

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

3701-61-04

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Written decision, impartial hearing and appeal.**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: **3721.11**
5. Statute(s) the rule, as filed, amplifies or implements: **3721.13, 3721.16**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

ODH is proposing this rule 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 requirements for an impartial transfer or discharge hearing

conducted by an attorney or hearing officer contracted by ODH. The rule also contains notice requirements to affected parties, as well as the right of affected parties to appeal the decision under section 119.12 of the Revised Code. ODH is proposing to amend this rule to update a citation to the Code of Federal Regulations.

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 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:

Pursuant to R.C. 121.75 and 121.76, copies of 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: **3/28/2017**

(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:

A facility that attends a hearing or appeal resulting from a proposed transfer or discharge may elect to employ an attorney at a cost of \$54.50 per hour* for approximately five hours of work.*

*United States Department of Labor, Bureau of Labor Statistics, Occupational Employment and Wages for the State of Ohio, May, 2015, codes for Office and Administrative Support Occupations (43-0000), Healthcare Practitioner and Technical Occupations (29-0000) and Lawyers (23-1011). ODH is aware that attorneys in this field likely charge more than the average across all attorneys in Ohio, however, accurate information for attorneys specializing in this practice is difficult to deduce with any specificity.

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**

A facility that attends a hearing or appeal resulting from a proposed transfer or discharge may elect to employ an attorney at a cost of \$54.50 per hour* for approximately five hours of work.