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Hearing Date: 10/17/2024

Today's Date: 11/8/2024

Agency: Ohio Department of Job and Family Services

Rule Number(s): 5101:2-5-02, 5101:2-5-03, 5101:2-5-04, 5101:2-5-04.1, 5101:2-5-06, 5101:2-5-07, 5101:2-5-13.1, 5101:2-5-20, 5101:2-5-24, 5101:2-5-25, 5101:2-5-26, 5101:2-5-28, 5101:2-5-31, 5101:2-5-33, 5101:2-5-38, 5101:2-9-08, 5101:2-9-37

If no comments at the hearing, please check the box.

List organizations or individuals giving or submitting testimony before, during or after the public hearing and indicate the rule number(s) in question.

1. Kristina Hudson, The Bair Foundation
2. Pam Halter, LSW – Ohio Mentor
3. Nancy Harvey, Community Teaching Homes, Inc.
4. Kate Rossman, Ohio Children's Alliance
5. Kara Sweeney – Ohio Mentor
6. Lindsay Williams, Buckeye Ranch
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Consolidated Summary of Comments Received

Please review all comments received and complete a consolidated summary paragraph of the comments and indicate the rule number(s).

Kristina Hudson with the Bair Foundation, a private child placing agency in Ohio, offered comment on the rules. Ms. Hudson expressed continued opposition to the proposed continuous certification rule requirements. Specifically, she noted support of DCY proposed changes to 5101:2-5-03 in eliminating the required board president of a PCPA to sign off on a recertification, but took issue with the amount of proposed changes in the rule to affect such a minor change.

With rule 5101:2-5-24, Ms. Hudson again noted that there were several edits to the rule, but the only substantive change was requiring agencies to recertify every four years, versus the current two.

Finally, Ms. Hudson expressed concern for the health and safety of children placed in child protection in Ohio if there is not an ongoing certification process for foster parents and indicated that Bair will operate with more stringent requirements for foster parents. She asked for a pause on these changes to allow for additional discussion prior to an planned implementation date.

From Ms. Hudson's written testimony, "In Summary, the State continues to report they want to reduce red tape. The actions of DCY have not proven this to be so. The barriers are more significant for licensing and recertifying foster homes."

Ms. Hudson proposed the alternative changes to the rule to reduce red tape:

- Remove the Child Characteristics Checklist
- Reduce ongoing training and remove the Resource Readiness Requirements
- Do not license a foster home for specific age/gender. Just license a foster home for youth.
- Call it Recertification every 4 years and align 45 hours of training requirements with 4 years.
- Identify and close the loop holes in the legal system that allow children to languish in foster care for 3-4 years
- Create an entirely different Kinship path that is **not** licensing kinship as foster care
- Listen to the Ohio Children's Alliance and implement feedback provided

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Pam Halter, a recertification specialist, offered comments on the rule in written testimony. She expressed concerns with the proposed changes to foster parent training requirements and said that the changes would complicate the training for recertification and would cause confusion. Ms. Halter provided possible examples of this confusion and ask implementation questions in her testimony as to how DCY would apply the new requirements moving forward. In separate written testimony, Ms. Halter thanked the department for engagement with stakeholders on the proposed changes to the rules, but expressed, “significant concerns that the proposed rules will increase administrative burdens and worsen the placement crisis.” She then went on to offer possible illustrations and scenarios of this concern, which include administrative closures of applications and existing certifications, documentation of compliance challenges, unpreparedness of staff to implement changes, and increasing the overall administrative burden on agencies.

Nancy Harvey with Community Teaching Homes, Inc. made similar comments to other witnesses in stating that the proposed changes to rules would increase administrative burden on agencies and lead to closures. Specifically, Ms. Harvey pointed to the administrative closure process outlined in 5101:2-5-26 and 5101:2-5-07, which allows for DCY to close applications and certifications for “minor noncompliance without a formal hearing under Chapter 119.” Instead of the proposed language, Ms. Harvey proposed removing any administrative closure language and begin the stakeholder process again to see if any closure process for certain violations was advisable.

Ms. Harvey indicated she appreciated the move to continuous certification, but expressed concern about the continuing administrative burdens in place under the rule. Additionally, Ms. Harvey called on the department to recognize certain provider accreditation as meeting specific rule requirements, in lieu of state-mandated requirements.

Finally, Ms. Harvey noted “the removal of administrative closure language as well as the strengthening of deemed status provisions are of the utmost importance for us.”

Kate Rossman with the Ohio Children’s Alliance (OCA), also offered testimony on the rule package. She began her written testimony echoing the concerns raised by Ms. Harvey (above) regarding the adverse impact the addition of administrative closure procedures would have on providers for “minor” infractions and would lead to placement disruptions for children and youth in the care of DCY/county PCSAs. Ms. Rossman then asked that DCY engage with OCA and

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other stakeholders in the development and amendment of any forms or guidance documents that implement the rule provisions being considered, noting that there may continue to be undue administrative burden on agencies and foster parents to comply with the new rule requirements. Additionally, Ms. Rossman requested DCY go through extensive testing and training prior to a roll out of systems requirements, given the vague language of the rules on the subject. Ms. Rossman also requested that national accreditation be recognized in lieu of separate state requirements.

Ohio Mentor Kara Sweeney testified and also expressed concern with the administrative closures process and language and also asked for its removal from the rules. She also noted the complication of some ODJFS/DCY foster parent recertification forms and joined with OCA in asking for an increased window for foster parents to sign up for continuous recertification from the proposed 90 day window. Again echoing other testimony, Ms. Sweeney raised concerns about the administrative burden for agencies and foster parents to comply with the new rule provisions and asked that accreditation be accepted in lieu of state requirements.

Lindsay Williams with the Buckeye Ranch also offered written testimony. She joined other testimony in raising an issue with the administrative closure changes and recommended the department abandon the changes in favor of continued conversation with stakeholders on the issue. She also called for an extension of the foster parent application window beyond 90 days for continuous certification and mentioned the administrative burden this would cause to foster parents and agencies. Finally, she pointed to possible systems issues with implementation and a lack of clarity in the rule for which provisions applied to private agencies versus public agencies in terms of audits.

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Incorporated Comments into Rule(s)

Indicate how comments received during the hearing process were incorporated into the rule(s). If no comments were incorporated, explain why not.

There were no changes to the rules as a result of the testimony, however DCY will work to refine supporting documents, including agency forms and guidance to ensure a smooth implementation of the rule provisions.

Below is the department's response and rationale for not making any additional changes to the proposed OAC rule language:

- There are only four reasons for an agency's administrative closure.
 1. Failure to provide an address change.
 2. Loss of contact after 30 days.
 3. The applicant isn't eligible due to being in a five-year ban period.
 4. The refusal to provide necessary documentation within the required timeframes.

Anything outside of these four items is not permissible. An administrative closure is not a denial or revocation because a completed application has not been received at this point in the process. Therefore, nothing prevents the applicant from starting over (re-applying).

- In terms of requests for an extended timeframe for continuous recertification, the current timeframe for recertification is to submit the necessary information 120 days before the certificate ends. The proposed rule for continuous certification is a 60-day window, which is 90 to 30 days before the initial four-year certificate ends. The most significant difference is what is required. For a current recertification, numerous requirements must be submitted. For a continuous application, the agency must only submit its request.
- DCY systems concerns will be addressed by implementing training before the end of 2024. This training will prepare agencies for the use of the system. The training dates will be on the SharePoint site for all to access.
- As to audit requirements in the rule, audits are a requirement of Section 5103.0323 in the Ohio Revised Code and cannot be changed.
- Keeping the training on a two-year cycle solves previous external comments received when DCY conducted listening sessions for these rules. There is no four-year certification cycle. There are updates that are required every four years, with training continuing every two years. The current rule also requires training hours to be completed every two years.
- Additional technical questions have been addressed by DCY through an existing guidance letter, if not planned to be addressed in subsequent trainings and communications with the agency community.

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