

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 3701-61-06

Rule Type: Amendment

Rule Title/Tagline: Complaint investigations; adjudications; penalties.

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? 3721.17, 3721.99**
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 3701-61-06 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 ability of ODH to receive and investigate complaints related to the resident transfer and discharge provision of the Revised Code and Administrative Code. This includes the ability of ODH to cite the home with one or more deficiencies and to give the home a reasonable time to come into compliance. The rule has been amended to remove regulatory restrictions in accordance with SB9 and update a citation in paragraph (D) from 3721.17 to 3721.99 ORC regarding penalties (fines).

- 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 and Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended (1981); information available online.

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

JCARR reviewed the rule and stated that it needed to reflect the statutory amendments made by HB 33. Program made the changes suggested.

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.

Not Applicable.

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? Yes

A home certified for participation in the federal Medicare and/or Medicaid program(s) cited for a deficient practice may be subject to a fine in accordance with the federal conditions of participation or license revocation in accordance with state licensure requirements.

- C. Does this rule require specific expenditures or the report of information as a condition of compliance? No
- 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? 8

(B) shall

(B) shall

(C) shall

(C) shall

(D) shall

(D) shall

(D) prohibited

(F) 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