

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5122-14-12

Rule Type: Amendment

Rule Title/Tagline: Program, specialty services and discharge planning requirements.

Agency Name: Department of Mental Health and Addiction Services

Division:

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I. Rule Summary

1. Is this a five year rule review? Yes
 - A. What is the rule's five year review date? 1/19/2024
2. Is this rule the result of recent legislation? No
3. What statute is this rule being promulgated under? 119.03
4. What statute(s) grant rule writing authority? R.C. 5119.33
5. What statute(s) does the rule implement or amplify? R.C. 5119.33
6. Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires? No
 - A. If so, what is the citation to the federal law or rule? Not Applicable
7. What are the reasons for proposing the rule?

OhioMHAS is reviewing the rules in O.A.C. chapter 5122-14 in accordance with the five-year rule review requirements of R.C. 106.03. R.C. 5119.33(A) requires OhioMHAS to inspect and license all hospitals that receive mentally ill persons, except those hospitals managed by OhioMHAS. R.C. 5119.33(B) requires OhioMHAS to adopt rules "prescribing minimum standards for the operation of hospitals for the care and

treatment of persons with mental illnesses and establishing standards and procedures for the issuance, renewal, or revocation of full, probationary, and interim licenses."

8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

This rule specifies requirements for plans of service and clinical and professional services in OhioMHAS-licensed hospitals, as well as criteria for admissions to and discharges from such hospitals. OhioMHAS is proposing to update the rule to:

--Reflect that on and after September 30, 2024, Ohio-MHAS licensed beds do not also need to be registered with the Ohio Department of Health (ODH) due to the exemption from ODH registration in R.C. 3722.02(C)(4) that was passed by the General Assembly through H.B. 110 of the 134th General Assembly;

--Specify that psychiatric nursing experience does not, for a nurse hired on or after July 1, 2024, include experience derived from working in a hospital medical unit, emergency department, or other healthcare setting where individuals do not have a primary psychiatric diagnosis.

--Conform to LSC Rule Drafting Manual drafting standards.

9. Does the rule incorporate material by reference? No

10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.

Not Applicable

11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.

Not Applicable

II. Fiscal Analysis

12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.

This will have no impact on revenues or expenditures.

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Not applicable.

- 13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Not applicable.

- 14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

- 15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

- 16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not applicable

III. Common Sense Initiative (CSI) Questions

- 17. Was this rule filed with the Common Sense Initiative Office? Yes**

- 18. Does this rule have an adverse impact on business? Yes**

- A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes**

The General Assembly has mandated, through the enactment of R.C. 5119.33(A), that OhioMHAS "inspect and license all hospitals that receive persons with mental illnesses, except those hospitals managed by the department." Pursuant to R.C. 5119.33(B), the General Assembly has mandated that OhioMHAS adopt rules prescribing minimum standards for the operation of hospitals for the care and treatment of persons with mental illnesses and establishing standards and procedures for the issuance, renewal, or revocation of full, probationary, and interim licenses." The rules in O.A.C. chapter 5122-14 prescribe these minimum standards.

- B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No**

The only sanction under the rules in O.A.C. ch. 5122-14 is in O.A.C. 5122-14-05: the department may revoke or refuse to grant or renew a full, probationary, or interim license in accordance with the Ohio Administrative Procedure Act if an inpatient psychiatric service provider or other person engages in an activity listed in paragraph (B) of that rule.

- C. Does this rule require specific expenditures or the report of information as a condition of compliance? No
- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

- A. How many new regulatory restrictions do you propose adding to this rule? 0
- B. How many existing regulatory restrictions do you propose removing from this rule? 82

5122-14-12(A) - "Each inpatient psychiatric service provider shall have...."

5122-14-12(B) - "The comprehensive plan of service shall include...."

5122-14-12(C) - "Criteria for admission shall...."

5122-14-12(C)(1)(b) - "The total number of psychiatric beds and total number of detox (med/surg) beds and/or substance abuse beds must remain...."

5122-14-12(C)(1)(c) - "Patients shall be admitted...."

5122-14-12(C)(4) - "The inpatient psychiatric service provider shall assure...."

5122-14-12(D) - "Discharge criteria shall include, but not be limited to...."

5122-14-12(D) - "or that the patient must be transferred...."

5122-14-12(D) - "A civilly committed patient shall be discharged...."

5122-14-12(D) - "however such patients shall have the right...."

5122-14-12(E) - "The primary function of each inpatient psychiatric service provider shall be to provide...."

5122-14-12(E) - "Such services shall be culturally relevant...."

5122-14-12(E) - "and shall take into consideration...."

5122-14-12(F) - "Clinical services shall be provided...."

5122-14-12(F)(1) - "All members of the treatment team who have specific treatment responsibilities shall have either...."

5122-14-12(F)(2) - "Each inpatient psychiatric service provider shall specify in policy...."

5122-14-12(F)(3) - "Each inpatient psychiatric service provider shall assure and provide...."

5122-14-12(G) - "Each professional discipline shall:"

5122-14-12(G)(1) - "Identify special skills required...."

5122-14-12(G)(2) - "Participate in the development of criteria for qualifications of its staff members, which shall include...."

5122-14-12(H) - "Each inpatient psychiatric service provider shall provide...."

5122-14-12(H)(2) - "Dietetic services shall include...."

5122-14-12(H)(3) - "Emergency services shall be available...."

5122-14-12(H)(3)(b) - "If the inpatient psychiatric service provider does not maintain an emergency room or emergency service, it shall provide...."

5122-14-12(H)(4) - "Medical services shall...."

5122-14-12(H)(5) - "Nursing services shall be under...."

5122-14-12(H)(5) - "It is preferred, but not required, that...."

5122-14-12(H)(5) - "This requirement shall apply...."

5122-14-12(H)(6) - "Pastoral services shall be offered...."

5122-14-12(H)(6) - "or the provider shall arrange for...."

5122-14-12(H)(7) - "Patient education services shall be readily...."

5122-14-12(H)(8) - "Pharmaceutical services shall:"

5122-14-12(H)(9) - "Physical rehabilitation services shall be under...."

5122-14-12(H)(10) - "Psychological services shall be under...."

5122-14-12(H)(11) - "Psycho-social services shall be:"

5122-14-12(H)(12) - "Rehabilitation therapy services shall be:"

5122-14-12(H)(13) - "Substance abuse diagnostic and treatment services for all patients who have a secondary problem of substance abuse shall be provided...."

5122-14-12(I) - "Each inpatient psychiatric service provider shall develop...."

5122-14-12(J) - "Written policies and procedures and program descriptions shall document...."

5122-14-12(J)(1) - "Inpatient psychiatric service providers that provide services for adults sixty-five years of age and older shall develop...."

5122-14-12(J)(1) - "These needs shall include...."

5122-14-12(J)(1) - "Special attention shall be given...."

5122-14-12(J)(1) - "Diagnostic and treatment services shall be provided...."

5122-14-12(J)(1) - "Consultation with an occupational therapist or an occupational therapy assistant in collaboration with an occupational therapist shall be available...."

5122-14-12(J)(2) - "Services for patients who have a secondary problem of substance abuse shall include...."

5122-14-12(J)(3) - "Inpatient psychiatric service providers that provide services for patients with a secondary diagnosis of...."

5122-14-12(K) - "Inpatient psychiatric service providers authorized to serve children and adolescents shall provide...."

5122-14-12(K)(1) - "For all children twelve years of age and less, diagnostic and treatment services shall be provided...."

5122-14-12(K)(2) - "For all children thirteen through seventeen years of age, diagnostic and treatment services shall be provided...."

5122-14-12(K)(3) - "Each inpatient psychiatric service provider shall provide...."

5122-14-12(K)(4) - "Each inpatient psychiatric service provider shall provide...."

5122-14-12(K)(5) - "Each inpatient psychiatric service provider shall provide...."

5122-14-12(K)(5)(a) - "If the admission is longer than ten days, the inpatient psychiatric service provider shall, with the consent...."

5122-14-12(K)(5)(a) - "and shall provide appropriate physical space...."

5122-14-12(K)(5)(b) - "the inpatient psychiatric service provider shall communicate...."

5122-14-12(L) - "If a psychiatric intensive care unit is provided the following additional standards shall be met:"

5122-14-12(L)(1) - "The psychiatric intensive care unit shall be directed...."

5122-14-12(L)(2) - "Written policies and procedures shall describe...."

5122-14-12(L)(3) - "Psychiatric intensive care units shall be designed...."

5122-14-12(M) - "Inpatient psychiatric service providers that accept individuals into an observance or treatment status for periods of less than twenty-four hours shall develop policies...."

5122-14-12(N) - "Prior to or within twenty-four hours of admission of each patient, appropriate community resources and needs relative to the patient's treatment shall be identified...."

5122-14-12(O) - "All identified community resources shall...."

5122-14-12(O) - "Such efforts and involvement shall be documented...."

5122-14-12(P) - "If a patient is likely to be referred to a community mental health agency upon discharge, the inpatient psychiatric service provider with permission from the patient shall invite...."

5122-14-12(Q) - "The inpatient psychiatric service provider shall make arrangements...."

5122-14-12(Q)(1) - "Each inpatient psychiatric service provider shall provide...."

5122-14-12(Q)(1) - "or the inpatient psychiatric service provider shall arrange...."

5122-14-12(Q)(1)(a) - "The inpatient psychiatric service provider shall provide interim...."

5122-14-12(Q)(1)(a) - "This shall include an appointment...."

5122-14-12(Q)(1)(a) - "Such interim post discharge services shall include...."

5122-14-12(Q)(1)(b) - "The inpatient psychiatric service provider shall determine...."

5122-14-12(Q)(2) - "As part of the discharge planning, the inpatient psychiatric service provider shall make all...."

5122-14-12(Q)(2) - "if it has been concluded that these services are required within two weeks."

5122-14-12(Q)(3) - "For children/adolescents, each inpatient psychiatric service provider shall make provision...."

5122-14-12(Q)(4) - "The clinical treatment team shall develop a discharge plan...."

5122-14-12(Q)(4) - "The parent, guardian, or family shall also participate...."

5122-14-12(Q)(4) - "If the patient is a minor in the custody of an agency, that agency shall participate...."

5122-14-12(Q)(5) - "A copy of the relevant portions of the post discharge plan shall be given...."

5122-14-12(Q)(5) - "A copy of the relevant portions of the post discharge plan shall be given...."

5122-14-12(Q)(5) - ", the patient's guardian, and shall be made available...."

5122-14-12(R) - ", the inpatient psychiatric service provider shall discuss...."

5122-14-12(R) - "Such discussions shall be documented."

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**
- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable