

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-39-02.10

Rule Type: Amendment

Rule Title/Tagline: ODA provider certification: nutritional consultations.

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?** 1/18/2022
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; 42 CFR 441.352
6. **What are the reasons for proposing the rule?**

Each rule in Chapter 173-39 primarily exists to comply with section 173.391 of the Revised Code, which requires ODA to adopt rules to establish the requirements and standards for certified providers.
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

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

ODA proposes to amend this rule to achieve the following:

1. Allow the dietitian to provide the initial consultation by telephone, video conference, or in person in the individual's home at any time, rather than only during a state of emergency declared by the governor.
2. No longer require providers to retain clinical records. If a dietitian retains such records, it should be because the dietitian chooses to do so or is required to do so by the State Medical Board, not because ODA's rule requires doing so.
3. Remove examples of unique identifiers since they are covered in the definition of "unique identifier" in rule 173-39-01 of the Administrative Code.
4. Replace "documents," which implies a requirement for the outdated modes of communication of paperwork, with "records," which could apply to paper or electronic media.

ODA also proposes to make non-substantive amendments to this rule.

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. 121.75, 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. **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 the proposed amendments to this rule will not affect the biennial budget that the Ohio General Assembly established for ODA in H.B. 110 (134th G.A.).

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

Adopting the proposed amendments to this rule will not create a cost of compliance to any directly-affected person or organization.

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

15. 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

16. Was this rule filed with the Common Sense Initiative Office? Yes

17. 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 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

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

This rule requires ODA-certified providers of nutritional consultations to provide copies of nutrition intervention plans to individuals' case managers and to retain records to verify that the provider provided consultations. ODA proposes to remove requirements to retain clinical records from this rule.

- 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 Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

18. **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?** 0

B. **How many existing regulatory restrictions do you propose removing?** 4

1. (B)(4)(a) The dietitian SHALL conduct the initial consultation....

2. (B)(7)(a) The provider SHALL develop and retain a clinical record for each individual that includes the individual's....

3. (B)(7)(a)(x) ...which the dietitian who provided the consultations SHALL sign and date at the point he or she is no longer going to provide consultations to the individual or the individual no longer needs consultations.

4. (B)(7)(a)(x) ...The summary SHALL indicate what progress the individual made towards achieving the measurable outcomes of the individual's nutritional goals and any recommended follow-up consultations or referrals.