

Rule Summary and Fiscal Analysis (Part A)**Department of Health**

Agency Name

Division

Jodi A. Govern

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3701-64-05

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Findings of director.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

2. Are you proposing this rule as a result of recent legislation? **Yes**

Bill Number: **HB1**General Assembly: **128**Sponsor: **Sykes, Chandler**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **3721.26**

5. Statute(s) the rule, as filed, amplifies or implements: **3721.23**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

The five year review of Ohio Administrative Code Chapter 3701-64 is due to be completed by May 1, 2011. The Ohio Department of Health is seeking amendment of rule 3701-64-05 due to recent statutory change to Ohio Revised Code 3721.23.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The rule sets forth the requirements for the director's findings concerning an allegation of abuse, neglect, or misappropriation. The rule states that the director shall base findings upon the hearing officer's recommendation, any written objections and responses, and the hearing record. The rule is being amended as a result of changes to Ohio Revised Code Section 3721.23, allowing individuals with a finding of neglect to petition the director to remove the finding after one year.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt 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, provide an explanation of how the text or other material is generally available to those persons:

This rule references sections of the Ohio Revised Code and Administrative Codes. The O.R.C. and O.A.C. are generally available in libraries and on the internet to persons who reasonably can be expected to be affected by the rule.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Ohio Revised Code 121.76 exempts agencies from filing copies of Ohio law and regulations cited in the text of a rule.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

4/7/2011: ODH is revise filing rule 3701-64-05 to correct the spelling of "nurse aide" in the rule title.

12. 119.032 Rule Review Date: **3/1/2011**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase/decrease** either **revenues /expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will increase expenditures.

\$526.00

Implementing the statutory requirements of 3721.23 will result in a nominal cost to the agency. The petition review requirements will require approximately twenty to forty staff hours per year based upon the current rate of six findings of neglect per year. This would result in an annual increase in program expenditures of \$1,580 for staff time, or \$3,160.00 each biennium, at most. The figure of \$526.00 reflects a prediction of two reviews for the remaining portion of the current biennium, and would be absorbed by the Department.

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:

Individuals are required to submit a written petition to remove a finding of neglect; this would result in a charge for postage. There are no other fees associated with the filing of a petition with the department.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

