

5122-30-05                    **Issuance and conditions of ~~full, probationary and interim~~ licenses.**

(A) Issuance and conditions of ~~full, probationary, and interim~~ licenses

- (1) The department may issue a full license for the facility only if it has been determined to the department's satisfaction that there is compliance with licensure requirements. The license shall specify facility class as defined in division (B) of section 5119.34 of the Revised Code; and the license shall specify the maximum number of residents for the facility; and the maximum number of household members if applicable, in accordance with rule 5122-30-09 of the Administrative Code ~~and the type of activity for which the facility is licensed, i.e., the provision of room and board only, room and board and personal care only, or room and board, personal care, and mental health services.~~
- (2) A full license shall be valid for ~~two~~ three years from the date of issuance in the case of class one facilities and for two years from the date of issuance in the case of class two or three facilities. The renewal date shall be based on the expiration date of a full license. A full license may be changed to a probationary license at any time, if the department determines that the circumstances applicable to the issuance of a probationary license, as specified in this chapter, exist.
- (3) A license is not transferable to any other site or property.
- (4) A license is valid only for the applicant named in the application, and is not transferable to or assumable by any other person or entity.
- (5) The license must be ~~kept~~ posted in an area visible to residents and visitors at the facility at all times and made available for inspection to any person who requests it.
- (6) The license shall not be altered, modified or defaced in any way.
- (7) The department may conduct surveys or inspections of licensed facilities, as it deems necessary and appropriate, to determine initial or continued compliance with requirements or to determine whether deficiencies have been corrected, or upon complaint or allegation of licensure violations by any agency provider or individual. Inspections or surveys may be unscheduled and unannounced, and may include all areas of the facility regardless of resident access.

- (8) The department shall have access to all records, accounts, and other documents relating to the operation of the facility, as well as access to all areas in the facility and to the operator, staff, and all residents, as the department deems necessary and appropriate.
- (9) The operator of the residential facility shall be responsible for notifying the department of any changes or proposed changes concerning the information submitted and attested to in the application, or in the operation of the facility which alter or modify the type of activity for which the facility is licensed, and/or the continued compliance of the facility with the requirements for licensure.

(B) Issuance and conditions of probationary licenses

- (1) A full license may be changed to a probationary license to allow the department to conduct a review or investigation, and for the facility to correct any identified deficiencies.
- (2) A probationary license may be issued for any of the reasons set forth in paragraph (D)(1) of this rule.
- ~~(1)(3)~~ A facility that has been issued a probationary license may not admit any residents during the term of the probationary license.
- ~~(2) The term of the probationary license shall be for a period determined by the department, in its discretion, in order for the department to conduct a review or investigation, and/or for the facility to correct identified deficiencies, but shall be less than one year. A probationary license may be renewed, but the total consecutive time period of the probationary license shall be less than one year.~~
- (4) Upon correction of identified deficiencies or the completion of the departments review or investigation without findings of deficiencies, the probationary license shall be rescinded and the full license reinstated and notice shall be made to the operator in writing.
- (5) The issuance of a probationary license shall be subject to proceedings governed by Chapter 119. of the Revised Code.

(C) Issuance and conditions of interim licenses

- (1) The department may issue an interim license if the department determines that the closing of or the need to remove residents from another residence has

created an emergency situation.

- (2) As specified in ~~paragraph (T)(2)~~ of rule 5122-30-04 of the Administrative Code, the department may authorize placement of residents in the facility prior to the on-site inspection, and prior to the approval and issuance of a license. If approved, the department shall promptly issue the interim license to the facility.
- (3) A facility which has received an interim license shall immediately apply for a fire inspection by a certified fire authority. Upon receipt of the inspection, the facility shall immediately take necessary action to correct any noted deficiencies.
- (4) ~~The interim license shall be valid for ninety days from the date of issuance. It may be renewed no more than twice.~~ Application for renewal of an interim license must be submitted to the department prior to expiration of the current interim license.

(D) Denial and revocation of licenses

- (1) The department may revoke or deny the issuance or renewal of a full, probationary, or interim license, as applicable, if the facility: ~~is not in compliance with the requirements for licensure.~~
  - (a) Is not in compliance with the requirements for licensure as set forth by the rules in this chapter;
  - (b) Has been cited for a pattern of serious noncompliance or repeated violations of statutes or rules during the period of current or previous licenses;
  - (c) The applicant, operator, manager, or owner presents or submits false or misleading information as part of a license application, renewal, or investigation; or,
  - (d) The applicant, operator, manager, or owner is or has been the owner or manager of a facility that has had a previous license to operate revoked or denied renewal for any reason other than nonpayment of the license fee unless:
    - (i) A minimum period of twenty-four months has passed from the date of the director's order revoking or denying renewal of the facility's previous license; and

- (ii) The licensure revocation or non-renewal was not due to any act or omission that violated the resident's right to be free from abuse, neglect, or exploitation.
- (2) The denial of an application for an initial or renewal license, ~~or~~ the revocation of a full or probationary license shall be subject to proceedings governed by Chapter 119. of the Revised Code, ~~except that a change in status from full to probationary licensure shall not be considered the revocation or denial of a license and shall not be subject to proceedings governed by Chapter 119. of the Revised Code.~~ The denial or revocation of an interim license shall not be subject to proceedings governed by Chapter 119. of the Revised Code and is solely at the discretion of the department.
- (3) The submission of incomplete materials for the application shall be considered a failure to submit an application for licensure, and the non-issuance of an initial license or a renewal license due to an incomplete application shall not be considered the denial or revocation of a license.
- (4) All residents of the facility, guardians and custodians if applicable, and the ombudsman shall be immediately notified by the operator of the unlicensed status, probationary license status, or movement of current residents of a licensed facility to a facility issued an interim license of a facility by the operator. For residents receiving mental health services or substance abuse treatment services the operator shall also notify the mental health or addiction services provider and the local Board. The treatment provider, local ombudsman or other entities may assist with finding a licensed residential facility or other appropriate placement for each resident. and the affiliating agency and/or board, and shall have all necessary and appropriate services provided to, or arranged for them by the affiliating agency and/or board in accordance with Chapter 340. of Revised Code that will enable them to reside in an appropriate residence, if they so choose.
- (5) Any facility which is in the process of the denial or revocation of a license remains subject to all of the requirements and conditions of licensure, except that the facility may not admit any residents during the Chapter 119. proceeding.
- (6) In proceedings initiated to deny, refuse to renew, or revoke licenses, the director may deny, refuse to renew, or revoke a license regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.
- ~~(6)~~(7) Nothing herein shall be construed to limit, modify, or abridge the

department's right to petition the court of common pleas of the county in which a residential facility is located for an order enjoining any person from operating a licensed facility when, in the director's judgment, there is a real and present danger to the health or safety of any of the residents of the facility, in accordance with division ~~(JN)~~ of section ~~5119.22~~5119.34 of the Revised Code.

~~(7)~~(8) Nothing in this rule shall be construed to limit, modify, or abridge the department's right to petition the court of common pleas or the probate court for the appointment of a receiver to take possession of and operate a residential facility in accordance with the provisions of section ~~5119.22~~5119.34 of the Revised Code.

(E) Termination of licenses

(1) A license shall be considered terminated and invalid in the following circumstances:

(a) The operator of the facility has voluntarily discontinued involvement as the operator;

(b) The licensed facility is no longer used as a residential facility subject to licensure, as in situations resulting from change of use, relocation, destruction or loss of the facility, etc.; and

(c) An application for renewal has not been received by the department prior to the expiration of the license.

(2) The termination of a license, as specified in ~~paragraphs~~ paragraph (E)(1) ~~(E)(1)(a) to (E)(1)(e)~~ of this rule, shall not be considered a denial or revocation of a license and shall not be subject to proceedings governed by Chapter 119. of the Revised Code. If the department determines that circumstances exist as specified in ~~paragraphs~~ paragraph (E)(1) ~~(E)(1)(a) to (E)(1)(e)~~ of this rule, it shall issue a letter to the operator, ~~affiliating agency,~~ and ~~mental health~~ board specifying the date of termination of the license.

(F) Licenses shall be returned to the department upon denial, termination, revocation, or voluntarily discontinuing operation of the facility.

(G) In addition to the facilities excluded from licensure by division (B)(4) of section 5119.34 of the Revised Code, the following facilities are not required to be licensed by the department and are not residential facilities subject to licensure by the department:

(1) The residence of a relative, or guardian of a person with mental illness; or.

(2) A hospital subject to licensure under section 5119.20 of the Revised Code.

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CERTIFIED ELECTRONICALLY

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Certification

04/05/2017

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Date

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