

Ohio Department of Mental Health

COMMUNITY MENTAL HEALTH AGENCY DEEMED STATUS & CERTIFICATION RULES CHANGES

Amended Rules Effective 24 November 2011
Chapter 5122-25

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Logistics for Today's Webinar

- Having trouble hearing?
 - ODMH monitors throughout webinar, & will e-mail Audio PIN number to anyone it shows does not have audio connection
- Troubles w/ Webinar during presentation?
 - Send e-mail to ODMH_Webconference@mh.state.oh.us
- How to ask a question (2 ways)
 - Type question in your control panel & submit, or
 - Use “Raise Hand” function, and ODMH will turn on your audio
 - Has been some trouble in the past

Goals of Webinar

- Review rule changes which went into effect November 24, 2011
 - NOT reviewing all rules in each chapter
- Identify impact on Type 1 Residential Facility
- Highlight upcoming changes

- What Will Not Occur Today
 - Review of specific accrediting body standards

Goals of Rule Changes

- Provide for regulatory reduction and streamlined certification process while maintaining appropriate attention to consumer safety and client rights

Current Rule Making Process

(Changing January 1, 2012)

- Informal
 - Draft rules
- Formal
 - Filing w/ Joint Committee on Agency Rule Review
 - Public hearing
 - JCARR hearing
- Participation at any point is always welcome
 - ODMH developed Rules Webpage to encourage this and make it easier for any interested party to be involved
 - While not all feedback is incorporated, everything is reviewed and considered

5122-25-03

Deemed Status and Reciprocity

Rescinded and New

What is Deemed Status?

- 5122-25-03 (A) The department shall accept, as **evidence of compliance** with Chapters 5122-26 to 5122-29 of the Administrative Code, the agency's appropriate behavioral health accreditation by any of the following accrediting bodies: "The Joint Commission "; "The Commission on Accreditation of Rehabilitation Facilities"; and/or "The Council on Accreditation".

What is Still Exempt from Deemed Status?

5122-25-03 (A)(1)

- (A)(1)(a) Rule 5122-26-13 of the Administrative Code (incident notification);
- (A)(1)(b) Paragraph (F) of rule 5122-28-03 of the Administrative Code (performance improvement) which shall be used only for the purpose of reporting aggregate incident report data on the use of seclusion and restraint. This paragraph shall no longer be exempt from deemed status July 1, 1012.
 - Effective date of new rule has been changed from 1/1/12 to 4/1/12
- (A)(1)(c) Rule 5122-26-19 of the Administrative Code (uniform cost reporting); and
- (A)(1)(d) Rule 5122-26-19.1 of the Administrative Code (actual uniform cost report (AUCR) agreed-upon procedures and report submission requirement).

Regulatory Reduction

No Longer Exempt from Deemed Status

- Special Treatment & Safety Measures / Seclusion and Restraint
- Client Rights and Abuse
- Consumer Outcomes
- Intensive Home Based Treatment Service
(Additional Certification Application Procedures – also current process to remove this from the IHBT rule; it was in two rules)
- Assertive Community Treatment Service
(Additional Certification Application Procedures – need to file change to remove this from the ACT rule; it was in two rules)

Who Can Order Seclusion & Restraint?

- Accrediting body standards defer to state law/regulations
- ODMH identifies in rule who can order S/R based on state law (scope of practice) as identified by the respective state licensing Boards
- Advice - May want to refer to OAC 5122-26-16.2 (effective 1/1/12) for list of who can order mechanical restraint and seclusion (or contact licensing Board if questions)
 - Psychiatrist/other physician
 - Physician's assistant, certified nurse practitioner or clinical nurse specialist authorized to order S/R in accordance with scope of practice & as permitted by applicable law/regulation.
- ODMH does require order for physical restraint – look at agency accrediting body requirements

Type 1 Residential Facility (RF) Seclusion & Restraint

- Residential licensure is not part of deemed status
- 5122-30-17 links to compliance with S/R rules in Cert standards
- Each accrediting body has different process for reviewing residential site
- Agency that has S/R activity reviewed under accreditation standards does not have to apply ODMH rules to its Type 1 RF
- ODMH will review S/R activity, but will also review accreditation survey history and discuss survey process with Type 1 Residential Facility to assure ODMH is not applying different/additional standards beyond accrediting body during survey
- Expect more conversation & a process that aligns with regulatory application of standards for seclusion and restraint

Client Rights and Abuse

- Follow accrediting body policy for client rights & grievance procedure
- ODMH can still follow up on allegations of violations of client rights

Deemed Status Application

5122-25-03 (B)

- (B)(1) A copy of the certificate or license awarded by the accrediting body (no change)
- (B)(2) A copy of the accreditation award notification letter (language modified)
 - Hint – has accreditation effective or expiration date
- (B)(3) A copy of each of the accrediting body's survey reports and any modifications made to the survey report (no change)
- **DO NOT** submit response to accreditation survey report (ESC, PCR Response, QIP etc.)

Notify ODMH of Any Changes to Accreditation Status within 10 Days

5122-25-03 (D)

- (D)(1) Should an agency's accreditation, licensure and/or certification status be granted as or modified to probation, stipulations, conditional, provisional, deferral, preliminary denial or other similar status, the department may ask for additional documentation until such time as full accreditation status is restored. Full accreditation status means the accrediting body has issued an accreditation decision of "accredited" or "accreditation" without additional conditions or modifiers other than 3-year or 1-year accreditation.

Used to be Known as Validation Surveys

5122-25-03 (E)

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

5122-25-04

Certification Procedure

AMENDED

Cert Application

- Submit legal name of agency, including any “Doing Business As” (DBA)
- Corporate information - before requesting this information, the department shall first attempt to obtain the information from the Ohio secretary of state website (so *please* submit the agency’s legal name and any “dba”!)
- A description of the agency's purpose, mission and goals **if agency is applying for its first certification.** (deemed status agency only)

Deemed Status Certification Process

5122-25-04 (C)(1)

- ODMH will no longer conduct a survey for an agency applying for deemed status for its initial agency survey or a Certified agency adding a Medicaid billable service under deemed status *unless...*
- (C)(1) For an agency applying for deemed status, the department shall review the application materials, and issue the certification without further evaluation of the services, except that the department may conduct an on-site survey or otherwise evaluate the agency for cause, including complaints made by or on behalf of consumers and confirmed or alleged deficiencies brought to the attention of the department.
- The [routine process](#) will be to issue a Certification without a survey

Non-Deemed Status Certification Process

5122-25-04 (C)(2)

- The department may schedule and conduct an on-site survey of and/or otherwise evaluate the applicant's services and activities.

Conducting On-Site Survey

5122-25-04 (D)

- **Deemed Status Agency**
 - The department may conduct an on-site survey or otherwise evaluate an agency applying for or granted deemed status at any time based on cause, including complaints made by or on behalf of consumers and confirmed or alleged deficiencies brought to the attention of the director.
- **Non-Deemed Status Agency**
 - The department may conduct an on-site survey or otherwise evaluate an agency not applying for deemed status at the time of initial application or renewal in accordance with paragraph (C)(2) of this rule, at other times with appropriate notice, or at any time based on cause, including complaints made by or on behalf of consumers and confirmed or alleged deficiencies brought to the attention of the director.

Adding a New Service

5122-25-04 (F)

- **Via Deemed Status Process**
 - Submit documentation required documentation required in rule 5122-25-03
- **Non Deemed Status (including agency granted deemed status for other services)**
 - Description of the service or activity
 - List of qualified providers
 - ODMH may conduct on-site survey as part of process

5122-25-05

Provisions of Certification

AMENDED

Eliminated Initial (1 Year) Certificate

- New agency is certified for 3 years
- Agency adding service to existing certification will have the same expiration date as for other services

5122-25-05 (D)

- (D) The agency shall notify the department immediately of any ~~changes in its operation that affect the agency's continued compliance with department certification standards, including~~ services, sites and/or activities added or closed/terminated since the most recent certification.

5122-28-04

Performance Improvement

Effective Date Changed from 1/1/12 to 4/1/12

Other Rule Activities

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Other Rule Activities

- Rules Filed w/ JCARR November 30, 2011
- Training on Seclusion and Restraint Rules
 - January 1, 2012 Effective Date
- Training on Client Rights and Grievance Procedures
 - March 1, 2012 Effective Date
 - Training Date to be scheduled
- Common Sense Initiative Rules Process (1/12/12)
 - Governor Kasich's Executive Order 2011-01K
Senate Bill 2, 129th General Assembly
- New Rules Listserv
 - ODMH currently maintains for Agency Executive Directors & 1 for Private Psychiatric Hospital Administrators
 - Anyone will be able to sign up when new listserv goes live, including multiple people from same agency

Resources

- Advisory communicating changes reviewed today
 - <http://mentalhealth.ohio.gov/assets/numbered-advisories/fy2012/11-FY12-5-Rules-for-certified.pdf>
- *BH Accreditation Crosswalk* further defines **Appropriate Behavioral Health Accreditation** [5122-25-02 (A) & 5122-25-03 (A)]
 - <http://mentalhealth.ohio.gov/assets/licensure-certification/behavioral-health-accreditation-crosswalk.pdf>
- ODMH Rules Webpage
 - <http://mentalhealth.ohio.gov/what-we-do/protect-and-monitor/licensure-and-certification/rules/index.shtml>

Questions

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