

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-43-03

Rule Type: Rescission

Rule Title/Tagline: Long-term care consultation program: required consultations and exemptions.

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?** 10/31/2022
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, 173.42
5. **What statute(s) does the rule implement or amplify?** 173.42; 42 U.S.C. 3002, 3012, 3025, 3032
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 delineate when the program administrator is required, or not required, to provide a consultation to an individual.

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

This rule delineates when the program administrator is required, or not required, to provide a consultation to an individual.

ODA proposes to replace this rule with a substantially-similar new rule. Please review the RSFA for the new rule for details on the differences between the rules.

- 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

Not Applicable

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

There is no cost of compliance to any person or entity associated with ODA's proposal to rescind this rule and to replace it with a proposed new substantially-similar rule. Please review the BIA for more information.

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? No
 - 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? No
 - 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

(A)(2) ..., but has since been found to REQUIRE a stay in a nursing facility that will exceed the time limits specified in those rules,....

(B) The nursing facility or the program administrator SHALL determine that the program administrator is not required to provide a long-term care consultation to an individual if any of the following apply:

(C)(1) In making this determination, the program administrator SHALL consider factors such as medical condition, probable need for long-term care services, history of hospitalizations, availability of informal supports, and awareness of options available to determine the appropriateness of the long-term care consultation.

(C)(2) To make this determination, the program administrator SHALL consider the availability of existing formal and informal support systems, the availability of potential formal and informal support systems, the functional abilities and limitations of the individual, the individual's diagnosis, the individual's prognosis, and the individual's plan of treatment, placing special emphasis on end-of-life treatment, because such a treatment is most likely an indicator that the individual will not benefit from a long-term care consultation.

- 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