



Common Sense Initiative

Mike DeWine, Governor
Jim Tressel, Lt. Governor

Joseph Baker, Director

Business Impact Analysis

Agency, Board, or Commission Name: **OHIO DEPT. OF AGING**

Rule Contact Name and Contact Information: Tom Simmons rules@age.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

LONG-TERM CARE CONSUMER GUIDE

The rules of Chapter 173-45 of the Administrative Code implement and administer the Long-Term Care Consumer Guide (guide) pursuant to RC §§ 173.45 to 173.48 and 42 USC 1396a(a)(9)(D).

Rule Number(s):

For amendment: 173-45-01, 173-45-03, 173-45-04, 173-45-05, 173-45-06, 173-45-06.1, 173-45-06.2, 173-45-08, 173-45-09, 173-45-10.

For rescission: 173-45-07.

Date of Submission for CSI Review: July 16, 2025

Public Comment Period End Date: July 29, 2025 at 11:59PM.

Rule Type/Number of Rules:

☐ New: 0 rules

☒ Amended: 10 rules (FYR? ☒)

☐ No Change: 0 rules (FYR? ☐)

☒ Rescinded: 1 rules (FYR? ☒)

The Common-Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common-Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- ☐ **a. Require a license, permit, or any other prior authorization to engage in or operate a line of business.**
- ☒ **b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
(Rules 173-45-06.1 and 173-45-09 of the Administrative Code)
- ☒ **c. Requires specific expenditures or the report of information as a condition of compliance.**
(Rules 173-45-06, 173-45-06.1, and 173-45-09 of the Administrative Code)
- ☒ **d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**
(Rule 173-45-09 of the Administrative Code)

Rules 173-45-06, 173-45-06.1, and 173-45-09 of the Administrative Code are the only rules in Chapter 173-45 of the Administrative Code to create an adverse impact on long-term care facilities. The remaining rules in the chapter define terms and establish ODA's administration of the guide, including content and features.

Regulatory Intent

2. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

Background

The guide exists to implement [42 USC 1396a\(a\)\(9\)\(D\)](#) and RC §§ [173.45](#) to [173.45](#).

ODA publishes the guide on ODA's [website](#). The guide provides timely, comparative information about the following types of long-term care facilities (facilities) in Ohio:

- Nursing facilities, which include nursing homes, county homes, and skilled nursing units of hospitals regardless of whether those homes/units are certified for Medicare and Medicaid payment.
- Assisted living facilities, which are licensed residential care facilities (RCFs), which are also known as assisted living facilities.
- Supportive living facilities, which are facilities licensed under [RC§5119.34](#) and [Chapter 5122-30 of the Administrative Code](#). They are also known as class II residential facilities. ODA has been including information on these facilities in the guide although the rules do not require these facilities to provide information to ODA and [RC§173.48](#) does not require these facilities to pay a fee.

The guide provides information on each facility's survey data (i.e., inspection report) from the Ohio Dept. of Health (ODH) along with statewide and district averages for comparison. It provides information on quality measures calculated by the Centers for Medicare and Medicaid Services (CMS). It provides customer-satisfaction information, which is based on surveys of families and residents of facilities. Additionally, facilities can add information to the guide about their specialized services, policies, staffing levels, quality, and bed capacities.

The following are the guide's beneficiaries:

- Any Ohioan may use it—free of charge—as an unbiased resource when shopping for long-term care options. Ohioans want long-term care options best-suited to meet needs of themselves and their loved ones.
- Facilities benefit from being listed in the state's one-stop, public, searchable database of long-term care facilities. The guide provides facilities with opportunities to highlight their specialized services, policies, staffing levels, quality, and bed capacities. The guide is a "matchmaker." It helps consumers with special healthcare needs to choose a facility that offers specialized services corresponding to their special healthcare needs.

Proposed Amendments/Rescission

Rule 173-45-01 of the Administrative Code introduces the chapter and defines terms used throughout the chapter. ODA proposes to amend this rule to achieve the following:

1. No longer state in paragraph (A) of this rule that the guide publishes information on Class II residential facilities.
2. Indicate in paragraph (A) of this rule that the Long-Term Care Quality Navigator (navigator) website publishes information obtained from the guide and satisfies the requirements of the guide.
3. Limit the definition of "facility" to nursing homes and residential care facilities (RCFs).
4. Include the navigator website in the definition of "guide."
5. Make non-substantive improvements.

Rule 173-45-03 of the Administrative Code establishes search standards. ODA proposes to amend this rule to achieve the following:

1. No longer require the guide to publish telephone numbers of government agencies and private organizations.
2. No longer list an example of publicly-available information in paragraph (B)(3) of this rule.

Rule 173-45-04 of the Administrative Code establishes standards for searches. ODA proposes to amend this rule to achieve the following:

1. No longer list examples of sources of payment under paragraph (A)(2) of this rule.
2. Indicate in paragraphs (A)(3) and (B)(3) of this rule that the information below those paragraphs is reported by facilities through an ODA electronic portal.
3. No longer require the guide, in paragraphs (A)(4), (A)(5), (B)(4), and (B)(5) of this rule, to facilitate a search by keyword or facility name.
4. No longer limit paragraph (B)(2) of this rule to Medicaid waiver payment.
5. Make non-substantive improvements.

Rule 173-45-05 of the Administrative Code establishes standards for displaying comparative information in response to a search. ODA proposes to amend this rule to achieve the following:

1. No longer require the guide, in paragraph (A)(2) of this rule, to publish the CMS data required in rule 173-45-07 of the Administrative Code. This corresponds with ODA's proposed rescission of rule 173-45-07 of the Administrative Code.

2. No longer require the guide, in paragraph (A)(5) of this rule, to publish an electronic link to each facility's facility page.
3. Make non-substantive improvements.

Rule 173-45-06 of the Administrative Code regulates the facility page in the guide and requires facilities to submit information about their policies, staffing levels, quality, and bed capacities to ODA for publication in the guide. ODA is not proposing to substantively amend this rule. ODA proposes to amend this rule to achieve the following:

1. Replace "facility page" terminology in this rule with "electronic portal" terminology.
2. Make additional non-substantive improvements.

Rule 173-45-06.1 of the Administrative Code allows facilities to provide information in the guide on specialized services that it offers. ODA is not proposing to substantively amend this rule. ODA proposes to amend this rule to achieve the following:

1. Use "electronic portal" terminology, which includes removing many references to checkboxes.
2. Make other non-substantive improvements.

Rule 173-45-06.2 of the Administrative Code exists to establish standards for publishing facility staffing information. ODA proposes to amend this rule to achieve the following:

1. No longer require the facility page for a nursing facility to identify the medical director, licensed nursing home administrator (LNHA), and the director of nursing (DON).
2. No longer require a nursing facility's facility page to provide a narrative description of the medical director's, LNHA's, and DON's qualifications including educational degrees, board certifications or other professional affiliations, years employed in the long-term care field, and years employed by the facility.
3. No longer require an RCF's facility page to identify the administrator, and if applicable, the clinical services director (aka, wellness director), and no longer require the page to provide a narrative description of the administrator's and wellness director's qualifications including educational degrees, experience, board certifications or other professional affiliations, years employed in the long-term care field, and years employed by the facility.
4. Indicate that ODA gives each facility an opportunity to use an electronic portal to provide ODA with information to publish on its facility page.

Rule 173-45-07 of the Administrative Code exists to establish standards for incorporating CMS quality data for each facility in the guide. ODA proposes to rescind this rule.

Rule 173-45-08 of the Administrative Code exists to establish standards for incorporating ODH survey data for each facility into the guide. ODA proposes to amend this rule to achieve the following:

1. Replace the requirement to publish 10 specific measures of regulatory survey data in the guide with a statement that the guide references and links consumers to resources for viewing surveys and regulatory compliance status.
2. No longer require the guide to group facilities into peer groups that correspond to ODH's health districts.
3. No longer require the guide to publish a peer group average.

Rule 173-45-09 of the Administrative Code exists to implement the fees and penalties under [RC§173.48](#). ODA proposes to amend this rule to achieve the following:

1. Indicate that fees pay for the conduct of satisfaction surveys under RC§173.47 rather than the operation of the guide under RC§173.49.
2. Make non-substantive improvements.

Rule 173-45-10 of the Administrative Code exists to establish standards for customer-satisfaction surveys. ODA proposes to amend this rule to achieve the following:

1. Replace “consumer satisfaction survey” with “customer satisfaction survey,” but retain other uses of “consumer.”
2. No longer require using a survey audit form to confirm the occupancy of a facility and the number of surveys distributed to consumers of that facility.
3. Make non-substantive improvements.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

RC §§ [121.07](#), [173.01](#), [173.02](#), and [173.49](#).

4. 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.

[42 USC 1396a\(a\)\(9\)\(D\)](#) 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.”

5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

These rules exist to comply with the state laws mentioned in ODA’s response to #2, which require ODA to adopt rules necessary to implement and administer RC §§ [173.45](#) to [173.48](#).

6. 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)?

These rules exist to comply with the state laws mentioned in ODA’s response to #2.

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

ODA may determine that the rules in Chapter 173-45 are successful if the guide continues to be useful for Ohioans and if ODA does not receive credible requests to amend the rules to make guide useful.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

9. 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's guide [Participating in ODA's Rule Development](#) and the [main rules webpage](#) on ODA's website encourage stakeholders and the general public to contact ODA's policy-development manager at rules@age.ohio.gov to give input on improving ODA's rules. This email address has not received any email from any person or entity regarding these rules.

On February 13, 2025, ODA emailed the following stakeholders to request recommendations for improving the rules of Chapter 173-45 of the Administrative Code:

- Catholic Social Services of the Miami Valley.
- LeadingAge Ohio.
- Ohio Academy of Senior Health Sciences, Inc.
- Ohio Adult Day Healthcare Association (OADHA).
- OhioAging (O4A), which represents area agencies on aging (AAAs).
- Ohio Assisted Living Association (OALA).
- Ohio Association of Medical Equipment Suppliers (OAMES).
- Ohio Association of Senior Centers (OASC).
- Ohio Council for Home Care and Hospice (OCHCH).
- Ohio Health Care Association (OHCA).
- Ohio Jewish Communities.
- State Long-Term Care Ombudsman.

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

In response to the February 13, 2025 email, ODA received the following 1 question from a provider association. The table below shows stakeholder's question and ODA's reply to those recommendation.

	Stakeholder	Comment, Question or Recommendation	ODA's Reply
1	OHCA	Is there any thought towards adding reference to the ODA Quality Navigator, or will the department continue to maintain both databases? It seems a bit of duplication of effort, but I am not sure if they are pulling from the same data sources.	ODA will add a statement to the introduction of the chapter to explain that the Navigator publishes information obtained from the LTCCG and satisfies the requirements for the LTCCG.

11. 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?

ODA is not proposing to amend these rules due to scientific data.

12. 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? *Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*

[RC§173.49](#) requires ODA to adopt rules necessary to implement and administer RC §§ [173.45](#) to [173.48](#). The U.S. Congress made further requirements for the guide in [42 USC 1396a](#)(a)(9)(D) which these rules implement. Therefore, ODA did not consider alternatives to adopting these rules.

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

[RC§173.49](#) authorizes only ODA to adopt rules for the guide. ODA's search of the Administrative Code found that no other state agency had adopted a rule regulating the guide.

14. 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.

Before the proposed new rules take effect, ODA will post them on ODA's website. ODA will also send an email to subscribers of our rule-notification service to feature these rules.

ODA ensures the veracity of the guide to prevent a consumer with a specific healthcare need from being misinformed by erroneous information in the guide. For example, the guide may indicate that a facility offers the specialized service that corresponds to the consumer's specific healthcare needs, when it does not offer that specialized service. Rule 173-45-06 of the Administrative Code explains how ODA handles conflicting information between government reports and information being submitted to ODA by facilities for publication in the guide.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

a. Identify the scope of the impacted business community, and

All of Ohio's nursing homes (nursing facilities), RCFs, and class II residential facilities are affected by the guide.

b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).

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.

As previously noted, rules 173-45-06, 173-45-06.1, and 173-45-09 of the Administrative Code are the only rules in Chapter 173-45 of the Administrative Code to create an adverse impact upon long-term care facilities. The remaining rules in the chapter primarily regulate ODA's administration of the guide, including what content and features ODA must include in the guide and customer-satisfaction surveys associated with the guide.

Rule 173-45-06 of the Administrative Code requires facilities to submit information about their specialized services, policies, staffing levels, quality, and bed capacities to ODA for publication in the guide. The adverse impact of this rule is the time it takes a facility to supply ODA with information about its specialized services, policies, staffing levels, quality, and bed capacities to ODA for publication in the guide.

Rule 173-45-06.1 of the Administrative Code requires a facility that indicates that it provides specialized services to (1) attest that it provides the indicated specialized services and (2) demonstrate how it does so on request from a consumer, ombudsman, or surveyor. If a facility does not comply with (2), then ODA may remove the indication in the guide that the facility offers the specialized service.

Rule 173-45-09 of the Administrative Code implements the fees and penalties established by [RC§173.48](#). The adverse impact of this rule on a facility is one of the following fees, which are established under that section:

- Every Ohio nursing facility that is a nursing home must pay \$650/year.
- Every Ohio RCF must pay \$350/year.

Although the guide publishes information supportive living facilities, which are facilities licensed under [RC§5119.34](#) and [Chapter 5122-30 of the Administrative Code](#), [RC§173.48](#) does not establish fees for that type of facility. Therefore, rule 173-45-09 of the Administrative Code does not require those facilities to pay a fee.

Rule 173-45-09 of the Administrative Code also includes the penalties established under RC §§ [131.02](#) and [173.48](#) for failure to pay the fee 90 or more days after the payment deadline.

16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).

ODA's proposed amendments to these rules will not create a new adverse impact. Instead, they will reduce the amount of information that facilities report to ODA for publication in the guide.

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

On rules 173-45-06 and 173-45-06.1 of the Administrative Code:

- It would not be possible to implement an effective guide if ODA did not require facilities to provide ODA with accurate information about their specialized services, policies, staffing levels, quality, and bed capacities to ODA for publication in the guide. As stated in ODA's response to question #2, facilities benefit from being listed in the state's only one-stop, public, searchable database of facilities. The guide provides facilities with opportunities to highlight their specialized services, policies, staffing levels, quality, and bed capacities. The guide is a "matchmaker." It helps consumers with special healthcare needs to choose a facility that offers the specialized services that they need.
- It would also not be possible to implement an effective guide if ODA did not verify the accuracy of the information. ODA's goal is to protect consumers from making long-term care decisions that are dangerous to their health. For example, it is dangerous to mislead the public into believing that the state's only one-stop, public, searchable

database of facilities indicates that a facility offers specialized services, if the facility does not offer those specialized services. Ensuring the veracity of the guide may prevent a consumer with a specific healthcare need from entering a facility that does offer the necessary specialized services.

On rule 173-45-09 of the Administrative Code: ODA requires facilities to pay the fees established under [RC§173.48](#).

Regulatory Flexibility

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

Because the primary purpose of these rules is to ensure the health and safety of consumers searching for facilities that are appropriate for their needs, the rules treat all providers the same, regardless of their size.

19. 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?

The operation of the guide is necessary to ensure the health and safety of consumers searching for facilities that are appropriate for their needs. In Chapter 173-45 of the Administrative Code, only rule 173-45-09 of the Administrative Code implements penalties for late payments of 90 or more days after the payment deadline.

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

ODA and AAAs are available to help providers of all sizes with their questions. Any person may contact ODA's [rules and policy administrator](#) with questions about these rules.