

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

Agency Name

Division

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**173-14-02**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Types of representatives.****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, 173.16**

5. Statute(s) the rule, as filed, amplifies or implements: **173.16, 173.17**

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.

ODA is proposing to amend rules 173-14-02, 173-14-03, 173-14-04, and 173-14-13 of the Administrative Code. In doing so, ODA has 3 basic goals:

1. To require each new representative of the Office of the State Long-Term Care Ombudsman to be equipped to assist with complex complaint-handling activity. This involves:

a. Reducing the number of categories of representatives from four to three. January 1, 2011 will become the last day a person can become an Ombudsman Associate

Level 1. On January 2, 2012, ODA will eliminate that category for new representatives and rename the category called "Ombudsman Associate Level 2" as "Ombudsman Associate."

b. Adding a grandfather clause to rule 173-14-03 of the Administrative Code so that any representative who is certified as an Ombudsman Associate Level 1 before January 2, 2012 may continue to perform all but two of the duties without voluntarily increasing their certification level to the Ombudsman Associate Level 2 category (which ODA proposes to simply call "Ombudsman Associate" beginning on January 2, 2012). This will create no cost of compliance for a current representative who does not wish to increase his or her certification level.

c. Continuing to require, in rule 173-14-13 of the Administrative Code, any representative who is grandfathered as an Ombudsman Associate Level 1 before January 2, 2012 to complete 5 hours of continuing education every year. If the representative voluntarily wishes to increase his or her certification level to the new Ombudsman Associate level, the representative must complete 6 hours of continuing education every year, which is current requirement for the Ombudsman Associate Level 2 category.

d. Requiring, in rule 173-14-04 of the Administrative Code, any representative who is certified as an Ombudsman Associate Level 1 before January 2, 2012 to complete four hours of professional development if the representative voluntarily desires to increase his or her certification level to become a new Ombudsman Associate. This will create no new cost of compliance for a current representative who does not wish to increase his or her certification level.

e. Continuing to prohibit a non-representative staff member from performing complaint-handling functions, but to allow them to perform duties in conjunction with the ombudsman program for which they are trained or hold an appropriate license.

2. To comply with section 119.032 of the Revised Code, which requires every state agency to review each rule on or before the rule's designated review date.

3. To comply with Governor Kasich's Executive Order 2011-01K "Implementing Common Sense Business Regulation" and S.B. No. 2 (129th G.A.). ODA is also proposing to amend this rule after providing interested parties and the general public an opportunity to provide input on the proposed amendments to the rule. From October 5, 2011 to October 11, 2011, ODA posted the proposed amended rule on <http://aging.ohio.gov/information/rules/proposed.aspx> for a public-comment period. The proposed amendments to rule 173-14-13 of the Administrative Code were not part of the public-comment period because ODA did not decide to amend that rule until after the period ended.

ODA anticipates adopting these amendments on January 2, 2012.

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:

Specifically, ODA is proposing to amend the rule to:

1. Reduce the number of categories of representatives from four to three by replacing the categories called "Ombudsman Associate Level 1" and "Ombudsman Associate Level 2" with "ombudsman associate."
2. Replace "core ombudsman services" with "any complaint-handling function, but they may perform duties in conjunction with the program for which they are trained or hold an appropriate license."
3. Insert "173.01" into the statutory authority section because section 173.01 of the Revised Code also gives ODA authority to adopt this rule.

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: 10/18/2011**

(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

The proposed amendment to this rule is part of a larger rule project that would require each new representative of the Office of the State Long-Term Care Ombudsman to be equipped to assist with complex complaint-handling activity, but would also grandfather in current representatives who are not at that level.

Regional Long-Term Care Ombudsman Programs already routinely schedule training sessions for each level of ombudsman representative as needed. The proposed amendments do not create a need for more training or increased training expenses because the majority of volunteers are already trained and certified at the higher level. Additionally, almost all representatives are volunteers. Therefore, ODA does not anticipate that any regional long-term care ombudsman office will hire representatives as a result of the proposed amendments to this rule.

Overall, ODA estimates that the proposed amendment to this rule and the other rules in this rule package will have no impact upon the biennial budget that the legislature appropriated for ODA in H.B. No. 153 of the 129th General Assembly.

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

GRF-490-410 Long-Term Care Ombudsman.

3M40-490-612 Federal Independence Services.

4C40-490-609 Regional Long-Term Care Ombudsman Program.

5BA0-490-620 Ombudsman Support.

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.

As of October 14, 2011, ODA's State Long-Term Care Ombudsman program had 331 Ombudsman Associates Level 2: 322 volunteer representatives and 9 paid representatives. The proposed amendments to this rule and the other rules of this rule package will not create any new cost of compliance for these representatives.

As of October 14, 2011, ODA's State Long-Term Care Ombudsman program had 87 Ombudsman Associates Level 1: 87 volunteer representatives and 0 paid representatives. The proposed amendment to this rule and the other rules of this rule package create no new cost of compliance for this person. Instead, the rules grandfather the representative in at his or her current level. If the representative wants to advance his or her certification to the next level, he or she would require additional training, which is also the case today. Thus, there is no new cost of compliance for a person who is currently an Ombudsman Associate Level 1 to remain an Ombudsman Associate Level 1 or to advance to the new Ombudsman Associate level (which was formerly called "Ombudsman Associate Level 2").

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**