

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

Agency Name

Division

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173-45-06

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Facility page.**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 173-45-06 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:

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.

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:

As stated in the business impact analysis, 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. 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.

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**

As stated in the business impact analysis, rule 173-45-06 of the Administrative Code lists the thirteen types of content that the Guide will publish about each facility.