

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 173-14-01

**Rule Type:** New

**Rule Title/Tagline:** Definitions.

**Agency Name:** Department of Aging

**Division:**

**Address:** 246 N. High St. 1st floor Columbus OH 43215-2046

**Contact:** Tom Simmons

**Email:** tsimmons@age.ohio.gov **Phone:** 614-728-2548

#### I. Rule Summary

1. **Is this a five year rule review?** No
  - A. **What is the rule's five year review date?**
2. **Is this rule the result of recent legislation?** Yes
  - A. **If so, what is the bill number, General Assembly and Sponsor?** HB 49 - 132 - Smith
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 173.01, 173.02; 42 U.S.C. 3025(a)(1)(C), 3058g(a)(5)(D); 42 C.F.R. 1321.11, 1324.11(e), 1324.13(b)(1), 1324.15(b)
5. **What statute(s) does the rule implement or amplify?** 173.14; 42 U.S.C. 3058f; 45 C.F.R. 1324.1
6. **What are the reasons for proposing the rule?**

ODA and the SLTCO (we) adopted OAC Chapter 173-14 (this chapter) to establish and operate a state long-term care ombudsman program as required by ORC§173.01; 42 USC 3027, 3058g; and 45 CFR 1321.11 and Part 1324. We also adopted this chapter to carry out the provisions of ORC Chapter 173 pertaining to ombudsman programs as required by ORC§173.02.

As part of this chapter, we adopted the current version of this rule to define terms used in the chapter and to ensure uniformity with terms defined in ORC§173.14 and 42 USC 3058f.

We reviewed every rule in this chapter top to bottom, as ORC§106.03 requires us to do no less often than once every 5 years. In doing so, we considered any necessary amendments to implement the following new laws:

(1) Effective February 11, 2015, the U.S. Dept. of Health and Human Services, Administration on Aging (AoA) and Administration for Community Living (ACL) jointly adopted 45 CFR Part 1321 to regulate long-term care ombudsman programs. AoA and ACL subsequently amended their rules and renumbered them as 45 CFR Part 1324.

(2) Effective April 19, 2016, the Older Americans Act Reauthorization Act of 2016 amended §§ 711 (42 USC3058f), 712 (42 USC3058g), and other sections of the Older Americans Act of 1965.

(3) Effective September 29, 2017, Am. Sub. House Bill No. 49 (132nd G.A.) amended ORC §§ 173.14, 173.15, 173.17, 173.19, 173.20, 173.21, 173.22, and 173.24.

We now propose to adopt this new rule to replace the current rule of the same number.

**7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This proposed new rule will define terms used throughout the chapter.

In comparison to the rule we simultaneously propose to rescind, the proposed new rule would achieve the following:

(1) Define "AAA" by referring to the rule through which ODA designates AAAs, which lists each already-designated AAA.

(2) Delete the definition of "case."

(3) Define "direct supervision."

(4) Define "immediate family member" which corresponds to the new definition in 45 CFR 1324.1.

(5) Amend the definition of "long-term care facility" so it matches the definition of the same term in ORC§173.14 as amended by HB49.

(6) Define "ODA."

(7) Define "ODIS."

(8) Replace "orientation" with "provider orientation" and move to restore alphabetical ordering of defined terms.

(9) Allow "representative" to mean "representative of the office" or "representative of the office of the SLTCO."

(10) To the definition of "sponsor," add the following: "A sponsor is identified by a representative's reasonable effort to identify a sponsor chosen by the consumer."

(11) To the definition of "sponsoring agency," replace "organization with whom a contract exists to provide ombudsman services" with "organization that houses the state office or regional program."

(12) Replace the term "state program" with "state office."

(13) Delete the definition for "tax-exempt organization."

(14) Delete the definition for "uncomplicated complaint."

(15) Delete the definition for "unit audit."

(16) Update the rule's cross-references.

(17) Improve the rule's wording and punctuation.

**8. Does the rule incorporate material by reference? Yes**

**9. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

ODA defines "Older Americans Act," in part, by referring to federal statute which the federal government publishes to make readily available to the public, free of charge, on <http://uscode.house.gov/>.

**10. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

*Not Applicable*

## **II. Fiscal Analysis**

- 11. As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

\$0.00

We estimate the adoption of this proposed new rule will have no impact upon the biennial budget the Ohio General Assembly established for ODA in HB49 because the new rule will replace the similar current rule, which we simultaneously proposed to rescind. Additionally, this rule merely defines terms used in this chapter.

- 12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

We estimate the adoption of this proposed new rule will create no cost of compliance to any directly-affected person, especially because the new rule will replace the similar current rule, which we simultaneously proposed to rescind. Additionally, this rule merely defines terms used in this chapter.

- 13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

- 14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

## **III. Common Sense Initiative (CSI) Questions**

- 15. Was this rule filed with the Common Sense Initiative Office? No**

- 16. Does this rule have an adverse impact on business? No**

- A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No**

OAC Chapter 173-14 regulates the state long-term care ombudsman program and regional programs. It does not regulate any Ohio business.

- 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? No**