

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

Agency Name

**Operations Management**

Division

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**5122:2-1-05**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Community mental health board operation of mental health services, programs, or facilities.****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: **340.03, 5119.01, 5119.61**

5. Statute(s) the rule, as filed, amplifies or implements: **340.03, 5119.01, 5119.61**

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

The Department of Mental Health (ODMH) has reviewed the rule in accordance with the five year rule review process, and is proposing amendments as a result of that review in order to align the rule with the applicable sections of the Ohio Revised Code.

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:

This rule describes the requirements and procedures for the Department's authorization of a community mental health board to operate a mental health service or facility.

ODMH is proposing to amend the rule by: Update rule in accordance with existing language in division (A)(8)(b) of section 340.03 of the Revised Code; Update paragraph reference to ORC section 340.09; Remove reference to rule 5122:2-1-01 of the Administrative Code, which is obsolete; Remove references to "program" throughout rule and title; Change references of "commissioner" to "director"; Clarify in (F) that the service district is at least 100,000; Add language in (F)(2) and (G)(2) to mirror ORC 340.03 (A)(8)(b)(iii); Clarify in (G)(3) that the director must provide approval, regardless of whether the Board is requesting to operate the service/facility one year or less, or more than one year; New paragraph (H) to mirror ORC 340.03 (A)(8)(iii), describing when a board may operate a facility or service previously operated by another person/government entity/community agency, and remove similar language in (G)(4)(b)(vi).

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 Ohio Revised Code, which is 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:

3/1/12

Revise paragraph (K) to identify time frame for director to either approve or disapprove of Board request to operate a facility or service in an emergency, or provide a date by which the director will issue a response, which shall be dependent upon the nature of the emergency.

12. 119.032 Rule Review Date: **12/30/2011**

(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.

0.0

This will not impact expenditures or revenues.

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:

Please see RSFA Part B.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

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

**Rule Summary and Fiscal Analysis (Part B)**

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School  
Districts

(b) Counties

(c) Townships

(d) Municipal  
Corporations

No

Yes

No

No

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

There is no required action by this rule for a County Mental Health Board to provide services or operate a facility, which a Board is allowed to do only in exceptional circumstances, i.e. with the prior approval of the director of mental health, and if there is no other qualified private or public facility or community mental health agency that is immediately available and willing to operate such a facility or provide the service. The Department is unable to estimate the costs if a Board were to take such an action, which would vary depending on the type and scope of services/facility operated, and whether the billing reimbursement covers all or part of the costs.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

*Not Applicable.*

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

There is no required action by this rule for a County Mental Health Board to provide services or operate a facility, which a Board is allowed to do only in exceptional circumstances, i.e. with the prior approval of the director of mental health, and if there is no other qualified private or public facility or community mental health agency that is immediately available and willing to operate such a facility or provide the service. The Department is unable to estimate the costs if a Board were to take such an action, which would vary depending on the type and scope of services/facility operated, and whether the billing reimbursement covers all or part of the costs.

(a) Personnel Costs

The Board likely would see increased personnel costs, to provide the service/operate the facility, but these costs may be reimbursed by billing for the services.

(b) New Equipment or Other Capital Costs

The Department is unable to estimate whether there would be a need for new equipment or capital, which would vary depending on the circumstances in the county.

(c) Operating Costs

The Board likely would see increased operating costs, to provide the service/operate the facility, but these costs may be reimbursed by billing for the services.

(d) Any Indirect Central Service Costs

The Board likely would see increased costs, to provide the service/operate the facility, but these costs may be reimbursed by billing for the services.

(e) Other Costs

There may be other unknown costs, which might be reimbursed by billing for the service.

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

There is no requirement in the proposed amended rule which mandates any cost upon a county mental health board.

7. Please provide a statement on the proposed rule's impact on economic development.

It is anticipated that there will be no impact.