

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

Agency Name

Division

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3701-17-62

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Changes in residents' health status; incidents; infection control.**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? **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: **3721.01, 3721.07**

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

ODH is filing this rule with amendment as part of the five year rule review process. The five year review of OAC rules 3701-17-50 to 3701-17-68 is due to be completed by September 28, 2012.

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:

The rule sets forth the responsibilities of a residential care facility with regards to changes in a resident's health status and other incidents, as well as infection control.

This rule has been amended to clarify what an incident report must contain and to conform to Legislative Services Commission rule-drafting requirements.

11/8/2012: Paragraph (B)(2) is being changed to remove language intended to clarify the contents of an incident log. Stakeholders expressed concern that the initial proposed language created an incident report, rather than a log.

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. The O.R.C. is 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. If applicable, indicate each specific paragraph of the rule that has been modified:

11/13/2012: To make it possible for these Residential Care Facility rules to go before JCARR on December 10, 2012, ODH needed to TBR them and re-file them

today. Further changes have not been made to these rules.

11/8/2012: Based upon testimony during the 10/30/2012 rules hearing and discussion with stakeholders during the last several weeks, ODH is proposing amendments to O.A.C. 3701-17-50, 3701-17-55, 3701-17-59, 3701-17-60, 3701-17-62, and 3701-17-67.

09/28/2012: ODH is revise filing the rules in this package in order to add the public notice; the notice was inadvertently omitted from the original filing.

12. 119.032 Rule Review Date: **9/25/2012**

(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:

Not applicable

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**

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

The facility shall maintain an incident log separate from the resident record. which
The incident log shall be accessible to the director and shall contain the name
of the involved resident, staff member or members, or other individual or
individuals, time, place, and date of the occurrence; a general description of
the incident; and the care provided or action taken. The facility shall maintain
a notation about the incident in the involved resident's record.