

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

Agency Name

Division

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**3701-17-26**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Variances.****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**
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 sets forth the procedures for requesting and granting a variance to the requirements of Administrative Code Chapter 3701-17.

The rule has been amended to remove requirements for informal reconsideration and appeal of that reconsideration under Chapter 119. of the Revised Code to be consistent with all other ODH variance rules.

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 If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation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:

At JCARR's recommendation, ODH is revise filing this rule to correct the CSI question 19(C) on the RS/FA. No further changes have been made to the text of the rule.

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:

There is no cost of compliance.

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**

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**

A home that chooses to request a variance from the rules is required to submit the request and supporting documentation to ODH.\*

\*Cost for administrator time, \$40.60 per hour. Source: Bureau of Labor Statistics occupation code 11-9111 for Medical and Health Services Managers.