5122-30-01  Purpose of rules.

(A) The purpose of rules 5122-30-01 to 5122-30-30 Chapter 5122-30 of the Administrative Code is to establish the procedures and requirements for the licensure and operation of residential facilities for persons with mental disabilities, and children with serious emotional disturbances or in need of mental health services as defined by section 5119.34 of the Revised Code.
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5122-30-02  Applicability of rules.

(A) The provisions of rules 5122-30-01 to 5122-30-30 of the Administrative Code this chapter are applicable to any facility in the state of Ohio that is a residential facility as defined in division (A)(1)(d)(i), (A)(1)(d)(ii), or (A)(1)(d)(iii) of section 5119.22 (B) of section 5119.34 of the Revised Code, and rule 5122-30-03 (A)(38) of the Administrative Code, regardless of whether the facility holds itself out to be, or represents itself, as such a residential facility.

(B) The rules in this chapter apply to each licensed residential facility, and any licensed residential facility must comply with the rules in this chapter independent of any other licensed residential facility.
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(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.

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

"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.

"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.

"Certification" means the written authorization from the department for an agency 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.

"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.

"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.

"Community mental health agencies/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 services provider.

"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) "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) "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 counseling and psychotherapy, diagnostic assessment, medication/somatic, general services and crisis intervention 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 pursuant to Chapter 2151. of the Revised Code.

(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) "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 probate court
with the custody and control of the person or property of a person pursuant to
Chapter 2111. of the Revised Code.

(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 service provider or other facility, that
provides inpatient psychiatric services.

(28)(25) "ISP/ITP" means individualized service plan individualized treatment plan
as described in rule 5122-27-05122-27-03 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 class one facility or
two years in the case of a class two or three facility in accordance with
division (C) of section 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 (DF) of section 5119.225119.34 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 (EF) of section 5119.225119.34 of the Revised Code.

(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.

(28) "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.

(30) "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) "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) "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) "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.

(33) "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) "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) "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 residential facility and to whom the manager or operator, if different from the owner, is responsible.

(36) "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) "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 the person's body without the use of mechanical restraint devices.

(38)(39) "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.

(39)(40) "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) "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.

(41) "Residential Resident agreement" means the written agreement between a
residential facility, placing agency provider, prospective mental health resident or guardian, and community mental health service 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)(42) "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 mental health services for one or more unrelated adults with mental illness or one or more unrelated children or adolescents with severe emotional disturbances.

(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) 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) 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

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

(44) "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.

(45) "Seclusion" means the involuntary confinement of a person alone in a room where the person is physically prevented from leaving.

(46) "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.

(47) "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.

(48) "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.

(49) "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) Irrigation, catheterization, application of dressings, and supervision of special diets;

(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) Special procedures contributing to rehabilitation;
(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) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.

(45)(49) "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) "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)(50) "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)(51) "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)(52) "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.

(53) "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.

(54) "Unrelated" means a resident not related to the operator or staff, or the operator 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)(55) "Variance" means written permission granted to a residential facility by the director, or his designee, to alter the requirements of a rule.

(51)(56) "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.
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5122-30-04   Licensure application and procedures.

(A) The purpose of this rule is to state the licensure procedure, including application, renewal, correction of deficiencies or non-compliance and determination of the number of beds.

(1) The application shall consist of:

(a) Completed application form, which shall indicate at least the class of facility to be licensed, the maximum number of residents, the maximum number of household members, and whether the facility shall serve adults or children and adolescents;

(b) For facilities serving adults, the application form shall also indicate whether or not the facility will serve those with mental illness;

(b)(c) Approved building inspection, upon initial application only, and when building modifications require appropriate building inspections per Ohio basic building code;

(e)(d) Approved fire inspection;

(e)(e) Non-refundable, non-waivable licensure fee of: one hundred fifty dollars for type class 1 facilities, and seventy-five dollars for type class 2 and 3 facilities;

(f) A line drawing or description of the showing location and function of all resident and staff areas; and

(g) If a waiver or variance is to be requested, the application shall include written request in the form required by rule 5122-30-07 of the Administrative Code.

(f) For type 1 residential facilities only, copy of agency service plan specific to the proposed services in accordance with rules 5122-24 to 5122-29 of the Administrative Code.

(2) The proposed facility shall be subject to an on-site inspection by the department prior to occupancy to determine if the facility is in compliance with rules 5122-30-01 to 5122-30-30 Chapter 5122-30 of the Administrative Code.

(3) Every person operating or desiring to operate a residential facility shall apply for licensure of the facility to the department of mental health and addiction services; and if the facility shall serve those with mental illness or severe
mental disabilities and shall send a copy of the application shall also be sent to the board of alcohol, drug addiction, and mental health services whose service district includes the county in which the person operates or desires to operate a residential facility. The board shall review such applications and recommend approval or disapproval to the department.

(B) To determine whether a prospective facility is qualified to be licensed, every person operating or desiring to operate a residential facility shall conduct background investigations checks in accordance with division (K) of Section 5119.34 of the Revised Code and rule 5122-30-31 of the Administrative Code shall be conducted for all prospective or current operators, employees, and other volunteers who, if employed by a residential facility, may have direct access to facility residents.

(C) The department shall not approve a prospective operator on a conditional basis awaiting the results of the criminal records check background investigations required by this rule. The required criminal records check background investigations must be completed prior to the issuance of a license.

(D) An operator shall not operate the facility as a boarding or rooming house.

(E)(D) Each residential facility shall obtain written approval from the department prior to conducting any business-for-profit activity and/or allowing any business to operate, including babysitting services or renting a room or providing services to a non-resident who is unrelated to the operator or staff, in the home.

(F) Type 2 and 3 residential facilities shall obtain an ADAMHS/CMH board approved, signed, and dated affiliation agreement according to division (K) of Section 5119.34 of the Revised Code between the operator and a mental health agency that is certified to provide or make provision for crisis intervention service in accordance with Chapters 5122-24 to 5122-29 of the Administrative Code.

(G) The affiliation agreement may also be between a residential facility and a mental health board. The provision of crisis intervention services must be available through a mental health agency(s), certified to provide crisis intervention services, and that agency(s) must be a party to the affiliation agreement.

(1) In the event that a facility has residents receiving services from more than one mental health agency, or the organization of the board area is such that one agency or the board itself assumes administrative responsibilities with regard to residential facilities, the facility may affiliate with the board or the administering agency. The affiliation agreement may be modified as necessary to include appropriate provisions and procedures concerning administrative and service delivery matters, but shall include all of the information specified in paragraph (G)(2) of this rule, and shall ensure the provision of crisis intervention service as specified in this section, to mental
health residents of the facility by a certified provider of the service.

(2) The affiliation agreement shall include, but may not be limited to, specification of:

(a) The provisions for delivery of crisis intervention and additional mental health services as appropriate and necessary, to mental health residents;

(b) The provisions and procedures for emergency medical care;

(c) The provisions and criteria for referrals, admissions to, non-admissions to and discharges from the facility;

(d) The procedure for major unusual incident reporting;

(e) The handling of mental health resident funds;

(f) The procedure for resolving disputes between the affiliating agency and the residential facility;

(g) The provision for monitoring the terms of the agreement;

(h) The procedure for termination of affiliation agreement, and written assurance of due process;

(i) A copy of the residential agreement as specified in rule 5122-30-24 of the Administrative Code;

(j) Copies of all inspection reports, licenses or certificates as required in this chapter;

(k) The board’s written recommendation to the department for approval or disapproval of the license application, as consistent with the community plan, and/or other information the board may possess about the facility relevant to licensure. A recommendation for disapproval of the license shall be accompanied by clear and specific documentation of facility deficiencies with regard to the requirements specified in these rules; and

(l) The staffing pattern of the facility.

(H) In the event of the denial or revocation of an affiliation agreement the affiliating agency/board shall provide clear and specific documentation of the facility’s deficiencies with regard to the requirements of this chapter and submit it to the department within thirty days of the decision.

(I) Prior to the licensure renewal date, each operator shall obtain an affiliation agreement.
(J) The affiliation agreement, as authorized by division (K) of section 5119.34 of the Revised Code, shall indicate the written approval by the community mental health board as being consistent with the residential portion of the community plan.

(K) The affiliation agreement shall be consistent with local, state and federal law and the local systems performance agreement. If any provision of the affiliation agreement is inconsistent, or in violation of any local, state, federal law, or administrative rule, such provision shall be void and unenforceable.

(L)(E) An application for the renewal of a full license shall contain the materials specified in paragraphs (A)(1) and (B) of this rule.

(M)(F) Licensure procedure

(1) Every person operating or desiring to operate a residential facility shall forward the application of the residential facility and related application materials specified in paragraphs (A)(1) and (B) of this rule to the department. In accordance with section 5119.34 of the Revised Code the department shall review the materials to determine if they are complete, including all of the content requirements. If incomplete, the department shall notify the board and residential facility of necessary corrections or additions, or return the materials to the residential facility. Incomplete materials shall not be considered an application for licensure, and return of the materials or failure to issue a license shall not constitute a denial of an application for licensure.

(2) For renewal of a license, complete materials for an application must be received by the department ninety days prior to the expiration date of the current license.

(3) Following receipt by the department of a complete application, the department shall review the application materials for consistency and compliance with the requirements of these rules. The department shall provide the applicant, affiliating agency, and the board with a written statement citing areas of non-compliance, and specifying a time-frame for correction, if the department determines that the areas of non-compliance are amenable or subject to correction. Failure to accomplish corrections within the time frame established may constitute grounds for denial of the application for licensure. If the complete application is in compliance with the requirements of these rules, the department may schedule and conduct an on-site survey of the facility.

(4) If the department determines that deficiencies observed during the on-site survey, if any, are amenable to correction within a particular time period, the
operator shall be provided a copy of the deficiencies and a time frame for correction.

(5) The department may require the operator to submit a written plan of correction, describing how deficiencies will be corrected in the time-frame specified by the department. Failure of an operator to comply with the plan of correction may constitute grounds for licensure revocation.

(6) The department shall obtain assurance that deficiencies have been corrected within the time specified, either by an on-site visit or by the receipt of written documentation, as relevant and appropriate, within the discretion of the department. The facility will be notified in writing of the approval of the plan of correction.

(7) The department, at its discretion, may consider any other information which it deems appropriate in making licensure determinations.

(N) Interim licensure procedure

(1) The interim license may be issued only in emergency situations, as specified in division (G) of section 5119.34 of the Revised Code and rule 5122-30-05 of the Administrative Code. The perceived need for the interim licensure shall be reported immediately to the department by telephone or electronic means in accordance with procedures in place for reporting major unusual incidents to the department.

(2) The department shall be provided such information concerning the nature and extent of the emergency, as is relevant and necessary, to determining the need for the interim license. In the event the department determines that an emergency need exists, the department may authorize, by telephone, the immediate placement of residents in the facility to be licensed. The department may conduct an on-site inspection to determine compliance of the facility with the requirements of this chapter.

(3) In the event of deficiencies, the department may:

   (a) Authorize a variance, with regard to necessary square footage requirements, or require the relocation of one or more residents to reduce the degree of non-compliance with square footage requirements;

   (b) Require the immediate correction of deficiencies which are amenable to such immediate correction; and/or
(c) Require the immediate relocation of one or more or all residents, in the
event of deficiencies which cannot be immediately corrected and which
constitute a threat to the health or safety of one or more residents.

(4) Nothing stated herein shall be construed to require interim licensing for
facilities which are not subject to licensure as residential facilities, as
specified in section 5119.34 of the Revised Code.

(H) Any facility that is required to have a license in accordance with section 5119.34
of the Revised Code shall apply for and receive the license prior to the admission of
mental health residents.
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5122-30-05 Issuance and conditions of full, probationary, and interim licenses.

(A) Issuance and conditions of full, probationary, and interim licenses

(1) The department may issue a full license for the facility only if it has been determined to the department's satisfaction that there is compliance with licensure requirements. The license shall specify facility class as defined in division (B) of section 5119.34 of the Revised Code; and the license shall specify the maximum number of residents for the facility; and the maximum number of household members if applicable, in accordance with rule 5122-30-09 of the Administrative Code; and the type of activity for which the facility is licensed, i.e., the provision of room and board only, room and board and personal care only, or room and board, personal care, and mental health services.

(2) A full license shall be valid for two three years from the date of issuance in the case of class one facilities and for two years from the date of issuance in the case of class two or three facilities. The renewal date shall be based on the expiration date of a full license. A full license may be changed to a probationary license at any time, if the department determines that the circumstances applicable to the issuance of a probationary license, as specified in this chapter, exist.

(3) A license is not transferable to any other site or property.

(4) A license is valid only for the applicant named in the application, and is not transferable to or assumable by any other person or entity.

(5) The license must be kept posted in an area visible to residents and visitors at the facility at all times and made available for inspection to any person who requests it.

(6) The license shall not be altered, modified or defaced in any way.

(7) The department may conduct surveys or inspections of licensed facilities, as it deems necessary and appropriate, to determine initial or continued compliance with requirements or to determine whether deficiencies have been corrected, or upon complaint or allegation of licensure violations by any agency provider or individual. Inspections or surveys may be unscheduled and unannounced, and may include all areas of the facility regardless of resident access.
(8) The department shall have access to all records, accounts, and other documents relating to the operation of the facility, as well as access to all areas in the facility and to the operator, staff, and all residents, as the department deems necessary and appropriate.

(9) The operator of the residential facility shall be responsible for notifying the department of any changes or proposed changes concerning the information submitted and attested to in the application, or in the operation of the facility which alter or modify the type of activity for which the facility is licensed, and/or the continued compliance of the facility with the requirements for licensure.

(B) Issuance and conditions of probationary licenses

(1) A full license may be changed to a probationary license to allow the department to conduct a review or investigation, and for the facility to correct any identified deficiencies.

(2) A probationary license may be issued for any of the reasons set forth in paragraph (D)(1) of this rule.

(3) A facility that has been issued a probationary license may not admit any residents during the term of the probationary license.

(2) The term of the probationary license shall be for a period determined by the department, in its discretion, in order for the department to conduct a review or investigation, and/or for the facility to correct identified deficiencies, but shall be less than one year. A probationary license may be renewed, but the total consecutive time period of the probationary license shall be less than one year.

(4) Upon correction of identified deficiencies or the completion of the departments review or investigation without findings of deficiencies, the probationary license shall be rescinded and the full license reinstated and notice shall be made to the operator in writing.

(5) The issuance of a probationary license shall be subject to proceedings governed by Chapter 119. of the Revised Code.

(C) Issuance and conditions of interim licenses

(1) The department may issue an interim license if the department determines that the closing of or the need to remove residents from another residence has
created an emergency situation.

(2) As specified in paragraph (T)(2) of rule 5122-30-04 of the Administrative Code, the department may authorize placement of residents in the facility prior to the on-site inspection, and prior to the approval and issuance of a license. If approved, the department shall promptly issue the interim license to the facility.

(3) A facility which has received an interim license shall immediately apply for a fire inspection by a certified fire authority. Upon receipt of the inspection, the facility shall immediately take necessary action to correct any noted deficiencies.

(4) The interim license shall be valid for ninety days from the date of issuance. It may be renewed no more than twice. Application for renewal of an interim license must be submitted to the department prior to expiration of the current interim license.

(D) Denial and revocation of licenses

(1) The department may revoke or deny the issuance or renewal of a full, probationary, or interim license, as applicable, if the facility: is not in compliance with the requirements for licensure.

(a) Is not in compliance with the requirements for licensure as set forth by the rules in this chapter;

(b) Has been cited for a pattern of serious noncompliance or repeated violations of statutes or rules during the period of current or previous licenses;

(c) The applicant, operator, manager, or owner presents or submits false or misleading information as part of a license application, renewal, or investigation; or

(d) The applicant, operator, manager, or owner is or has been the owner or manager of a facility that has had a previous license to operate revoked or denied renewal for any reason other than nonpayment of the license fee unless:

(i) A minimum period of twenty-four months has passed from the date of the director's order revoking or denying renewal of the facility's previous license; and
(ii) The licensure revocation or non-renewal was not due to any act or omission that violated the resident's right to be free from abuse, neglect, or exploitation.

(2) The denial of an application for an initial or renewal license, or the revocation of a full or probationary license shall be subject to proceedings governed by Chapter 119. of the Revised Code, except that a change in status from full to probationary licensure shall not be considered the revocation or denial of a license and shall not be subject to proceedings governed by Chapter 119. of the Revised Code. The denial or revocation of an interim license shall not be subject to proceedings governed by Chapter 119. of the Revised Code and is solely at the discretion of the department.

(3) The submission of incomplete materials for the application shall be considered a failure to submit an application for licensure, and the non-issuance of an initial license or a renewal license due to an incomplete application shall not be considered the denial or revocation of a license.

(4) All residents of the facility, guardians and custodians if applicable, and the ombudsman shall be immediately notified by the operator of the unlicensed status, probationary license status, or movement of current residents of a licensed facility to a facility issued an interim license or a facility by the operator. For residents receiving mental health services or substance abuse treatment services the operator shall also notify the mental health or addiction services provider and the local Board. The treatment provider, local ombudsman or other entities may assist with finding a licensed residential facility or other appropriate placement for each resident, and the affiliating agency and/or board, and shall have all necessary and appropriate services provided to, or arranged for them by the affiliating agency and/or board in accordance with Chapter 340. of Revised Code that will enable them to reside in an appropriate residence, if they so choose.

(5) Any facility which is in the process of the denial or revocation of a license remains subject to all of the requirements and conditions of licensure, except that the facility may not admit any residents during the Chapter 119. proceeding.

(6) In proceedings initiated to deny, refuse to renew, or revoke licenses, the director may deny, refuse to renew, or revoke a license regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(6)(7) Nothing herein shall be construed to limit, modify, or abridge the
department's right to petition the court of common pleas of the county in which a residential facility is located for an order enjoining any person from operating a licensed facility when, in the director's judgment, there is a real and present danger to the health or safety of any of the residents of the facility, in accordance with division (JN) of section 5119.225119.34 of the Revised Code.

(7)(8) Nothing in this rule shall be construed to limit, modify, or abridge the department's right to petition the court of common pleas or the probate court for the appointment of a receiver to take possession of and operate a residential facility in accordance with the provisions of section 5119.225119.342 of the Revised Code.

(E) Termination of licenses

(1) A license shall be considered terminated and invalid in the following circumstances:

(a) The operator of the facility has voluntarily discontinued involvement as the operator;

(b) The licensed facility is no longer used as a residential facility subject to licensure, as in situations resulting from change of use, relocation, destruction or loss of the facility, etc.; and

(c) An application for renewal has not been received by the department prior to the expiration of the license.

(2) The termination of a license, as specified in paragraphs paragraph (E)(1) (E)(1)(a) to (E)(1)(c) of this rule, shall not be considered a denial or revocation of a license and shall not be subject to proceedings governed by Chapter 119. of the Revised Code. If the department determines that circumstances exist as specified in paragraph (E)(1) (E)(1)(a) to (E)(1)(c) of this rule, it shall issue a letter to the operator, affiliating agency, and mental health board specifying the date of termination of the license.

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

(G) In addition to the facilities excluded from licensure by division (B)(4) of section 5119.34 of the Revised Code, the following facilities are not required to be licensed by the department and are not residential facilities subject to licensure by the department:
(1) The residence of a relative, or guardian of a person with mental illness; or,

(2) A hospital subject to licensure under section 5119.20 of the Revised Code.
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CERTIFIED ELECTRONICALLY

Certification

04/05/2017

Date

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Statutory Authority: 5119.34
Rule Amplifies: 5119.34
Prior Effective Dates: 5/10/79, 5/1/81, 1/1/00, 8/1/02
(A) Any facility that is subject to licensure as a residential facility, as specified in section 5119.225119.34 of the Revised Code, is required to apply for and receive a valid license in accordance with the requirements of this chapter.

(B) In accordance with division (HK) of section 5119.225119.34 of the Revised Code, the department may investigate any facility that has been reported to the department or that the department has reason to believe is operating as a residential facility without a valid license. In conducting such an investigation, the department shall have full access to all areas of the facility, as well as to all persons, records, documents, as is necessary and appropriate, to determine if the facility is a residential facility subject to licensure.

(C) The director may petition the court of common pleas of the county in which a residential facility is located for an order enjoining any person from operating a residential facility without a license or from operating a licensed facility when, in the director's judgment, there is a real and present danger to the health or safety of any of the residents of the facility. The court shall have jurisdiction to grant such injunctive relief upon a showing that the respondent named in the petition is operating a facility without a license or there is a real and present danger to the health and safety of any residents of the facility.
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5122-30-07  Waivers and variances.

(A) A facility may submit a dated, written request to the department for a waiver or variance. The written request must clearly state the rationale and need for the requested waiver or variance, and the consequence of not receiving approval of the request.

(B) Upon receipt of a written request for a waiver or variance that provides a clear and valid statement of need, the department in its discretion may grant a waiver or variance for a period of time determined by the department but that shall not exceed the expiration date of the current license.

(C) The department shall acknowledge and respond to the waiver or variance request within thirty days of receipt by the department.
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Maximum resident and household capacity.

(A) The department shall determine the maximum number of residents and the maximum number of household members for which each facility shall be licensed and shall state the maximum number on the license issued to the facility. The maximum number of residents shall not exceed the number of residents as specified on the license.

(B) The maximum number of residents and household members for which a facility is licensed shall be based on the requirements set forth in rule 5122-30-14 of the Administrative Code.

(C) Class 2 and 3 facilities shall notify the department's bureau of licensure and certification, in writing, prior to allowing any additional person(s) to reside in the facility for more than forty-eight hours if the facility will exceed the maximum number of household members identified on the license. Additional persons may reside in the facility for no longer than fourteen days in a year.

(D) No residential facility serving children/adolescents residents shall accept adult residents, nor shall any residential facility serving adult residents accept children/adolescents residents.
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Fines.

(A) No person shall do any of the following:

(1) Operate a residential facility unless the facility holds a valid license;

(2) Violate any of the conditions of licensure after having been granted a license;

(3) Interfere with a state or local official's inspection or investigation of a residential facility; or

(4) Violate any of the rules for licensure.

(B) Whoever violates the provisions of paragraph (A) of this rule is liable for a civil penalty of one five hundred dollars for the first offense and five hundred one thousand dollars for each subsequent offense.

(C) If the violator does not pay fines levied in accordance with division (I) of section 5119.34 of the Revised Code, the attorney general, upon the request of the director, shall bring a civil action to collect the penalty. Fines collected pursuant to this rule shall be deposited in the state treasury to the credit of the mental health department's sale of goods and services fund.
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Inspections.

(A) Residential facilities shall obtain the following approved inspections:

(1) Inspections required annually within twelve months of the date of the previous inspection:

(a) Fire inspection by a certified fire authority, the state fire marshal, or a township, municipal, or other legally constituted fire department approved by the chief of the division of state fire marshal of the Ohio department of commerce, unless the facility has been issued a new certificate of use and occupancy within twelve months of the date of initial licensure for initial applications, or previous fire inspection for renewal applications when the facility underwent remodeling necessitating obtaining a new certificate of use and occupancy. The inspection shall be submitted within ninety calendar days of application.

(b) Water supply and sewage disposal system inspection by the local health department for facilities in which these systems are not connected with public services.

(2) Other required inspections

(a) Current food service license, if required by local law.

(b) For initial licensure of facilities licensed for with five or fewer household members, an inspection of electrical wiring by a licensed electrical inspector certified pursuant to Chapter 3783. of the Revised Code. Such inspections shall be obtained thereafter if alterations or additions to the electrical wiring are made.

(c) For initial licensure, inspection of the facility heating/cooling system by a licensed heating contractor. For renewal licensure, inspection of the facility heating/cooling system by a licensed heating contractor within twelve months prior to the filing of renewal application. Such inspections by licensed heating contractor of the facility heating/cooling system shall be obtained thereafter if alterations or additions to the heating/cooling system are made.

(d) Initial licensure of facilities licensed for with six or more household members shall obtain building inspection by a certified building inspector or a copy of a certificate of use and occupancy, for the
appropriate use group designation issued by the local certified building department with jurisdiction over the area in which the building or buildings are located or by the department of commerce if there is no local certified building department issued in accordance with rule 4101:2-1-27 of the Administrative Code and rules adopted by the board of building standards. The certificate shall certify compliance with the Ohio basic building code (OBBC), Chapters 3781. and 3791. of the Revised Code, and with standards applicable to the "group R-2". The certificate is required for initial licensure, and repeated thereafter following alterations to, or modification of the facility. Alterations, additions, or changes in the way the building or structure is approved to be used subsequent to the initial approval shall require submission of plans to the local building authority and approval in accordance with the OBBC.

(e) If a facility of any size has obtained the inspection or occupancy certificate as set forth in paragraph (A)(2)(d) of this rule, the facility is exempt from the inspections in paragraphs (A)(2)(b) and (A)(2)(c) of this rule.

(f) The facility shall ensure that it obtains inspections or maintains current permits for the following, as required by law, if applicable:

(i) Elevator inspection.

(ii) Boiler inspection.

(B) Notwithstanding the provisions of paragraph (A) of this rule the department may require, at its discretion, that a facility obtain other inspections if there is reasonable concern about the condition of the facility.

(C) Where the residential facility to be licensed occupies only a portion of the building or structure, the entire building or structure shall be inspected except where there is a fire wall or other fire resistant separation between the part of the building to be licensed and the rest of the building. In this event, the existence of the fire wall or other fire resistant separation shall be verified in writing by the building inspector or fire inspector.

(D) The facility shall obtain any additional inspections, permits, or licenses as may be required by local authorities.
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5122-30-12  Safety.

(A) As used in this rule:

(1) “Rules of the board of building standards” means the rules adopted by the board of building standards in accordance with Chapter 3781 of the Revised Code including the Ohio building and Ohio residential construction codes.

(2) “State fire code” means the state fire code adopted in accordance with section 3737.82 of the Revised Code.

(3) “Fire code official” has the same meaning as adopted in the state fire code.

(B) Facilities shall be constructed, occupied, altered, maintained, repaired, and used in accordance with the rules of the board of building standards and the state fire code.

(C) Smoke detectors and carbon monoxide detectors shall be installed, operated and maintained in accordance with the rules of the board of building standards and the state fire code.

(D) Fire extinguishers shall be:

(1) Installed, operated, and maintained in accordance with the rules of the board of building standards and the state fire code; and,

(2) Be operational and shall be located on each floor of the facility in areas near bedrooms, and in specific locations as required by a fire code official.

In the event fire extinguishers are not on each floor and the time of day prohibits their purchase staff must remain awake and on duty twenty-four hours a day until detectors and extinguishers can be purchased and installed.

(E) Smoke detectors and fire extinguishers shall be visually inspected and manually tested by the operator as required by the state fire code.

(F) Each facility shall have installed appropriate alarms, lights or other safety devices and supports, or emergency equipment as may be required by a certified state or local fire official and/or the department in order to meet the needs of residents with disabling conditions.

(G) All stairways, hallways, inclines, ramps, open porches, elevators, fire escapes, exits, and doorways shall be well-lit, free of debris and obstructions. If requested by a resident, night lights shall be provided in the facility in appropriate places as determined by the operator.

(H) Windows, screens, ceilings, walls and floors shall be in adequate repair.

(I) Each facility shall have written emergency evacuation plan drawings showing routes
to exits. The evacuation plan shall be legible, explained to each resident, and shall be posted, at a minimum, on each floor, in highly visible locations throughout the facility.

(J) Each facility shall hold and provide documentation of an evacuation drill at least quarterly on each shift for all staff and residents. Drills shall be conducted at different and varying times of day and night, and shall be conducted utilizing different exit routes.

(K) Each facility shall establish a disaster plan appropriate to the facility's location, which includes contingencies for such items as the loss of utility service or the immediate evacuation of residents. The facility shall determine the requirements for training and disaster drills based on the facility's disaster plan, except fire evacuation drills, and shall document the requirements and provision of training and drills.

(L) Facilities with nine or more ambulatory residents shall have a combined smoke detector and fire alarm system. The fire alarm system shall be installed in accordance with the rules of the board of building standards and the state fire code. Such systems shall include approved bells, sirens, or horns, lights for hearing impaired residents, if served, and manual fire alarm boxes. All smoke detectors shall be interconnected with the fire alarm system. Smoke detection devices shall be located in the immediate vicinity but outside of all bedrooms. Two independent means of exit shall be provided for each occupied floor and occupied cellar level. The two independent means of exit shall be approved by the fire code official. The facility shall maintain and test the alarm system in accordance with state fire code and shall have documentation of testing.

(M) Facilities in which one or more of the residents is non-ambulatory shall have smoke detectors, fire alarm, automatic fire extinguishing systems, and two independent means of exit for each occupied floor and cellar. The two independent means of exit shall be approved by the fire code official. The facility shall obtain annual alarm and sprinkler system testing and shall have documentation of testing. Facilities licensed as of the effective date of the rule shall have two years from the rule effective date to obtain an automatic fire extinguishing system.

(N) The telephone numbers of the fire department, police department, and other emergency numbers or "911" shall be prominently displayed at each telephone in the facility.

(O) First aid supplies shall be readily available in the facility and in each vehicle used to transport residents. Supplies shall be accessible to all adult residents and staff, except in facilities for children and adolescents, supplies shall be accessible to staff only.

(P) All disinfectants, poisons, pesticides, and/or other substances defined as hazardous in Chapter 3716. of the Revised Code shall be correctly labeled, placed in proper
containers, and stored separately from food products. In class one and two facilities, these substances shall be kept in locked storage spaces accessible to staff only.

(O) All exterior and interior steps and floor coverings shall be kept in good repair, and maintained to avoid falls and other injuries.

(R) All interior and exterior door handles and locks shall be kept in good repair so they can be readily and easily operated.

(S) Residents shall not be locked out of a residential facility. If the facility is locked during any portion of the twenty-four hour day, each resident shall be provided with a working key, or staff shall be immediately available on the premises to open the door for any resident.

(T) With the exception of crisis stabilization units and class one facilities for children or adolescents, all lockable doors shall be capable of being opened without delay from the inside without the use of a key, special knowledge or effort, such as by standard operation of a door with a handle or knob, installation of panic bars, release of a dead bolt, etc. At no time may a resident be locked in any room in the facility, with the exception of a seclusion room of a class one facility in accordance with Chapter 5122-26 of the Administrative Code.

(U) No explosives, pyrotechnics, firearms, chemical weapons, or other similar weapons or substances shall be maintained or available in the facility or on its premises. No household member shall bear any firearm, chemical weapon, or other weapon or similar device while such person is on the premises of the facility. Nothing in this paragraph shall be construed as prohibiting law enforcement authorities from bearing arms in conjunction with their official capacity.

(V) Outdoor areas which are potentially hazardous to residents shall be reasonably safeguarded, considering the functioning level of the residents. Such areas include water areas, such as lakes, ponds, swimming pools; cliffs and caves; open pits and wells; and heavily traveled roads. Playground equipment shall be anchored securely and shall include impact dispersion material under swing sets, slides, etc.

(W) No open flame candles or smoking shall be permitted in resident bedrooms.

(X) All workshop or outdoor power equipment shall be maintained and operated in a safe manner. Outdoor power equipment shall be stored in locations outside of the structure, or an attached garage, as approved by the fire code official.

(Y) Portable heaters may be used, if:

(1) The heater is not the primary heat source for the facility;

(2) The heater is plugged directly into a receptacle and is not plugged into an extension cord.
(3) The heater has been approved by the underwriter's laboratory and the fire code official, and:

(4) Portable heaters are not prohibited by any local ordinances or the state fire code.

(Z) Pets or domestic animals, in or on the premises of a residential facility, shall be kept in a safe and sanitary manner in accordance with state and/or local laws.

(AA) Interior and exterior stairways accessible to children shall be protected by child safety gates, or doors, according to the child's age and functioning level.

(BB) Any bathtub or shower in the home that is used by residents shall have bathroom surfaces appropriate to the residents, such as non-skid surfacing and handrails or grab bars.

(CC) There shall be no combustible items stored within three feet of heat sources.

-DD) All stairways, inclines, ramps, and open porches shall have hand railings installed in accordance with the rules of the board of building standards.

(EE) The facility shall not utilize extension cords and flexible cords in the following manners: as a substitute for permanent wiring; affixed to structures; extended through walls, ceilings, floors, under doors or floor coverings; with evidence of environmental damage; with evidence of physical impact; or with the use of multiple plug adapters, such as cube adapters, unfused plug strips, or any other device that does not comply with the national fire protection association standard referenced in the state fire code.
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Nutrition and food safety.

(A) Each facility shall directly provide, or make provisions for, a minimum of three nutritionally balanced meals daily for each resident. If more than eight hours elapse between the evening meal and morning meal, a nutritious evening snack shall be provided.

If a resident is involved in programs, including vocational training or therapeutic day programs that require the resident to be absent from the facility during a scheduled meal time, the facility shall ensure the resident is provided with an adequate meal to take to his/her program, unless a meal is provided at no additional cost to the resident, as part of the program. When a resident is not present in the facility during a scheduled meal time, the facility shall provide a meal option when the resident returns unless the resident has already been provided a meal.

(B) All meals shall be well-balanced, palatable, and properly prepared according to the standards of the U.S. department of agriculture, or national research council's recommended dietary allowances adjusted for age and sex.

(C) Menus shall provide for a reasonable variety of foods. Menus shall reasonably accommodate religious restrictions of individual residents, as well as ethnic and cultural preferences of residents. Each facility shall make provisions for residents to select, discuss, and have input into meal planning as appropriate.

(D) In addition to the food provided at meal time and the snack, if applicable, the facility shall:

1. Maintain, at all times, a one-week supply of staple foods and a two-day supply of perishable foods, such as fresh milk, bread, eggs, fruits and vegetables adequate to provide for the number of residents accommodated in the facility.

2. Powdered milk shall not be used as a substitute for fresh milk, unless requested by the resident.

3. When home canned products are used in preparation of resident meals, the facility shall label food containers with a minimum of the name of the food and date processed.

(E) Meal variety and resident food choices shall not be restricted due to the facility's efforts to use up food items.

(F) Residents requiring special diets as defined in rule 5122-30-03 of the Administrative Code, as specified by a physician or licensed dietitian, shall be provided the appropriate foods or nutritional supplements. Special diets shall be initiated and supervised by a licensed dietitian or physician, and shall be prepared in accordance with instructions issued by the physician or licensed dietitian.

(G) Administering tube or syringe feedings or parenteral nutrition is considered skilled
nursing care and can only be conducted in a manner pursuant to rule 5122-30-25 of the Administrative Code.

(H) A record of the prior thirty day’s menus shall be kept by the facility.

(I) The facility shall ensure all food shall be procured, stored, prepared, transported, distributed, and served in a manner that protects it against contamination and spoilage from the time of procurement to consumption.

(J) Each facility shall have an appropriate and adequate kitchen, and equipment facilities which are functional and in good repair for preparing and serving meals to residents.

(K) The facility shall ensure all equipment, utensils, kitchenware, tableware and surfaces upon which food comes in contact while in preparation, including but not limited to, counter tops, cutting boards and thawing trays shall be easily cleanable; and shall be cleaned after use or disposed.

(L) The facility shall provide safe drinking water which shall be readily accessible to residents at all times. Bottled or similar packaged potable water shall be obtained only from appropriately regulated sources and shall be handled, stored, and dispensed in a manner that protects it from contamination.

(M) Each facility shall maintain at least one working refrigerator which shall always be unlocked, accessible at all times to adult residents, and shall contain beverages and snacks for the residents’ consumption. Access may be restricted only in accordance with the resident's ITP.

(N) A facility shall not be required to be licensed as a food service operation under Chapter 3717. of the Revised Code unless the facility is preparing food under one or both of the following conditions:

(1) A facility preparing food for the residents of two or more licensed facilities with a combined resident census exceeding sixteen residents shall be licensed as a food service operation by the appropriate licensor as defined by section 3717.01 of the Revised Code unless otherwise exempt.

(2) Any facility preparing food for consumption by residents at a second facility or multiple off-premise locations shall be licensed as a food service operation by the appropriate licensor defined by section 3717.11 of the Revised Code, unless otherwise exempt.

(O) Facility staff shall ensure meals prepared in one facility food preparation area for transport or distribution to another area will be transported in a safe and sanitary manner to prevent contamination.

(P) Meals intended for consumption by residents of a facility in that facility, but not
prepared in that facility, shall be obtained by facility staff only from a source licensed as a food service operation under Chapter 3717. of the Revised Code.

(Q) Facilities not required to be licensed as a food service operation in accordance with paragraph (M) of this rule shall comply with standards set forth herein for food procurement and protection to include storage, preparation, display and handling.
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Sleeping and living space.

(A) Each facility shall have a minimum of eighty square feet per resident for a single occupancy bedroom, and a minimum of sixty square feet per resident for a multiple occupancy bedroom. Regardless of the availability of the square footage, in class one facilities no more than four residents may share a bedroom and no more than two residents may share a bedroom in class two and three facilities. In facilities with child or adolescent residents, multiple occupancy bedrooms shall be used only for residents of the same sex.

Any facility licensed by the department on the effective date of this rule that does not meet the requirements of this paragraph shall be exempt from the minimum space requirement so long as room was used as a bedroom as of the effective date of this rule, and the facility does not decrease the size of the bedroom and remains continuously licensed.

(B) Each resident shall be provided with a comfortable bed, with springs or other means of support, and mattress in good and sanitary condition. Rollaway beds, hide-a-beds, or cots may not be used. Waterproof mattress covers shall be provided for residents needing them. In facilities with child or adolescent residents, bunk beds may be utilized, but shall be equipped with safety rails on the upper tier for residents under age ten, or for any resident whose condition indicates the need for such protection. No beds shall be bunks higher than two tiers.

(C) Bedrooms for residents shall not be in areas such as cellars, basements, hallways, dining rooms, porches, or attics, except that a walk-out finished basement bedroom is permissible. The bedroom(s) shall not be on a floor higher than a second floor unless approved, in writing, by a fire safety inspector. Each bedroom shall be adequately ventilated, and shall have at least one screened window to the outside. Bedroom window exceptions may only be granted by local building code officials or certified fire authorities.

(D) Bedrooms for non-ambulatory individuals shall be on a floor that exits directly to the ground level.

(E) The entrance to a resident's bedroom shall not be through another bedroom or bathroom. Each resident's bedroom should have a standard door that can be securely closed. The bedroom shall have sufficient space to accommodate the unobstructed passage of wheelchairs and walkers between beds and other items of furniture.

(F) Resident may share a bedroom only with other residents.

(G) Any locks on bedroom doors shall meet both of the following requirements:

(1) Any lock to residents' bedroom entrance doors shall be capable of being opened from the inside without the use of a key, such as by pushing a panic bar, releasing a deadbolt, or using similar means. The lock shall also be capable of
being opened from the outside. The facility shall provide each resident with a key to his or her bedroom if it has a keyed lock; and

(2) If resident bedrooms have locks, the facility shall have duplicate keys or a master key available and accessible to the staff members on duty at all times for use in cases of emergency;

(H) Adequate drawer and closet space shall be provided for each resident to store his/her own clothes and personal belongings. Storage space shall be in the bedroom of each facility serving adults and each adult shall have upon request an individual locked storage space provided by the facility freely available within the facility, with the exception of crisis stabilization units. Facilities serving children shall have some storage space in bedrooms, and additional storage of clothes and belongings may be in staff monitored areas of the facility.

Each facility shall develop a policy regarding the facility’s access to the resident’s locked storage space and inform the resident of this policy upon admission to the facility.

(I) The bedrooms in class 2 and 3 facilities shall be furnished by the facility comparably in appearance; in terms of wall coverings, floor coverings and general decor; to other bedrooms used by other household members.

(J) Residents shall be permitted to personalize their rooms, as appropriate.

(K) Each facility shall have at least sixty square feet, per household member, of common indoor living space for recreation, socialization, and other activities. Bedroom space, hallways, unfinished basements, storage, laundry, lavatory and bathing facilities are not to be included in the sixty square feet. Any facility licensed by the department on the effective date of this rule that does not meet the requirements of this paragraph shall be exempt from the minimum space requirement so long as the facility does not decrease the size of the living space and remains continuously licensed.

Any facility licensed by the department on the effective date of this rule that does not meet the requirements of this paragraph shall be exempt from the minimum space requirement so long as the facility does not decrease the size of the living space and remains continuously licensed.

(L) Each facility shall provide a living area where residents may engage in social, recreational, and leisure activities on a daily basis; including a working television that is able to receive at least the four major broadcast channels. The living area shall be well-lighted and adequately heated and ventilated. It shall contain sufficient, comfortable, safe, and functional furniture to ensure a seating place for at least fifty per cent of the total number of residents. The living area shall not be used as a bedroom by anyone.
The furniture in the living space shall be suitable and comfortable furnishings such as a sofa, armchairs, tables and lamps.

(M) The facility shall provide a dining area where residents may eat meals. The dining area, table, and seating places shall be of sufficient size and number to allow at least fifty per cent of all residents to eat comfortably together at one time. All furniture shall be comfortable, safe, and functional.

If there is not enough seating for all residents at the same time, the facility shall offer meals at a second time for the benefit of those residents who could not be seated at the first serving.

(N) Each facility shall provide adequate indoor toilet, lavatory, and bathing facilities equipped with hot and cold running water. Hot water shall be between one hundred five and one hundred twenty degrees fahrenheit.

(O) At least one toilet and one lavatory shall be provided for each six household members in the facility, as well as at least one bath tub or shower for each eight household members. Accessibility to toilets, lavatories, bathtubs and showers for resident use shall not be through another bedroom or bathroom. Toilet, lavatory, and bathing facilities shall provide individual privacy.

Any facility licensed by the department on the effective date of this rule that does not meet the requirements of this paragraph shall be exempt from the paragraph so long as the facility does not decrease the number of bathrooms in the facility and remains continuously licensed.

(P) Each facility shall provide a comfortable, welcoming environment which promotes the unrestricted inclusion and participation of residents.

(Q) The facility shall provide, at no additional charge, laundry equipment and supplies, or laundry services, if needed by the resident. The facility may provide a washer and dryer in the facility, or may provide residents with transportation to and from a laundromat. In facilities with child or adolescent residents, if laundry facilities are furnished for residents' use, such facilities shall be provided in an area that is readily observed by staff.

(R) Each class two and class three facility shall maintain at least one working refrigerator which shall always be unlocked and accessible to residents, and shall contain beverages and snacks for the residents' consumption.

(S) Each facility shall provide at least one working telephone to which adult residents have unrestricted access at all times. Residents shall not be charged for local calls. Access in a class one facility may be restricted only according to the resident's ITP.
Access for children/adolescents shall be in accordance with provider policies and procedures.

Telephones may be cordless, but cellular telephones shall not be used as the sole telephone accessible to residents.

(T) The facility shall be accessible and available to residents at all times consistent with written house rules or policies and procedures concerning the comfort, security, and respect for the rights of all residents. Adult residents shall not be required to vacate the facility for specified time periods, or because of the absence of the operator and/or staff.
Replaces: 5122-30-14

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 5119.34
Rule Amplifies: 5119.34
5122-30-15 Housekeeping and property maintenance.

(A) The facility shall meet applicable standards of the Ohio department of health or certified local health department(s) regarding proper cleaning of dishes and utensils, and proper storage, preparation, and serving of food. Where required, the facility shall obtain a food services permit.

(B) The facility shall utilize sufficient and appropriate garbage and refuse receptacles. Such receptacles shall be durable, and except for individual room wastebaskets, shall be kept covered with a tight-fitting lid. Trash receptacles shall be located in appropriate places throughout the facility and shall be emptied as necessary for hygienic purposes.

(C) The facility shall be kept free of offensive or unpleasant odors.

(D) The facility shall provide for prompt, thorough, routine cleaning of all areas of the facility, including all bathroom fixtures, kitchen appliances, and floors. Dining areas shall be appropriately cleaned after meals and dishes washed and stored. The facility shall provide all necessary and appropriate household cleaning supplies.

(E) The facility shall provide general use items for residents which shall include, but are not limited to, bath soap, toilet paper, sheets, pillowcases, pillows, blankets, and towels. Sufficient supplies of such items shall be stored in an area directly accessible to, and obtainable by residents; soap and toilet paper shall always be available in bathrooms; two clean sheets, a pillowcase, and towels shall be provided to each resident at least once each week. No resident shall be required to sleep on soiled sheets.

(F) The facility shall provide dishes, cups, glasses and flatware sufficient for all residents. All such items shall be free of defects that create a hazard to the user. Except for a crisis stabilization unit, disposable dinnerware shall not be used on a regular basis.

(G) Resident responsibilities for cleaning or assisting in cleaning, and for maintaining an acceptable housekeeping standard, shall be specified in the residential agreement between the operator and the resident. Regardless of the resident agreement, the operator remains solely responsible for assuring a clean facility.

(H) The facility shall make reasonable efforts to be entirely free of insects or rodents; the facility may be required to provide for professional treatment if in the department’s discretion the facility requires such treatment.

(I) The facility shall maintain room temperatures appropriate for the comfort and health
of residents but shall not exceed eighty-one degrees Fahrenheit.

(J) Residents in bedrooms containing separate heating and cooling systems who are capable of controlling them may maintain the temperature of their bedrooms at any level they desire except the facility shall take appropriate intervention if a resident's desired temperature level adversely affects or has potential for adversely affecting the health and safety of the resident or the health, safety and comfort of any other resident sharing the resident room.

(K) The facility shall develop a plan for responding to temperatures outside of the range specified in paragraph (I) of this rule. The plan shall include measures to be taken to assure the health, safety, and comfort of residents.

(L) The facility shall provide for interior and exterior repairs to promote an acceptable appearance, and to be free from hazards. The need for re-plastering, painting, repair or replacement of flooring materials, replacement of furniture, repair of sidewalks, steps, windows, porches, ceilings, and roofs shall be assessed during routine inspections and prior to the issuance or renewal of a license, and repairs may be required by the department.

(M) The facility shall provide for proper exterior maintenance of the property. The premises shall be kept free of trash. Lawns and shrubbery shall be appropriately maintained to promote an acceptable appearance.

(N) All structures associated with the home shall be maintained in a clean, safe, and sanitary condition, and in a reasonable state of repair.

(O) Refrigerators shall be clean and food shall be placed in appropriately covered storage containers.

(P) Kitchen and baths shall be clean including floors, counters, sinks, tubs, and commodes.
Effective: 01/01/2018

Five Year Review (FYR) Dates: 01/20/2017 and 01/01/2023

CERTIFIED ELECTRONICALLY

Certification

04/05/2017

Date

Promulgated Under: 119.03
Statutory Authority: 5119.34
Rule Amplifies: 5119.34
Incident notification and risk management.

(A) This rule establishes standards to ensure the prompt and accurate notification of certain prescribed incidents.

(B) Definitions.

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

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

(3) "Reportable Incident" means an incident that must be submitted to the department in accordance with this rule, 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 5119.6115119.34 of the Revised Code, "Major Unusual Incident" has the same meaning as "Reportable Incident."

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

(C) The operator 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 residents, staff, and visitors. The operator shall identify in policy other incidents to be reviewed.

(1) For a type 1 residential facility, an incident report shall be submitted in written form to the operator or designee within twenty-four hours of discovery of the incident.

As part of the facility's performance improvement process, a periodic review and analysis of reportable incidents, and other incidents as defined in facility policy, shall be performed. This shall include any action taken by the operator, as appropriate, including actions recommended by the provider from which the resident receives services. This should be incorporated as part
of the facility's performance improvement process, as applicable.

(2) For a type 2 and type 3 residential facility, an incident report shall be submitted in written form to the operator within twenty-four hours of discovery of the incident.

A periodic review and analysis of reportable incidents, and other incidents as defined in facility policy, shall be performed. This shall include any action taken by the operator, as appropriate, including actions recommended by the agency from which the resident receives services.

(3)(2) The operator 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, or of an alleged crime which would constitute a felony, of: 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.

(1) Any child or adolescent, shall immediately notify any alleged or suspected abuse or neglect to 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 of an alleged crime against a child or adolescent which would constitute a felony, including a crime allegedly committed by another child or adolescent which would constitute a felony if committed by an adult, shall immediately notify law enforcement authorities.

(2)(E) Any person who has knowledge of any instance of abuse or neglect, or alleged or suspected abuse or neglect, or of an alleged crime against 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.

(F) Any person who has knowledge of an alleged crime against a child or adolescent, including a crime allegedly committed by another child or adolescent, shall immediately notify law enforcement authorities.

(G) Each operator shall submit reportable incidents and six month reportable incidents to the department.

(1) Each operator of a type class 1 facility shall submit reportable incidents and six month reportable incidents as defined by and according to the schedule included in appendix A to this rule.
(2) Each operator of a type class 2 and type class 3 facility shall submit reportable incidents as defined by appendix C to this rule.

(F)(H) Each reportable incident shall be documented and reported on form "DMH LIC-015" as required by the department. Form "DMH LIC-015" shall include identifying information about the operator, date, time and type of incident, and resident information that has been de-identified pursuant to the HIPAA privacy regulations, [45 C.F.R.164.514(b)(2)]. Each reportable incident shall be documented as required by the department. The information shall include identifying information about the 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 operator 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 residents, staff, and visitors; and

(2) The operator shall forward each reportable incident to the department and to each of the following within twenty-four hours of its discovery, exclusive of weekends and holidays:

   (a) County community mental health board The board of residence and the board whose service district includes the facility, for individuals with mental illness; and; and;

   (b) The mental health agency provider from which the mental health resident is receiving services, if applicable; and;

   (c) For type 2 and type 2 residential facilities, to the mental health agency with which the facility is affiliated, if different from the agency specified in paragraph (C)(1)(a) of this rule.

(3) The operator shall notify the resident's parent, guardian or custodian, if applicable, within twenty-four hours of discovery of a reportable incident, and document such notification.

   (a) Notification may be made by phone, mailing, faxing or e-mailing a copy of the incident form, or other means according to facility policy and procedures.

   (b) When notification does not include sending a copy of the incident form, the facility must inform the parent, guardian or custodian, of his/her
right to receive a copy, and forward a copy within twenty-four hours of receiving a request for a copy. The facility shall document compliance with the provisions of this paragraph.

(III)(1) Each operator of a type class 1 facility shall submit a six month incident data report to the department utilizing the form that is in appendix B of this rule.

Each operator must submit the six month incident data report according to the following schedule:

(1) The six month incident data report for the period of January first to June thirtieth of each year shall be submitted no later than July thirty-first of the same year.

(2) The six month incident data report for the period of July first to December thirty-first of each year shall be submitted no later than January thirty-first of the following year.

(III)(1) 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 residential facility, a regulatory or enforcement authority, the community mental health board and/or the affiliating mental health agency.

In the case of class one facilities, a board shall have the authority to inspect any facility which has residents for which the board is providing funding for community mental health services.
Effective: 01/01/2018

Five Year Review (FYR) Dates: 01/20/2017 and 01/01/2023

CERTIFIED ELECTRONICALLY

Certification

04/05/2017

Date

Promulgated Under: 119.03
Statutory Authority: 5119.34
Rule Amplifies: 5119.34
Prior Effective Dates: 5/10/79, 5/1/81, 1/1/00, 8/1/02, 3/25/04, 1/1/2012
In addition to the definitions in rule 5122-30-03 and 5122-30-16 of the Administrative Code, the following definitions are applicable to Ohio Administrative Code (OAC) rule 5122-30-16 “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 facility, 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 resident 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.

(6) "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.

(7) "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 (G)(1) of rule 5122-30-16 of the Administrative Code.

<table>
<thead>
<tr>
<th>Category</th>
<th>Reportable Incident Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Suicide</td>
<td>The intentional taking of one’s own life by a resident.</td>
</tr>
<tr>
<td>Suicide Attempt</td>
<td>Intentional action by a resident with the intent of taking one’s own life, and is either a stated suicide attempt or clinically determined to be so, regardless of whether it results in medical treatment.</td>
</tr>
<tr>
<td>Self-Injurious Behavior</td>
<td>Intentional injury caused by a resident to oneself that is neither a stated suicide attempt, or clinically determined to be so, which requires emergency/unplanned medical intervention or hospitalization, and which happens on the grounds of the facility or during the provisions of care or treatment, including during facility off-grounds events.</td>
</tr>
<tr>
<td>Homicide by Resident</td>
<td>The alleged unlawful killing of a human being by a resident.</td>
</tr>
<tr>
<td>Natural Death</td>
<td>Death of a resident without the aid of inducement of any intervening instrumentality, i.e. homicide, suicide or accident.</td>
</tr>
<tr>
<td>Accidental Death</td>
<td>Death of a resident resulting from an unusual and unexpected event that is not suicide, homicide or natural, and which happens on the grounds of the facility or during the provisions of care or treatment, including during facility off-grounds events.</td>
</tr>
<tr>
<td>Physical Abuse</td>
<td>Allegation of staff action directed toward a resident 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.</td>
</tr>
<tr>
<td>Sexual Abuse</td>
<td>Allegation of staff action directed toward a resident where there is sexual contact or sexual conduct with the resident, any act where staff cause one or more other persons to have sexual contact or sexual conduct with the resident, or sexual comments directed toward a resident. Sexual conduct and sexual contact have the same meanings as in Section 2907.01 of the Revised Code.</td>
</tr>
<tr>
<td>Neglect</td>
<td>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 resident by that staff member.</td>
</tr>
<tr>
<td>Defraud</td>
<td>Allegation of staff action directed toward a resident 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.</td>
</tr>
</tbody>
</table>
# Reportable Incidents

The following lists and defines each event category which must be reported per incident in accordance with paragraph (G)(1) of rule 5122-30-16 of the Administrative Code (continued).

<table>
<thead>
<tr>
<th>Category</th>
<th>Reportable Incident Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Involuntary Termination Without Appropriate Resident Involvement</td>
<td>Discontinuing services to a resident without informing the resident in advance of the termination, providing a reason for the termination, and offering a referral to the resident. This does not include situations when a resident discontinues services without notification, or the facility documents it was unable to notify the resident due to lack of address, returned mail, lack of or non-working phone number, etc.</td>
</tr>
<tr>
<td>Sexual Assault by Non-staff, Including a Visitor, Resident or Other</td>
<td>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 facility or during the provisions of care or treatment, including during facility off-grounds events: Rape, sexual battery, unlawful sexual conduct with a minor, gross sexual imposition, or sexual imposition.</td>
</tr>
<tr>
<td>Physical Assault by Non-staff, Including Visitor, Resident or Other</td>
<td>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, hospitalization, or death and which happens on the grounds of the facility or during the provision of care or treatment, including during facility off-grounds events.</td>
</tr>
<tr>
<td>Medication Error</td>
<td>Any preventable event while the medication was in the control of the health care professional or resident, and which resulted in permanent resident 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.</td>
</tr>
<tr>
<td>Adverse Drug Reaction</td>
<td>Unintended, undesirable or unexpected effect of prescribed medications that resulted in permanent resident harm, hospitalization, or death.</td>
</tr>
</tbody>
</table>
Reportable Incidents

The following lists and defines each event category which must be reported per incident in accordance with paragraph (G)(1) of rule 5122-30-16 of the Administrative Code (continued).

<table>
<thead>
<tr>
<th>Category</th>
<th>Reportable Incident Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Theft of Medication</td>
<td>Allegation of theft of prescribed medication under the control of or stored by the facility.</td>
</tr>
</tbody>
</table>

Subcategory [check one]

1. Employee theft
2. Resident theft
3. Other/Unknown theft
Reportable Incidents

The following lists and defines each event category which must be reported per incident in accordance with paragraph (G)(1) of rule 5122-30-16 of the Administrative Code (continued).

<table>
<thead>
<tr>
<th>Category</th>
<th>Reportable Incident Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical Events Impacting Facility Operations</td>
<td>The presence or exposure of a contagious or infectious medical illness within an facility, whether brought by staff, resident, visitor or unknown origin, that poses a significant health risk to other staff or residents in the facility, and that requires special precautions impacting operations. Special precautions impacting operations include medical testing of all individuals who may have been present in the facility, 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 residents avoid a sick individual or vice versa, or when a disease may have been transmitted via consensual sexual contact or sexual conduct.</td>
</tr>
<tr>
<td>Temporary Relocation of Residents</td>
<td>Some or all of the residents must be moved to another unit, residential facility or community location for a minimum period of at least one night due to:</td>
</tr>
<tr>
<td>Subcategory (check one)</td>
<td>1. Fire</td>
</tr>
<tr>
<td></td>
<td>2. Disaster (flood, tornado, explosion, excluding snow/ice)</td>
</tr>
<tr>
<td></td>
<td>3. Failure/Malfunction (gas leak, power outage, equipment failure)</td>
</tr>
<tr>
<td></td>
<td>4. Other (name)</td>
</tr>
<tr>
<td>Involuntary Discharge</td>
<td>Involuntary discharge of a resident unless the facility is no longer able to meet the resident’s care needs; the resident presents a documented danger to other residents, staff or visitors; or the monthly charges have not been paid for more than thirty days. Involuntary discharge includes discharging a resident after the resident unexpectedly vacates the facility for more than forty-eight hours without any notification to staff, and the monthly (or daily) charges for the days the resident is missing have been paid.</td>
</tr>
<tr>
<td>Missing/Unaccounted for Medication</td>
<td>Prescribed medication under the control of or stored by facility which is missing or unaccounted for, that is not believed to be a result of theft.</td>
</tr>
</tbody>
</table>

Continued On Page 6 & 7 for Seclusion and Restraint & Use of Force Related Incidents

Continued On Page 8 for Six Month Reportable Incidents
Reportable Incidents

The following lists and defines each event category which must be reported per incident in accordance with paragraph (G)(1) of rule 5122-30-16 of the Administrative Code (continued).

<table>
<thead>
<tr>
<th>Category</th>
<th>Reportable Incident Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inappropriate Use of Seclusion or restraint</td>
<td>Seclusion or restraint utilization that is not clinically justified, or mechanical restraint or seclusion employed without the authorization of staff permitted to initiate/order mechanical seclusion or restraint</td>
</tr>
<tr>
<td>Subcategory (check all that apply)</td>
<td>1. Seclusion</td>
</tr>
<tr>
<td></td>
<td>2. Mechanical restraint</td>
</tr>
<tr>
<td></td>
<td>3. Physical restraint, including transitional hold</td>
</tr>
<tr>
<td>Total Minutes</td>
<td>The total number of minutes of the seclusion or restraint.</td>
</tr>
<tr>
<td>Use of Seclusion/Restraint by a Facility without Prior Notification that the Facility Permits the Use of Seclusion or Restraint</td>
<td>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 facility’s intent to utilize seclusion or restraint.</td>
</tr>
<tr>
<td>Subcategory (check one)</td>
<td>1. Seclusion</td>
</tr>
<tr>
<td></td>
<td>2. Mechanical restraint</td>
</tr>
<tr>
<td></td>
<td>3. Physical restraint, including transitional hold</td>
</tr>
<tr>
<td>Inappropriate Restraint Techniques and other Use of Force Subcategory (check all that apply)</td>
<td>Staff utilize one or more of the following methods/interventions prohibited by paragraph (D)(2) of rule 5122-26-16 of the Administrative Code:</td>
</tr>
<tr>
<td></td>
<td>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</td>
</tr>
<tr>
<td></td>
<td>2. Any technique that restricts the resident’s ability to communicate</td>
</tr>
<tr>
<td></td>
<td>3. Any technique that obstructs vision</td>
</tr>
<tr>
<td></td>
<td>4. Any technique that obstructs the airways or impairs breathing, including placing a cloth or other item over an individual’s mouth or nose.</td>
</tr>
<tr>
<td></td>
<td>5. Use of mechanical restraint on a resident under age 18</td>
</tr>
<tr>
<td></td>
<td>6. A drug or medication that is used as a restraint to control behavior or restrict the resident’s freedom of movement and is not a standard treatment or dosage for the resident’s medical or psychiatric condition or that reduces the resident’s ability to effectively or appropriately interact with the world around him/her</td>
</tr>
<tr>
<td></td>
<td>7. The use of handcuffs or weapons such as pepper spray, mace, nightsticks, or electronic restraint devices such as stun guns and tasers</td>
</tr>
</tbody>
</table>
| Seclusion/Restraint Related Injury to Resident                | Injury to a resident 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 resident banging his/her head, unless the facility determines that the seclusion/restraint was not properly
Reportable Incidents

The following lists and defines each event category which must be reported per incident in accordance with paragraph (G)(1) of rule 5122-30-16 of the Administrative Code (continued).

<table>
<thead>
<tr>
<th>Category</th>
<th>Reportable Incident Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>performed by staff, or injuries caused by another resident, e.g. a resident hitting another resident.</td>
</tr>
<tr>
<td>Subcategory (check one)</td>
<td>1. Injury requiring first aid</td>
</tr>
<tr>
<td></td>
<td>2. Injury requiring unplanned/emergency medical intervention</td>
</tr>
<tr>
<td></td>
<td>3. Injury requiring hospitalization</td>
</tr>
</tbody>
</table>

Seclusion/Restraint Related

Death of a resident which occurs while a resident is restrained or in seclusion, within twenty-four hours after the resident is removed from seclusion or restraint, or it is reasonable to assume the resident’s death may be related to or is a result of seclusion or restraint

Subcategory (check one) 1. Death during seclusion or restraint
2. Death within twenty-four hours of seclusion or restraint
3. Death related to or result of seclusion or restraint

Continued On Page 8 for Six Month Reportable Incidents
### Six Month Reportable Incidents

The following lists and defines the incident data which must be reported every six months in accordance with paragraph (G)(1) of rule 5122-30-16 of the Administrative Code.

<table>
<thead>
<tr>
<th>Category</th>
<th>Six Month Reportable Incident Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Seclusion</strong></td>
<td>A staff intervention that involves the involuntary confinement of a resident alone in a room where the resident is physically prevented from leaving.</td>
</tr>
<tr>
<td><strong>Age 17 and Under</strong></td>
<td>The aggregate total number of all episodes of seclusion and aggregate total minutes of all seclusion episodes.</td>
</tr>
<tr>
<td><strong>Age 18 and Over</strong></td>
<td>The aggregate total number of all episodes of seclusion and aggregate total minutes of all seclusion episodes.</td>
</tr>
<tr>
<td><strong>Mechanical Restraint</strong></td>
<td>A staff intervention that involves any method of restricting a resident’s freedom of movement, physical activity, or normal use of his or her body, using an appliance or device manufactured for this purpose.</td>
</tr>
<tr>
<td><strong>Age 18 and Over</strong></td>
<td>The aggregate total number of all episodes of mechanical restraint and aggregate total minutes of all mechanical restraint episodes.</td>
</tr>
<tr>
<td><strong>Physical Restraint excluding Transitional Hold</strong></td>
<td>A staff intervention that involves any method of physically (also known as manually) restricting a resident’s freedom of movement, physical activity, or normal use of his or her body without the use of mechanical restraint devices</td>
</tr>
<tr>
<td><strong>Age 17 and Under</strong></td>
<td>The aggregate total number of all episodes of physical restraint and aggregate total minutes of all physical restraint episodes, excluding transitional hold.</td>
</tr>
<tr>
<td><strong>Age 18 and Over</strong></td>
<td>The aggregate total number of all episodes of physical restraint and aggregate total minutes of all physical restraint episodes, excluding transitional hold.</td>
</tr>
<tr>
<td><strong>Transitional Hold</strong></td>
<td>A staff intervention that involves a brief physical (also known as manual) restraint of a resident face-down for the purpose of quickly and effectively gaining physical control of that resident, or prior to transport to enable the resident to be transported safely.</td>
</tr>
<tr>
<td><strong>Age 17 and Under</strong></td>
<td>The aggregate total number of all episodes of transitional hold and aggregate total minutes of all transitional hold episodes.</td>
</tr>
<tr>
<td><strong>Age 18 and Over</strong></td>
<td>The aggregate total number of all episodes of transitional hold and aggregate total minutes of all transitional hold episodes.</td>
</tr>
<tr>
<td><strong>Seclusion/Restraint Related Injury to Staff</strong></td>
<td>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.</td>
</tr>
</tbody>
</table>
| **Subcategory (check one)** | 1. Injury requiring first aid  
2. Injury requiring emergency/unplanned medical intervention  
3. Injury requiring hospitalization |
Class 1 Residential Facility
Six Month Reportable Incident Data Report Form

Instructions:
Please complete the Residential Facility Information on this page. If facility policy prohibits the use of seclusion or restraint, please check the box in Part A below. If facility policy permits the use of seclusion or restraint, please skip Part A and complete Part B, beginning on Page 2. Please complete Part B if facility policy allows the use of seclusion or restraint, even if the facility did not utilize seclusion or restraint during the reporting period. If the facility did not utilize seclusion and restraint during the reporting period, please complete Part C. If the facility did utilize seclusion and restraint please skip Part C and complete Part D on Page 3. Definitions are found on Page 2.

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 Addiction 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

Residential Facility Operator Information

Residential Facility Name: ________________________________ OhioMHAS License Number: ______________
Name of Operating Agency: ______________________________
Person Completing Report: ______________________________ Title: ______________________________
Phone __________________ E-mail: __________________

Reporting Period (please include year): D January 1 – June 30, 20____ Report is due by July 31 of this year
D July 1 – December 31, 20____ Report is due by January 31 of the following year

Part A

D Residential facility policy prohibits the use of seclusion and restraint in all certified services, and the residential facility 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 complete Part B on Page 2 and Part C on Page 2 OR Part D on Page 3
Definitions. Please utilize the following definitions for completing this report:

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

“Physical Restraint”, also known as “manual restraint”, means a staff intervention that involves any method of physically (also known as manually) restricting a resident’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 resident alone in a room where the resident is physically prevented from leaving.

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

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>
<thead>
<tr>
<th>Total Number of Resident Days per Month</th>
<th>January/July</th>
<th>February/August</th>
<th>March/September</th>
<th>April/October</th>
<th>May/November</th>
<th>June/December</th>
</tr>
</thead>
</table>

Part C. Seclusion or Restraint Episodes

D  Facility did not utilize seclusion or restraint during the reporting period.

If Box in Part C is checked, you are finished.
Please return report.

If not, please complete Part D
### Part D. Seclusion or Restraint Episodes

<table>
<thead>
<tr>
<th>Six Month Reportable Incident Category</th>
<th>January/July</th>
<th>February/August</th>
<th>March/September</th>
<th>April/October</th>
<th>May/November</th>
<th>June/December</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seclusion for Ages ≤ 17 D None</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of episodes of seclusion for ages ≤ 17</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total minutes of all seclusion episodes for ages ≤ 17</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Seclusion for Ages ≥ 18 D None</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of episodes of seclusion for ages ≥ 18</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total minutes of all seclusion episodes for ages ≥ 18</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mechanical Restraint for Ages ≥ 18 D None</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of episodes of mechanical restraint for ages ≥ 18</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total minutes of all mechanical restraint episodes for ages ≥ 18</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Physical Restraint for Ages ≤ 17 D None</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of episodes of physical restraint, excluding transitional hold, for ages ≤ 17</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total minutes of all physical restraints episodes, excluding transitional hold, for ages ≤ 17</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Physical Restraint for Ages ≥ 18 D None</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of episodes of physical restraint, excluding transitional hold, for ages ≥ 18</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total minutes of all physical restraints episodes, excluding transitional hold, for ages ≥ 18</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transitional Hold for Ages ≤ 17 D None</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of episodes of transitional hold for ages ≤ 17</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total minutes of all transitional hold episodes for ages ≤ 17</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transitional Hold for Ages ≥ 18 D None</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of episodes of transitional holds for ages ≥ 18</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total minutes of all transitional hold episodes for ages ≥ 18</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

You are finished. Please return report.

Thank you.

Ohio Department of Mental Health and Addiction Services
OAC 5122-30-16 Residential Facility Appendix B
Page 3 of 3
In addition to the definitions in rule 5122-30-03 and 5122-30-16 of the Administrative Code, the following definitions are applicable to Ohio Administrative Code (OAC) rule 5122-30-16 “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 facility, 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 resident 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. "Mechanical Restraint" means a staff intervention that involves any method of restricting a resident’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 a staff intervention that involves any method of physically (also known as manually) restricting a resident’s freedom of movement, physical activity, or normal use of his or her body without the use of mechanical restraint devices.

7. "Seclusion" means a staff intervention that involves the involuntary confinement of a resident alone in a room where the resident is physically prevented from leaving.

8. "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.
(10) "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.

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

CONTINUED ON NEXT PAGE
## Reportable Incidents

The following lists and defines each event category which must be reported per incident in accordance with paragraph (G)(2) of rule 5122-30-16 of the Administrative Code.

<table>
<thead>
<tr>
<th>Category</th>
<th>Reportable Incident Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Suicide</td>
<td>The intentional taking of one’s own life by a resident.</td>
</tr>
<tr>
<td>Suicide Attempt</td>
<td>Intentional action by a resident with the intent of taking one’s own life, and is either a stated suicide attempt or clinically determined to be so, regardless of whether it results in medical treatment.</td>
</tr>
<tr>
<td>Self-Injurious Behavior</td>
<td>Intentional injury caused by a resident to oneself that is neither a stated suicide attempt, or clinically determined to be so, which requires emergency/unplanned medical intervention or hospitalization, and which happens on the grounds of the facility or during the provisions of care or treatment, including during facility off-grounds events.</td>
</tr>
<tr>
<td>Homicide by Resident</td>
<td>The alleged unlawful killing of a human being by a resident.</td>
</tr>
<tr>
<td>Natural Death</td>
<td>Death of a resident without the aid of inducement of any intervening instrumentality, i.e. homicide, suicide or accident.</td>
</tr>
<tr>
<td>Accidental Death</td>
<td>Death of a resident resulting from an unusual and unexpected event that is not suicide, homicide or natural, and which happens on the grounds of the facility or during the provisions of care or treatment, including during facility off-grounds events.</td>
</tr>
<tr>
<td>Physical Abuse</td>
<td>Allegation of staff action directed toward a resident 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.</td>
</tr>
<tr>
<td>Sexual Abuse</td>
<td>Allegation of staff action directed toward a resident where there is sexual contact or sexual conduct with the resident, any act where staff cause one or more other persons to have sexual contact or sexual conduct with the resident, or sexual comments directed toward a resident. Sexual conduct and sexual contact have the same meanings as in Section 2907.01 or the Revised Code.</td>
</tr>
<tr>
<td>Neglect</td>
<td>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 resident by that staff member.</td>
</tr>
<tr>
<td>Defraud</td>
<td>Allegation of staff action directed toward a resident 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.</td>
</tr>
</tbody>
</table>
The following lists and defines each event category which must be reported per incident in accordance with paragraph (G)(2) of rule 5122-30-16 of the Administrative Code (continued).

<table>
<thead>
<tr>
<th>Category</th>
<th>Reportable Incident Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Involuntary Termination Without Appropriate Resident Involvement</td>
<td>Discontinuing services to a resident without informing the resident in advance of the termination, providing a reason for the termination, and offering a referral to the resident. This does not include situations when a resident discontinues services without notification, or the facility documents it was unable to notify the resident due to lack of address, returned mail, lack of or non-working phone number, etc.</td>
</tr>
<tr>
<td>Sexual Assault by Non-staff, Including a Visitor, Resident or Other</td>
<td>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 facility or during the provisions of care or treatment, including during facility off-grounds events: Rape, sexual battery, unlawful sexual conduct with a minor, gross sexual imposition, or sexual imposition.</td>
</tr>
<tr>
<td>Physical Assault by Non-staff, Including Visitor, Resident or Other</td>
<td>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, hospitalization, or death and which happens on the grounds of the facility or during the provision of care or treatment, including during facility off-grounds events.</td>
</tr>
<tr>
<td>Medication Error</td>
<td>Any preventable event while the medication was in the control of the health care professional or resident, and which resulted in permanent resident 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.</td>
</tr>
<tr>
<td>Adverse Drug Reaction</td>
<td>Unintended, undesirable or unexpected effect of prescribed medications that resulted in permanent resident harm, hospitalization, or death.</td>
</tr>
<tr>
<td>Medical Events Impacting Facility Operations</td>
<td>The presence or exposure of a contagious or infectious medical illness within an facility, whether brought by staff, resident, visitor or unknown origin, that poses a significant health risk to other staff or residents in the facility, and that requires special precautions impacting operations. Special precautions impacting operations include medical testing of all individuals who may have been present in the facility, 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 residents avoid a sick individual or vice versa, or when a disease may have been transmitted via consensual sexual contact or sexual conduct.</td>
</tr>
</tbody>
</table>
Reportable Incidents

The following lists and defines each event category which must be reported per incident in accordance with paragraph (G)(2) of rule 5122-30-16 of the Administrative Code (continued).

<table>
<thead>
<tr>
<th>Category</th>
<th>Reportable Incident Definition</th>
</tr>
</thead>
</table>
| Temporary Relocation of Residents Subcategory (check one) | Some or all of the residents must be moved to another unit, residential facility or community location for a minimum period of at least one night due to:  
1. Fire  
2. Disaster (flood, tornado, explosion, excluding snow/ice)  
3. Failure/Malfunction (gas leak, power outage, equipment failure)  
4. Other (name) |
| Unauthorized Use of Restraint or Seclusion Subcategory (check one) | Ohio Administrative Code rule 5122-30-17 prohibits the use of seclusion and restraint in a Class 2 and Class 3 residential facility.  
1. Seclusion  
2. Mechanical restraint  
3. Physical restraint  
4. Transitional hold |
| Total Minutes | The total number of minutes of the restraint or seclusion. |
| Involuntary Discharge | Involuntary discharge of a resident unless the facility is no longer able to meet the resident’s care needs; the resident presents a documented danger to other residents, staff or visitors; or the monthly charges have not been paid for more than thirty days. Involuntary discharge includes discharging a resident after the resident unexpectedly vacates the facility for more than forty-eight hours without any notification to staff, and the monthly (or daily) charges for the days the resident is missing have been paid. |
| Inappropriate Discharge | Discharge of a resident without providing thirty days prior written notice for termination of residency except in an emergency when the resident presents a documented danger to other residents, staff or visitors. |
| Missing/Unaccounted for Medication | Prescribed medication under the control of or stored by facility which is missing or unaccounted for, that is not believed to be a result of theft. |
| Theft of Medication | Allegation of theft of prescribed medication under the control of or stored by the facility. |
| Subcategory [check one] | 1. Employee theft  
2. Resident theft  
3. Other/Unknown theft |
(A) The use of seclusion, mechanical restraint, chemical restraint, and physical restraint, including transitional hold, shall not be permitted in any facility, except a type 1 facility defined in division (B) of section 5119.34 of the Revised Code, which meets all of the requirements of rules 5122-26-16 to 5122-26-16.2 of the Administrative Code.

(B) The use of seclusion, mechanical restraint, chemical restraint, and physical restraint, including transitional hold, in type 2 and type 2 residential facilities in facilities in which they are not permitted pursuant to paragraph (A) of this rule shall not be permitted and must be reported to the department as a major unusual incident.
Effective: 01/01/2018
Five Year Review (FYR) Dates: 01/20/2017 and 01/01/2023

CERTIFIED ELECTRONICALLY

Certification

04/05/2017

Date

Promulgated Under: 119.03
Statutory Authority: 5119.34
Rule Amplifies: 5119.34
Prior Effective Dates: 5/10/79, 5/1/81, 1/1/00, 8/1/02, 1/1/2012
5122-30-18 Requirements for accessibility and communications.

(A) Each facility in which one or more of the residents has a physical disability shall make reasonable accommodations including but not limited to:

(1) Making the facility readily accessible to and usable by persons with a physical disability, and

(2) Providing all communications to residents in a manner that is accessible and understandable to the resident; this may include, but not be limited to: readers, interpreters, braille, large print, or providing appropriate telecommunication relay services (TRS). 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.
5122-30-18

Replaces: 5122-30-18
Effective: 01/01/2018
Five Year Review (FYR) Dates: 01/01/2023

CERTIFIED ELECTRONICALLY

Certification

04/05/2017

Date

Promulgated Under: 119.03
Statutory Authority: 5119.34
Rule Amplifies: 5119.34
Prior Effective Dates: 1/1/00
Facility administration and management.

(A) The residential facility shall assure appropriate policies and procedures regarding the administration and management of the facility including compliance with the requirements for licensure. This responsibility shall also include, but may not be limited to:

1. Arranging for necessary permits and inspections, and paying all fees and costs associated with inspections;

2. Daily monitoring and supervising staff to assure acceptable performance of assigned job duties and compliance with the requirements for licensure;

3. Participating in an appropriate and cooperative working relationship with the affiliating mental health agency, or board, and or the department;

4. Reporting to the department any change regarding facility operation or use that relates to the requirements for licensure;

5. For a class two or three facility, reporting to the department a current emergency contact telephone number for the operator and manager.

5)(6) Securing appropriate, alternative responsibility for the operation and staffing of the facility for planned or unplanned staff/operator absence;

6)(7) Consistently maintaining the finances necessary for the stable and safe operation of the facility;

7)(8) Maintaining a stable and supportive environment for residents of the facility, through respect for the rights of residents, as well as sensitivity and responsiveness to resident's needs, preferences and culturally competent services and care; and

8)(9) Knowledge of and compliance with federal, state, and local laws concerning the ownership and operation of the facility, including, but not limited to zoning requirements; or equal opportunity employment practices, etc.

(B) The executive director/ceo, or operator for type 1 class one facilities, and the operator for type class 2 and 3 facilities may delegate his/her responsibilities for the administration and management of the facility to a specific person(s) who shall be authorized in writing to enact the executive director, ceo, or operator's responsibilities and sign necessary and appropriate documents for the executive director, ceo, or operator, including, but not limited to, the application for licensure,
major unusual incident reports, plans of correction, etc. The written authorization shall be retained in the facility. The person(s) to whom the operator's responsibilities are delegated may also perform resident-related activities of the facility as staff of the facility, but shall be subject to staff qualifications and requirements as stated in rules 5122-30-20 and 5122-30-21 of the Administrative Code.

(C) The residential facility will have proof of ownership of the residence, or a signed agreement from the facility’s landlord indicating that the landlord permits the use of the residence as a residential facility

(D) The utility services, including cable and internet, for the facility shall not be in the name of the residents.

(E) If any utility service account for the facility is thirty days past due, the facility receives a past due notice or disconnection notice, or utility service is disconnected; the operator must notify the department within one business day.
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Statutory Authority: 5119.34
Rule Amplifies: 5119.34
Qualifications of operator and staff.

(A) Each staff person shall:

(1) Be at least eighteen years of age;

(2) Demonstrate adequate communication skills to perform duties and responsibilities associated with the facility in meeting the needs of the resident(s);

(3) Be able to perform the required responsibilities and duties. If there is reason to doubt a staff person's ability to carry out responsibilities and duties in the facility for health reasons, the department may require the operator to obtain a physician's statement assuring that the staff member is able to perform the required responsibilities and duties; and

(4) Obtain testing negative for tuberculosis within one year prior to employment. Testing shall be repeated anytime there has been a likelihood of exposure. Evidence of such examination shall be kept in facility records.

(B) All staff providing assistance with self-administration of medication shall do so in accordance with the requirements of rule 5122-30-28 of the Administrative Code, and be trained according to requirements of paragraph (C) of this rule and shall receive training from a registered nurse, or physician, or other department approved entity regarding:

(1) The proper usage of medications, effects, and side effects. This shall include all medication (psychotropic and otherwise) used by residents in the facility;

(2) Identification of medication by type and dosage; and

(3) Safe procedures to assist in self-administration of medication.

(C) Each direct care staff person shall have completed training in:

(1) The provision of life-safety measures, including:

   (a) In-person training for:

      (a)(i) Standard first aid training, or an appropriate equivalent that includes emergency management of physical injuries, respiratory distress; and
(b)(ii) CPR training.

Online training shall not be accepted for this paragraph.

(c) Fire and other disaster procedures; and

(d)(c) Securing medical and psychiatric emergency assistance.

(2) Client Resident rights and grievance procedures.

(3) Provisions of state law concerning the reporting of abuse or neglect, including but not limited to, children and the elderly.

(D) Each staff person shall have written evidence of successfully completed prior training, or shall successfully complete training described in paragraph (B)(C) of this rule, within thirty days of employment. Untrained staff who are within the first thirty days of employment or who have not completed all training shall work under supervision of or with trained staff. Renewal

(E) Renewal of training shall be consistent with time frames established by entities providing the training, such as an approved CPR course, or, in the absence of established time-frames for renewal, annually, and shall be consistent with changes or advances made in a given area of training, such as changes in provisions of law concerning abuse and neglect reporting. Documentation of training shall be maintained in the personnel record.

(F) All staff shall complete at least six hours of continuing education relevant to resident care during each licensure period. Training taken to fulfill the requirements of paragraphs (G) or (H) of this rule can also be used to meet the requirements of this paragraph.

(G) All staff who provide personal care services, prior to providing personal care services, shall complete training or continuing education, and provide documentation to the facility of such, that covers the correct techniques of providing personal care services to others.

(H) In addition to meeting the qualification requirements of this rule, each facility which accepts residents diagnosed with mental illness or substance use disorder shall ensure that the following training and continuing education requirements are met:

(1) Prior to the admission of the first resident diagnosed with mental illness or a substance use disorder, the manager and each staff member providing direct care services in a class one facility, and the manager and each staff of a class
two or class three facility, shall complete a general orientation in caring for persons diagnosed with mental illness or substance use disorder, and instruction on how to access local mental health crisis or emergency services. Thereafter, a new manager or a new staff shall receive such training prior to working alone with residents or within thirty days of hire, whichever comes first.

(2) The manager and each staff member providing personal care services shall over each twelve month period from date of hire or initial licensing of the facility receive a minimum of six hours of training in topics relevant to persons diagnosed with mental illness or substance use disorder who are residing in the facility.

The training required by this paragraph may be provided by physicians, registered nurses, social workers, psychologists, and counselors licensed under the applicable chapter of Title 47 of the Revised Code, mental health-related organizations, accredited learning institutions, appropriate governmental entities, or other authorities recognized by the director as qualified to provide this training. In addition to classroom instruction, training may be provided through other means as appropriate for the purposes of this rule subject to the approval of the director.
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5122-30-21  Staffing requirements.

(A) Each facility shall:

1. Provide sufficient numbers and types of staff in the facility, scheduled for appropriate periods of time during each twenty-four hour period, to assure that the room, board, personal care, or mental health service needs of each resident are met in a timely manner, as appropriate to the licensure type of the facility and individual needs of each resident;

2. Specify the minimum staffing pattern of the facility in the resident agreement.

3. Ensure that no resident shall be required to vacate the facility or shall not have access to the facility at any time because of the absence of available staff;

4. In a class two or three facility at least one staff person shall be available on or off the premises to residents twenty-four hours per day. In the event that no staff person is on the premises, residents shall be informed of how to locate staff, who shall be promptly available to provide appropriate and needed assistance to residents;

5. If the facility is locked during any portion of the day, a staff member shall be immediately available on the premises to open the door or each resident shall be provided with a key. The exception is when all residents are with staff on a facility outing. If residents are provided a key, an emergency contact number shall also be posted at all times on the outside of the facility in an easily accessible and viewable area, e.g. a door or first floor window;

6. In the event that no staff person is on the premises, the operator shall be responsible for ascertaining and ensuring that each resident is capable of self-preservation, and is knowledgeable about obtaining emergency assistance; and

7. Ensure that no resident shall be required or designated to supervise other residents, provide for the personal care or mental health service needs of other residents, or supervise any aspect of the operation or management of the facility;

8. A class one or class two facility providing services to children or adolescents shall maintain continuous staffing. Each shift staffing for a class one facility providing services to children or adolescents shall be provided by staff who are on duty and awake.

(B) A residential facility which uses volunteers or students to perform normal staff functions, shall have a written policy for screening, orientation, training, supervising and assigning volunteers and students, as appropriate to the functions to be performed.
(C) Volunteers or students whose duties include the same general duties as staff shall be trained in the mission of the facility to which they are assigned.

(D) Volunteers or students whose duties include the same general duties as direct care staff shall receive training in accordance with rule 5122-30-20 of the Administrative Code and shall be appropriately supervised by provider staff.

(E) Volunteers or students for practicum experience shall be given specific written job descriptions delineating the functions to be performed.

(F) A facility which accepts students for practicum experience shall have a written agreement with each school placing students. This agreement shall, at a minimum, include:

(1) A statement of the students' roles and responsibilities;

(2) A description of the minimum qualifications the students must possess; and

(3) A statement outlining the respective supervisory and evaluation responsibilities of the provider and the placing school.

(G) A facility shall not use volunteers or students for practicum experience as replacement for paid staff. Volunteers shall not be counted to meet required staff to client ratios.

(H) The operator shall establish a schedule for staff coverage that includes coverage during vacations, emergency situations, and long-term absences due to illness.

When only one staff member is on duty, the facility shall designate another staff member who can be contacted immediately in case of emergency.

(I) Each class one facility for adults shall have at least one staff person on the premises of the facility who shall be immediately available at all times to residents when residents are present in the facility or on its premises.

Each class one facility for children and adolescents shall have at least one staff person on the premises of the facility for each ten residents, who shall be immediately available at all times to residents when residents are present in the facility or on its premises. At no time should the facility be closed to residents, even when the residents are scheduled to be off the premises. Each shift staffing shall be provided by staff who are on duty and awake.

(J) Each crisis stabilization unit shall ensure the ability to adjust staffing levels according to the number and clinical needs of the persons being served at any given time.

(K) An operator of a class two facility serving children or adolescents shall also assure
the following:

(1) Have prior written approval, from the parent/guardian/custodian specifying whether or not the child/adolescent may be left unattended in the facility, and if so, for what period of time

(2) Alternative arrangements for the care of a child/adolescent in the facility, by someone other than the operator, or staff, shall be approved in writing from the custodian, guardian, or parent.

(3) The operator shall have a prior written plan of care for the child/adolescent in emergency situations. This plan shall be approved by the custodian, guardian, or parent.

(L) At any time a resident is present in a class two facility, including non-waking hours, weekends, and holidays, with one or more of the following needs, the facility shall ensure the physical presence in the facility of at least one staff member who is qualified in accordance with rule 5122-30-20 of the Administrative Code:

(1) The resident requires assistance with walking and moving, bathing, toileting, dressing, or eating;

(2) The resident requires ongoing supervision;

(3) The resident is non-ambulatory as defined in paragraph (A)(31) of rule 5122-30-03 of the Administrative Code; or

(4) The resident is prescribed one or more medications to be taken or applied on an "as required" or pro re nata (PRN) basis.

(5) If the resident requires assistance with self-administration of any prescription medications, rule 5122-30-28 of the Administrative Code, a staff member shall be present at the time of the self-administration of the medication or medications and remain on duty for a sufficient amount of time to supervise the individual, which shall be a minimum of one hour after the resident self-administers the medication, and longer if indicated by physician instructions or the individual's known history of reaction to medication, e.g. an individual with an increased risk of falling for a period of time after taking medication.

(M) A class two facility licensed for five or fewer individuals may temporarily use an individual who is not a staff member to stay in the facility in accordance with the following:

(1) An individual temporarily providing coverage in a home under this paragraph shall meet the following requirements:
(a) At least eighteen years of age;

(b) Be capable of calling for emergency assistance and assisting residents in responding to an emergency;

(c) Not be a resident of the adult care facility; and,

(d) Meet the background investigation requirements of rule 5122-30-31 of the Administrative Code.

(2) The residents shall not be left with non-staff members for more than four consecutive hours in any twenty-four hour period and not for more than nine hours in any thirty-day period.

(3) A non-staff member individual shall not provide any personal care services, such as assistance with walking or moving, bathing, toileting, dressing or eating or assistance with self-administration of medications.

(N) The operator shall identify whether the operator or a designated manager is responsible for the day-to-day operations. The operator or manager shall be present in the facility a sufficient number of hours to assure compliance with the Ohio Administrative Code.

(O) No individual shall work in a facility under either of the following circumstances:

(1) During the communicable stage of a disease which may be transmitted in the performance of the individual’s job responsibilities; or

(2) When the individual is under the influence of illicit drugs, is using alcohol, or is using medications to the extent that the health or safety of any resident of the facility is jeopardized. Illicit drugs includes the use of illegal drugs and the abuse of prescription medications.
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Resident rights and grievance procedure for class one facilities.

(A) The operator shall be responsible for assuring the compliance by the facility with all resident rights. Facility violations of resident rights shall be regarded as sufficient cause to institute proceedings to deny or revoke the facility's license.

(B) In addition to the definitions appearing in rule 5122-30-03 of the Administrative Code, the following definitions apply to this rule:

1) "Grievance" means a written complaint initiated either verbally or in writing by a resident or by any other person or agency on behalf of a resident regarding denial or abuse of any resident's rights.

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

3) "Resident rights advocate" means the residential facility staff, or a representative of the state long-term care ombudsman program, with responsibility for implementing the grievance procedure.

(C) Each facility shall have the following:

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

2) Written resident grievance procedure, written in a manner that residents can understand and which allows for reasonable accommodation for residents with disabilities;

3) Policy for maintaining for at least three years from resolution, records of resident 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 resident rights.

The resident rights policy, the grievance procedure, and the name of the resident rights advocate shall be posted in a conspicuous location that is readily accessible to all residents.

(E) Each resident has all of the following rights.
(1) The right to be verbally informed of all resident rights in language and terms appropriate for the resident’s understanding, prior to or at the time of residency, absent a crisis or emergency.

(2) The right to request a written copy of all resident rights and the grievance procedure.

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

(4) The right to file a grievance.

(5) The right to be treated all times with courtesy and respect, and with consideration for personal dignity, autonomy and privacy.

(6) The right to receive services in the least restrictive, feasible environment.

(7) The right to receive humane services in a clean, safe, comfortable, welcoming, stable and supportive environment.

(8) The right to reasonable protection from physical, sexual and emotional abuse, and exploitation.

(9) The right to freedom from unnecessary or excessive medication, and the right to decline medication, except a class one facility which employs staff authorized by the Ohio Revised Code to administer medication and when there is imminent risk of physical harm to self or others.

(10) The right to be free from restraint or seclusion unless there is imminent risk of physical harm to self or others.

(11) 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 a facility from using closed-circuit monitoring to observe seclusion rooms or other areas in the facility, bathrooms or sleeping areas, or other areas where privacy is reasonably expected, e.g., a medical examination room.

(12) The right to confidentiality of communications and personal identifying information within the limitations and requirements for disclosure of resident information under state and federal laws and regulations.

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

(14) The right to be informed of one's own condition.

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

(16) The right to practice a religion of his or her choice or to abstain from the practice of religion.

(17) The right to be informed in writing of the rates charged by the facility as well as any additional charges, and to receive thirty days' notice in writing of any change in the rates and charges.

(18) The right to reside in a class one residential facility, as available and appropriate to the type of care or services that the facility is licensed to provide, regardless of previous residency, unless there is a valid and specific necessity which precludes such residency. This necessity shall be documented and explained to the prospective resident.

(19) The right to continued residency unless the facility is no longer able to meet the resident’s care needs; the resident presents a documented danger to other residents, staff or visitors; or the monthly charges have not been paid for more than thirty days.

(20) The right not to be locked out of the facility at any time.

(21) The right of adult residents not to be locked in the facility at any time for any reason.

(22) The right to consent to or refuse treatment or services, or if the resident has a legal custodian, the right to have the legal custodian make decisions about treatment and services for the resident.

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

(24) The right to communicate freely with and be visited without staff present at reasonable times by private counsel and, unless prior court restriction has been obtained, to communicate freely with and be visited at reasonable times by a personal physician, psychologist or other health care providers, except that employees of a board, a provider, personnel of the Ohio protection and advocacy system, or representatives of the state long-term-ombudsman
program may visit at any time when permitted by the Revised Code.

The right to communicate includes receiving written communications, which may be opened and inspected by facility staff in the presence of the resident recipient so long as the communication is then not read by the staff and given immediately to the resident.

(25) The right to meet with staff from the Ohio department of mental health and addiction services in private.

(26) The right not to be deprived of any legal rights solely by reason of residence in the facility.

(27) The right to personal property and possessions:

(a) The right of an adult resident to retain personal property and possessions.

(b) The right of a child resident to personal property and possessions in accordance with one’s health and safety considerations, and developmental age, and as permitted by his/her parent or guardian.

(28) The right of an adult resident to manage his/her own financial affairs, and to possess a reasonable sum of money.

(29) The right to use the common areas of the facility.

Adult residents shall have right of access to common areas at all times.

Children and adolescent residents shall have the right of access to common areas in accordance with the facility’s program schedule.

(30) The right to engage in or refrain from engaging in activities:

(a) The right of an adult to engage in or refrain from engaging in cultural, social or community activities of the resident’s own choosing in the facility and in the community.

(b) The right of a child or adolescent to access cultural and social activities.

(31) The right to meet or communicate with family or guardians, and visitors and guests:

(a) The right of an adult:

(i) To reasonable privacy and the freedom to meet with visitors and guests at reasonable hours.
(ii) To make and/or receive confidential phone calls, including free local calls.

(iii) To write or receive uncensored, unopened correspondence subject to the facility's rules regarding contraband.

(b) The right of a minor:

(i) To visitors and to communicate with family, guardian, custodian, friends and significant others outside the facility in accordance with instructions from the minor’s parent or legal guardian.

(ii) To write or receive mail subject to the facility's rules regarding contraband and directives from the parent or legal guardian, when such rules and directives do not conflict with federal postal regulations.

(32) The right to be free from conflicts of interest; no residential facility employee may be a resident's guardian, custodian, or representative.

(F) Provision of client rights.

(1) The provider shall explain and maintain documentation in the resident's record an explanation of rights to each person served prior to or when beginning residency.

(2) In a crisis or emergency situation, the provider may verbally advise the resident 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 resident rights policy shall be provided at the first appropriate occasion, based upon the resident’s functioning.

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

(G) All staff shall be trained on and follow the resident rights policy and resident 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 resident rights policy and the resident grievance procedure and has agreed to abide by them.

(H) The resident rights advocate, or designee, shall:

(1) Be promptly accessible; and,
(2) Have their name, title, location, hours of availability, and telephone number included with the posting of resident rights as required by paragraph (D) of this rule.

(I) The resident grievance procedure shall have provisions for at least the following:

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

(2) Designation of staff who will be available to assist a resident in filing of a grievance;

(3) Requirement that the grievance must be put into writing; the grievance may be made verbally and the resident rights 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 resident, the individual filing the grievance on behalf of the resident, or have an attestation by the resident rights advocate that the written grievance is a true and accurate representation of the resident’s grievance;

Grievances may not be made anonymously, but grievance procedure shall provide method for confidential submission of grievance. Resident rights advocate shall keep such submissions and subsequent investigations confidential.

(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-one 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 resident;

(7) Statement that a resident 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 for residents receiving 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
(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.
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5122-30-22.1 **Resident rights and grievance procedure for class two and class three facilities.**

(A) The operator shall be responsible for assuring the compliance by the facility with all resident rights. Facility violations of resident rights shall be regarded as sufficient cause to institute proceedings to deny or revoke the facility's license.

(B) In addition to the definitions appearing in rule 5122-30-03 of the Administrative Code, the following definitions apply to this rule:

1. "Grievance" means a written complaint initiated either verbally or in writing by a resident or by any other person or agency on behalf of a resident regarding denial or abuse of any resident's rights.

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

3. "Resident rights advocate" means the residential facility staff, or a representative of the state long-term care ombudsman program, with responsibility for implementing the grievance procedure.

(C) Each facility shall have the following:

1. Written resident rights policy that lists all of the resident rights identified in this rule;

2. Written resident grievance procedure, written in a manner that residents can understand and which allows for reasonable accommodation for residents with disabilities;

3. Policy for maintaining for at least three years from resolution, records of resident 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 resident rights.

The resident rights policy, the grievance procedure, and the name of the resident rights advocate shall be posted in a conspicuous location that is readily accessible to all residents.
(E) Each resident has all of the following rights.

1. The right to be verbally informed of all resident rights in language and terms appropriate for the resident’s understanding, prior to or at the time of residency, absent a crisis or emergency.

2. The right to request a written copy of all resident rights and the grievance procedure.

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

4. The right to file a grievance.

5. The right to be treated at all times with courtesy and respect, and with consideration for personal dignity, autonomy and privacy.

6. The right to receive services in the least restrictive, feasible environment.

7. The right to receive humane services in a clean, safe, comfortable, welcoming, stable and supportive environment.

8. The right to reasonable protection from physical, sexual and emotional abuse, and exploitation.

9. The right to freedom from unnecessary or excessive medication and the right to decline medication.

10. The right to be free from restraint or seclusion.

11. 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 a facility from using closed-circuit monitoring to observe areas in the facility other than bathrooms or sleeping areas, or other areas where privacy is reasonably expected.

12. The right to confidentiality of communications and personal identifying information within the limitations and requirements for disclosure of resident information under state and federal laws and regulations.

13. The right to have access to one's own record.

14. The right to be informed of one's own condition.

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

(16) The right to practice a religion of his or her choice or to abstain from the
practice of religion.

(17) The right to visit the facility alone or with individuals of the prospective
resident’s choosing.

(18) The right to be informed in writing of the rates charged by the facility as well
as any additional charges, and to receive thirty days’ notice in writing of any
change in the rates and charges.

(19) The right to continued residency unless the facility is no longer able to meet
the resident’s care needs, the resident presents a documented danger to other
residents, staff or visitors, or the monthly charges have not been paid for
more than thirty days.

(20) The right to receive thirty days prior written notice for termination of
residency except in an emergency when the resident presents a documented
danger to other residents, staff or visitors.

(21) The right not to be locked out of the facility at any time.

(22) The right not to be locked in the facility at any time for any reason.

(23) The right to consent to or refuse services in a class two facility, or if the
resident has a legal custodian, the right to have the legal custodian make
decisions about services for the resident.

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

(25) The right to communicate freely with and be visited at reasonable times by
private counsel and, unless prior court restriction has been obtained, to
communicate freely with and be visited at reasonable times by a personal
physician, psychologist or other health care providers, except that employees
of a board, a provider, personnel of the Ohio protection and advocacy system,
or representatives of the state long-term-ombudsman program may visit at
any time when permitted by the Revised Code.

The right to communicate includes receiving written communications, which
may be opened and inspected by facility staff in the presence of the resident
recipient so long as the communication is then not read by the staff and given
immediately to the resident.
(26) The right to meet with staff from the Ohio department of mental health and addiction services in private.

(27) The right not to be deprived of any legal rights solely by reason of residence in the facility.

(28) The right to personal property and possessions:

   (a) The right of an adult resident to retain personal property and possessions.

   (b) The right of a child resident to personal property and possessions in accordance with one’s health and safety considerations, and developmental age, and as permitted by his/her parent or guardian.

(29) The right of an adult resident to manage his/her own financial affairs, and to possess a reasonable sum of money.

(30) The right to use the common areas of the facility.

   Adult residents shall have right of access to common areas at all times.

   Children and adolescent residents shall have the right of access to common areas during routine non-sleeping hours in accordance with facility expectations, e.g. school attendance, homework, implementation of natural and logical consequences, etc.

(31) The right to engage in or refrain from engaging in activities:

   (a) The right of an adult to engage in or refrain from engaging in cultural, social or community activities of the resident’s own choosing in the facility and in the community.

   (b) The right of a child or adolescent to access cultural and social activities.

(32) The right to meet or communicate with family or guardians, and visitors and guests:

   (a) The right of an adult:

      (i) To reasonable privacy and the freedom to meet with visitors and guests at reasonable hours.

      (ii) To make and/or receive confidential phone calls, including free local calls.

      (iii) To write or receive uncensored, unopened correspondence subject
(b) The right of a minor:

(i) To visitors and to communicate with family, guardian, custodian, friends and significant others outside the facility in accordance with instructions from the minor’s parent or legal guardian.

(ii) To write or receive mail subject to the facility's rules regarding contraband and directives from the parent or legal guardian, when such rules and directives do not conflict with federal postal regulations.

(33) The right to be free from conflicts of interest; no residential facility employee may be a resident's guardian, custodian, or representative.

(F) Provision of client rights

(1) The provider shall explain and maintain documentation in the resident's record an explanation of rights to each person served prior to or when beginning residency.

(2) In a crisis or emergency situation, the provider may verbally advise the resident 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 resident rights policy shall be provided at the first appropriate occasion, based upon the resident’s functioning.

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

(G) All staff shall be trained on and follow the resident rights policy and resident 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 resident rights policy and the resident grievance procedure and has agreed to abide by them.

(H) The resident rights advocate of a class two or three facility, or designee, shall:

(1) Be promptly accessible; and,

(2) Have their name, title, location, hours of availability, and telephone number included with the posting of resident rights as required by paragraph (D) of this rule.

(I) The resident grievance procedure shall have provisions for at least the following:
(1) Statement to whom the resident is to give the grievance;

(2) Designation of staff who will be available to assist a resident in filing of a grievance;

(3) Requirement that the grievance must be put into writing; the grievance may be made verbally and the resident rights 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 resident, the individual filing the grievance on behalf of the resident, or have an attestation by the resident rights advocate that the written grievance is a true and accurate representation of the resident’s grievance;

Grievances may not be made anonymously, but grievance procedure shall provide method for confidential submission of grievance. Resident rights advocate shall keep such submissions and subsequent investigations confidential.

(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-one 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 resident;

(7) Statement that a resident 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 for residents receiving mental health services;

(b) Ohio department of mental health and addiction services;

(c) State long-term care facilities ombudsperson and the regional ombudsperson for the area in which the facility is located;

(d) Disability rights Ohio; or,

(e) 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
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Facility records.

(A) Each facility shall maintain resident and staff records, including at a minimum:

(1) A roster of the names and ages of all residents, and date of admission. The roster shall be considered part of the client records, and individual residents shall be listed as to their residency status and maintained on the roster for three years post discharge.

(2) For each resident, the facility shall maintain:

(a) A written referral from the referring entity or individual, if applicable, that specifies:

(i) Name, address and telephone number of the referring entity;

(ii) For individuals receiving mental health services, the name, address, and telephone number of the person or entity responsible for the continued provision of mental health services.

(b) Immediately accessible written emergency information, which includes the name and birth date of the resident, current medical information, medications, and the name, address, and phone number of the person(s) to be notified in the event of an emergency.

(c) Class one and class two facilities shall have records of a medical assessment conducted by a qualified healthcare practitioner within twelve months prior to the date of admission. The assessment for a resident of a class two facility shall include, but not be limited to, identifying whether the resident is capable of self-administering medication, and, if assistance is needed, the type of assistance required. No resident shall be admitted to a class two facility unless the resident is capable of self-administering medication with or without assistance;

(d) A copy of the signed resident agreement, in accordance with rule 5122-30-24 of the Administrative Code.

(e) List of current medications, including name, dosage and schedule for the resident to take medications.

(f) List of all current medical diagnoses and allergies, if applicable.

(g) In a class one facility that administers medication, a record of all medications administered.

(h) In a class one or class two facility, a record of all medications self-administered by residents with assistance, to include the date, time and medication self-administered by the resident.
(i) List of other entities providing services, including, but not limited to physical or behavioral health care, social services, educational services, etc., and phone number and contact person.

(j) Personal care services plan for residents of class one and class two facilities, or notation that the resident is not in need of personal care services.

(k) Notation of provision of personal care services, including the resident's progress or functional status, in accordance with the following schedule:

(i) For residents of a class one facility, at least monthly.

(ii) For residents of a class two facility, at least weekly.

(3) For each resident with a mental illness or severe mental disability, a copy of the written notification to the board serving the county in which the facility is located of the resident's placement in the facility within seven days of the resident's admission, including date of notification.

(4) For each staff, the facility shall maintain:

(a) Test results indicating no active tuberculosis.

(b) Records of training received.

(c) All records and reports verifying compliance with rule 5122-30-20 of the Administrative Code.

(d) All records and reports verifying compliance with rule 5122-30-31 of the Administrative Code.

(B) The facility shall also maintain:

(1) Fire and other disaster policies and procedures, including evacuation, emergency contact, etc.

(2) Copies of all major unusual incident reports, submitted in accordance with rule 5122-30-16 of the Administrative Code.

(3) Records of fire drills.

(4) Appropriate financial records which utilize standard basic bookkeeping techniques to document facility income and expenditure. Financial records may be kept off-site at a central business office, but shall be made available at
the facility on request of the Department.

(5) Current fire alarm system testing reports, as applicable.

(6) Current sprinkler system testing reports, as applicable.

(7) Copies of the current department license, and plan(s) of correction, if any.

(8) Copies of required licenses, permits and inspections, including fire, certificate of occupancy when required, and any other permits or inspections when required by this chapter of the Administrative Code, or other federal, state or local law.

(C) Each resident's record shall be stored in a locked area accessible only to staff, to protect and ensure individual resident confidentiality, except that emergency information shall be immediately accessible. An operator or staff shall not disclose or knowingly allow the disclosure of any information regarding a resident, to persons not directly involved in the resident's care and treatment without authorization from the resident or a signed release of information if required, unless authorized by section 5122.31 of the Revised Code or as otherwise permitted by law.

(D) Each staff record shall be stored in a locked area accessible only by individuals permitted by facility policy or state or federal law. Records of staff employed by a class one facility may be maintained at the facility or at another location with other personnel records.

(E) The facility shall maintain a record for each current resident and staff, and for three years post discharge or employee termination. All other facility records shall be maintained for the current and most recent past full licensure cycle.
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Resident agreement.

(A) The provisions of this rule are applicable to each residential facility.

(B) The provision of room and board, accommodations, supervision, and personal care services shall be consistent with the requirements for licensure and shall be specified in a written residential resident agreement executed between the operator and each resident, or guardian/custodian prior to residency. The agreement shall be signed and dated by the operator or his/her designee, and the prospective resident or guardian/custodian. If the prospective resident is physically unable to sign and consent, another individual designated by the prospective resident shall sign. The facility shall provide both the prospective resident and any other individual signing on his or her behalf with a copy of the agreement and shall explain the agreement to them.

(C) The following shall be specified in a resident agreement:

1. Specifications of accommodations provided in a class one or class two facility or room and board provided in a class three facility.

2. Supervision and personal care services available to a resident in a class one or class two facility.

3. Specification of the monthly charges to the resident, and any additional itemized fees.

   The operator may not charge an additional fee beyond the standard monthly charges for room and board (sleeping and living space, meals or meal preparation, laundry services, housekeeping services, or any combination thereof), personal care services if applicable, and basic cable service if offered. If the operator charges an additional fee for internet or cable service beyond basic cable, each resident must have the option of whether to agree to such a charge, and the total charges to all residents may not exceed the actual cost charged to the facility by the cable or internet provider for the internet or additional cable service.

   For a resident receiving residential state supplemental payment, specification that the monthly charge for room and board, supervision and personal care services shall not exceed the amount specified in Chapter 5122-36 of the Administrative Code.

4. Provisions concerning refunds of resident's monthly charges in the event of the resident's absence from the facility.

5. Specification of security deposit required, if any, and the terms for refunding same to the resident in the event of the resident's discharge or transfer from the facility.
(6) A statement that no charges, fines, or penalties will be assessed against the resident other than those stipulated in the agreement.

(7) Provision for thirty day prior verbal and written notification for increasing monthly charges.

(8) A copy of procedures to be used for the referral of a resident with mental illness for mental health evaluation and services and the role of the facility regarding the resident’s receipt of appropriate services from mental health providers, as applicable if the facility accepts persons with mental illness for admission.

(9) Any facility policies the resident must follow, including smoking policy or "house rules" if applicable. The facility may include the policy or house rules in the resident agreement, or make reference in the agreement that the resident must follow the facility's written policies or rule, which shall be posted in an area accessible to all residents and readily visible.

No house rule or facility policy, or portion therein, shall conflict with resident rights established by rules 5122-30-22 and 5122-30-22.1 of the Administrative Code.

(10) In a class two or three facility, the specifications of the visitation policy for adults; and the visitation policy shall not conflict with resident rights established by rule 5122-30-22.1 of the Administrative Code.

(11) In a class two or three facility, the specifications of the roommate policy.

(12) A statement that, except for provider agency managed payeeship programs when the provider agency is the operator of the class one facility, at no time shall the staff or operator of a facility assume payeeship for a resident's income, require income checks to be signed over to or be cashed by facility staff, nor in any manner establish controls over the handling of any resident's funds. This does not prevent a facility from providing a central locked storage for resident’s funds or other valuables. If a facility offers such storage, the residential agreement must specify whether the resident may access their property at any time, upon request, or a schedule of hours each day of the week during which a resident may access their property. Restrictions may only be in accordance with written instructions from a guardian, if applicable.

Nothing stated herein shall be construed to entitle any resident to not pay incurred costs of room and board as stated in the resident agreement. Nothing in this rule shall preclude individualized treatment plan or personal care specific requirements, e.g. budgeting skills, or a facility policy and procedure to safeguard client funds upon their request.

An employee of a class one facility that has a previously established legal
relationship to a resident, e.g. parent, spouse or child, may serve as a guardian or payee for the resident if permitted by facility policy.

(13) For a class three facility, a statement that the facility is not permitted to monitor, supervise, administer or assist in the self-administration of medication to any resident, and shall not lock, store, secure or otherwise be responsible in any way for a resident's medication, and that residency in the facility shall not be contingent upon taking medication. Resident's shall keep medication in a locked personal storage area as required by paragraph (E) of rule 5122-30-28 of the Administrative Code.
5122-30-24

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5122-30-25  

**Skilled nursing care and changes in a resident's health status.**

(A) A class two or class three facility may not provide physical health care activities for the treatment of a serious illness or disease, defined as skilled nursing care in accordance with section 3721.01 of the Revised Code. Skilled nursing care shall be considered to be provided by a residential facility if it is provided by a person employed by or associated with the facility, including a home healthcare company owned by or associated with the owner/operator, or by another person pursuant to an agreement to which neither the resident who receives the services nor their custodian or legal guardian is a party. In the event of such serious illness or disease, the resident may make arrangements for necessary home health, visiting nurse, or similar services. If the resident need assistance in making arrangements, staff of a class 2 facility shall assist the resident in making these arrangements or assure another entity is available to provide the assistance.

"Skilled nursing care" 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 the ill or otherwise incapacitated. "Skilled nursing care" includes, but is not limited to, the following:

1. Irrigations, parameterizations, application of dressings, and supervision of special diets;
2. 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;
3. Special procedures contributing to rehabilitation;
4. 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;
5. Administering tube or syringe feedings or parenteral nutrition;
6. Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.

(B) No class two facility shall admit or retain any resident in need of skilled nursing care unless the care will be provided on a part-time, intermittent basis; consisting of fewer than eight hours in a twenty-four hour day, or fewer than forty hours in a seven day period, and not more than a total of one hundred twenty days in any twelve-month period. The skilled nursing care must be provided by an appropriately licensed employee or contract employee of one or more of the following:

1. A home health agency certified under Title XVIII of the "Social Security Act,"
(2) A hospice care program licensed under Chapter 3712. of the Revised Code.

(3) A mental health or substance use treatment provider, or board.

(C) In class two facilities, the facility shall monitor and report changes in the health status of residents that would require a change in facility type or referral for skilled nursing care or licensed health professional intervention and contact the resident’s physician, source of medical care, or case manager with in twenty-four hours. When a resident is observed to have difficulty in self-administering medication, a new assessment of the resident’s capacity to self-administer the medications prescribed for them with or without assistance must be obtained. If an updated assessment determines that the resident is no longer capable of self-administering medication, the facility must provide a discharge or transfer notice to the resident in accordance with rule 5122-30-27 of the Administrative Code. An operator may not transfer such a resident to another class two residential facility.

(D) Class two facilities shall in the event of acute illness, accident, nursing facility admission, or hospitalization of a resident, contact the resident's physician or source of medical care immediately. The operator shall also notify any emergency contact pre-designated by the resident, and the resident's case manager, if applicable, as soon as possible, but not later than twenty-four hours after the emergency occurs. The operator shall document the occurrence and contacts in the resident's record.

(E) A resident in a class three facility may retain and utilize a visiting nurse, home health nurse or any other needed medical services.
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Provisions of personal care in class one and two facilities.

(A) The provisions of this rule are applicable to class one and two residential facilities which are required to provide personal care services. The provision of room and board shall be secondary or ancillary to the primary purpose of the facility to provide personal care, but the provision of room and board for an individual resident need not terminate in the event that personal care assistance is no longer needed by or is being provided for the individual resident. Additionally, the facility may admit a person not in need of personal care, but shall be required to be licensed as a class two facility if the facility provides personal care to at least one resident with mental illness or provides personal care to at least three residents, unless the facility is otherwise required to be licensed as a class one facility. The provision of personal care service to a child or adolescent shall also include the consent of the parent, guardian or custodian, as appropriate. Such personal care to a child or adolescent shall be age appropriate, and consistent with specified client rights requirements.

For the purposes of this rule, personal care services shall be considered to be provided by a facility if they are provided by a person employed by or associated with the facility or by another person pursuant to an agreement to which neither the resident who receives the services nor his or her sponsor is a party.

(B) Personal care services include, but are not limited to, the following:

1. Assistance with walking and moving, dressing, grooming, toileting, oral hygiene, hair care, dressing, eating, and nail care.

2. Budgeting and teaching of money management skills.

3. Assistance with self-administration of medication in accordance with rule 5122-30-28 of the administrative code.

4. Preparation of special diets, other than complex therapeutic diets, for residents who require them, pursuant to the instructions of a physician or a licensed dietitian and in accordance with paragraph (B) of rule 5122-33-20 of the Administrative Code.

(C) Personal care services:

1. Personal care service, advice and assistance shall be provided to each resident in accordance with that resident's individual needs and preferences. The facility shall provide personal care services to residents who require those services and may provide personal care services to other residents upon request. The requirement to provide such personal care shall not be construed to require or permit the imposition of such activity, advice, or assistance on any matter in which the resident is able to perform the activity under his own direction.

2. Personal care service, advice, or assistance shall be provided in a manner and to
an extent that supports individual stability, growth, privacy and personal dignity. No commentary or information about any resident's personal care skills or needs shall be communicated to any other persons without the permission of the resident.

(D) If a resident requires certain personal care services that the facility does not offer, the facility either shall arrange for the services to be provided or shall transfer the resident to an appropriate setting within fourteen days of becoming aware of such a need. If the services are provided, they shall be at no extra cost to the resident and shall be paid for by the facility.

(E) Each resident, in conjunction with the facility staff and the referring entity, if applicable, shall determine the individualized personal care services to be provided, and the resulting specific obligations and responsibilities of the facility to provide for those personal care needs.

(F) The agreed-upon, specific personal care services to be performed by the facility for the individual resident shall be written in a personal care service plan developed by the facility within fourteen days of a resident's admission. A class one facility may develop a separate personal care service plan or may include the personal care services to be provided in the resident's individualized treatment plan.
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Transfer and discharge rights.

(A) For purposes of this rule:

1. "Discharge" means a permanent movement of a resident to another facility that is not under the jurisdiction of the owner or manager.

2. "Emergency" means a situation which creates an imminent risk of substantial harm to the individual or other household members in the facility, if immediate action is not taken.

3. "Transfer" means a temporary or permanent movement of a resident between facilities under the jurisdiction of the owner or manager.

(B) A residential facility shall not transfer or discharge a resident, in the absence of a request from the resident, unless one of the following reasons exist:

1. Charges for the resident's accommodations and services have not been paid within thirty days after the date on which they became due;

2. The mental, emotional, or physical condition of the resident requires a level of care that the facility is unable to provide;

3. The health, safety, or welfare of the resident or of another resident requires a transfer or discharge;

4. The facility's license has been revoked or renewal has been denied pursuant to Chapter 5119 of the Revised Code and this chapter;

5. The owner closes the facility; or,

6. The resident is relocated as a result of a court's order issued under section 5119.34 of the Revised Code as part of the injunctive relief granted against a facility that is operating without a license.

(C) A facility shall not discharge or transfer a resident from one facility to another for non-emergency reasons without complying with the requirements of this paragraph. In the event of a non-emergency resident transfer or discharge, the following shall occur:

1. A facility owner or manager shall give the resident thirty day's advance notice, in writing, of a proposed transfer or discharge.

2. A class one or two facility owner or manager shall give the resident's county community board of residence and case manager, if applicable, thirty day's advance notice, in writing, of a proposed transfer or discharge.

3. The resident may request and the director shall conduct a hearing if the transfer
or discharge is based upon paragraph (B)(1), (B)(2), or (B)(3) of this rule.

(4) The facility shall state in the written notice of proposed transfer or discharge the following information:

(a) The reason for the proposed transfer or discharge;

(b) The anticipated effective date of the proposed transfer or discharge;

(c) A summary of actions taken by the facility to resolve issues with the resident, prior to the notice;

(d) If the resident is entitled to a hearing, the written notice shall outline the procedure for the resident to follow in requesting a hearing;

(e) Appropriate telephone numbers and addresses of the long-term care ombudsman office; and

(f) Information to facilitate future placement of the resident, if future placement becomes necessary.

(5) The facility shall maintain copies of information enumerated in this paragraph as required by rule 5122-30-23 of the Administrative Code.

(6) If the resident desires a hearing, he or she shall submit a request to the director not later than ten days after receiving the written notice given under this paragraph of the rule. The director shall provide written notification to the manager, the resident, the resident's case manager, and, if applicable, the person who requested the hearing on behalf of the resident. The notification shall include the date, time, and place of the hearing and shall be provided at least five days before the scheduled hearing. The director shall hold the hearing not later than ten days after receiving the request. If the resident desires a hearing, the facility shall hold the bed open until a decision is rendered.

(D) In the event of an emergency resident transfer or discharge, the following shall occur:

(1) If the transfer or discharge is for a reason given in paragraph (B)(1), (B)(2), or (B)(3) of this rule and an emergency exists, the notice need not be given thirty days in advance. In such a case, the notice shall be given as soon as possible to the resident, case manager, emergency contact, long-term care ombudsman, county community board of residence, or other entity identified in the resident's record. The resident shall not be forced to vacate the facility premises in the absence of one of the aforementioned entities, or a public authority which will assume responsibility for the individual.

(2) The hearing for an emergency transfer or discharge based upon paragraph
(B)(1), (B)(2), or (B)(3) of this rule may be conducted subsequent to the transfer or discharge.

(3) If the resident desires a hearing, he or she shall submit a request to the director and notify the facility of the appeal request within ten days after the transfer or discharge. The director shall provide written notification to the manager, the resident, the resident's case manager, and, if applicable, the person who requested the hearing on behalf of the resident. The notification shall include the date, time, and place of the hearing and shall be provided at least five days before the scheduled hearing. The director shall hold the hearing not later than ten days after receiving the request. If the resident desires a hearing, the facility shall hold the resident's bed open until a decision is rendered.

(E) A representative of the director shall preside over the hearing, which shall be conducted informally. The facility and the resident may appear in person or by their attorneys or other representatives and may provide oral statements and written materials supporting their respective positions. If only one party appears or is represented at the hearing, the director's representative shall proceed with the hearing on an ex parte basis. The hearing is not subject to section 121.22 of the Revised Code.

(F) The director's representative shall issue a written recommendation of action to be taken by the director not later than three days after the hearing. The director shall issue an order regarding the transfer or discharge not later than two days after receipt of the recommendation. The order may prohibit or place conditions on the discharge or transfer.
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5122-30-28 Medication.

(A) Residential facilities may store medications at a separate licensed residential facility from the one in which the resident lives if the following conditions are met:

1. The residential facility the items are stored at is licensed by the same operator;
2. The medications are readily accessible;
3. The resident receives the medication at the facility in which they live;
4. Time sensitive medications are stored at the resident's facility;
5. The items are not necessary in an emergency; and,
6. Medications are stored in the central locked storage area of the storing residential facility and in the manner required by paragraph (E) of this rule.

(B) Staff of a residential facility shall not administer medication to the facility's residents, except in a class one residential facility.

Staff of class one and class two facilities may assist with the self-administration of medication as part of personal care services in accordance with this rule.

(C) Staff shall assist with self-administration or supervise the self-administration of prescription medication only for whom the medication was prescribed and according to the prescribing physician's written instructions.

(D) Staff shall keep as part of the resident record the self-administration of medication, including date, time, and dosage.

(E) Staff, who have the training required in paragraph (B) of rule 5122-30-20 of the Administrative Code, may only perform any of the following in providing assistance with self-administration of medication:

1. Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container.
2. Assist a resident in the self-administration of medication by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to this section, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.
3. Assist a physically impaired but mentally alert resident, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically...
unable to place a dose of medicine to the resident's mouth without spilling it, a staff member may place the dose in a container and place the container to the mouth of the resident.

(F) The facility shall provide a central locked storage area for resident medications, and shall store medications for residents needing assistance with self-administration. Residents who do not require assistance with self-administration of medication shall store medications in individual locked personal storage areas or in the facility central storage area, at the discretion of the resident.

(1) All medications centrally stored by the facility shall be clearly labeled with the resident's name, the name of the medication, and instructions for use.

(2) The facility shall not remove and repackage medication from the pharmacy-dispensed container, nor permit any other repackaging of medication unless done by a nurse, doctor, or pharmacist who is not the resident's family member.

(3) The residential facility shall develop and follow written procedures for the disposal of any prescribed medications that are no longer being used by the person for whom they were prescribed. This shall include that disposal of prescribed medications is verified and recorded by two staff members of an independent external entity. Records of medication destroyed by the facility shall be maintained for a minimum of three years or longer if required by law.

(G) Medications that must be refrigerated shall be stored in a locked refrigerator or inside a refrigerator in a manner that prevents the removal of the medication from the refrigerator without a key or combination.

(H) Residence in the facility shall not be contingent upon taking medications.

(I) Nothing stated herein shall be construed to require or permit assistance in self-administration of medications to be imposed upon a resident capable of performing this activity without assistance.
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Provision of mental health services in type I class one facilities.

(A) Type I A class one residential facility shall provide mental health services that are certified in accordance with Chapters 5122-24 to 5122-29 of the Administrative Code.

(1) In a type I facility, the primary purpose shall be to provide room and board, personal care, and mental health services either to meet a temporary need, or as long-term assistance. The provision of room and board and personal care shall be secondary or ancillary to the primary purpose of the facility to provide mental health services, but the provision of room and board, or personal care for an individual resident need not terminate in the event that mental health services are no longer needed by and being provided for the individual resident. Additionally, the facility may admit a person not in need of personal care and mental health services, but shall be required to be licensed as a type I facility if the facility provides mental health services to at least one resident.

(2) The role and function of crisis stabilization units is to provide better intensive residential support with treatment in an appropriate setting less restrictive than that of inpatient care. Crisis stabilization units may appropriately accept individuals placed by probate court order, including individuals under court order to take their medications. However, crisis stabilization units may not forcibly administer medications (except in emergencies) or utilize locked doors to restrain movement. Individuals whose care and supervision requires these steps should be hospitalized, where higher standards of care apply. Crisis stabilization units must have the ability to appropriately utilize special treatment and safety measures on a limited basis in emergency situations, but persons requiring repeated or prolonged special treatment are likely to be more appropriately treated in an inpatient setting.

(a) Except in emergency situations, the use of seclusion and/or mechanical or physical restraint shall be prohibited on crisis stabilization units.

(b) Except in emergency situations, medication shall not be forcibly administered on crisis stabilization units.

(B) All facilities licensed as providing room and board accommodations, supervision, personal care, and mental health services shall, in addition to being licensed as a residential facility, be certified by the department in accordance with Chapters 5122-24 to 5122-29 of the Administrative Code to provide mental health services at the residential facility location.

A facility licensed to provide services to children or adolescents, at a minimum, shall be certified for the general services as described by rule 5122-29-03 of the Administrative Code and make available as described in that rule the following.
activities:

(1) Assessments;

(2) Counseling and therapy; and,

(3) Medical activities.

(C) Each type I class one facility shall specify, in policy and procedures, the role and responsibilities of qualified providers in identifying and meeting the mental health needs of persons, in relation to the goals and program of the treatment facility. Each type I class one facility shall assure and provide for the staffing of qualified provider(s) to meet each resident's ISP individualized treatment plan requirements twenty-four hours a day seven days a week.

(D) A crisis stabilization unit shall ensure the ability to adjust staffing levels according to the number and intensity of need of the persons being served at any given point in time.
Effective: 01/01/2018

Five Year Review (FYR) Dates: 01/20/2017 and 01/01/2023

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04/05/2017

Date

Promulgated Under: 119.03
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Rule Amplifies: 5119.34
5122-30-30 Social, recreational and leisure activities.

(A) Each class one and class two residential facility shall encourage residents to participate in social, recreational, and leisure activities.

(B) Residents of class two facilities and class one facilities shall be encouraged to participate in community activities and social events. The facility staff shall demonstrate a reasonable effort to facilitate and support such involvement by providing at least one local daily newspaper or current community activity brochures and advertisements, and provide transportation or information about the accessibility of transportation.

(C) Each class one and class two residential facility shall provide, at a minimum, all of the following:

1) Leisure time activities appropriate to the age and sex of the residents. Examples of leisure activities include crafts, books, magazines and games.

2) A residential care facility shall make available recreational equipment and activities sufficient to implement recreational programs to encourage physical activity. All recreational equipment necessary for the implementation of recreation programs shall be maintained in a safe and usable condition.

(D) The staffing pattern of a class one and class two facility shall assure reasonable amounts of time for staff to engage in social and recreational activity with residents.
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Background investigations for employment.

(A) The purpose of this rule is to establish procedure for conducting criminal records checks for owners, operators, prospective operators, managers, staff, and other individuals who, if employed by a residential facility, would have unsupervised access to facility residents.

(B) Definitions.

(1) "Applicant" means a person who is under final consideration for employment with a residential facility.

(2) "Criminal records check" has the same meaning as is section 109.572 of the Revised Code.

(3) "Department" means the Ohio department of mental health and addiction services.

(4) "Direct services position" means an employment position in which the employee has the opportunity to be alone with or exercises supervision or control over one or more individuals.

(5) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (A)(3)(e) of section 109.572 of the Revised Code.

(6) "Employee" means a person employed or working as volunteer, in a direct services position by a residential facility.

(7) "Individual" means a resident of a residential facility.

(8) "Manager" or "operator" means the person responsible for the daily operation of an adult care facility. The manager and the owner of a facility may be the same person.

(9) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

(10) "Multiple disqualifying offenses" means two or more convictions or guilty pleas to disqualifying offenses. Convictions or guilty pleas resulting from or connected with the same act, or resulting from offenses committed at the same time, shall be counted as one conviction or guilty plea.

(11) "Owner" means the person who owns the business of and who ultimately
controls the operation of an adult care facility and to whom the manager or operator, if different from the owner, is responsible.

"Residential facility" has the same meaning as found in section 5119.34 of the Revised Code.

(C) Requirements for owners, operators, managers, and prospective operators.

(1) All requirements of this rule applicable to applicants shall also be applicable to owners, operators, managers, and non-resident occupants.

(2) An owner, operator, manager or prospective operator shall:

(a) Require an applicant to complete an employment application and provide the names and addresses of present and former employers; and

(b) Attempt to obtain references from the applicant's present and former employers and maintain written evidence that reference checks were attempted and/or completed.

(3) An owner, operator, manager, or prospective operator shall check each of the following databases to determine if the applicant is included:


(b) The abuser registry established pursuant to section 5123.52 of the Revised Code (available at https://its.prodapps.dodd.ohio.gov/abr_default.aspx);

(c) The nurse aide registry established pursuant to section 3721.32 of the Revised Code (available at https://odhgateway.odh.ohio.gov/nar/nar_registry_search.aspx), and if there is a statement detailing finding by the director of the Ohio department of health that the applicant or employee neglected or abused a resident of a long-term care facility or residential care facility or misappropriated property of such a resident;

(d) The sex offender and child-victim offender database established pursuant
(e) The United States general services administration system for award management database (available at https://www.sam.gov/); and,


The owner, operator, manager or prospective operator shall maintain written evidence of the results of these database checks.

(4) A residential facility shall not employ an application or continue to employ an employee if the applicant or employee is included in one or more of the databases described in paragraphs (C)(2)(a) to (C)(2)(e) paragraph (C)(3) of this rule.

(5) A residential facility shall verify that an applicant has a valid motor vehicle operator's license and obtain a driving record prepared by the bureau of motor vehicles if the duties of the position for which the applicant has applied require the applicant to transport individuals or to operate the responsible entity's vehicles for any other purpose. A person having six or more points on his or her driving record is prohibited from transporting individuals.

(6) Prior to employing an applicant, a residential facility shall require an applicant to:

(a) Submit a statement to the residential facility with the applicant's signature attesting that he or she has not been convicted of or pleaded guilty to a disqualifying offense. An applicant or employee shall disclose to the residential facility a conviction for any offense that has been sealed; and,

(b) Sign an agreement under which the applicant agrees to notify the residential facility within fourteen calendar days if, while employed by the residential facility, the applicant is formally charged with, is convicted of, or pleads guilty to a disqualifying offense. The agreement shall provide that failure to make the notification may result in termination of the applicant's employment.

(7) A residential facility shall request the bureau of criminal identification and
investigation, or any other state or federal agency designated by the director, to conduct a criminal records check of an applicant.

(a) If an applicant does not present proof that he or she has been a resident of Ohio for the five-year period immediately prior to the date upon which the criminal records check is requested, the residential facility shall request that the bureau of criminal identification and investigation reporting agency obtain information from the federal bureau of investigation as part of the criminal records check.

(b) If an applicant presents proof that he or she has been a resident of Ohio for the five-year period immediately prior to the date upon which the criminal records check is requested, the residential facility may request that the bureau of criminal identification and investigation reporting agency obtain information from the federal bureau of investigation as part of the criminal records check.

For purposes of this paragraph, an applicant may provide proof of Ohio residency by presenting, with a notarized statement asserting that he or she has been a resident of Ohio for that five-year period, a valid driver's license, notification of registration as an elector, a copy of an officially filed federal or state tax form identifying the applicant's permanent residence, or any other document the residential facility considers acceptable.

(8) A residential facility may conditionally employ an applicant, for a period not to exceed sixty days, pending receipt of information concerning the applicant's criminal records check once the applicant submits to the responsible entity the statement required by paragraph (C)(5)(a)(C)(6)(a) of this rule. The residential facility shall terminate the applicant's employment if it is informed that the applicant has been convicted of or pleaded guilty to a disqualifying offense.

(9) A residential facility shall, at a frequency of no less than once every five years, check the databases specified in paragraph (C)(2)(C)(3) of this rule and request the bureau of criminal identification and investigation, or any other state or federal agency designated by the director, to conduct a criminal records check for each employee in a direct services position.

(a) If an employee in a direct services position does not present proof that he or she has been a resident of Ohio for the five-year period immediately prior to the date upon which the criminal records check is requested, the residential facility shall request that the bureau of criminal identification and investigation reporting agency obtain information from the federal bureau of investigation as part of the criminal records check.
(b) If an employee in a direct services position presents proof that he or she has been a resident of Ohio for the five-year period immediately prior to the date upon which the criminal records check is requested, the residential facility may request that the bureau of criminal identification and investigation reporting agency obtain information from the federal bureau of investigation as part of the criminal records check.

For purposes of this paragraph, an employee in a direct services position may provide proof of Ohio residency by presenting, with a notarized statement asserting that he or she has been a resident of Ohio for that five-year period, a valid driver's license, notification of registration as an elector, a copy of an officially filed federal or state tax form identifying the employee's permanent residence, or any other document the residential facility considers acceptable.

(10) A residential facility that has not been required, prior to the effective date of this rule, to request post hire criminal records checks of its employees shall check the databases specified in paragraph (C)(2) of this rule and ensure a criminal records check for each employee in a direct services position is conducted in accordance with paragraph (C)(9) of this rule by December 31, 2014. Thereafter, the residential facility shall comply with paragraph (C)(9) of this rule.

(D) Disqualifying offenses.

(1) There are five tiers of disqualifying offenses with corresponding time periods that preclude an applicant from being employed or an employee from remaining employed by a residential facility.

(a) Tier one: permanent exclusion.

No residential facility shall employ an applicant or continue to employ an employee if the applicant or employee has been convicted of or pleaded guilty to any of the following sections of the Revised Code:

(i) 2903.01 (aggravated murder);

(ii) 2903.02 (murder);

(iii) 2903.03 (voluntary manslaughter);

(iv) 2903.11 (felonious assault);
(v) 2903.15 (permitting child abuse);

(vi) 2903.16 (failing to provide for a functionally impaired person);

(vii) 2903.34 (patient abuse and neglect);

(viii) 2903.341 (patient endangerment);

(ix) 2905.01 (kidnapping);

(x) 2905.02 (abduction);

(xi) 2905.32 (human trafficking);

(xii) 2905.33 (unlawful conduct with respect to documents);

(xiii) 2907.02 (rape);

(xiv) 2907.03 (sexual battery);

(xv) 2907.04 (unlawful sexual conduct with a minor, formerly corruption of a minor);

(xvi) 2907.05 (gross sexual imposition);

(xvii) 2907.06 (sexual imposition);

(xviii) 2907.07 (importuning);

(xix) 2907.08 (voyeurism);

(xx) 2907.12 (felonious sexual penetration);

(xxi) 2907.31 (disseminating matter harmful to juveniles);

(xxii) 2907.32 (pandering obscenity);

(xxiii) 2907.321 (pandering obscenity involving a minor);
(xxiv) 2907.322 (pandering sexually-oriented matter involving a minor);

(xxv) 2907.323 (illegal use of minor in nudity-oriented material or performance);

(xxvi) 2909.22 (soliciting/providing support for act of terrorism);

(xxvii) 2909.23 (making terrorist threat);

(xxviii) 2909.24 (terrorism);

(xxix) 2913.40 (medicaid fraud);

( xxx) 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity) when the underlying offense is any of the offenses or violations described in paragraphs (D)(1)(a)(i) to (D)(1)(a)(xxix) of this rule;

( xxxi) A conviction related to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct involving a federal or state-funded program, excluding the disqualifying offenses set forth in section 2913.46 of the Revised Code (illegal use of supplemental nutrition assistance program or women, infants, and children program benefits); or

( xxxii) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in paragraphs (D)(1)(a)(i) to (D)(1)(a)(xxxii) of this rule.

(b) No residential facility shall employ an applicant or continue to employ an employee, if the applicant or employee has been convicted of an offense, where the victim of the offense was one of the following:

(i) A person under eighteen years of age.

(ii) A functionally impaired person as defined in section 2903.10 of the Revised Code.
(iii) A mentally retarded person as defined in section 5123.01 of the Revised Code.

(iv) A developmentally disabled person as defined in section 5123.01 of the Revised Code.

(v) A person with a mental illness as defined in section 5122.01 of the Revised Code.

(vi) A person sixty years of age or older.

(c) Tier two: ten-year exclusion.

No residential facility shall employ an applicant or continue to employ an employee, for a period of ten years from the date the applicant or employee was fully discharged from imprisonment, probation, and parole, if the applicant or employee has been convicted of or pleaded guilty to any of the following sections of the Revised Code:

(i) 2903.04 (involuntary manslaughter);

(ii) 2903.041 (reckless homicide);

(iii) 2905.04 (child stealing) as it existed prior to July 1, 1996;

(iv) 2905.05 (criminal child enticement);

(v) 2905.11 (extortion);

(vi) 2907.21 (compelling prostitution);

(vii) 2907.22 (promoting prostitution);

(viii) 2907.23 (enticement or solicitation to patronize a prostitute, procurement of a prostitute for another);

(ix) 2909.02 (aggravated arson);

(x) 2909.03 (arson);
(xi) 2911.01 (aggravated robbery);

(xii) 2911.11 (aggravated burglary);

(xiii) 2913.46 (illegal use of supplemental nutrition assistance program or women, infants, and children program benefits);

(xiv) 2913.48 (worker's compensation fraud);

(xv) 2913.49 (identity fraud);

(xvi) 2917.02 (aggravated riot);

(xvii) 2923.12 (carrying concealed weapon);

(xviii) 2923.122 (illegal conveyance or possession of deadly weapon or dangerous ordnance in a school safety zone, illegal possession of an object indistinguishable from a firearm in a school safety zone);

(xix) 2923.123 (illegal conveyance, possession, or control of deadly weapon or dangerous ordnance into courthouse);

(xx) 2923.13 (having weapons while under disability);

(xxi) 2923.161 (improperly discharging a firearm at or into a habitation or school);

(xxii) 2923.162 (discharge of firearm on or near prohibited premises);

(xxiii) 2923.21 (improperly furnishing firearms to minor);

(xxiv) 2923.32 (engaging in pattern of corrupt activity);

(xxv) 2923.42 (participating in criminal gang);

(xxvi) 2925.02 (corrupting another with drugs);

(xxvii) 2925.03 (trafficking in drugs);
(xxviii) 2925.04 (illegal manufacture of drugs or cultivation of marihuana);

(xxix) 2925.041 (illegal assembly or possession of chemicals for the manufacture of drugs);

(xxx) 3716.11 (placing harmful objects in food or confection);

(xxxi) 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity) when the underlying offense is any of the offenses or violations described in paragraphs (D)(1)(c)(i) to (D)(1)(c)(xxx) of this rule; or

(xxxii) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in paragraphs (D)(1)(c)(i) to (D)(1)(c)(xxxi) of this rule.

(d) Tier three: seven-year exclusion.

No residential facility shall employ an applicant or continue to employ an employee, for a period of seven years from the date the applicant, or employee was fully discharged from imprisonment, probation, and parole, if the applicant or employee has been convicted of or pleaded guilty to any of the following sections of the Revised Code:

(i) 959.13 (cruelty to animals);

(ii) 959.131 (prohibitions concerning companion animals);

(iii) 2903.12 (aggravated assault);

(iv) 2903.21 (aggravated menacing);

(v) 2903.211 (menacing by stalking);

(vi) 2905.12 (coercion);

(vii) 2909.04 (disrupting public services);
(viii) 2911.02 (robbery);

(ix) 2911.12 (burglary);

(x) 2913.47 (insurance fraud);

(xi) 2917.01 (inciting to violence);

(xii) 2917.03 (riot);

(xiii) 2917.31 (inducing panic);

(xiv) 2919.22 (endangering children);

(xv) 2919.25 (domestic violence);

(xvi) 2921.03 (intimidation);

(xvii) 2921.11 (perjury);

(xviii) 2921.13 (falsification, falsification in theft offense, falsification to purchase firearm, or falsification to obtain a concealed handgun license);

(xix) 2921.34 (escape);

(xx) 2921.35 (aiding escape or resistance to lawful authority);

(xxi) 2921.36 (illegal conveyance of weapons, drugs, or other prohibited items onto grounds of detention facility or institution);

(xxii) 2925.05 (funding of drug or marihuana trafficking);

(xxiii) 2925.06 (illegal administration or distribution of anabolic steroids);

(xxiv) 2925.24 (tampering with drugs);
(xxv) 2927.12 (ethnic intimidation);

(xxvi) 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity) when the underlying offense is any of the offenses or violations described in paragraphs (D)(1)(d)(i) to (D)(1)(d)(xxv) of this rule; or

(xxvii) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in paragraphs (D)(1)(d)(i) to (D)(1)(d)(xxvi) of this rule.

(e) Tier four: five-year exclusion.

No residential facility shall employ an applicant or continue to employ an employee, for a period of five years from the date the applicant or employee was fully discharged from imprisonment, probation, and parole, if the applicant or employee has been convicted or pleaded guilty to any of the following sections of the Revised Code:

(i) 2903.13 (assault);

(ii) 2903.22 (menacing);

(iii) 2907.09 (public indecency);

(iv) 2907.24 (soliciting after positive human immunodeficiency virus test);

(v) 2907.25 (prostitution);

(vi) 2907.33 (deception to obtain matter harmful to juveniles);

(vii) 2911.13 (breaking and entering);

(viii) 2913.02 (theft);

(ix) 2913.03 (unauthorized use of a vehicle);
(x) 2913.04 (unauthorized use of property, computer, cable, or telecommunication property);

(xi) 2913.05 (telecommunications fraud);

(xii) 2913.11 (passing bad checks);

(xiii) 2913.21 (misuse of credit cards);

(xiv) 2913.31 (forgery, forging identification cards);

(xv) 2913.32 (criminal simulation);

(xvi) 2913.41 (defrauding a rental agency or hostelry);

(xvii) 2913.42 (tampering with records);

(xviii) 2913.43 (securing writings by deception);

(xix) 2913.44 (personating an officer);

(xx) 2913.441 (unlawful display of law enforcement emblem);

(xxi) 2913.45 (defrauding creditors);

(xxii) 2913.51 (receiving stolen property);

(xxiii) 2919.12 (unlawful abortion);

(xxiv) 2919.121 (unlawful abortion upon minor);

(xxv) 2919.123 (unlawful distribution of an abortion-inducing drug);

(xxvi) 2919.23 (interference with custody);

(xxvii) 2919.24 (contributing to unruliness or delinquency of child);

(xxviii) 2921.12 (tampering with evidence);
(xxix) 2921.21 (compounding a crime);

(xxx) 2921.24 (disclosure of confidential information);

(xxi) 2921.32 (obstructing justice);

(xxii) 2921.321 (assaulting/harassing police dog or horse/service animal);

(xxiii) 2921.51 (impersonation of peace officer);

(xxiv) 2925.09 (illegal administration, dispensing, distribution, manufacture, possession, selling, or using any dangerous veterinary drug);

(xxv) 2925.11 (drug possession other than a minor drug possession offense);

(xxvi) 2925.13 (permitting drug abuse);

(xxvii) 2925.22 (deception to obtain dangerous drugs);

(xxviii) 2925.23 (illegal processing of drug documents);

(xxix) 2925.36 (illegal processing of drug samples);

(xl) 2925.55 (unlawful purchase of pseudoephedrine product);

(xli) 2925.56 (unlawful sale of pseudoephedrine product);

(xlii) 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity) when the underlying offense is any of the offenses or violations described in paragraphs (D)(1)(e)(i) to (D)(1)(e)(xli) of this rule; or

(xliii) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in paragraphs (D)(1)(e)(i) to (D)(1)(e)(xlii) of this rule.
(f) Tier five: no exclusion.

A residential facility may employ an applicant or continue to employ an employee, if the applicant or employee has been convicted of or pleaded guilty to any of the following sections of the Revised code:

(i) 2925.11 (drug possession that is minor drug possession offense);

(ii) 2925.14 (illegal use or possession of drug paraphernalia);

(iii) 2925.141 (illegal use or possession of marihuana drug paraphernalia); or

(iv) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in paragraphs (D)(1)(f)(i) to (D)(1)(f)(iii) of this rule.

(2) Multiple disqualifying offenses.

(a) If an applicant or employee has been convicted of or pleaded guilty to the following multiple disqualifying offenses, the applicant or employee is subject to a fifteen-year exclusion period:

(i) two or more disqualifying offenses listed in paragraph (D)(1)(c); or,

(ii) an offense listed in paragraph (D)(1)(c) and one or more offenses listed in paragraph (D)(1)(d) or paragraph (D)(1)(e).

(b) If an applicant or employee has been convicted of or pleaded guilty to the following multiple disqualifying offenses, the applicant or employee is subject to a ten-year exclusion:

(i) two or more disqualifying offenses listed in paragraph (D)(1)(d); or,

(ii) an offense listed in paragraph (D)(1)(d) and one or more offenses listed in paragraph (D)(1)(e).

(c) If an applicant or employee has been convicted of, or pleaded guilty to, two or more disqualifying offenses listed in paragraph (D)(1)(e), the applicant or employee is subject to a seven-year exclusion:

(a) If an applicant or employee has been convicted of or pleaded guilty to
multiple disqualifying offenses listed in paragraph (D)(1)(c) of this rule, and offenses listed in paragraph (D)(1)(d) of this rule, and paragraph (D)(1)(e) of this rule, the applicant or employee is subject to a fifteen-year exclusion period.

(b) If an applicant or employee has been convicted of or pleaded guilty to multiple disqualifying offenses listed in paragraph (D)(1)(d) of this rule and offenses listed in paragraph (D)(1)(e) of this rule, the applicant or employee is subject to a ten-year exclusion period.

(e) If an applicant or employee has been convicted of or pleaded guilty to multiple disqualifying offenses listed in paragraph (D)(1)(e) of this rule, the applicant or employee is subject to a seven-year exclusion period.

(E) A conviction of or plea of guilty to a disqualifying offense listed or described in paragraph (D)(1) of this rule shall not preclude an applicant from being employed or an employee from remaining employed by a responsible entity under the following circumstances:

(1) The applicant or employee has been granted an unconditional pardon for the offense pursuant to chapter 2967. of the Revised Code;

(2) The applicant or employee has been granted an unconditional pardon for the offense pursuant to an existing or former law of this state, any other state, or the United States, if the law is substantially equivalent to Chapter 2967. of the Revised Code;

(3) The applicant's or employee's conviction or guilty plea has been overturned pursuant to law;

(4) The applicant or employee has been granted a conditional pardon for the offense pursuant to Chapter 2967. of the Revised Code and the conditions under which the pardon was granted have been satisfied;

(5) The applicant's or employee's conviction or guilty plea is not for an offense listed or described in paragraph (D)(1)(a) of this rule and the applicant or employee has a certificate of qualification for employment issued by a court of common pleas with competent jurisdiction pursuant to section 2953.25 of the Revised Code; or

(6) The applicant's or employee's conviction or guilty plea is not for an offense listed or described in paragraph (D)(1)(a) of this rule and the applicant or employee has a certificate of achievement and employability in a home and
community-based services-related field, issued by the Ohio department of rehabilitation and correction pursuant to section 2961.22 of the Revised Code.

(F) A residential facility may continue to employ a person who is excluded by paragraph (D)(1)(d) of this rule if the conviction for a tier four offense occurred prior to the effective date of this rule, the employee was hired prior to the effective date of this rule, and if the residential facility has considered the nature and seriousness of the offense and attests in writing to the character and fitness of the person based on the person's demonstrated work performance. The residential facility shall make this determination within three months after the effective date of this rule and shall maintain the written attestation in the employee's personnel record. The determination shall be subject to review by the department.

(G) Any report obtained pursuant to this rule is not a public record for purposes of section 149.43 of the Revised Code and shall not be made available to any person other than:

(1) The applicant or employee who is the subject of the report or the applicant's, or employee's representative;

(2) The residential facility that requested the report or its representative;

(3) The department, if the department requests the residential facility to provide a copy of the report to the department;

(4) A court, hearing officer, or other necessary person involved in a case dealing with the denial of employment to the applicant or employee, or a civil or criminal action regarding the medicaid program or a program the department administers.

(H) For purposes of this rule, reports from the bureau of criminal identification and investigation, or any other state or federal agency regarding a person's criminal record, and records supplied by the bureau of motor vehicles regarding a person's record of convictions for violations of motor vehicle laws are valid for a period of one year from the date of the report.

(I) A residential facility shall ensure the safety of residents in any situation in which a non-employee is living in the facility.
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