

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?** 3/26/2024
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. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
 - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

This rule exists to establish the requirements for structural compliance reviews.
8. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule establishes the requirements for structural compliance reviews. ODA proposes to amend this rule achieve the following:

1. Change to the deadline for ODA's designees (PASSPORT Administrative Agencies) to conduct a review of providers of the following services from the 3-year anniversary of the previous review to the 1-year anniversary of the previous review: (1) enhance community living, (2) choices home care attendant service, (3) home care attendant service, and (4) waiver nursing.
2. Require ODA's designee to inform a provider in writing of an upcoming review, unless the review is an unannounced review.
3. Change the range of dates for records over which ODA's designee may review for compliance from "since being certified" and "since the previous review" to 3 months or 6 months depending upon the service the provider is certified to provide.
4. Give providers 10 business days to demonstrate compliance after receiving a notice of non-compliance.

9. Does the rule incorporate material by reference? No

10. 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

11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.

ODA revised this rule to achieve the following:

1. No longer propose to establish the deadline for ODA's designee to conduct a subsequent review of a waiver nursing provider as the one-year anniversary after the previous review.
2. Propose to establish the deadline for ODA's designee to conduct a subsequent review of a waiver nursing provider as (A) the three-year anniversary after the previous review if the provider is certified my Medicare or accredited by ACHC, CHAP, JC, or another accreditation organization approved by CMS and ODH; or, (B) the one-year anniversary after the previous review if the provider is neither certified by Medicare

nor accredited by ACHC, CHAP, JC, or another accreditation organization approved by CMS and ODH.

II. Fiscal Analysis

- 12. 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

Amending this rule will not affect the biennial budget that the Ohio General Assembly established for ODA in House Bill 33 (135th GA).

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

Please review ODA's responses to questions #15, #16, and #17 of the BIA for detailed information.

- 14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

- 15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

- 16. 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

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

- 18. 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

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? Yes

This rule requires a provider found during a review to be non-compliant to provide a plan of correction or evidence of compliance.

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

Please review ODA's responses to questions #15, #16, and #17 of the BIA for detailed information.

- 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 Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

- 19. 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 to this rule?**

Not Applicable

- B. How many existing regulatory restrictions do you propose removing from this rule?**

Not Applicable

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**

Not Applicable

- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable