

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-9-01

Rule Type: Amendment

Rule Title/Tagline: Background checks for paid direct-care positions: introduction and definitions.

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?** 7/20/2023
2. **Is this rule the result of recent legislation?** Yes
 - A. **If so, what is the bill number, General Assembly and Sponsor?** HB 166 - 133 - Oelslager
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, 173.38, 173.381, 173.391, 173.392; 42 U.S.C. 3025; 45 C.F.R. 1321.11
5. **What statute(s) does the rule implement or amplify?** 173.38, 173.381; 42 C.F.R. 460.68, 460.71
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 introduce Chapter 173-9 of the Administrative Code and defines terms used in that chapter, including "subcontractor," which R.C. §173.38 requires ODA to define in rule.

8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

This rule introduces Chapter 173-9 of the Administrative Code and defines terms used in that chapter, including "subcontractor," which R.C. §173.38 requires ODA to define in rule.

ODA proposes to amend this rule to achieve the following:

1. Remove "goods or" as those words occur before "services" throughout the rule.
2. Indicate that "consumer" includes individuals in the PASSPORT and Assisted Living Programs and participants in PACE. delete the definition of "individual," and delete the use of "individual" in this and other rules of this chapter. This corresponds to the use of "consumer" in R.C. §§ 173.38 and 173.381.
3. Remove the reference to rule 173-9-03.1 of the Administrative Code, because ODA is proposing to rescind that rule.
4. Refer to Chapter 306. of the Revised Code in the definition of "direct-care position."
5. Define "PACE organization."
6. Delete the definition of "waiver agency" because House Bill 166 (133rd G.A.) removed the exemption for such an agency from R.C. §173.38.
7. Reduce the use of unnecessary regulatory restrictions (e.g., "require") in these rules to comply with R.C. §§ 106.03 and 121.951.

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 G.A.).

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

This rule merely introduces Chapter 173-9 of the Administrative Code and defines terms used in that chapter. It does not create any cost of compliance to any person or organization directly-affected by this rule. For details on this chapter's cost of compliance, please review ODA's responses to questions #15, #16, and #17 on the BIA.

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? No**

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

Please review ODA's responses to questions #15, #16, and #17 on the BIA.

- 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

Please review ODA's responses to questions #15, #16, and #17 on the BIA.

- 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? 2

(A) Chapter 173-9 of the Administrative Code implements sections 173.38 and 173.381 of the Revised Code, which REQUIRE responsible parties to review databases and check criminal records when hiring an applicant for, or retaining an employee in, a paid direct-care position.

(B)(6) "Consumer" means a person who receives community-based long-term care services through a program that ODA administers that does not REQUIRE provider certification

- 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