

Ohio Department of Mental Health Ohio Administrative Code Rules for Private Psychiatric Service Providers

Amended Rules Effective July 1, 2011
Chapter 5122-14

Janel M. Pequignot, Chief
Standards Development & Administrative Rules
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Rule Making Process

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

Committee to Review Rules

The Department would like to thank the following individuals for their participation:

- Berna Bell, Health Care Policy Analyst, Ohio Hospital Association
- Sherri Collins, RN, BSN, Wilson Memorial Hospital
- Gwen McFarlin, RN, MSN, CNS, Christ Hospital (formerly)
- Steve Rodenfels, RN, BSN, Genesis Healthcare System
- Pamela Waite, MSN, RN-BC, MHSA, The Center for Health Affairs

Disclaimer

- There are other minor changes not presented today, including rule references, terminology, or other changes which are self-explanatory
- Please review all amended rules!
 - <http://mentalhealth.ohio.gov/what-we-do/protect-and-monitor/licensure-and-certification/rules/rules-in-effect.shtml>

5122-14-01

Definitions

A series of horizontal lines of varying lengths and colors (teal, light blue, white) extending from the left edge of the slide towards the right, positioned below the 'Definitions' header.

5122-14-01 Definitions

(A) The purpose of this rule is to provide definitions for rules 5122-14-01 to ~~5122-14-13~~ 5122-14-14 of the Administrative Code.

- But wait, there is no 5122-14-14!
- New rule will be effective January 1, 2012

5122-14-01 Definitions

(C)(2) "Admission" means acceptance by the inpatient psychiatric service provider of a person with the intent of providing at least twenty-four hours continuous care and treatment to that person.

(C)(3) "Advance directives" means a legal document an adult can use to direct in advance the decisions about his or her mental and/or physical health treatment, if in the future he/she lacks the capacity to make his/her own health care decisions.

5122-14-01 Definitions

~~(C)(4) "Case managers" means those persons employed by a community mental health agency who provide community psychiatric supportive treatment (CPST) services as defined by the department, in the Administrative Code.~~

- Case management is not the same as CPST, and term is not correct in the context of Ohio's certified community mental health service

5122-14-01 Definitions

(C)(20) "Emergency" means an impending or crisis situation that creates circumstances demanding immediate action. ~~for prevention of injury to the patient or others. An emergency may be determined by either a licensed physician or registered nurse.~~

(C)(24) "Guardian" means any person, association, or corporation appointed by the probate court to have responsibility for the care and management of ~~the person of an incompetent or minor~~ a minor or a person declared incompetent in accordance with Chapter 2111. of the Revised Code.

5122-14-01 Definitions

(C)(28) "Informed consent" means the voluntary, knowing, reasoned choice of a person, or, as appropriate, the person's legal guardian to a proposed treatment and/or procedure.

(C)(34) "Medical record" means the account of a patient's hospitalization, compiled by health care professionals, ~~of~~ including but not limited to a patient's history, present illness, findings on examination, details of care, ~~and~~ services, and treatment, and ~~notes on progress~~ notes.

5122-14-01 Definitions

(C)(42) "Patient rights ~~advocate~~ specialist" means that person(s), designated by each inpatient psychiatric service provider to safeguard patient rights and to assist patients in exercising their rights, including the rights in rules 5122-14-01 to ~~5122-14-13~~ 5122-14-14 of the Administrative Code and in Chapter 5122. of the Revised Code.

- To align with terminology in rule 5122-14-12 Patient Rights, Participation and Education
 - ODMH will be filing this rule w/ Joint Committee on Agency Rule Review (JCARR) in the near future

5122-14-01 Definitions

(C)(55) "Rehabilitation therapy services" means structured activities designed to help a patient develop or maintain functional living skills including physical, social and creative skills through participation in activities of daily living, vocational, recreational, social, expressive, or other activities designed to ~~prepare patients for community living at the optimal level of independence~~ promote patient recovery, resiliency and independence in both the hospital and community setting.

5122-14-01 Definitions

Practitioners

(C)(4) "**Certified nurse practitioner**" means a registered nurse who holds a current, valid certificate of authority issued by the Ohio board of nursing that authorizes the practice of nursing as a nurse practitioner in accordance with Chapter 4723. of the Revised Code.

- Moved here from (C)(36) – “nurse practitioner”
- Match CNP title w/ Board of Nursing title (ORC)
- Align definition w/ other ODMH definitions

5122-14-01 Definitions

Practitioners

(C)(8) "Clinical nurse specialist" means a registered nurse who ~~has received a~~ holds a current, valid certificate of authority ~~from~~ issued by the Ohio board of nursing ~~pursuant to~~ that authorizes the practice of nursing as a clinical nurse specialist in accordance with Chapter 4723. of the Revised Code. ~~to practice as a clinical nurse specialist.~~

(C)(43) "Physician" means a person licensed ~~under the laws of~~ by the state medical board according to Chapter 4731. of the Revised Code to practice medicine, or a medical officer of the government of the United States while in this state in the performance of his/her official duties.

- Align definitions w/ other ODMH definitions

5122-14-01 Definitions

Developmental Disability

(C)(17) "Developmental disability" means physical, neurological, developmental, or accidental disabilities that seriously impair health, mobility, or functioning. The disability may be congenital or acquired. Included are persons with epilepsy, autism, narcolepsy, ~~tourette syndrome~~ [tourette's disorder](#), spina bifida, head injuries, learning disabilities, and others who have chronic or lifelong conditions and impairments and are at considerable risk for mental health problems.

(C)(36) "Mental retardation" [now designated as developmental disability \(DD\)](#), means having significantly sub-average general intellectual functioning existing concurrently with deficiencies in adaptive behavior. The assessed level of retardation is based on I.Q. scores moderated by adaptive behavior testing or an assessment of the individual's actual functioning in daily life activities.

- Term "mental retardation" is changed to "developmental disability" in rest of Chapter 5122-14

5122-14-01 Definitions

Seclusion and Restraint

(C)(5) "Chemical restraint" means a drug or medication that: ~~a) is used as a restraint~~ restriction to control manage the patient's behavior or restrict the individual's patient's freedom of movement; ~~and, b) is not a standard treatment or dosage for the individual's medical or psychiatric~~ patient's condition.

(C)(58) "Restraint" means any ~~method of physically restricting a patient's freedom of movement, physical activity, or normal access to his or her body~~ manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a patient to move his or her arms, legs, body, or head freely.

5122-14-01 Definitions

Seclusion and Restraint

(C)(44) "Prone Restraint" means all items or measures used to limit or control the movement or normal functioning of any portion or all of an individual's body while the individual is in a face-down positions. Prone restraint may include either physical (also known as manual), or mechanical restraint.

(C)(62) "Transitional hold" means a brief physical (also known as manual) restraint of an individual face-down for the purpose of effectively gaining physical control of an individual in order to prevent harm to self and others, or for the purpose of transport, i.e. carrying a individual to another location within the facility.

- “Prone restraint” and “transitional hold” are used in the new 5122-14-10, to be effective January 1, 2012.

5122-14-01 Definitions

Accrediting Bodies

(C)(16) "Det norske veritas (DNV) healthcare, inc." means the organization, a division of det norske veritas, which operates the national integrated accreditation for healthcare organizations program.

(C)(25) "HFAP" means the healthcare facilities accreditation program, a program of the American osteopathic association (AOA).

- Align with correct terminology/organizational structure of AOA
- Eliminate former (C)(3) definition of AOA

5122-14-01 Definitions

Accrediting Bodies

(C)(31) "Joint commission" (TJC) means the joint commission, formerly known as the joint commission on accreditation of healthcare organizations (JCAHO).

- Eliminate former (C)(29) definition of JCAHO

5122-14-02 Accreditation

(D) Each inpatient psychiatric service provider licensed by the department shall be accredited under a hospital accreditation program by either the joint commission (TJC), ~~on accreditation of healthcare organizations (JCAHO) or the American osteopathic association (AOA)~~ healthcare facilities accreditation program (HFAP) or DNV healthcare inc (DNV).

- Adds DNV Healthcare Inc. as a recognized accrediting body
 - Granted deeming authority by CMS on September 26, 2008
- Amends name of “AOA” to “HFAP”, in accordance with definition change in 5122-14-01 (C)(25)

5122-14-03 Licensure Procedure

(D) An inpatient psychiatric service provider wishing to establish inpatient services for the first time for persons with mental disorders shall, prior to occupancy and provision of services, make application for full licensure to the department.

(1) The application shall consist of, at minimum:

(b) Approved building inspection or certificate of occupancy report;

(e) ~~Line~~ Reduced line drawing showing location and function of all patient and staff areas including the floor and social space square footage;

(h) Verification of current ~~JCAHO~~ TJC, AOA HFAP or DNV accreditation as demonstrated by the submission of a copy of the most recent letter of accreditation;

5122-14-03 Licensure Procedure

(D)(3) ~~A probationary~~ An interim license not to exceed ~~one hundred twenty~~ ninety days ~~shall~~ may be issued to the inpatient psychiatric service provider upon completion and departmental approval of the requirements stated in paragraphs (D)(1) to (D)(2) of this rule.

- Now 3 Types of License – Full, Interim, Probationary
 - Differentiate between interim license issued for a new hospital and probationary licensed issued for non-compliance
 - See 5122-14-04 (D)

5122-14-03 Licensure Procedure

(D)(4) Prior to expiration of the ~~probationary~~ interim license, the department may issue a full license based on review and approval by the department of:

- (a) Implementation of policies and procedures; and
- (b) Documentation of being in compliance with licensure rules 5122-14-01 to ~~5122-14-13~~ 5122-14-14 of the Administrative Code.

5122-14-03 Licensure Procedure

(G) The department shall provide ~~An~~ an inpatient psychiatric service provider ~~receive~~ a written ~~report~~ communication identifying ~~regarding~~ any deficiencies or non-compliance with licensure rules 5122-14-01 to ~~5122-14-13~~ 5122-14-14 of the Administrative Code subsequent to an on-site survey, or whenever the inpatient psychiatric service provider is found to be in non-compliance with such rules.

5122-14-04 Classification of Licenses

(D) Licenses shall be classified as follows:

(1) A probationary license, which shall expire within one hundred twenty days of the date of issuance, to be used when:

~~(a) An inpatient psychiatric service provider seeks initial licensure;~~

(a) Serious deficiencies are found during the department's on-site survey of an inpatient psychiatric service provider; or

(b) An inpatient psychiatric service provider's documented corrective action(s) is not approved by the department.

(2) An interim license, which shall expire within ninety days after the date of issuance, to be used for emergency licensure purposes or administrative reasons as determined by the department.

An inpatient psychiatric service provider applying for its first license, and who has preliminary, interim or similar accreditation shall be issued an interim license until it obtains full accreditation from either TJC, HFAP or DNV.

5122-14-05 Termination of license

(F) Notice of the department's intent to deny or revoke a license shall be provided to the inpatient psychiatric service provider in accordance with section 119.07 of the Revised Code. An opportunity for a hearing shall be afforded the inpatient psychiatric service provider in accordance with Chapter 119. of the Revised Code.

5122-14-06 Waivers and Variances

(D) An inpatient psychiatric service provider may submit a dated, written request to the department for a waiver or variance. The written request must clearly state the licensure rule of the waiver/variance request, the rationale and need for the requested waiver or variance, and the consequence of not receiving approval of the request.

5122-14-07 Display of license

(D) The current license shall be displayed by the inpatient psychiatric service provider in a conspicuous place which is readily accessible to the patients and to the public.

5122-14-12 Program, specialty services and ~~aftercare~~ discharge planning requirements

- Change “mental retardation” to “developmental disability”
- Change “aftercare” to “discharge”, and related language changes, e.g. “post discharge”
- “Dual” changed to “co-occurring”
- Change “case management” to “community psychiatric supportive treatment”

5122-14-12 Program, specialty services and discharge planning requirements

(F)(4) Assure that the inpatient psychiatric service provider will accept patients ~~civilly committed to it~~ on a civil commitment and that it has the clinical competence to treat these patients:

(a) ~~That it has the clinical competence to treat according to~~ Utilizing the same criteria applied to voluntary patients, and

(b) According to admission criteria applied to voluntary patients.

5122-14-12 Program, specialty services and discharge planning requirements

(H) The primary function of each inpatient psychiatric service provider shall be to provide diagnostic and treatment services for persons with a primary diagnosis of mental disorders illness. Such services shall be culturally relevant and sensitive and shall take into consideration any relevant patient history of trauma and/or abuse.

5122-14-12 Program, specialty services and discharge planning requirements

(K) Each inpatient psychiatric service provider shall provide or make provision for the following services in order to promote recovery and meet the comprehensive needs of each patient. Such services may be provided by any qualified individual, unless otherwise specified in these rules and/or regulated by professional licensure and scope of practice:

(1) ~~Dental~~ Medical services, including dental, to meet the comprehensive physical and psychiatric treatment needs of each patient as identified in the patient's treatment plan;

5122-14-12 Program, specialty services and discharge planning requirements

(K)(5) Nursing services shall be under the direction or supervision of a full time registered nurse who has a bachelor's or master's degree in nursing and four years psychiatric nursing experience. ~~with preferred certification in mental health by the voluntary certification process of the American nurse's association.~~ It is preferred, but not required, that the individual holds voluntary certification in psychiatric and mental health nursing by the American nurses credentialing association. This requirement shall apply to those individuals hired into this position after ~~the effective date of this rule,~~ January 1, 2000;

5122-14-12 Program, specialty services and discharge planning requirements

(K)(11) Psycho-social services shall be:

(b) Staffed by at least one person who is licensed either as a professional counselor, professional clinical counselor, independent social worker, or a social worker ~~who holds a master's degree from a social work program which is accredited by the council on accreditation of social work education~~; and

- Individual needs to be legally permitted to perform the duties in Ohio, and
- Focus is on competencies, rather than degree

(c) ~~Available~~ Provided during the day and available evenings, weekends, and holidays as needed.

5122-14-12 Program, specialty services and discharge planning requirements

(K)(12) Rehabilitation therapy services shall be:

(c) Provided during the day, and available evenings, ~~and~~ weekends, and holidays as needed;

5122-14-12 Program, specialty services and discharge planning requirements

(L) Each inpatient psychiatric service provider shall develop special programs to include but not be limited to the following groups whenever the annual average daily census for that group is six or more patients:

(1) ~~Older adults,~~ Adults age sixty-five and older who ~~have special treatment needs;~~

5122-14-12 Program, specialty services and discharge planning requirements

(T) The inpatient psychiatric service provider shall make arrangements for each patient for ~~aftercare~~ [post discharge services](#) as specified in the patient's treatment plan.

(1) Each inpatient psychiatric service provider shall provide an appropriate ~~aftercare~~ program [discharge plan](#) for ~~discharged~~ patients, or the inpatient psychiatric service provider shall arrange for each of these patients, as necessary, to receive ~~aftercare~~ [mental health services](#) from other mental health providers, consistent with patient choice and acceptance.

(a) The inpatient psychiatric service provider shall provide interim ~~aftercare~~ [post discharge](#) services for up to two weeks post discharge, unless the ~~aftercare~~ [post discharge](#) provider assumes responsibility for the provision of ~~aftercare~~ [mental health](#) services prior to the end of the interim two-week period. This shall include an appointment for medication management as needed. Such interim ~~aftercare~~ [post discharge](#) services shall include a crisis management plan, which may include a mechanism to contact a physician, interim medication management, referral to or provision of a support group or individual supportive services, or a mechanism to contact an emergency services provider.

5122-14-12 Program, specialty services and discharge planning requirements

(T)(1)(b) The inpatient psychiatric service provider shall determine, in collaboration with the patient and ~~aftercare~~ post discharge provider, that the ~~aftercare~~ post discharge provider has the appropriate services the patient has been identified as ~~being in need of~~ needing, to include the provision of in-depth patient education regarding the nature and management of the patient's illness/disorder.

(T)(2) ~~For aftercare~~, As part of discharge planning, the inpatient psychiatric service provider shall make all reasonable efforts prior to discharge to ensure that the patient has a specified appointment, as appropriate, with ~~the aftercare~~ a mental health service provider(s), upon discharge whenever possible and no later than two weeks post discharge if it has been concluded that these services are required within two weeks.

- Aligns with OAC 5122-26-16 (C)(3), Certification standards for Community Mental Health Agencies:
 - (C)(3) “Assuring continuity of care for persons discharged from psychiatric inpatient settings and referred to the agency through the provision of necessary services as determined by the agency in consultation with the person served and the referral source. Such necessary services shall be provided upon discharge whenever possible and no later than two weeks post discharge if it has been concluded that these services are required within two weeks;”

5122-14-13 Medical records, documentation and confidentiality

(E) Necessary components of the medical record shall include to the extent possible, but not be limited to, the following:

(2) All legal documents, including, as appropriate, an application for voluntary admission signed and dated by the patient, written requests for release pursuant to section 5122.03 of the Revised Code, and all legal documents pertaining to civil commitment and guardianship;

For patients with a guardian, the inpatient psychiatric service provider shall make effort to obtain all needed consent forms signed and dated by the guardian. If the guardian is unable to provide written consent, the provider may obtain and document verbal consent of the guardian as long as two individuals document, in writing, each witnessed the guardian provide the verbal consent.

5122-14-10 Patient Safety and Physical Plant Requirements

- (H) Reportable incidents shall be documented on form “DMH-LIC-013” as required by the department, and shall be forwarded to the department within twenty-four hours of their discovery, exclusive of weekends and holidays.
 - No change to the [rule](#) at this time.

- The Department has made a policy decision to provide immediate regulatory reduction by removing the requirement to report the following incident categories, effective July 1, 2011:
 - Contraband
 - Equipment Malfunction
 - Illicit Drug or Alcohol
 - Property Damage
 - Property Loss
 - Illness /Medical emergency that does not result in transfer to a hospital medical unit
 - Medication Error that does not result in permanent patient harm, transfer to a hospital medical unit or death
 - Adverse Drug Reaction that does not result in permanent patient harm, transfer to a hospital medical unit or death

January 1, 2012

- Rescind current & replace with new 5122-14-10
 - Patient Safety and Physical Plant Requirements
- New rule 5122-14-14
 - Incident Notification and Risk Management
- Training will occur late summer/early fall
- See Advisory at:
 - <http://mentalhealth.ohio.gov/assets/numbered-advisories/fy2011/6-fy11-4-memo-rules-changes.pdf>

Questions

- Denise Cole, JD, MSN, RN, Private Psychiatric Hospital Program Administrator
 - 614-644-6166
 - denise.cole@mh.ohio.gov
- Janel M. Pequignot, Chief, Standards Development & Administrative Rules
 - 614-466-9065
 - Janel.Pequignot@mh.ohio.gov
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