



Promoting wellness and recovery

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Date: 11 September 2013

To: Interested Constituents

From: Janel M. Pequignot, Chief, Licensure and Certification

Subject: Proposed Rule Amendments for:

- Licensure Rules for Residential Facilities (Type 1, Type 2 and Type 3)
- Licensure Rules Adult Care Facilities
- Certification Rules for Adult Foster Homes

The Ohio Department of Mental and Addiction Services (OhioMHAS) is proposing the following Ohio Administrative Code rule actions. Please review these draft proposed rule amendments and provide any comments you may have **by October 9, 2013**. If you have questions, please contact Howard Henry at Howard.Henry@mha.ohio.gov.

Common Sense Initiative (CSI) Filings: In accordance with section 121.82 of the Ohio Revised Code, ODMH must prepare and submit a business impact analysis (BIA) and draft rule to the Common Sense Initiative Office prior to filing certain rules with the Joint Committee on Agency Rule Review. OhioMHAS will notify stakeholders when a rule(s) & BIA is submitted to the CSI Office, and make these documents and a method for submitting written comments to OhioMHAS and the CSI office available on the OhioMHAS “Rules” webpage under “Draft Rules”. Please see below to learn whether the rules listed in this memo will be subject to CSI review at a later time after obtaining stakeholder input.

Licensure Rules for Residential Facilities (Type 1, Type 2 and Type 3)

Rule Number	Title	New, Amended, No Change or Rescinded Rule	Summary of Major Proposed Changes/Rule Subject	Rule Subject to Future CSI Review
5122-30-04	Licensure application and procedure	<ul style="list-style-type: none"> • Rescind and replace with new 	<ul style="list-style-type: none"> • Update references to Ohio Department of Mental Health and Addiction Services and reflect re-numbering of Ohio Revised Code citations 	<ul style="list-style-type: none"> • Yes

5122-30-04 (Continued)	Licensure application and procedure (Continued)		<ul style="list-style-type: none"> • Amend requirements to require criminal and other background checks on current and prospective operators, employees and volunteers with direct access to residents. • Note: OhioMHAS will rescind current rule and file new rule with JCARR rule filing d/t 50% revision requirement. Amendments are shown here to original rule to assist constituents in identifying changes 	
5122-30-31	Background investigations for employment	<ul style="list-style-type: none"> • New 	<ul style="list-style-type: none"> • State requirements for conducting criminal records checks and other background investigation of current and prospective operators, employees and volunteers with direct access to residents. • Denote periods of exclusions for persons with certain criminal convictions using a tiered approach • Align with criminal background checks requirements of other state licensing agencies, including aging, jobs and family services and developmental disabilities, as well as other OhioMHAS licensed/certified residential facilities. 	<ul style="list-style-type: none"> • Yes

Licensure Rules for Adult Care Facilities

Rule Number	Title	New, Amended, No Change or Rescinded Rule	Summary of Major Proposed Changes/Rule Subject	Rule Subject to Future CSI Review
5122-33-03	License application and renewal procedures	<ul style="list-style-type: none"> • Amend 	<ul style="list-style-type: none"> • Revise (A) to state that an ACF may not accept residents prior to licensure in order not to conflict with Ohio Administrative Chapter 5122-30 • Update (D)(3) to reference new proposed background investigation rule 5122-33-28 • Update references to reflect re-numbering of Ohio Revised and Administrative Code citations 	<ul style="list-style-type: none"> • Yes
5122-33-04	Application review process	<ul style="list-style-type: none"> • Amend 	<ul style="list-style-type: none"> • Update (A) to reference new proposed background investigation rule 5122-33-28 • Update references to reference department of mental health and addiction services 	<ul style="list-style-type: none"> • Yes
5122-33-05	Issuance, renewal, and denial of licenses	<ul style="list-style-type: none"> • Amended 	<ul style="list-style-type: none"> • Update (H) to reference new proposed background investigation rule 5122-33-28 • Eliminate (F) to reflect current practice and not to collect inspection fees and in accordance with Ohio revised Code • Update references to reflect re-numbering of Ohio Revised Code citations 	<ul style="list-style-type: none"> • Yes

5122-33-12	Facility management responsibilities	<ul style="list-style-type: none"> • Amend 	<ul style="list-style-type: none"> • Update (A)(7) to reference new proposed background investigation rule 5122-33-28 	<ul style="list-style-type: none"> • Yes
5122-33-28	Background investigations for employment	<ul style="list-style-type: none"> • New 	<ul style="list-style-type: none"> • State requirements for conducting criminal records checks and other background investigation of current and prospective operators, employees and volunteers with direct access to residents. • Denote periods of exclusions for persons with certain criminal convictions using a tiered approach • Align with criminal background checks requirements of other state licensing agencies, including aging, jobs and family services and developmental disabilities, as well as other OhioMHAS licensed/certified residential facilities. 	<ul style="list-style-type: none"> • Yes

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Certification Rules for Adult Foster Homes

Rule Number	Title	New, Amended, No Change or Rescinded Rule	Summary of Major Proposed Changes/Rule Subject	Rule Subject to Future CSI Review
5122-35-03	Operator standards	<ul style="list-style-type: none"> • Amended 	<ul style="list-style-type: none"> • Update references for criminal background checks 	<ul style="list-style-type: none"> • Yes
5122-35-04	Caregiver standards	<ul style="list-style-type: none"> • Amended 	<ul style="list-style-type: none"> • Update references for criminal background checks 	<ul style="list-style-type: none"> • Yes
5122-35-11	Background investigations for employment	<ul style="list-style-type: none"> • New 	<ul style="list-style-type: none"> • State requirements for conducting criminal records checks and other background investigation of current and prospective operators, employees and volunteers with direct access to residents. • Denote periods of exclusions for persons with certain criminal convictions using a tiered approach • Align with criminal background checks requirements of other state licensing agencies, including aging, jobs and family services and developmental disabilities, as well as other OhioMHAS licensed/certified residential facilities. 	<ul style="list-style-type: none"> • Yes