

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 173-39-02

**Rule Type:** Amendment

**Rule Title/Tagline:** ODA provider certification: requirements for providers to become, and to remain, certified.

**Agency Name:** Department of Aging

**Division:**

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

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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?** 10/18/2024
2. **Is this rule the result of recent legislation?** No
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, 173.391, 173.52, 173.522, 173.54, 173.543
5. **What statute(s) does the rule implement or amplify?** 173.39, 173.391, 173.52, 173.522, 173.54, 173.543; 42 C.F.R. 441.352
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 establish the general requirements to become, and to remain, an ODA-certified provider.

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

This rule establishes the general requirements to become, and to remain, an ODA-certified provider.

ODA proposes to amend paragraph (B)(8)(j) of rule 173-39-02 of the Administrative Code by adding the following to the end of the paragraph: "unless otherwise permitted under rule 5160-44-32 of the Administrative Code." Without the proposed amendment, this rule prohibits a person with legal authority to represent an individual (i.e., to make decisions for an individual), such as a power of attorney, from being paid by the PASSPORT Program to be a participant-directed provider who works for the individual associated with the power of attorney. With the proposed amendment, a person with legal authority to represent an individual may be paid by the PASSPORT Program to provide services to the individual with limitations outlined in rule 5160-44-32 of the Administrative Code.

ODA also proposes to amend paragraph (A)(2) of this rule. Please review ODA's response to question #11 for details.

- 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.**

ODA refiled this rule to amend paragraph (A)(2) of this rule to add helpful references to other applicable background check standards in Ohio statute and rules. This will not create new requirements for any provider. Instead, it will merely alert providers to already-existing requirements that may apply.

## **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 impact the biennial operating budget that the Ohio General Assembly established for ODA in House Bill 33 (135th GA).

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

Please review ODA's response to questions #15, #16, and #17 on the business impact analysis (BIA) for details.

**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? Yes**

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

Providers voluntarily apply for ODA certification. Certification is not required to provide a service unless a provider wants a government program that requires certification (e.g., the PASSPORT Program) to pay the provider. Please review the BIA for additional information.

**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**

See section 173.391 of the Revised Code and rule 173-39-05 of the Administrative Code.

- C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes

Please review ODA's response to BIA questions #15, #16, and #17 for details.

- 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