

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

Agency Name

Division

Kaye Norton

Contact

246 North High Street Columbus OH 43215-0000

Agency Mailing Address (Plus Zip)

614-644-8184

Phone

Fax

Kaye.Norton@odh.ohio.gov

Email

3701-17-10

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Resident assessments; tuberculosis testing.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

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

Bill Number: **HB59**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: **3721.04**

5. Statute(s) the rule, as filed, amplifies or implements: **3721.01, 3721.04, 3721.041**

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

ODH is proposing to amend this rule as a result of changes made in 130 HB 59 and discussions with the regulated industry.

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 details the requirements for resident medical assessments. The rule has been amended to remove specific tuberculosis testing requirements for nursing home residents; nursing homes will now provide for tuberculosis testing of residents in accordance with the tuberculosis control plan developed in accordance with the home's assessment required under draft rule 3701-17-11.

The rule has been further amended to require each home, beginning July 1, 2015, to participate in advance care planning for each resident upon admission and quarterly thereafter. "Advanced care planning" is defined as providing an opportunity to discuss the goals that may be met through the care provided by the nursing home.

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 the Ohio Revised and Administrative Codes and the Code of Federal Regulations; the O.R.C., O.A.C., and C.F.R. 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:

Exemptd from inclusion in this filing pursuant to R.C. 121.75 and 121.76.

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. 119.032 Rule Review Date: **10/1/2016**

(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:

An amendment to this rule requires the nursing home to participate in advanced care planning. ODH estimates this would require up to 4 hours of time each quarter by an interdisciplinary team consisting of:

Physician - \$72.23 per hour

Social Worker - \$23.11 per hour

Registered Nurse - \$28.85 per hour

Licensed Practical Nurse - \$19.19 per hour

Dietitian - \$24.66 per hour

*All figures from United States Department of Labor, Bureau of Labor Statistics, Occupational Employment and Wages for the State of Ohio, May, 2012, using the codes for Family and General Practitioners (29-1062), Registered Nurses (29-1141), Licensed Practical and Licensed Vocational Nurses (29-2061), Nursing Assistants (31-1014), Dietitians and Nutritionists (29-1031), and Healthcare Social Worker (21-1022).

Cost related to tuberculosis testing will likely be reduced as annual testing is no longer required.

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 3701-1701 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? **No**