

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-39-02.12

Rule Type: Rescission

Rule Title/Tagline: ODA provider certification: social work or counseling.

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
5. **What statute(s) does the rule implement or amplify?** 173.39, 173.391, 173.52, 173.522; 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 will exist to establish the specific requirements to become, and to remain, an ODA-certified provider of social work or counseling.

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

This rule establishes the specific requirements to become, and to remain, an ODA-certified provider of social work or counseling. ODA proposes to rescind the current version of this rule, and to simultaneously adopt this proposed new rule in its place. For details on the differences, please review the RSFA for the proposed new version of this rule.

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.

Not Applicable

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

Rescinding the current version of this rule to replace it with a proposed new 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
 - 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? 12

1. (B)(3)(b) The provider SHALL provide the case manager with the assessment report no later than fourteen days after the provider completes the assessment.

2. (B)(4)(a) With the assistance of the individual, caregiver, and case manager, the provider SHALL develop and revise, as necessary, a treatment plan that recommends a method of treatment and number of sessions.

3. (B)(4)(b) The provider SHALL provide the case manager with the treatment plan no later than fourteen days after the provider completes the assessment.

4. (B)(4)(c) The provider SHALL offer the individual the treatment plan no later than fourteen days after the provider completes the assessment, unless there are clinical indications against providing the individual with the treatment plan.

5. (B)(4)(c) If the individual declines to receive the treatment plan, the provider SHALL retain a record that the provider offered to provide the individual with the treatment plan, but that the individual declined.

6. (B)(5) No person SHALL provide the service unless the person is employed by a provider that ODA certifies as an agency provider, or unless ODA certifies the person as a non-agency provider.

7. (B)(5)(a)(i) An agency provider SHALL assure that the agency's direct-care staff includes a licensed professional clinical counselor (LPCC), a licensed professional counselor (LPC), a licensed psychologist or a licensed psychologist with an e.passport, an independent marriage and family therapist (IMFT), a marriage and family therapist (MFT), a licensed independent social worker (LISW), or a licensed social worker (LSW).

8. (B)(5)(a)(ii) No employee SHALL provide the service under the employment of the agency provider unless the individual is a LPCC, LPC, a licensed psychologist or a licensed psychologist with an e.passport, IMFT, MFT, LISW, LSW, or an advanced practice RN designated as a CNP or CNS and certified as a psychiatric-mental health CNP or CNS by [t]he American nurses credentialing center.

9. (B)(5)(a)(iii) The provider SHALL retain records to show that each social work or counseling staff member holds a license in good standing with their

respective Ohio professional licensure board or an e.passport, and has at least one year of social work or counseling experience.

10. (B)(5)(b)(i) No person SHALL provide the service as a non-agency provider unless the person is an IMFT, LPCC, licensed psychologist or a licensed psychologist with an e.passport, LISW, or an advanced practice RN designated as a CNP or CNS and certified as a psychiatric-mental health CNP or CNS by the American nurses credentialing center.

11. (B)(5)(b)(ii) The provider SHALL retain records to show that the provider holds a license in good standing with their Ohio professional licensure board or an e.passport, and has at least one year of social work or counseling experience.

12. (B)(6)(a) For each session, the provider SHALL retain a record of all the following:

- 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