

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-39-04

Rule Type: Amendment

Rule Title/Tagline: ODA provider certification: structural compliance reviews.

Agency Name: Department of Aging

Division:

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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?** 6/29/2020
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; 43 CFR 441.352
6. **What are the reasons for proposing the rule?**

ODA proposes to amend this rule as part of a list of amendments it proposes to make to the rules of Chapter 173-39 of the Administrative Code.
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule establishes the requirements for ODA and its designees regarding structural compliance reviews of ODA-certified providers. ODA proposes to amend this rule to do all the following:

(1) Delete unnecessary references to the HOME Choice Program.

(2) Adopt new standards for determining samples and sample sizes for reviewing employee qualifications.

- 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.**

ODA refiled this rule to add amendments that will mitigate the effect of the COVID-19 state of emergency upon the ability of ODA's designees to conduct reviews. These amendments include an ability to (1) miss review deadlines under certain circumstances [see new (C)], (2) obtain permission from ODA to conduct desk reviews (vs. on-site reviews) [see (C)(1), which is now (D)(1)], (3) reduce a review's sample size if authorized by ODA during a state of emergency declared by the governor [see new (E)(6)(g)], (4) conduct either an in-home or desk review of a participant-directed provider without need to include the individual [see (D)(7), which is now (E)(7)], and (5) use information gathered on a provider by ODM or ODODD during their reviews of the same provider [see new (F)]. None of the amendments in this refiling add/delete regulatory restrictions to/from this rule.

07/01/2020 ODA made a revised filing of this rule to reschedule the public hearing and to upload a new public hearing notice into the Register of Ohio. In doing so, ODA did not make any revisions to the rule.

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

ODA's proposed amendments to this rule will not affect the biennial budget that the Ohio General Assembly established for ODA in H.B. 166 (133rd G.A.).

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 #16 on the business impact analysis (BIA) for the answer to this question.

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? No

A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No

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? No

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? 3

(A)(2) No later than three hundred sixty-five days after the date of ODA's initial certification, ODA or, at ODA's sole discretion, ODA's designee SHALL conduct the first review of each provider of community transition through the home choice program under rule 5160-44-50 of the Administrative Code.

(B)(3) No later than three hundred sixty-five days after the date of the previous review, ODA or, at ODA's sole discretion, ODA's designee SHALL complete the subsequent reviews of a provider of community transition through the home choice program under rule 5160-44-50 of the Administrative Code

(C)(3) ODA or, at ODA's sole discretion, ODA's designee SHALL conduct an on-site or desk review of each provider of community transition through the home choice program under rule 5160-44-50 of the Administrative Code.