

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

Agency Name

Division

Tom Simmons

Contact

246 N. High St. 1st floor Columbus OH 43215-2046 614-728-2548

Agency Mailing Address (Plus Zip)

Phone

Fax

tsimmons@age.ohio.gov

Email

173-39-02.10

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

ODA provider certification: nutritional consultations.**RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **No**
2. Are you proposing this rule as a result of recent legislation? **No**
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: **173.01, 173.02, 173.391, 173.52, 173.522.**
5. Statute(s) the rule, as filed, amplifies or implements: **173.391**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

ODA proposes to adopt this new rule to replace the current rule of the same number which ODA is simultaneously proposing to rescind. This rule filing is part of a larger nutrition rule project. For more information, please review the business impact analysis (BIA).
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 rule regulates ODA-certified providers when those providers provide nutritional consultations to individuals enrolled in the PASSPORT Program. Please review the BIA and its appendices for detailed information.

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. If applicable, indicate each specific paragraph of the rule that has been modified:

On May 2, 2016, ODA made a revised filing of this rule to upload a revised public hearing notice for a public hearing on the same date and time and in the same location.

On July 20, 2016, ODA refiled the rule. In doing so, ODA proposed shortening the sentence in paragraph (B)(3)(b) of the rule to make the sentence read more clearly. The sentence would change from, "The provider shall not provide a consultation to an individual's authorized representative or caregiver unless the licensed healthcare professional also ordered a consultation to the individual's authorized representative

or caregiver to improve the individual's well-being," to "The provider shall not provide a consultation to an individual's authorized representative or caregiver unless the licensed healthcare professional ordered the consultation to improve the individual's well-being." ODA proposed shortening the sentence in response to testimony provided to ODA at ODA's May 25, 2016 public hearing.

12. Five Year Review (FYR) 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

Adopting the proposed new rule to replace the current rule (which ODA is simultaneously proposing to rescind) would not impact the biennial budget the Ohio General Assembly established for ODA.

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

GRF-651-525 Medicaid/Health Care Services.

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:

There would be no cost of compliance directly associated with adopting this new rule to replace the current rule. For information on the cost of complying with the new rule, please review the BIA and its appendices.

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**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **Yes**

The rule would require providers of nutritional consultations to individuals enrolled in the PASSPORT Program to be certified by ODA.

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**

The rule would require documentation, service verification, and records retention.