



Promoting Wellness and Recovery

John R. Kasich, Governor
Tracy J. Plouck, Director

**Ohio Administrative Code
Chapter 5122-26
Effective April 1, 2016**

**Janel M. Pequignot, Chief
Licensure and Certification**



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**5122-26-01
Purpose**

5122-26-01 (A)

(A) The purpose of this chapter is to state the requirements for written policies and procedures for operation of providers that provide alcohol and other drug or mental health services and activities.

Policy vs. Procedure

“Policy”

- Guiding principle
- “What” and/or “Why”

“Procedure”

- Step-by-step instructions
- How we accomplish
- “How”, “When”, “Who”, sometimes “What”

Do

- ✓ Read the standards
- ✓ Determine how a standard fits your organization
- ✓ Develop policies and procedures that describe and reflect YOUR mission and how YOU operate

Don't

- ✓ Copy/repeat the standards and consider it a policy and/or procedure
- ✓ Purchase standards, hire someone to write, borrow from the last agency you worked at, or otherwise obtain policies and procedures without ensuring they fit YOUR mission and how YOU operate

Example

Policy: Licensed staff will maintain competency to perform their job.

Procedure:

1. Staff will obtain 30 hours of continuing education every two calendar years.
2. HR Director will schedule 30 hours of CE approved training courses every year.
3. HR Staff will place a copy of the CE Certificate in each staff person's personnel file.
4. Each staff person is permitted \$100/year staff development funds to obtain training outside the agency. HR will submit a request for reimbursement to payroll after receiving a copy of the CE Certificate, to be included in the paycheck within one month.

Example

Policy: Licensed staff will maintain competency to perform their job.

Procedure:

5. Staff that attend training outside the agency must submit a copy of the CE Certificate to his/her supervisor and the HR Director within 7 days of attendance.
6. HR staff will maintain a log of training attended by each staff person and the total number of hours.
7. HR Director will notify an employee that does not yet have 30 hours of training at least 90 days prior to the end of the 2nd calendar year, and copy his/her supervisor.



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5122-26-02 Applicability

5122-26-02 (A)

- (A) The provisions of the rules contained in this chapter are applicable to each provider:
- (1) Providing mental health and addiction services that are funded by, or funding is being sought from:
 - (a) The Ohio medicaid program for community mental health or community addiction services.
 - (b) A board of alcohol, drug addiction, and mental health services.
 - (c) Federal or department block grant funding for certified services.

5122-26-02 (A)

(A) The provisions of the rules contained in this chapter are applicable to each provider:

Any service contact provided by a provider that is paid for by the Ohio medicaid program for community mental health or community addiction services, or in whole or in part by any community mental health board of alcohol, drug addiction, and mental health service or federal or department block grant funding shall be subject to the provisions of this chapter.

5122-26-02 (B)

(B) These rules do not diminish or enhance the authority of community mental health boards of alcohol, drug addiction, and mental health services to administer the community mental health or addiction treatment system pursuant to the Ohio Revised Code, and applicable federal law.



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5122-26-03

Governing Body and Governance

5122-26-03 (A)

(A) Each provider shall have a leadership structure. The leadership structure shall identify who is responsible for:

- (1) Governance;
- (2) Provider administration, i.e. planning, management and operational activities; and,
- (3) Provision of services.

5122-26-03 (B)

(B) Each corporation for non-profit shall have a governing body. For the purposes of this rule, governing body shall have the same meaning as governing board. The governing body shall guide, plan and support the achievement of the provider's mission, vision and goals. The governing body shall develop written by-laws, a code of regulation, or policies for the following:

(1) Selection of members of the governing body.

The composition of the governing body shall reflect the demographics of the community it serves;

5122-26-03 (B) (continued)

(B) Each corporation for non-profit shall have a governing body. For the purposes of this rule, governing body shall have the same meaning as governing board. The governing body shall guide, plan and support the achievement of the provider's mission, vision and goals. The governing body shall develop written by-laws, a code of regulation, or policies for the following:

(2) Provisions for orienting new members of the board of directors;

(3) The number of members of the governing body needed for a quorum;

(4) Terms of office for the members of the governing body; and,

(5) Provisions guarding against the development of, and prohibiting the existence of, a conflict of interest between a governing body member and the provider.

5122-26-03 (C)

(C) The governing body shall:

- (1) Provide for orientation of its new members, including providing information about governing structure, duties, responsibilities and operations of the organization;
- (2) Provide financial oversight and approve the annual budget and plan for services;

5122-26-03 (C) (continued)

(C) The governing body shall:

- (3) Conduct meetings of the governing body at least quarterly, which shall include:
 - (a) Review an annual summary of quality assurance and risk management activities and document governing body actions taken as a result of this review;
 - (b) Approve the quality assurance plan;
 - (c) Review an annual summary of client rights activities and document governing body actions taken as a result of this review.

5122-26-03 (C) (continued)

(C) The governing body shall:

- (4) Maintain minutes of meetings of the governing body including, but not limited to:
 - (a) Date, time and place of the meeting;
 - (b) Names of members who attended; and
 - (c) Topics discussed and actions taken.
- (5) Establish procedures for selecting the chief executive officer, executive director or equivalent;
- (6) Establish duties and responsibilities of the executive director;
- (7) Select the executive director;

5122-26-03 (C) (continued)

(C) The governing body shall:

- (8) Conduct an annual review and evaluation of the executive director;
- (9) Identify responsibility for leadership in the absence of the executive director;
- (10) Establish, review and update as necessary the provider's policies, and document that this review has occurred. The policies shall be reviewed in accordance with the schedule established by the provider's national accrediting body, if applicable, or a minimum of every five years;

5122-26-03 (C) (continued)

(C) The governing body shall:

(11) Ensure adequate malpractice and liability insurance protection for its corporate membership, governing body, advisory board if applicable, provider and provider staff, and review such protection annually;

5122-26-03 (C) (continued)

(C) The governing body shall:

(12) Ensure that opportunity is offered for input regarding the planning, evaluation, delivery, and operation of certified services, which shall include but not be limited to the opportunity to participate in the activities of or participate on the governing body, advisory groups, committees, or other provider bodies, to:

- (a) Persons who are receiving or have received certified services, and their family members; and
- (b) Persons who collectively represent a wide range of community interests and demographic characteristics of the service district in categories such as race, ethnicity, primary spoken language, gender and socio-economic status;

5122-26-03 (C) (continued)

(C) The governing body shall:

(13) Ensure that the hours of operation for services and activities accommodate the needs of persons served, their families and significant others; and,

(14) Ensure that all services provided and employment practices are in accordance with non-discrimination provisions of all applicable federal laws and regulations.

5122-26-03 (D)

(D) A government provider shall identify its governance structure for the purpose of meeting the requirements of this rule. Each provider which is not a corporation for non-profit and therefore not subject to the provisions of paragraphs (B) and (C) of this rule shall have a written description of its governance structure, and identify whether the owner shall assume sole responsibility for the activities required in this rule, or whether the provider is governed by a governing body, board of directors, or other governance body. Provider governance shall:

5122-26-03 (D) (continued)

(D) A government provider shall identify its governance structure for the purpose of meeting the requirements of this rule. Each provider which is not a corporation for non-profit and therefore not subject to the provisions of paragraphs (B) and (C) of this rule shall have a written description of its governance structure, and identify whether the owner shall assume sole responsibility for the activities required in this rule, or whether the provider is governed by a governing body, board of directors, or other governance body. Provider governance shall:

- (1) Provide financial oversight and develop an annual budget and plan for services;
- (2) At least annually:
 - (a) Review a summary of quality assurance and risk management activities and document governing body actions taken as a result of this review; and
 - (b) Approve the annual quality assurance plan; and,
 - (c) Review client rights activities and document governing body actions taken as a result of this review;

5122-26-03 (D) (continued)

(D) A government provider shall identify its governance structure for the purpose of meeting the requirements of this rule. Each provider which is not a corporation for non-profit and therefore not subject to the provisions of paragraphs (B) and (C) of this rule shall have a written description of its governance structure, and identify whether the owner shall assume sole responsibility for the activities required in this rule, or whether the provider is governed by a governing body, board of directors, or other governance body. Provider governance shall:

- (3) Establish duties and responsibilities of the executive director, chief executive officer or equivalent;
- (4) Select the executive director;
- (5) Conduct an annual review and evaluation of the executive director;
- (6) Identify responsibility for leadership in the absence of the executive director;

5122-26-03 (D) (continued)

(D) A government provider shall identify its governance structure for the purpose of meeting the requirements of this rule. Each provider which is not a corporation for non-profit and therefore not subject to the provisions of paragraphs (B) and (C) of this rule shall have a written description of its governance structure, and identify whether the owner shall assume sole responsibility for the activities required in this rule, or whether the provider is governed by a governing body, board of directors, or other governance body. Provider governance shall:

- (7) Establish, review and update as necessary the provider's policies, and document that this review has occurred. The policies shall be reviewed in accordance with the schedule established by the provider's national accrediting body, if applicable, or a minimum of every five years;
- (8) Ensure adequate malpractice and liability insurance protection for its corporate membership, advisory board if applicable, provider and provider staff, and review such protection annually;

5122-26-03 (D) (continued)

(D) A government provider shall identify its governance structure for the purpose of meeting the requirements of this rule. Each provider which is not a corporation for non-profit and therefore not subject to the provisions of paragraphs (B) and (C) of this rule shall have a written description of its governance structure, and identify whether the owner shall assume sole responsibility for the activities required in this rule, or whether the provider is governed by a governing body, board of directors, or other governance body. Provider governance shall:

- (9) Ensure that opportunity is offered for input regarding the planning, evaluation, delivery, and operation of mental health and addiction services, which shall include but not be limited to the opportunity to participate in the activities of or participate on the governing body, advisory groups, committees, or other provider bodies, to
 - (a) Persons who are receiving or have received mental health and addiction services, and their family members; and
 - (b) Persons who collectively represent a wide range of community interests and demographic characteristics of the surrounding community, such as race, ethnicity, primary spoken language, gender, and socio-economic status;

5122-26-03 (D) (continued)

(D) A government provider shall identify its governance structure for the purpose of meeting the requirements of this rule. Each provider which is not a corporation for non-profit and therefore not subject to the provisions of paragraphs (B) and (C) of this rule shall have a written description of its governance structure, and identify whether the owner shall assume sole responsibility for the activities required in this rule, or whether the provider is governed by a governing body, board of directors, or other governance body. Provider governance shall:

- (10) Ensure that the hours of operation for services and activities accommodate the needs of persons served, their families and significant others; and
- (11) Ensure that all services provided and employment practices are in accordance with non-discrimination provisions of all applicable federal laws and regulations.

Differences Between (C) and (D)

Provider that is not a not-for-profit is not required by MHAS rule to:

- (C)(1) Provide for orientation of its new members, including providing information about governing structure, duties, responsibilities and operations of the organization;
- (C)(2) – *approve* an annual budget, per (D)(1) it must *develop* annual budget
- (C)(3)(4) Conduct meetings of the governing body at least quarterly and maintain meeting minutes
 - governance must still conduct the activities required by (C)(3), e.g. review annual summary of client rights activities

Differences Between (C) and (D)

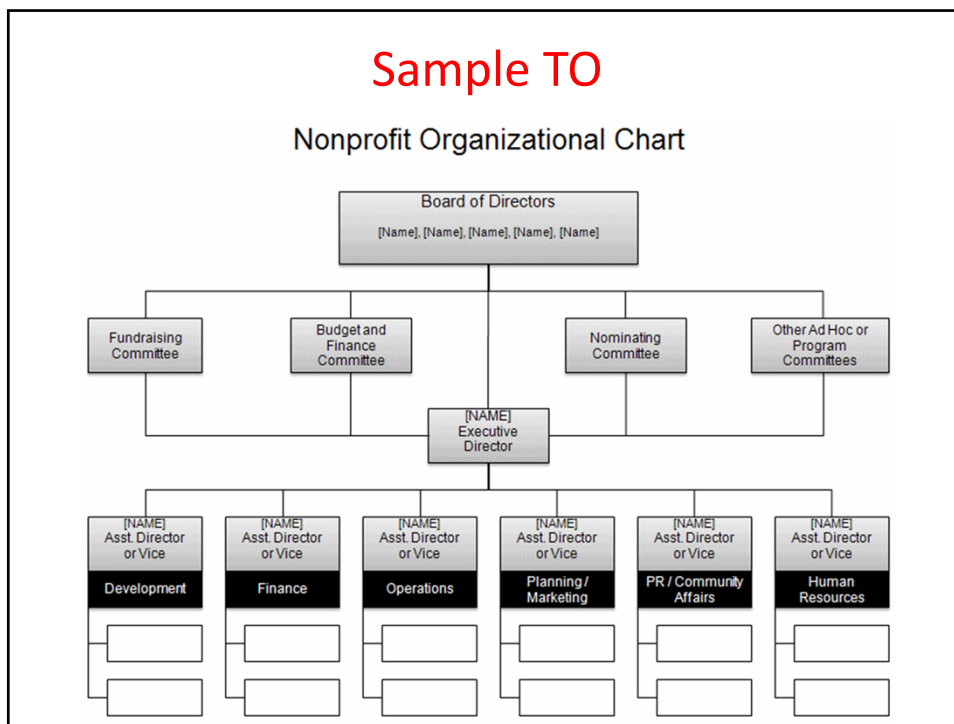
Provider that is not a not-for-profit is not required by MHAS rule to:


- (C)(5) Establish procedures for selecting the chief executive officer, executive director or equivalent;
- (C)(11) Ensure adequate malpractice insurance for the governing board (must still ensure adequate malpractice for the provider, staff, etc.)

5122-26-03 (E)

(E) Each provider shall maintain a written table of organization or organization chart which documents the lines of responsibility of:

- (1) Governing body, if applicable;
- (2) Executive director;
- (3) Administrative leadership; and
- (4) Clinical oversight.





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5122-26-04

Policy and Procedure Manual

5122-26-04 (A)

(A) Each provider shall develop a written manual of policies and procedures regarding all services and activities of the provider.

5122-26-04 (B)

(B) The policy and procedure manual shall be available for review by staff, persons served and their family and significant others.



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5122-26-06

Human Resources Management

5122-26-06 (A)

(A) The purpose of this rule is to ensure that each provider has a human resources management program, and develops written personnel policies and procedures which include the provisions of this rule.

5122-26-06 (B)

(B) In addition to the definitions in rule 5122-24-01 of the Administrative Code, the following definition shall apply to this rule:

"Personnel" means any paid or unpaid person, volunteer, contract worker, student intern or other person who is a part of an provider's workforce, including but not limited to those who perform management, clinical, operations, clerical, or other functions in support of the provider's mission, vision and goals. Contract worker does not include an individual or company with whom the provider contracts to perform occasional maintenance such as lawn care, snow removal, painting, etc. Staff or employee shall have the same meaning as personnel.

5122-26-06 (C)

(C) Each provider shall ensure that it has the necessary staff to support the provider's mission, vision and goals, and to provide services to persons served.

Clinical services shall be under the supervision of an individual who is eligible to provide services as set forth in rule 5122-29-30 of the Administrative Code, and who has demonstrated experience, competency, and education in the area supervised, i.e. substance abuse, mental health or dual diagnosis.

- “provide” was meant to be “supervise”
- AoD eligible supervisors currently listed in 3793:2-1-08

5122-25-03 (D)

(D) Each provider shall ensure that its personnel policies and procedures include the following provisions:

- (1) Prohibit discrimination in employment, training, job duties, compensation, evaluation, promotion, and any other term or condition of employment based on 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;
- (2) Describe a formal process to express and process employee grievances;
- (3) Prohibit sexual harassment;

5122-25-03 (D) (continued)

(D) Each provider shall ensure that its personnel policies and procedures include the following provisions:

- (4) Establish recruitment and hiring practices;
- (5) Establish skills, qualifications and competencies required for each position, based on mission of organization, services provided and characteristics and needs of population(s) served. The agency provider shall maintain a written job description for each position.

All personnel for whom licensure is required by law shall maintain current licensure by the appropriate body in the state of Ohio, and shall practice only within the scope of their license.

5122-25-03 (D) (continued)

(D) Each provider shall ensure that its personnel policies and procedures include the following provisions:

- (6) Verify staff credentials, including licensure, certification or registration, education, and experience;
- (7) Develop and maintain a staff orientation program, which shall include training on:
 - (a) Employee and client safety, including safety procedures in rule 5122-26-12 of the Administrative Code;
 - (b) Provider's mission, vision and goals;
 - (c) Characteristics of the population served;
 - (d) Sensitivity to cultural diversity;
 - (e) Provider policies and procedures, including personnel policies, and those specific to individual job duties;
 - (f) Confidentiality policy;
 - (g) Reporting abuse and neglect policy and procedures; and,
 - (h) Client rights and grievance policy and procedures.

5122-25-03 (D) (continued)

(D) Each provider shall ensure that its personnel policies and procedures include the following provisions:

- (8) Ensure direct service and supervisory staff participate in staff development education and training. Training may be provided by direct supervision, attendance at conferences and workshops internal and external to the provider, on-line training, educational coursework, etc. Training shall:
 - (a) Maintain or increase competency;
 - (b) Include topics specific to population served; and
 - (c) Ensure culturally competent provision of service.

5122-25-03 (D) (continued)

(D) Each provider shall ensure that its personnel policies and procedures include the following provisions:

(9) Ensure each staff providing direct services receives regularly scheduled and documented supervision appropriate to their skill level and job duties, and in accordance with the requirements of their license, certificate or registration, if applicable. Supervision may be provided in individual and group sessions, including supervisor participation in treatment plan meetings.

5122-25-03 (D) (continued)

(D) Each provider shall ensure that its personnel policies and procedures include the following provisions:

(10) Evaluate staff performance at a frequency required by its accrediting body, if applicable, or for a provider without behavioral health accreditation, annually.

The provider shall establish a system and frequency for evaluating volunteers, based on job duties, scope of responsibility, and frequency of service.

(11) Standards of acceptable behavior for all employees.

5122-25-03 (D) (continued)

(D) Each provider shall ensure that its personnel policies and procedures include the following provisions:

(12) Termination of employment.

(13) Procedure that states that employment applicants shall be informed that the provider follows the rules and regulations governing fair employment practices, that the applicant's right to privacy shall be respected, and that the results of inquiries shall be treated in confidence by the provider.

5122-26-06 (E)

(E) Each provider serving children or adolescents shall have a policy which states the following:

(1) Each employee utilized in positions which are responsible for the direct care or supervision of children or adolescents shall be at least eighteen years of age.

5122-26-06 (E) (continued)

(E) Each provider serving children or adolescents shall have a policy which states the following:

(2) A prospective employee, volunteer or student intern shall not have pled guilty to nor been convicted of any of the offenses listed in paragraph (I) of rule 5101:2-5-09 of the Administrative Code. A prospective employee, adult volunteer or student intern convicted of or who has pleaded guilty to an offense listed in paragraph (I) of rule 5101:2-5-09 of the Administrative Code may be hired by a provider if the conditions as provided in paragraph (H) of rule 5102:2-5-09 of the Administrative Code have been met.

5122-26-06 (E) (continued)

(E) Each provider serving children or adolescents shall have a policy which states the following:

(3) The provider shall require that criminal records checks on employees, volunteers and student interns be conducted by the bureau of criminal identification and investigation (BCII) and, if the prospective employee does not demonstrate that they have been a resident of Ohio for the preceding five years, by the federal bureau of investigation (FBI).

5122-25-03 (F)

(F) A copy of the written personnel policies and procedures shall be available to each employee. Employees shall be notified of changes in personnel policies and procedures. The provider shall establish written procedures for notifying employees of such changes.

5122-25-03 (G)

(G) Personnel files.

- (1) The provider shall maintain a person file on each staff person, who shall have access to their own personnel file.
- (2) Personnel files shall be stored in such a manner as to maintain the privacy of each staff person. Provider policies shall describe who shall have access to the various information contained within the file.

5122-25-03 (G) (continued)

(G) Personnel files.

(3) Each personnel file shall include the following content:

- (a) Identifying information and emergency contacts;
- (b) Application for employment or resume;
- (c) Verification of credentials from professional regulatory boards in Ohio, if applicable, including either electronic verifications or copies of current professional licenses, certifications, or registration;
- (d) Documentation of education, experience and training;
- (e) Verification of references, if required for position;

5122-25-03 (G) (continued)

(G) Personnel files.

(3) Each personnel file shall include the following content:

- (f) Notification of hire, to include start date, position and starting salary or wage;
- (g) Job or position description, to include job title and;
- (i) Supervisor to whom the person holding this position is responsible.
- (ii) Duties or responsibilities.
- (iii) Minimum qualifications for the position (knowledge and skills).
- (iv) Credentials and academic requirements, if applicable.
- (v) positions supervised by person holding this position, if applicable

5122-25-03 (G) (continued)

(G) Personnel files.

(3) Each personnel file shall include the following content:

- (h) Compensation documentation, if applicable;
- (i) For providers which provide alcohol and other drug services, documentation that the employee has reviewed and agreed to abide by the federal regulations on the confidentiality of alcohol and drug abuse patient records (Title 42, Code of Federal Regulations, part 2).
- (j) Performance evaluations;
- (k) Documentation of orientation;

5122-25-03 (G) (continued)

(G) Personnel files.

(3) Each personnel file shall include the following content:

- (l) Documentation to reflect that the employee has received a copy of the policies and procedures identified in paragraph (D)(7) of this rule and has agreed to abide by each of them;
- (m) Documentation of on-going training, as required by position, state law and agency policy;
- (n) Commendations or awards, if applicable; and
- (o) Disciplinary actions, if applicable.

5122-25-03 (H)

(H) The provider shall have policies and written procedures for handling cases of staff neglect and abuse of persons served, and documentation that each employee has received a copy of these policies and procedures.

5122-26-06 (I)

(I) The provider shall have a policy that appropriate disciplinary action, up to and including dismissal from employment, shall be taken regarding any employee misconduct or criminal conviction that bears a direct and substantial relationship to that employee's position.



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5122-26-08 Confidentiality

5122-26-08 (A)

(A) This rule describes the minimum written policies and procedures for maintaining confidentiality in accordance with applicable federal and state laws and regulations; including, but not limited to, 42 C.F.R. part 2, confidentiality of alcohol and drug abuse client records, and the health insurance portability and accountability act of 1996.

5122-26-08 (B)

(B) A provider staff person's access to an individual client's records, treatment information, diagnosis or other protected information is limited to access and disclosure in accordance with applicable federal and state laws and regulations.

5122-26-08 (C)

(C) Storage of client records shall be in accordance with all applicable federal and state laws and regulations.



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5122-26-08.1

Security of Clinical Records Systems

5122-26-08.1 (A)

(A) Each provider shall have policies and procedures addressing the security of its clinical records system.

5122-26-08.1 (B)

(B) If a provider maintains electronic health records (EHRs) it must be a system or module that is certified in accordance with the Public Health Service Act (PHSA) Title XXX and also comply with section 3701.75 of the Revised Code.

The provider must be able to produce paper copies of client records upon legally valid requests.

ORC 3701.75 Authenticating Health Care Records.

(A) As used in this section:

(1) "Electronic record" means a record communicated, received, or stored by electronic, magnetic, optical, or similar means for storage in an information system or transmission from one information system to another. "Electronic record" includes a record that is communicated, received, or stored by electronic data interchange, electronic mail, facsimile, telex, or similar methods of communication.

ORC 3701.75
Authenticating Health Care Records.

(A) As used in this section:

(2) "Electronic signature" means any of the following attached to or associated with an electronic record by an individual to authenticate the record:

(a) A code consisting of a combination of letters, numbers, characters, or symbols that is adopted or executed by an individual as that individual's electronic signature;

(b) A computer-generated signature code created for an individual;

(c) An electronic image of an individual's handwritten signature created by using a pen computer.

ORC 3701.75
Authenticating Health Care Records.

(A) As used in this section:

(3) "Health care record" means any document or combination of documents pertaining to a patient's medical history, diagnosis, prognosis, or medical condition that is generated and maintained in the process of the patient's treatment.

ORC 3701.75

Authenticating Health Care Records.

(B) All notes, orders, and observations entered into a health care record, including any interpretive reports of diagnostic tests or specific treatments, such as radiologic or electrocardiographic reports, operative reports, reports of pathologic examination of tissue, and similar reports, shall be authenticated by the individual who made or authorized the entry. An entry into a health care record may be authenticated by executing handwritten signatures or handwritten initials directly on the entry. An entry that is an electronic record may be authenticated by an electronic signature if all of the following apply:

ORC 3701.75

Authenticating Health Care Records.

(B) An entry that is an electronic record may be authenticated by an electronic signature if all of the following apply:

- (1) The entity responsible for creating and maintaining the health care record adopts a policy that permits the use of electronic signatures on electronic records.
- (2) The entity's electronic signature system utilizes either a two-level access control mechanism that assigns a unique identifier to each user or a biometric access control device.
- (3) The entity takes steps to safeguard against unauthorized access to the system and forgery of electronic signatures.

ORC 3701.75 Authenticating Health Care Records.

(B) An entry that is an electronic record may be authenticated by an electronic signature if all of the following apply:

(4) The system includes a process to verify that the individual affixing the electronic signature has reviewed the contents of the entry and determined that the entry contains what that individual intended.

ORC 3701.75 Authenticating Health Care Records.

(B) An entry that is an electronic record may be authenticated by an electronic signature if all of the following apply:

(5) The policy adopted by the entity pursuant to division (B)(1) of this section prescribes all of the following:

- (a) A procedure by which each user of the system must certify in writing that the user will follow the confidentiality and security policies maintained by the entity for the system;
- (b) Penalties for misusing the system;
- (c) Training for all users of the system that includes an explanation of the appropriate use of the system and the consequences for not complying with the entity's confidentiality and security policies.

5122-26-08.1 (C)

(C) Policies and procedures for providers maintaining a computer-based clinical records system shall include consideration of the following components:

- (1) Authentication - providing assurance regarding the identity of a user and corroboration that the source of data is as claimed;
- (2) Authorization - the granting of rights to allow each user to access only the functions, information, and privileges required by their duties;

5122-26-08.1 (C) (continued)

(C) Policies and procedures for providers maintaining a computer-based clinical records system shall include consideration of the following components:

- (3) Integrity - ensuring that information is changed only in a specific and authorized manner. Data, program, system and network integrity are all relevant to consideration of computer and system security;
- (4) Audit trails - creating immediately and concurrently with user actions a chronological record of activities occurring in the system:
- (5) Disaster recovery - the process for restoring any loss of data in the event of fire, vandalism, disaster, or system failure;

5122-26-08.1 (C) (continued)

(C) Policies and procedures for providers maintaining a computer-based clinical records system shall include consideration of the following components:

(6) Data storage and transmission - physically locating, maintaining and exchanging data; and

(7) Electronic signatures - a code consisting of a combination of letters, numbers, characters, or symbols that is adopted or executed by an individual as that individual's electronic signature; a computer-generated signature code created for an individual; or an electronic image of an individual's handwritten signature created by using a pen computer. Client record systems utilizing electronic signatures shall comply with section 3701.75 of the Revised Code.



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5122-26-09 **Provider Service Plan**

5122-26-09 (A)

(A) The purpose of this rule is to ensure that the provider plans and develops services to meet the needs of the population served.

5122-26-09 (B)

(B) The provider shall define in writing its mission, vision and goals.

5122-26-09 (C)

(C) The provider shall develop a written description of each service provided, which shall include:

- (1) The description of the service, including services provided under each level of care, if applicable;
- (2) Schedule of the days the service is available, and hours of operation;
- (3) Needs and characteristics of the population served;
- (4) Goals and scope of service; and,
- (5) Description of services which are offered through referral or affiliations with other providers, and the responsibilities of each provider.

5122-26-09 (D)

(D) The provider shall revise and update the service description when any of the information required in paragraph (C) of this rule changes.

5122-26-09 (E)

(E) The provider service plan shall be available for review by persons served, their family, significant others and the public.



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5122-26-11 Continuity of Care Agreements

5122-26-11 (A)

(A) Each provider designated by the board to screen, refer, or admit persons to a state-operated psychiatric hospital shall have a signed continuity of care agreement describing the roles and responsibilities of the board, hospital, agency and department.



Promoting Wellness and Recovery

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Tracy J. Plouck, Director

5122-26-12 Environment of Care and Safety

5122-26-12 (A)

(A) The purpose of this rule is to ensure that each agency maintains a clean, safe, appropriate environment which supports the provision of quality certified services and minimizes the risk of harm to clients, staff, visitors, and others.

5122-26-12 (B)

(B) Each provider shall designate the personnel who are responsible for implementing and oversight of the provisions of this rule.

5122-26-12 (C)

- (C) Each provider shall develop written policies and procedures to address emergency situations, including:
- (1) Fire, including the requirement that fire exit doors shall remain unlocked and clearly marked unless a variance has been granted by a certified authority of the division of state fire marshal of the department of commerce;
 - (2) Bomb threat;
 - (3) Natural disaster;
 - (4) Utility outage or malfunction, e.g. a gas leak; and
 - (5) Other potential threats which may be applicable based upon location, e.g. nuclear power plant leak.

5122-26-12 (D)

- (D) Each provider shall have posted evacuation plans, conduct emergency drills and evaluate the effectiveness of the drill to ascertain the need for performance improvement:
- (1) Fire drills shall be conducted at least once every twelve months at each provider location offering services on a less than twenty-four hour/day basis. Residential, halfway house, sub-acute and acute detoxification providers shall conduct fire drills at least quarterly. A driver intervention program location is exempt from the provisions of this paragraph unless other services or programs are also available at the location.
 - (2) The provider shall evaluate and determine the need to conduct other drills, and the frequency. This shall be included in its policies and procedures.

5122-26-12 (E)

(E) Each provider shall have written policies and procedure, which incorporate any applicable local, state or federal laws for:

- (1) Safe handling, storage and disposal of hazardous materials.
- (2) Safe handling and disposal of infectious waste materials, including applicable specifications of the occupational health and safety administration and the Ohio department of health.

5122-26-12 (E) (continued)

(E) Each provider shall have written policies and procedure, which incorporate any applicable local, state or federal laws for:

- (3) Infection control, including applicable specifications of the occupational health and safety administration and the Ohio department of health.
- (4) Prohibiting the use of unvented kerosene, gas or oil heaters.
- (5) Hazardous areas of the provider.

5122-26-12 (F)

(F) The provider's policies and procedures shall include the requirement that each staff receives training during orientation on the safety procedures identified in paragraphs (C), (D) and (E) of this rule. The provider shall identify in its policies and procedures the need for on-going training on each emergency or safety procedure, and the frequency of such training.

5122-26-12 (G)

(G) Each provider shall meet local, state and federal laws regarding accessibility.

Whenever it identifies a structural or other barrier which limits access to or within the building, the provider shall develop a plan to remove the barrier.

5122-26-12 (H)

(H) The provider shall conduct regular safety inspections at least every six months, or more often as identified by the provider's policies and procedure or its accrediting body. Inspections shall include attention to:

- (1) Physical structure;
- (2) Electrical systems;
- (3) Heating and cooling systems;
- (4) Warning devices, e.g. exit lights, alarm systems, etc.;

5122-26-12 (H) (continued)

(H) The provider shall conduct regular safety inspections at least every six months, or more often as identified by the provider's policies and procedure or its accrediting body. Inspections shall include attention to:

- (5) Fire and carbon monoxide detection systems;
- (6) Fire suppression equipment;
- (7) Lighting;
- (8) Food preparation areas, if applicable; and
- (9) Any other areas or systems as needed and identified in provider policies and procedures.

Driver intervention programs provided at motels, hotels, or camps are exempt from the inspection requirements of this paragraph.

5122-26-12 (I)

(I) Each provider shall ensure it obtains inspections and permits in accordance with local, state or federal laws.

(1) At a minimum, the provider shall obtain the following inspections every twelve months:

(a) Approved fire inspection, which shall be free of deficiencies, by a certified fire authority, or where there is none available, by the division of the state fire marshal of the department of commerce, to include testing of fire alarm systems.

(b) Water supply and sewage disposal inspection for facilities in which these systems are not connected with public services to certify compliance with rules of the department of health and any other state or local regulations, rules, codes or ordinances.

5122-26-12 (I) (continued)

(I) Each provider shall ensure it obtains inspections and permits in accordance with local, state or federal laws.

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

(a) Elevator inspection.

(b) Boiler inspection.

(c) Food service.

(d) Swimming pool.

(e) Any other as required by local, state or federal law.

Driver intervention programs provided at motels, hotels, or camps are exempt from the inspection requirements of this paragraph.

5122-26-12 (J)

(J) Providers providing halfway house, residential and sub-acute detoxification services shall make provisions to ensure each client receives three nutritionally balanced meals and a snack each day.

For a client assessed in need of a specialized diet, the provider shall maintain written documentation that the planning and preparation of meals is done so in accordance with a plan and instructions prepared by a dietitian, who is licensed by the Ohio board of dietetics or a physician.



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5122-26-14 Provider Closing or Acquisition

5122-26-14 (A)

(A) If a provider certified by the department voluntarily closes, it shall give a thirty-day advance written notice to each of its current clients which specifies the date that the program will close. If a client is a minor, the program shall send notice to the minor client's parent or legal guardian, and to the minor in accordance with section 3719.012 of the Revised Code.

(1) A copy of this notice shall be placed in each client's clinical record.

5122-26-14 (A) (continued)

(A) If a provider certified by the department voluntarily closes, it shall give a thirty-day advance written notice to each of its current clients which specifies the date that the program will close. If a client is a minor, the program shall send notice to the minor client's parent or legal guardian, and to the minor in accordance with section 3719.012 of the Revised Code.

(2) A copy of this notice shall be sent to the:

(a) Department's legal and regulatory service office responsible for compliance and certification of agencies.

(b) The boards for the counties in which the provider offers services.

(3) A program close-out audit shall be conducted which shall meet the department's guidelines and federal office of management and budget circulars.

5122-26-14 (B)

(B) If a client will require ongoing services after the projected closing date, the provider shall:

- (1) Refer the client to another provider certified by the department or to an individual in private practice who is qualified to provide the services needed; and,
- (2) Have documentation to ascertain that the provider or private practice has accepted the client for admission. A progress note by a case manager or clinician stating the date, time and place that the client is scheduled for an intake interview will meet the requirements of this standard.

5122-26-14 (C)

(C) If a program discontinues operations or is taken over or acquired by another entity, it shall comply with division (A)(15) of section 5119.28 of the Revised Code and 42 C.F.R., part 2, subsection 2.19 which govern the disposition of records by discontinued programs.

5122-26-14 (C)

(C) If a program discontinues operations or is taken over or acquired by another entity, it shall comply with division (A)(15) of section 5119.28 of the Revised Code and 42 C.F.R., part 2, subsection 2.19 which govern the disposition of records by discontinued programs.

Ohio Revised Code 5119.28

**Confidentiality of Records Pertaining
to Person's Mental Health
Condition, Assessment, Provision of
Care or Treatment, or Payment for
Assessment, Care or Treatment**

ORC 5119.28 (A)(15)

(A) All records, and reports, other than court journal entries or court docket entries, identifying a person and pertaining to the person's mental health condition, assessment, provision of care or treatment, or payment for assessment, care or treatment that are maintained in connection with any services certified by the department of mental health and addiction services, or any hospitals or facilities licensed or operated by the department, shall be kept confidential and shall not be disclosed by any person except:

ORC 5119.28 (A)(15) (continued)

(A) All records, and reports, other than court journal entries or court docket entries, identifying a person and pertaining to the person's mental health condition, assessment, provision of care or treatment, or payment for assessment, care or treatment that are maintained in connection with any services certified by the department of mental health and addiction services, or any hospitals or facilities licensed or operated by the department, shall be kept confidential and shall not be disclosed by any person except:

(15) That a community mental health services provider that ceases to operate may transfer to either a community mental health services provider that assumes its caseload or to the board of alcohol, drug addiction, and mental health services of the service district in which the person resided at the time services were most recently provided any records concerning treatment that have not been transferred elsewhere at the person's request;

42 C.F.R., Part 2, Subsection 2.19

Disposition of Records by Discontinued Programs

42 CFR 2.19 Part 2 Subsection 2.19

§ 2.19 Disposition of records by discontinued programs.

(a) General. If a program discontinues operations or is taken over or acquired by another program, it must purge patient identifying information from its records or destroy the records unless—

(1) The patient who is the subject of the records gives written consent (meeting the requirements of § 2.31) to a transfer of the records to the acquiring program or to any other program designated in the consent (the manner of obtaining this consent must minimize the likelihood of a disclosure of patient identifying information to a third party); or

42 CFR 2.19 Part 2 Subsection 2.19

§ 2.19 Disposition of records by discontinued programs.

(a) General. If a program discontinues operations or is taken over or acquired by another program, it must purge patient identifying information from its records or destroy the records unless—

(2) There is a legal requirement that the records be kept for a period specified by law which does not expire until after the discontinuation or acquisition of the program.

42 CFR 2.19 Part 2 Subsection 2.19 (continued)

§ 2.19 Disposition of records by discontinued programs.

(b) Procedure where retention period required by law. If paragraph (a)(2) of this section applies, the records must be:

(1) Sealed in envelopes or other containers labeled as follows: “Records of [insert name of program] required to be maintained under [insert citation to statute, regulation, court order or other legal authority requiring that records be kept] until a date not later than [insert appropriate date]”; and.

42 CFR 2.19 Part 2 Subsection 2.19 (continued)

§ 2.19 Disposition of records by discontinued programs.

(b) Procedure where retention period required by law. If paragraph (a)(2) of this section applies, the records must be:

(2) Held under the restrictions of these regulations by a responsible person who must, as soon as practicable after the end of the retention period specified on the label, destroy the records.

ORC 2913.40 Medicaid Fraud

ORC 2913.40 Medicaid Fraud

(D) No person, having submitted a claim for or provided goods or services under the medicaid program, shall do either of the following for a period of at least six years after a reimbursement pursuant to that claim, or a reimbursement for those goods or services, is received under the medicaid program:

(1) Knowingly alter, falsify, destroy, conceal, or remove any records that are necessary to fully disclose the nature of all goods or services for which the claim was submitted, or for which reimbursement was received, by the person;

(2) Knowingly alter, falsify, destroy, conceal, or remove any records that are necessary to disclose fully all income and expenditures upon which rates of reimbursements were based for the person.



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5122-26-15 Medication Handling and Drug Theft

5122-26-15 (A)

(A) The provider shall have written policies and procedures regarding the purchasing, receipt, storage, distribution, return, and destruction of medication that include accountability for and security of prescription and over-the-counter medications located within any of its facilities. These policies and procedures shall include, but not be limited to the requirements that providers handling medications shall:

5122-26-15 (A) (continued)

(A) The provider shall have written policies and procedures regarding the purchasing, receipt, storage, distribution, return, and destruction of medication that include accountability for and security of prescription and over-the-counter medications located within any of its facilities. These policies and procedures shall include, but not be limited to the requirements that providers handling medications shall:

- (1) Hold a valid and current terminal distributor of dangerous drugs license from the Ohio board of pharmacy if maintaining a stock supply of prescription medications or if participating with the department's central pharmacy to receive dispensed prescriptions.
- (2) Locate all medications and prescription blanks in a locked, secure area;
- (3) Designate a person having access to or authorized to handle medication and shall maintain a current list of these persons, their credentials and their medication handling responsibilities.

5122-26-15 (A) (continued)

(A) The provider shall have written policies and procedures regarding the purchasing, receipt, storage, distribution, return, and destruction of medication that include accountability for and security of prescription and over-the-counter medications located within any of its facilities. These policies and procedures shall include, but not be limited to the requirements that providers handling medications shall:

(4) Provide a method to record and follow the medications from the time of receipt to the time of distribution, return to central pharmacy, or destruction. This record shall be retained by the provider for three years and shall include, but not be limited to the following information:

(a) The date and time the medication was received by the provider, distributed to persons served, returned to central pharmacy or, if appropriate, destroyed;

(b) The name, credentials and signature of all persons handling the medications; and

5122-26-15 (A) (continued)

(A) The provider shall have written policies and procedures regarding the purchasing, receipt, storage, distribution, return, and destruction of medication that include accountability for and security of prescription and over-the-counter medications located within any of its facilities. These policies and procedures shall include, but not be limited to the requirements that providers handling medications shall:

(4) Provide a method to record and follow the medications from the time of receipt to the time of distribution, return to central pharmacy, or destruction. This record shall be retained by the provider for three years and shall include, but not be limited to the following information:

(c) The provision that unused medication prescribed for a person shall be appropriately destroyed or returned to central pharmacy, and that, under no circumstances shall the unused medication be issued to another individual. Return of unused medication prescribed to a person is only allowed when the return is to central pharmacy in accordance with rule 4729-9-04 of the Administrative Code.

5122-26-15 (A) (continued)

(A) The provider shall have written policies and procedures regarding the purchasing, receipt, storage, distribution, return, and destruction of medication that include accountability for and security of prescription and over-the-counter medications located within any of its facilities. These policies and procedures shall include, but not be limited to the requirements that providers handling medications shall:

(5) Ensure that all staff handling medications have basic and ongoing instruction and training in safe and effective handling of medications.

(6) Ensure that medications are handled only by authorized persons and that others do not have access to the medications; and

5122-26-15 (A) (continued)

(A) The provider shall have written policies and procedures regarding the purchasing, receipt, storage, distribution, return, and destruction of medication that include accountability for and security of prescription and over-the-counter medications located within any of its facilities. These policies and procedures shall include, but not be limited to the requirements that providers handling medications shall:

(7) Ensure that controlled substances may be destroyed only by an agent of the Ohio board of pharmacy, or the federal drug enforcement agency, or by transfer to persons registered under Chapters 3719. and 4729. of the Revised Code and according to rule 4729-9-06 of the Administrative Code.

5122-26-15 (B)

(B) Providers maintaining a limited stock supply of medications shall:

(1) Allow only a physician or pharmacist to dispense medication, although the following individuals may personally furnish samples of some medications if issued a certificate to prescribe:

(a) Certified nurse practitioner and clinical nurse specialist in accordance with division (D) of section 4723.481 of the Revised Code; and

(b) Physician's assistant in accordance with division (A) of section 4730.43 of the Revised Code.

(2) Have visibly posted the phone number of the nearest poison control center.

5122-26-15 (C)

(C) Each provider that permits clients to self-administer medication shall have written policies and procedures that include, but are not limited to, the following:

(1) Procedures for storing medications in a locked cabinet.

(2) Procedures for self-medication.

(3) Procedures for accounting for medications that are kept for the client while they are at the program site.

5122-26-15 (C) (continued)

(C) Each provider that permits clients to self-administer medication shall have written policies and procedures that include, but are not limited to, the following:

(4) Policy prohibiting clients from having unsecured prescription medications in their possession at the provider site or while involved in activities off site unless required for medical necessity, e.g. prescription inhalers for persons with asthma.

(5) Procedures for obtaining and for accounting for medications (prescription and over-the-counter) from clients at the time of admission to or upon entering the provider site and return of same, as appropriate, at the time of the discharge or departure.

5122-26-15 (C) (continued)

(C) Each provider that permits clients to self-administer medication shall have written policies and procedures that include, but are not limited to, the following:

(4) Policy prohibiting clients from having unsecured prescription medications in their possession at the provider site or while involved in activities off site unless required for medical necessity, e.g. prescription inhalers for persons with asthma.

(5) Procedures for obtaining and for accounting for medications (prescription and over-the-counter) from clients at the time of admission to or upon entering the provider site and return of same, as appropriate, at the time of the discharge or departure.

➤ **Common sense approach – generally more applicable to AoD**

5122-26-15 (D)

(D) The provider shall have a policy on employee drug theft and shall inform all employees concerning this policy. The policy shall include attention to prescription as well as over-the-counter medications maintained for client use.

(1) An employee, intern or volunteer with knowledge of drug theft by an employee or any other person shall report such information to the executive director of the provider. If the executive director of the provider is suspected of drug theft, the employee or volunteer shall notify the department. The provider shall take all reasonable steps to protect the confidentiality of the information and the identity of the person furnishing the information.

5122-26-15 (D) (continued)

(D) The provider shall have a policy on employee drug theft and shall inform all employees concerning this policy. The policy shall include attention to prescription as well as over-the-counter medications maintained for client use.

(2) Suspected drug theft shall be reported to the Ohio board of pharmacy. For controlled substances, suspected drug theft shall also be reported to the federal drug enforcement administration. Providers participating in drug services with the Ohio department of mental health and addiction services central pharmacy shall also notify central pharmacy.

(3) Failure to report information of drug theft shall be considered in determining the eligibility of the employee to continue to work in a secure area where drugs are stored.

5122-26-15 (D) (continued)

(D) The provider shall have a policy on employee drug theft and shall inform all employees concerning this policy. The policy shall include attention to prescription as well as over-the-counter medications maintained for client use.

(4) If an employee violates the provider's drug theft policies, the provider shall assess the seriousness of the employee's violation, whether the violation has a direct and substantial relationship to that employee's position, the past record of employment, and other relevant factors in determining whether to suspend, transfer, terminate, or take other action against the employee.



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5122-26-17 Accessibility, Availability, Appropriateness, and Acceptability of Services

5122-26-17 (A)

(A) Provider services shall be accessible, available, appropriate and acceptable to the persons served.

5122-26-17 (B)

(B) Minimum criteria for accessibility of services shall include but not be limited to:

- (1) Evening or weekend hours to meet the needs of persons receiving services;
- (2) Compliance with relevant federal and state regulations, including "section 504" of the "Rehabilitation Act of 1973" (29 U.S.C. Section 794 et seq.); and
- (3) Geographical access to services for persons served.

Section 504
Rehabilitation Act of 1974

Section 504 (in part)

“No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service.”

5122-26-17 (C)

(C) Minimum criteria for availability of services shall include, but not be limited to:

(1) Coordinating discharge planning and mental health services for persons leaving state operated inpatient settings and participating in discharge planning for persons leaving private psychiatric inpatient settings and referred to the provider;

5122-26-17 (C) (continued)

(C) Minimum criteria for availability of services shall include, but not be limited to:

(2) Assuring continuity of care for persons discharged from psychiatric inpatient settings and referred to the provider through the provision of necessary services as determined by the provider in consultation with the person served and the referral source. Such necessary services shall be provided upon discharge whenever possible and no later than two weeks post discharge if it has been concluded that these services are required within two weeks;

5122-26-17 (C) (continued)

(C) Minimum criteria for availability of services shall include, but not be limited to:

(3) Providing assistance, as appropriate according to the person's needs, at no additional cost to persons served, to persons requesting or receiving services, and their families or significant others, who speak a language other than standard English as a primary means of communication, or who are individuals with a communication barrier, such as deafness or hearing impairment. Such assistance shall include availability of appropriate telecommunication relay services (TRS). A TRS is a telephone service that allows persons with hearing or speech disabilities to place and receive telephone calls, such services include but are not limited to text to speech relay and signing to speech relay. In situations when a client expresses a preference to communicate by use of a particular type of TRS, then the agency shall ensure one is available at the provider.

5122-26-17 (C) (continued)

(C) Minimum criteria for availability of services shall include, but not be limited to:

Other assistance to be provided according to the needs of persons served shall apply to all forms of communication and shall include:

- (a) Interpreters fluent in the first vernacular language of the person served, and with demonstrated ability or certification;
- (b) Services provided by a professional who is able to communicate in the same vernacular language as the person served; and
- (c) Referral to a service that provides interpreters.

5122-26-17 (C) (continued)

(C) Minimum criteria for availability of services shall include, but not be limited to:

- (4) Providing culturally sensitive and responsive treatment planning and service delivery; and
- (5) Addressing addiction and mental health service needs of the relevant community as described in the community plan of the board.

5122-26-17 (D)

(D) Minimum criteria for acceptability of services shall include, but not be limited to:

- (1) Sensitivity to ethnic and cultural differences among people;
- (2) Promoting freedom of choice among therapeutic alternatives for the person receiving services; and

5122-26-17 (D) (continued)

(D) Minimum criteria for acceptability of services shall include, but not be limited to:

(3) Provision that no person served shall be denied access to mental health or alcohol or other drug services solely [sic] based on their refusal to accept any specific service component recommended by the provider, consistent with prevailing standards of care unless participation is required for clear treatment reasons, e.g, a patient who declines medication treatment shall not be denied other aspects of care such as counseling or case management unless participation in medication assisted [sic] treatment is required for clear treatment reasons.

5122-26-17 (E)

(E) Minimum criteria for appropriateness of services shall include, but not be limited to:

- (1) Provision of services in the least restrictive setting;
 - (2) Delivery of service in the natural environment of the person receiving services as appropriate;
 - (3) Continuity of therapeutic relationships;
 - (4) Perceived needs of the person receiving services;
- and
- (5) Culturological assessment.

5122-26-17 (F)

(F) Minimum criteria for appropriateness of services for persons with a severe mental disability, children with severe emotional disturbance, or persons with substance use concerns shall also include referral to other systems or organizations to meet identified needs if the provider does not provide such services.

5122-26-17 (G)

(G) The provider shall review annually the effectiveness of its efforts to ensure accessibility, availability, appropriateness, and acceptability of services.

MHAS Webpage

Certification and Methadone Licensure Applications

<http://mha.ohio.gov/Default.aspx?tabid=259>

Rules in Effect Webpage

<http://mha.ohio.gov/Default.aspx?tabid=250>

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