

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 3701-12-05

Rule Type: Amendment

Rule Title/Tagline: Scope of review: reviewable activities.

Agency Name: Department of Health

Division:

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I. Rule Summary

1. **Is this a five year rule review?** No
 - A. **What is the rule's five year review date?** 5/23/2024
2. **Is this rule the result of recent legislation?** Yes
 - A. **If so, what is the bill number, General Assembly and Sponsor?** HB 110 - 134
- Representative Oelslager
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 3702.52; 3702.57
5. **What statute(s) does the rule implement or amplify?** 3702.511
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
 - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

Revisions have been made consistent with changes to Section 3702.511(A)(3) of the Ohio Revised Code included in House Bill 110 of the 134th General Assembly.

- 8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

The rule establishes which activities are reviewable under the CON process. Reviewable activities include, but are not limited to, construction of a new long-term care facility, relocation of long-term care beds, and renovations. Revisions have been made increasing the capital expenditure on nursing home renovations or additions subject to Certificate of Need review from two million to four million dollars.

- 9. Does the rule incorporate material by reference? No**
- 10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

Not Applicable

- 11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

- 12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will decrease revenues.

40,000.00

Based on the historical pattern of at least one Certificate of Need application each year over the last five years for costs exceeding 2 million dollars, it can be assumed that trend would continue, resulting in a loss of up to \$20,000 per year.

- 13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

The industry will see a decrease in cost associated with these changes since the minimum threshold for a CON review for a project involving renovations or additions has been increased by two million dollars. This will result in fewer CON applications from the industry, however, the application fees charged remain unchanged as follows:

Application fee of \$5000 to \$20,000.

14. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**
15. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**
16. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

The fees collected directly support the CON program at the Ohio Department of Health. Fees collected support personnel and infrastructure necessary to support this statutorily required program.

III. Common Sense Initiative (CSI) Questions

17. **Was this rule filed with the Common Sense Initiative Office? Yes**
18. **Does this rule have an adverse impact on business? Yes**
 - A. **Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes**

All rules in Chapter 3701-12 are part of the Certificate of Need Application (CON) process. Any person seeking to engage in reviewable activities involving long-term care facilities or long-term care beds must obtain this written approval granted by the Director of Health.
 - 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**
 - D. **Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No**

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? No

A. How many new regulatory restrictions do you propose adding to this rule?

Not Applicable

B. How many existing regulatory restrictions do you propose removing from this rule?

Not Applicable

C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.

Not Applicable

D. Please justify the adoption of the new regulatory restriction(s).

Not Applicable