

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

Agency Name

Division

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**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? **Yes**

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

Bill Number: **HB153**General Assembly: **129**Sponsor: **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: **173.01, 173.02**

5. Statute(s) the rule, as filed, amplifies or implements: **173.14**

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

ODA is proposing to amend rule 173-14-01 of the Administrative Code. In doing so, ODA has 3 basic goals:

1. To incorporate H.B. No. 153's amendments into the rule. H.B. No. 153's amendments to section 173.14 of the Revised Code take effect on September 29, 2011. One amendment will change the definition of "long-term care facility" to include, under certain conditions, a long-term care acute hospital. This amendment will allow representatives of the Office of the State Long-Term Care Ombudsmans

to investigate and resolve complains about long-term care services in long-term care acute hospitals. This amendment, along with H.B. No. 153's amendment to section 173.26 of the Revised Code, will also require long-term acute care hospitals to pay an annual fee of \$6.00 per bed to fund the regional long-term care ombudsman program. (Cf., Rule 173-14-27 of the Administrative Code.) Another amendment will change the Ohio Revised Code citations regarding adult care facilities and adult foster homes. ODA must now amend rule 173-14-01 of the Administrative Code to incorporate the amendments into the Administrative Code. ODA proposes to adopt the amended rule on September 29, 2011, which is the same day that H.B. No. 153's amendments take effect.

2. To comply with section 119.032 of the Revised Code, which requires each state agency to review each rule on or before the rule's designated review date.

3. To comply with Governor Kasich's Executive Order 2011-01K "Implementing Common Sense Business Regulation" and S.B. No. 2 (129th G.A.) which require each state agency to eliminate unnecessary regulations and to write easier-to-read and easier-to-comprehend rules to promote transparency in the agency's regulations. After reviewing the rule, ODA has determined that the rule largely written in a manner that is as easy to understand as the subject matter permits. Nevertheless, ODA made some simple improvements to increase readability.

ODA is also proposing to amend this rule after providing interested parties and the general public an opportunity to provide input on the proposed amendments to the rule. From June 30, 2011 to July 11, 2011, ODA posted the proposed amended rule on <http://aging.ohio.gov/information/rules/proposed.aspx> for a public-comment 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:

Specifically, ODA is proposing to amend this rule to:

1. Place the events described in the definition of "advocacy" in a more-chronological order.
2. Clarify that "affiliation" means being or having a sibling or household member on a board of, as a consultant to, or in a similar relationship with a provider.
3. Place the events described in the definition of "complaint handling" in a more-chronological order.
4. Insert "Long-term care facility" into paragraph (R), so the paragraph doesn't remain empty. All the sub-paragraphs to paragraph (R) of the rule define

"long-term care facility."

5. Incorporate language from H.B. No. 153 that says that "long-term care facility" will soon include certain long-term acute care hospitals after H.B. No. 153's amendments to the definition take effect on September 29, 2011.

6. Update the reference numbers in paragraphs (R)(1)(d) and (R)(1)(e) of the rule to reflect the changes made by H.B. No. 153 which transferred the RSS program and the related adult care facility program and adult foster home programs to the Ohio Department of Mental Health.

7. Insert "Personal care services" into paragraph (Y) of the rule, so the paragraph doesn't remain empty. All the sub-paragraphs to paragraph (Y) of the rule define "personal care services."

8. Insert "173.01" into the statutory authority section because section 173.01 of the Revised Code gives ODA authority to adopt this rule.

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:

On July 14, 2011, ODA revise-filed the rule to revise this RSFA and the public hearing notice.

On July 14, 2011, for a second time, ODA revise-filed the rule to revise this RSFA and the public hearing notice.

12. 119.032 Rule Review Date: **7/13/2011**

(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 have no impact on revenues or expenditures.

\$0.00

ODA estimates that the proposed amendment of this rule will have no impact upon the biennial budget that the Ohio General Assembly established for ODA in H.B. No. 153. The Ohio General Assembly factored H.B. No. 153's amendments to section 173.14 of the Revised Code into the impact upon ODA's biennial budget. Therefore, any income H.B. No. 153's amendments to section 173.14 of the Revised Code make to budget line item 4C40-490-609 will have no impact upon the budget that H.B. No. 153 establishes 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.

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 amendments to this rule that are for clarification--making the rule as easy to comprehend as the subject matter permits--will create no cost of compliance for any directly-affected person.

ODA also estimates that the proposed amendments that involve incorporating H.B. No. 153's proposed amendments to two citations fo the Ohio Revised Code will create no cost of compliance to any directly-affected person.

In terms of fees, ODA estimates that the proposed amendment to this rule that changes the definition of "long-term care facility" to include long-term acute care hospitals will create a cost of compliance to each of the approximately 29 long-term acute care hospitals in Ohio. After H.B. No. 153's amendments take effect--which is the same day that ODA proposes to adopt this amended rule--each long-term acute care hospital will need to pay a \$6/year bed fee for each bed in its facility.

In terms of ombudsman complaint-handling activity, ODA estimates that the proposed amendment to this rule that changes the definition of "long-term care facility" to include long-term acute care hospitals will create no cost of compliance to a long-term acute care hospital on whose behalf the ombudsman program receives no complaints. ODA estimates that, for a long-term acute care hospital on whose behalf the ombudsman program receives complaints will incur a minimal cost of compliance associated with allowing representatives of the Office of the State Long-Term Care Ombudsman to investigate the complaint.

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**