

Rule Summary and Fiscal Analysis (Part A)**Department of Aging**

Agency Name

Division

Tom Simmons

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173-14-14

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Staffing requirements and qualifications.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **Yes**

Bill Number: **SB321, HB530** General Assembly: **126**Sponsor: **Carey, Calvert**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **173.02, 173.16, 173.27**

5. Statute(s) the rule, as filed, amplifies or implements: **173.16, 173.27**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

The Department of Aging is proposing this new rule to replace existing rule 173-14-14 of the Administrative Code pursuant to Sub. H.B. 473 of the 121st General Assembly (R.C. 119.032), which requires state agencies to review each of their rules every five years and determine whether to continue without change, amend, or rescind them, and pursuant to Senate Bill 321 and House Bill 530 of the 126th General Assembly, which revised the language pertaining to criminal background checks.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The proposed new rule outlines the staffing requirements and qualifications for those associated with the Office of the State Long-Term Care Ombudsman. In accordance with House Bill 530 of the 126th General Assembly, language regarding criminal background checks was added to incorporate new section 173.27 of the Revised Code. In accordance with Senate Bill 321 of the 126th General Assembly, the definition of the term "applicant" that was created by House Bill 530 was amended to include the phrase "but is not limited to." Language was added to clarify that, when a regional program director is responsible for more than one region, each region must have full-time supervision by a certified ombudsman program director. Also, minor clarifications were made that do not change the meaning, the function, or the intent of the rule.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

In the revised version of the rule, the ";and," appearing at the end of paragraph (F)(3) was amended to instead read "." Incorrect references in paragraph (H) were corrected (For example, the reference in paragraph (H)(2) of the rule to "... paragraph (D) of this section" was amended to instead read "... paragraph (H)(1) of this rule.") Additionally, a correction was also made to the response to question #5 on this RSFA.

In the refiled version of the proposed new rule, paragraph (C) was amended to clarify that under Ohio law (OAC 109:5-1-01) anyone is authorized to have a review completed of the state criminal records of another individual if they have that individual's written permission and pay a fee. Pursuant to its general authority under R.C. 173.02, to adopt rules as necessary for the administration of its programs, and its specific authority under R.C. 173.16, to establish staffing requirements, the Department has chosen to allow the State Long-Term Care Ombudsman, or the Ombudsman's designee, to make a review of an individual's state records a precondition to the acceptance of that individual as a volunteer with the program.

12. 119.032 Rule Review Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0.00

The Department of Aging does not anticipate any increase nor decrease in expenditures appropriated to the Department in the current biennium.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

GRF-490-410, 322-490-618, 3M4-490-612, 4C4-490-609, and 5BA-490-620.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

It is difficult to estimate the cost of compliance for each regional ombudsman program due to geographical differences in demand and long-term care issues. However, federal and state funds are allocated using formulas that take regional differences into consideration (e.g., percentage of long-term care beds in the service area, population age 75 and over, and square mileage of the service area). The Department of Aging anticipates that there will be no new costs to regional programs associated with complying with the added criminal background check language in this rule. Regional programs have been conducting background checks as a matter of State Ombudsman policy for several years and this language simply codifies current practice. One regional ombudsman program will need to change management practices to comply with the requirement for full-time supervision. The Department estimates that the cost will be the incremental pay increase for one ombudsman rather than hiring an additional staff person, so the fiscal impact would likely be less than \$5,000 per year.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**