2) The agency provider shall ensure that it obtains inspections and/or maintains current permits as required by law, if applicable for the following:

(a) Elevator inspection.

(b) Boiler inspection.

(c) Food service.

(d) Swimming pool.

~~(d)~~(e) Any other as required by local, state or federal law.

Driver intervention programs provided at motels, hotels, or camps are exempt from the inspection requirements of this paragraph.

(J) Providers providing halfway house, residential and sub-acute detoxification services shall make provisions to ensure each client receives three nutritionally balanced meals and a snack each day.

For a client assessed in need of a specialized diet, the provider shall maintain written documentation that the planning and preparation of meals is done so in accordance with a plan and instructions prepared by a dietitian, who is licensed by the Ohio board of dietetics or a physician.

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5122-26-13

**Incident notification and risk management.**

(A) This rule establishes standards to ensure the prompt and accurate notification of certain prescribed incidents. It also requires the agency provider to review and analyze all incidents so that it might identify and implement corrective measures designed to prevent recurrence and manage risk.

## (B) Definitions

(1) "County community ~~mental health~~ board of residence" means the ~~mental health~~ board that is responsible for referring ~~and/or~~ paying for the client's treatment.

(2) "County community board" means a board with which the provider has entered into a contract to provide services or facilities.

~~(2)~~(3) "Incident" means an event that poses a danger to the health and safety of clients ~~and/or~~ staff and visitors of the agency provider, and is not consistent with routine care of persons served or routine operation of the agency provider.

~~(3)~~(4) "Reportable Incident" means an incident that must be submitted to the department, ~~including an incident that must then be forwarded by the department to the Ohio legal rights service pursuant to section 5123.604 of the Revised Code.~~ As referenced in division ~~(C)~~ (E) of section ~~5119.611~~5119.36 of the Revised Code, "Major Unusual Incident" has the same meaning as "Reportable Incident."

~~(4)~~(5) "Six month reportable incident" means an incident type of which limited information must be reported to the department. A six month reportable incident is not the same as a reportable incident.

~~(5)~~(6) "Six month incident data report" means a data report which must be submitted to the department.

(C) The agency provider shall develop an incident reporting system to include a mechanism for the review and analysis of all reportable incidents such that clinical and administrative activities are undertaken to identify, evaluate, and reduce risk to clients, staff, and visitors. The agency provider shall identify in policy other incidents to be reviewed and analyzed.

(1) An incident report shall be submitted in written form to the agency's provider's executive director or designee within twenty-four hours of discovery of a reportable incident.

- (2) As part of the ~~agency's~~provider's performance improvement process, a periodic review and analysis of reportable incidents, and other incidents as defined in ~~agency~~ the provider's policy, shall be performed. This shall include a review of all incident reports received from ~~class two and class three licensed type 2 and type 3~~ residential facilities as defined in division (B) of section 5119.34 of the Revised Code regarding persons served by the ~~agency~~provider, and any action taken by the ~~agency~~provider, as appropriate.
- (3) The ~~agency~~ provider shall maintain an ongoing log of its reportable incidents for departmental review.
- (D) Any person who has knowledge of any instance of abuse or neglect, or alleged or suspected abuse or neglect of:
- (1) Any child or adolescent, shall immediately notify the county children's services board, the designated child protective agency, or law enforcement authorities, in accordance with section 2151.421 of the Revised Code; or
  - (2) An elderly person, shall immediately notify the appropriate law enforcement and county department of jobs and family services authorities in accordance with section 5101.61 of the Revised Code.
- (E) Each ~~agency~~ provider shall submit reportable incidents and six month reportable incidents as defined by and according to the schedule included in appendix A to this rule.
- (F) Each reportable incident shall be documented ~~on form "DMH-LIC-015"~~ as required by the department. ~~Form "DMH-LIC-015"~~ The information shall include identifying information about the ~~agency~~provider, date, time and type of incident, and client information that has been de-identified pursuant to the HIPAA privacy regulations, [45 C.F.R.164.514(b)(2)], and 42 CFR Part B, paragraph 2.22., if applicable.
- (1) The ~~agency~~ provider shall file only one incident form per event occurrence and identify each incident report category, if more than one, and include information regarding all involved clients, staff, and visitors; ~~and~~.
- If, after submitting a reportable incident to the department, a provider learns that an additional incident report category in addition to that which was already submitted is associated with the same event occurrence, the provider shall either amend the original report or submit a new incident report including only the new incident category and information.

- (2) The agency provider shall forward each reportable incident to the department and to the county community ~~mental health~~ board of residence within twenty-four hours of its discovery, exclusive of weekends and holidays; ~~and~~.
- (G) Each agency provider shall submit a six month incident data report to the department and to the county community ~~mental health~~ board utilizing the form that is in appendix B to this rule.
- The six month incident data report must be submitted according to the following schedule:
- (1) The six month incident data report for the period of January first through June thirtieth of each year shall be submitted no later than July thirty-first of the same year; and
- (2) The six month incident data report for the period of July first through December thirty-first of each year shall be submitted no later than January thirty-first of the following year.
- (H) The department may initiate follow-up and further investigation of a reportable incident and six month reportable incidents, as deemed necessary and appropriate, or may request such follow-up and investigation by the agency provider, regulatory or enforcement authority, ~~and/or the community mental health~~ county communityboard.

Effective: 04/01/2016

Five Year Review (FYR) Dates: 06/29/2015 and 04/01/2021

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: 1/1/04, 1/1/2012

**Certified Community Mental Health or Addiction Services Agency Provider  
Reportable and Six Month Reportable Incidents**

In addition to the definitions in rule 5122-24-01 and 5122-26-16 of the Administrative Code, the following definitions are applicable to Ohio Administrative Code (OAC) rule 5122-26-13 "Incident Notification and Risk Management":

- (1) "Emergency/Unplanned Medical Intervention" means treatment required to be performed by a licensed medical doctor, osteopath, podiatrist, dentist, physician's assistant, or certified nurse practitioner, but the treatment required is not serious enough to warrant or require hospitalization. It includes sutures, staples, immobilization devices and other treatments not listed under "First Aid", regardless of whether the treatment is provided ~~in the agency~~ at the provider, or at a doctor's office/clinic/hospital ER, etc. This does not include routine medical care or shots/immunizations, as well as diagnostic tests, such as laboratory work, x-rays, scans, etc., if no medical treatment is provided.
- (2) "First Aid" means treatment for an injury such as cleaning of an abrasion/wound with or without the application of a Band-aid, application of a butterfly bandages/Steri-Strips™, application of an ice/heat pack for a bruise, application of a finger guard, non-rigid support such as a soft wrap or elastic bandage, drilling a nail or draining a blister, removal of a splinter, removal of a foreign body from the eye using only irrigation or swab, massage, drinking fluids for relief of heat stress, eye patch, and use of over-the-counter medications such as antibiotic creams, aspirin and acetaminophen. These treatments are considered first aid, even if applied by a physician. These treatments are not considered first aid if provided at the request of the client and/or to provide comfort without a corresponding injury.
- (3) "Hospitalization" means inpatient treatment provided at a medical acute care hospital, regardless of the length of stay. Hospitalization does not include treatment when the individual is treated in and triaged through the emergency room with a discharge disposition to return to the community, or admission to psychiatric unit.
- (4) "Injury" means an event requiring medical treatment that is not caused by a physical illness or medical emergency. It does not include scrapes, cuts or bruises which do not require medical treatment.
- (5) "Sexual Conduct" means as defined by Section 2907.01 of the Ohio Revised Code, vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.
- (6) "Sexual Contact" means as defined by Section 2907.01 of the Ohio Revised Code, any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

## Reportable Incidents

The following lists and defines each event category which must be reported per incident in accordance with paragraph (F) of rule 5122-26-13 of the Administrative Code.

Category	Reportable Incident Definition
Suicide	The intentional taking of one's own life by a client.
Homicide by Client	The alleged unlawful killing of a human being by a client.
<del>Homicide of Client</del>	<del>The alleged unlawful killing of a client by another person.</del>
Accidental Death	Death of a client resulting from an unusual and unexpected event that is not suicide, homicide or natural, and which happens on the grounds of the <u>agency provider</u> or during the provisions of care or treatment, including during <u>agency provider</u> off-grounds events.
<del>Verbal Abuse</del>	<del>Allegation of staff action directed toward a client that includes humiliation, harassment, and threats of punishment or deprivation.</del>
Physical Abuse	Allegation of staff action directed toward a client of hitting, slapping, pinching, kicking, or controlling behavior through corporal punishment or any other form of physical abuse as defined by applicable sections of the Revised or Administrative Code.
Sexual Abuse	Allegation of staff action directed toward a client where there is sexual contact or sexual conduct with the client, any act where staff cause one or more other persons to have sexual contact or sexual conduct with the client, or sexual comments directed toward a client. Sexual conduct and sexual contact have the same meanings as in Section 2907.01 <del>or of</del> the Revised Code.
Neglect	Allegation of a purposeful or negligent disregard of duty imposed on an employee by statute, rule, organizational policy, or professional standard and owed to a client by that staff member.
Defraud	Allegation of staff action directed toward a client to knowingly obtain by deception or exploitation some benefit for oneself or another or to knowing cause, by deception or exploitation, some detriment to another.
Involuntary Termination Without Appropriate Client Involvement	Discontinuing services <del>to</del> <u>to</u> a client without <u>providing reasonable advance notice informing to</u> the client <del>in advance</del> of the termination, providing a reason for the termination, and offering a referral to the client. This does not include situations when a client discontinues services without notification, or the <u>agency provider</u> documents it was unable to notify the client due to lack of address, returned mail, lack of or non-working phone number, etc.
Sexual Assault by Non-staff, Including a Visitor, Client or Other	Any allegation of one or more of the following sexual offenses as defined by Chapter 2907 of the Revised Code committed by a non-staff against another individual, including staff, and which happens on the grounds of the <u>agency provider</u> or during the provisions of care or treatment, including during <u>agency provider</u> off-grounds events: Rape, sexual battery, unlawful sexual conduct with a minor, gross sexual imposition, or sexual imposition.

## Reportable Incidents

The following lists and defines each event category which must be reported per incident in accordance with paragraph (F) of rule 5122-26-13 of the Administrative Code (continued).

Category	Reportable Incident Definition
<b>Physical Assault by Non-staff, Including Visitor, Client or Other</b>	Knowingly causing physical harm or recklessly causing serious physical harm to another individual, including staff, by physical contact with that person, which results in an injury requiring emergency/unplanned medical intervention, <del>or</del> hospitalization, <u>or death</u> , and which happens on the grounds of the <u>agency provider</u> or during the provision of care or treatment, including during <u>agency provider</u> off-grounds events.
<b>Medication Error</b>	Any preventable event while the medication was in the control of the health care professional or client, and which resulted in permanent client harm, hospitalization, or death. Such events may be related to professional practice, health care products, procedures, and systems, including prescribing; order communication, product labeling, packaging, and nomenclature; compounding; dispensing; distribution; administration; education; monitoring; and use.
<b>Adverse Drug Reaction</b>	Unintended, undesirable or unexpected effect of a prescribed medication(s) that results in permanent client harm, hospitalization, or death.
<b><u>Employee Theft of Medication</u></b>	<u>Allegation of employee theft of prescribed medication under the control of or stored by the agency provider.</u>
<b>Medical Events Impacting <u>agency Provider</u> Operations</b>	The presence or exposure of a contagious or infectious medical illness within an <u>agency provider</u> , whether brought by staff, client, visitor or unknown origin, that poses a significant health risk to other staff or clients in the <u>agency provider</u> , and that requires special precautions impacting operations. Special precautions impacting operations include medical testing of all individuals who may have been present in the <u>agency provider</u> , when isolation or quarantine is recommended or ordered by the health department, police or other government entity with authority to do so, and/or notification to individuals of potential exposure. Special precautions impacting operations does not include general isolation precautions, i.e. suggesting staff and/or clients avoid a sick individual or vice versa, or when a disease may have been transmitted via consensual sexual contact or sexual conduct.
<b>Temporary Closure of One or More <u>agency Provider</u> Sites</b> Subcategory (check one)	The <u>agency provider</u> ceases to provide services at one or more locations for a minimum period of more than seven consecutive calendar days due to: <ol style="list-style-type: none"><li>1. Fire</li><li>2. Disaster (flood, tornado, explosion, excluding snow/ice)</li><li>3. Failure/Malfunction (gas leak, power outage, equipment failure)</li><li>4. Other (name)</li></ol>

**Continued On Page 4 & 5 for Seclusion and Restraint & Use of Force Related Incidents**

**Continued On Page 6 for Six Month Reportable Incident Instructions**

## Reportable Incidents

The following lists and defines each event category which must be reported per incident in accordance with paragraph (F) of rule 5122-26-13 of the Administrative Code (continued).

Category	Reportable Incident Definition
<b>Inappropriate Use of Seclusion or Restraint</b>	Seclusion or restraint utilization that is not clinically justified, or mechanical <u>restraint or seclusion</u> <del>or restraint</del> employed without the authorization of staff permitted to initiate/order mechanical seclusion or restraint
Subcategory (check all that apply)	<ol style="list-style-type: none"><li>1. Seclusion</li><li>2. Mechanical restraint</li><li>3. Physical restraint, including transitional hold</li></ol>
Total Minutes	The total number of minutes of the seclusion or restraint.
<b><u>Use of Seclusion/Restraint by a Provider without Prior Notification that the Provider Permits the Use of Seclusion or Restraint</u></b>	<b><u>Use of seclusion or restraint without notification to the Department in accordance with paragraph (A)(1)(e) of rule 5122-25-03 or paragraph (A)(1)(e) of the Administrative Code of a provider's intent to utilize seclusion or restraint..</u></b>
<b><u>Subcategory (check one)</u></b>	<ol style="list-style-type: none"><li><b><u>1. Seclusion</u></b></li><li><b><u>2. Mechanical restraint</u></b></li><li><b><u>3. Physical restraint, including transitional hold</u></b></li></ol>
<b>Inappropriate Restraint Techniques and other Use of Force</b>	Staff utilize one or more of the following methods/interventions prohibited by paragraph (D)(2) of rule 5122-26-16 of the Administrative Code:
Subcategory (check all that apply)	<ol style="list-style-type: none"><li>1. Behavior management interventions that employ unpleasant or aversive stimuli such as: the contingent loss of the regular meal, the contingent loss of bed, and the contingent use of unpleasant substances or stimuli such as bitter tastes, bad smells, splashing with cold water, and loud, annoying noises</li><li>2. Any technique that restricts the client's ability to communicate</li><li>3. Any technique that obstructs vision</li><li>4. Any technique that obstructs the airways or impairs breathing, <u>including placing a cloth or other item over an individual's mouth or nose</u></li><li>5. Use of mechanical restraint on a client under age 18</li><li>6. A drug or medication that is used as a restraint to control behavior or restrict the client's freedom of movement and is not a standard treatment or dosage for the client's medical or psychiatric condition or that reduces the client's ability to effectively or appropriately interact with the world around him/her</li><li>7. The use of handcuffs or weapons such as pepper spray, mace, nightsticks, or electronic restraint devices such as stun guns and tasers</li></ol>
<b>Seclusion/Restraint Related Injury to Client</b>	Injury to a client caused, or it is reasonable to believe the injury was caused by being placed in seclusion/restraint or while in seclusion/restraint, and first aid or emergency/unplanned medical intervention was provided or should have been provided to treat the injury, or medical hospitalization was required. It does not include injuries which are self-inflicted, e.g. a client banging his/her head, unless the <u>agency provider</u> determines that the seclusion/restraint was not properly performed by staff, or injuries caused by another client, e.g. a client hitting another client.
Subcategory (check one)	<ol style="list-style-type: none"><li>1. Injury requiring first aid</li><li>2. Injury requiring unplanned/emergency medical intervention</li><li>3. Injury requiring hospitalization</li></ol>

## Reportable Incidents

The following lists and defines each event category which must be reported per incident in accordance with paragraph (F) of rule 5122-26-13 of the Administrative Code (continued).

Category	Reportable Incident Definition
<del>Seclusion/Restraint Related Injury to Staff</del>	<del>Injury to staff caused, or it is reasonable to believe the injury was caused as a result of placing an individual in seclusion/restraint, and first aid or emergency/unplanned medical intervention was provided or should have been provided to treat the injury, or medical hospitalization was required. It does not include injuries which occur prior to, or are the rationale for, placing an individual in seclusion or restraint.</del>
<del>Subcategory (check one)</del>	<del>1. Injury requiring first aid 2. Injury requiring emergency/unplanned medical intervention Injury requiring hospitalization</del>
<b>Seclusion/Restraint Related Death</b>	Death of a client which occurs while a client is restrained or in seclusion, within twenty-four hours after the client is removed from seclusion or restraint, or it is reasonable to assume the client's death may be related to or is a result of seclusion or restraint
Subcategory (check one)	<ol style="list-style-type: none"><li>1. Death during seclusion or restraint</li><li>2. Death within twenty-four hours of seclusion or restraint</li><li>3. Death related to or result of seclusion or restraint</li></ol>

**Continued On Page 6 for Six Month Reportable Incident Instructions**

## Six Month Reportable Incidents

The following lists and defines the incident data which must be reported every six months in accordance with paragraph (G) of rule 5122-26-13 of the Administrative Code.

Category	Six Month Reportable Incident Definition
<b>Seclusion</b>	A staff intervention that involves the involuntary confinement of a client alone in a room where the client is physically prevented from leaving.
Age 17 and Under	The aggregate total number of all episodes of seclusion and aggregate total minutes of all seclusion episodes.
Age 18 and Over	The aggregate total number of all episodes of seclusion and aggregate total minutes of all seclusion episodes.
<b>Mechanical Restraint</b>	A staff intervention that involves any method of restricting a client's freedom of movement, physical activity, or normal use of his or her body, using an appliance or device manufactured for this purpose.
Age 18 and Over	The aggregate total number of all episodes of mechanical restraint and aggregate total minutes of all mechanical restraint episodes.
<b>Physical Restraint excluding Transitional Hold</b>	A staff intervention that involves any method of physically (also known as manually) restricting a client's freedom of movement, physical activity, or normal use of his or her body without the use of mechanical restraint devices
Age 17 and Under	The aggregate total number of all episodes of physical restraint and aggregate total minutes of all physical restraint episodes, excluding transitional hold.
Age 18 and Over	The aggregate total number of all episodes of physical restraint and aggregate total minutes of all physical restraint episodes, excluding transitional hold.
<b>Transitional Hold</b>	A staff intervention that involves a brief physical (also known as manual) restraint of a client face-down for the purpose of quickly and effectively gaining physical control of that client, or prior to transport to enable the client to be transported safely.
Age 17 and Under	The aggregate total number of all episodes of transitional hold and aggregate total minutes of all transitional hold episodes.
Age 18 and Over	The aggregate total number of all episodes of transitional hold and aggregate total minutes of all transitional hold episodes.
<b><u>Seclusion/Restraint Related Injury to Staff</u></b>	<b><u>Injury to staff caused, or it is reasonable to believe the injury was caused as a result of placing an individual in seclusion/restraint, and first aid or emergency/unplanned medical intervention was provided or should have been provided to treat the injury, or medical hospitalization was required. It does not include injuries which occur prior to, or are the rationale for, placing an individual in seclusion or restraint.</u></b>
<b><u>Subcategory (check one)</u></b>	<b><u>1. Injury requiring first aid</u></b> <b><u>2. Injury requiring emergency/unplanned medical intervention</u></b> <b><u>3. Injury requiring hospitalization</u></b>

**Community Mental Health and/or Addiction Services Agency Provider  
Six Month Reportable Incident Data Report Form****Instructions:**

Please complete the Agency Information on this page, and complete Parts A, B, C, D and E. ~~If agency policy prohibits the use of seclusion or restraint, please check the box in Part A below. If agency policy permits the use of seclusion or restraint, please skip Part A and complete Parts B, C & D, beginning on Page 4.~~ Please complete Parts A, B, C & D D, and E if agency provider policy allows the use of seclusion or restraint, even if the agency provider did not utilize seclusion or restraint during the reporting period. Definitions are found on Page 2. Please complete one form for agency provider, regardless of the number of certified locations.

You may submit this form by fax, e-mail or mail. Address and fax number information is available on the Ohio Department of Mental Health and Addition Services website.

**Please submit this report by the following deadline:**

- For the incident reporting period of January 1 through June 30, by July 31 of the same year
- For the incident reporting period of July 1 through December 31, by January 31 of the following year

**Community Mental Health Agency Provider Information**

Agency Name: \_\_\_\_\_

ODMH OhioMHAS Certification Number(s): \_\_\_\_\_

Person Completing Report: \_\_\_\_\_ Title: \_\_\_\_\_

Phone \_\_\_\_\_ E-mail: \_\_\_\_\_

Reporting Period (please include year):  January 1 – June 30, 20\_\_\_\_ Report is due by July 31 of this year

July 1 – December 31, 20\_\_\_\_ Report is due by January 31 of the following year

**Part A**

~~Agency policy prohibits the use of seclusion and restraint in all certified services, and the agency did not utilize seclusion and restraint during the reporting period.~~

**If Box in Part A is checked, you are finished.**

~~Please return report.~~

~~If not, please skip to and~~ Please complete Parts A, B, C, ~~and D~~ D and E

**Definitions. Please utilize the following definitions for completing this report:**

“Hours of Service” means the total number of hours of service provided to all clients.

“Mechanical Restraint” means staff intervention that involves any method of restricting a client’s freedom of movement, physical activity, or normal use of his or her body, using an appliance or device manufactured for this purpose.

“Child” means an individual under the age of eighteen, or an individual with mental illness or substance use disorder under the age of twenty-one receiving services in any of the following services/programs that are specifically designed for children and adolescents: partial hospitalization, intensive outpatient treatment program, or alcohol and other drug (AoD) residential/halfway house program.

“Physical Restraint”, also known as “manual restraint”, means a staff intervention that involves any method of physically (also known as manually) restricting a client’s freedom of movement, physical activity, or normal use of his or her body without the use of mechanical restraint devices.

“Seclusion” means a staff intervention that involves the involuntary confinement of a client alone in a room where the client is physically prevented from leaving.

"Transitional hold" means a staff intervention that involves a brief physical (also known as manual) restraint of a client face-down for the purpose of quickly and effectively gaining physical control of that client, or prior to transport to enable the client to be transported safely.

“Unduplicated Clients Served” means the number of clients served during a specified timeframe. Each person can only be counted once, regardless of the number of services he or she receives.

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**Part A. Seclusion/Restraint Related Injury to Staff. Please check the appropriate answer, and then follow the instructions.**

Definition: Injury to staff caused, or it is reasonable to believe the injury was caused as a result of placing an individual in seclusion/restraint, and first aid or emergency/unplanned medical intervention was provided or should have been provided to treat the injury, or medical hospitalization was required. It does not include injuries which occur prior to, or are the rationale for, placing an individual in seclusion or restraint.

Agency Provider did not have any seclusion and restraint related staff injuries. Please continue to Part B.

**Table B1. Seclusion/Restraint Related Injury to Staff**

	<u>January/ July</u>	<u>February/ August</u>	<u>March/ September</u>	<u>April/ October</u>	<u>May/ November</u>	<u>June/ December</u>
<u>Injury requiring first aid</u>						
<u>Injury requiring emergency/unplanned medical intervention</u>						
<u>Injury requiring hospitalization</u>						

**Part B. Crisis Intervention ~~Mental Health~~ Service (Mental Health and AoD).** Please check the appropriate answer, and then follow the instructions.

Agency Provider is not certified for Crisis Intervention Mental Health Service and did not utilize or provider policy prohibits the use of seclusion or restraint in AoD crisis intervention services. Please continue to Part C.

Agency Provider policy prohibits the use of seclusion and restraint in Crisis Intervention ~~Mental Health~~ Service, and the agency provider did not utilize seclusion or restraint during the reporting period. Please continue to Part C.

Agency Provider did not utilize seclusion or restraint in Crisis Intervention Mental Health Service during the reporting period. Please complete Table B1, and then continue to Part C.

Seclusion or restraint was utilized in Crisis Intervention Mental Health Service. Please complete Tables B1 & B2, and then continue to Part C.

**Table B1. Seclusion and Restraint in Crisis Intervention Service**

Service Utilization	January/ July	February/ August	March/ September	April/ October	May/ November	June/ December
Total Number of <u>Adult</u> Unduplicated <b>Crisis Intervention <del>Mental Health</del></b> Clients Served						
<u>Total Number of Child Unduplicated Crisis Intervention Clients Served</u>						
Total Hours of <b>Crisis Intervention <del>Mental Health</del></b> service <u>provided to Adults</u>						
<u>Total Hours of Crisis Intervention service provided to Children</u>						

**Table B2. Seclusion and Restraint in Crisis Intervention Service (Mental Health and AoD)**

	January/ July	February/ August	March/ September	April/ October	May/ November	June/ December
<b>Seclusion for Ages ≤17 <input type="checkbox"/> None</b>						
Number of episodes of seclusion for ages ≤17						
Total minutes of all seclusion episodes for ages ≤17						
<b>Seclusion for Ages ≥18 <input type="checkbox"/> None</b>						
Number of episodes of seclusion for ages ≥18						
Total minutes of all seclusion episodes for ages ≥18						
<b>Mechanical Restraint for Ages ≥18 <input type="checkbox"/> None</b>						
Number of episodes of mechanical restraint for ages ≥18						
Total minutes of all mechanical restraint episodes for ages ≥18						
<b>Physical Restraint -for Ages ≤17 <input type="checkbox"/> None</b>						
Number of episodes of physical restraint, excluding transitional hold, for ages ≤17						
Total minutes of all physical restraints episodes, excluding transitional hold, for ages ≤17						
<b>Physical Restraint -for Ages ≥18 <input type="checkbox"/> None</b>						
Number of episodes of physical restraint, excluding transitional hold, for ages ≥18						
Total minutes of all physical restraints episodes, excluding transitional hold, for ages ≥18						
<b>Transitional Hold -for Ages ≤17 <input type="checkbox"/> None</b>						
Number of episodes of transitional hold for ages ≤17						
Total minutes of all transitional hold episodes for ages ≤17						
<b>Transitional Hold for Ages ≥18 <input type="checkbox"/> None</b>						
Number of episodes of transitional holds for ages ≥18						
Total minutes of all transitional hold episodes for ages ≥18						

**Please Continue to Part C**

**Part C. Partial Hospitalization Service (Mental Health). Please continue to Part D when completed.**

Agency Provider is not certified for Partial Hospitalization Service. Please continue to Part D.

Agency Provider policy prohibits the use of seclusion and restraint in Partial Hospitalization Service, and the agency provider did not utilize seclusion and restraint during the reporting period. Please continue to Part D.

Agency Provider did not utilize seclusion or restraint in Partial Hospitalization Service during the reporting period. Please complete Table C1, and then continue to Part D.

Seclusion or restraint was utilized in Partial Hospitalization Service. Please complete Tables C1 & C2, and then continue to Part D.

**Table C1. Seclusion and Restraint in Partial Hospitalization Service**

<b>Service Utilization and Partial Hospitalization Length</b>	<b>January/ July</b>	<b>February/ August</b>	<b>March/ September</b>	<b>April/ October</b>	<b>May/ November</b>	<b>June/ December</b>
Total Number of Unduplicated <b>Adult Partial Hospitalization</b> Clients Served						
<u>Total Number of Unduplicated Child Partial Hospitalization</u> <u>Clients Served</u>						
Total Hours of Partial Hospitalization Service <u>Provided to Adults</u>						
<u>Total Hours of Partial Hospitalization Service Provided to Children</u>						
Length of <u>Adult</u> Partial Hospitalization Day _____ Hours						
<u>Length of Child Partial Hospitalization Day</u> _____ Hours						

**Table C2. Seclusion and Restraint in Partial Hospitalization Service (Mental Health)**

	<b>January/ July</b>	<b>February/ August</b>	<b>March/ September</b>	<b>April/ October</b>	<b>May/ November</b>	<b>June/ December</b>
<b>Seclusion for Ages ≤17 <input type="checkbox"/> None</b>						
Number of episodes of seclusion for ages ≤17						
Total minutes of all seclusion episodes for ages ≤17						
<b>Seclusion for Ages ≥18 <input type="checkbox"/> None</b>						
Number of episodes of seclusion for ages ≥18						
Total minutes of all seclusion episodes for ages ≥18						
<b>Mechanical Restraint for Ages ≥18 <input type="checkbox"/> None</b>						
Number of episodes of mechanical restraint for ages ≥18						
Total minutes of all mechanical restraint episodes for ages ≥18						
<b>Physical Restraint for Ages ≤17 <input type="checkbox"/> None</b>						
Number of episodes of physical restraint, excluding transitional hold, for ages ≤17						
Total minutes of all physical restraints episodes, excluding transitional hold, for ages ≤17						
<b>Physical Restraint for Ages ≥18 <input type="checkbox"/> None</b>						
Number of episodes of physical restraint, excluding transitional hold, for ages ≥18						
Total minutes of all physical restraints episodes, excluding transitional hold, for ages ≥18						
<b>Transitional Hold for Ages ≤17 <input type="checkbox"/> None</b>						
Number of episodes of transitional hold for ages ≤17						
Total minutes of all transitional hold episodes for ages ≤17						
<b>Transitional Hold for Ages ≥18 <input type="checkbox"/> None</b>						
Number of episodes of transitional holds for ages ≥18						
Total minutes of all transitional hold episodes for ages ≥18						

**Please Continue to Part D**

**Part D. Intensive Outpatient Program/Service (AoD). Please continue to Part E when completed.**

- Provider is not certified for Intensive Outpatient Program/Service. Please continue to Part E.
- Provider policy prohibits the use of seclusion and restraint in Intensive Outpatient Program/Service, and the provider did not utilize seclusion and restraint during the reporting period. Please continue to Part E.
- Provider did not utilize seclusion or restraint in Intensive Outpatient Program/Service during the reporting period. Please complete Table D1, and then continue to Part E.
- Seclusion or restraint was utilized in Intensive Outpatient Program/Service. Please complete Tables D1 & D2, and then continue to Part E.

**Table D1. Seclusion and Restraint in Intensive Outpatient Program/Service (AoD)**

<u>Service Utilization</u>	<u>January/ July</u>	<u>February/ August</u>	<u>March/ September</u>	<u>April/ October</u>	<u>May/ November</u>	<u>June/ December</u>
<u>Total Number of Unduplicated <b>Adult</b> Intensive Outpatient Program/Service Clients Served</u>						
<u>Total Number of Unduplicated <b>Child</b> Intensive Outpatient Program/Service Clients Served</u>						
<u>Total Hours of Intensive Outpatient Program/Service Provided to Adults</u>						
<u>Total Hours of Intensive Outpatient Program/Service Provided to Children</u>						

**Table D2. Seclusion and Restraint in Intensive Outpatient Program/Service (AoD)**

	<u>January/ July</u>	<u>February/ August</u>	<u>March/ September</u>	<u>April/ October</u>	<u>May/ November</u>	<u>June/ December</u>
<b><u>Seclusion for Ages ≤17 <input type="checkbox"/> None</u></b>						
<u>Number of episodes of seclusion for ages ≤17</u>						
<u>Total minutes of all seclusion episodes for ages ≤17</u>						
<b><u>Seclusion for Ages ≥18 <input type="checkbox"/> None</u></b>						
<u>Number of episodes of seclusion for ages ≥18</u>						
<u>Total minutes of all seclusion episodes for ages ≥18</u>						
<b><u>Mechanical Restraint for Ages ≥18 <input type="checkbox"/> None</u></b>						
<u>Number of episodes of mechanical restraint for ages ≥18</u>						
<u>Total minutes of all mechanical restraint episodes for ages ≥18</u>						
<b><u>Physical Restraint for Ages ≤17 <input type="checkbox"/> None</u></b>						
<u>Number of episodes of physical restraint, excluding transitional hold, for ages ≤17</u>						
<u>Total minutes of all physical restraints episodes, excluding transitional hold, for ages ≤17</u>						
<b><u>Physical Restraint for Ages ≥18 <input type="checkbox"/> None</u></b>						
<u>Number of episodes of physical restraint, excluding transitional hold, for ages ≥18</u>						
<u>Total minutes of all physical restraints episodes, excluding transitional hold, for ages ≥18</u>						
<b><u>Transitional Hold for Ages ≤17 <input type="checkbox"/> None</u></b>						
<u>Number of episodes of transitional hold for ages ≤17</u>						
<u>Total minutes of all transitional hold episodes for ages ≤17</u>						
<b><u>Transitional Hold for Ages ≥18 <input type="checkbox"/> None</u></b>						
<u>Number of episodes of transitional holds for ages ≥18</u>						
<u>Total minutes of all transitional hold episodes for ages ≥18</u>						

**Please Continue to Part E**

**Part E. AoD Residential/Halfway House Program/Services for Children. Please continue to Part F when completed.**

Provider is not certified for AoD residential/halfway house services or does not provide AoD residential/halfway house services for children. Please continue to Part F.

Provider policy prohibits the use of seclusion and restraint in AoD residential/halfway house services for children, and the provider did not utilize seclusion and restraint during the reporting period. Please continue to Part F.

Provider did not utilize seclusion or restraint in AoD residential/halfway house services for children during the reporting period. Please complete Table E1, and then continue to Part F.

Seclusion or restraint was utilized in residential/halfway house services for children. Please complete Tables E1 & E2, and then continue to Part F.

**Part B: Service Utilization**

“Resident Days” means the sum of all census days less the sum of all leave days (authorized or unauthorized absences when resident is not under direct supervision of the residential facility operator).

**Table E1. Seclusion and Restraint in Residential Program/Services for Children**

<u>Service Utilization</u>	<u>January/ July</u>	<u>February/ August</u>	<u>March/ September</u>	<u>April/ October</u>	<u>May/ November</u>	<u>June/ December</u>
<u>Total Number of Resident Days per Month</u> <u>Total Number of Unduplicated Residential Child Clients Served</u>						
<u>Total Hours of Intensive Outpatient Program/Service Provided to Children</u>						

**Table E2. Seclusion and Restraint in AoD Residential/Halfway House Program/Services for Children**

	<u>January/ July</u>	<u>February/ August</u>	<u>March/ September</u>	<u>April/ October</u>	<u>May/ November</u>	<u>June/ December</u>
<b><u>Seclusion for Ages ≤17 <input type="checkbox"/> None</u></b>						
<u>Number of episodes of seclusion for ages ≤17</u>						
<u>Total minutes of all seclusion episodes for ages ≤17</u>						
<b><u>Seclusion for Ages ≥18 <input type="checkbox"/> None</u></b>						
<u>Number of episodes of seclusion for ages ≥18</u>						
<u>Total minutes of all seclusion episodes for ages ≥18</u>						
<b><u>Mechanical Restraint for Ages ≥18 <input type="checkbox"/> None</u></b>						
<u>Number of episodes of mechanical restraint for ages ≥18</u>						
<u>Total minutes of all mechanical restraint episodes for ages ≥18</u>						
<b><u>Physical Restraint for Ages ≤17 <input type="checkbox"/> None</u></b>						
<u>Number of episodes of physical restraint, excluding transitional hold, for ages ≤17</u>						
<u>Total minutes of all physical restraints episodes, excluding transitional hold, for ages ≤17</u>						
<b><u>Physical Restraint for Ages ≥18 <input type="checkbox"/> None</u></b>						
<u>Number of episodes of physical restraint, excluding transitional hold, for ages ≥18</u>						
<u>Total minutes of all physical restraints episodes, excluding transitional hold, for ages ≥18</u>						
<b><u>Transitional Hold for Ages ≤17 <input type="checkbox"/> None</u></b>						
<u>Number of episodes of transitional hold for ages ≤17</u>						
<u>Total minutes of all transitional hold episodes for ages ≤17</u>						
<b><u>Transitional Hold for Ages ≥18 <input type="checkbox"/> None</u></b>						
<u>Number of episodes of transitional holds for ages ≥18</u>						
<u>Total minutes of all transitional hold episodes for ages ≥18</u>						

**Please Continue to Part F**

**Part ~~DE~~. All Other Certified ~~Mental Health~~ Services**, excluding Crisis Intervention Mental Health, ~~&~~ Partial Hospitalization Service, Intensive Outpatient Treatment, and AoD Residential/Halfway House.

Agency/Provider policy prohibits the use of seclusion other than in Crisis Intervention ~~Mental Health~~ and/or Partial Hospitalization Service and/or Intensive Outpatient Treatment and/or AoD Residential/Halfway House Program/Service, and the agency/provider did not utilize seclusion and restraint in other certified services during the reporting period. You are finished. Please return report.

Agency/Provider did not utilize seclusion or restraint in All Other Certified ~~Mental Health~~ Services during the reporting period. You are finished. Please return report.

Seclusion or restraint was utilized in ~~mental health~~-services other than Crisis Intervention, ~~Mental Health and~~ Partial Hospitalization, and Intensive Outpatient Treatment Service. Please complete Table ~~D1-F1~~ on the next page and then return report.

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**Table D1F1. Seclusion and Restraint in All Other Certified ~~Mental Health~~ Services, Except Crisis Intervention ~~Mental Health~~ Service, and Partial Hospitalization Service, Intensive Outpatient Treatment, and AoD Residential/Halfway House for Children**

	January/ July	February/ August	March/ September	April/ October	May/ November	June/ December
<b>Seclusion for Ages ≤17</b> <input type="checkbox"/> None						
Number of episodes of seclusion for ages ≤17						
Total minutes of all seclusion episodes for ages ≤17						
<b>Seclusion for Ages ≥18</b> <input type="checkbox"/> None						
Number of episodes of seclusion for ages ≥18						
Total minutes of all seclusion episodes for ages ≥18						
<b>Mechanical Restraint for Ages ≥18</b> <input type="checkbox"/> None						
Number of episodes of mechanical restraint for ages ≥18						
Total minutes of all mechanical restraint episodes for ages ≥18						
<b>Physical Restraint for Ages ≤17</b> <input type="checkbox"/> None						
Number of episodes of physical restraint, excluding transitional hold, for ages ≤17						
Total minutes of all physical restraints episodes, excluding transitional hold, for ages ≤17						
<b>Physical Restraint for Ages ≥18</b> <input type="checkbox"/> None						
Number of episodes of physical restraint, excluding transitional hold, for ages ≥18						
Total minutes of all physical restraints episodes, excluding transitional hold, for ages ≥18						
<b>Transitional Hold for Ages ≤17</b> <input type="checkbox"/> None						
Number of episodes of transitional hold for ages ≤17						
Total minutes of all transitional hold episodes for ages ≤17						
<b>Transitional Hold for Ages ≥18</b> <input type="checkbox"/> None						
Number of episodes of transitional holds for ages ≥18						
Total minutes of all transitional hold episodes for ages ≥18						

**You are finished. Please return report.**

**Thank you.**

5122-26-14

**Provider closing or acquisition.**

(A) If a provider certified by the department voluntarily closes, it shall give a thirty-day advance written notice to each of its current clients which specifies the date that the program will close. If a client is a minor, the program shall send notice to the minor client's parent or legal guardian, and to the minor in accordance with section 3719.012 of the Revised Code.

(1) A copy of this notice shall be placed in each client's clinical record.

(2) A copy of this notice shall be sent to the:

(a) Department's legal and regulatory service office responsible for compliance and certification of agencies.

(b) The boards for the counties in which the provider offers services.

(3) A program close-out audit shall be conducted which shall meet the department's guidelines and federal office of management and budget circulars.

(B) If a client will require ongoing services after the projected closing date, the provider shall:

(1) Refer the client to another provider certified by the department or to an individual in private practice who is qualified to provide the services needed; and,

(2) Have documentation to ascertain that the provider or private practice has accepted the client for admission. A progress note by a case manager or clinician stating the date, time and place that the client is scheduled for an intake interview will meet the requirements of this standard.

(C) If a program discontinues operations or is taken over or acquired by another entity, it shall comply with division (A)(15) of section 5119.28 of the Revised Code and 42 C.F.R., part 2, subsection 2.19 which govern the disposition of records by discontinued programs.

Effective: 04/01/2016

Five Year Review (FYR) Dates: 04/01/2021

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

5122-26-15

**Medication handling and drug theft.**

(A) The agency provider shall have written policies and procedures regarding the purchasing, receipt, storage, distribution, return, and destruction of medication that include accountability for and security of prescription and over-the-counter medications located within any of its facilities. These policies and procedures shall include, but not be limited to the requirements that agencies providers handling medications shall:

- (1) Hold a valid and current terminal distributor of dangerous drugs license from the Ohio board of pharmacy if maintaining a stock supply of prescription medications ~~and~~ or if participating with the department's central pharmacy to receive dispensed prescriptions.
- (2) Locate all medications and prescription blanks in a locked, secure area;
- (3) Designate a person(s) having access to or authorized to handle medication and shall maintain a current list of these persons, their credentials and their medication handling responsibilities.
- (4) Provide a method to record and follow the medications from the time of receipt to the time of distribution, return to central pharmacy, or destruction. This record shall be retained by the agency provider for three years and shall include, but not be limited to the following information:
  - (a) The date and time the medication was received by the agency provider, distributed to persons served, returned to central pharmacy or, if appropriate, destroyed;
  - (b) The name(s), credentials and signature of all persons handling the medications; and
  - (c) The provision that unused medication prescribed for a person shall be appropriately destroyed or returned to central pharmacy, and that, under no circumstances shall the unused medication be issued to another individual. (Return of unused medication prescribed to a person is only allowed when the return is to central pharmacy in accordance with rule 4729-9-04 of the Administrative Code).
- (5) Ensure that all staff handling medications have basic and ongoing instruction and training in safe and effective handling of medications.:
  - ~~(a) Individuals providing information about the use of medications shall be educated regarding medication issues for groups such as~~

~~minority specific populations and children and youth in order to provide appropriate information to these populations, and~~

~~(b) All staff handling medications have basic and ongoing instruction and training in safe and effective handling of medications.~~

(6) Ensure that medications are handled only by authorized persons and that others do not have access to the medications; and

(7) Ensure that controlled substances may be destroyed only by an agent of the Ohio board of pharmacy, or the federal drug enforcement agency, or by transfer to persons registered under Chapters 3719. and 4729. of the Revised Code and according to rule 4729-9-06 of the Administrative Code.

(B) ~~Agencies~~ Providers maintaining a limited stock supply of medications shall:

(1) Allow only a physician or pharmacist to dispense medication, although the following individuals may personally furnish samples of some medications if issued a certificate to prescribe:

(a) Certified nurse practitioner and clinical nurse specialist in accordance with division (D) of section 4723.481 of the Revised Code; and

(b) Physician's assistant in accordance with division (A) of section 4730.43 of the Revised Code.

(2) Have visibly posted the phone number of the nearest poison control center.

(C) Each provider that permits clients to self-administer medication shall have written policies and procedures that include, but are not limited to, the following:

(1) Procedures for storing medications in a locked cabinet.

(2) Procedures for self-medication.

(3) Procedures for accounting for medications that are kept for the client while they are at the program site.

(4) Policy prohibiting clients from having unsecured prescription medications in their possession at the provider site or while involved in activities off site unless required for medical necessity, e.g. prescription inhalers for persons with asthma.

(5) Procedures for obtaining and for accounting for medications (prescription and

over-the-counter) from clients at the time of admission to or upon entering the provider site and return of same, as appropriate, at the time of the discharge or departure.

(D) The provider shall have a policy on employee drug theft and shall inform all employees concerning this policy. The policy shall include attention to prescription as well as over-the-counter medications maintained for client use.

(1) An employee, intern or volunteer with knowledge of drug theft by an employee or any other person shall report such information to the executive director of the provider. If the executive director of the provider is suspected of drug theft, the employee or volunteer shall notify the department.

The provider shall take all reasonable steps to protect the confidentiality of the information and the identity of the person furnishing the information.

(2) Suspected drug theft shall be reported to the Ohio board of pharmacy. For controlled substances, suspected drug theft shall also be reported to the federal drug enforcement administration. Providers participating in drug services with the Ohio department of mental health and addiction services central pharmacy shall also notify central pharmacy.

(3) Failure to report information of drug theft shall be considered in determining the eligibility of the employee to continue to work in a secure area where drugs are stored.

(4) If an employee violates the provider's drug theft policies, the provider shall assess the seriousness of the employee's violation, whether the violation has a direct and substantial relationship to that employee's position, the past record of employment, and other relevant factors in determining whether to suspend, transfer, terminate, or take other action against the employee.

Effective: 04/01/2016

Five Year Review (FYR) Dates: 06/29/2015 and 04/01/2021

CERTIFIED ELECTRONICALLY

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Certification

12/17/2015

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Date

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5122-26-16

**Seclusion, restraint and time-out.**

- (A) The provision of a physically and psychologically safe environment is a basic foundation and requirement for effective mental health and addiction services treatment. Adopting trauma informed treatment practices, creating calm surroundings and establishing positive, trusting relationships are essential to facilitating a person's treatment and recovery.

The goal of reducing and minimizing the use of seclusion and restraint is one that must be shared and articulated by the organization's leadership. The elevation of oversight by leadership of each use of seclusion or restraint in order to investigate causality, ascertain relevancy of current policies and procedures, and identify any associated workforce development issues, is core to the successful achievement of this goal.

These methods are very intrusive techniques to be used by trained, qualified staff as a last resort in order to control dangerous and potentially harmful behaviors and to preserve safety. Best practices include careful early assessment of a person's history, experiences, preferences, and the effectiveness or ineffectiveness of past exposure to these methods. Best practices must be based on understanding and consideration of the individual's history of traumatic experiences as a means to gain insight into origins and patterns of the individual's actions.

Use of seclusion or restraint must be subject to performance improvement processes in order to identify ways in which the use of these methods can be decreased/ or avoided and more positive, relevant and less potentially dangerous techniques used in their place.

When individuals experience repeated or sustained use of these methods, leadership should evaluate all causative factors and consider alternative treatment interventions and/ or possible transfer to/ or placement in a more structured treatment setting with the capacity to meet individual needs with reduced exposure to these intrusive interventions.

- (B) The purpose of this rule is to state the general requirements applicable to the use of seclusion and restraint, and to the adoption of processes to reduce their utilization.

- (C) The following definitions shall apply to rules 5122-26-16 to 5122-26-16.2 of the Administrative Code and supersede those contained in rule 5122-24-01 of the Administrative Code:

- (1) "Advance directives" means a legal document ~~an adult can use to direct in advance the decisions about his or her mental and/or physical health treatment, if in the future he/she lacks the capacity to make his/her own health care decisions~~ used by an adult to direct in advance the mental or physical health treatment in the event the adult lacks the capacity to make such

decisions. Two types of advance directives related to mental health treatment are: a "Declaration for Mental Health Treatment" subject to the requirements of Chapter 2135. of the Revised Code, and a "Durable Power of Attorney for Health Care" subject to the requirements of sections 1337.11 to 1337.17 of the Revised Code.

- (2) "Behavior management" means the utilization of interventions that are applied in a systematic and contingent manner in the context of individual or group programs to change or manage behavior or facilitate improved self-control. The goal of behavior management is not to curtail or circumvent an individual's rights or human dignity, but rather to support the individual's recovery and increase ~~his/her~~ the individual's ability to exercise those rights.
- (3) "Comfort rooms", (formerly known as quiet or time-out rooms), are adapted sensory rooms that provide sanctuary from stress ~~and/or~~ can be places for persons to experience feelings within acceptable boundaries.
- (4) "Individual crisis plan" means a written plan that allows the person to identify coping techniques and share with staff what is helpful in assisting to regain control of ~~his/her~~ the person's behavior in the early stages of a crisis situation. It may also be referred to as a "behavior support plan."
- (5) "Mechanical restraint" means any method of restricting a person's freedom of movement, physical activity, or normal use of his or her body, using an appliance or device manufactured for this purpose.
- (6) "Physical restraint", also known as "manual restraint", means any method of physically restricting a person's freedom of movement, physical activity, or normal use of ~~his or her~~ the person's body without the use of mechanical restraint devices.
- (7) "PRN (pro re nata)" means as the situation demands.
- (8) "Prone Restraint" means all items or measures used to limit or control the movement or normal functioning of any portion, or all, of an individual's body while the individual is in a face-down position for an extended period of time. Prone restraint may include either physical (also known as manual) or mechanical restraint.
- (9) "Qualified person" means an employee ~~and/or~~ volunteer who carries out the agency's tasks under the agency's administration and/or supervision, and who is qualified to utilize or participate in the utilization of seclusion or restraint

by virtue of the following: education, training, experience, competence, registration, certification, or applicable licensure, law, or regulation.

- (10) "Seclusion" means the involuntary confinement of a person alone in a room where the person is physically prevented from leaving.
- (11) "Sensory rooms" means appealing physical spaces painted with soft colors with the availability of furnishings and objects that promote relaxation and/or stimulation.
- (12) "Time-out" means an intervention in which a person is required to remove ~~him/herself~~themselves from positive reinforcement to a specified place for a specified period of time. Time-out is not seclusion.
- (13) "Transitional hold" means a brief physical (also known as manual) restraint of an individual face-down for the purpose of quickly and effectively gaining physical control of that individual, or prior to transport to enable the individual to be transported safely.
- (14) "Vital signs" means the rates or values indicating an individual's blood pressure, pulse, temperature, and respiration.

#### (D) General requirements

- (1) Seclusion or restraint shall not be used unless it is in response to a crisis situation, i.e., where there exists an imminent risk of physical harm to the individual or others, and no other safe and effective intervention is identified.
  - (a) They shall not be used as behavior management interventions, to compensate for the lack of sufficient staff, as a substitute for treatment, or as an act of punishment or retaliation.
  - (b) Absent a co-existing crisis situation that includes the imminent risk of physical harm to the individual or others, the destruction of property by an individual, in and of itself is not adequate grounds for the utilization of these methods.
- (2) The following shall not be used under any circumstances:
  - (a) Behavior management interventions that employ unpleasant or aversive stimuli such as: the contingent loss of the regular meal, the contingent

loss of bed, and the contingent use of unpleasant substances or stimuli such as bitter tastes, bad smells, splashing with cold water, and loud, annoying noises.

(b) Any technique that restricts the individual's ability to communicate, including consideration given to the communication needs of individuals who are deaf or hard of hearing;

(c) Any technique that obstructs vision;

(d) Any technique that causes an individual to be retraumatized based on an individual's history of traumatic experiences.

~~(d)~~(e) Any technique that obstructs the airways or impairs breathing;

~~(e)~~(f) Use of mechanical restraint on individuals under age eighteen;

~~(f)~~(g) A drug or medication that is used as a restraint to control behavior or restrict the individual's freedom of movement and is not a standard treatment or dosage for the individual's medical or psychiatric condition or that reduces the individual's ability to effectively or appropriately interact with the world around ~~him/her~~the individual; and

~~(g)~~(h) The use of handcuffs or weapons such as pepper spray, mace, nightsticks, or electronic restraint devices such as stun guns and tasers.

The presence of weaponry in an agency poses potential hazards, both physical and psychological, to clients, staff and visitors. Utilization by the agency of non-agency employed armed law enforcement personnel (e.g., local police) to respond to and control psychiatric crisis situations, shall be minimized to the extent possible.

### (3) Position in physical or mechanical restraint.

(a) An individual shall be placed in a position that allows airway access and does not compromise respiration.

(i) The use of prone restraint is prohibited.

(ii) A transitional hold shall be limited to the minimum amount of time necessary to safely bring the person under control, at which time staff shall either terminate the transitional hold, and begin the

post-restraint process required by this rule, or, if the individual cannot safely be released from the transitional hold, re-position the individual into an alternate restraint position.

(b) The use of transitional hold shall be subject to the following requirements:

(i) Applied only by staff who have current training on the safe use of transitional hold techniques, including how to recognize and respond to signs of distress in the individual.

(ii) The weight of the staff shall be placed to the side, rather than on top of the individual. No transitional hold shall allow staff to straddle or bear weight on the individual's torso while applying the restraint, i.e. no downward pressure may be applied that may compromise the individual's ability to breathe.

(iii) No transitional hold shall allow the individual's hands or arms to be under or behind ~~his/her~~ the individual's head or body. The arms must be at the individual's side.

(iv) No soft device, such as a pillow, blanket or other item, shall be used to cushion the client's head, since such a device may restrict the individual's ability to breathe.

(v) All staff involved in the procedure must constantly observe the individual's respiration, coloring, and other signs of distress, listen for the individual's complaints of breathing problems, and immediately respond to assure safety.

(4) The choice of the least restrictive, safe and effective use of seclusion or restraint for an individual is determined by the person's assessed needs, including a consideration of any relevant history of trauma ~~and/or~~ abuse, risk factors as identified in paragraph (G)(3) of this rule, the effective or ineffective methods previously used with the person and, when possible, upon the person's preference.

(a) Upon admission/ or intake and when clinically warranted, the person and his/her parent, custodian or guardian, as appropriate, shall be informed of the agency's philosophy on the use of seclusion or restraint as well as of the presence of any agency policies and procedures addressing their use by the agency. Such policies and procedures shall be made available to the person ~~and/or~~ to ~~his/her~~ their parent, custodian or

guardian upon request.

Adult clients shall be offered the opportunity to give consent for the notification of their use to a family member or significant other.

- (5) Within twenty-four hours of the initiation of seclusion or restraint, the ~~agency~~ provider shall notify the following individuals:
  - (a) For children/ or adolescents, the client's parent, custodian or guardian;
  - (b) For adults, the client's guardian, when applicable, or family or significant other when the client has given ~~his/her~~ their consent for such notification.
- (6) Following the conclusion of each incident of seclusion or restraint, the client and staff shall participate in a debriefing~~(s)~~.
  - (a) The debriefing shall occur within twenty-four hours of the incident unless the client refuses, is unavailable, or there is a documented clinical contraindication.
  - (b) The following shall be invited to participate unless such participation is clinically contraindicated and the rationale is documented in the clinical record:
    - (i) For a child/ or adolescent client, the family, or custodian or guardian,  
or
    - (ii) For an adult client, the client's family or significant other when the client has given consent in accordance with paragraph (D)(4)(a) of this rule, or an adult client's guardian, if applicable.
- (7) A thorough review and analysis of each incident of the use of seclusion or restraint shall be undertaken in order to use the knowledge gained from such analysis to inform policy, procedures, and practices to avoid repeated use in the future and to improve treatment outcomes. Secondly, such analysis should help to mitigate, to the extent possible, the adverse and potentially traumatizing effects of a seclusion or restraint event for involved staff, clients, and for all witnesses to the event.
- (8) The inclusion of clients (including children), families, and external advocates in various roles and at all ~~agency~~ provider levels to assist in reducing the use of

seclusion or restraint shall be considered.

(E) Policies and procedures

- (1) The agency provider shall establish policies and procedures that reflect how the utilization of seclusion or restraint is reviewed, evaluated, and approved for use. The agency provider shall document if and how the inclusion of clients and families in the development of such policies occurred.
- (2) Policies and procedures governing the use of seclusion or restraint shall include attention to preservation of the person's health, safety, rights, dignity, and well-being during use. Additionally:
  - (a) Respect for the person shall be maintained when such methods are utilized;
  - (b) Use of the environment, including the possible addition of comfort and sensory rooms, shall be designed to assist in the person's development of emotional self-management skills; and
  - (c) The number of appropriately trained staff available to apply or initiate seclusion or restraint shall be adequate to ensure safety. The use of non-agency employed law enforcement personnel, e.g., local police, to substitute for the lack of sufficient numbers of appropriately trained staff in such situations is prohibited.

(F) Staff training.

- (1) The agency provider shall ensure that all direct care staff and any other staff involved in the use of seclusion or restraint receive initial and annual training designed to minimize their use.
  - (a) Staff shall be trained and demonstrate competency in the correct and appropriate use of non-physical techniques for intervention, such as mediation and conflict resolution, and de-escalation of disruptive or aggressive acts, persons ~~and~~ or situations; and
  - (b) Staff shall be trained in understanding how their behavior can affect the behavior of clients.
- (2) The agency provider shall identify, educate and approve staff members to use

seclusion or restraint. Competency of staff in the use and documentation of seclusion or restraint methods shall be routinely evaluated. The results of evaluations shall be maintained by the ~~agency~~ provider for a minimum of three years for each staff member identified.

- (a) Staff shall have appropriate training prior to utilizing seclusion or restraint, and, at a minimum, annually thereafter. The exception to annual training is a first aid ~~and/or~~ CPR training/ or certification program of a nationally recognized certifying body, e.g. the american red cross or american heart association, when that certifying body establishes a longer time frame for certification and renewal.
  - (i) Staff shall be trained in and demonstrate competency in the identification and assessment of those possible risk factors identified in paragraph (G) of this rule and to understand how these may impact the way a client responds to seclusion or restraint, and place an individual at greater risk to experience physical or psychological trauma during an episode of seclusion or restraint;
  - (ii) Staff shall be trained in and demonstrate competency in choosing the least restrictive intervention based on an individualized assessment of the client's behavioral and ~~or~~ medical status or condition;
  - (iii) Staff shall be trained in and demonstrate competency in the safe application of all seclusion or restraint interventions he or she is authorized to perform, including specific training in utilization of transitional hold, if applicable;
  - (iv) Staff shall be trained and certified in first aid and CPR;
  - (v) Staff shall be trained in and demonstrate competency in recognizing and responding to signs of physical distress in clients who are being secluded or restrained;
  - (vi) Staff authorized to take vital signs and blood pressure shall be trained in and demonstrate competency in taking them and understanding their relevance to physical safety and distress;
  - (vii) Staff shall be trained in and demonstrate competency in assessing circulation, range of motion, nutrition, hydration, hygiene, and

toileting needs; and

(viii) Staff shall be trained in and demonstrate competency in helping a client regain control to meet behavioral criteria to discontinue seclusion or restraint.

(ix) Staff shall be trained in and demonstrate competency in understanding the impact of trauma, and signs and symptoms of trauma.

(b) Leadership shall maintain a current list of staff authorized to utilize seclusion or restraint interventions which is readily available to all agency provider staff who may be asked to participate in these interventions; and

(c) The curriculum used to train staff shall be documented and shall be made available to ~~ODMH~~ the department upon request.

(G) Documentation.

(1) The presence of advance directives or client preferences addressing the use of seclusion or restraint shall be determined and considered, and documented in the ICR. If the agency provider will be unable to utilize seclusion or restraint in a manner in accordance with the person's directives or preferences, the agency provider shall notify the individual, including the rationale, and document such in the ICR.

(2) In conjunction with the person's active participation, an individual crisis plan shall be developed at the time of admission and incorporated in the person's ISP or ITP for each child/ or adolescent resident of ~~an ODMH~~ a department licensed residential facility, for each client known to have experienced seclusion or restraint, and when otherwise clinically indicated.

The plan shall be based on the initial alcohol and other drug (AoD) or mental health assessment, and shall include and be implemented, as feasible, in the following order:

(a) Identification of the methods or tools to be used by the client to de-escalate and manage his or her own aggressive behavior;

(b) Identification of techniques and strategies for staff in assisting the person to maintain control of his or her own behavior; and

- (c) Identification, in order of least restrictive to most restrictive, of the methods/ or tools to be used by staff to de-escalate and manage the client's aggressive behavior.
- (3) Initial and ongoing identification of individual-specific contraindications to the use of seclusion or restraint shall be documented. Consideration of the use of such methods shall take into account the following which may place the person at greater risk of physical or psychological injury as a result of the use of seclusion or restraint:
- (a) Gender;
  - (b) Age;
  - (c) Developmental issues;
  - (d) Culture, race, ethnicity, and primary language;
  - (e) History of physical ~~and~~ or sexual abuse, or psychological trauma;
  - (f) Medical and other conditions that might compromise physical well-being, e.g., asthma, epilepsy, obesity, lung and heart conditions, an existing broken bone, pregnancy, and drug/ or alcohol use; and
  - (g) Physical disabilities.
- (4) Debriefings following the conclusion of each incident of seclusion or restraint shall be documented, and shall include, at a minimum:
- (a) The incident and antecedent behaviors which lead to the use of seclusion or restraint;
  - (b) What actions might have prevented the use of seclusion or restraint; and what techniques and tools might help the individual manage his or her own behavior in the future;
  - (c) The person's reaction to the method, including whether there is any need for counseling or other services related to the incident; and
  - (d) Whether any modifications to the person's ISP, ITP or individual crisis

plan are needed.

- (5) Each incident of seclusion or restraint shall be clinically and/or administratively reviewed. Such review shall be documented.

(H) Logs and notifications.

- (1) A log shall be maintained for department review of each incident of mechanical restraint, seclusion, and physical restraint, and for time-outs exceeding sixty minutes per episode. The log shall include, at minimum, the following information:

(a) The person's name or other identifier;

(b) The date, time and type of method or methods utilized, i.e., seclusion, mechanical restraint, physical restraint and/or transitional hold, or time-out. The log of physical and mechanical restraint shall also describe the type of intervention as follows:

(i) For mechanical restraint, the type of mechanical restraint device used;

(ii) For physical restraint, as follows:

(a) Transitional hold, and/or

(b) Physical restraint; ~~and.~~

(c) The duration of the method or methods.

If both transitional hold and physical restraint are utilized during a single episode of restraint, the duration in each shall be included on the log. For example, a physical restraint that begins with a one minute transitional hold, followed by a three minute physical restraint shall be logged as one restraint, indicating the length of time in each restraint type.

- (2) Pursuant to rules 5122-26-13 and 5122-30-16 of the Administrative Code, the ~~agency provider~~ shall notify ~~ODMH~~ the department of each:

(a) Instance of physical injury to a client/ or resident that is restraint-related,

e.g., injuries incurred when being placed in seclusion or restraint or while in seclusion or restraint, with the exception of injury that is self-inflicted, i.e. a client/ or resident banging ~~his/her~~their own head;

- (b) Death that occurs while a person is restrained or in seclusion;
- (c) Death occurring within twenty four hours after the person has been removed from restraints or seclusion, and
- (d) Death where it is reasonable to assume that a person's death may be related to or is a result of such seclusion or restraint.

(I) Performance improvement.

- (1) The ~~agency~~ provider shall collect data on all instances of the use of seclusion or restraint and integrate the data into performance improvement activities.
- (2) Data shall be aggregated and reviewed at least semi-annually by ~~agencies~~ providers and at least quarterly by ~~ODMH~~department licensed residential facilities or certified AoD residential providers. The minimum data to be collected for each episode shall include:
  - (a) Staff involved, including staff member(s) who initiated the seclusion or restraint;
  - (b) Duration of the method;
  - (c) Date, time and shift each method was initiated;
  - (d) Day of week;
  - (e) Type of method, including type of physical hold or mechanical restraints utilized;
  - (f) Client age, race, gender and ethnicity;
  - (g) Client and/or staff injuries;
  - (h) Number of episodes per client; and

- (i) Use of psychotropic medications during an intervention of seclusion or restraint.

(3) Data shall be reviewed:

- (a) For analysis of trends and patterns of use; and
- (b) To identify opportunities to reduce the use of seclusion or restraint.

- (4) The ~~agency~~ provider shall routinely compare how its practices compare with current information and research on effective practice.

- (5) The results of data reviews and performance improvement activities shall be shared with staff at least semi-annually with the goal of reducing the use of seclusion or restraint.

(J) Plan to reduce seclusion or restraint.

- (1) ~~An agency~~ A provider which utilizes seclusion or restraint shall develop a plan designed to reduce its use. The plan shall include attention to the following strategies:

- (a) Identification of the role of leadership;
- (b) Use of data to inform practice;
- (c) Workforce development;
- (d) Identification and implementation of prevention strategies;
- (e) Identification of the role of clients (including children), families, and external advocates; and
- (f) Utilization of the post seclusion or restraint debriefing process.

- (2) A written status report shall be prepared annually, and reviewed by leadership.

- (K) Staff actions commonly known as therapeutic, supportive or directional touch, utilized to direct an individual to another area without the use of force and which do

not restrict an individual's freedom of movement, are not considered restraint and are not subject to the provisions of this rule.

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5122-26-16.1      **Mechanical restraint and seclusion.**

- (A) The purpose of this rule is to state the specific requirements applicable to mechanical restraint and seclusion.
- (B) The requirements for the use of mechanical restraint or seclusion do not apply:
- (1) To restraint use that is only associated with medical, dental, diagnostic, or surgical procedures and is based on standard practice for the procedure. Such standard practice may or may not be described in procedure or practice descriptions (e.g., the requirements do not apply to medical immobilization in the form of surgical positioning, iv arm boards, radiotherapy procedures, electroconvulsive therapy, etc.);
  - (2) When a device is used to meet the assessed needs of an individual who requires adaptive support (e.g., postural support, orthopedic appliances) or protective devices (e.g., helmets, tabletop chairs, bed rails, car seats). Such use is always based on the assessed needs of the individual. Periodic reassessment should assure that the restraint continues to meet an identified individual need;
  - (3) To forensic and corrections restrictions used for security purposes, i.e., for custody, detention, and public safety reasons, and when not involved in the provision of health care.
- (C) Mechanical restraint or seclusion shall not be used unless it is in response to a crisis situation, i.e., where there exists an imminent risk of physical harm to the individual or others, and no other safe and effective intervention is possible. It shall be employed for the least amount of time necessary in order that the individual may resume his/her treatment as quickly as possible.
- (D) Implementation of mechanical restraint or seclusion.
- (1) Authorized staff may implement mechanical restraint or seclusion at the direction and in the presence of an individual with specific clinical privileges/authorization granted by the ~~agency~~ provider to authorize mechanical restraint or seclusion, and who is a psychiatrist or other physician, physician's assistant, certified nurse practitioner, clinical nurse specialist, or registered nurse.
  - (2) Upon any implementation of mechanical restraint or seclusion, an individual with specific clinical privileges/ or authorization granted by the ~~agency~~ provider shall:

- (a) Perform an assessment and document it in the clinical record. This assessment shall include, at minimum:
    - (i) The reason for the utilization of mechanical restraint or seclusion;
    - (ii) All prior attempts to use less restrictive interventions;
    - (iii) Notation that any previously identified contraindication~~(s)~~ to the use of mechanical restraint or seclusion were considered and the rationale for continued implementation of mechanical restraint or seclusion despite the existence of such contraindications~~(s)~~; and
    - (iv) A review of all current medications.
    - (v) Documentation of the individual's history of traumatic experiences as a means to gain insight into origins and patterns of the individual's actions.
  - (b) Assess and document vital signs; and
  - (c) Explain to the individual the reason for mechanical restraint or seclusion, and the required behaviors of the individual which would indicate sufficient behavioral control so that mechanical restraint or seclusion can be discontinued.
- (3) For adults in mechanical restraint, an assessment shall include health and related safety concerns including body positioning, comfort and circulation.
- (E) Ordering mechanical restraint or seclusion.
- (1) Orders shall be written only by an individual with specific clinical privileges ~~or~~ or authorization granted by the ~~agency~~ provider to order mechanical restraint or seclusion, and who is a:
    - (a) Psychiatrist or other physician; or
    - (b) Physician's assistant, certified nurse practitioner or clinical nurse specialist authorized to order restraint or seclusion in accordance with his or her scope of practice and as permitted by applicable law or regulation.

- (2) Orders may be written for a maximum of:
- (a) Two hours for mechanical restraint or seclusion of adults eighteen years of age or older;
  - (b) One hour for seclusion of children and adolescents age nine through seventeen; or
  - (c) Thirty minutes for seclusion of children under age nine.
- (3) Prn orders are prohibited, whether individual or as a part of a protocol.
- (4) When indicated, a verbal order from an individual with specific clinical privileges/ or authorization granted by the agency provider to order mechanical restraint or seclusion, and who is a psychiatrist or other physician, physician's assistant, certified nurse practitioner, or clinical nurse specialist shall be obtained by a registered nurse upon implementation of mechanical restraint or seclusion, or within one hour. Such order shall be signed within twenty four hours by an individual with specific clinical privileges/ or authorization granted by the agency provider to order mechanical restraint or seclusion, and who is a psychiatrist or other physician, physician's assistant, certified nurse practitioner, or clinical nurse specialist.
- (5) After the original order for mechanical restraint or seclusion expires, the individual shall receive a face-to-face reassessment, as described in subsection five of this paragraph. The reassessment shall be by performed by an individual with specific clinical privileges/ or authorization granted by the agency provider to order mechanical restraint or seclusion, and who is a psychiatrist or other physician, physician's assistant, certified nurse practitioner, or clinical nurse specialist, who shall write a new order if mechanical restraint or seclusion is to be continued. However, agency provider policy and the original order may permit a registered nurse to perform such reassessment and make a decision to continue the original order for an additional:
- (a) Two hours for mechanical restraint or seclusion of adults eighteen years of age or older up to a maximum of twenty-four hours;
  - (b) One hour for seclusion of children and adolescents age nine through seventeen up to a maximum of twenty-four hours; or

(c) Thirty minutes for seclusion of children under age nine up to a maximum of twelve hours.

- (6) Continuation of orders cannot under any circumstances exceed the maximums stated in this paragraph without a face-to-face reassessment and a new written order. The reassessment shall be performed and new order written by an individual with specific clinical privileges ~~or~~ or authorization granted by the agency to order mechanical restraint or seclusion, and who is a psychiatrist or other physician, physician's assistant, certified nurse practitioner, or clinical nurse specialist.

Such assessment shall be documented in the clinical record. It shall address the need for continued mechanical restraint or seclusion. It shall include a mental status examination, physical assessment, gross neurological assessment, and an assessment of the individual's verbal statements, level of behavioral control, and responses to stimuli and treatment interventions, unless contra-indicated for clear treatment reasons which shall be documented in the clinical record.

- (7) Mechanical restraint or seclusion must be discontinued at the earliest possible time, regardless of the length of time identified in the order.

(F) Continuous monitoring of persons in mechanical restraint or seclusion.

- (1) While in mechanical restraint or seclusion, persons shall be continuously monitored, i.e., constant visual observation by staff in a manner most conducive to the situation ~~and~~ and or person's condition.
- (2) Documentation of the condition of the person shall be made in the clinical record at routine intervals not to exceed fifteen minutes or more often if the person's condition so warrants. Such documentation shall address attention to vital signs, circulation, range of motion, nutrition, hydration, hygiene, toileting, the need for continued mechanical restraint or seclusion, and other needs as necessary, and the appropriate actions taken.
- (3) Upon conclusion of the mechanical restraint or seclusion, the results of a check of injuries shall be conducted and documented.

The appropriate actions taken for any injuries noted shall also be documented.

(G) Seclusion room requirements.

- (1) The type of room in which seclusion is employed shall ensure:
  - (a) Appropriate temperature control, ventilation and lighting;
  - (b) Safe wall and ceiling fixtures, with no sharp edges;
  - (c) The presence of an observation window and, if necessary, wall mirror(s) so that all areas of the room are observable by staff from outside of the room; and
  - (d) That any furniture present is removable or is securely fixed for safety reasons.
  
- (H) Clinically appropriate reason(s) for the inability to implement any portion of this rule shall be documented in the clinical record, and shall be addressed in any staff de-briefing of the episode and in the ~~agency's~~provider's performance improvement process.

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5122-26-16.2      **Physical restraint.**

(A) The purpose of this rule is to state the specific requirements applicable to physical restraint.

(B) Physical restraint shall not be used unless it is in response to a crisis situation, i.e., where there exists an imminent risk of physical harm to the individual or others, and no other safe and effective intervention is possible. It shall be employed for the least amount of time necessary in order that the individual may resume his/her treatment as quickly as possible..

(C) Implementation of physical restraint.

(1) Physical restraint must be authorized by a trained, qualified staff member in accordance with the requirements of the ~~agency's~~provider's behavioral health accrediting body; or

(2) For an ~~agency~~ provider who has not achieved appropriate behavioral health accreditation, the ~~agency~~ provider must identify and approve staff who are qualified to authorize physical restraint.

Staff approved by the ~~agency~~ provider must have received all training in accordance with paragraph (F) of rule 5122-26-16 of the Administrative Code.

(D) Documentation of each episode of the use of physical restraint shall be made in the clinical record and shall include:

(1) The reason for implementation of the physical restraint;

(2) All prior attempts to use less restrictive interventions;

(3) Notation that any previously identified contraindication(~~s~~) to the use of physical restraint were considered and the rationale for continued implementation of physical restraint despite the existence of such contraindication(~~s~~);

(4) A review of all current medications;

(5) Documentation of the individual's history of traumatic experiences as a means to gain insight into origins and patterns of the individual's actions;

~~(5)~~(6) Explanation to the person for the reason for implementation of physical restraint and the required behaviors of the person which would indicate

sufficient behavioral control so that the physical restraint could be discontinued;

~~(6)~~(7) The condition of the person at routine intervals not to exceed fifteen minutes or more often if the person's condition so warrants. Such documentation shall address attention to vital signs, circulation, range of motion, nutrition, hydration, hygiene, toileting, need for continued restraint, and other needs as necessary, and the appropriate actions taken; and

~~(7)~~(8) Upon conclusion of the physical restraint, the results of a check of injuries shall be conducted.

The appropriate actions taken for any injuries noted shall also be documented.

(E) Clinically appropriate reason(s) for the inability to implement any portion of this rule shall be documented in the clinical record, and shall be addressed in any staff de-briefing of the episode and in the ~~agency's~~provider's performance improvement process.

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5122-26-17

**Accessibility, availability, appropriateness, and acceptability of services.**

(A) ~~Agency Provider~~ services shall be accessible, available, appropriate and acceptable to the persons served.

(B) Minimum criteria for accessibility of services shall include but not be limited to:

- (1) Evening ~~and~~ or weekend hours to meet the needs of persons receiving services;
- (2) Compliance with relevant federal and state regulations, including "section 504" of the "Rehabilitation Act of 1973" (29 U.S.C. Section 794 et seq.); and
- (3) Geographical access to services for persons served.

(C) Minimum criteria for availability of services shall include, but not be limited to:

- (1) Coordinating discharge planning and mental health services for persons leaving state operated inpatient settings and participating in discharge planning for persons leaving private psychiatric inpatient settings and referred to the ~~agency provider~~;
- (2) Assuring continuity of care for persons discharged from psychiatric inpatient settings and referred to the ~~agency provider~~ through the provision of necessary services as determined by the ~~agency provider~~ in consultation with the person served and the referral source. Such necessary services shall be provided upon discharge whenever possible and no later than two weeks post discharge if it has been concluded that these services are required within two weeks;
- (3) Providing assistance, as appropriate according to the person's needs, at no additional cost to persons served, to persons requesting or receiving services, and their families or significant others, who speak a language other than standard English as a primary means of communication, ~~or who have a communication disorder~~ or who are individuals with a communication barrier, such as deafness or hearing impairment. Such assistance shall include availability of appropriate telecommunication relay services (TRS) ~~communication devices, including telecommunication devices for the deaf ("TDD" aka "TTY"), or publishing service access via use of Ohio relay service or other similar communication interpreter services, according to 29 U.S.C. 794, 45 CFR part 84 et seq. A TRS is a telephone service that allows persons with hearing or speech disabilities to place and receive telephone calls, such services include but are not limited to text to speech relay and~~

signing to speech relay. In situations when a client expresses a preference to communicate by use of a ~~TDD/TTY~~particular type of TRS, then the agency shall ensure one is available at the ~~agency~~provider.

Other assistance to be provided according to the needs of persons served shall apply to all forms of communication and shall include:

- (a) Interpreters fluent in the first vernacular language of the person served, and with demonstrated ability ~~and~~/or certification;
  - (b) Services provided by a professional who is able to communicate in the same vernacular language as the person served; and
  - (c) Referral to a service that provides interpreters.
- (4) Providing culturally sensitive and responsive treatment planning and service delivery; and
  - (5) Addressing addiction and mental health service needs of the relevant community~~(ies)~~ as described in the community plan~~(s)~~ of the ~~community~~ mental health board~~(s)~~.

(D) Minimum criteria for acceptability of services shall include, but not be limited to:

- (1) Sensitivity to ethnic and cultural differences among people;
- (2) Promoting freedom of choice among therapeutic alternatives for the person receiving services; and
- (3) Provision that no person served shall be denied access to ~~any~~ mental health or alcohol or other drug service services solely based on their refusal to accept any specific service component recommended by the provider, consistent with prevailing standards of care unless participation is required for clear treatment reasons, e.g. a patient who declines medication treatment shall not be denied other aspects of care such as counseling or case management unless participation in medication assisted treatment is required for clear treatment reasons~~other services recommended by the agency.~~

(E) Minimum criteria for appropriateness of services shall include, but not be limited to:

- (1) Provision of services in the least restrictive setting;

- (2) Delivery of service in the natural environment of the person receiving services as appropriate;
  - (3) Continuity of therapeutic relationships;
  - (4) Perceived needs of the person receiving services; and
  - (5) Culturological assessment.
- (F) Minimum criteria for appropriateness of services for persons with a severe mental disability, ~~or~~ children with severe emotional disturbance, or persons with substance use concerns shall also include referral to other systems or organizations to meet identified needs if the ~~agency~~ provider does not provide such services.
- (G) The ~~agency~~ provider shall review annually the effectiveness of its efforts to ensure accessibility, availability, appropriateness, and acceptability of services.

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5122-26-18

**Client rights and grievance procedure.**

(A) The purpose of this rule is to state the minimum client rights and grievances requirements for a provider certified pursuant to chapter 5122-25 of the Administrative Code.

(B) The following definitions are in addition to or supersede the definitions in rule 5122-24-01 of the Administrative Code:

(1) "Client advocate" means the individual designated by a provider with responsibility for assuring compliance with the client rights and grievance procedure rule as implemented within each provider or board, and shall have the same meaning as client rights officer or client rights specialist.

(2) "Grievance" means 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.

(3) "Reasonable" means a standard for what is fair and appropriate under usual and ordinary circumstances.

(C) Each provider shall have the following:

(1) Written client rights policy that lists all of the client rights identified in this rule;

(2) Written client grievance procedure;

(3) Policy for maintaining for at least two years from resolution, records of client grievances that include, at a minimum, the following:

(a) Copy of the grievance;

(b) Documentation reflecting process used and resolution/remedy of the grievance; and,

(c) Documentation, if applicable, of extenuating circumstances for extending the time period for resolving the grievance beyond twenty-one calendar days.

(D) Posting of client rights

(1) The client rights policy and grievance procedure shall be posted in each location in which services are provided, unless the certified agency location is not under the control of the provider, i.e. a shared location such as a school, jail, etc. and it is not feasible for the provider to do so.

(2) The client rights policy and grievance procedure shall be posted in a conspicuous location that is accessible to persons served, their family or

significant others and the public.

(3) When a location is not under the control of the provider and it is not feasible for the provider to post the client rights policy and grievance procedure, the provider shall assure that copies are available at the location for each person that may request a written copy.

(E) Except for clients receiving forensic evaluation service as defined in rule 5122-29-07 of the Administrative Code from a certified forensic center, or attending a driver intervention program as defined in rule 5122-29-12 of the Administrative Code, each client has all of the following rights:

(1) The right to be treated with consideration and respect for personal dignity, autonomy and privacy;

(2) The right to reasonable protection from physical, sexual or emotional abuse and inhumane treatment;

(3) The right to receive services in the least restrictive, feasible environment;

(4) The right to participate in any appropriate and available service that is consistent with an individual service plan (ISP), regardless of the refusal of any other service, unless that service is a necessity for clear treatment reasons and requires the person's participation;

(5) The right to give informed consent to or to refuse any service, treatment or therapy, including medication absent an emergency;

(6) The right to participate in the development, review and revision of one's own individualized treatment plan and receive a copy of it;

(7) The right to freedom from unnecessary or excessive medication, and to be free from restraint or seclusion unless there is immediate risk of physical harm to self or others;

(8) The right to be informed and the right to refuse any unusual or hazardous treatment procedures;

(9) The right to be advised and the right to refuse observation by others and by techniques such as one-way vision mirrors, tape recorders, video recorders, television, movies, photographs or other audio and visual technology. This right does not prohibit an agency from using closed-circuit monitoring to observe seclusion rooms or common areas, which does not include bathrooms or sleeping areas;

(10) The right to confidentiality of communications and personal identifying information within the limitations and requirements for disclosure of client

information under state and federal laws and regulations;

(11) The right to have access to one's own client record unless access to certain information is restricted for clear treatment reasons. If access is restricted, the treatment plan shall include the reason for the restriction, a goal to remove the restriction, and the treatment being offered to remove the restriction;

(12) The right to be informed a reasonable amount of time in advance of the reason for terminating participation in a service, and to be provided a referral, unless the service is unavailable or not necessary;

(13) The right to be informed of the reason for denial of a service;

(14) The right not to be discriminated against for receiving services on the basis of race, ethnicity, age, color, religion, gender, national origin, sexual orientation, physical or mental handicap, developmental disability, genetic information, human immunodeficiency virus status, or in any manner prohibited by local, state or federal laws;

(15) The right to know the cost of services;

(16) The right to be verbally informed of all client rights, and to receive a written copy upon request;

(17) The right to exercise one's own rights without reprisal, except that no right extends so far as to supersede health and safety considerations;

(18) The right to file a grievance;

(19) The right to have oral and written instructions concerning the procedure for filing a grievance, and to assistance in filing a grievance if requested;

(20) The right to be informed of one's own condition; and,

(21) The right to consult with an independent treatment specialist or legal counsel at one's own expense.

(F) Client rights – forensic evaluations.

Each client receiving a forensic evaluation service from a certified forensic center has these rights:

(1) The right to be treated with consideration and respect for personal dignity;

(2) The right to be evaluated in a physical environment affording as much privacy as feasible;

- (3) The right to service in a humane setting which is the least restrictive feasible if such setting is under the control of the forensic center;
- (4) The right to be informed of the purpose and procedures of the evaluation service;
- (5) The right to consent to or refuse the forensic evaluation services and to be informed of the probable consequences of refusal;
- (6) The right to freedom from unnecessary restraint or seclusion if such restraint or seclusion is within the control of the forensic center;
- (7) The right to be advised of and refuse observation by techniques such as one-way vision mirrors, tape recordings, televisions, movies, or photographs, or other audio and visual technology, unless ordered by the court, in which case the client must be informed of such technique. This right does not prohibit an agency from using closed-circuit monitoring to observe seclusion rooms or common areas, which does not include bathrooms;
- (8) The right not to be discriminated against in the provision of service on the basis of race, ethnicity, age, color, religion, gender, national origin, sexual orientation, physical or mental handicap, developmental disability, genetic information, human immunodeficiency virus status, or in any manner prohibited by local, state or federal laws;
- (9) The right to be fully informed of all rights;
- (10) The right to exercise any and all rights without reprisal in any form;
- (11) The right to file a grievance; and,
- (12) The right to have oral and written instructions for filing a grievance including an explanation that the filing of a grievance is exclusively an administrative proceeding within the mental health system and will not affect or delay the outcome of the criminal charges.

(G) Client rights – driver intervention programs:

Each client participating in a driver intervention program has these rights:

- (1) The right to be treated with consideration and respect for personal dignity, autonomy and privacy;
- (2) The right to reasonable protection from physical, sexual or emotional abuse and inhumane treatment;

- (3) The right to give informed consent to or to refuse any service:
- (4) The right to be free from restraint or seclusion unless there is immediate risk of physical harm to self or others;
- (5) The right to be informed and the right to refuse any unusual or hazardous procedures;
- (6) The right to be advised and the right to refuse observation by others and by techniques such as one-way vision mirrors, tape recorders, video recorders, television, movies, photographs or other audio and visual technology. This right does not prohibit an agency from using closed-circuit monitoring to observe seclusion rooms or common areas, which does not include bathrooms or sleeping areas;
- (7) The right to confidentiality of communications and personal identifying information within the limitations and requirements for disclosure of client information under state and federal laws and regulations;
- (8) The right to have access to one's own client record;
- (9) The right to be informed of the reason for terminating participation in a service;
- (10) The right to be informed of the reason for denial of a service;
- (11) The right not to be discriminated against for receiving services on the basis of race, ethnicity, age, color, religion, gender, national origin, sexual orientation, physical or mental handicap, developmental disability, genetic information, human immunodeficiency virus status, or in any manner prohibited by local, state or federal laws;
- (12) The right to know the cost of services;
- (13) The right to be verbally informed of all client rights, and to receive a written copy upon request;
- (14) The right to exercise one's own rights without reprisal, except that no right extends so far as to supersede health and safety considerations;
- (15) The right to file a grievance;
- (16) The right to have oral and written instructions concerning the procedure for filing a grievance, and to assistance in filing a grievance if requested;
- (17) The right to be informed of one's own condition; and,

(18) The right to consult with an independent treatment specialist or legal counsel at one's own expense.

(H) Provision of client rights

(1) The provider shall explain and maintain documentation in the ICR of explanation of rights to each person served prior to or when beginning assessment or treatment services.

(2) In a crisis or emergency situation, or when the client does not present for services in person such as through a hotline; the provider may verbally advise the client of at least the immediately pertinent rights only, such as the right to consent to or to refuse the offered treatment and the consequences of that agreement or refusal. Full verbal explanation of the client rights policy shall be provided at the first subsequent meeting.

(3) Clients or recipients of information and referral service, consultation service, mental health education service, and prevention service as described in Chapter 5122-29 of the Administrative Code may have a copy and explanation of the client rights policy upon request.

(4) Explanations of rights shall be in a manner appropriate for the person's understanding.

(I) All staff shall be required to follow the client rights policy and client grievance procedure. There shall be documentation in each employee's personnel file, including contract staff, volunteers and student interns that each staff member has received a copy of the client rights policy and the client grievance procedure and has agreed to abide by them.

(J) The client grievance procedure shall have provisions for at least the following:

(1) Statement to whom the client is to give the grievance;

(2) Designation of a client advocate who will be available to assist a client in filing of a grievance, the client advocate shall have their name, title, location, hours of availability, and telephone number included with the posting of client rights as required by paragraph (D) of this rule;

(3) Requirement that the grievance must be put into writing; the grievance may be made verbally and the client advocate shall be responsible for preparing a written text of the grievance;

(4) Requirement that the written grievance must be dated and signed by the client, the individual filing the grievance on behalf of the client, or have an attestation by the client advocate that the written grievance is a true and

accurate representation of the client's grievance;

- (5) Requirement that the grievance include, if available, the date, approximate time, description of the incident and names of individuals involved in the incident or situation being grieved;
- (6) Statement that the program will make a resolution decision on the grievance within twenty business days of receipt of the grievance. Any extenuating circumstances indicating that this time period will need to be extended must be documented in the grievance file and written notification given to the client;
- (7) Statement that a client has the option to file a grievance with outside organizations, that include, but are not limited to, the following, with the mailing address and telephone numbers for each stated:
- (a) Applicable board of alcohol, drug addiction, and mental health services;
  - (b) Ohio department of mental health and addiction services;
  - (c) Disability rights Ohio; or,
  - (d) U.S. department of health and human services, civil rights regional office in Chicago.
- (8) Requirement that a written acknowledgment of receipt of the grievance be provided to each grievant. Such acknowledgment shall be provided within three business days from receipt of the grievance. The written acknowledgment shall include, but not be limited to, the following:
- (a) Date grievance was received;
  - (b) Summary of grievance;
  - (c) Overview of grievance investigation process;
  - (d) Timetable for completion of investigation and notification of resolution; and,
  - (e) Treatment provider contact name, address and telephone number.

Effective: 04/01/2016

Five Year Review (FYR) Dates: 04/01/2021

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