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Hearing Date: 12/18/2017

Today's Date: 12/19/2017

Agency: Ohio Department of Mental Health and Addiction Services

Rule Number(s): 5122:1-5-01

If no comments at the hearing, please check the box. ☐

List organizations or individuals giving or submitting testimony before, during or after the public hearing and indicate the rule number(s) in question.

1. New Horizons Mental Health Services
2. Family Recovery Services
3. Greenleaf Family Center
4. Harbor Behavioral Health
5. The Counseling Center of Wayne and Holmes Counties
6. Debra Beckstett
7. Alta Care Group
8. Ohio Council of Behavioral Health & Family Services Providers
9. The Recovery Center
10. Townhall II
11. Pickaway Area Recovery Services, Inc
12. Marion Area Counseling Center
13. [Click here to enter text.](#)
14. [Click here to enter text.](#)
15. [Click here to enter text.](#)
16. [Click here to enter text.](#)

Hearing Summary Report

Consolidated Summary of Comments Received

Please review all comments received and complete a consolidated summary paragraph of the comments and indicate the rule number(s).

The comments received object to the inclusion of the requirement to submit management letters in (D)(1)(c) as the letters are intended for internal use only and such a requirement for disclosure is an overreach of government authority into private business affairs. The Ohio Council states that they believe the letter becomes a public record once submitted to the board and department, and that this puts behavioral healthcare providers at an unfair disadvantage.

Hearing Summary Report

Incorporated Comments into Rule(s)

Indicate how comments received during the hearing process were incorporated into the rule(s). If no comments were incorporated, explain why not.

The Ohio Department of Mental Health and Addiction Services (Department) consulted internally with its fiscal department and externally with the Ohio Association of County Behavioral Health Authorities (OACBHA) when preparing to submit this rule for the five-year renewal process. As part of the initially vetting the management letter requirement was flagged by the Ohio Council of Behavioral Health & Family Services Providers for the reasons listed above. The Department reviewed the information received from all sources and decided to leave the management letter requirement in (D)(1)(c) unchanged.

The requirement applies only to those providers certified by the Department and receiving funds that originate or pass through an ADAMHS board or the Department. Providers that do not receive funds from these sources fall under the requirements of paragraph (E). Providers are required to submit financial information, including management letters, due to the statutory duty in ORC 5119.22. The Department and Boards are required to evaluate the effectiveness and efficiency of services provided using state funds, and this includes the collection of financial information.

OAC 5122:1-5-01 does require the submission of financial statements, audit reports, and management letters. All three types of reports can give valuable insight into the health of a provider that is accepting public funding. Management letters are an optional part of an audit, dubbed a “value-added service” in some sources. The letters can “communicate deficiencies in internal control or other issues or recommendations for improvement noted during the audit.” (See <https://www.kellerowens.com/wp-content/uploads/2011/12/Understanding-Auditor-Communications.pdf> page 15). While these issues are considered less serious than material weaknesses than can still point to areas of concern of either misuse of public funds or a potential for a gap in a service due to a business failure.

If a service provider felt that there was a concern relating to confidential information in the management letter, the matter could be addressed at the time of submission. Generally trade secrets are not disclosable under Ohio public records law and if management letters were marked as such, both the Department and boards would be under a duty to not disclose them due to a public records request. However, no public records request has ever been received by the Department that would have included such management letters.