Rule Summary and Fiscal Analysis (Part A)

Department of Aging
Agency Name

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173-45-06.2 | **NEW**
Rule Number | TYPE of rule filing

Rule Title/Tag Line | **Facility staffing information.**

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? **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: **173.02, 173.49**

5. Statute(s) the rule, as filed, amplifies or implements: **173.46**

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

ODA is proposing to replace current rules with new rules and to amend other rules in Chapter 173-45 of the Administrative Code. In doing so, ODA has four basic goals:

1. To adopt language concerning the incorporation of detailed information about home care providers in the Long-Term Care Consumer Guide. Section 173.46 of the Revised Code requires ODA to include certain long-term care facilities in the guide, but does not prohibit ODA from including long-term care providers in the guide in addition to the long-term care facilities. Additionally, division (B)(4) of section 173.46 of the Revised Code authorizes ODA to adopt rules on "any other

information" and the current version of rule 173-45-02 of the Administrative Code, which was adopted in September of 2006, states that it is the duty of the Consumer Guide Advisory Council to consider the feasibility of including long-term care providers in the guide. At this time in 2010, ODA believes including long-term care providers in the guide is feasible and, thus, is proposing to do so. (Note: Section 173.47 of the Revised Code only subjects nursing facilities and residential care facilities to the Consumer Satisfaction Surveys and the fees associated with the surveys.)

2. To adopt language indicating that ODA may update the guide with information that it obtains from publicly-available sources.

3. To comply with the five-year review required under section 119.032 of the Revised Code.

4. To comply with Governor Strickland's Executive Order 2008-04S: "Implementing Common Sense Business Regulation." As a result, ODA's proposed new/amended language:

a. Complies with Chapter 5 of the Legislative Service Commission's "Rule Drafting Manual," as found on http://www.lsc.state.oh.us/rules/rdm06_06.pdf

b. Incorporates recommendations from "Advanced Legal Drafting" by Bryan A. Garner (Dallas: LawProse, Inc. (c) 2007)

c. Incorporates recommendations from "Plain English Writing Tips," as found on http://business.ohio.gov/docs/RegReform_PlainEnglishWritingTips.pdf.

d. Results in language that generously uses descriptive sub-headings (e.g., "Introduction," "Definitions," "Council duties," "Disclaimers," etc.); uses the active voice in the present tense, not the passive voice (e.g., "shall be") and not the future tense (e.g., "will"); uses the singular, unless the plural is necessary; replaces much legalese (e.g., "in the event of") with plain-English words (e.g., "If"); replaces long terms use repetitively (e.g., "Ohio long-term care consumer guide" and "Ohio long-term care consumer guide advisory council") with shorter terms that bear the same meaning (e.g., "guide" and "advisory council"). The intent is to produce easier-to-read and easier-to-comprehend rules to promote transparency regarding state regulations.

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:

This rule regulates the Consumer Guide's presentation of facility staffing information.

ODA is proposing to rescind the current rule and replace it with this new rule. In this new rule, ODA has added language to paragraph (C)(1) of the rule to say that it may update a facility page with publicly-available information about the facility.

Otherwise, ODA is not proposing any programmatic changes (i.e., changes that change the operation of the Long-Term Care Consumer Guide). The result is a rule is easier for the public to read.

ODA is proposing the following non-programmatic changes:

1. Adding sub-headings to the rule.

2. Replacing "the department," as it occurred throughout the rule, with "ODA."

3. Removing the first sentence of paragraph (A) of the rule proposed for recission because it is duplicate information from rule 173-45-06 of the Administrative Code.

4. Removing the "designed to" language in paragraph (A)(1) of the rule because the guide's web site is already in operation.

5. Converting the passive-voice language in paragraphs (A)(1), (A)(4), and (B)(1) of the rule to active-voice language.

6. Incorporating the unnumbered paragraph that occurred after paragraph (A)(6) of the rule that ODA is proposing for rescission with paragraph (C)(2) of the proposed new rule, and also converting the passive-voice language in the paragraph to active-voice language.

7. Splitting paragraphs (A)(1)(e) and (B)(1)(e) of the rule into paragraphs (A)(1)(e) and (A)(1)(f), and (B)(1)(e) and (B)(1)(f) of the rule, because each of the new paragraphs asks for a different figure.

8. Making other non-programmatic changes to increase the rule's readability.

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:

Not Applicable.

12. 119.032 Rule Review Date:

(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 adoption of this proposed new rule will have no impact upon the biennial budget established for ODA by the Ohio General Assembly.

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 does not anticipate that the adoption of is proposed new rule, in comparison to the rule of the same number that ODA is simultaneously proposing for rescission, will increase the cost of compliance to (1) the general public, who uses the guide, to (2) residents of facilities who complete consumer satisfaction surveys, or to (3) the nursing facilities and residential care facilities who provide information contained in the guide.

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**