

**Rule Summary and Fiscal Analysis (Part A)****Department of Mental Health**

Agency Name

Division

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**5122-29-30**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Eligible providers and supervisors.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **5119.16 (A), 5119.611 (E)**

5. Statute(s) the rule, as filed, amplifies or implements: **5119.16 (A), 5119.611 (E)**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule contains the individuals permitted by scope of practice to perform ODMH certified services, and related definitions and information. The rule is being amended to include additional providers eligible to provide and/or supervise Community Psychiatric Supportive Treatment (CPST) service and remove providers not eligible for Medicaid reimbursement. The eligible providers of IHBT service is being amended in accordance with Ohio scope of practice requirements based on the amended service standards.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

Appendix A "Provider & Supervisor Definitions":

Delete definitions of activity therapist and trained other d/t redundancy with qualified mental health specialist

Update & align definitions of doctor of osteopathic medicine and medical doctor

Appendix B "Eligible Providers and Supervisors":

Remove activity therapist and trained other d/t redundancy with qualified mental health specialist

Update eligible providers/supervisors of CPST

Update eligible providers/supervisors of IHBT, including limiting the providers of IHBT service to licensed/registered individuals, e.g. excluding a Qualified Mental Health Specialist and other service providers from providing IHBT service, so that each qualified provider can provide all activities of IHBT service.

Supplement to Appendix B Matrix:

Remove references to activity therapist and trained other.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

The rule references the Administrative Code and Revised Code, which are generally available to persons via the internet.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Correct RSFA question numbers 4 and 5 [statutory authority and rule amplifies] to 5119.611 (E)

Revise RSFA question numbers 8 and 9.

12. 119.032 Rule Review Date: **4/16/2013**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

### **FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

0

Not applicable

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicbale

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

The amendment to the eligible providers of IHBT service, in accordance with Ohio Revised Code Scope of Practice to be eligible to provide IHBT service in its entirety, may increase staff costs for current providers which utilize non-credentialed staff to provide the service. There will be a salary cost increase for any agency which currently utilizes a two-person team that includes one unlicensed individual to provide IHBT. The new rule requires both persons to be licensed. According to The Ohio Council of Behavioral Health and Family Services Providers 2010 Compensation and Benefits Survey Report, the state-wide average annual salary cost difference between an unlicensed individual and a bachelor#s level licensed social worker ranges from \$1800 (unlicensed person with a master#s degree) to \$9,300 (unlicensed person with no post high school education. Actual salary costs may vary based upon region in the state, or other licenses, e.g. hiring a master#s level social worker, counselor or marriage and family therapist rather than a bachelor#s level social worker. ODMH and the Ohio Department of Job and Family Services/Ohio Medicaid analyze data to set a proposed Medicaid reimbursement, and is including consideration of the increased costs in setting the rate. Providers voluntarily seek certification for IHBT.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

### **S.B. 2 (129th General Assembly) Questions**

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **Yes**

A mental health agency is required to obtain ODMH certification if it wants to bill the community mental health Medicaid program and/or seek a contract with its local mental health board to receive local/public funding for the service. Providers seeking other sources of funding for a service, e.g. contracts with insurance companies, private pay, etc. may operate without ODMH certification.

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **Yes**

Sanction: An agency may be issued a probationary certificate for failure to submit an approved plan of correction, or for non-compliance with any certification standard. There is no other sanction associated with the issuance of a probationary certificate, i.e. there are no fines or other consequences.

Cause of Action: ODMH can initiate a hearing under Chapter 119 of the Revised Code to revoke an agency's certification for failure to submit an approved plan of correction, or for non-compliance with any certification standard.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

There is no specific reporting requirement in this rule, however, the certification standards for community mental health agencies (Chapters 5122-24 to 5122-29) require community mental health providers to report information.