

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~~ Board of residence" means the ~~mental health~~ board that is responsible for referring ~~and/or~~ paying for the resident's treatment.
- (2) "Incident" means an event that poses a danger to the health and safety of residents and/or staff and visitors of the facility, and is not consistent with routine care of persons served or routine operation of the facility.
- (3) "Reportable Incident" means an incident that must be submitted to the department in accordance with this rule, ~~including an incident that must then be forwarded by the department to the Ohio legal rights service pursuant to section 5123.604 of the Revised Code~~. As referenced in division ~~(C)~~(E) of section ~~5119.611~~5119.34 of the Revised Code, "Major Unusual Incident" has the same meaning as "Reportable Incident."
- (4) "Six month reportable incident" means an incident type of which limited information must be reported to the department. A six month reportable incident is not the same as a reportable incident.
- (5) "Six month incident data report" means a data report which must be submitted to the department.

(C) The operator shall develop an incident reporting system to include a mechanism for the review and analysis of all reportable incidents such that clinical and administrative activities are undertaken to identify, evaluate, and reduce risk to residents, staff, and visitors. The operator shall identify in policy other incidents to be reviewed.

- (1) ~~For a type 1 residential facility, an~~ 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~~ A periodic review and analysis of reportable incidents, and other incidents as defined in facility policy, shall be performed. This shall include any action taken by the operator, as appropriate, including actions recommended by the provider from which the resident receives services. This should be incorporated as part

of the facility's performance improvement process, as applicable.

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

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

~~(3)(2) The operator shall maintain an ongoing log of its reportable incidents for departmental review.~~

(D) Any person who has knowledge of any instance of abuse or neglect, or alleged or suspected abuse or neglect, ~~or of an alleged crime which would constitute a felony,~~ of: any child or adolescent shall immediately notify the county children's services board, the designated child protective agency, or law enforcement authorities, in accordance with section 2151.421 of the Revised Code

~~(1) Any child or adolescent, shall immediately notify any alleged or suspected abuse or neglect to the county children's services board, the designated child protective agency, or law enforcement authorities, in accordance with section 2151.421 of the Revised Code, or of an alleged crime against a child or adolescent which would constitute a felony, including a crime allegedly committed by another child or adolescent which would constitute a felony if committed by an adult, shall immediately notify law enforcement authorities.~~

~~(2)(E) Any person who has knowledge of any instance of abuse or neglect, or alleged or suspected abuse or neglect, or of an alleged crime against~~ an elderly person, shall immediately notify the appropriate law enforcement and county department of jobs and family services authorities in accordance with section 5101.61 of the Revised Code.

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

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

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

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

~~(F)(H)~~ ~~Each reportable incident shall be documented and reported on form "DMH-LIC-015" as required by the department. Form "DMH-LIC-015" shall include identifying information about the operator, date, time and type of incident, and resident information that has been de-identified pursuant to the HIPAA privacy regulations, [45 C.F.R.164.514(b)(2)].~~ Each reportable incident shall be documented as required by the department. The information shall include identifying information about the provider, date, time and type of incident, and client information that has been de-identified pursuant to the HIPAA privacy regulations, [45 C.F.R.164.514(b)(2)], and 42 CFR Part B, paragraph 2.22., if applicable.

- (1) The operator shall file only one incident form per event occurrence and identify each incident report category, if more than one, and include information regarding all involved residents, staff, and visitors; ~~and.~~
- (2) The operator shall forward each reportable incident to the department and to each of the following within twenty-four hours of its discovery, exclusive of weekends and holidays:
- (a) ~~County community mental health board~~ The board of residence and the board whose service district includes the facility, for individuals with mental illness; and, ;
 - (b) ~~The mental health agency provider~~ from which the mental health resident is receiving services, if applicable; and.
 - (c) ~~For type 2 and type 2 residential facilities, to the mental health agency with which the facility is affiliated, if different from the agency specified in paragraph (C)(1)(a) of this rule.~~
- (3) The operator shall notify the resident's parent, guardian or custodian, if applicable, within twenty-four hours of discovery of a reportable incident, and document such notification.
- (a) Notification may be made by phone, mailing, faxing or e-mailing a copy of the incident form, or other means according to facility policy and procedures.
 - (b) When notification does not include sending a copy of the incident form, the facility must inform the parent, guardian or custodian, of his/her

right to receive a copy, and forward a copy within twenty-four hours of receiving a request for a copy. The facility shall document compliance with the provisions of this paragraph.

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

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

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

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

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

Effective: 01/01/2018

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

CERTIFIED ELECTRONICALLY

Certification

04/05/2017

Date

Promulgated Under: 119.03
Statutory Authority: 5119.34
Rule Amplifies: 5119.34
Prior Effective Dates: 5/10/79, 5/1/81, 1/1/00, 8/1/02, 3/25/04, 1/1/2012