

**Rule Summary and Fiscal Analysis (Part A)****Department of Aging**

Agency Name

Division

**Tom Simmons**

Contact

**50 West Broad Street 9th floor Columbus OH  
43215-3363**

Agency Mailing Address (Plus Zip)

**614-728-2548**

Phone

Fax

**tsimmons@age.ohio.gov**

Email

**173-39-02**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Conditions of participation.****RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **Yes**
2. Are you proposing this rule as a result of recent legislation? **No**
3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**
4. Statute(s) authorizing agency to adopt the rule: **173.01, 173.02, 173.391, 173.52, 173.54, Section 323.110 of H.B.59 (130th G.A.)**
5. Statute(s) the rule, as filed, amplifies or implements: **173.39, 173.391, 173.52, 173.53, 173.54**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule filing is part of a larger rule project that would implement requirements into ODA's rules to comply with the Ohio Dept. of Medicaid's (ODM's) proposed new community-characteristics rule and person-centered planning rule, which in turn, would bring Ohio into compliance with new federal mandates on those topics. The project also makes several common-sense amendments as well as many

non-substantive updates to terminology and references. For more information, please review the BIA.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; if the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

This rule establishes requirements for becoming and remaining an ODA-certified provider.

ODA proposes to amend the rule to add requirements for providers to comply with ODM's new community-characteristics rule.

ODA also proposes to make several common-sense amendments and systematic updates. For more information on these, please review ODA's response to question #5 in the BIA.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

The rule references the Code of Federal Regulations, which is available to the general public free of charge.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

ODA did not file the text of the Code of Federal Regulations electronically because ODA merely made a citation to the CFR because the federal rules are available to the general public, free of charge, through the U.S. Government Printing Office's website.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

*Not Applicable.*

12. Five Year Review (FYR) Date: **4/15/2016**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

### **FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0.00

ODA estimates that ODA's proposed amendment of this rule would create no impact upon the biennial budget that the Ohio General Assembly established for ODA.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

GRF-651-525 Medicaid/Health Care Services.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

ODA estimates that the adoption of the proposed amendments would post no cost of compliance to any directly-affected person. For more information, please review the BIA.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

**S.B. 2 (129th General Assembly) Questions**

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **Yes**

The rule contains the requirements to become, or to remain, an ODA-certified provider. It is necessary to be an ODA-certified provider to provide services to individual enrolled in the Assisted Living or PASSPORT Programs.

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**

OAC173-39-05 is the rule on disciplinary actions for non-compliant ODA-certified providers. OAC173-39-02(G) references OAC173-39-05, but does not itself contain any disciplinary actions.

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

The rule contains records-retention requirements.