

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-3-16.3

Rule Type: Rescission

Rule Title/Tagline: Nursing facilities (NFs): private rooms.

Agency Name: Ohio Department of Medicaid

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?** 1/12/2024
2. **Is this rule the result of recent legislation?** Yes
 - A. **If so, what is the bill number, General Assembly and Sponsor?** HB 33 - 135
- Jay Edwards
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 5165.02
5. **What statute(s) does the rule implement or amplify?** 5165.15
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?**

To implement HB 33

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

This rule sets forth the provisions for private rooms in nursing facilities. This rule is being proposed for rescission and is being replaced by new rule 5160-3-16.3, since more than fifty percent of the rule is being amended.

9. **Does the rule incorporate material by reference? No**
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.**

Not Applicable

11. **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

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). Yes**

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? No

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

In accordance with paragraph (C)(3) of this rule, if supplemental payment is made for a private room, a nursing facility operator must detail both monthly and annual supplemental charges, if applicable, on a resident's statement of charges so the additional cost of the private room is evident to the resident and to the resident's authorized representative and family.

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? 11

5160-3-16.3(A)(1): remove "shall"

5160-3-16.3(A)(2): remove "shall"

5160-3-16.3(B)(1): remove "shall not"

5160-3-16.3(B)(2): remove "shall"

5160-3-16.3(C): remove "shall"

5160-3-16.3(C): remove "shall"

5160-3-16.3(C)(1): remove "shall"

5160-3-16.3(C)(2): remove "shall not"

5160-3-16.3(C)(3): remove "shall"

5160-3-16.3(C)(4): remove "shall"

5160-3-16.3(C)(5): remove "shall not"

C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.

5160-3-16.3

D. Please justify the adoption of the new regulatory restriction(s).

Not Applicable

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Part B - Local Governments Questions

1. Does the rule increase costs for:

A. Public School Districts	No
B. County Government	Yes
C. Township Government	No
D. City and Village Governments	Yes

2. Please estimate the total cost, in dollars, of compliance with the rule for the affected local government(s). If you cannot give a dollar cost, explain how the local government is financially impacted.

County and city/village governments that operate nursing facilities could incur costs of compliance with the proposed rule. The costs of compliance are the following:

In accordance with paragraph (B) of this rule, if semiprivate or ward accommodations are not available, Medicaid shall not pay more for a private room than the Medicaid per diem rate the facility currently is receiving. The Department of Medicaid cannot estimate a nursing facility provider's cost of compliance with this provision because the Department of Medicaid does not know what the per diem private room rate or Medicaid per diem rate is for any particular nursing facility, how many residents at any particular facility would qualify for a private room under this provision, or how many days those residents would qualify for a private room under this provision.

In accordance with paragraph (C)(3) of this rule, if supplemental payment is made for a private room, a nursing facility operator must detail both monthly and annual supplemental charges, if applicable, on a resident's statement of charges so the additional cost of the private room is evident to the resident and to the resident's authorized representative and family. The Department of Medicaid estimates it will take nursing facility staff approximately 2 hours per year at an estimated rate of approximately \$12.50 per hour (total estimated cost: \$25.00) to detail monthly and annual supplemental charges on one resident's statement of charges.

In accordance with paragraph (C)(4) of this rule, a nursing facility operator must keep written requests for a private room in the requesting resident's file. The Department of Medicaid estimates it will take nursing facility staff approximately 5 minutes at an

estimated rate of approximately \$12.50 per hour (total estimated cost: \$1.04) to file one resident's written request for a private room.

However, these costs are existing costs of compliance. There are no new costs of compliance with this rule filing.

3. **Is this rule the result of a federal government requirement? No**
 - A. **If yes, does this rule do more than the federal government requires?** *Not Applicable*
 - B. **If yes, what are the costs, in dollars, to the local government for the regulation that exceeds the federal government requirement?**

Not Applicable
4. **Please provide an estimated cost of compliance for the proposed rule if it has an impact on the following:**
 - A. **Personnel Costs**

\$26.04
 - B. **New Equipment or Other Capital Costs**

\$0.00
 - C. **Operating Costs**

\$0.00
 - D. **Any Indirect Central Service Costs**

\$0.00
 - E. **Other Costs**

\$0.00
5. **Please explain how the local government(s) will be able to pay for the increased costs associated with the rule.**

There are no increased costs to providers associated with this rule filing. All costs of compliance are existing costs.
6. **What will be the impact on economic development, if any, as the result of this rule?**

There is no discernible impact on economic development as a result of this proposed rule.