

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-43-02

Rule Type: Amendment

Rule Title/Tagline: Long-term care consultation program: process and general standards for providing consultations.

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?** 10/16/2020
2. **Is this rule the result of recent legislation?** No
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. **What are the reasons for proposing the rule?**

ODA is reviewing this rule as part of a review of every rule in Chapter 174-43 of the Administrative Code with a special focus on social distancing.
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

The rule establishes the process and general standards for providing consultations through the Long-Term Care Consultation Program.

ODA proposes to amend this rule to give consultants flexibility to provide consultations by telephone, video conference, or in person.

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. 121.75, 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. **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

ODA's proposed amendment of this rule will have no impact upon the biennial budget that the Ohio General Assembly established for ODA in H.B. 166 (133rd G.A.).

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

ODA's proposed amendment of this rule will not create any new cost of compliance to any person or organization directly affected by this rule.

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**
15. **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

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

17. 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

This rule requires nursing facilities to [1] only admit as a resident an individual who has been offered a consultation, as required by division (K) of section 173.42 of the Revised Code; [2] for individuals who have entered the nursing facility, but who have not yet been admitted as residents, determine if the individual is required to be offered a consultation, then, do either of the following: [a] report information to the program administrator of residents who must be offered a consultation or [b] retain records when determining a resident is exempt from the requirement to be offered a consultation; and [3] allow consultants to enter the nursing facility to provide consultations, as required by division (M) of section 173.42 of the Revised Code. For more information, please review the business impact analysis.

- 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

Section 173.42 of the Revised Code requires the Long-Term Care Consultation Program to provide "individuals or their representatives...with long-term care consultations and receive through these professional consultations information about options available to meet long-term care needs and information about factors to consider in making long-term care decisions." 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. For more information, please review the business impact analysis.

IV. Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

18. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? No

A. How many new regulatory restrictions do you propose adding?

Not Applicable

B. How many existing regulatory restrictions do you propose removing?

Not Applicable