

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5122-22-01

Rule Type: Amendment

Rule Title/Tagline: Trusts for supplemental services.

Agency Name: Department of Mental Health and Addiction Services

Division:

Address: 30 East Broad Street Columbus OH 43215

Contact: Lisa Musielewicz **Phone:** 614-995-1958

Email: Lisa.Musielewicz@mha.ohio.gov

I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 5/17/2023
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. 5119.10, 5815.28
5. **What statute(s) does the rule implement or amplify?** R.C. 5815.28, 5119.51
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?**

The purpose of the rule is to define the supplemental services that may be provided through a trust authorized by R.C. 5815.28 and to establish the standards for the maintenance and distribution to a beneficiary of assets of such a trust. The rule is required by R.C. 5119.10(B)(9) and (10).

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

The rule defines supplemental services that may be provided through a trust authorized by R.C. 5815.28 and establishes the standards for the maintenance and distribution to a beneficiary of assets of such a trust. The rule is not being substantively amended at this time; the changes update the language to current terms used to refer to individuals with mental illness, correct grammatical errors, and reflect guidance in the LSC Rule Drafting Manual.

- 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.

0.0

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? No
18. Does this rule have an adverse impact on business? No
 - A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No
 - 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
 - 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? 27

5122-22-01(E)(1) - Upon creation of the trust, the trustee shall....

5122-22-01(E)(2) - It shall not be....

5122-22-01(E)(2) - The trustee shall make....

5122-22-01(E)(2) - ...such reports as otherwise required by....

5122-22-01(E)(4) - The department shall not....

5122-22-01(E)(4) - ...any further requirements imposed....

5122-22-01(E)(5) - Reformation of the trust shall be....

5122-22-01(E)(8) - Such funds, once added, shall not....

5122-22-01(E)(9) - The trustee shall....

5122-22-01(E)(9) - The bond or other insurance shall....

5122-22-01(E)(10) - The trustee shall....

5122-22-01(E)(11) - Trusts which were existence prior to the passage of section 5815.28 of the Revised Code shall not....

5122-22-01(F)(1) - ...the trustee shall:

5122-22-01(F)(2) - The beneficiary of a supplemental services trust shall not....

5122-22-01(F)(3) - Upon the death of the beneficiary, the trustee shall....

5122-22-01(F)(4) - The trustee shall have....

5122-22-01(G) -the trustee is required to....

5122-22-01(H)(1) -and constituent organizations that represent consumers of mental health services and their families, shall....

5122-22-01(H)(1) -the department shall distribute....

5122-22-01(H)(2) - A board which receives funds from the supplemental services fund shall....

5122-22-01(H)(3) - Eligibility for distribution shall....

5122-22-01(H)(4) - ...no more than one-tenth of a board allotment from the supplemental services fund shall....

5122-22-01(H)(6) - The board shall not be required....

5122-22-01(H)(8) - The board shall....

5122-22-01(H)(8) - ...but failed to submit the required report....

5122-22-01(H)(9) - The board shall....

5122-22-01(H)(10) - All assets shall....

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