

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-39-03.4

Rule Type: Amendment

Rule Title/Tagline: ODA provider certification: applying to be certified in additional regions or to certify additional business sites.

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?** 1/4/2024
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, 173.391, 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 specific application process for an ODA-certified provider to apply for certification in an additional region or from an additional business site in the same region.

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

This rule establishes the specific application process for an ODA-certified provider to apply for certification in an additional region or from an additional business site in the same region. ODA proposes to amend this rule to achieve the following:

1. No longer refer to the paragraph (C)(1)(a) of rule 173-39-02 of the Administrative Code that ODA deleted from that rule on July 1, 2023.

2. Update cross-references.

3. Reduce the use of unnecessary regulatory restrictions (e.g., "shall") in this rule to comply with R.C. §§ 106.03 and 121.951. This accounts for many non-substantive amendments that comprise a majority of ODA's proposed amendments to this rule.

Please also see the additional amendments listed in ODA's response to question #11 of this RSFA.

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 give ODA's designees flexibility to conduct a desk review of the provider's business site instead of an on-site review if the provider's business site is outside of the designee's region. This represents a restoration of a flexibility existing before the COVID-19 PHE.

04/12/2024 ODA refiled this rule to achieve the following:

1. *Replace the introductory paragraph with a new paragraph (A) of this rule that delineates the scenarios that apply to this rule and the scenarios that do not apply to this rule.*
2. *Indicate throughout the rule, including the title, that an assisted living provider may apply for confirmation that more designated resident units in its RCF qualify as resident units under paragraph (C)(2)(c) of rule 173-39-02.16 of the Administrative Code than ODA's designee previously confirmed.*
3. *Replace uses of "pre-certification review" with "review" because the provider is certified before applying.*
4. *Delete all words after the word "application" in paragraphs (D) and (E) of this rule because those words are unnecessary.*

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 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 of the 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

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

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? Yes

Please review ODA's responses to questions #15, #16, and #17 of the BIA 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? 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? 4

1. [Introduction] An assisted-living provider certified by ODA for one RCF SHALL obtain a new certification for each additional RCF pursuant to rule 173-39-03 of the Administrative Code.

2. (A) The provider SHALL provide a complete application to become certified to provide the service for which it is already certified in an additional region or additional business site within the same region.

- 3. (A) Only complete applications SHALL be processed.
- 4. (A) If the provider does not complete the application within ninety days of the date the application is requested, the application SHALL expire.
- 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