

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

Agency Name

Division

Tom Simmons

Contact

**50 West Broad Street 9th floor Columbus OH
43215-3363**

Agency Mailing Address (Plus Zip)

614-728-2548

Phone

Fax

173-45-09

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Facility fees.**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? **Yes**

Bill Number: **HB153**General Assembly: **129**Sponsor: **Amstutz**

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: **173.48**

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

ODA is proposing to amend rule 173-45-09 of the Administrative Code. In doing so, ODA has 3 basic goals:

1. 1. To amend rule 173-45-09 of the Administrative Code to implement an increase in the annual fee ODA charges nursing homes. H.B. No. 153??s amendments to sections 173.47 and 173.48 of the Revised Code take effect on September 29, 2011. The amendments will authorize ODA to increase the annual fee Ohio??s nursing homes pay from \$400 to \$650??a \$150 increase. ODA must

now amend rule 173-45-09 of the Administrative Code to implement the \$150 fee increase. ODA will use the fee increase to pay for the increasing costs associated with publishing the Ohio Long-Term Care Consumer Guide, especially to cover the cost of the customer satisfaction surveys. The results of the surveys provide statistics for the guide that help consumers and their families choose among Ohio's nursing homes. ODA proposes to adopt the amendments to the rule on September 29, 2011, the same day that H.B. No. 153's amendments take effect.

2. To comply with section 119.032 of the Revised Code, which requires each 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.) which require each state agency to eliminate unnecessary regulations and to write easier-to-read and easier-to-comprehend rules to promote transparency in the agency's regulations. In 2010, ODA adopted the most-recent versions of rule 173-45-09 of the Administrative Code after undergoing a similar review process. After reviewing this rule again, ODA has determined that:

a. The rule and the proposed amendment to the rule do not burden any Ohio business beyond the authorization H.B. No. 153 will give to increase the annual fee for nursing homes by \$150 beginning on September 29, 2011.

b. ODA wrote the rule and the proposed amendment to the rule in a manner that is as easy to understand as the subject matter permits.

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 June 30, 2011 to July 11, 2011, ODA posted this the proposed amended rule on <http://aging.ohio.gov/information/rules/proposed.aspx> for a public-comment period.

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:

1. Change the title of the rule from "Facility fees" to "Fees."

2. Replace "ODA shall collect...four hundred dollars from each nursing facility" in paragraph (A)(1) of the rule with "ODA shall collect...six hundred fifty dollars from each nursing facility."

3. Insert ", for the publication of the guide" to the end of the sentence in paragraph (A)(1) of the rule to indicate the purpose for collecting the fee is for the publication

of the Ohio Long-Term Care Consumer Guide. (ODA only needs to use "guide" to convey "Ohio Long-Term Care Consumer Guide" because rule 173-45-01 defines "guide" as "Ohio Long-Term Care Consumer Guide.")

4. Insert "173.01" into the statutory authority section because section 173.01 of the Revised Code gives ODA authority to adopt this rule.

5. Replace "173.46, 173.47" in the rule amplifies section of the rule with "173.48" because, after H.B. No. 153's amendments take effect on September 29, 2011, only section 173.48 of the Revised Code will regard the fee.

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: **7/13/2011**

(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

ODA estimates that the adoption of the proposed amendment to this rule will have no impact upon ODA's biennial budget. H.B. No. 153 establishes ODA's biennial budget and will amend sections 173.47 and 173.48 of the Revised Code, effective September 29, 2011, to require the increased fee on nursing homes. Therefore, the biennial budget that the Ohio General Assembly established for ODA has the factors in the increased fee.

Nevertheless, ODA estimates that the increased amount of revenue the increased fee will collect for the Long-Term Care Consumer Guide Fund is \$242,000/year. (As of July 1, 2011, ODA would bill 968 nursing homes in Ohio the new fee of \$650 for a total collection of \$629,200/year. If H.B. No. 153 had left the old fee of \$400 in place, ODA would only collect \$387,200/year.)

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 Fund.

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:

H.B. No. 153 will authorize ODA to require each nursing facility in Ohio to pay an annual fee of \$650, which is \$150 higher than the fee before the enactment of H.B. No. 153.

ODA's proposed amendment of this rule does not add any burden upon nursing facilities greater than that which H.B. No. 153 will give ODA the authority to require after its amendments to section 173.48 of the Revised Code take effect on September 29, 2011.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

Rule Summary and Fiscal Analysis (Part B)

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
No	Yes	No	No

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

After its amendments to sections 173.47 and 173.48 of the Revised Code take effect on September 29, 2011, H.B. No. 153 will require each county-owned nursing facility in Ohio to pay an annual fee of \$650. The fee will be \$150 higher than the current fee.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

Not Applicable.

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

After H.B. No. 153's amendments to sections 173.47 and 173.48 of the Revised Code take effect on September 29, 2011, the increased fee ODA will collect for the Long-Term Care Consumer Guide Fund from each county-owned nursing home in Ohio is \$650/year, or \$150.00/year more than the current fee.

(a) Personnel Costs

Not applicable.

(b) New Equipment or Other Capital Costs

Not applicable.

(c) Operating Costs

Not applicable.

(d) Any Indirect Central Service Costs

Not applicable.

(e) Other Costs

After H.B. No. 153's amendments to sections 173.47 and 173.48 of the Revised Code take effect on September 29, 2011, the increased fee ODA will collect for the Long-Term Care Consumer Guide Fund from each county-owned nursing home in Ohio is \$650/year, or \$150.00/year more than the current fee.

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

Beginning on September 29, 2011, each Ohio county that owns a nursing home will need to pay a \$650 annual fee to comply with H.B. No. 153's amendments to sections 173.47 and 173.48 of the Revised Code and the proposed amended rule 173-45-09 of the Administrative Code. The county can pay for the new fee by the standard means by which it pays the current \$400 annual fee (e.g., revenue the county generates from nursing home income, property taxes, county sales taxes).

7. Please provide a statement on the proposed rule's impact on economic development.

The proposed amendment to this rule should have a negligible impact upon an Ohio county's economic development.