

5123:2-3-04

**Licensed residential facilities - provision of services and maintenance of service records.**

(A) Purpose

This rule establishes standards to ensure that services provided in residential facilities licensed in accordance with section 5123.19 of the Revised Code focus on achievement of outcomes that are important to and important for individuals served, that individuals are involved in development and delivery of their services, that the confidentiality of individuals' records is maintained, and that individuals' records are readily accessible for service delivery and for review by the department.

(B) Definitions

- (1) "Community participation" means engagement of an individual in daytime and evening activities that:
  - (a) Are available to the general public (such as employment, clubs, meetings, and advocacy groups);
  - (b) Are important to the individual;
  - (c) Involve others with and without disabilities who are not paid to provide care to the individual; and
  - (d) Create opportunities for the individual to develop meaningful relationships in his or her local community as is typical of other citizens of that community.
- (2) "Individual" means a person with a developmental disability.
- (3) "Individual plan" or "individual service plan" means the written description of services, supports, and activities to be provided to an individual.
- (4) "Informed consent" means a documented written agreement to allow a proposed action, treatment, or service after full disclosure provided in a manner the individual or his or her guardian understands, of the relevant facts necessary to make the decision. Relevant facts include the risks and benefits of the action, treatment, or service; the alternatives to the action, treatment, or service; and the right to refuse the action, treatment, or service. The individual or his or her guardian, as applicable, may revoke informed consent at any time.
- (5) "Intermediate care facility for individuals with intellectual disabilities" has the same meaning as in section 5124.01 of the Revised Code.
- (6) "Licensee" has the same meaning as in section 5123.19 of the Revised Code.

- (7) "Major unusual incident" has the same meaning as in rule 5123:2-17-02 of the Administrative Code.
- (8) "Modified texture or therapeutic diets" means diets that are altered in any way to enable the individual to eat (e.g., food is chopped or pureed) or diets that are intended to correct or prevent a nutritional deficiency or health problem.
- (9) "Operator" means the licensee or an entity with which the licensee has established a contract for the management of and provision of services at the residential facility.
- (10) "Residential facility" has the same meaning as in section 5123.19 of the Revised Code.
- (11) "Team," as applicable, has the same meaning as in rule 5123:2-1-11 of the Administrative Code or means an interdisciplinary team as that term is used in 42 C.F.R. 483.440 as in effect on the effective date of this rule.
- (12) "Unusual incident" has the same meaning as in rule 5123:2-17-02 of the Administrative Code.

(C) Standards of service provision

- (1) The operator, administrator, and staff of the residential facility shall:

  - (a) Provide services only to individuals whose needs he or she can meet.
  - (b) Provide services in a person-centered manner.
  - (c) Be able to effectively communicate with each individual receiving services.
  - (d) Be knowledgeable in the individual plan or individual service plan for each individual served prior to providing services to the individual.
  - (e) Implement services in accordance with the individual plan or individual service plan.
  - (f) Take all reasonable steps necessary to prevent the occurrence or recurrence of incidents adversely affecting health and safety of individuals served.
  - (g) Comply with the requirements of rule 5123:2-2-06 of the Administrative Code.
- (2) The operator, administrator, and staff of the residential facility shall not:

- (a) Provide services to his or her minor (under age eighteen) child or his or her spouse;
- (b) Engage in sexual conduct or have sexual contact with an individual for whom he or she is providing care;
- (c) Administer any medication to or perform health care tasks for individuals who receive services unless he or she meets the applicable requirements of Chapters 4723., 5123., and 5126. of the Revised Code and rules adopted under those chapters; or
- (d) Use or be under the influence of the following while providing services:
  - (i) Alcohol;
  - (ii) Illegal drugs;
  - (iii) Illegal chemical substances; or
  - (iv) Controlled substances that may adversely affect his or her ability to furnish services.

(D) Health care

- (1) Self-administration or assistance with self-administration of prescribed medication shall be conducted in accordance with rule 5123:2-6-02 of the Administrative Code.
- (2) Delegation of nursing tasks, excluding the provision of health-related activities, shall be conducted in accordance with rule 5123:2-6-06 of the Administrative Code and Chapter 4723-13 of the Administrative Code.
- (3) Administration of prescribed medication pursuant to sections 5123.42 to 5123.46 of the Revised Code shall be conducted in accordance with Chapter 5123:2-6 of the Administrative Code.
- (4) The operator shall comply with the requirements for reporting medication/treatment errors in accordance with rules 5123:2-6-07 and 5123:2-17-02 of the Administrative Code.
- (5) The operator shall develop and implement written procedures for the disposal of prescribed medication. The procedures shall require that disposal of prescribed medication is verified and recorded by two staff members or by an independent external entity. Dangerous drugs shall be disposed in accordance with rule 4729-9-06 of the Administrative Code.

- (6) In the event of termination of services pursuant to rule 5123:2-3-05 of the Administrative Code, a written accounting of prescribed medication shall be completed no later than the last day of the individual's residency and verified by two staff members. The operator shall ensure a plan is developed for transfer of prescribed medications to the individual or his or her guardian, as applicable.
- (7) In the event of the death of an individual, a written accounting of prescribed medication shall be completed immediately and no later than twenty-four hours following the death and verified by two staff members. The operator shall cooperate with any investigation conducted by a legally authorized entity. Disposal of prescribed medication shall occur in a manner set forth in paragraph (D)(5) of this rule, unless an investigation calls for the disposal to be delayed.

(E) Transportation

- (1) The operator shall provide or arrange for transportation of individuals residing in the residential facility in accordance with each resident's individual plan or individual service plan, as applicable.
- (2) The operator shall:
- (a) Ensure that each employee providing transportation holds a valid driver's license as specified in Ohio law.
  - (b) Ensure that each employee providing transportation is covered by valid personal or corporate liability insurance as specified in Ohio law.
  - (c) Obtain, for each employee providing transportation, a driving record prepared by the bureau of motor vehicles no earlier than fourteen calendar days prior to the date of initial employment as a driver and at least once every three years thereafter. A person having six or more points on his or her driving record is prohibited from providing transportation.
  - (d) Require each employee providing transportation to immediately notify the operator in writing if he or she accumulates six or more points on his or her driving record or if his or her driver's license is suspended or revoked.
  - (e) Develop and implement written policies and procedures regarding vehicle accessibility, vehicle maintenance, and requirements for vehicle drivers.

(F) Food

- (1) The operator shall offer daily meals and snacks that meet the individuals' nutritional needs and preferences as identified by the individual.
- (2) Modified texture or therapeutic diets shall be prepared and served in accordance with the instructions of a physician or licensed dietitian. The operator shall maintain instructions regarding modified texture or therapeutic diets in accordance with paragraph (I) of this rule.
- (3) Meals shall provide for variety, substitutions, and accommodation of individuals' personal preferences and religious beliefs. Individuals shall participate in meal planning and preparation to the extent of their interest and ability to do so.
- (4) Fresh food supplies sufficient for three calendar days and staple food supplies sufficient for at least five calendar days shall be available in the residential facility at all times.
- (5) Food shall be prepared and stored properly and in accordance with health codes to protect it against contamination and spoilage. Food products shall be stored separately from potentially harmful non-food items, particularly cleaning and laundry compounds.

(G) Clothing and personal belongings

- (1) The operator shall ensure that each individual has an adequate amount of personal clothing in good repair, well-fitting, and comparable in style to that worn by age peers in the community. The team shall ensure the clothing needs of an individual who does not have personal funds available to cover needed items are met. All clothing shall be clean and appropriate for the season and the activities in which the individual is engaged.
- (2) The operator shall encourage each individual to select, purchase, and maintain his or her own clothing and to dress as independently as possible.
- (3) For an individual who has been assessed to need assistance with management of personal possessions, the operator shall record the individual's clothing and personal items within fourteen calendar days of admission and update the record at least annually thereafter.
- (4) Any single item with a purchase price of fifty dollars or more purchased by or on behalf of an individual who has been assessed to need assistance with management of personal possessions, shall be added to the record when acquired and deleted from the record when discarded or lost.
- (5) The operator shall not discard clothing and personal items without the consent of the individual or the individual's guardian, as applicable.

(H) Community participation and day activities for individuals who reside in intermediate care facilities for individuals with intellectual disabilities

- (1) The operator shall ensure that each individual routinely has information in formats the individual understands about day activities offered by other providers and opportunities to explore and experience community participation in accordance with his or her individual plan and desired outcomes as they relate to community employment in accordance with rule 5123:2-2-05 of the Administrative Code.
- (2) The operator shall ensure that each individual participates in day activities that foster community participation unless his or her individual plan indicates why, based on evaluations and assessments, such participation is medically contraindicated.
- (3) The operator shall ensure that individuals have access to a variety of day activities.
- (4) Day activities shall not be provided in an intermediate care facility for individuals with intellectual disabilities or within two hundred feet of the intermediate care facility for individuals with intellectual disabilities except that an intermediate care facility for individuals with intellectual disabilities that was providing day activities in or on the grounds of the intermediate care facility for individuals with intellectual disabilities prior to July 1, 2005 may continue to provide day activities at that same location.

(I) Individuals' service records

- (1) The following current records for each individual shall be maintained at the residential facility:
  - (a) A photograph of the individual.
  - (b) Legal status of the individual.
  - (c) Individual plan or individual service plan, as applicable, including documentation of informed consent for services, supports, and activities provided.
  - (d) A signed authorization to seek medical treatment or documentation to demonstrate that attempts to secure such authorization were unsuccessful.
  - (e) Medication and/or treatment records which indicate the person who prescribed the medication and/or treatment and the date, time, and person who administered the medication and/or treatment.

- (2) The following records for each individual shall be maintained by the operator in an accessible location and shall be provided upon request to the department for review at the residential facility or at another location mutually agreed upon by the operator and the department.
- (a) Former versions of records specified in paragraphs (I)(1)(a) to (I)(1)(e) of this rule.
  - (b) Admission and referral records.
  - (c) All service documentation including notations of progress.
  - (d) Records of all medical and dental examinations and immunization records as appropriate based upon the individual's age.
  - (e) Records of major unusual incidents and unusual incidents.
  - (f) Major unusual incident investigation files.
  - (g) Reconciliations of the individual's account transaction record as described in rule 5123:2-2-07 of the Administrative Code.
  - (h) Records of negotiable items owned by the individual which can be transferred or converted to cash (such as bonds or promissory notes).
  - (i) Records of clothing and personal items for individuals who have been assessed to need assistance with management of personal possessions.
  - (j) Termination of services summary which shall be prepared within seven calendar days following termination of services pursuant to rule 5123:2-3-05 of the Administrative Code. The termination of services summary shall include the individual's progress during residence and new address of residence. In the event of an individual's death, a termination of services summary shall be completed within thirty calendar days of death and include the disposition of the individual's personal items.
- (3) If operation of a residential facility is transferred from one operator to another, the outgoing operator shall convey the records specified in paragraphs (I)(1) and (I)(2) of this rule to the incoming operator.
- (4) All information contained in an individual's record shall be considered privileged and confidential. Records shall be maintained in accordance with state and federal regulations in such a manner to ensure their confidentiality and protect them from unauthorized disclosure.

(5) The operator shall develop a records retention schedule for all records in accordance with applicable state and federal requirements.

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Certification

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