

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 173-3-06.5

**Rule Type:** Amendment

**Rule Title/Tagline:** Older Americans Act: personal care.

**Agency Name:** Department of Aging

**Division:**

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

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#### I. Rule Summary

1. **Is this a five year rule review?** Yes
  - A. **What is the rule's five year review date?** 10/14/2022
2. **Is this rule the result of recent legislation?** Yes
  - A. **If so, what is the bill number, General Assembly and Sponsor?** SB 9 - 134 - McColley, Roegner
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 121.07, 121.36, 173.01, 173.02, 173.392; 42 U.S.C. 3025; 45 C.F.R. 1321.11
5. **What statute(s) does the rule implement or amplify?** 121.36, 173.39, 173.392; 42 U.S.C. 3025, 3030d; 45 C.F.R. 1321.11, 1321.65
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
  - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

This rule exists to comply with R.C. §173.392 and 45 C.F.R. 1321.11. The primary purpose of this filing is to reduce regulatory restrictions.

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

This rule establishes requirements applying only to agreements for personal care. ODA proposes to amend this rule to achieve the following:

1. Delete unnecessary regulatory restrictions.
2. Combine paragraphs (A)(1)(a) and (A)(1)(b) of this rule.
3. Exempt the requirement for collecting the unique identifier of the consumer's caregiver (in lieu of the consumer) during a state of emergency declared by the governor or a federal public health emergency.

**9. Does the rule incorporate material by reference? No**

**10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

*Not Applicable*

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

ODA made a revised filing of this rule to highlight that House Bill 100 (134th G.A.) enacted Chapter 3740. of the Revised Code, which requires homemaker providers to have a home health license. Adding a helpful reference to this new requirement in this rule will not increase the regulatory burden already created by House Bill 100 and Chapter 3740. of the Revised Code. Additionally, the helpful reference will not add any regulatory restriction words to this rule.

## **II. Fiscal Analysis**

**12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

\$0.00

Not Applicable

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

Please review the BIA for details.

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

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

- 16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable

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

- 17. Was this rule filed with the Common Sense Initiative Office? Yes**

- 18. Does this rule have an adverse impact on business? Yes**

**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**

Please review the BIA for details.

**D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No**

**IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).**

**19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes**

**A. How many new regulatory restrictions do you propose adding to this rule? 0**

**B. How many existing regulatory restrictions do you propose removing from this rule? 5**

(B)(3)(a) The provider SHALL only allow a person to serve as a PCA if...

(B)(3)(f)(i) Additionally, the provider SHALL also....

(B)(4)(a) The provider SHALL only allow an RN (or LPN under the direction of an RN) to be a PCA supervisor, PCA trainer, or PCA tester.

(B)(6)(a) The provider SHALL use a monitoring system that complies with section 121.36 of the Revised Code.

(B)(6)(b) The provider SHALL verify each episode of service provided for which it bills the AAA using the provider's choice of either an electronic or manual system that collects all the following:

**C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**

**D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable