

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

Agency Name

Division

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**173-45-10**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Consumer satisfaction surveys.****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? **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**

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 amend this rule as part of a larger rule package.

It is dangerous to mislead the public into believing that the Ohio Long-Term Care Consumer 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 could 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 the consumer's specific healthcare need.

As a minor part of this rule project, ODA is proposing to amend rule 173-45-10 of the Administrative Code.

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:

ODA is proposing to amend this rule to ensure that a consumer satisfaction survey is not counted towards a long-term care facility's survey results in the Long-Term Care Consumer Guide if the survey comes from a consumer who begins the survey but proves unable to complete it due to dementia, memory loss, or another cognitive impairment.

The affected long-term care facilities are nursing facilities and residential care facilities.

In 2011, 273 residents on the nursing facility survey and 61 residents on the residential care facility survey were approached for to be included in the satisfaction survey and started the survey interview but were unable to complete it. Interviewers coded surveys as "Unable to respond to questions," for any resident that could not answer three question in a row. To be included in the survey results, the resident must complete 10% of the survey questions. In 2011, completing at least 10% of the survey questions mean completing 5 survey questions.

To accomplish this goal, ODA is proposing to amend paragraph (B)(2)(c) of the rule by adding "or if the survey was incomplete due to a resident's inability to respond to the survey questions" to the end of the paragraph.

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: **4/24/2013**

(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 biennial budget that the Ohio General Assembly established for ODA in H.B.153 (129th G.A.) and modified in H.B.487 (129th G.A.) would not

be impacted by ODA's proposed amendments to the rule.

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 the proposed amendment of this rule will create no cost of compliance to any directly-affected person.

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**

ODA's proposed amendment to rule 173-45-10 of the Administrative Code should create no adverse impact upon any facility that has a resident who is unable to complete the customer satisfaction survey that ODA (or a survey administrator)

gives to the resident. The facility's score for the guide would be based upon surveys from residents who were able to complete their surveys. In fact, not counting survey results from a survey completed by a person with severe dementia into a facility's score in the Guide could help the facility's score.