

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

Agency Name

Division

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Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Application and completeness review process; public notice.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

2. Are you proposing this rule as a result of recent legislation? **Yes**

Bill Number: **HB153**General Assembly: **129**Sponsor: **Rep. Amstutz**

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: **3702.51, 3702.57**

5. Statute(s) the rule, as filed, amplifies or implements: **3702.52, 3702.57**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

ODH is proposing to amend this rule in response H.B. 153 of the 129th General Assembly.

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 describes the Certificate of Need (CON) application and comparative

review process and further sets forth the public notice requirements for CON applicants. The rule establishes the comparative review periods for applications.

The rule is being filed to comply with H.B. 153. The proposed amendment allows for infirmity beds that are currently designated to provide care exclusively for members of religious orders to be filled additionally by relatives of the members of those religious orders. Such infirmity beds may not be relocated. Additionally, a proposed change allows the Director of Health to request information from an applicant three times. Finally, a proposed change allows an applicant for a CON (intra-county or contiguous county) to submit a revised application that changes the site of the proposed project. The revised application must include a fee equal to 25% of the initial application fee.

The rule has been amended to allow an applicant for a certificate of need (inter-county or contiguous county) to submit a revised application that changes the site of the proposed project. This revised application must include a fee equal to 25% of the initial application fee.

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 rule references sections of the Ohio Revised Code and Administrative Codes. The O.R.C. and O.A.C. are generally available in libraries and on the internet to persons who reasonably can be expected to be affected by the rule.

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:

Ohio Revised Code 121.76 exempts agencies from filing copies of Ohio law and regulations cited in the text of a rule.

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:

Not Applicable.

12. 119.032 Rule Review Date: **10/27/2011**

(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 decrease revenues.

\$45,000

Currently, if a provider desires to change the site of a proposed project, they must re-file the entire CON application. This rule allows the provider to change the site by filing a revised application for 25% of the cost of a new application. ODH will lose 75% of fees charged under the current rule.

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

Currently, if a provider desires to change the site of a proposed project, they must re-file a new CON application. This rule allows the provider to change site by filing a revised application for 25% of the cost of a new application. ODH will lost 75% of fees charged under the current rule.

ODH estimates are based upon previous years: approximately four revised applications for site changes are filed each biennium. Previous fees for site changes were \$20,000 (the cost of a new application). Going forward, ODH estimates site change fees of \$5,000. Revenues will therefore be decreased by \$15,000 for each site change application. ODH will therefore lose the difference of \$15,000 for each

application.

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:

The cost of compliance is reduced 75% from the current rule when an affected entity requests a site change. The average CON cost in FY 2010 was \$13,190.00. Under the current rule, a site change would cost an additional \$13,190. Under the proposed rule, the cost of a site change would be \$3,297.50.

In actuality, the savings will be higher as most CON applications requesting a site change were \$20,000. The new cost for these changes would be \$5,000.

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**