

**NOTICE OF PUBLIC RULES HEARING**

DATE: Thursday, December 1, 2011  
TIME: 10:00 A.M.  
PLACE: 8<sup>TH</sup> FLOOR LARGE CONFERENCE ROOM  
OHIO DEPARTMENT OF HEALTH (ODH)  
246 N. HIGH STREET  
COLUMBUS, OHIO 43215

In accordance with Chapter 119 of the Revised Code (R.C.) the Public Health Council (PHC) will conduct four public rules hearings at its December 1, 2011 meeting. The PHC meeting will begin at 10:00 a.m. in the 8<sup>th</sup> Floor Large Conference Room of the Ohio Department of Health, 246 N. High Street, Columbus 43215; the public hearings will commence soon thereafter.

**HEARING #1:** By authority of R.C. 3702.51 and 3702.57, the PHC proposes to amend Ohio Administrative Code (O.A.C.) rule 3701-12-08. This rule describes the Certificate of Need (CON) application and comparative review processes and further sets forth the public notice requirements for CON applications. The rule is being proposed to comply with H.B. 153 of the 129<sup>th</sup> General Assembly. The proposed changes allow for infirmity beds that are currently designated to provide care exclusively for members of religious orders to be filled additionally by relatives of the members of those religious orders.

**HEARING #2:** By authority of R.C. 3721.04, the PHC proposes to amend O.A.C. rules 3701-17-01, -03 to -05, -07 to -13, -14, -16 to -23, and -25; to propose new and rescind current rules 3701-17-06, and -15; and to rescind rules 3701-17-13.1 and -15.1. These rules pertain to nursing homes and they are being considered to meet five-year review requirements and to reflect requirements of H.B. 153. Besides overhauling the rules for readability, some significant changes include:

Rule 3701-17-03 – This rule is being amended to clarify the difference between *initial* applications and *renewal* applications; to collect more data regarding the ownership of the operator and the rights to the beds; to set forth the criteria for license *denial* and license *revocation*; and to clarify what must be included in a written notice of closure.

Rule 3701-17-06 – New language provides for electronic reporting of suspected abuse, neglect, and misappropriation; and if the nursing home is physically part of a hospital, the rule requires staff to inform the prospective resident that the nursing home is not part of the acute care service of the hospital.

Rule 3701-17-07.2 - The number of hours necessary for conducting the dining assistant training is reduced from ten hours to nine.

Rule 3701-17-11 – Paragraph (C) as it pertains to alcohol-based products has been updated to reflect current infection control guidelines.

Rule 3701-17-12 – This rule is updated to allow “other licensed health professionals acting within the applicable scope of practice” to be notified or consulted in certain situations.

Rule 3701-17-14 – In accordance with HB 153, the rule is amended to reflect statutory language regarding the privacy and dignity of residents during the bathing

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process. Additionally, homes are required to provide adequate supervision for residents who have been assessed for risk of falls and/or elopement.

Rule 3701-17-19 – Besides other changes, this rule is amended to require the home to note the resident's Medicare D plan, if any, in the resident's admission record. In the event of closure, the home will now be required to notify ODH where records will be stored.

Rule 3701-17-21 – Amendments clarify timeframes for compliance with dining and activity room requirements; and to comply with H.B. 153, nursing homes licensed between October 20, 2001 and the effective date of this rule must provide a room containing a toilet and wash basin; homes licensed after the effective date of this rule must provide a common toilet room that assures visual privacy for every 15 residents or fewer, whose rooms do not have a tub or shower.

### **HEARING #3:**

By authority of R.C. 3721.04 and to satisfy five year review requirements, the Public Health Council proposes to amend O.A.C. rules 3701-17-51 and 3701-17-59.1 pertaining to Residential Care Facilities. To comply with recent statutory changes, these rules are revised to allow residential care facilities to provide skilled nursing care beyond 120 days during any rolling twelve month period to residents whose physician has determined such care is routine, except as allowed for in R.C. 3701.011(D).

### **HEARING #4:**

By authority of R.C. 3701.021 and to satisfy five year review requirements, the Public Health Council proposes to amend O.A.C. rules 3701-43-04, -06, -10, -21, and -23; and to rescind current and propose new rule 3701-43-07. These rules pertain to the Bureau for Children with Medical Handicaps. Principal changes include 1) accepting the accreditation of hospitals by the healthcare facilities' accreditation program; and 2) allowing advanced practice nurses as eligible providers, thus allowing them to request dental services for children.

At the hearings, people affected by the proposed actions may appear and be heard in person, by an attorney, or both; may present their positions, arguments, or contentions orally or in writing; may offer witnesses; and may present evidence tending to show that the proposed rules, if adopted or effectuated, will be unreasonable or unlawful. To aid in getting visitors through building security, both persons intending to testify at the hearing and those simply intending to observe are encouraged to pre-register by mail (ODH Rules, Office of the General Counsel, Ohio Department of Health, 246 North High Street, Columbus, Ohio 43215); by phone [(614) 466-4882], or by e-mail ([odhrules@odh.ohio.gov](mailto:odhrules@odh.ohio.gov)).

Copies of the proposed rules are available on the Register of Ohio website (ODH has a link to that website at [www.odh.ohio.gov/rules/pending.aspx](http://www.odh.ohio.gov/rules/pending.aspx)), or from the Office of the General Counsel (contact information listed above). Please FAX [(614) 564-2509], mail, or e-mail any written comments before 5:00 p.m. on November 30, 2011.

*October 27, 2011*