

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:

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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?** 1/31/2022
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?** 3721.26
5. **What statute(s) does the rule implement or amplify?** 3721.23
6. **What are the reasons for proposing the rule?**

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

3701-64-02 – The 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 rule has been amended to clarify the Director of Health is permitted to copy those records reviewed as a part of an investigation into alleged abuse, neglect, or exploitation of a resident, or of misappropriation of a resident's property.

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. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

Ohio Revised Code and Ohio Administrative Code are exempt.

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. **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.

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

ODH estimates approximately 15 minutes of facility staff time is dedicated to reporting an allegation of abuse, neglect or misappropriation to ODH at an average hourly wage of \$55.37 and assuming each notification was done by the facility administrator.

*All figures from United States Department of Labor, Bureau of Labor Statistics, Occupational Employment and Wages for the State of Ohio, May, 2019, using the code for Medical and Health Services Managers (11-9111).

While facilities generally maintain these records as a normal course of business, maintaining the audio/visual records could require a facility to invest in compact discs/

digital video discs, jump/flash drives, and/or hard drives. Cost can range from \$5 to \$5,000, depending on the media the facility selects.

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
15. **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

16. **Was this rule filed with the Common Sense Initiative Office?** Yes
17. **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

The Chapter 3701-64 do not require a nursing home or residential care facility to be licensed; however, other provision of both the Revised Code and Administrative Code do require licensure.

- 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

Administrative hearing for an individual used by a long-term care facility or a residential care facility to provide services to residents, who is found after investigation that there is a reasonable basis for a finding of abuse, or neglect, or exploitation of a resident, or misappropriation of the property of a resident.

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

Collectively, the Chapter 3701-64 rule require notification to the Department of allegation of abuse, neglect or misappropriation by an individual associated with the facility and for the reporting facility to maintain records related to its investigation, including audio/visual records.

- 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 Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

- 18. 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? 1

(C) Allegations shall be investigated by appropriately qualified individuals, as determined by the director. No long-term care facility or a residential care facility shall do any of the following knowing that an investigation is in progress, or is about to be or likely to be instituted under this rule:

...

(3) Refuse to permit the director to review and copy any record kept by the facility or their agents, including but not limited to:

Removed 2 requirements from rule 3701-64-05

- B. How many existing regulatory restrictions do you propose removing? 0