Rule Summary and Fiscal Analysis (Part A)

Department of Aging
Agency Name

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Division   Contact

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173-43-03   # NEW
Rule Number   TYPE of rule filing

Rule Title/Tag Line   **Required consultations and exemptions.**

RULE SUMMARY

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **Yes**

Bill Number: **HB1**   General Assembly: **128**   Sponsor: **Sykes**

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, 173.42**

5. Statute(s) the rule, as filed, amplifies or implements: **173.42**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

ODA is proposing to adopt this new rule as part of a larger rule package.

ODA is proposing to amend chapter 173-43 of the Administrative Code which regulates the Long-Term Care Consultation Program. In doing so, ODA is proposing to rescind the current chapter and replace it with five new rules that implement the changes that H.B. No. 1 (128th G.A.) required for the rules of the program. The proposed new rules also include references to statutes that H.B. No. 153 (129th G.A.) updated.

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:

> This proposed new rule sets forth to whom long-term care consultations are provided and the conditions under which exceptions may be made.

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:

> On January 3, 2012, ODA revise-filed the rule to:
>
> 1. Revise paragraphs (A), (B), (C), and (D) so they follow a symmetrical sentence construction. This leaves paragraph (A) of the rule as, "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," paragraph (B) of the rule as, "The program administrator may determine that it is not required to provide a long-term care consultation to each individual in the following categories unless the individual (or the individual's

representative) requests a long-term care consultation," paragraph (C) of the rule as, "The program administrator shall provide a long-term care consultation to each individual in the following categories so long as paragraph (A) of the rule doesn't exempt the individual," and paragraph (D) of the rule as, "The program administrator may provide a long-term care consultation to any* individual residing in a nursing facility regardless of the source of payment used to pay for the individual's care in the nursing facility." [* See below regarding "any."]

2. Replace "each" in paragraph (D) of the rule with "any."

3. Replace "so long as the individual is not exempted by paragraph (A) of this rule" in paragraphs (C) and (C)(2) of the rule with "unless paragraphs (A) or (B) of this rule exempt the individual."

4. Move the last two sentences of paragraph (C)(2) of the rule to proposed new rule 173-43-02 of the Administrative Code because the sentences require a process. The sentences said, "In this case, the nursing facility shall inform the program administrator of such an individual no later than seventy-two hours after the expiration of the time limit. Upon being notified, the program administrator shall determine whether or not a long-term care consultation is required."

5. Upload a revised public-hearing notice.

6. Revise this RSFA.

12. 119.032 Rule Review Date:

(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

Although section 173.42 of the Revised Code requires ODA to develop and administer the Long-Term Care Consultation program, H.B. No. 153 (129th G.A.) moved the program's funding to budget line item GRF-600-525, which is under JFS, not ODA. Therefore, ODA estimates that the proposed adoption of this new rule will have no impact upon the biennial budget that the Ohio General Assembly established for ODA in H.B. No. 153.

Nevertheless, ODA estimates that the proposed adoption of this new rule will also have no impact upon the biennial budget that the Ohio General Assembly established for line item GRF-600-525. In FY11, area agencies on aging provided 53,035 long-term care consultations. So far in FY12, area agencies on aging are providing fewer long-term care consultations than at the same point in FY11. Although it is possible that public awareness of the free long-term care consultations, the aging of Ohio's population, and other changes to the long-term service and support system could lead to an increasing number of long-term care consultations, ODA does not estimate that the adoption of this new rule will create an increase in the number of long-term care consultations for FY12 or subsequent years. Therefore, ODA estimates that the proposed adoption of this new rule will have no impact upon the biennial budget that the Ohio General Assembly established for GRF-600-525.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

GRF-600-525 Health Care/Medicaid (State and Federal).

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 there is no cost of compliance to any directly-affected person associated with the proposed adoption of this new rule.

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**