

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5160-3-08

**Rule Type:** Amendment

**Rule Title/Tagline:** Criteria for nursing facility-based level of care.

**Agency Name:** Ohio Department of Medicaid

**Division:**

**Address:** 50 West Town Street Suite 400 Columbus OH 43218-2709

**Contact:** Tommi Potter **Phone:** 614-752-3877

**Email:** Tommi.Potter@medicaid.ohio.gov

#### I. Rule Summary

1. Is this a five year rule review? Yes
  - A. What is the rule's five year review date? 1/14/2025
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? 5164.02
5. What statute(s) does the rule implement or amplify? 5162.03, 5164.02, 5165.04
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?

The nursing facility-based level of care rules are being proposed for amendment in accordance with the five-year rule review process.
8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

OAC Rule 5160-3-08, "Criteria for the nursing facility-based level of care" delineates the criteria for meeting the intermediate and skilled levels of care. Proposed changes to the rule include:

- Adding needs assessment criterion to allow individuals with indications of a developmental disability to be assessed for an intermediate LOC.
- Adding clarifying language to address individuals with DD indications who are currently enrolled on HCBS waivers.
- Removing sensitive language references and replacing them with more appropriate language throughout rule.

9. **Does the rule incorporate material by reference?** Yes
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.**

This rule incorporates one or more references to another rule or rules of the Administrative Code. This question is not applicable to any incorporation by reference to another Administrative Code rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(A)(1)(d).

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.

N/A

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). No
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? No
18. Does this rule have an adverse impact on business? No
  - 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? No
  - 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? 19

5160-3-08 (B)(1)(a) Requires.

5160-3-08 (B)(1)(b) Requires.

5160-3-08 (B)(1)(c) Requires.

5160-3-08 (B)(2) Requires.

5160-3-08 (B)(3)(a) Requires.

5160-3-08 (B)(3)(b) Requires.

5160-3-08 (B)(3)(c) Requires.

5160-3-08 (B)(4)(a) Requires.

5160-3-08 (B)(4)(b) Requires.

5160-3-08 (B)(4)(c) Requires.

5160-3-08 (B)(4)(d) Requires.

5160-3-08 (B)(5)(a) Requires.

5160-3-08 (B)(5)(b) Requires.

5160-3-08 (B)(6) Requires.

5160-3-08 (C)(4)(a) Requires.

5160-3-08 (C)(4)(b) Requires.

5160-3-08 (E)(1) Requirements.

5160-3-08 (E)(2) Requirements.

5160-3-08 (E)(2) Must.

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

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

Not Applicable