

173-39-05

ODA provider certification: disciplinary actions.

(A) Introduction: Pursuant to section 173.391 of the Revised Code, ODA or its designee may impose disciplinary action against an ODA-certified provider (provider) for good cause, including misfeasance, malfeasance, nonfeasance, confirmed abuse or neglect, financial irresponsibility, or other conduct ODA determines is injurious, or poses a threat, to the health or safety of individuals being served.

(B) Disciplinary actions by ODA's designee:

(1) Disciplinary actions imposed by ODA's designee may include any one or more of the following:

(a) Plan of correction: ODA's designee may require the provider to provide a plan of correction with all areas of non-compliance within seven days after the disciplinary action is imposed.

(b) Evidence of compliance: ODA's designee may require the provider to provide evidence of compliance according to the following deadlines:

(i) Health or safety: If the non-compliance is injurious or poses a threat to the health or safety of individuals being served, the provider shall ~~submit~~provide evidence of compliance within five ~~business~~ days after the disciplinary action is imposed.

(ii) Non health or safety: If the non-compliance is not injurious or poses no threat to the health or safety of individuals being served, the provider shall ~~submit~~provide evidence of compliance within sixty days after the disciplinary action is imposed.

(c) Suspending referrals: ODA's designee may cease to refer individuals to the provider until ODA's designee determines the provider complies with all requirements in this chapter.

(2) When ODA's designee imposes a disciplinary action, it shall do the following:

(a) Notify the provider of the disciplinary action via encrypted email or mail.

(b) Send an encrypted email to ODA (Provider_Network_Mgmt@age.ohio.gov) with a copy of the disciplinary action attached.

(c) Complete the required fields in ODA's provider information management system related to the disciplinary action.

- (d) ~~Document~~ Indicate in ODA's provider information management system anytime it grants an extension to the deadlines in paragraph (B)(1)(a) or (B)(1)(b) of this rule.
- (3) ODA's designee ~~shall~~ does not have authority to impose subsequent more than one disciplinary actions action against a provider ~~related to the same conduct as a pending disciplinary action~~ for the same episode of non-compliance.
- (4) ODA ~~reserves the right to~~ may require ODA's designee to rescind or modify any pending disciplinary action.

(C) Disciplinary actions imposed by ODA:

- (1) ODA may impose any discipline authorized in section 173.391 of the Revised Code, including the following:
 - (a) Plan of correction.
 - (b) Evidence of compliance.
 - (c) Suspension of referrals.
 - (d) Removal of clients.
 - (e) Fiscal sanctions, including a civil monetary penalty or an order that unearned funds be repaid.
 - (f) Suspension of certification.
 - (g) Permanent revocation of certification.
 - (h) Another disciplinary action.
- (2) ODA may consider any one or more of the following when imposing disciplinary action:
 - (a) Whether the conduct is injurious or poses a threat to the health or safety of individuals being served.
 - (b) The provider's previous disciplinary history.
 - (c) Any other factors ODA may consider relevant.

(D) A provider is entitled to a hearing under Chapter 119. of the Revised Code if authorized pursuant to section 173.391 of the Revised Code.

(E) ~~To~~ The provider may request a hearing under Chapter 119. of the Revised Code,~~the provider shall request a hearing~~ only if it does so within thirty days after the mailing date of the notice.

(F) If any deadline in this rule occurs on a Saturday, Sunday, or legal holiday under section 1.14 of the Revised Code, the deadline is extended to the next day that is not a Saturday, Sunday, or legal holiday under section 1.14 of the Revised Code.

Effective:

Five Year Review (FYR) Dates: 4/14/2023

Certification

Date

Promulgated Under: 119.03

Statutory Authority: 121.07, 173.01, 173.02, 173.391, 173.52, 173.522,
173.54, 173.543

Rule Amplifies: 173.39, 173.391, 173.52, 173.522, 173.54, 173.543; 42
C.F.R. 441.352

Prior Effective Dates: 03/31/2006, 08/30/2010, 06/30/2011, 09/29/2011,
01/01/2013, 01/01/2020