

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 173-39-02.1

**Rule Type:** Amendment

**Rule Title/Tagline:** ODA provider certification: adult day service.

**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?** 1/18/2022
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?** 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; 42 CFR 441.352
6. **What are the reasons for proposing the rule?**

Each rule in Chapter 173-39 primarily exists to comply with section 173.391 of the Revised Code, which requires ODA to adopt rules to establish the requirements and standards for certified providers.

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

This rule establishes the requirements to become, and to remain, an ODA-certified provider of an adult day service.

ODA proposes to amend this rule to achieve the following:

1. Replace words that imply requirements for outdated modes of communication (e.g., "signature") or in-person interaction with other words (e.g., "unique identifier").
2. Replace the requirement for an outdated mode of communication to post (as in a "poster") daily and monthly planned activities throughout the center with a requirement to announce daily and monthly planned activities through two or more of four different media options.
3. Delete requirements related to fire safety. The state fire marshal established fire-safety requirements in the Ohio Fire Code (Chapter 1301:7-7 of the Administrative Code) and the Board of Building Standards established the building standards in the Ohio Building Code (Agency 4101:1 of the Administrative Code). Adult day centers are classified in those codes as "institutional group I-4."
4. Replace the requirement for the provider to provide orientation to PCAs with a requirement for the provider to comply with the requirements for providing orientation to PCAs in rule 173-39-02.11 of the Administrative Code.
5. Deem that any successfully-completed continuing education or in-service training completed to maintain a professional license, certification, or registration counts toward the requirements for continuing education or in-service training in this rule if complete during the same calendar year.
6. Replace the requirements on retaining records on compliance with training requirements with a requirement to comply with the requirements for records on training PCAs in rule 173-39-02.11 of the Administrative Code.

ODA also proposes to make non-substantive amendments to this rule.

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. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

This rule references form ODA1200, which is readily available to the general public on ODA's website (<https://aging.ohio.gov/wps/portal/gov/aging/agencies-and-service-providers/rules-and-forms/forms>).

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. **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

Adopting the proposed amendments to this rule will not affect the biennial budget that the Ohio General Assembly established for ODA in H.B. 110 (134th G.A.).

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

Adopting the proposed amendments to this rule will not create a cost of compliance to any directly-affected person or organization.

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**

15. **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**

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

17. **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**

Providers voluntarily apply for ODA certification. Certification is not required to provide a service unless a provider wants a government program that requires certification (e.g. the PASSPORT Program) to pay the provider. Please review the BIA for additional information.

- 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**

This rule requires providers to hire qualified staff (e.g., PCAs, activity directors) and to retain records to verify that the provider provided the episodes of adult day service for which it bills.

- 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 Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))**

- 18. 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? 0**

- B. How many existing regulatory restrictions do you propose removing? 8**

1. (B)(3)(b)(i) The provider SHALL develop and annually review a fire inspection and emergency safety plan.

2. (B)(3)(b)(ii) The provider SHALL post evacuation procedures in prominent areas throughout the center.

3. (B)(3)(c)(i) At least quarterly, the provider SHALL conduct an evacuation drill from the center while individuals are present.

4. (B)(3)(c)(ii) The provider SHALL retain records on the date and time it completes each evacuation drill.
5. (B)(3)(d)(i) The provider SHALL have fire extinguishers and smoke alarms in the center...
6. (B)(3)(d)(i) A... and SHALL routinely maintain them.
7. (B)(3)(d)(ii) At least annually, the provider SHALL inspect the fire extinguishers and smoke alarms.
8. (B)(3)(d)(ii) The provider SHALL retain records on the date and time it completes each inspection.