

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 173-39-02.11

**Rule Type:** New

**Rule Title/Tagline:** ODA provider certification: personal care.

**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?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 173.01, 173.02, 173.391, 173.52, 173.522
5. **What statute(s) does the rule implement or amplify?** 173.39, 173.391, 173.52, 173.522
6. **What are the reasons for proposing the rule?**

Please review ODA's response to question #5 on the business impact analysis (BIA).

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

This proposed new rule will regulate ODA-certified providers of personal care to individuals enrolled in a program requiring ODA certification.

After reviewing the current rule top-to-bottom, ODA proposes to overhaul the rule to give it standard format and terminology with other ODA rules. To comply with LSC's 50% guideline, ODA must achieve this by rescinding the current rule and simultaneously proposing to adopt a new rule. For more information on standardization and the specific amendments employed to achieve it, please review ODA's response to question #1 in the business impact analysis (BIA).

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

*Not Applicable*

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

ODA operated an online public-comment period from November 8 to 19, 2017. In favorable responses to 2 comments, ODA indicated in #8 of the BIA that the rule language it would be filing with JCARR would contain revised language. To the comment from Personal-Touch Home Care, the revision would appear in paragraphs (C)(3)(a)(i) and (C)(3)(e)(ii) of this rule. To the comment from Ohio Council for Home Care and Hospice, the revision would appear in paragraph (C)(3)(a)(ii) of this rule.

Unfortunately, when ODA made the original rule filing, an older version of the rule draft was filed that did not contain these revisions. Therefore, ODA is making a revised filing on February 14, 2018 to file the version of the rule containing these revisions.

## **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

ODA estimates the adoption of this proposed new rule will have no impact upon the biennial budget the Ohio General Assembly established for ODA, especially because it will replace a substantially-similar rule 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?**

Please review ODA's response to question #14 on the BIA.

- 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? Yes**

- 16. 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**

No law requires providers to be certified to engage in or operate a line of business. However, ORC§173.391 requires providers to be certified if they want paid for providing goods and services to older individuals enrolled in an ODA-administered program like the PASSPORT Program.

- 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**

Penalties for non-compliance with this rule (or any rule in OAC Chapter 173-39) are found in OAC173-39-05

- C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes**

Please see ODA's response to question #14 on the BIA for an itemization of requirements.

Both 173-39-02 and 173-39-02.11 require ODA-certified personal care providers to retain records (e.g., on employee qualifications, service verification) and to make them available to ODA or its designee upon request.