

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

Agency Name

Division

Tom Simmons

Contact

**50 West Broad Street 9th floor Columbus OH
43215-3363**

Agency Mailing Address (Plus Zip)

614-728-2548

Phone

Fax

tsimmons@age.state.oh.us

Email

173-14-01

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Definitions.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

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

Bill Number: **HB487**General Assembly: **129**Sponsor: **Amstutz (by request)**

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: **173.01; 173.02; Section 712(a)(5)(D) of the Older Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001, as amended; 45 C.F.R. 1321.11**

5. Statute(s) the rule, as filed, amplifies or implements: **173.14, Section 711 of the Older Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001, as amended.**

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

ODA is proposing to amend this rule as part of a larger rule package.

House Bill No. 487 (129th General Assembly) changed a number of statutes to consolidate the classification of three types of facilities that the Ohio Department of Mental Health (ODMH) regulates into one type of facility. H.B. No. 487 consolidated adult care facilities, adult foster homes, and residential facilities into residential facilities. This involved collateral changes to statutes that mentioned such facilities, including sections 173.14, 173.45, and 173.46 of the Revised Code. These three statutes regulate the Ohio Department of Aging's (ODA's) Office of the Office of the State-Long-Term Care Ombudsman and Ohio Long-Term Care Consumer Guide. H.B. No. 487's collateral changes to sections 173.14, 173.45, and 173.46 of the Revised Code require ODA to take action on two rules to keep the rules in compliance with statute. One of the two rules is rule 173-14-01 of the Administrative Code.

Rule 173-14-01 of the Administrative Code defines terms used in Chapter 173-14 of the Ohio Administrative Code, one of which is "long-term care facility." The ombudsman has the authority to investigate complaints and advocate for long-term care consumers, including those residing in facilities defined as "long-term care facilities." The rule defines a residential facility as a long-term care facility. ODA is proposing to amend the rule to make the definition of "long-term care facility" match that in section 173.14 of the Revised Code, as H.B. No. 487 amended that section.

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 defines terms used in Chapter 173-14 of the Administrative Code.

ODA is proposing to amend the rule to make the definition of "long-term care facility" match that in section 173.14 of the Revised Code, as H.B. No. 487 amended that section.

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 response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

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:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

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. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. 119.032 Rule Review Date: **9/29/2016**

(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 have no impact on revenues or expenditures.

\$0.00

ODA estimates that the adoption of the proposed amendment to this rule will have no impact upon ODA's biennial budget. H.B. No. 153 (129th G.A.) established

ODA's biennial budget and H.B No. 487 (129th G.A.) revised those appropriations, including a reduction to line item GRF-490-410. Because the biennial budget that the Ohio General Assembly revised for ODA in H.B. No. 487 is the same legislation that has mandated the change in the definition of "long-term care facility," ODA believes that the legislature factored impact of the the amended definition into the amended budget for ODA.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

GRF-490-410 Long-Term Care Ombudsman.

3M40-490-612 Federal Independence Services.

4C40-490-609 Regional Long-Term Care Ombudsman Program.

5BA0-490-620 Ombudsman Support.

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:

ODA estimates that the proposed amendment of this rule will create no cost of compliance to any directly-affected person. No person who benefits from ombudsman services directly pays for those services.

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**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

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? **Yes**

According to division (A) of section 173.26 of the Revised Code and rule 173-14-27 of the Administrative Code, if a long-term care facility failed to pay an annual bed fee, the fee owed is doubled. However, ODA's proposed amendment to the definition of "long-term care facility" in the rule should not change this penalty nor should it impose a penalty upon a greater number of Ohio businesses.

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

ODA's rules for the Office of the State-Long-Term Care Ombudsman have an adverse impact upon facilities that the Office of the State-Long-Term Care Ombudsman has the authority to investigate. Facilities pay an annual bed fee pursuant to section 173.26 of the Revised Code and rule 173-14-27 of the Administrative Code. However, H. B. No. 487's consolidation of the classification of the facilities that ODMH regulates should not change the number of homes that Office of the State-Long-Term Care Ombudsman may investigate. In summary, there should be no new cost of compliance to amend the definition of "long-term care facility" in the rule to match the change H.B. No. 487 made to the same definition in section 173.14 of the Revised Code.