Rule Summary and Fiscal Analysis (Part A)

Department of Health
Agency Name

Division

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3701-63-02
Rule Number

AMENDMENT
TYPE of rule filing

Rule Title/Tag Line **Plan of correction; informal review process for deficiency citations.**

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: **HB153** General Assembly: **129** Sponsor: **Rep. Amstutz**

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: **3701.022**

5. Statute(s) the rule, as filed, amplifies or implements: **3721.022, 5111.42, 5111.43**

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

ODH is proposing to amend this rule as part of the five-year review process, and in response to House Bill 153 of the 129th General Assembly. Additionally, this rule as proposed for amendment was adopted as an Emergency rule on October 28, 2011; ODH is proposing this rule to replace the emergency filing before the mandatory 90-day expiration period.

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:

> This rule sets forth the procedure under which a nursing facility submits a plan of correction for findings and deficiencies cited as the result of a survey by the Department of Health. The rule also sets forth the procedure for a facility to obtain informal review of deficiencies that were included on a statement of deficiencies. The proposed amendments provide a second review by a hearing officer if the facility is not satisfied with the first review conducted by an employee of the Department.

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 the Ohio Revised and Administrative Codes, the United States Code, and the Code of Federal Regulations. These state and federal laws and regulations 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:

> Inclusion of copies these cited laws and regulations is exempted pursuant to Revised Code 121.75 and 121.76

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:

> This rule is being revised simply to move a comma in the dollar amount listed on

the fiscal analysis form.

12. 119.032 Rule Review Date: **11/1/2011**

(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 revenues.

$37,500.00

While there is an expected increase in revenues to ODH from the initial fee of $150.00, that fee will be used t cover increased expenditures from the administrative processing of IIDR requests. Additionally, ODH will bill facilities $75.00 per hour of hearing officer time. ODH does ot keep this money, as it pays for the actual cost of the hearing officer.

Because each calendar year ODH receives approximately 250 requests that are eligible for IIDR under this rule, ODH could see a resulting $37,500.00 in fees paid to the department. Again, this is offset by the administrative costs associated with this program.

Thus, while ODH may see additional revenue, that revenue pays for administrative support of the program. Additional fees pay for the actual cost of the hearing officer's review.

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:

> There is no cost associatedd with this rule unless a facility not satisfied with the results of ODH's review decides to avail itself of the review by an independent hearing officer.

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**