

5122-30-01 Purpose of rules.

(A) The purpose of rules 5122-30-01 to [5122-30-30](#) 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.

R.C. [119.032](#) review dates: 11/30/2010 and 11/30/2015

Promulgated Under: [119.03](#)

Statutory Authority: 5119.22

Rule Amplifies: 5119.22

Prior Effective Dates: 5/10/79, 5/1/81, 1/1/00

5122-30-02 Applicability of rules.

(A) The provisions of rules [5122-30-01](#) to [5122-30-30](#) of the Administrative Code 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 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.

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5122-30-03 Definitions.

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

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

(2) "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) "Adult" means a person eighteen years of age or older.

(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.

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

(7) "Assistance with activities of daily living" 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.

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

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

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

(11) "Community mental health agency" 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, and may be referred to as agency or subcontract agency.

(12) "Community mental health board" means the body constituted according to section [340.02](#) of the

Revised Code, and has the same duties as described in section [340.03](#) of the Revised Code. Community mental health board means both a community mental health board and a board of alcohol, drug addiction and mental health services. If the term community mental health board is used, it also refers to a board of alcohol, drug addiction and mental health services.

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

(17) "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) "Department" means the Ohio department of mental health.

(19) "Director" means the director of the Ohio department of mental health.

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

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

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

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

(28) "ISP" means individualized service plan as described in rule [5122-27-05](#) of the Administrative Code.

(29) "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).

(a) "Full license" means a license issued by the Ohio department of mental health for the period of one year in accordance with division (C) of section [5119.22](#) of the Revised Code.

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

(c) "Probationary license" refers to the status of a facility license in which the department determines that circumstances require a temporary interruption in the full licensure cycle. The term of a probationary license shall be determined at the discretion of the department as specified in division (C) of section [5119.22](#) of the Revised Code.

(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.

(34) "Operator" means the person or persons, firm, partnership, agency, 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, association, corporation, or other entity that holds legal title to the property on which the residential facility is being operated.

(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) "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.

(38) "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.

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

(40) "Residential facility" means a publicly or privately operated home or facility that meets one of the following classifications:

(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

(c) Type 3 facility means a facility that provides room and board to five or more adults with mental illness or severe mental disabilities who have been referred by or are receiving mental health services from a hospital, mental health agency, or practitioner.

(41) "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.

(42) "Serious emotional disturbance" means a combination of duration of impairment, intensity of impairment, and diagnosis, as specified in paragraph (B)(65) of rule [5122-24-01](#) of the Administrative Code.

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

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

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

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

(49) "Supervision" means observing a resident, when necessary, while he or she engages in activities of daily living or other activities to ensure the resident's health, safety, or welfare and/or reminding a resident to do or complete such an activity.

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

(51) "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.

R.C. [119.032](#) review dates: 11/30/2011 and 11/30/2013

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Rule Amplifies: [5119.22](#)

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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;

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

(c) Approved fire inspection;

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

(e) A line drawing showing location and function of all resident and staff areas; and

(f) For type 1 residential facilities only, copy of agency service plan specific to the proposed services in accordance with rules 5122-23 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](#) 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 shall send a copy of the application 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) The provisions of this rule are applicable to each residential facility licensed by the department.

(1) No person who has been convicted of or plead guilty to an offense listed in paragraph

(C) of this rule shall operate a residential facility on or after October 29, 1993, unless the affiliating agency or board finds and documents that person has met all the following conditions:

(a) Where the offense was a misdemeanor, or would have been a misdemeanor if conviction had occurred under the current criminal code, at least three years have elapsed from the date the person was fully discharged from any imprisonment or probation arising from the conviction. A person who has had his record of misdemeanor conviction sealed by a court pursuant to section 2953.32 of the Revised Code shall be considered to have met this condition;

(b) Where the offense was a felony, at least ten years have elapsed since the person was fully discharged from imprisonment or probation; and

(c) The victim of the offense was not one of the following:

(i) A person under the age of eighteen;

(ii) A functionally impaired person as defined in division (A) of section 2901.10 of the Revised Code;

(iii) A mentally retarded person as defined in division (K) of section 5123.01 of the Revised Code;

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

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

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

(2) Neither operator nor staff of a residential facility will jeopardize in any way the health, safety or welfare of the person(s) the facility serves. The following factors shall be considered in determining the facility's licensure:

(a) The person's age at the time of the offense;

(b) The nature and seriousness of the offense;

(c) The circumstances under which the offense was committed;

(d) The degree in which the person participated in the offense;

(e) The time elapsed since the person was fully discharged from imprisonment or probation;

(f) The likelihood that the circumstance leading to the offense will reoccur;

(g) Whether the person is a repeat offender;

(h) The person's employment record;

(i) The person's efforts at rehabilitation and the results of those efforts;

(j) Whether any criminal proceedings are pending against the person;

(k) Whether the person has been convicted of or pleaded guilty to a felony contained in the Revised Code that is not listed in paragraph (D)(1) of this rule, if the felony bears a direct and substantial relationship to being an operator of a residential facility or household member; and

(l) Any other factors the affiliating agency or board considers relevant.

(C) Except as provided in paragraph (B)(1) of this rule, an operator of a residential facility shall not have been convicted of or pleaded guilty to, any of the following offenses:

(1) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.61, 2925.02, 2925.03, 2925.05, 2925.06, 2925.11, or 3716.11 of the Revised Code.

(2) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in paragraph (C)(1) of this rule.

(D) It is the prospective operator's duty to provide verification to the affiliating agency or board that the conditions specified in paragraph (B)(1) of this rule are met for that person and if requested for all staff members of the facility. If the prospective operator fails to provide such proof or if the affiliating agency, board or department determines that the proof offered by the person is inconclusive or insufficient, the facility shall be denied licensure pursuant to Chapter 119. of the Revised Code.

(E) To determine whether a prospective facility is qualified to be licensed pursuant to paragraph (B)(1) of this rule, a

criminal records check shall be conducted for the operator and may be conducted for each staff member of the facility.

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

(G) The provisions of paragraph (B)(1) of this rule must be considered for any prospective operator and may be considered for any staff member of the facility who has been convicted of, or pleaded guilty to, one or more of the offenses listed in paragraph (C) of this rule, even if the person's record has been sealed by a court pursuant to section 2953.32 of the Revised Code because the information contained in the sealed record bears a direct and substantial relationship to the care to be provided to any resident who may be placed in the facility.

(H) A conviction of, or plea of guilty to, an offense listed in paragraph (C) of this rule shall not prevent a facility's licensure if a staff member of the household has been granted an unconditional pardon for the offense pursuant to Chapter 2967. of the Revised Code or the conviction of guilty plea has been set aside pursuant to law. Unconditional pardon includes a conditional pardon with respect to which all conditions have been performed or transpired.

(I) If an operator or a member of the facility or staff, is convicted of any offense listed in paragraph (C) of this rule, the operator shall immediately notify the affiliating agency and adamhs board; and the agency/adamhs board shall evaluate whether the residential facility should continue to be recommended for licensure or be recommended for denial or revocation of licensure. The evaluation shall include, but not limited to:

(1) The health/safety of the residents;

(2) Whether there are residents in placement and the impact of disruption on the residents if moved;

(3) The length of time of licensure prior to this conviction; and

(4) The factors of paragraph (B)(1) of this rule.

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

(K) Each residential facility shall obtain written approval from the department prior to conducting any business, and allowing any business to operate, including baby-sitting services, in the home.

(L) Type 2 and 3 residential facilities shall obtain an adamhs/CMH board approved, signed, and dated affiliation agreement according to division (G) of section 5119.22 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 5122-23 to 5122-29 of the Administrative Code.

(M) 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 administrating 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 (M)(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.

(N) 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.

(O) Prior to the licensure renewal date, each operator shall obtain an affiliation agreement.

(P) The affiliation agreement, as authorized by division (G) of section 5119.22 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.

(Q) 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.

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

(S) 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 5119.22 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.

(T) Interim licensure procedure

(1) The interim license may be issued only in emergency situations, as specified in rule [5122-30-05](#) of the Administrative Code. The perceived need for the interim licensure shall be reported immediately to the department by telephone 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 5119.22 of the Revised Code.

(U) Any facility that is required to have a license in accordance with section 5119.22 of the Revised Code shall apply for and receive the license prior to the admission of mental health residents.

Appendix A

Offenses listed in paragraph (C) of rule 5112-30-04 of the Administrative Code

Homicide

- (1) R.C. 2903.01 – Aggravated murder
- (2) R.C. 2903.02 – Murder
- (3) R.C. 2903.03 – Voluntary manslaughter
- (4) R.C. 2903.04 – Involuntary manslaughter

Assault

- (5) R.C. 2903.11 – Felonious assault
- (6) R.C. 2903.12 – Aggravated assault
- (7) R.C. 2903.13 – Assault
- (8) R.C. 2903.16 – Failing to provide for a functionally Impaired person

Menacing

- (9) R.C. 2903.21 – Aggravated menacing

Patient abuse & neglect

- (10) R.C. 2903.34 – Patient abuse; neglect

Kidnaping & related offenses

- (11) R.C. 2905.01 – Kidnaping
- (12) R.C. 2905.02 – Abduction
- (13) R.C. 2905.05 – Criminal child enticement

Sex offenses

- (14) R.C. 2907.02 – Rape
- (15) R.C. 2907.03 – Sexual battery
- (16) R.C. 2907.04 – Corruption of a minor
- (17) R.C. 2907.05 – Gross sexual imposition
- (18) R.C. 2907.06 – Sexual imposition
- (19) R.C. 2907.07 – Importuning
- (20) R.C. 2907.08 – Voyeurism

(21) R.C. 2907.09 – Public indecency

(22) R.C. 2907.21 – Compelling prostitution

(23) R.C. 2907.22 – Promoting prostitution

(24) R.C. 2907.23 – Procuring

(25) R.C. 2907.25 – Prostitution

(26) R.C. 2907.31 – Disseminating matter harmful to Juveniles

(27) R.C. 2907.32 – Pandering obscenity

(28) R.C. 2907.321 – Pandering obscenity involving a Minor

(29) R.C. 2907.322 – Pandering sexually oriented matter Involving a minor

(30) R.C. 2907.323 – Illegal use of a minor in nudity- Oriented material or performance

Robbery and burglary

(31) R.C. 2911.01 – Aggravated robbery

(32) R.C. 2911.02 – Robbery

(33) R.C. 2911.11 – Aggravated burglary

(34) R.C. 2911.12 – Burglary

Offenses against the family

(35) R.C. 2919.12 – Unlawful abortion

(36) R.C. 2919.22 – Endangering children

(37) R.C. 2919.24 – Contributing to unruliness for Delinquency of a child

(38) R.C. 2919.25 – Domestic violence

Weapons control

(39) R.C. 2923.12 – Carrying a concealed weapon

(40) R.C. 2923.13 – Having a weapon while under Disability

(41) R.C. 2923.161 – Improperly discharging a firearm at Or into a habitation or school

Drug offenses

(42) R.C. 2925.02 – Corrupting another with drugs

(43) R.C. 2925.03 – Trafficking in drugs

(44) R.C. 2925.04 – Illegal manufacture of drugs or Cultivation of marijuana

(45) R.C. 2925.05 – Funding of drug or marijuana Trafficking

(46) R.C. 2925.06 – Illegal administration of Distribution of anabolic steroids

(47) R.C. 2925.11 – Possession of drugs or marijuana

Other

(48) R.C. 3716.11 – Placing harmful objects in food

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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 the maximum number of residents for the facility, the maximum number of household members if applicable, 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 years from the date of issuance. 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 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 or individual. Inspections or surveys may be unscheduled and unannounced.

(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 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.

(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.

(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, shall be immediately notified of the unlicensed status of a facility by the operator 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) 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 (J) of section 5119.22 of the Revised Code.

(7) 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 5119.221 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 (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 paragraphs (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.

R.C. [119.032](#) review dates: 01/03/2011 and 01/03/2016

Promulgated Under: [119.03](#)

Statutory Authority: [5119.22](#)

Rule Amplifies: [5119.22](#)

Prior Effective Dates: 5/10/79, 5/1/81, 1/1/00, 8/1/02

5122-30-06 Unlicensed facilities.

(A) Any facility that is subject to licensure as a residential facility, as specified in section 5119.22 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 (H) of section 5119.22 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.

R.C. [119.032](#) review dates: 01/03/2011 and 01/03/2016

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Statutory Authority: [5119.22](#)

Rule Amplifies: [5119.22](#)

Prior Effective Dates: 1/1/00

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/variance request within thirty days of receipt by the department.

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Rule Amplifies: [5119.22](#)

Prior Effective Dates: 5/10/79, 1/1/00

5122-30-08 Exclusions.

(A) 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;
- (2) A hospital subject to licensure under section 5119.20 of the Revised Code;
- (3) A residential facility as defined in section 5123.19 of the Revised Code; and
- (4) All other facilities excluded from licensure in accordance with division

(A)(1)(d)(iii) of section 5119.22 of the Revised Code.

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Prior Effective Dates: 5/1/81, 1/1/00

5122-30-09 Maximum resident and household capacity.

(A) The department shall determine the maximum number of residents 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 for which a facility is licensed shall be based on resident sleeping space, living space, adequate toilet, lavatory, and bathing facilities in accordance with rule [5122-30-14](#) of the Administrative Code.

(C) The maximum number of household members shall be based on the amount of living space and adequate toilet, lavatory, and bathing facilities for all household members in accordance with rule [5122-30-14](#) of the Administrative Code. The maximum number of household members refers to all persons living in the facility including residents, and others, including but not limited to: the operator, staff, family, and friends.

(D) Type 2 and 3 facilities shall notify the affiliating agency, in writing, prior to allowing any additional person(s) to reside in the facility for more than twenty-four hours.

(E) A residential facility shall not accept any person who does not meet written admission criteria as specified in paragraph (M)(2)(c) of rule [5122-30-04](#) of the Administrative Code.

(F) No residential facility serving children/adolescents shall admit adults, nor shall any residential facility serving adults admit children\adolescents.

R.C. [119.032](#) review dates: 01/03/2011 and 01/03/2016

Promulgated Under: [119.03](#)

Statutory Authority: [5119.22](#)

Rule Amplifies: [5119.22](#)

Prior Effective Dates: 5/10/79, 5/1/81, 1/1/00

5122-30-10 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 hundred dollars for the first offense and five hundred dollars for each subsequent offense.

(C) If the violator does not pay, 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 sale of goods and services fund.

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Promulgated Under: [119.03](#)

Statutory Authority: [5119.22](#)

Rule Amplifies: [5119.22](#)

Prior Effective Dates: 1/1/00

5122-30-11 Inspections.

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

(1) Inspections required annually

(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. 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 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. Such inspections shall be obtained thereafter if alterations or additions to the heating/cooling system are made.

(d) Initial licensure of facilities 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, 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.

(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.

R.C. [119.032](#) review dates: 11/30/2011 and 11/30/2013

Promulgated Under: [119.03](#)

Statutory Authority: [5119.22](#)

Rule Amplifies: [5119.22](#)

Prior Effective Dates: 5-10-1979, 5-1-1981, 1-1-2000

5122-30-12 Safety.

(A) Smoke detectors and fire extinguishers shall be operational and shall be located on each floor of the facility in areas near bedrooms, and in specific locations as advised by the certified fire inspector. In the event these 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. Smoke detectors and fire extinguishers shall be visually inspected and manually tested by the operator, with subsequent documentation at least quarterly.

(B) All stairways, hallways, and doorways shall be lighted, free of debris and obstructions.

(C) Telephones shall have emergency numbers posted nearby and the telephone shall be accessible to all residents.

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

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

(F) 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.

(G) Each facility shall establish appropriate disaster plans and shall ensure that all residents and staff receive instruction in disaster procedures annually. The facility shall document the provision of such instruction.

(H) Facilities with nine or more ambulatory residents shall have a combined smoke detector and fire alarm system. The fire alarm system shall include approved bells, sirens, or horns, lights for hearing impaired residents, if served, and manual fire alarm boxes. All fire alarm equipment shall be located and installed in accordance with national fire protection association code 72-1993 as adopted by the state fire marshal. 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 floor and cellar level occupied. The two independent means of exit shall be approved by the fire authority having jurisdiction. The facility shall obtain annual alarm system testing and shall have documentation of testing.

(I) 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 authority having jurisdiction. The facility shall obtain annual alarm and sprinkler system testing and shall have documentation of testing.

(J) 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.

(K) 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.

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

(M) All exterior and interior steps and floor coverings shall be kept in good repair, and maintained to avoid

falls and other injuries.

(N) All exits, stairways, corridors, ramps, elevators, and fire escapes shall be free of obstructions. All common areas and all exits of the facility shall be well-lighted.

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

(P) 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.

(Q) With the exception of crisis stabilization units serving persons eighteen years of age and older, all lockable doors shall be capable of being opened from the inside without the use of a key, such as by installation of panic bars, release of a dead bolt, etc. On adult crisis stabilization units, at least one exit door on the unit must have egress ability from the inside. Locking of a mental health resident's bedroom door while sleeping is prohibited.

(R) 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.

(S) 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 include impact dispersion material under swing sets, slides, etc.

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

(U) All workshop or outdoor power equipment shall be maintained and operated in a safe manner.

(V) Portable heaters may be used, if the heater has been approved by the underwriter's laboratory, and are not prohibited by any local ordinances.

(W) 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.

(X) 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.

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Rule Amplifies: [5119.22](#)

Prior Effective Dates: 5-10-1979, 5-1-1981, 1-1-2000, 8-1-2002

5122-30-13 Nutrition.

(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.

(B) All meals shall be well-balanced, palatable, 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) Residents requiring special diets, 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.

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Prior Effective Dates: 5/10/79, 5/1/81, 1/1/00

5122-30-14 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, no more than four residents may share a bedroom. In facilities with child or adolescent residents, multiple occupancy bedrooms shall be used only for residents of the same sex.

(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. Each resident shall be provided with at least one comfortable, sanitary pillow, and clean, adequate bedding. 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 bunked 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) 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.

(E) Adequate drawer and closet space shall be provided for each resident to store his/her own clothes and personal belongings.

(F) Residents of type 1, 2, and 3 residential facilities shall be permitted to personalize their rooms, as appropriate. The bedrooms in type 2 and 3 facilities shall be comparable in appearance in terms of wall coverings, floor coverings and general decor to other bedrooms used by other household members.

(G) Residents shall be permitted individual locked storage space in their bedroom or other accessible area. 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.

(H) 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, space for food preparation, storage, laundry, lavatory and bathing facilities are not to be included in the sixty square feet. Living space shall have suitable and comfortable furnishings including sofa, armchairs, tables and lamps.

(I) Each facility shall provide adequate indoor toilet, lavatory, and bathing facilities equipped with hot and cold running water. 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.

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

(K) The operator shall make provisions for laundry services. The operator may launder residents' linen and clothing, may provide a washer and dryer in the facility for residents' use, or may provide residents with transportation to and from a neighborhood 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 may be

readily observed by staff.

(L) Each 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. Access may be restricted only in accordance with the resident's ISP. Facilities with commercial kitchens subject to food service licensure shall make provisions for beverages and snacks.

(M) Each facility shall provide at least one telephone to which adult residents have unrestricted access at all times. Except in cases where the facility has a pay telephone, residents shall not be charged for local calls. Access may be restricted only according to the resident's ISP. Access for children/adolescents shall be in accordance with agency policies and procedures.

(N) 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.

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Prior Effective Dates: 5-10-1979, 5-1-1981, 1-1-2000, 8-1-2002

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.

(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, 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 be routinely placed 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. 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.

(H) The facility shall make reasonable efforts to be entirely free of insects or rodents.

(I) The facility shall maintain room temperatures appropriate for the comfort and health of residents.

(J) 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 prior to the issuance of a license, and repairs may be required by the department.

(K) 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.

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

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

(N) Kitchen and baths shall be clean including floors, counters, sinks, tubs, and commodes.

R.C. [119.032](#) review dates: 11/30/2011 and 11/30/2013

Promulgated Under: [119.03](#)

Statutory Authority: [5119.22](#)

Rule Amplifies: [5119.22](#)

Prior Effective Dates: 5-10-1979, 5-1-1981, 1-1-2000, 8-1-2002

5122-30-16 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 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, 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) of section [5119.611](#) 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.

(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) 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:

(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) An elderly person, shall immediately notify the appropriate law enforcement and county department of jobs and family services authorities in accordance with section [5101.61](#) of the Revised Code.

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

(1) Each operator of a type 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 2 and type 3 facility shall submit reportable incidents as defined by appendix C to this rule.

(F) 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)].

(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 of residence;

(b) The mental health agency from which the mental health resident is receiving services; 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.

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

(H) The department may initiate follow-up and further investigation of a reportable incident and six month reportable incidents, as deemed necessary and appropriate, or may request such follow-up and investigation by the residential facility, regulatory or enforcement authority, the community mental health board and/or the affiliating mental health agency.

Replaces: 5122-30-16

[Click to view Appendix](#)

[Click to view Appendix](#)

[Click to view Appendix](#)

Effective: 01/01/2012

R.C. [119.032](#) review dates: 01/01/2017

Promulgated Under: [119.03](#)

Statutory Authority: [5119.22](#)

Rule Amplifies: [5119.22](#)

Prior Effective Dates: 5/10/79, 5/1/81, 1/1/00, 8/1/02, 3/25/04

**Type 1 Residential Facility
Reportable and Six Month Reportable Incidents**

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 (F) of rule 5122-30-16 of the Administrative Code.

Category	Reportable Incident Definition
Suicide	The intentional taking of one's own life by a resident.
Suicide Attempt	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.
Self-Injurious Behavior	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.
Homicide by Resident	The alleged unlawful killing of a human being by a resident.
Homicide of Resident	The alleged unlawful killing of a resident by another person.
Natural Death	Death of a resident without the aid of inducement of any intervening instrumentality, i.e. homicide, suicide or accident
Accidental Death	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.
Verbal Abuse	Allegation of staff action directed toward a resident that includes humiliation, harassment, and threats of punishment or deprivation.
Physical Abuse	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.
Sexual Abuse	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.
Neglect	Allegation of a purposeful or negligent disregard of duty imposed on an employee by statute, rule, organizational policy, or professional standard and owed to a resident by that staff member.
Defraud	Allegation of staff action directed toward a resident to knowingly obtain by deception or exploitation some benefit for oneself or another or to knowingly cause, by deception or exploitation, some detriment to another.

Reportable Incidents

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

Category	Reportable Incident Definition
Involuntary Termination Without Appropriate Resident Involvement	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.
Sexual Assault by Non-staff, Including a Visitor, Resident or Other	Any allegation of one or more of the following sexual offenses as defined by Chapter 2907 of the Revised Code committed by a non-staff against another individual, including staff, and which happens on the grounds of the 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.
Physical Assault by Non-staff, Including Visitor, Resident or Other	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 or hospitalization, and which happens on the grounds of the facility or during the provision of care or treatment, including during facility off-grounds events.
Medication Error	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.
Adverse Drug Reaction	Unintended, undesirable or unexpected effect of prescribed medications that resulted in permanent resident harm, hospitalization, or death.
Medical Events Impacting Facility Operations	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.

Reportable Incidents

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

Category	Reportable Incident Definition
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: <ol style="list-style-type: none"><li data-bbox="537 380 634 411">1. Fire<li data-bbox="537 417 1300 449">2. Disaster (flood, tornado, explosion, excluding snow/ice)<li data-bbox="537 455 1393 487">3. Failure/Malfunction (gas leak, power outage, equipment failure)<li data-bbox="537 493 756 525">4. Other (name)

Continued On Page 5 & 6 for Seclusion and Restraint & Use of Force Related Incidents

Continued On Page 7 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 (F) of rule 5122-30-16 of the Administrative Code (continued).

Category	Reportable Incident Definition
Inappropriate Use of Seclusion or restraint	Seclusion or restraint utilization that is not clinically justified, or mechanical seclusion or restraint employed without the authorization of staff permitted to initiate/order mechanical seclusion or restraint
Subcategory (check all that apply)	<ol style="list-style-type: none">1. Seclusion2. Mechanical restraint3. Physical restraint, including transitional hold
Total Minutes	The total number of minutes of the seclusion or restraint.
Inappropriate Restraint Techniques and other Use of Force	Staff utilize one or more of the following methods/interventions prohibited by paragraph (D)(2) of rule 5122-26-16 of the Administrative Code:
Subcategory (check all that apply)	<ol style="list-style-type: none">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 noises2. Any technique that restricts the resident's ability to communicate3. Any technique that obstructs vision4. Any technique that obstructs the airways or impairs breathing5. Use of mechanical restraint on a resident under age 186. 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/her7. The use of handcuffs or weapons such as pepper spray, mace, nightsticks, or electronic restraint devices such as stun guns and tasers
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 performed by staff, or injuries caused by another resident, e.g. a resident hitting another resident.
Subcategory (check one)	<ol style="list-style-type: none">1. Injury requiring first aid2. Injury requiring unplanned/emergency medical intervention3. Injury requiring hospitalization

Reportable Incidents

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

Category	Reportable Incident Definition
Seclusion/Restraint Related Injury to Staff	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.
Subcategory (check one)	<ol style="list-style-type: none">1. Injury requiring first aid2. Injury requiring emergency/unplanned medical intervention3. Injury requiring hospitalization
Seclusion/Restraint Related Death	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)	<ol style="list-style-type: none">1. Death during seclusion or restraint2. Death within twenty-four hours of seclusion or restraint3. Death related to or result of seclusion or restraint

Continued On Page 7 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) of rule 5122-30-16 of the Administrative Code.

Category	Six Month Reportable Incident Definition
Seclusion	A staff intervention that involves the involuntary confinement of a resident alone in a room where the resident is physically prevented from leaving.
Age 17 and Under	The aggregate total number of all episodes of seclusion and aggregate total minutes of all seclusion episodes.
Age 18 and Over	The aggregate total number of all episodes of seclusion and aggregate total minutes of all seclusion episodes.
Mechanical Restraint	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.
Age 18 and Over	The aggregate total number of all episodes of mechanical restraint and aggregate total minutes of all mechanical restraint episodes.
Physical Restraint excluding Transitional Hold	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
Age 17 and Under	The aggregate total number of all episodes of physical restraint and aggregate total minutes of all physical restraint episodes, excluding transitional hold.
Age 18 and Over	The aggregate total number of all episodes of physical restraint and aggregate total minutes of all physical restraint episodes, excluding transitional hold.
Transitional Hold	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.
Age 17 and Under	The aggregate total number of all episodes of transitional hold and aggregate total minutes of all transitional hold episodes.
Age 18 and Over	The aggregate total number of all episodes of transitional hold and aggregate total minutes of all transitional hold episodes.

**Type 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 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: _____ ODMH License Number: _____

Name of Operating Agency: _____

Person Completing Report: _____ Title: _____

Phone _____ E-mail: _____

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

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

Part A

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).

	January/ July	February/ August	March/ September	April/ October	May/ November	June/ December
Total Number of Resident Days per Month						

Part C. Seclusion or Restraint Episodes

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

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

You are finished. Please return report.

Thank you.

**Type 2 & Type 3 Residential Facility
Reportable and Six Month Reportable Incidents**

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) "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.
- (7) "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.
- (8) "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.
- (9) "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 (E)(2) of rule 5122-30-16 of the Administrative Code.

Category	Reportable Incident Definition
Suicide	The intentional taking of one's own life by a resident.
Suicide Attempt	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.
Self-Injurious Behavior	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.
Homicide by Resident	The alleged unlawful killing of a human being by a resident.
Homicide of Resident	The alleged unlawful killing of a resident by another person.
Natural Death	Death of a resident without the aid of inducement of any intervening instrumentality, i.e. homicide, suicide or accident
Accidental Death	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.
Verbal Abuse	Allegation of staff action directed toward a resident that includes humiliation, harassment, and threats of punishment or deprivation.
Physical Abuse	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.
Sexual Abuse	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.
Neglect	Allegation of a purposeful or negligent disregard of duty imposed on an employee by statute, rule, organizational policy, or professional standard and owed to a resident by that staff member.
Defraud	Allegation of staff action directed toward a resident to knowingly obtain by deception or exploitation some benefit for oneself or another or to knowingly cause, by deception or exploitation, some detriment to another.

Reportable Incidents

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

Category	Reportable Incident Definition
Involuntary Termination Without Appropriate Resident Involvement	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, and 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.
Sexual Assault by Non-staff, Including a Visitor, Resident or Other	Any allegation of one or more of the following sexual offenses as defined by Chapter 2907 of the Revised Code committed by a non-staff against another individual, including staff, and which happens on the grounds of the 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.
Physical Assault by Non-staff, Including Visitor, Resident or Other	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 or hospitalization, and which happens on the grounds of the facility or during the provision of care or treatment, including during facility off-grounds events.
Medication Error	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.
Adverse Drug Reaction	Unintended, undesirable or unexpected effect of prescribed medications that resulted in permanent resident harm, hospitalization, or death.
Medical Events Impacting Facility Operations	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.

Reportable Incidents

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

Category	Reportable Incident Definition
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: <ol style="list-style-type: none">1. Fire2. 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 Type 2 and Type 3 residential facility. <ol style="list-style-type: none">1. Seclusion2. Mechanical restraint3. Physical restraint4. Transitional hold
Total Minutes	The total number of minutes of the restraint or seclusion.

5122-30-17 Seclusion and restraint.

(A) The use of seclusion, mechanical restraint, and physical restraint, including transitional hold, shall not be permitted in any facility, except a type 1 facility 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, and physical restraint, including transitional hold, in type 2 and type 2 residential facilities shall not be permitted and must be reported to the department as a major unusual incident.

Replaces: 5122-30-17

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Prior Effective Dates: 5/10/79, 5/1/81, 1/1/00, 8/1/02

5122-30-18 Requirements for persons with disabling conditions.

(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 readers or interpreters, and providing devices such as a telecommunication device (TDD), television decoder, telephone amplification device or braille communication systems.

(B) 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.

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Prior Effective Dates: 1/1/00

5122-30-19 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 the department;
- (4) Reporting to the department any change regarding facility operation or use that relates to the requirements for licensure;
- (5) Securing appropriate, alternative responsibility for the operation and staffing of the facility for planned or unplanned staff/operator absence;
- (6) Consistently maintaining the finances necessary for the stable and safe operation of the facility;
- (7) 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 needs, preferences and culturally competent services and care; and
- (8) 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, equal opportunity employment practices, etc.

(B) The executive director/ceo for type 1 facilities, and the operator for type 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 operator's responsibilities and sign necessary and appropriate documents for the 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.

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5122-30-20 Qualifications of 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 for tuberculosis prior to employment. Evidence of such examination shall be kept in facility records.

(B) All staff providing assistance with self-administration of medication shall be trained according to requirements of paragraph (C) of this rule and shall receive training from a registered nurse or physician 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) Standard first aid training, or an appropriate equivalent that includes emergency management of physical injuries, respiratory distress;

(b) CPR training;

(c) Fire and other disaster procedures; and

(d) Securing medical and psychiatric emergency assistance.

(2) Client 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) of this rule, within thirty days of employment. Untrained staff shall work under supervision of or with trained staff. 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.

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5122-30-21 Staffing requirements for type 2 facilities.

(A) Each type 2 facility shall:

(1) Specify the staffing pattern of the facility in the affiliation agreement. Staffing patterns shall be updated annually with affiliation agreements and/or the licensure application;

(2) 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, and/or personal care, and/or mental health service needs of each resident are met, as appropriate to the licensure type of the facility and ISP of each resident;

(3) Ensure that residents shall not be required to vacate the facility at any time because of the absence of available staff;

(4) 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;

(5) Ensure continuous care for residents in accordance with the ISP. Each shift staffing shall be provided by staff who are on duty and awake;

(6) At least one staff person shall be available on or off the premises to residents twenty-four hours per day;

(7) 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

(8) 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.

(B) A residential facility which uses volunteers or students 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 direct care staff shall be trained in the mission of the facility to which they are assigned.

(D) Volunteers or students for practicum experience 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 agency 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 agency 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.

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5122-30-22 Resident rights and grievance procedure.

(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 officer" means the facility staff, or staff of an affiliating agency in a type 2 and type 3 facility, with responsibility for implementing the grievance procedure.

(4) "Services" means the complete array of professional interventions designed to help a person achieve improvements in mental health such as counseling, individual or group therapy, education, community psychiatric supportive treatment, assessment, diagnosis, treatment planning and goal setting, clinical review, psychopharmacology, discharge planning, professionally-led support, etc.

(C) Each resident shall have the following twenty-five rights which are the same as or similar to those that are described in rule [5122-26-18](#) of the Administrative Code for an individual receiving mental health services from a community mental health agency, as well as the additional rights listed in paragraph (D) of this rule:

(1) Each person who accesses mental health services is informed of these rights:

(a) The right to be informed within twenty-four hours of admission of the rights described in this rule, and to request a written copy of these rights;

(b) The right to receive information in language and terms appropriate for the person's understanding; and

(c) The right to be fully informed of the cost of services.

(2) Services are appropriate and respectful of personal liberty:

(a) The right to be treated with consideration, respect for personal dignity, autonomy, and privacy, and within the parameters of relevant sections of the Ohio Revised Code and the Ohio Administrative Code;

(b) The right to receive humane services;

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

(d) The right to reasonable assistance in the least restrictive setting; and

(e) The right to reasonable protection from physical, sexual and emotional abuse, or harassment.

(3) Development of service plans in type 1 and type 2 facilities:

(a) The right to a current individualized service plan (ISP) that addresses the needs and responsibilities of an individual that specifies the provision of appropriate and adequate services, as available, either directly or by referral; and

(b) The right to actively participate in annual and periodic ISP reviews with the staff including services necessary upon discharge.

(4) Declining or consenting to services:

(a) The right to give full informed consent to services prior to commencement and the right to decline services absent an emergency;

(b) The right to be advised of and refuse observation by techniques such as one-way vision mirrors, tape recorders, televisions, movies, or photographs, or other audio and visual technology. This right does not prohibit a facility from using closed-circuit monitoring to observe seclusion rooms or common areas, which does not include resident bedrooms and bathrooms; and

(c) The right to decline any hazardous procedures.

(5) Restraint, seclusion or intrusive procedures:

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

(6) Privacy:

The right to reasonable privacy and freedom from excessive intrusion by visitors, guests, and non-facility surveyors, contractors, construction crews or others.

(7) Confidentiality:

(a) The right to confidentiality unless a release or exchange of information is authorized and the right to request to restrict treatment information being shared; and

(b) The right to be informed of the circumstances under which the facility is authorized or intends to release, or has released, confidential information without written consent for the purposes of continuity of care as permitted by division (A)(7) of section [5122.31](#) of the Revised Code.

(8) Grievances:

The right to have the grievance procedure explained orally and in writing; the right to file a grievance with assistance if requested; and the right to have a grievance reviewed through a grievance process, including the right to appeal a decision.

(9) Non-discrimination:

The right to receive services free of discrimination on the basis of race, ethnicity, age, color, religion, gender, national origin, sexual orientation, physical or mental handicap, developmental disability, genetic information, human immunodeficiency virus status, or in any manner prohibited by local, state or federal laws.

(10) No reprisal for exercising rights:

The right to exercise rights without reprisal in any form including the ability to continue services with uncompromised access. No right extends so far as to supersede health and safety considerations.

(11) Outside opinions:

The right to have the opportunity to consult with independent specialists or legal counsel at one's own expense.

(12) No conflicts of interest:

No residential facility employee may be a person's guardian or representative if the person is currently receiving services from said facility.

(13) The right to have access to one's own psychiatric, medical or other treatment records, unless access to particular identified items of information is specifically restricted for that individual resident for clear treatment reasons in the resident's treatment plan. If access is restricted, the treatment plan shall also include a goal to remove the restriction.

(14) The right to be informed in advance of the reason(s) for discontinuance of service provision, and to be involved in planning for the consequences of that event.

(15) The right to receive an explanation of the reasons for denial of service.

(D) In addition to the rights listed in paragraph (D) of this rule, each consumer residing in a residential facility shall have the following sixteen rights:

(1) Each consumer of mental health services are informed of these rights:

(a) The right to receive humane services in to a comfortable, welcoming, stable and supportive environment; and

(b) The right to retain personal property and possessions, including a reasonable sum of money, consistent with the person's health, safety, service plan and developmental age;

(c) The right to reside in a 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;

(d) The right to receive thirty days prior notice for termination of residency in type 2 and 3 residential facilities except in an emergency; and

(e) The right to vacate the facility at any time, except that the responsibility to pay for incurred costs of room and board shall continue unless appropriate notification has been provided to the facility concerning the termination of the residential agreement.

(2) Development of service plans:

The right to formulate advance directives, submit them to residential staff, and rely on practitioners to follow them when within the parameters of the law.

(3) Labor of patients:

The right to not be compelled to perform labor which involves the operation, support, or maintenance of the facility or for which the facility is under contract with an outside organization. Privileges or release from the facility shall not be conditional upon the performance of such labor.

(4) Declining or consenting to services:

(a) The right to consent to or refuse the provision of any individual personal care activity and/or mental health services in a type 1 and type 2 facility;

(b) The right to refuse consent for major aversive interventions; and

(c) The right to decline medication, except in a type 1 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.

(5) Privacy, dignity, free exercise of worship and social interaction:

The right to enjoy freedom of thought, conscience, and religion; including religious worship within the facility, and services or sacred texts that are within the reasonable capacity of the facility to supply, provided that no resident shall be coerced into engaging in any religious activities.

(6) Private conversation, and access to phone, mail and visitors:

(a) The right of an adult to reasonable privacy and the freedom to meet with visitors, guests, or inspectors, and make and/or receive phone calls; or

(b) The right of a minor in a type 1 or type 2 facility to meet with surveyors, and the right to communicate with family, guardian, custodian, friends and significant others outside the facility in accordance with the minor's individualized service plan;

(c) The right of an adult to write or receive uncensored, unopened correspondence subject to the facility's rules regarding contraband; or

(d) The right of a minor in a type 1 or type 2 facility to send or receive mail subject to the facility's rules regarding contraband and directives from the parent or legal custodian, when such rules and directives do not conflict with federal postal regulation.

(e) The right to communicate freely with and be visited at reasonable times by private counsel or personnel of the legal rights service and, unless prior court restriction has been obtained, to communicate freely with and be visited at reasonable times by a personal physician or psychologist;

(f) The right to communicate freely with others, unless specifically restricted in the resident of a type 1 facility's treatment plan for reasons that advance the person's goals, including, without limitation, the following:

(i) The right to receive visitors at reasonable times; and

(ii) The right to have reasonable access to telephones to make and receive confidential calls, including a reasonable number of free calls if unable to pay for them and assistance in calling if requested and needed; and

(g) The right to have ready access to letter writing materials, including a reasonable number of stamps without cost if unable to pay for them, and to mail and receive unopened correspondence and assistance in writing if requested and needed subject to the facility's rules regarding contraband.

(7) Notification to family or physician:

The right to have a physician, family member, or representative of the resident's choice notified promptly upon admission to a facility.

(E) Resident rights procedures.

(1) Each facility must have a written resident rights policy which contains the following:

(a) Specification of the resident rights as listed in paragraphs (C) and (D) of this rule;

(b) Assurance that staff will explain any and all aspects of resident rights and the grievance procedure upon request.

(2) Each agency policy shall specify how explanation of client rights shall be accomplished, and shall include provision that in a crisis or emergency situation, the resident shall be verbally advised of at least the immediately pertinent rights, 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 may be delayed to a subsequent meeting.

(3) A copy of the resident rights policy shall be posted in a conspicuous location accessible to residents and the public. It shall also include the name, title, location, hours of availability, and telephone number of the resident rights officer with a statement of that person's responsibility to accept and oversee the process of any grievance filed by a resident or other person or agency on behalf of a resident.

(4) Each facility shall provide that every staff person, including administrative and support staff, is familiar with all specific client rights and the grievance procedure.

(F) Grievance procedure.

(1) Each type 1 facility must have a written grievance procedure which provides for the following, or in a type 2 and type 3 facility the method for implementing the following shall be specified in the affiliation agreement:

(a) Assistance in filing the grievance if needed by the griever, investigation of the grievance on behalf of the griever, and agency representation for the griever at the agency hearing on the grievance if desired by the griever. The grievance procedure shall clearly specify the name, title, location, hours of availability, and telephone number of the person(s) designated to provide the above activities;

(b) An explanation of the process from the original filing of the grievance to the final resolution, which shall include reasonable opportunity for the griever and/or his designated representative to be heard by an impartial decision-maker;

(c) A specification of time lines for resolving the grievance not to exceed twenty working days from the date of filing the grievance;

(d) A specification that written notification and explanation of the resolution will be provided to the resident, or to the griever if other than the resident, with the resident's permission;

(e) Opportunity to file a grievance within a reasonable period of time from the date the grievance occurred;

(f) A statement regarding the option of the griever to initiate a complaint with any or all of several outside entities, specifically the community mental health board, the Ohio department of mental health, the Ohio legal rights service, the U.S. department of health and human services, and appropriate professional licensing or regulatory associations. The relevant addresses and telephone numbers shall be included; and

(g) Provision for providing, upon request, all relevant information about the grievance to one or more of the organizations specified in this paragraph to which the griever has initiated a complaint.

(2) Each facility shall make provision for posting the grievance procedure in a conspicuous location accessible to residents and the public, and for distributing a copy of the written grievance procedure to each resident, upon request.

(3) Each facility shall make provision for prompt accessibility of the resident rights officer to the griever.

(4) Each facility shall provide alternative arrangements for situations in which the resident rights officer is the subject of the grievance.

(5) Each facility shall provide that every staff person, including administrative, clerical, and support staff, has a clearly understood, specified, continuing responsibility to immediately advise any resident or any other

person who is articulating a concern, complaint, or grievance, about the name and availability of the resident rights officer and the complainant's right to file a grievance.

(6) Each type 1 facility shall provide for the resident rights officer to take all necessary steps to assure compliance with the grievance procedure.

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5122-30-23 Facility records for type 2 and 3.

(A) Each type 2 and 3 facility shall maintain the following record:

(1) For each mental health resident, the facility shall maintain:

(a) A written referral from the referring mental health agency, hospital, or private practitioner that specifies:

(i) Name, address and telephone number of the referring entity, and name, address, and telephone number of the person responsible for the continued provision of mental health services, if applicable;

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

(c) A copy of the signed residential agreement, including documentation from the placing or referring agency of any restrictions, as provided by law, including but not limited to, visitation and communication.

(2) Each mental health resident's record shall be stored and maintained separately 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 in accordance with section [5122.31](#) of the Revised Code. The operator shall, upon each mental health resident's discharge from the facility, attempt to obtain an appropriate authorization for release of information, so that copies of all records concerning that resident can be made available to the affiliating mental health service provider.

(3) The facility shall also maintain:

(a) A copy of the current, signed affiliation agreement;

(b) Copies of all major unusual incident reports;

(c) Records of fire drills;

(d) Appropriate financial records which utilize standard basic bookkeeping techniques to document facility income and expenditure;

(e) Current fire alarm system testing reports, as applicable;

(f) Current sprinkler system testing reports, as applicable;

(g) For all staff, evidence of a physical examination, including test results indicating no active tuberculosis, performed within one year prior to employment;

(h) For each staff person, copy of records of training received;

(i) Copy of the current license, and plan of correction, if any;

(j) Copy of appropriate permits and inspections; and

(k) Documentation of disaster procedure instruction.

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5122-30-24 Provision of room and board.

- (A) The provisions of this rule are applicable to each residential facility providing room and board service.
- (B) The provision of room and board shall be consistent with the requirements for licensure and shall be specified in a written residential agreement executed between the operator and each mental health resident, or guardian/custodian prior to residency. The residential agreement shall include, but may not be limited to, the following:
- (1) Specification of the monthly charges to the resident for room and board, and any additional itemized fees;
 - (2) Specification of security deposit required, if any, and the terms for refunding same to the resident;
 - (3) Provisions concerning refunds of resident's monthly charges in the event of the resident's absence from the facility;
 - (4) Provision for thirty day prior verbal and written notification for increasing monthly charges; and
 - (5) Provision for visitors and communication in accordance with all requirements of rule [5122-30-22](#) of the Administrative Code.
- (C) The affiliating agency shall assure that the terms of the residential agreement for type 2 and 3 residential facilities are consistent with the affiliation agreement. If any provision of either the residential agreement or the affiliation agreement is inconsistent with, or in violation of, any local, state, federal law, or administrative rule, such provision shall be void and unenforceable.
- (1) Facilities which are licensed for the provision of room and board only, i.e., type 3 facilities, shall have as a primary purpose the provision of room and board, but may also engage in activities such as social and recreational activities, transportation, and similar activities, except that the facility shall not engage in or provide personal care activities or mental health services.
 - (2) Type 3 facilities, licensed for the provision of room and board only, shall not 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 residents' medication. residency in the facility shall not be contingent upon taking medication.
- (D) Except for agency managed payeeship programs, when the agency is the operator of the facility, at no time shall the staff or operator of a facility assume payeeship for a mental health resident's income, require income checks to be signed over to and/or cashed by facility staff, nor in any manner establish controls over the handling of any mental health resident's funds. Nothing stated herein shall be construed to entitle any resident to not pay incurred costs of room and board as stated in the residential agreement. Nothing in this rule shall preclude ISP specific requirements, e.g. – budgeting skills, and agency policy and procedure to safeguard client funds upon his/her request.

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5122-30-25 Changes in a resident's health status.

(A) In type 2 facilities, the facility/operator 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 in accordance with rule [5122-30-28](#) of the Administrative Code.

(B) In type 2 facilities the affiliating agency will ensure operators receive training in methods of monitoring and reporting changes in health status. It is the operator's responsibility to report to the affiliating, placing, or referring agency any changes in the resident's health status.

(C) A resident in a type 3 facility may retain and utilize a visiting nurse, home health nurse or any other needed medical services.

(D) Nothing in this rule shall be construed as allowing skilled nursing care or the provision of any services required by a licensed health professional in a residential facility.

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