

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 3701-61-04

Rule Type: Amendment

Rule Title/Tagline: Written decision, impartial hearing and appeal.

Agency Name: Department of Health

Division:

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I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 11/6/2023
2. **Is this rule the result of recent legislation?** Yes
 - A. **If so, what is the bill number, General Assembly and Sponsor?** SB 9 - 134 - McColley, Roegner
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 3721.11
5. **What statute(s) does the rule implement or amplify?** 3721.13, 3721.16
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
 - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

The five year review of Chapter 3701-61 was due March 18, 2023. Rule 3701-61-04 is being filed with amendments.

- 8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

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. The rule is being amended to require electronic mailing of notices of hearing to the recipients if email address is available. Furthermore, the rule has been amended to remove regulatory restrictions in accordance with SB9.

- 9. Does the rule incorporate material by reference? Yes**
- 10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

Ohio Revised Code; Ohio Administrative Code; Code of Federal Regulations; information available on line.

- 11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

- 12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

0.00

Not Applicable.

- 13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Not Applicable.

- 14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No
16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

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 \$58.92 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, 2021, 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.

III. Common Sense Initiative (CSI) Questions

17. Was this rule filed with the Common Sense Initiative Office? Yes
18. Does this rule have an adverse impact on business? Yes
- 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
Cost of attorney fees to send notices
 - D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

A. How many new regulatory restrictions do you propose adding to this rule? 0

B. How many existing regulatory restrictions do you propose removing from this rule? 29

(A) shall

(B) shall

(B) shall

(B) shall

(B) shall

(B) shall

(B) shall

(C) shall

(C) shall

(D) shall

(D) shall

(D) shall

(D) shall

(D) shall

(E) shall

(E) shall

(F) shall

(F)(1) shall

(F)(2) shall

(F)(2) required

(F)(3) shall

(F)(3) shall

(F)(3) shall

(F)(4) shall

(F)(4) shall

(F)(4) shall

(G) shall

(G) require

(H) shall

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**
- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable