Rule Summary and Fiscal Analysis
<u>Part A</u> - General Questions

Rule Number: 173-43-03

Rule Type: Amendment

Rule Title/Tagline: Required consultations and exemptions.

Agency Name: Department of Aging

Division:

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I.   <u>Rule Summary</u>

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 establishes a list of which persons whom the program shall offer a consultation and a list of persons exempt from any requirement to be offered a consultation. It does not regulate any Ohio business and is, therefore, not subject to CSI.

   ODA proposes to add "Long-term care consultation program:" to the beginning of the rule's title. 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.

   ODA proposes to reformat the rule's lists so they are no longer multi-paragraph run-on sentences separated by semicolons.

   ODA proposes to replace "the rule" with "this rule."

   ODA proposes to replace "that provide" and "that provides" with "providing."

   ODA proposes to replace "that clearly exceed the services that are available" with "clearly exceeding the services available."

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

    The Ohio General Assembly's biennial budget for ODA would not be affected by amending this rule.

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

    This rule determines to whom a program administrator shall offer a consultation and to whom the program administrator is not required to offer a consultation. (B) allows nursing facilities to "determine" whether the program administrator is required to offer a consultation in certain situations, but (B) also allows the program administrator to make this determination and does not require the nursing facility to do so. Additionally, if a nursing facility made a determination that the program administrator is not required to offer a consultation, it would be beneficial--not an adverse impact--to the nursing facility.

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

    This rule determines to whom a program administrator shall offer a consultation and to whom the program administrator is not required to offer a consultation. It does not regulate Ohio businesses.

    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

    This rule determines to whom a program administrator shall offer a consultation and to whom the program administrator is not required to offer a consultation. It does not regulate Ohio businesses.