

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-39-01

Rule Type: Amendment

Rule Title/Tagline: ODA provider certification: introduction and definitions.

Agency Name: Department of Aging

Division:

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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?** 1/4/2024
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, 173.01, 173.02, 173.391, 173.52, 173.522, 173.54, 173.543
5. **What statute(s) does the rule implement or amplify?** 173.39, 173.391, 173.52, 173.522, 173.54, 173.543; 42 C.F.R. 441.352
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 introduce Chapter 173-39 of the Administrative Code and to define terms used in that chapter.

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

This rule introduces Chapter 173-39 of the Administrative Code and defines terms used in that chapter. ODA proposes to amend this rule to achieve the following:

1. Define "business day."
2. Delete the definition of "continuing-care retirement communities" because this chapter does not use the term.
3. Delete the definition of "incident," because rule 173-39-02 of the Administrative Code now refers to the incident-reporting requirements in rule 5160-44-05 of the Administrative Code.
4. Insert the missing words "direct ownership" between "means" and "interest" in the definition of "ownership interest."
5. Clarify in the definition of "region" that ODA delegates certain administrative duties to its designees. (Compare to this rule's definition of "ODA's designee.")
6. Place the definitions of "agency provider," "assisted living provider," "non-agency provider," and "participant-directed provider" in alphabetical order under paragraph (B) rather than as part of the definition of "provider."
7. Replace the definition of "service plan" with a definition of "person-centered services plan."
8. Replace the reference to rule 173-39-02.13 of the Administrative Code in the definition of "unique identifier" with a reference to rule 173-39-02.18 of the Administrative Code.
9. Delete the reference to rule 173-39-02.11 of the Administrative Code from the definition of "unique identifier" since that rule no longer contains service-verification requirements for participant-directed providers and, instead, refers to the service-verification requirements for participant-directed providers in rule 173-39-02.4 of the Administrative Code.

Please review ODA's response to question #11 for additional amendments.

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 refiled this rule to achieve the following:

1. Further amend the definition of "case manager" so that it does not limit case managers to RNs, LSWs, or LISWs.
2. Delete the definition of "CDJFS" because this chapter does not use the term.
3. Indicate in the definition of "electronic visit verification" (EVV) that rule 5160-1-40 of the Administrative Code establishes EVV requirements until 07/01/2024 and Chapter 5160-32 of the Administrative Code establishes the requirements on or after 07/01/2024.
4. Insert "divisions (E) and (F) of" in the definition of "licensed practical nurse" (LPN) between "has the same meaning as in" and "section 4723.01 of the Revised Code." These divisions indicate that an LPN may be under the direction of a list of healthcare professionals and not just an RN.

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

Amending this rule will not impact the biennial budget that the Ohio General Assembly established for ODA in House Bill 33 (135th G.A.).

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

This rule merely introduces the chapter and defines terms used in the chapter. It does not create a cost of compliance.

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? No**
 - 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? No**

This rule merely introduces the chapter and defines terms used in the chapter. It does not create an adverse impact on any provider.

- 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?** 1
 - 1. (B) "Case manager" means the registered nurse, licensed social worker, or licensed independent social worker that ODA's designee employs to plan, coordinate, monitor, evaluate, and authorize services for ODA-administered programs that REQUIRE provider certification under this chapter.
- 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