

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

Agency Name

Division

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173-45-06.1

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Information on services provided by facilities.**RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **Yes**2. Are you proposing this rule as a result of recent legislation? **No**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, 173.49; 42 USC 1396a(a)(9)(D)**5. Statute(s) the rule, as filed, amplifies or implements: **173.46; 42 USC 1396a(a)(9)(D)**

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

Chapter 173-45 of the Administrative Code regulates the Long-Term Care Consumer Guide (Guide).

ODA proposes to amend this rule as part of its review of Chapter 173-45 of the Administrative Code, which satisfies the requirements for ODA to review the chapter no less often than every 5 years.

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 requires ODA to provide facilities with opportunities to complete a checklist that shows the services provided by, or in affiliation, with, the facility. The rule also allows ODA to obtain service information from publicly-available sources. The rule requires ODA to publish the service information in the Guide.

ODA also proposes a non-substantive amendment to the rule that involves moving the paragraph on behavioral to an alphabetical order after the paragraph on bariatric care.

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. Five Year Review (FYR) Date: 9/3/2015

(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 anticipates that the proposed amendment to the rule would have no impact upon the biennial budget that the Ohio General Assembly established for ODA in H.B.62 (131st G.A.).

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

5K90-490-613 Long-Term Care Consumer Guide.

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 there would be no cost of compliance to any directly-affected person associated with the adoption of this proposed amended rule unless ODA receives a request from a consumer, an ombudsman, or a surveyor to demonstrate how any specialized service that the facility attests to provide meets the rule's definition for the specialized service. In that case, the cost of compliance would be the cost of supplying ODA with documentation.

As stated in the business impact analysis (BIA), the facilities listed in the Guide benefit from being published in the Guide, which is the state's only one-stop, public, searchable database of such facilities. The Guide provides facilities with

opportunities to highlight their specialized services, policies, staffing levels, quality, and bed capacities. The Guide is sort of a "matchmaker." It helps consumers with special healthcare needs who are shopping for a nursing facility to choose a facility based on the knowledge that some facilities offer specialized services that correspond to their special healthcare needs.

The BIA also declares that it is dangerous to mislead the public into believing that the Guide, a State of Ohio publication, indicates that a nursing facility offers specialized services, if the nursing facility does not offer the specialized services. Thus, it is important for ODA to establish standards for the Guide to ensure that the Guide only indicates that a nursing facility offers a specialized service if the nursing facility does, in fact, offer that service. Ohioans search through the Guide to find nursing facilities that specialize in the services they, or their loved ones, need. Ensuring the veracity of this Guide may prevent a consumer with a specific healthcare need from entering a nursing facility that is willing to serve the consumer, but does offer a specialized service that corresponds to their specific healthcare need.

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? **No**

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

The rule does not require facilities to report information to ODA unless ODA receives a request from a consumer, an ombudsman, or a surveyor to demonstrate how any specialized service that the facility attests to provide meets the rule's definition for the specialized service. In that case, the cost of compliance would be the cost of supplying ODA with documentation.