

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

Agency Name

Division

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5122-30-16

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Incident notification and risk management.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

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: **5119.22**

5. Statute(s) the rule, as filed, amplifies or implements: **5119.22**

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

This is a new rule, replacing the current 5122-30-16, due to amending over 50% of the content of the existing rule. This rule is being filed in order to specify in rule each specific category of incidents which must be reported to the Department and other entities, and descibe risk management and resident protection actions.

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:

The rule specifies the major unusual incident/reportable incident reporting process

and process for submitting 6 month data reports. The rule and its appendices define each type of reportable incident, and require reporting some incident data every six months, rather than per incident. The rule also requires the reporting of resident bed days to allow ODMH to measure incident data reporting on a per agency and system level. The rule also allows a residential facility to submit one report per incident, regardless of the number of involved residents and/or incident categories. The rule also describes notification to other entities when applicable, and other risk management activities.

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:

This rule incorporates references to the Code of Federal Regulations, and Ohio 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:

(B)(2) - Change definition of "incident" to "an event", from "any event".

Revised (E)(2) to remove reference to six month reportable incidents and delete originally filed (G)(2) to remove requirement for a Type 2 or Type 3 facility to submit a six month reportable incident data report. Reformat and revise (G) based on elimination of (G)(2).

Appendix A (Appendix 1)

Revise definitions of "emergency/unplanned medical intervention", "first aid", "hospitalization", "injury", "mechanical restraint", "transitional hold", self-injurious behavior, medication error, adverse drug reaction.

Revised definition of "First Aid", "Emergency/Unplanned Medical Intervention", "Hospitalization", "Injury", "Medication Error" and "Adverse Drug Reaction".

Deleted incident category, definition and reporting schedule of "Suicide Attempt", "Self-Injurious Behavior", "Injury Requiring Treatment Greater than First Aid", and "Illness/Medical Emergency". Reformatted based on elements which were deleted.

"Inappropriate Restraint Techniques and other Use of Force" - change subcategory from "check one" to "check all that apply", and changed "Use of mechanical restraint on children and adolescents" to "Use of mechanical restraint on a resident under age 18".

"Inappropriate Use of Restraint or Seclusion" - revise definition to clarify that only mechanical restraint and seclusion require proper staff authorization to initiate/order and without this authorization it is a reportable incident), and change subcategory from "check one" to "check all that apply".

Removed references to prone restraint throughout.

Added "emergency/unplanned" to "medical intervention" for definition of "Seclusion/Restraint Related Injury to Staff"

"Physical Assault by Non-staff, Including Visitor, Resident or Other" - changed "injury requiring treatment greater than first aid" to "requiring emergency/unplanned medical intervention or hospitalization"

Revise definitions of mechanical and physical restraint, and transitional hold to clarify that these are staff interventions.

Deleted definition of "requiring emergency/unplanned medical intervention or hospitalization".

Changed any reference of "client" to "resident".

Reformatted based on other revisions.

Appendix B (Appendix 2)

Deleted all definitions and tables that correspond to categories eliminated in Appendix A

Revised language and instructions, and re-numbered/re-lettered to provide more clarity.

Appendix C (Appendix 3)

Revised definitions of "emergency/unplanned medical intervention", "first aid", "hospitalization", "injury", "mechanical restraint", "transitional hold", self-injurious behavior, medication error, adverse drug reaction.

Revise definitions of mechanical and physical restraint, and transitional hold to clarify that these are staff interventions.

Delete definition of "injury requiring treatment greater than first aid".

Add "transitional hold" to subcategory of unauthorized use of restraint or seclusion.

Eliminate six month data reporting requirement for "illness/medical emergency" and "injury requiring treatment greater than first aid".

Reformat for clarity.

Remove Appendix D (Appendix 4)

12. 119.032 Rule Review Date:

(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.

0.00

This will have no impact on revenues or expenditures. Any changes to the ODMH incident reporting system will utilize existing budget resources to support incident reporting.

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

Not applicable.

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:

This will have an initial increased cost of compliance to train staff and implement an incident data tracking system for some of the residential facilities, although some costs should be offset by decreased reporting in some categories if a residential facility does not utilize seclusion and restraint, and by the change allowing an agency to file one report per incident. The Department is unable to estimate the cost as it will vary by facility based on factors which include, but are not limited to number of residential facility beds and number of staff, License type (Type 1, Type 2 & Type 3), number of incidents reported, and whether the residential facility currently utilizes electronic incident data collection, monitoring and tracking systems.

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**