

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 173-14-19

**Rule Type:** New

**Rule Title/Tagline:** Case records and reporting of core services.

**Agency Name:** Department of Aging

**Division:**

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#### **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, 173.19; 42 U.S.C. 3025(a)(1)(C), 3058g(a)(5)(D); 45 C.F.R. 1321.11, 1324.11(e)(2), 1324.11(e)(3), 1324.13(b)(1), 1324.15(b)
5. **What statute(s) does the rule implement or amplify?** 173.19, 173.20; 42 U.S.C. 3058g; 45 C.F.R. 1321.11, 1324.11(e)(2), 1324.11(e)(3), 1324.19(b)
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 establish the requirement for case records and the reporting requirements for core services.

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) On 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) On 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) On 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 propose to adopt this new rule to replace a substantially, similar rule we simultaneously propose to rescind.

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

This rule establishes the requirement for case records and the reporting requirements for core services.

We propose to adopt this new rule to replace a substantially, similar rule ODA is simultaneously proposing to rescind. In comparison to the rule it would replace, this rule contains the following "amendments":

(1) Replace a lengthy list of items to contain in case records with a requirement to enter data required in ODIS.

(2) Add a requirement for advocacy and general-information services to only include objective information required in ODIS. Both the advocacy and limitation to only objective information required in ODIS are new. Adding advocacy requirements

implements the case records for the advocacy visits now authorized by HB49's amendments to ORC §§ 173.14(K), and 173.17(A)(13).

(3) Require representatives to document all activity in ODIS within 6 days after the activity is performed.

(4) 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.**

This rule requires case records to contain data required in ODIS and, therefore, incorporates ODIS' data fields by reference. ODIS contains confidential information and is not a publicly-accessible database. ORC§173.22, as amended by HB49, says, "The investigative files of the office and any records contained in those files, including any proprietary records of a long-term care provider or records relating to advocacy visits, are not public records subject to inspection or copying under section 149.43 of the Revised Code and are exempt from the provisions of Chapter 1347. of the Revised Code. Information contained in investigative and other files maintained by the state long-term care ombudsman and regional long-term care ombudsman programs shall be disclosed only at the discretion of the state ombudsman or if disclosure is required by a court order."

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 it will

replace a similar rule of the same number of which ODA is simultaneously proposing to rescind.

**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, and simultaneous rescission of a similar rule of the same number, will create no cost of compliance to any directly-affected person.

**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. No rule in this chapter regulates an 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**