



## RULE MEMORANDUM

Date: March 3, 2016

To: Interested Constituents

From: Howard Henry, Staff Counsel

Subject: Proposed Rule Amendments for:

- 5122-30 Licensing of Residential Facilities
- 5122-31 Accountability of Boards and Agencies for Mental Health Patients in Other Programs and Facilities
- 5122-33 Adult Care Facilities
- 5122-35 Adult Foster Homes

The Ohio Department of Mental Health and Addiction Services (OhioMHAS) is proposing the following Ohio Administrative Code rule actions. Please review these draft proposed rule actions and provide any comments you may have **by March 30, 2016. Comments will automatically be forwarded to the Common Sense Initiative Office.**

Pursuant to the requirements of EO 2011-01K and Senate Bill 2 of the 129th General Assembly, which requires state agencies, including OhioMHAS, to draft rules in collaboration with stakeholders, assess and justify any adverse impact on the business community (as defined by SB2), and provide opportunity for the affected public to provide input on the rules.

OhioMHAS is proposing to consolidate all rules regarding residential facilities as defined by O.R.C. 5119.34 into one Administrative Code chapter. The proposed rules will be updated and provide a standardized rule base for all facility categories, with exceptions as required by category. The proposed rule actions are listed below, and information on each of the proposed rules can be found on the BIA document at <http://mha.ohio.gov/Default.aspx?tabid=251>.

The Department is also rescinding as part of this package rules 5122-31-01 and 5122-31-02. These rules are no longer appropriate or applicable to the residential facility and RSS systems. Rule 5122-31-01 sets forth the responsibilities of mental health boards and providers in working with passport agencies in placing RSS recipients in residential facilities. This rule no longer reflects how individuals enter the RSS program and chose facilities in which to live. Rule 5122-31-02 is no longer necessary, as it dates to a time when Adult Care Facilities were regulated by another agency's procedures for coordinating care needed to be set forth in rule. The material in this rule is now either no longer needed or covered elsewhere.

The rules have been submitted to the CSI office for review; and comments regarding the rules can be submitted through the link on the OhioMHAS website. Comments submitted through the



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link will be sent to OhioMHAS and the CSI office. Comments may be sent directly to [CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov) or [MH-SOT-rules@mha.ohio.gov](mailto:MH-SOT-rules@mha.ohio.gov).

Rule Number	Title	New, Amended, No Change or Rescinded Rule
5122-30-01	Purpose of rules.	• Amended
5122-30-02	Applicability of rules.	• Amended (Filed as New)
5122-30-03	Definitions.	• Amended (Filed as New)
5122-30-04	Licensure application and procedures.	• Amended
5122-30-05	Issuance and conditions of <del>full, probationary and interim</del> licenses.	• Amended
5122-30-06	Unlicensed facilities.	• Amended
5122-30-07	Waivers and variances.	• Amended
5122-30-08	Exclusions.	• Rescinded
5122-30-09	Maximum resident and household capacity.	• Amended (Filed as New)
5122-30-10	Fines.	• Amended
5122-30-11	Inspections.	• Amended
5122-30-12	Safety.	• Amended (Filed as New)
5122-30-13	Nutrition <a href="#">and food safety</a> .	• Amended (Filed as New)
5122-30-14	Sleeping and living space.	• Amended (Filed as New)
5122-30-15	Housekeeping and property maintenance.	• Amended
5122-30-16	Incident notification and risk management.	• Amended (Filed as New)
5122-30-17	Seclusion and restraint.	• Amended
5122-30-18	Requirements for persons with disabling conditions.	• Amended
5122-30-19	Facility administration and management.	• Amended
5122-30-20	Qualifications of <a href="#">operator and</a> staff.	• Amended
5122-30-21	Staffing requirements <del>for type 2 facilities</del> .	• Amended (Filed as New)
5122-30-22	Resident rights and grievance procedure <a href="#">for class one facilities</a> .	• Amended (Filed as New)
5122-30-22.1	<a href="#">Resident rights and grievance procedure for class two and class three facilities</a> .	• New
5122-30-23	Facility records <del>for type 2 and 3</del> .	• Amended (Filed as New)
5122-30-24	<del>Provision of room and board</del> <a href="#">Resident agreement</a> .	• Amended (Filed as New)
5122-30-25	<a href="#">Skilled nursing care and</a> <del>Changes</del> <a href="#">changes</a> in a resident's health status.	• Amended (Filed as New)
5122-30-26	Provisions of personal care in <del>type 1 and 2</del> <a href="#">class one and two</a> facilities.	• Amended (Filed as New)
5122-30-27	<a href="#">Transfer and discharge rights</a> .	• New
5122-30-28	<a href="#">Medication</a> .	• Amended (Filed as New)



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5122-30-29	Provision of mental health services in <del>type</del> <u>class one</u> facilities.	<ul style="list-style-type: none"> <li>• Amended</li> </ul>
5122-30-30	Social, recreational and leisure activities.	<ul style="list-style-type: none"> <li>• New (existing rule moved to 5122-30-21)</li> </ul>
5122-30-31	Background investigations for employment.	<ul style="list-style-type: none"> <li>• Amended</li> </ul>
5122-33	Adult Care Facilities	<ul style="list-style-type: none"> <li>• Rescinded – all rules in this chapter will be rescinded.</li> </ul>
5122-35	Adult Foster Homes	<ul style="list-style-type: none"> <li>• Rescinded – all rules in this chapter will be rescinded.</li> </ul>
5122-31-01	Mental health board/mental health agency procedures for residential state supplement (RSS) placements for persons with mental illness.	<ul style="list-style-type: none"> <li>• Rescinded</li> </ul>
5122-31-02	Mental health board/mental health agency accountability rule related to adult care facility (ACF) placements for persons with mental illness.	<ul style="list-style-type: none"> <li>• Rescinded</li> </ul>