

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 3701-62-10

**Rule Type:** New

**Rule Title/Tagline:** Relationship of DNR orders and identification with living will declarations and durable powers of attorney for health care.

**Agency Name:** Department of Health

**Division:**

**Address:** 246 North High St Columbus OH 43215

**Contact:** Alicyn Carrel

**Email:** alicyn.carrel@odh.ohio.gov      **Phone:** 614-752-8451

#### I. Rule Summary

1. **Is this a five year rule review?** No
  - A. **What is the rule's five year review date?**
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 2133.25
5. **What statute(s) does the rule implement or amplify?** 2133.03, 1337.12
6. **What are the reasons for proposing the rule?**

The five-year review of Chapter 3701-62 if the Administrative Code is due May 14, 2019. The rule is being rescinded and replaced with this new rule due to LSC rule drafting requirements.

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

The existing rule is being rescinded due to LSC's rule drafting requirements for a greater than fifty percent change to the rule content and is being replaced with a new rule.

This new rule sets forth the relationship between the DNR, living will declarations, and durable powers of attorney for health care. DNR identification based upon a valid declaration supersedes the authority of a durable power of attorney and its named agent(s). A valid durable power of attorney for health care supersedes a DNR based upon an order from a physician, APRN, or PA if that order is inconsistent with the authority of the durable power of attorney for health care. An active living will declaration supersedes DNR declaration. Finally, to the extent that a known conflict exists between DNR identification based upon a valid DNR Order to which the principal consented, and a valid living will declaration, the more recent document supersedes.

8. **Does the rule incorporate material by reference? Yes**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

Ohio Administrative Code and Ohio Revised Code exempted

10. **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**

11. **As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

0.00

Not Applicable.

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

Not Applicable.

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

14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No

**III. Common Sense Initiative (CSI) Questions**

15. Was this rule filed with the Common Sense Initiative Office? Yes

16. Does this rule have an adverse impact on business? No

- 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? No