

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

Agency Name

Division

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173-39-02

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Conditions of participation.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **Yes**

Bill Number: **HB66**General Assembly: **126**Sponsor: **Calvert**

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: **173.02, 173.391**

5. Statute(s) the rule, as filed, amplifies or implements: **173.39, 173.391**

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

This rule is being proposed in an effort to implement the provider certification requirements found in sections 173.39 and 173.391 of the Revised Code. (With only the one exception found in section 173.392 of the Revised Code, section 173.39 of the Revised Code prohibits the Department of Aging from paying any person or government entity for providing community-based long-term care services under a program the Department administers unless the person or government entity has been certified by the Department or its designee under section 173.39.1 of the Revised Code.)

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 lists the conditions that must be met in order for a provider to be certified as a community-based long-term care provider by the Department of Aging or its designee.

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:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

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:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

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:

First Revision - 2/17/06

In paragraph (B), added the word "or" immediately after the words "...long-term care agency," and immediately before the word "non-agency"; and immediately following the word "non-agency", deleted the words "or assisted living."

In paragraph (B)(4), deleted the words "Comply with ODA's consumer incident reporting requirements and", and capitolized the letter "h" in the word "have."

Reworded paragraph (B)(5).

In paragraph (B)(8), added the words "or the consumer's authorized representative" immediately after the words "Not use or disclose ... without the documented consent of the consumer" and immediately before the period.

In paragraph (B)(10), deleted the words ". If an audit is initiated during this time period, such records must be retained until the audit"; and added the words "or until an audit" immediately after the words "Maintain ... for three years".

In paragraph (B)(13)(c), deleted the word "documented" immediately after the word "consumer," and immediately before the word "changes".

In paragraph (B)(15), added the words "or its designee" immediately following the words "Assure ODA", and immediately before the words "that volunteers ..."

In paragraph (B)(17), amended the words "requiring employees to deliver services" to read "requiring workers to deliver services".

In paragraph (C), deleted the words "and assisted living providers" immediately following the words "...service agencies".

In paragraph (C)(1), amended the words "... for at least five older adults ..." to read "...for at least two older adults ..."

In paragraph (C)(1)(f), added the words "and in service delivery" immediately before the period at the end of the paragraph.

In paragraph (D)(3), rewrote the paragraph to read "Notify ODA or its designee of any "incident" involving a consumer, as defined in rule 173-39-01 of the Administrative Code."

Deleted paragraph (D)(5) and renumbered subsequent paragraphs.

In paragraph (D)(9), which became paragraph (D)(8) after the change just described, added ", consumer," immediately after the word "provider" and immediately before the words "and ODA's designee".

In paragraph (D)(16)(i), which is now numbered (D)(15)(i) after the changes described above, deleted the words "power of attorney," immediately following the word "health treatment," and immediately before the words "durable power of attorney".

In paragraph (D)(17), deleted the word "or" after the word "parent", and inserted ", or legal guardian" after the word "stepparent".

Added a new paragraph (E) to address ODA-certified long-term care assisted living providers and relettered subsequent paragraphs.

In paragraph (E), which was relettered as paragraph (F) after the changes described above, replaced the words ". If an audit is initiated during this time period, such records must be retained until the" with the words "or until an".

12. 119.032 Rule Review Date:

(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

...

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

GRF 490-403, 3C4 490-607, 4J4 490-610, 4U9 490-602, GRF 490-422, 3C4 490-622

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:

...

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply

with Am. Sub. S.B. 33 of the 120th General Assembly.

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

Rule Summary and Fiscal Analysis (Part B)

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
No	Yes	Yes	Yes

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

Aside from the initial start-up costs associated with becoming a certified community-based long-term care provider, the impact of compliance with the attached rule should be cost neutral to local governments.

The attached rule outlines the conditions of participation that must be met by a local government wishing to be certified to provide services in programs administered by the Department of Aging. A provider's participation in these programs is voluntary, and the costs incurred by a provider to provide the services described in this rule are reimbursed at a rate negotiated in advanced between the provider and ODA's designee. A provider that feels the costs of compliance with the rule are too high is not required to become a certified community-based long-term care provider.

ODA is unable to estimate the start-up costs to local governments wishing to become certified community-based long-term care providers because the costs will necessarily vary from one local government to the next, due to any number of factors including but not limited to: tax base, regional economic factors, workforce availability, public contract requirements, the existence of resources and the provision of similar services, etc. Most local governments seeking certification under this rule, however, are most likely already providing similar services in their communities, and have the infrastructure in place such that the costs of compliance with the rule should be limited insofar as new costs are concerned.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an

estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

Not Applicable.

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

Please refer to the discussion above.

(a) Personnel Costs

Unknown

(b) New Equipment or Other Capital Costs

Unknown

(c) Operating Costs

Unknown

(d) Any Indirect Central Service Costs

Unknown

(e) Other Costs

Unknown

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

ODA is unable to determine the ability of local governments to pay for the requirements imposed by the attached rule, but compliance with the rule is only

required for local governments seeking certification as community-based long-term care providers. It is anticipated that most of the local governments that will apply to become certified providers will most likely already have the infrastructure and systems in place to meet the requirements outlined in the rule, given their history with the Department to date and previous experience providing services as part of programs funded by the Department.

7. Please provide a statement on the proposed rule's impact on economic development.

By enabling local governments to become certified providers, it is anticipated that the attached rule will have a positive impact upon the economic development. The programs administered by the Department enable seniors to remain active and productive citizens in the communities in which they live. Their presence is expected to have a beneficial impact upon the local economy.