

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 3701-64-02

Rule Type: Amendment

Rule Title/Tagline: Investigations of abuse and neglect of residents or misappropriation of property; notice of hearing rights.

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?** 4/15/2021
2. **Is this rule the result of recent legislation?** Yes
 - A. **If so, what is the bill number, General Assembly and Sponsor?** HB 49 - 132 - 139th GA Smith
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 3721.26
5. **What statute(s) does the rule implement or amplify?** 3721.23
6. **What are the reasons for proposing the rule?**

This rule is being filed to incorporate provision of HB 49 of the 139th General Assembly.
7. **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 ODH to conduct investigations of allegations of abuse or neglect, requirements for the content of a notice, and the hearing rights of an accused. The term "exploitation" is being added to this rule.

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 Revised Code
Ohio Administrative Code
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?**

This rule requires the reporting of allegations of the abuse, neglect, exploitation of a resident or the misappropriation of a resident's property by both long-term care facilities and residential care facilities.

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? Yes

A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No

While this rule does not require a license, all-long-term care facilities and residential care facilities required to report allegations of abuse, neglect or misappropriation are required to be licensed in accordance with Chapter 3721. of the Revised Code.

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

While this rule does not set forth any sanctions for non-compliance, violations of some requirements of Chapter 3702-64 of the Administrative Code may bring about both criminal and civil penalties. This rule requires ODH to provide an accused with notice of potential penalties.

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

Rule Summary/Fiscal Analysis Form (On-Line Questions)

Rule No.	3701-64-02
-----------------	------------

- 1) State reason(s) for proposing, (i.e., why you are filing,) this rule: [This can be one general statement for all the rules in a package, if applicable]

This rule is being filed to incorporate provision of HB 49 of the 139th General Assembly.

- 2) Summarize the content of the rule. If the rule is an AMENDMENT also summarize the changes. [In summarizing the content, please don't simply re-state the rule title.]

This rule sets forth the requirements for ODH to conduct investigations of allegations of abuse or neglect, requirements for the content of a notice, and the hearing rights of an accused.

The term "exploitation" is being added to this rule.

- 3) Are you proposing this rule as a result of recent legislation?

No Yes

(Double Click Box and Select 'Checked')

Bill Number:	49
General Assembly Number:	139
Bill Sponsor:	Smith

[Please Note: all bills – even budget bills – have someone officially designated as a sponsor. If you don't know the sponsor, please ask Legislative Affairs]

- 4)

Statute(s) authorizing agency to adopt the rule:	3721.26
Statue(s) the rule, as filed, amplifies or implements:	3721.23

- 5) Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? (Note: If you indicate Yes,

Yes No

Rule Summary/Fiscal Analysis Form (On-Line Questions)

Part B form must accompany this RS/FA.)

(Double Click Box and Select
'Checked')

- 6) Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R.C. 121.39: **(Note: If you indicate Yes, an Environmental Impact form must accompany this RS/FA.)**

Yes No

(Double Click Box and Select
'Checked')

Prior Effective Dates: *[Please include all past dates, earliest to the latest]*

1/10/1992, 6/11/01, 8/1/06, 8/1/07, 4/18/2016

- 7) Does this rule have a replacement line?

Yes No

(Double Click Box and Select 'Checked')

If yes, please list the rule number(s) this rule is replacing all or part of:

- 8) If adopted, is this rule likely to affect individuals, small businesses or small organizations (see R.C. 121.24)?

Yes No

(Double Click Box and Select
'Checked')

- 9) Pursuant to R.C. 173.01(C), if adopted will this rule primarily affect persons sixty years of age or older?

Yes No

(Double Click Box and Select
'Checked')

- 10) Does this rule contain appendices?

Yes No

(Double Click Box / Select 'Checked')

If Yes, answer the following:

1) How many appendices? ____

2) What actions need to be taken for each appendix?

[i.e., Amend? Rescind? Rescind/File New? File with no change?]

**Rule Summary/Fiscal Analysis Form
(On-Line Questions)**

- 11) Estimate the total dollar amount by which this proposed rules would impact the agency during the current biennium.

Enter dollar amount: \$0.00 [PLEASE NOTE: THIS MUST BE A DOLLAR AMOUNT; DO NOT WRITE A SENTENCE]

- 12) This rule will (Select One Option by Double Clicking BOX and Select 'Checked' or 'Not Checked'):

- Increase Expenditures
- Decrease Expenditures
- Increase Revenues
- Decrease Revenues
- Have No Impact

- 13) Explain the net impact of the proposed changes to the budget of your agency/department. (If there is no cost or no change in cost from current rules just put "Not Applicable.")

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 incorporate a text or other material by reference? If so what? (i.e., O.A.C., R.C.) Is the reference exempted 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? If not, the material must be

Rule Summary/Fiscal Analysis Form (On-Line Questions)

provided as an appendix (consult with Legal if you have questions about incorporation of referenced texts).

Ohio Revised Code
Ohio Administrative Code

-exempted-

- 17) Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82?

Yes No

(Double Click Box and Select 'Checked')

- 18) 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?

Yes No

(Double Click Box and Select 'Checked')

If the answer is "Yes", provide an explanation.
If the answer is "No" an explanation, is optional.

While this rule does not require a license, all long-term care facilities and residential care facilities required to report allegations of abuse, neglect or misappropriation are required to be licensed in accordance with Chapter 3721. of the Revised Code.

- 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 No

(Double Click Box and Select 'Checked')

If the answer is "Yes", provide an explanation.
If the answer is "No" an explanation is optional.

While this rule does not set forth any sanctions for non-compliance, violations of some requirements of Chapter 3701-64 of the Administrative Code may bring about both criminal and civil penalties. This rule requires ODH to provide an accused with notice of potential penalties.

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

Yes No

(Double Click Box and Select 'Checked')

If the answer is "Yes", provide an explanation.

Rule Summary/Fiscal Analysis Form (On-Line Questions)

If the answer is "No" an explanation is optional.

This rule requires the reporting of allegations of the abuse, neglect, exploitation of a resident or the misappropriation of a resident's property by both long-term care facilities and residential care facilities.