

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-43-02

Rule Type: Amendment

Rule Title/Tagline: Process and general standards.

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?** 5/3/2018
2. **Is this rule the result of recent legislation?** Yes
 - A. **If so, what is the bill number, General Assembly and Sponsor?** HB 49 - 132
- Rep. Smith
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 173.42, 173.02, 173.01
5. **What statute(s) does the rule implement or amplify?** 173.42
6. **What are the reasons for proposing the rule?**

ORC §106.03 requires ODA to review this rule before each its review deadline. After reviewing the rule top-to-bottom, ODA proposes to amend the rules with only non-substantive amendments.

Part of the review involved considering amendments in light of the following recent events, which now affect the Long-Term Care Consultation Program: (1) On October 2, 2017, the state launched the Ohio Benefits Long-Term Services and Supports (OBLTSS)

Program, which is a new program with a similar mission to that of the Ohio Long-Term Care Consultation Program, and (2) HB49 amended the statutes authorizing Long-Term Care Consultation Program, but none of HB49's amendments require ODA to amend this rule. At this time, ODA believes it is wise to see how well OBLTSS works before determining if ODA's rules for the Long-Term Care Consultation Program require substantive amendments.

Please review the BIA for more information.

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

This rule regulates the process and general standards for providing long-term care consultations. It is the only rule in OAC Chapter 173-43 to directly regulate nursing facilities. It is subject to the Common-Sense Initiative (CSI).

ODA proposes to add "Long-term care consultation program:" to the beginning of the title of each rule in OAC Chapter 173-43. This serves as a sort-of chapter title. It aids the public in finding one of the rules when googling for it because search engines may be better at searching for website content (e.g., The name of the rule in a link) rather than the content on a .pdf document on the other end of the link. Additionally, it aids the public in identifying any single rule as belonging to the Long-Term Care Consultation Program when viewed apart from OAC Chapter 173-43.

ODA proposes to delete the unnumbered introductory paragraph in this rule. It is unnecessary—especially after ODA's amendment to the rule's title.

- 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. 121.71 to 121.76, 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. As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

\$0.00

ODA's proposed amendments to this rule would have no effect upon the biennial budget the Ohio General Assembly established for ODA.

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

DIRECT IMPACT: This rule requires nursing facilities to do the following:

A. Only admit as a resident an individual who has been offered a consultation, as required by ORC §173.42(K).

B. For individuals who have entered the nursing facility, but who have not yet been admitted as residents, the nursing facility shall determine if the individual is required to be offered a consultation, then, do either of the following: (1) Report information to the program administrator of residents who must be offered a consultation. Or, (2) Keep records when determining a resident is exempt from the requirement to be offered a consultation.

C. Allow consultants to enter the nursing facility to provide consultations, as required to do by ORC §173.42(M).

INDIRECT IMPACT: By nature, the consultations inform individuals of home and community-based options available to them. The consultations do not, in themselves, have any adverse impact upon nursing facilities. However, the decision of an informed individual on whether he or she wants to receive care in a home and community-based setting or an institutional setting would have a direct impact upon a nursing facility any time the individual chooses to receive home and community-based care instead of becoming a resident of the facility.

Please review the BIA for further information.

- 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

III. Common Sense Initiative (CSI) Questions

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

16. 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? Yes

Please review the items listed after "DIRECT IMPACT" in ODA's response to #12 of this RSFA.