CSI - Ohio
The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Aging (ODA)

Regulation/Package Title: Long-Term Care Consumer Guide

Rule Number(s): Rescind and adopt a new rule 173-45-06.1 of the Administrative Code and amend rules 173-45-06 and 173-45-10 of the Administrative Code

Date: April 1, 2013

Rule Type:

X New (173-45-06.1)

X Amended (173-45-06, 173-45-10)

X 5-Year Review (all rules)

X Rescinded (173-45-06.1)

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Regulatory Intent

1. Please briefly describe the draft regulation in plain language.
Please include the key provisions of the regulation as well as any proposed amendments.

In 2000, House Bill 403 (123rd General Assembly) required the Ohio Department of Aging to adopt rules to implement the Ohio Long-Term Care Consumer Guide. ODA publishes the Guide on www.ltcohio.org[1] and the Guide is available to the public.

The goal of the Guide is to provide timely, comparative information about Ohio's nursing facilities, residential care facilities, and residential facilities that the Dept. of Mental Health regulates. The Guide provides information on each facility's inspection report from the Ohio Department of Health along with statewide and district averages for comparison. The Guide provides consumer-satisfaction information, which is based on surveys of families and residents of nursing facilities and residents of residential care facilities. The consumer-satisfaction surveys provide quality incentive measures that OMA uses in its quality incentive payments for nursing facilities. Additionally, nursing facilities can add information to the Guide about their specialized services, policies, staffing levels, quality, and bed capacities. ODA conducts two surveys in alternate years: one is the Nursing Home Family Satisfaction Survey and the other is the Resident Satisfaction Survey that includes information on both nursing facilities and residential care facilities.

Two beneficiaries of the Guide are:

1. The public benefits from the Guide because any Ohioan may use it as an unbiased resource when shopping for nursing facilities and residential care facilities. Ohioans want to live in facilities that are best-suited to meet their healthcare needs or the healthcare needs of their loved ones.

2. The nursing facilities and residential care facilities listed in the Guide benefit from having their facilities 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 primary rule in this rule package is rule 173-45-06.1 of the Administrative Code. The rule requires ODA to provide a checklist of boxes for each nursing facility and residential care facility in Ohio to check (or not check) so that the Guide will direct Ohioans who are searching for facilities with certain specializations to facilities that claim to offer those specializations.

[1] The URL may soon become www.ltc.ohio.gov.

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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.

In light of this, ODA is proposing to make the following changes to rule 173-3-06.1 of the Administrative Code:

- For nursing facilities (but not residential care facilities) ODA would propose the following regarding the checklist of specialized services:
    - Areas of specializations would contain details about what constitutes an area of specialization instead of just a term that represents the specialization without any qualifications. For example, "Bariatric care" in the current rule would be expanded to include detail, as follows: "Bariatric care: A nursing facility may check the "bariatric care" checkbox if it specializes in bariatric care that includes dietetic and counseling services; equipment, including wheelchairs, beds, commodes, and lifts; exercise and therapy services to treat residents' obesity."
    - Specialized services formerly considered "ventilator care" would be expanded into two categories entitled (1) "respiratory care, including ventilator care" and (2) "respiratory care, not including ventilator care."
    - Two specialized service categories would be removed from the checklist: (1) Formalized wellness programs and (2) pediatric care.
- For nursing facilities (but not residential care facilities) ODA would propose the following regarding attestation and disclaimer:
    - A requirement would be added for nursing facilities to attest that they offer the specialized care they claim to offer in the Guide.
    - To any consumer, ombudsman, or surveyor who asks, there would be a requirement for nursing facilities to show documentation to demonstrate how the specific services that it attested that it provides meets the description of the services in the rule. This would be coupled with a statement that ODA may remove the listing of specific services

from the nursing facility's listing in the Guide if it does not provide such documentation.

- A requirement would be added for ODA to publish this disclaimer in the Guide: "This form is intended for consumers, ombudsmen, and other interested persons to use in comparing services offered at Ohio nursing facilities listed on the Ohio Long-Term Care Consumer Guide. The state does not offer any guarantee that the described services are available to residents because they are listed here. Residents and interested persons may use this information to compare facilities' services and capabilities. This information is not intended to take the place of visiting the facility, talking with residents, family members, or meeting one-on-one with facility staff."

- ODA would make other non-substantive changes, such as replacing the semicolons at the end of paragraphs with periods, referring to items in the checklist as "boxes," referring to the action of indicating specialized services in the checklist as "checking a box," and stating that facilities may check the boxes.

Because ODA's proposed amendments to rule 173-45-06.1 of the Administrative Code would amend over 50% of the rule, ODA is proposing to rescind the current rule and to adopt a new rule of the same number.

ODA is also proposing to amend rules 173-45-06 and 173-45-10 of the Administrative Code.

Rule 173-45-06 of the Administrative Code lists the thirteen types of content that the Guide will publish about each facility. ODA is proposing to amend the rule to delete paragraph (A)(6) of the rule, which says the Guide will publish information about waivers of space and occupancy requirements (*aka*, the Life-Safety Code) the facility has received from the Ohio Department of Health. Because the Guide doesn't publish information about citations against the Life-Safety Code, it doesn't seem on-the-level for the Guide to publish information about waivers from the Life-Safety Code.

ODA would also replace "life sustaining care" with "life-sustaining care" in paragraph (A)(9) of the rule.

Rule 173-45-10 of the Administrative Code regulates the customer satisfaction surveys that section 173.47 of the Revised Code requires facilities to complete. Paragraph (B)(2)(c) of the rule allows ODA or a survey administrator to exclude returned surveys if a resident completes fewer than 10% of the questions on the survey. ODA is proposing to amend that paragraph to also allow for excluding returned surveys when they are incomplete due to a resident's inability to respond to the survey questions. ODA wants to ensure that such a survey won't skew a facility's overall score in the Guide.

2. **Please list the Ohio statute authorizing the Agency to adopt this regulation.**

   The primary statute that authorizes and mandates ODA to adopt rules to "implement and administer" the Long-Term Care Consumer Guide is section 173.49 of the Revised Code.

   Sections 173.01 and 173.02 of the Revised Code give ODA general authority to adopt the rules.

3. **Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**
   If yes, please briefly explain the source and substance of the federal requirement.

   Yes. Section 1902(a)(9)(D) of the Social Security Act, as amended by section 6102(d)(2)(D) of the Affordable Care Act, requires "that the State maintain a consumer-oriented website providing useful information to consumers regarding all skilled nursing facilities and all nursing facilities in the State, including for each facility, Form 2567 state inspection reports (or a successor form), complaint investigation reports, the facility's plan of correction, and such other information that the State or the Secretary considers useful in assisting the public to assess the quality of long term care options and the quality of care provided by individual facilities." (House Bill 403 (123rd General Assembly) required the Ohio Department of Aging to adopt rules to implement the Ohio Long-Term Care Consumer Guide over a decade before the Affordable Care Act (2000).)

4. **If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

   As stated in ODA's response to question #3, Affordable Care Act requires Ohio to "maintain a consumer-oriented website providing useful information to consumers regarding all skilled nursing facilities and all nursing facilities in the State...." The Affordable Care Act, however, does not specifically mandate the system of checking boxes that ODA implemented through rule 173-45-06.1 of the Administrative Code.

5. **What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

   There are at least four public purposes:

   1. The rules exist to comply with state law.

   2. The rules exist to comply with federal law.

   3. The rules benefit the public because any Ohioan may use the Guide as an unbiased resource when shopping for nursing facilities and residential care

facilities. Ohioans want to live in facilities that are best-suited to meet their healthcare needs or the healthcare needs of their loved ones.

4. The rules benefit nursing facilities and residential care facilities that are listed in the Guide. The Guide 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." Merely being listed in the Guide could help consumers and facilities, because the Guide helps consumers choose facilities. Furthermore, because the Guide lists each facility's specialized services, 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

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The Elder Rights Division of the ODA will monitor providers. Paragraph (B)(2)(b) of proposed new rule 173-45-06.1 of the Revised Code allows ODA to alter the list of specialized services the Guide says a nursing facility offers if ODA obtains documentation that shows the current listing in the Guide is incorrect.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.
If applicable, please include the date and medium by which the stakeholders were initially contacted.

ODA included a significant number of stakeholders.

On September 28, 2012, at a meeting of the Unified Long-Term Care System (ULTCS) regulatory-reform workgroup, the Governor's Office of Health Transformation (OHT) and the Ohio Medicaid Agency (OMA) [JFS] discussed the creation of a sub-workgroup to the regulatory-reform workgroup that would develop "standards" for determining which specializations nursing facilities offered. Julie Evers of OMA addressed concerns that if a nursing facility claims to provide a specialization, the public is uncertain what the specialization means. Developing standards for specializations would lead to truth-in-advertising in the Guide. Participants in the sub-workgroup included staff and members from Ohio businesses that are part of the nursing-facility industry, including the Ohio Health Care Association, LeadingAge Ohio, the Academy of Senior Health Sciences, state agencies, and the State Long-Term Care Ombudsman.

On October 8, 2012, Erin Pettegrew from the State Long-Term Care Ombudsman's Office discussed changes to the description of services listed in the Guide at a meeting with the Ohio Dept. of Health (ODH). Specifically, she discussed the need to adjust the services listed due to (a) overuse of some categories limiting the ability of consumers to distinguish between providers who have specializations and those that do not and (b) underuse of other categories indicating underuse or non-interest in other categories. Participants in the meeting with ODH that represented Ohio businesses that are part of the nursing-facility industry included the Ohio health Care Association, LeadingAge Ohio, the Academy of Senior health Sciences, and the Ohio Veterans' Home.

In December 2012, ULTCS included recommendations in their report to the General Assembly. Recommendation 8 regarding clarifying definitions for specializations said, "The Subcommittee recommends the Ohio Department of Aging (ODA) update the Ohio Long-Term Care (LTC) Consumer Guide to be more accurate in its description of specialized facilities. Currently there are no requirements for nursing facilities that self-identify as 'specializing; in care for specific diagnoses or conditions. ODA should define the services featured in the LTC Consumer Guide and create an online attestation for facility's that claim a specialization."

On February 22, 2013, ODA released general plans to amend rule 173-45-06.1 of the Administrative Code to the Long-Term Care Consumer Guide Advisory Council, which is mandated by rule 173-45-02 of the Administrative Code to "[review] rule proposals pertaining to the [Guide]," "[Recommend] to ODA administrative practices that could improve the operation and content of the [Guide]." The advisory council is comprised of many representatives from Ohio businesses that are part of the

nursing-facility industry. Members of the Council who are invited to, and participate, in the Council are as follows: ODA, ODH, OMA [JFS], Miami University's Scripps Gerontology Center, AARP, a long-term care ombudsman from Cleveland, Ohio Assisted Living Association, The Inn at Fairfield Village, Levering Management, LeadingAge Ohio, Academy of Senior health Sciences, Ohio Health Care Association, Oakwood Village, Altercare of Ohio, Inc., Central Ohio Area Agency on Aging, the Ohio Council for Home Care and Hospice, and the State Long-Term Care Ombudsman.

The explicit purpose for the February meeting was to discuss changes to rule 173-45-06.1 of the Administrative Code. Before the meeting, ODA distributed drafts of the proposed "definitions" for nursing-facility specializations. The Council discussed the matter during the meeting. Any matter raised was adopted into ODA's plans for the rules, minus the matter raised about CARF Accreditation, the details of which are in ODA's response to question #10.

In addition to the above, ODA also decided to amend one item in rule 173-45-06 of the Administrative Code and another item in rule 173-45-10 of the Administrative Code.

In rule 173-45-06 of the Administrative Code, ODA is proposing to delete paragraph (A)(6) from the rule. The decision to delete this paragraph was not the product of discussions with the Advisory Council or other stakeholders. Instead, the very infrequent use by facilities of the option to submit information about waivers from the Ohio Dept. of Health regarding space and occupancy requirements (*aka*, the Life-Safety Code) led ODA to believe that removing the option would be of little concern to stakeholders. Only a handful of facilities have ever provided waiver information and some facilities that supplied waiver information have since gone out of business. Additionally, because the Guide doesn't publish information about citations against the Life-Safety Code, it doesn't seem on-the-level for the Guide to publish information about waivers from the Life-Safety Code.

In paragraph (B)(2)(c) of rule 173-45-10 of the Administrative Code, ODA already allows ODA (or a survey administrator) to exclude returned surveys if a resident completes fewer than 10% of the questions on the survey. Nursing facilities have raised the issue with ODA over the years that residents of their facilities who have severe dementia may skew the results of the facilities' resident-survey scores if such residents cannot complete their surveys. Therefore, ODA is proposing to amend the paragraph so that it would also allow for excluding returned surveys when they are incomplete due to a resident's inability to respond to the survey questions. ODA wants to ensure that such a survey won't count towards the facility's overall score in the Guide.

Additionally, on ODA's website, ODA will field public comments on this rule project before filing the rules with the Joint Committee on Agency Rule Review (JCARR) to begin the legislature's portion of the rule-review process. In doing so, ODA will post the following items:

- A draft of the public hearing notice.
- This business impact analysis.
- The proposed rescission of rule 173-45-06.1 of the Administrative Code.
- Proposed new rule 173-45-06.1 of the Administrative Code.
- The proposed amendments to rules 173-45-06 and 173-45-10 of the Administrative Code.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

Please see ODA's response to question #10.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

Regarding rule 173-45-06.1 of the Administrative Code: ODA developed the descriptions of specialized services as a group with industry experts representing Ohio's long-term care industry. (See ODA's response to question #7.)

ODA's proposed amendments to rules 173-45-06 and 173-45-10 of the Administrative Code are based, in part, on ODA's records. The lack of use of paragraph (A)(6) of rule 173-45-06 of the Administrative Code was a factor in deleting the paragraph. ODA's proposed amendment to paragraph (B)(2)(c) of rule 173-45-10 of the Administrative Code was influenced by the volume of residents who were unable to complete 10% of surveys. In 2011, 273 nursing facility residents and 61 residential care facility residents were unable to complete 10% of the survey that ODA (or the survey administrator) gave to them. If a resident completed 11% of their survey, but due to dementia was unable to proceed, the survey would still count towards the facility's overall score unless ODA adopts the proposed amendment to make an exception.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

At the February 22, 2013 meeting of the Advisory Council (see ODA's response to question #8), one member suggested that the Guide display CARF Accreditation for traumatic brain injury care and spinal cord injury care. However, after searching for CARF Accreditation in Ohio as a means to determine which facilities specialize in traumatic brain injury care and spinal cord injury care, ODA determined that (a) CARF had only accredited one Ohio nursing facility for traumatic brain injury care and (b) CARF had not accredited any Ohio nursing facility for spinal cord injury care and. However, ODA will consider listing in the Guide any facility's CARF accreditation if the facility indicates in their comments for the Guide that they have obtained such accreditation.

11. Did the Agency specifically consider a performance-based regulation? Please explain.
Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

Yes. Customer-satisfaction surveys that are part of the Guide do affect incentive payments to nursing facilities, but no proposed amendment or new language in rules 173-45-06, 173-45-06.1, or 173-45-10 of the Administrative Code would affect incentive payments.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The Ohio General Assembly authorized no other state agency to adopt rules to implement the Guide. (*Cf.*, Sections 173.44 to 173.49 of the Revised Code)

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

ODA will publish the rules in the Register of Ohio. Section 119.037 of the Revised Code says publication of a newly-adopted rule in the Register of Ohio "is sufficient to give notice of the content of the document to a person who is subject to or affected by the content."

ODA posts all proposed and currently-effective rules on its website. (http://aging.ohio.gov/information/rules/default.aspx) Before a rule takes effect, ODA posts it on its website and sends an email to any subscriber of our rule notification service.

Paragraph (B)(2)(b) of proposed new rule 173-45-06.1 of the Revised Code allows ODA to alter the lists of nursing facility specializations if it obtains documentation that what a nursing facility indicated were its specializations was incorrect. Additionally, paragraph (B)(2) of rule 173-45-06 of the Administrative Code allows the nursing facilities—if they realize they have made a paperwork error—to update their information on their page of the Guide.

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Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

Ohio's 960 nursing facilities and 598 residential care facilities are affected by the Guide and by Chapter 173-45 of the Administrative Code. Only Ohio's 960 nursing facilities would be affected by the proposed new language in proposed new rule 173-45-06.1 of the Administrative Code that does not exist in the current version of the same rule.

Virtually no nursing facilities or residential care facilities would be affected by the proposed deletion of paragraph (A)(6) of rule 173-45-06 of the Administrative Code.

ODA's proposed amendment to rule 173-45-10 of the Administrative Code could affect any of the 960 nursing facilities and 598 residential care facilities that care for residents with severe dementia who are the residents likely to be unable to complete the customer satisfaction surveys.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

Although rule 173-45-06.1 of the Administrative Code does not require a fee, it is helpful to note that, in accordance with section 173.48 of the Revised Code, rule 173-45-09 of the Administrative Code requires each of Ohio's 960 nursing facilities is required to pay $650/year to be published in the Guide. The same rule requires each of Ohio's 598 residential care facilities are required to pay $300/year to be published in the Guide.

The only existing adverse impact caused by the implementation of rule 173-45-06.1 of the Administrative Code would be the time it takes for a nursing facility to complete a checklist to indicate their areas of specialization. The proposed new language in proposed new version of the rule would add more descriptions to each checkbox item, which should not create a substantial increase in the amount of time necessary for a nursing facility to complete the checklist. ODA is not proposing to change the language for residential care facilities at this time, so the proposed new language would not affect residential care facilities whatsoever.

If a nursing facility had previously used the checklist required by rule 173-45-06.1 of the Administrative Code to indicate that it offered an area of specialization such as traumatic brain injury care, but the kind of care that it would offer a resident does not meet the details in the rule's new language, the change to the rule could create an opportunity loss for the nursing facility because a person who is shopping in the Guide for a nursing facility that

specializes in traumatic brain injury care would no longer see that nursing facility listed as specializing in traumatic brain injury care.

However, for a nursing facility that indicates that it offers an area of specialization according to the details listed in the proposed new rule, the facility would find that the Guide helps consumers with specialized needs to choose its facility. It is possible that if many consumers with specialized needs choose facilities that offer corresponding specialized services, the resulting concentration of consumers with specialized needs choosing facilities that offer corresponding specialized services would allow the facilities that offer the specialized services to focus on their areas of expertise. This, in turn, would result in higher rates of consumer satisfaction. This, in turn, would result in higher incentive payments for those nursing facilities.

The proposed deletion of paragraph (A)(6) of rule 173-45-06 of the Administrative Code would create no adverse impact upon any facility regulated by the rule.

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.

c. Quantify the expected adverse impact from the regulation.
The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

The only substantial adverse impact created by the proposed new language in proposed new rule 173-45-06.1 of the Administrative Code would be an unquantifiable opportunity loss described in 14.b above.

The proposed deletion of paragraph (A)(6) of rule 173-45-06 of the Administrative Code should not create any quantifiable adverse impact upon a facility regulated by Chapter 173-45 of the Administrative Code.

ODA's proposed amendment to paragraph (B)(2)(c) of rule 173-45-10 of the Administrative Code should not create any quantifiable adverse impact upon a facility regulated by Chapter 173-45 of the Administrative Code. 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.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

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Regarding rule 173-45-06.1 of the Administrative Code: As stated in ODA's response to question #1, 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 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 their specific healthcare need.

Regarding rule 173-45-06 of the Administrative Code: The proposed deletion of paragraph (A)(6) of rule 173-45-06 of the Administrative Code should not create any quantifiable adverse impact upon a facility regulated by Chapter 173-45 of the Administrative Code. As stated in ODA's response to #7, only a handful of facilities have ever provided waiver information and some facilities that supplied waiver information have since gone out of business. Additionally, because the Guide doesn't publish information about citations against the Life-Safety Code, it doesn't seem on-the-level for the Guide to publish information about waivers from the Life-Safety Code.

Regarding rule 173-45-10 of the Administrative Code: ODA's proposed amendment would not create a new regulation. Instead, it creates a new exception to—or relief from—the requirement to have residents complete customer satisfaction surveys.

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Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No. Neither the rule nor the statute that authorizes the rule treats nursing facilities and residential facilities differently based upon the size of their operations.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

Section 119.14 of the Revised Code establishes the exemption from penalties for first-time paperwork violations, so long as the first-time offense is not part of a pattern of corruption. Paragraph (B)(3) of proposed new rule 173-45-06.1 of the Revised Code allows ODA to alter the lists of nursing facility specializations if it obtains documentation that what a nursing facility indicated were its specializations was incorrect. Additionally, paragraph (C) of the same rule allows the nursing facilities—if they realize they have made a paperwork error—to update their information on their page of the Guide.

The proposed amendments to rule 173-45-06 and 173-45-10 of the Administrative Code would require submitting less paperwork to ODA.

18. What resources are available to assist small businesses with compliance of the regulation?

ODA provides multiple resources to assist any Ohio business, regardless of its size, including the following:

- Any Ohio nursing facility or residential care facility may contact the Elder Rights Division of the Ohio Department of Aging to discuss the regulation.
- At any time, a facility may write about rules questions to ODA's regulatory ombudsman at rules@age.ohio.gov.
- Any facility may click the "Contact Consumer Guide" button on the Guide's website (www.ltcohio.org).