

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-39-02

Rule Type: Amendment

Rule Title/Tagline: ODA provider certification: requirements for providers to become, and to remain, certified.

Agency Name: Department of Aging

Division:

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

Contact: Tom Simmons **Phone:** 614-728-2548

Email: tsimmons@age.ohio.gov

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, 173.54, 173.543; 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 general requirements to become, and to remain, an ODA-certified provider.

ODA proposes to amend this rule to achieve the following:

1. Delete "unless rule 173-9-02 of the Administrative Code exempts the provider" from the requirement to comply with Chapter 173-9 of the Administrative Code in paragraph (A)(2) of this rule, because complying with the entire chapter includes complying with any exemptions within that chapter.
2. Replace words that imply requirements for outdated modes of communication or in-person requirements (e.g., "submit") with other words (e.g., "provide"). In some cases, ODA proposes to add an electronic option to a written requirement to achieve the same effect. In one case, ODA proposes to delete "documentation" as it occurs after "records" because the meaning is the same in context, but the word "documentation" implies paper while the word "records" provides flexibility for paper or electronic records. In other cases, ODA proposes to delete unnecessary uses of "written."
3. To indicate that complying with the service-verification requirements in paragraph (B)(2) of this rule includes reporting all reportable items to verify the service to ODA or its designee.
4. To establish a 7-day deadline for providers to notify ODA or its designee of any change in the provider's telephone number, mailing address, or email address.
5. To indicate that the exception to the prohibition against providers providing services to individuals when they are legally-responsible for those family members during a state of emergency declared by the governor also applies during a federal public health emergency.
6. Indicate in paragraph (B)(10)(a)(i) of this rule that the service records that a provider must retain include activity plans, assessments (if required), permits (if required), and all reportable information to verify an episode of service was provided.
7. Indicate in paragraph (B)(10)(a)(ii) of this rule that the employee records that a provider must retain include records on initial qualifications and successful completion of orientation and subsequent training (if required).
8. Simplify the option to retain electronic records in paragraph (B)(10)(a)(iii) of this rule.

9. Indicate that the requirement for applicants to provide ODA with evidence of previous experience to qualify as ODA-certified agency providers includes providing ODA with invoices and evidence that the services were provided.

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

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. 121.75, 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.**

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

Please review the list of requirements in ODA's response to BIA question #16b.

- 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? No

- A. How many new regulatory restrictions do you propose adding?

Not Applicable

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

Not Applicable