

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-39-05

Rule Type: Amendment

Rule Title/Tagline: ODA provider certification: disciplinary actions.

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 C.F.R. 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 disciplinary action for non-compliant providers.
8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

This rule establishes disciplinary action for non-compliant providers. ODA proposes to amend this rule to achieve the following:

1. Combine paragraphs (B)(1)(a) and (B)(1)(b) and give providers 7 business days to respond to a request to show a plan for correcting the non-compliance or showing evidence of compliance.
2. Add paragraph (B)(1)(c) to indicate that ODA's designee may revise person-centered services plans to stop authorizing a non-compliant provider as a provider for an individual.
3. Indicate that ODA's designee may follow-up with the provider to verify compliance, which may include a site visit, requesting supplemental information, or reviewing records.

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.**

Not Applicable

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 establishes disciplinary actions for non-compliant providers. (cf., RC§173.391)

- 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? Yes

A. How many new regulatory restrictions do you propose adding to this rule? 0

B. How many existing regulatory restrictions do you propose removing from this rule? 3

1. (B)(1)(b): ODA's designee may REQUIRE the provider to provide evidence of compliance according to the following deadlines:

2. (B)(1)(b)(i): If the non-compliance is injurious or poses a threat to the health or safety of individuals being served, the provider SHALL provide evidence of compliance....

3. (B)(1)(b)(ii): If the non-compliance is not injurious or poses no threat to the health or safety of individuals being served, the provider SHALL provide evidence of compliance....

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

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

Not Applicable