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5122-30-03 Definitions.

(A) The following definitions apply to Chapter 5122-30 of the Administrative Code.

(1) "Abuse" means any act or absence of action inconsistent with human rights which results or could result in physical injury to a resident unless the act is done in self defense or occurs by accident; any act which constitutes sexual activity, as defined under Chapter 2907. of the Revised Code, when such activity would constitute an offense against a resident under Chapter 2907. of the Revised Code; insulting or coarse language or gestures directed toward a resident which subjects the resident to humiliation or degradation; or depriving a resident of real or personal property by fraudulent or illegal means. For children, in addition to the above, the definition of abuse is the same as in sections 2919.22 and 2151.031 of the Revised Code.

(2) "Accommodations" means housing, daily meal preparation, laundry, housekeeping, arranging for transportation, social and recreational activities, maintenance, security, and other services that do not constitute personal care services or skilled nursing care.

~~(2)~~ (3) "Administration of medication" means the direct application of a single drug to the body of a resident either by injection, inhalation, ingestion or any other means. The complete act of administration entails the following: removal of an individual dose from a previously dispensed, properly labeled container; verification of drug dose with the practitioner's order, properly identifying the resident before giving the individual dose; and properly recording the time and dose given in the resident's integrated clinical record and administered by a licensed professional in accordance with rule 5122-30-20 of the Administrative Code.

~~(3)~~ (4) "Adult" means a person eighteen years of age or older, and who is unrelated to the operator.

~~(4)~~ (5) "Adult day care" means non-residential facilities or specifically designated units of operation within an adult care, assisted living residence, nursing home or other type of long term care facility that provides a variety of health, social and related support services in a protective setting during part of the day to aged, infirm or disabled adults who reside elsewhere.

~~(4)~~ (4) ~~"Affiliation agreement" means the signed, written, board approved understanding between a residential facility and a certified mental health agency or a board, that describes how the two parties will work together to benefit persons residing in residential facilities.~~

~~(5)~~ (5) ~~"Alleged abuse" means an assertion or allegation of abuse of a resident which has not yet been substantiated.~~

(6) "Application for licensure" means a completed application and all of the information, reports, inspections, and other such materials that are required to be submitted to the department, and all applicable fees.

(7) "Assistance with activities of daily living" (ADL) means advice or aid provided in relation to matters of community living, such as, matters of self care or emotional growth and stability, personal hygiene; bathing, grooming, dressing, eating, interpersonal relationships~~, etc. as applied to children and adolescents~~. Assistance with activities of daily living also means structuring and supervising all activities to promote self care or emotional growth and stability, and to ensure the well-being of the resident, and also includes providing or arranging for the provision of clothing, education, medical and dental care.

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(8) "Board" has the same meaning as community mental health board or board of alcohol, drug addiction and mental health services, as defined in Chapter 340. of the Revised Code.

(9) "Certification" means the written authorization from the department for ~~an agency~~ a provider to operate specific services and provide activities according to Chapters 5122-24 to 5122-29 of the Administrative Code. ~~These services and activities are those which are included in the agency contract or sub-contract with the community mental health board or for which a non-contract agency has voluntarily applied.~~

~~(11)~~ (10) "Chemical restraint" means any medication that alters the functioning of the central nervous system in a manner that limits physical and cognitive functioning to the degree that the resident cannot attain the resident's highest practicable physical, mental, and psychosocial well-being.

~~(10)~~ (11) "Child or adolescent" means persons under the age of eighteen years, or person with a severe mental disability under the age of twenty-one years.

~~(11)~~ (12) "Community mental health ~~agency~~services provider" has the same meaning ~~and includes community mental health facility as defined by paragraph (B)(11) of rule 5122-24-01 of the Administrative Code~~as defined in Section 5119.01 of the Revised Code, and may be referred to as ~~agency or subcontract agency~~a provider.

~~(12)~~ (12) ~~"Community mental health board" means the body constituted according to section 340.02 of the Revised Code, and has the same duties as described in section 340.03 of the Revised Code. Community mental health board means both a community mental health board and a board of alcohol, drug addiction and mental health services. If the term community mental health board is used, it also refers to a board of alcohol, drug addiction and mental health services.~~

~~(13)~~ (13) ~~"Community mental health plan" means the plan for providing mental health services as developed by a community mental health board and approved by the department of mental health in accordance with section 340.03 of the Revised Code, and shall be the same as local systems performance agreement.~~

~~(14)~~ (14) ~~"Criminal records check" means any criminal records check conducted by the superintendent of the bureau of criminal identification and investigation BCI pursuant to section 109.572 of the Revised Code.~~

~~(15)~~ (13) "Crisis stabilization unit" means a residential unit providing crisis stabilization for persons needing an intermediate level of care. The standard services of behavioral health counseling and ~~psychotherapy~~therapy, ~~diagnostic~~ mental health assessment, ~~medication/somatic~~pharmacologic management, and crisis intervention mental health are offered. Treatment interventions are focused on stabilizing the current crisis and mobilizing support and resources so that the person can be treated in a less restrictive setting. The unit provides ~~continuous~~ twenty-four hour observation, supervision and voluntary treatment services for individuals who do not require the intensive medical treatment of inpatient care. Length of stay on a crisis stabilization unit is anticipated to be no longer than fourteen days duration.

~~(16)~~ (14) "Custodian" means one who has been granted the authority or right by a court to exercise care, supervision, or control over a person.

~~(17)~~ (15) "Deficiency" means violations of requirements, or inadequate, or substandard compliance with the

requirements of this chapter or Chapters 5122-24 to 5122-29 of the Administrative Code.

~~(18)~~ (16) "Department" means the Ohio department of mental health and addiction services.

~~(19)~~ (17) "Director" means the director of the Ohio department of mental health and addiction services.

~~(20)~~ (20) ~~"Director designee" means a person designated by the director to carry out duties and responsibilities required of the director and/or the department.~~

~~(21)~~ (18) "Emergency" means an impending or crisis situation which creates circumstances demanding immediate actions for prevention of injury to the person or others. An emergency may be determined by either a licensed physician, registered nurse or other qualified person(s).

~~(22)~~ (19) "Facility" has the same meaning as residential facility.

~~(23)~~ (20) "Guardian" means one who has been legally entrusted by a court with the custody and control of the person or property of a person.

~~(24)~~ (21) "Hospital" means the same as inpatient psychiatric service provider.

~~(25)~~ (22) "Household member" means any person living in the residential facility, including but not limited to: residents, the operator, staff, family, or friends of the operator or staff.

~~(26)~~ (23) "House rules" means those facility policies, requirements, or procedures by which household members, staff, and visitors are expected to comply with, such as smoking areas, meal times, etc.

~~(27)~~ (24) "Inpatient psychiatric service provider" means a psychiatric hospital, or psychiatric inpatient ~~unit(s)~~unit administered by a general hospital, or community mental health ~~agency~~ services provider or other facility, that provides inpatient psychiatric services.

~~(28)~~ (25) "~~ISP~~ITP" means ~~individualized service plan~~individualized treatment plan as described in rule ~~5122-27-05~~5122-27-03 of the Administrative Code.

~~(29)~~ (26) "License" means the signed, numbered, dated document issued by the department to the facility which specifies the ~~maximum number of residents for type 1 facilities and the number of household members for type 2 or type 3 facilities. The license shall include the type 1, 2, or 3 and~~ term of licensure (full, probationary, or interim), the category of facility as defined in paragraph (B) of section 5119.34 of the Revised Code, and the resident limitations imposed by the facility category.

(a) "Full license" means a license issued by the ~~Ohio~~ department ~~of mental health~~ for the period of ~~one year~~ three years for a classone facility or two years in the case of a class two or three facility in accordance with division (~~C~~F) of section ~~5119.22~~5119.34 of the Revised Code.

(b) "Interim license" means a license issued by the ~~Ohio~~ department ~~of mental health~~, which is valid for no more than ninety days. An interim license will be issued in accordance with division (~~D~~F) of section ~~5119.22~~5119.34 of the Revised Code.

(c) "Probationary license" refers to the status of a facility license in which the department determines that

circumstances require a temporary interruption in the full licensure cycle. The term of a probationary license shall be determined at the discretion of the department as specified in division (~~C~~F) of section ~~5119.22~~5119.34 of the Revised Code.

~~(29)~~ (27) "Manager" means the person responsible for the daily operation of a facility. The manager, operator, and owner of a facility may be the same person.

~~(30)~~ (28) "Mental health resident" means a resident of a residential facility who is an adult with mental illness or a severe mental disability or a child or adolescent with a serious emotional disturbance or in need of mental health services ~~who has been referred by or is receiving services from a mental health agency, hospital or practitioner~~.

~~(31)~~ (29) "Mental health services" means those services ~~specified in section 340.09 of the Revised Code and~~ certified by the department in accordance with Chapter 5122-25 of the Administrative Code.

~~(32)~~ (30) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

~~(33)~~ (31) "Neglect" means a purposeful negligent disregard of duty by an employee or staff member. Such duty is one that is imposed on an employee or staff member by statute, rule, or professional standards and which is owed to the person served by that employee or staff person.

~~(31)~~ (32) "Non-ambulatory" means an individual who:

(a) is unable to get in and out of bed independently;

(b) is unable to walk without physical assistance from another individual; or,

(c) requires a wheelchair.

~~(34)~~ (33) "Operator" means the person or persons, firm, partnership, ~~agency~~provider, governing body, association, corporation, or other entity that is responsible for the administration and management of the residential facility and who is the applicant for a residential facility license as the approved licensee.

~~(35)~~ (34) "Owner" means the person, ~~agency~~provider, association, corporation, or other entity ~~that holds legal title to the property on which the residential facility is being operated~~who owns the business of and who ultimately controls the operation of an adult care a residential facility and to whom the manager or operator, if different from the owner, is responsible..

~~(36)~~ (35) "Personal care" means assisting residents with activities of daily living, assisting residents with self-administration of medication, or preparing special diets other than complex therapeutic diets, for residents pursuant to the instructions of a physician or licensed dietitian. Personal care does not include skilled nursing as defined in division (D) of section 3721.01 of the Revised Code.

~~(37)~~ (36) "Referral" means advising, assisting or directing an adult with mental illness or a severe mental disability, or a child or adolescent with a serious emotional disturbance or in need of mental health services, to a residential facility for the purpose of becoming a resident of that facility.

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~~(38)~~ (37) "Resident" means any person who lives in a residential facility in order to receive room and board, ~~and/or~~ personal care, ~~and/~~or mental health services, from the staff of that facility, regardless of the source or amount of compensation provided to the facility for the resident's room and board, services, or care. Resident does not include the operator or the operator's family or staff or family members of staff~~ or friends of staff or the operator~~.

~~(40)~~ (38) "Residents' rights advocate" means an employee or representative of any state or local government entity that has a responsibility regarding residents, or an employee or representative of a private nonprofit corporation or association permitted by law to educate and counsel residents, assist residents in resolving problems and complaints concerning their care and treatment, and assist them in securing adequate services to meet their needs.

(39) "~~Residential~~Resident agreement" means the written agreement between a residential facility, placing ~~agency~~provider, prospective mental health resident or guardian, and community mental health ~~agency~~services provider, as applicable. In the case of children and adolescents, the agreement shall be between the facility and the resident's parent~~/~~,guardian, placing ~~agency~~provider, or legal custodian.

(40) "Residential facility" means a publicly or privately operated home or facility ~~that meets one of the following classifications~~as defined in division (B) of section 5119.34 of the Revised Code.~~:~~

The categories of facility are:

(a) Class one facilities provide accommodations, supervision, personal care services, and community mental health services for one or more unrelated adults, children or adolescents with mental illness.

(b) Class two facilities provide accommodations, supervision, and personal care services to any of the following:

(i) One or two unrelated persons with mental illness;

(ii) One or two unrelated adults who are receiving residential state supplement payments; or,

(iii) Three to sixteen unrelated adults.

(c) Class three facilities provide room and board for five or more unrelated adults with mental illness.

~~(a)~~ (a) ~~Type 1 facility means a facility that provides room and board and personal care services, and mental health services to one or more adults with mental illness or severe mental disabilities or children and adolescents with a serious emotional disturbance or in need of mental health services who have been referred by or are receiving mental health services from a hospital, mental health agency, or practitioner;~~

~~(b)~~ (b) ~~Type 2 facility means a facility that provides room and board and personal care services to one or two adults with mental illness or severe mental disabilities or children and adolescents with a serious emotional disturbance, who have been referred by or are receiving mental health services from a hospital, mental health agency, or practitioner; and~~

~~(c)~~ (c) ~~Type 3 facility means a facility that provides room and board to five or more adults with mental illness or severe mental disabilities who have been referred by or are receiving mental health~~

~~services from a hospital, mental health agency, or practitioner.~~

~~(43)~~ (41) "Residential state supplement" ("RSS") means the program administered under section 5119.41 of the Revised Code and Chapter 5122-36 of the Administrative Code.

~~(41)~~ (42) "Room and board" means ~~the assumption of responsibility by a facility for the provision of sleeping and living space, housekeeping, meals, and/or meal preparation, and laundry for a period of twenty-four hours or more~~the provision of sleeping and living space, meals or meal preparation, laundry services, housekeeping services, or any combination thereof.

~~(42)~~ (43) "Serious emotional disturbance" means a combination of duration of impairment, intensity of impairment, and diagnosis, as specified in the definition for a "person with serious emotional disturbance"~~paragraph (B)(65) of~~ rule 5122-24-01 of the Administrative Code.

~~(43)~~ (44) "Severe mental disability" means a condition that meets at least two of the three criteria of diagnosis, duration, and disability as specified in the definition of a "person with severe mental disability" in ~~paragraph (B)(66) of~~ rule 5122-24-01 of the Administrative Code.

~~(47)~~ (45) "Short-term illness" means a medical condition for which recovery can be expected to occur with not more than one hundred and twenty days of skilled nursing care or requiring skilled nursing care provided on periodic, scheduled basis not to exceed one hundred twenty days.

~~(44)~~ (44) ~~"Skilled nursing care," as defined in division (D)~~ of section 3721.01 of the Revised Code, means procedures that require technical skills and knowledge beyond those the untrained person possesses and that are commonly employed in providing for the physical, mental and emotional needs of ill or otherwise incapacitated persons. Skilled nursing care includes, but is not limited to, the following:

~~(a)~~ (a) ~~Irrigation, catheterization, application of dressings, and supervision of special diets;~~

~~(b)~~ (b) ~~Objective observation of changes in the patient's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment;~~

~~(c)~~ (c) ~~Special procedures contributing to rehabilitation;~~

~~(d)~~ (d) ~~Administration of medication by any method ordered by a physician such as hypodermically, rectally, or orally, including observation of the patient after receipt of the medication; and~~

~~(e)~~ (e) ~~Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.~~

~~(45)~~ (46) "Special diet" means simple diets and calculated diets which have been ordered by a physician or registered dietitian.

(a) Simple diets means simple food regimens including, but not limited to:

(i) No added salt food regimens;

(ii) Reduced fat, reduced cholesterol food regimens;

(iii) Reduced or no simple sugar food regimens;

(iv) Small frequent meals;

(v) Full liquid or clear liquid food regimens for no more than seventy-two hours; and

(vi) Simple textural modifications.

(b) "Calculated diets" mean calculated nutritive regimens including, but not limited to:

(i) Diabetic and other nutritive regimens requiring a daily specific calorie level;

(ii) Renal nutritive regimens;

(iii) Dysphagia nutritive regimens excluding simple textural modifications; and

(iv) Any other nutritive regimens requiring a daily maximum or minimum level of one of more specific nutrients, or a specific distribution of one or more nutrients.

"Special diets other than complex therapeutic diets" has the same meaning as ~~simple~~ special diets as defined in ~~paragraph (FF) of~~ rule 3701-17-50 of the Administrative Code.

~~(46)~~ (46) ~~"Special treatment and safety measures" include mechanical restraint, seclusion, physical restraint, and major aversive behavioral interventions as defined in paragraph (C) of~~ rule 5122-26-16 of the Administrative Code.

(47) "Staff" means any person or persons participating in the physical operation of the facility, the provision of mental health services, personal care, room and board, ~~and/~~or supervision of residents, whether or not that person is compensated for that assistance. Staff shall be understood to include the operator of the facility when the operator is a participant in the performance of those activities.

(48) "Substance abuse" means use of any drug ~~and/~~or alcohol by an individual to the extent of physical or psychological dependency on the drug or to the extent that a person's health, safety or welfare is endangered.

(49) "Supervision" means ~~observing a resident, when necessary, while he or she engages in activities of daily living or other activities to ensure the resident's health, safety, or welfare and/or reminding a resident to do or complete such an activity~~observing a resident to ensure the resident's health, safety, and welfare while the resident engages in activities of daily living or other activities; reminding a resident to perform or complete an activity, such as reminding a resident to engage in personal hygiene or other self-care activities; or assisting a resident in making or keeping an appointment.

~~(54)~~ (50) "Topical medication" means a medication, such as a topical anti-infective, that is applied to a certain area of the skin and that only affects the area to which it is applied.

~~(55)~~ (51) "Unrelated" means a resident not related to the operator or staff, or the opeartor or staff's spouse, as a parent, grandparent, child, stepchild, grandchild, brother, sister, niece, nephew, aunt, uncle, or as a child of an aunt or uncle.

~~(50)~~ (52) "Variance" means written permission granted to a residential facility by the director, or his designee, to alter the requirements of a rule.

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~~(51)~~ (53) "Waiver" means written permission granted to a residential facility by the director, or his designee, to be exempted from all or a portion of the requirements of a rule.