

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

Agency Name

**Operations Management**

Division

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**5122:2-1-06**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Board and agency dispute resolution.****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: **340.03(A)**

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

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

This rule is being filed in order to establish and present the process by which boards and agencies can mediate for a solution.

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 adds time frames for negotiations; requirement for written statement defining each party's position; removes antiquated ODMH positions listed in the rule; and spells out ODMH's role in the dispute resolution process as more of a

resource, and less as an active participant in the mediation. It sets out a detailed time frame for the mediator and the mediation process; provides for non-binding arbitration as an option, and specifies that all discussions are pursuant to State and Federal Evidence Rule 408 (inadmissible in any legal proceeding), and are to be held confidential by the parties.

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 response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

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:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

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:

Paragraph (C)(2) - slight re-wording to and re-ordering of the sentence to increase clarity.

Paragraph (H) - removed errant " ) " .

Corrected RSFA Q # 7 to read Federal Evidence Rule 408 rather than 308.

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.

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This rule will have no impact on revenues and expenditures.

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 rule only is applicable when a mental health Board and a contract provider have a dispute. Although not the initial steps for dispute resolution, the rule includes two avenues for dispute resolution, mediation and non-binding arbitration, which involve costs. The involved parties must equally split the costs of the mediator and/or arbitrator, plus pay their own expenses related to mediation and/or arbitration. Both parties must agree to mediation, so this is not a required cost in the dispute resolution process. The Department can require both parties to participate in non-binding arbitration. The estimated cost of a mediator and/or arbitrator is \$100 - \$200/hour, based on a review of industry websites. The length of mediation and/or arbitration depends on the complexity of the case and numbers of issues to be resolved.

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**