

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

Agency Name

Division

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173-39-02.12

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Social work counseling service.**RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **Yes**
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: **173.39, 173.52, 173.522**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

ODA is reviewing the rule to comply with the requirement to review each rule before its assigned five-year deadline.
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 governs the furnishing of the social work counseling service by ODA-certified providers.

ODA proposes to make the following substantive amendments:

1. ODA proposes to replace the requirement for providers to furnish individuals with copies of their treatment plans with a requirement for providers to offer individuals copies of their treatment plans. If the individual declines to retain a copy of his or her treatment plan, the amendment would also require the provider to retain a record that an offer to furnish a copy was made, but that the individual declined.
2. ODA proposes to remove the requirement for providers to retain advance directives in the clinical record.
3. The current rule only allows a registered nurse (RN) who holds a certificate of authority from the Ohio Board of Nursing in psych-mental health nursing specialty to furnish the service if the RN is furnishing the service as a non-agency provider. ODA proposes to also allow an RN of this sort to furnish the service if the RN works for an agency provider.

ODA proposes to make the following non-substantive amendments:

1. ODA proposes to add "ODA provider certification:" to the rule's title to indicate that the rule regulates ODA-certified providers who perform a social work counseling service. ODA proposes to add the same words to all rules in the chapter in other rule filings. An analysis of ODA's website traffic shows that most people who view the rules on ODA's website find the rules through Google, Yahoo, and Bing. Adding "chapter" terms to rule titles may increase the odds of finding the correct rules and increase the odds of interpreting a found rule in its context.
2. ODA proposes to replace all occurrences of "consumer" with "individual." ODA also proposes to make this change in the remaining rules in the chapter in other rule filings.
3. ODA proposes to replace the subheading "Minimum requirements" with "Requirements."
4. ODA proposes to delete the paragraph on records retention and monitoring because it duplicates requirements in rule 173-39-02 of the Administrative Code.
5. ODA proposes to add a helpful citation on rate-setting methodologies so that providers know where to find the rule. Rule 5160-31-07 of the Administrative Code currently regulates providers whether or not ODA adds this helpful citation.
6. Other, simple non-substantive amendments.

None of ODA's proposed amendments would require new, or increased, regulatory

burdens upon providers.

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 August 20, 2015, ODA made a revised filing in order to upload a memorandum of response to the Common-Sense Initiative Office that did not mistakenly mention the choices home care attendant service in lieu of mentioning social work counseling. ODA also used this opportunity to attach the rule draft, as it appeared during ODA's online public-comment period, to the BIA.

12. Five Year Review (FYR) Date: **8/20/2015**

(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

ODA estimates that ODA's proposed amendment of this rule would create no impact upon the biennial budget that 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:

ODA estimates that the adoption of the proposed amendments would post no cost of compliance to any directly-affected person.

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**

In order to be an ODA-certified provider of social work counseling, a provider must meet the requirements of this rule.

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**

Each agency provider must show evidence that the staff members who furnish social work counseling is licensed to perform social work counseling. Each non-agency provider (i.e., self-employed provider) who furnishes social work counseling must show evidence that he or she is licensed to perform social work counseling. The rule allows providers to use technology (e.g., SERVtracker, SSAID, etc.) to verify that it performed services.

The provider must also verify that the services for which it bills were provided.