

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

Agency Name

Division

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**3701-17-08**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Personnel requirements.****RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **Yes**
2. Are you proposing this rule as a result of recent legislation? **No**
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: **3721.04**
5. Statute(s) the rule, as filed, amplifies or implements: **3721.04, 3721.07, 3721.12**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:
 

ODH is proposing Chapter 3701-17 as part of the five-year rule review required by section 119.04 of the Revised Code.
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 establishes the minimum personnel requirements for nursing homes,

including nursing, dietary, activities, and ancillary staff.

The rule has been amended to require homes to assess the staffing needs of the home, and to clarify sharing of staff between ODH licensed facilities. Two paragraphs have been re-ordered for ease of reading.

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 cites the 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:

Pursuant to R.C. 121.76, the cited material is exempt from inclusion 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 If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation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: **8/8/2017**

(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

Not applicable

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:

In general, these rules do not represent costs that are independent of those already obligated to the licensee by the virtue of their participation in the industry, including Centers for Medicare and Medicaid Services requirements for nursing facilities and skilled nursing facilities. Those costs include, but are not limited to, the costs associated with the purchase or lease of real estate, equipment, and personnel. There are also time and manpower costs associated with administrative requirements, including, but not limited to, policy development/implementation and quality assurance and performance improvement. The similar requirements set forth in Ohio's rules are unlikely to require a significant amount of time or costs in addition to that which is already expended by the service and the services will, more likely than not, already meet or exceed the state requirements. Costs that could be considered obligated due to state requirements are set for the, below.

Documentation of name of Director of Nursing;

Performance of staffing assessment.

Both would likely be done by an RN; however, the assessment may require additional personnel to accomplish.

Administrator: an average of \$47.60 per hour; Physician: an average of \$96.18 per hour; Registered Nurse: an average of \$30.75 per hour; Other Healthcare Practitioners: and average of \$40.50 per hour.\*

\*Figures from United States Department of Labor, Bureau of Labor Statistics, Occupational Employment and Wages for the State of Ohio, May, 2016, using the codes for Medical and Health Services Managers (11-9111), Family and General Practitioners (29-1062), Registered Nurses (29-1141), and Health Diagnosing and Treating Practitioners, All Other (29-1199).

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**

Each nursing home shall maintain records necessary for the director to ascertain compliance with the requirements of this rule. Some of those requirements include

posting the name of Director of Nursing and Performance of a staffing assessment.

Both would likely be done by an RN; however, the assessment may require additional personnel to accomplish.

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