

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 173-14-29

**Rule Type:** New

**Rule Title/Tagline:** Response to allegations about ombudsman performance.

**Agency Name:** Department of Aging

**Division:**

**Address:** 246 N. High St. 1st floor Columbus OH 43215-2046

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#### 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?** HB 49 - 132 - Smith
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 173.01, 173.02, 173.16; 42 U.S.C. 3025(a)(1)(C), 3058g(a)(5)(D); 45 C.F.R. 1321.11, 1324.11(e)(7), 1324.13(b)(1), 1324.15(b)
5. **What statute(s) does the rule implement or amplify?** 173.16, 173.18; 42 U.S.C. 3058g; 45 C.F.R. 1321.11, 1324.11(e)(7)
6. **What are the reasons for proposing the rule?**

ODA and the SLTCO (we) adopted OAC Chapter 173-14 (this chapter) to establish and operate a state long-term care ombudsman program as required by ORC§173.01; 42 USC 3027, 3058g; and 45 CFR 1321.11 and Part 1324. We also adopted this chapter

to carry out the provisions of ORC Chapter 173 pertaining to ombudsman programs as required by ORC§173.02.

The chapter presently has no rule on advocacy.

On February 11, 2015, the U.S. Dept. of Health and Human Services, Administration on Aging (AoA) and Administration for Community Living (ACL) jointly adopted 45 CFR Part 1321 to regulate long-term care ombudsman programs. AoA and ACL subsequently amended their rules and renumbered them as 45 CFR Part 1324. 45 CFR 1324.15 required the SLTCO to provide advocacy.

Additionally, on September 29, 2017, Am. Sub. House Bill No. 49 (132nd G.A.) amended ORC §§ 173.14 and 173.17, to require the SLTCO to provide advocacy visits.

We now propose to adopt this rule to establish the grievance process.

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

This proposed new rule will establish the grievance process required by 45 CFR 1324.11(e)(7).

- 8. Does the rule incorporate material by reference? No**
- 9. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

*Not Applicable*

- 10. 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**

- 11. As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

\$0.00

We estimate the adoption of this proposed new rule will have no impact upon the biennial budget the Ohio General Assembly established for ODA in HB49.

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

We estimate our proposed new rule will create no cost of compliance to any directly-affected person.

**13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

**14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

**III. Common Sense Initiative (CSI) Questions**

**15. Was this rule filed with the Common Sense Initiative Office? No**

**16. 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**

OAC Chapter 173-14 regulates the state long-term care ombudsman program and regional programs. No rule in this chapter regulates an Ohio business.

**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**