

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

Agency Name

Division

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3701-17-03.1

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Expedited initial licensure inspections.**RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **No**2. Are you proposing this rule as a result of recent legislation? **Yes**Bill Number: **HB483**General Assembly: **130**Sponsor: **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: **3721.02, 3721.04**5. Statute(s) the rule, as filed, amplifies or implements: **3721.02**

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

New rule 3701-17-03.1 is proposed in response to provisions of House Bill 483 of the 130th 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 sets forth the requirements for submitting a request for an expedited initial survey to ODH that includes: 1) a completed application; 2) the licensure fee (based on number of beds); 3) the expedited initial licensure survey fee (proposed to be \$2,250.00); 4) certificate of need confirmation that all certificate of need requirements are met, as applicable; and 5) a notice of readiness. The rule further requires the Department of Health, upon receipt of all the required documentation and fees, to then conduct a survey of the facility within ten days of the request. Finally, in accordance with the statute, the rule states the expedited initial licensure survey is only for new residential care facilities and does not apply to existing facilities.

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 an Ohio Revised 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:

Revised Code 121.76 exempts inclusion of O.A.C. citations as attachments in this filing.

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. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) Date:

(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 have no impact on revenues or expenditures.

\$0.00

There is no cost to the agency. The fee set forth in the rule covers the Department's expenses when conducting an expedited initial licensure survey.

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

Not applicable

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:

This rule sets a fee of \$2,250.00 for a facility that elects to have an expedited initial licensure survey.

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**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

While this rule does not require a license, all nursing homes are required to be licensed in accordance with Chapter 3721. of the Revised Code.

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**

While this rule does not set forth any sanctions for non-compliance, all nursing homes that are found to be in violation of Chapter 3721. of the Revised Code and the rules adopted thereunder (Chapter 3701-17-01 to 3701-17-26 of the Administrative Code) are subject to possible licensure revocation.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

The rule sets forth a fee in the amount of \$2,250.00. As authorized by statute, this fee is to cover ODH's expenses in relation to conducting an expedited initial licensure survey. ODH arrived at this figure by multiplying staff time - at the overtime rate* because the regulated industry agreed that these surveys should be conducted on overtime to not interfere with regularly scheduled initial licensure surveys -- by the hours worked on an average survey, and adding those figures.

* For overtime exempt individuals, the compensatory time rate was used because there is still an expenditure of time related to this function.