

PUBLIC HEARING NOTICE
OHIO DEPARTMENT OF JOB AND FAMILY SERVICES

DATE: 10/4/2023
TIME: 10 a.m.
LOCATION: Teleconference and Room 3110B, Rhodes State Office Tower
30 East Broad St., Columbus, Ohio 43215

This meeting will be held by teleconference and in person. If you would like to submit oral testimony, please attend the meeting site location or call in at the date and time to 1-614-721-2972. Then enter the meeting I.D # which is 270 034 168#. Written testimony may also be submitted electronically to: rules@jfs.ohio.gov.

Pursuant to sections 5104.013, 5104.019 and Chapter 119. of the Ohio Revised Code, the Ohio Department of Job and Family Services gives notice of the department's intent to consider the adoption, amendment, or rescission of the rule or rules as identified below and of a public hearing thereon.

5101:2-14-01 "Definitions for certified in-home aides" has been amended due to the five-year review. This rule outlines the definitions for the certified in-home aide rules. The following changes were made:

- Added a definition of "child" for clarification.
- Removed "this chapter" and replace with "Chapter 5104. of the Revised Code" for clarification.
- Clarified that medication includes any preparation of a substance which is used to prevent or treat a wound, injury, infection, infirmity or disease.
- Added definition of "Public Children Services Agency (PCSA)" for clarification.
- Updated definition of Publicly Funded Child Care funding.
- Updated definition of "routine trips" to match the family child care definition of routine trips.

5101:2-14-02 "Application and approval for certification as an in-home aide" has been amended to clarify and better organize the application and approval process for in-home aides. The following changes were made:

- Updated weblink for the Ohio Professional Registry (OPR).
- Clarified a "pre-certification visit" is an "inspection."
- Moved paragraph (D)(1) of this rule to paragraph (A)(4) of this rule.
- Moved the qualifications to be a certified IHA from paragraph (A) of rescinded rule 5101:2-14-03 to paragraph (B) of this rule.
- Removed "for those individuals certified after April 1, 2003" from paragraph (B)(2).

- Clarified the requirement for a medical statement by adding that the medical statement on file must be dated within 12 months prior to the date the IHA applies for initial certification.
- Clarified the contents of a valid IHA certificate.
- Updated the process for contacting the county if the IHA decides to voluntarily withdraw their certification from notifying "either verbally or in writing" to notifying "in OCLQS."
- Moved the ratio and maximum group size language from paragraph (C) of this rule to paragraph (C) of new rule 5101:2-14-08.
- Removed "requirements once a certificate has been issued" from paragraph (D) and replaced with "responsibilities of a certified IHA."
- Clarified when unannounced inspections will take place.
- Added requirement for IHA to keep their own mailing address, telephone number, email address and scheduled days and hours of care current in OCLQS.
- Added requirement for IHA to maintain their profile, dashboard and scheduled days and hours in the Ohio Professional Registry (OPR).
- Moved paragraph (A)(10) of rescinded rule 5101:2-14-03 to new paragraph (D)(8) of this rule.
- Moved paragraphs (A)(14), (A)(16) and (A)(17) of rescinded rule 5101:2-14-04 to new paragraphs (D)(5), (D)(6) and (D)(7) of this rule.
- Updated the process for contacting the county agency if the IHA discontinues caring for children, by removing "contact the county agency" and replacing with "update OCLQS."
- Clarified the procedure if an IHA wants to become certified at a second location.
- Added that the IHA is to submit the parent and child's new address in OCLQS if the parent and child move.
- Clarified that an inspection must take place at the new location if a parent and child move.
- Added the IHA responsibilities for addressing non-compliances found during inspections.
- Moved the process to request a review if a county agency proposes an adverse action from paragraph (E) of rescinded rule 5101:2-14-04 to new paragraph (J) of this rule.

Appendix A to rule 5101:2-14-02 has been amended with the following changes:

- Changed title to "Required Documents for an Initial and Renewal Application for Certification as an In-Home Aide".
- Clarified when documentation must be submitted by the IHA.
- Updated rule references.

- Removed training verifications from the list of uploads required, because training verifications are accessed in the OPR.
- Added that the Emergency and Disaster Plan is to be uploaded at application.
- Clarified that the JFS 01642 "In-Home Aide Assurances" is the only documentation required to be uploaded at renewal.
- Updated the weblink for the Ohio Professional Registry (OPR).
- Clarified background check requirements to match paragraph (B) of 5101:2-14-04.

Appendix B to rule 5101:2-14-02 is a new appendix replacing rescinded Appendix A to rescinded rule 5101:2-14-03, with the following changes:

- Removed "associate's" and replace with "associate" in paragraph number three to match Revised Code.
- Added "or a graduate of a non-chartered non-public school" to paragraph number four to match Revised Code.
- Removed "a letter from the state or local board of education stating that the curriculum for the course of home study taken by the provider meets the required standards for high school completion" from paragraph number four and replaced with "documentation as required by section 3313.6110 of the Revised Code."

Appendix C to rule 5101:2-14-02 is a new appendix replacing rescinded Appendix C to rescinded rule 5101:2-14-03 with the following changes:

- Clarified when the IHA must submit a medical statement.
- Replaced "physician's" assistant with "physician" assistant to match Revised Code.

5101:2-14-03 "Training requirements for an in-home aide" is a new rule replacing rescinded rule 5101:2-14-03 "Qualifications for certification as an in-home aide" for rule re-numbering, to move background check requirements to their own rule and to clarify when health trainings are required. The following changes were made:

- Grouped the health trainings required before an IHA may be certified, exemptions from health training requirements, and specific CPR requirements into new paragraph (A) of this rule.
- Grouped the on-going health training requirements into new paragraph (B) of this rule, including moving existing requirements in paragraphs (A)(4), (A)(5) and (A)(6) of rescinded rule 5101:2-14-03 to new paragraphs (B)(1) and (B)(2) of this rule.
- Moved professional development requirements from paragraph (B) of rescinded rule 5101:2-14-03 to new paragraph (C) of this rule.
- Created new paragraph (D) to outline the documentation requirements for health trainings and professional development hours.

Appendix A to rule 5101:2-14-03 replaces rescinded Appendix B to rescinded rule 5101:2-14-03 with the following changes:

- Added new paragraph number two to clarify that the first aid training must follow a curriculum that is appropriate for the age and developmental levels of the children in care.
- Replaced "Physician's" assistant with "physician" assistant and "associate's" degree with "associate" degree to match Revised Code.

Appendix B to rule 5101:2-14-03 replaces rescinded Appendix D to rescinded rule 5101:2-14-03. There are no proposed changes to this appendix.

5101:2-14-04 "Background check requirements for a certified in-home aide" is a new rule replacing paragraph (C) through paragraph (K) of rescinded rule 5101:2-14-03 to move background check requirements to their own rule; and replacing rescinded rule 5101:2-14-04 "In-home aide responsibilities and assurances" for rule re-numbering. The following changes were made:

- Clarified when a background check is required.
- Moved the background check requirements when an IHA has a break in employment for more than one hundred eighty consecutive days to new paragraph (B)(3).
- Clarified that when an IHA requests a background check review, a new JFS 01176 and JFS 01177 will only be provided if there is a change in the original decision.

Appendix A to rule 5101:2-14-04 replaces rescinded Appendix (E) to rule 5101:2-14-03 to move the rehabilitation requirements for background checks to the new background check rule; and replaces rescinded appendix A to rule 5101:2-14-04 for rule re-numbering. The following changes were made:

- Moved "an existing or former offense of any municipal corporation, this state, or any other state, or the United States that is substantially equivalent to any of these offenses, or that would meet the ineligibility requirements under 45 CFR Section 98.43 or" from the bottom of the list of offenses to paragraph 2c.
- Added the following to the list of prohibited offenses to align with the Ohio Revised Code and the Child Care and Development Block Grant:
 - R.C. 2903.03 – Voluntary manslaughter
 - R.C. 2903.04 – Involuntary manslaughter
 - R.C. 2905.32 – Trafficking in persons
 - R.C. 2907.04 – Unlawful sexual conduct with minor
 - R.C. 2907.05 – Gross sexual imposition
 - R.C. 2907.19 – Commercial sexual exploitation of a minor
 - R.C. 2907.21 – Compelling prostitution
 - R.C. 2907.31 – Disseminating matter harmful to juveniles

R.C. 2911.01 – Aggravated robbery
R.C. 2911.02 – Robbery
R.C. 2911.11 – Aggravated burglary
R.C. 2911.12 – Burglary
R.C. 2919.23 – Interference with custody
R.C. 2919.24 – Contributing to unruliness or delinquency of a child
R.C. 2923.13 – Having weapons while under disability
R.C. 2923.161 – Improperly discharging firearm at or into a habitation, in a school safety zone or with intent to cause harm or panic to persons in a school building or at a school function

5101:2-14-05 "Safe and sanitary environment and equipment requirements for in-home aides" was amended to re-group topics for clarity, to add existing requirements to rule that were previously only listed on required forms, and to add federal requirements. The following changes were made:

- Moved old paragraph (A)(2) of this rule to new paragraph (A)(2) of rule 5101:2-14-08.
- Moved old paragraphs (A)(3) and (A)(4) of this rule to new paragraph (B) of rule 5101:2-14-07.
- Added lead hazard procedures.
- Moved old paragraphs (C)(1) and (C)(2) of this rule to new paragraphs (A)(3) and (A)(4) of this rule.
- Added requirement that cleaning agents, aerosol cans and all other chemical substances are to be stored in a designated area in their original containers and/or clearly labeled.
- Added that toilets are to be flushed after each use to match requirements on the JFS 01533 "In-Home Aide Inspection."
- Removed "weapons, firearms and ammunition materials shall be kept inaccessible to children, out of sight of children in locked storage areas." Replaced with "All weapons, including loaded and unloaded firearms and ammunition are to be stored in a secure, safe, locked environment inaccessible to children while in the care of the IHA at the home."
- Added that "All alcohol, drugs, and household and child medications are to be kept out of the reach of children while in the care of the IHA at the home."
- Added that the home is to have both hot and cold running water and that hot water temperature is not to exceed one hundred twenty degrees Fahrenheit.
- Added handwashing requirement for a sturdy, nonslip platform if the sink is not of suitable height for children.
- Added the requirement that the JFS 08087 "Communicable Disease Chart" is to be readily available to the IHA, parents and residents.
- Moved the first aid kit requirement from paragraph (A)(10) to new paragraph (D) of this rule.

- Added standard precaution procedures due to federal requirements, and to match requirements on the JFS 01533.
- Added existing requirements found on the JFS 01642 "In-Home Aide Assurances" form regarding swimming and safety procedures, due to federal requirements.
- Added requirements for pet safety.

Appendix A to rule 5101:2-14-05 has no proposed changes.

Appendix B to rule 5101:2-14-05 is a new appendix that outlines the requirements when a child is sick. This appendix was added due to federal requirements.

Appendix C to rule 5101:2-14-05 is a new appendix that outlines first aid equipment requirements for clarification and to match the list on the JFS 01533. No changes were made to the contents of the list.

5101:2-14-06 "Child record requirements for a certified in-home aide" is a new rule replacing paragraphs (C)(1) through (C)(5) of rescinded rule 5101:2-14-04 to group child record requirements into their own rule for clarity, replacing rescinded rule 5101:2-14-06 "County agency responsibilities for the issuance and renewal of in-home aid certifications" for rule renumbering, and adding existing requirements to rule that were previously only listed on required forms. The following changes were made:

- Added that the parent and the IHA are to initial and date the JFS 01234 "Child Enrollment and Health Information for Child Care" when information is reviewed or updated.
- Added that the child's JFS 01234 must be sent with any child who is being transported for emergency treatment.
- Added that each child's JFS 01234 must be kept in a location where it can be quickly and easily accessed and removed from the home if there is an emergency that requires moving the child to another location.
- Added that the JFS 01236 "Medical/Physical Care Plan for Child Care" is required when there is ongoing administration of medication or medical foods.
- Added that the parent and the IHA are to initial and date the JFS 01236 when information is reviewed or updated.
- Added that the JFS 01236 is to be on file in the home by the first day that the IHA provides child care services, or upon confirmation of a health condition, to match the existing requirement on the JFS 01642.
- Added that if the IHA suspects that the child has a health condition, the IHA may require a physician's statement within a designated time frame.
- Removed the requirement that the IHA must keep attendance records, indicating the hours of care for each child, previously found in paragraph (C)(4) of rescinded rule 5101:2-14-04.

- Clarified child record confidentiality requirements in new paragraph (D).
- Consolidated child record retention requirements already existing in rule in new paragraph (E).

Appendix A to rule 5101:2-14-06 is a new appendix replacing rescinded Appendix B to rescinded rule 5101:2-14-04. There are no changes to the language of this appendix.

5101:2-14-07 "Emergency and health-related plans for a certified in-home aide" is a new rule replacing paragraph (D) of rescinded rule 5101:2-14-04 to group incident reporting requirements into one rule for clarity, replacing rescinded rule 5101:2-14-07 "County agency responsibility for compliance inspections and complaint investigations for an in-home aide" for rule re-numbering, adding federal requirements, and for the five-year review. The following changes were made:

- Added that that IHA is to have a written plan for medical and dental emergencies on the JFS 01242 "Medical, Dental and General Emergency Plan for Child Care." The plan is to be completed, implemented when necessary and kept in a location readily available to the IHA.
- Added that the IHA is to complete the JFS 01201 "Dental First Aid" and kept in a location readily available to the IHA.
- Added that written emergency and disaster plans are to include brief instructions for evacuations and diagrams with indoor severe weather safe spots and evacuation routes.
- Added that severe weather and fire evacuation routes are to be posted on each level of the home in use for care.
- Moved the existing requirements for fire and weather emergency drills in paragraphs (A)(15) and (D)(1)(b) of rescinded rule 5101:2-14-04 to new paragraphs (A)(5) and (E)(2) of this rule.
- New paragraph B of this rule replaces and clarifies the existing incident/injury report requirements that were previously located in paragraphs (A)(3) and (A)(4) of rule 5101:2-14-05.
- Clarified what should be considered a serious incident and the requirements when a serious incident occurs.
- New paragraph (C) of this rule replaces and clarifies the existing disaster plan requirements that were previously located in paragraph (D) of rescinded rule 5101:2-14-04.

5101:2-14-08 "Supervision of children and child guidance for a certified in-home aide" is a new rule consolidating supervision and child guidance requirements into one rule for clarity, and adding existing requirements to rule that were previously only listed on required forms. The following changes were made:

- Moved and clarified the existing supervision requirements in paragraph (A)(2) of rule 5101:2-14-05 to new paragraphs (A)(1) and (A)(2) of this rule.

- Moved and clarified the existing supervision requirements in paragraphs (A)(2), (A)(3), (A)(6), and (A)(7) of rescinded rule 5101:2-14-04 to paragraphs (A)(3), (A)(5), and (A)(7) of this rule.
- Moved and clarified the existing supervision requirement in paragraph (A)(9) of rescinded rule 5101:2-14-03 to new paragraph (A)(4) of this rule.
- Added the existing requirement found on the JFS 01642 that the IHA is not to permit the children to be exposed to inappropriate language or media.
- Added that "suitable weather" for outdoor play is a minimum of twenty-five to ninety degrees Fahrenheit.
- Added outdoor play supervision requirements, to match existing requirements on the JFS 01533.
- Added that school-age children are permitted in the outdoor play space without the IHA if they remain within sight and hearing of the IHA, the IHA is always able to intervene if needed, and the children are not engaged in higher risk activities such as swimming or using equipment with movable parts.
- Added that when the outdoor play space is not on the premises, the IHA is to accompany and supervise all children in transit and at the outdoor play space.
- Added that the children must have access to bathroom facilities and drinking water during outdoor play times to match existing requirements on the JFS 01533.
- Added new paragraph (B) that specifies when school-age children may leave home for specific activities and the written permission requirements for allowing school-age children to leave home for these activities.
- Moved the ratio and maximum group size requirements from rule 5101:2-14-02 to new paragraph (C) of this rule.
- Moved the guidance requirements from paragraph (B) of rescinded rule 5101:2-14-04 to new paragraph (D)(1) of this rule.
- Added new paragraph (D)(2) to clarify that the IHA must consult with the parent before implementing a specific behavior management plan.
- Moved the mandated reporter requirements from paragraph (A)(13) of rescinded rule 5101:2-14-04 to new paragraph (E) of this rule.

Appendix A to rule 5101:2-14-08 is a new appendix replacing rescinded Appendix A to rescinded rule 5101:2-14-04. There are no proposed changes to the language of this appendix.

5101:2-14-09 "Transportation and field trip safety for a certified in-home aide" is a new rule replacing paragraph (A)(11) of rescinded rule 5101:2-14-04 and adding existing requirements to rule that were previously only listed on required forms. It clarifies existing requirements for written permission for field trips and for ensuring no child is left in a vehicle. The following changes were made:

- Added existing requirements found on the JFS 01642 and the JFS 01533 regarding what must be taken with the IHA on all trips.
- Added that seatbelts must be utilized by adults and children and no more than one person may be strapped in each belt in paragraph (A)(6).
- Added that IHAs who transport children must complete the one-time ODJFS transportation training in the OPR, unless public transportation is utilized in new paragraph (B).
- Added vehicle inspection requirements in new paragraph (C).

Appendix A to rule 5101:2-14-09 is a new appendix replacing the existing requirements in paragraphs (A)(11)(a) through (A)(11)(e) of rescinded rule 5101:2-14-04. There are no changes to the language of these requirements.

5101:2-14-10 "Sleeping, napping and overnight requirements for a certified in-home aide" a new rule replacing paragraphs (A)(4) and (A)(5) of rescinded rule 5101:2-14-04, and adding existing requirements to rule that were previously only listed on required forms. The following changes were made:

- Added that the JFS 01235 "Sleep Position Waiver Statement for Child Care" must be on file if an infant under twelve months of age is not placed on their back to sleep.
- Added that infants who can roll from back to front and front to back must initially be placed on back for sleeping but may be allowed to remain in position they prefer.
- Added that sleep or nap areas must be lighted to allow for visual supervision.
- Added that IHA's own children being cared for in the home are to be assigned their own bed, crib, mat, cot or playpen for sleeping and napping.
- Added existing requirements found on the JFS 01642 regarding sleeping arrangements and crib requirements.
- Added evening and overnight care requirements in paragraph (F).

5101:2-14-11 "Meal preparation/nutritional requirements for a certified in-home aide" is a new rule replacing paragraph (A)(12) of rescinded rule 5101:2-14-04 and adding existing requirements to rule that were previously only listed on required forms. The following changes were made:

- Clarified portion size and nutritional requirements for meals and snacks to match the existing requirements on the JFS 01642.
- Added that food should be developmentally appropriate in size, amount, and texture, and should not be a choking hazard.
- Added requirements around medical foods and alternate diets in paragraphs (A)(5) and (A)(6).
- Added food storage requirements to match the existing requirements on the JFS 01642.

- Added self-feeding requirements in paragraph (B).

Appendix A to rule 5101:2-14-11 is a new appendix outlining the requirements for meals and snacks to match the existing requirements on the JFS 01642.

5101:2-14-12 "Medication administration for a certified in-home aide" is a new rule replacing paragraph (C)(5) of rescinded rule 5101:2-14-04 and adding existing requirements to rule that were previously only listed on required forms. The following changes were made:

- Clarified requirements for filling out the JFS 01217 "Request for Administration of Medication for Child Care" based on type of medication administered.
- Clarified that the JFS 01217 is not required for medication required by a JFS 01236 "Child Medical/Physical Care Plan for Child Care" or for non-prescription topical products or lotions.
- Added that the IHA is not to administer any medication, medical food, or topical product until the child has received the first dose or application.
- Added that the IHA is not to administer any medication, medical food or topical product for any period beyond the date indicated by the physician, or after the expiration date of the medication, whichever comes first.
- Clarified that each administration or application must be documented on the JFS 01217 immediately after administering, including when school-age children administer their own medication.
- Clarified existing requirements on the JFS 01642 regarding medication storage.

5101:2-14-13 "Infant care and diaper care for a certified in-home aide" is a new rule replacing paragraphs (A)(8), (A)(9) and (A)(10) of rescinded rule 5101:2-14-04, and adding existing requirements to rule that were previously only listed on required forms. The following changes were made:

- Added infant daily care requirements in paragraphs (A)(1)(a) through (A)(1)(c) due to federal requirements.
- Added existing requirements from the JFS 01642 to paragraphs (A)(1)(d), (A)(2), (B), (C) and (D).
- Added that new foods are to be introduced by the IHA only after consultation with the parent.
- Added requirements for diapering more than one child in paragraphs (C)(3)(b) and (C)(3)(c).
- Added requirements for storing and laundering soiled diapers in paragraph (C)(4).

Appendix A to rule 5101:2-14-13 is a new appendix clarifying the requirements for breast milk storage.

5101:2-14-14 "County agency responsibilities for in-home aide certifications, compliance inspections and complaint investigations" is a new rule replacing rescinded rules 5101:2-14-06 and 5101:2-14-07 to consolidate county responsibilities into one rule. The following changes were made:

- Removed a reference to the JFS 01533 "In-Home Aide Inspection" form from paragraph (A)(3), because inspections now take place in OCLQS.
- Moved the requirement that inspections take place annually every year after certification from paragraph (A)(3) of rescinded rule 5101:2-14-06 to new paragraph (C)(1) of this rule.
- Clarified that the county must comply with all requirements in Chapter 5104. of the Revised Code and Chapter 14 of the Administrative Code.
- Moved paragraph (B)(1) of rescinded rule 5101:2-14-06 to paragraph (A)(4) of this rule.
- Removed "which includes meeting the rehabilitation criteria in appendix E to rule 5101:2-14-03 of the Administrative Code, if applicable" from paragraph (A)(4) because this is redundant.
- Removed paragraphs (B)(2) and (B)(3) of rescinded rule 5101:2-14-06 because these are redundant.
- Removed the word "recertification" and replace with "renewal" for consistency.
- Added new paragraph (C) to clarify when additional compliance inspections are to take place.
- Removed paragraph (E)(1) from rescinded rule 5101:2-14-06, because this information is now included in OCLQS on the inspection report.
- Moved requirements for complaint investigations from rescinded rule 5101:2-14-07 to new paragraph (D) of this rule.
- Added that complaints must be documented in OCLQS on the same day the complaint is received.
- Removed the written report requirements for complaints alleging child abuse or neglect and replaced with the requirement to follow PCSA instructions if additional information is needed.
- Removed "unless the PCSA indicates that the county agency complaint investigation would interfere with the PCSA's investigation of the case" and replaced with requirement that the county agency is to cooperate with the PCSA to ensure that the inspection does not interfere with the PCSA investigation.
- Moved county requirements when an IHA is not in compliance to new paragraph (E) of this rule.
- Moved county process for an IHA county review of a non-compliance finding or a revocation of the certificate to new paragraph (F) of this rule.
- Added OCLQS documentation requirements for inspections in new paragraph (G)(1).

- Moved requirement for providing copies of inspections to the IHA to new paragraph (G)(1).
- Added that the JFS 01642 "In-Home Aide Assurances" is to be maintained in OCLQS in new paragraph (G)(2).
- Moved paragraph (B)(4) of rescinded rule 5101:2-14-07 to new paragraph (G)(2) of this rule.
- Added new paragraphs (G)(3) and (G)(4) to clarify requirements around the IHA case file and record retention.
- Moved information that the county agency can share publicly regarding an IHA to new paragraph (H) of this rule.
- Moved that the county is not to have additional requirements that exceed the IHA certification standards to new paragraph (I) of this rule.

A copy of the proposed rule(s) is available, without charge, to any person affected by the rule(s) at the address listed below. The rule(s) is also available on the internet at <http://www.registerofohio.state.oh.us/>. A public hearing on the proposed rule(s) will be held at the date, time, and location listed at the top of this notice. Either written or oral testimony will be taken at the public hearing. Additionally, written comments submitted or postmarked no later than the date of the public hearing will be treated as testimony.

Requests for a copy of the proposed rule(s) or comments on the rule(s) should be submitted by mail to the Ohio Department of Job and Family Services, Office of Legal and Acquisition Services, 30 East Broad Street, 31st Floor, Columbus, Ohio 43215-3414, by fax at (614) 752-8298, or by e-mail at rules@jfs.ohio.gov.