

TO BE RESCINDED

173-39-05 **Sanctions for non-compliance.**

Pursuant to section 173.39 of the Revised Code, the department of aging or its designee may take disciplinary action against a certified long-term care provider for good cause including, but not limited to: misfeasance, malfeasance, nonfeasance, confirmed abuse or neglect, financial irresponsibility, or any conduct the department determines is injurious to the health, safety and welfare of individuals receiving long-term care services.

(A) ODA or its designee may impose the following sanctions/penalties upon certified long-term care providers that fail to comply with the long-term care certification requirements outlined in Chapter 173-39 of the Administrative Code:

(1) ODA or its designee may impose a level one sanction against a certified provider that violates any condition of participation listed in rule 173-39-02 of the Administrative Code and/or any service specification listed in rules 173-39-02.1 to 173-39-02.20 of the Administrative Code. A level one sanction may include a written warning to, and/or a written mandate for documentation demonstrating compliance with regulations against, the provider.

(2) ODA may impose a level two sanction against any certified provider that:

(a) Fails to correct any deficiency for which a level one sanction was applied, or fails to comply with a mandate for documentation demonstrating compliance with regulations imposed upon the provider as a level one sanction; and/or,

(b) Commits any second violation of any condition of participation listed in rule 173-39-02 of the Administrative Code and/or any service specification listed in rules 173-39-02.1 to 173-39-02.20 of the Administrative Code; or,

A level two sanction may include a written warning to, and/or the written mandate for documentation demonstrating compliance with regulations against, the provider; the provisional certification of the provider until the problems serving as the basis for the decision to sanction have been resolved; the denial of reimbursement for undocumented services; and/or an order that unearned funds be repaid to the department.

For purposes of this rule, when a provider is provisionally certified, the provider retains its certification to provide long-term care services, but the department may order the removal of the provider's existing clients, and/or temporarily suspend any new referrals to the provider until the problems that

are the basis for the department's decision to sanction the provider have been resolved.

(3) ODA may impose a level three sanction against any certified provider that:

- (a) Fails to correct the deficiency(ies) for which a level two sanction was applied, or fails to document evidence of compliance with certification requirements imposed upon the provider as a level two sanction;
- (b) Engages in a pattern of recurring or continuing non-compliance with the conditions of participation listed in rule 173-39-02 of the Administrative Code, or the service specifications listed in rules 173-39-02.1 to 173-39-02.20 of the Administrative Code;
- (c) Falsifies its application for certification;
- (d) Is convicted, employs or is associated with a principal that has been convicted, of medicaid or medicare fraud; and/or,
- (e) Endangers the health, safety or welfare of a recipient of long-term care services.

A level three sanction involves the decertification of the certified long-term care provider.

(B) ODA or its designee may propose that a sanction be assessed against a provider, but the department may not impose a level two or a level three sanction against a provider until the department has given the provider written notice of the Department's intent to discipline and offered the provider an opportunity to appeal the proposed disciplinary action in accordance with rules 173-39-06, 173-39-07, and 173-39-08 of the Administrative Code.

(C) Any provider whose certification has been terminated by ODA is prohibited from reapplying for certification.

Effective:

R.C. 119.032 review dates: 07/13/2011

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 173.01, 173.02, 173.391, 5111.89
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