

**Rule Summary and Fiscal Analysis (Part A)****Department of Mental Health and Addiction Services**

Agency Name

Division

**30 East Broad Street Columbus OH 43215**

Agency Mailing Address (Plus Zip)

**Howard.Henry@mha.ohio.gov**

Email

**Howard Henry**

Contact

**614-752-8365**

Phone

Fax

**5122-30-13**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Nutrition and food safety.****RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **No**
2. Are you proposing this rule as a result of recent legislation? **No**
3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**
4. Statute(s) authorizing agency to adopt the rule: **5119.34**
5. Statute(s) the rule, as filed, amplifies or implements: **5119.34**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

The Department of Mental Health and Addiction Services (Department) has historically regulated residential facilities which were operated for persons with mental disabilities. The Department has also been given the regulatory authority of two other types of facilities, adult foster homes and adult care facilities, which were previously regulated by other agencies. Changes to the statutory language regarding residential facilities occurred in H.B. 59 of the 130th General Assembly, and the manner in which facilities were categorized has been changed. Until now there have been three separate O.A.C. chapters regulating residential facilities under the Department's authority. This rule action brings all rules regarding residential facilities under the Department's regulating authority up to date with current statutory authority and standardizes requirements across all facilities as much as possible. Going forward O.A.C. Chapter 5122-30 will be the chapter containing all residential facility rules. O.A.C. Chapters 5122-33 and 5122-35 are being rescinded in their entirety as part of this action.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; if the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

This rule sets forth nutrition standards and reflects updates from all three prior residential facility rule chapters. Paragraph (D) sets forth requirements for food that shall be made available to residents outside of normal mealtimes, proper substitutes for milk, and the how home canned products should be utilized. Paragraph (G) requires a record of meals be kept for thirty days. Paragraphs (H) through (P) are set forth safety requirements regarding food storage and preparation, including the location of where meals are prepared. It is being rescinded and filed as new as the content is over fifty percent changed.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Rule is being refiled to remove previous paragraph (M) as it was found to conflict with 5122-30-14(R).

12. Five Year Review (FYR) Date: **01/01/2023**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

### **FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

0.00

There will be no impact on revenues or expenditures.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable.

15.

Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

This rule consolidates food safety and nutrition practices from across Chapters 5122-30, 5122-33, and 5122-35. Facilities will have some increased overhead in needing to provide more food options but the end result will be to provide a more home like setting for clients. The requirements regarding licensed food service operations and the service locations of food come from former 5122-33 and will remain typically used by those types of facilities as suits their needs.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

### **S.B. 2 (129th General Assembly) Questions**

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **Yes**

Facilities must meet the standards in this rule in order to be licensed.

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**