

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 173-9-05

**Rule Type:** New

**Rule Title/Tagline:** Background checks for paid direct-care positions: conditional hiring.

**Agency Name:** Department of Aging

**Division:**

**Address:** 30 E Broad St. 22nd Floor Columbus OH 43215-3414

**Contact:** Tom Simmons **Phone:** 614-202-7971

**Email:** tsimmons@age.ohio.gov

#### **I. Rule Summary**

1. **Is this a five year rule review?** No
  - A. **What is the rule's five year review date?**
2. **Is this rule the result of recent legislation?** Yes
  - A. **If so, what is the bill number, General Assembly and Sponsor?** SB 9 - 134 - McColley, Roegner
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, 173.391, 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
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 proposed new rule will exist to refer readers to the standards for conditional hiring in the Revised Code and to clarify the limited applicability of those standards.

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

This proposed new rule will refer readers to the standards for conditional hiring in the Revised Code and clarify the limited applicability of those standards. ODA proposes to rescind the current version of this rule and replace it with this proposed new rule to achieve the following:

1. Reference the standards for conditional hiring in R.C. §173.38 rather than duplicating them in this rule.
2. Indicate the limited applicability of this rule. It doesn't (1) establish a requirement for an employee who holds a paid-direct-care position to enter a conditional status when undergoing a criminal records check as an employee, (2) authorize ODA to offer a conditional status to a self-employed applicant for ODA certification as a non-agency provider, or (3) authorize an AAA to offer a conditional status to a self-employed bidder on an AAA-provider agreement.
3. Reduce the use of unnecessary regulatory restrictions (e.g., "prohibit," "require," "shall," and "shall not") in this rule 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.**

In response to testimony provided for the August 22, 2023 public hearing, ODA will insert "for up to sixty days" in between "the responsible party may conditionally hire an applicant" and "if the responsible party complies with all requirements and limitations under division (H) of section 173.38 of the Revised Code."

## **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

Adopting this new rule will have no effect upon 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?**

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? 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