

## TO BE RESCINDED

5122-33-05                    **Issuance, renewal, and denial of licenses.**

- (A) Except as otherwise provided in this paragraph, the director shall issue a license to an adult care facility if, after completing review of the information required by rule 5122-33-04 of the Administrative Code, he or she determines that the facility meets the requirements of section 5119.34 of the Revised Code and is in substantial compliance with this chapter. The director may, in accordance with Chapter 119. of the Revised Code, deny a license if the past record of the owner or manager, as considered by the director under paragraph (B) of rule 5122-33-04 of the Administrative Code, indicates that the owner or manager is not suitable to own or manage a facility.
- (B) Any license issued to an adult care facility:
- (1) Shall contain the name and address of the facility for which it was issued, the date of expiration of the license, and the maximum number of residents that may be accommodated by the facility;
  - (2) Is valid only for the residence or facility specified on the license and for a period of two years after the date of issuance unless revoked or suspended pursuant to Chapter 119. of the Revised Code; and
  - (3) Is not transferable to any other location.
- (C) In determining the number of residents in a facility for the purpose of licensing under Chapter 5119. of the Revised Code and this chapter, the director shall consider all the individuals for whom the facility provides accommodations, including adult day care participants, respite care clients, and boarders, as one group unless either of the following is the case:
- (1) The facility is both a nursing home licensed under Chapter 3721. of the Revised Code and an adult care facility. In that case, all the individuals in the part or unit licensed as a nursing home shall be considered as one group and all the individuals in the part or unit licensed as an adult care facility shall be considered as another group.
  - (2) The facility maintains, in addition to an adult care facility, a separate and discrete part or unit that provides accommodations to individuals who do not receive supervision or personal care services from the adult care facility.
    - (a) In this case, the individuals in the separate and discrete part or unit shall not be considered in determining the number of residents in the adult

care facility if the separate and discrete part or unit is in compliance with the Ohio basic building code established by the board of building standards under Chapters 3781. and 3791. of the Revised Code; and the adult care facility, to the extent of its authority, permits the director, on request, to inspect the separate and discrete part or unit and speak with consenting individuals residing there, to determine whether the separate and discrete part or unit meets the requirements of this paragraph.

(b) This paragraph applies to adult day care participants and boarders who are housed in a separate and discrete part or unit of the building where the adult care facility is located and who are not receiving supervision or personal care services from the adult care facility.

(D) No single facility may be licensed to operate as more than one adult care facility.

(E) The director shall renew a license for a two-year period if, after completing review of the application for renewal and other information pursuant to rule 5122-33-04 of the Administrative Code, he or she determines that the facility continues to be in compliance with the requirements of Chapter 5119. of the Revised Code and is in substantial compliance with this chapter.

(F) The director shall not do any of the following:

- (1) Issue or renew the license of an adult group home unless it meets the requirements of rule 5122-33-10 of the Administrative Code; or
- (2) Issue or renew the license of an adult family home unless it meets the fire protection standards established by paragraph (C) of rule 5122-33-09 of the Administrative Code.

(G) If any adult care facility fails to comply with any requirement of Chapter 5119. of the Revised Code or with any rule of this chapter or rule 5122-33-28 of the Administrative Code, the director may do any one or all of the following:

- (1) In accordance with Chapter 119. of the Revised Code, deny, revoke, or refuse to renew the license of the facility;
- (2) Give the facility an opportunity to correct the violation, in accordance with section 5119.34 of the Revised Code;
- (3) Issue an order suspending the admission of residents to the facility, in accordance with section 5119.34 of the Revised Code;

- (4) Impose a civil penalty in accordance with section 5119.34 of the Revised Code;  
or
- (5) Petition the court of common pleas for injunctive relief in accordance with section 5119.34 of the Revised Code.

Effective: 01/01/2018

Five Year Review (FYR) Dates: 01/20/2017

CERTIFIED ELECTRONICALLY

---

Certification

04/05/2017

---

Date

Promulgated Under: 119.03  
Statutory Authority: 5119.34  
Rule Amplifies: 5119.34  
Prior Effective Dates: 5-6-1991 (Emer.), 8-4-1991, 12-16-1993 (Emer.),  
2-25-1994, 9-5-1997, 6-17-2001, 6-1-2006, 10-1-2010