



Department of
Aging

Mike DeWine, Governor
Jon Husted, Lt. Governor

Ursel J. McElroy, Director

PUBLIC-COMMENT PERIOD LONG-TERM CARE CONSULTATION PROGRAM

September 15, 2020

ODA reviewed Chapter 173-43 of the Administrative Code and now proposes to amend the rules of that chapter.

Please feel free to review the proposed amendments to these rules offer recommendations for improving the rule. Submit recommendations to rules@age.ohio.gov no later than **Monday, September 28, 2020** at 11:59PM.

Fostering sound public policy, research, and initiatives that benefit older Ohioans.

246 N. High St. / 1st Fl.
Main: (614) 466-5500

Columbus, OH 43215-2406 U.S.A.
Fax: (614) 466-5741

www.aging.ohio.gov
TTY: Dial 711



Business Impact Analysis

Agency, Board, or Commission Name: [OHIO DEPT. OF AGING](#)

Rule Contact Name and Contact Information: Tom Simmons rules@age.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

LONG-TERM CARE CONSULTATION PROGRAM

R.C. §173.42 created the Long-Term Care Consultation Program and requires ODA to adopt Chapter 173-43 of the Administrative Code to implement and administer §§ 173.42 to 173.424.

Rule Number(s): 173-43-01, 173-43-02, 173-43-03, 173-43-04, 173-43-05

Date of Submission for CSI Review: September 15, 2020

Public Comment Period End Date: September 28, 2020 at 11:59PM.

Rule Type/Number of Rules:

New/ 0 rules

Amended/ 5 rules (FYR?)

No Change/ 0 rule (FYR?)

Rescinded/ 0 rules (FYR?)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

Please review the next page.

The rule(s):

- a. Require a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. Requires specific expenditures or the report of information as a condition of compliance.
- d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

2. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

The rules of Chapter 173-43 of the Administrative Code implement the requirements for the Long-Term Care Consultation Program created under R.C. §§ 173.42 to 173.424.

In rule 173-43-01 of the Administrative Code, ODA proposes to amend paragraph (A) of the rule to replace "173.425" with "173.424."

In rule 173-43-02 of the Administrative Code, ODA proposes to amend paragraphs (A)(1) and (A)(2) of the rule to allow program administrators to offer and provide consultations by telephone, video conference, or in person.

In rule 173-43-03 of the Administrative Code, ODA proposes to amend paragraphs (A) and (D) of the rule to allow program administrators to offer and provide consultations by telephone, video conference, or in person.

In rule 173-43-04 of the Administrative Code, ODA proposes to amend paragraph (B)(1) of the rule to allow program administrators to provide consultations according to the time frame for providing a level-of-care determination made by telephone, video conference, or in person instead of according to the time frame for providing a "face-to-face" level-of-care determination.

In rule 173-43-05 of the Administrative Code, ODA proposes to amend paragraph (A)(3) of the rule to restate the qualification so ODA only certifies a person who is either a registered nurse or licensed social worker to provide a long-term care consultation (rather than *an in-person* long-term care consultation) involving an assessment of the individual's functional capabilities.

3. Please list the Ohio statutes that authorize the agency, board or commission to adopt the rule(s) and the statutes that amplify that authority.

R.C. §§ [121.07](#), [173.01](#), [173.02](#), [173.42](#), [173.421](#), [173.422](#), [173.424](#).

4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

If yes, please briefly explain the source and substance of the federal requirement.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

These rules do not implement federal requirements.

5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

These rules exist to comply with the state laws mentioned in ODA's response to #2, which require ODA to adopt rules to implement those state laws to administer the Long-Term Care Consultation Program.

6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

These rules exist to comply with the state laws mentioned in ODA's response to #2, which require ODA to adopt rules to implement those state laws and to administer the Long-Term Care Consultation Program.

7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

ODA monitors its designees, the program administrators, for compliance. The program administrators monitor staff who are certified to provide long-term care consultations. ODA will judge the proposed amendments to these rules to be a success when ODA and its designees find few violations against these rules during structural compliance reviews or investigations of alleged incidents.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

ODA's guide [Participating in ODA's Rule Development](#) and the [rules webpages on ODA's website](#) encourage stakeholders and the general public to give input on improving ODA's rules and provide contact information for doing so. From each rule's effective date to the date of this BIA, ODA has received no input from stakeholders or the general public on any rule in this package.

On August 6, 2020, ODA sent an email to the following The Academy of Senior Health Sciences, Ohio Health Care Association, LeadingAge Ohio, and the Ohio Assisted Living Association, and the state long-term care ombudsman to announce that ODA is considering filing amendments to propose the adopting the emergency amendments adopted into rules 173-43-02, 173-43-03, 173-43-04, and 173-43-05 of the Administrative Code on an ongoing basis, to ask for their input on that proposal, and to ask if the stakeholders had any other issues to raise with the rules in Chapter 173-43 of the Administrative Code.

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

ODA received 1 comment from 1 stakeholder to its August 6, 2020 email. LeadingAge Ohio said that it supported ODA's proposal to adopt the emergency amendments on an ongoing basis. No stakeholder raised any additional issues with Chapter 173-43 of the Administrative Code.

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

ODA obtained data on the volume of providers and the amounts providers charge the PASSPORT Program from its databases. Find them in ODA's response to #14 of this BIA.

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

The requirements to adopt rules to implement and administer the Long-Term Care Consultation Program under R.C. §§ [173.42\(H\)](#), (I)(6), (L), and (N)(1); [173.421](#); [173.422](#); and [173.424](#) are very specific. Those requirements establish the framework for Chapter 173-43 of the Administrative Code. ODA cannot deviate from the statutory requirements.

13. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

A performance-based regulation is not appropriate for this program.

14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

R.C. §§ [173.42](#), [173.421](#), [173.422](#), and [173.424](#) require ODA, and not any other agency, to adopt rules to implement and administer the Long-Term Care Consultation Program.

15. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

Before the proposed amendments to these rules take effect, ODA will post them on ODA's website. ODA will also send an email to subscribers of our rule-notification service to feature the rules.

Through regular monitoring activities, ODA monitors its designees, the program administrators, for compliance. The program administrators monitor staff who are certified to provide long-term care consultations.

Adverse Impact to Business

16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community; and

Direct Impact: Chapter 173-43 primarily regulates ODA and its program administrator. Rule 173-43-02 regulates Ohio's nursing home.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

Indirect Impact: Chapter 173-43 has an indirect impact upon Ohio's nursing homes.

b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and

Direct Impact: 173-43-02 is the only rule in the chapter to directly regulate nursing facilities. It requires nursing facilities to do the following:

- Only admit as a resident an individual who has been offered a consultation, as required by R.C. [§173.42\(K\)](#).
- 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:
 - Report information to the program administrator of residents who must be offered a consultation.
 - Retain records when determining a resident is exempt from the requirement to be offered a consultation.
- Allow consultants to enter the nursing facility to provide consultations, as required to do by R.C. [§173.42\(M\)](#).

ODA's proposed amendments to the rules in Chapter 173-43 of the Administrative Code will not increase the direct impact upon nursing facilities.

Indirect Impact: R.C. [§173.42](#) 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.

ODA's proposed amendments to the rules in Chapter 173-43 of the Administrative Code will not increase the indirect impact upon nursing facilities.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

Direct Impact: The adverse impact of rule 173-43-02 of the Administrative Code consists of the administrative time necessary to report information to the program administrator about residents who must be offered consultations and retaining records to show those who are not required to be offered consultations.

Indirect Impact: A potential adverse impact is the loss of a potential resident who may decide that another long-term care option would be better for them than a particular nursing facility.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

It is in the best interest of Ohioans to be provided with options on long-term care options that will fit their needs or the needs of their loved ones.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

Rule 173-42-02 of the Administrative Code does not ask nursing facilities to provide information to ODA or a program administrator that is unreasonable for ensuring compliance with the rule.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

Because the primary purpose of these rules is to ensure that Ohioans have an ability to know what long-term care options best fit their long-term care needs or the needs of their loved ones, the rules treat all providers the same, regardless of their size.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

ODA is concerned primarily about providing Ohioans with information on long-term care options that best fit their long-term care needs with these rules. Whenever possible, ODA or its designees will treat administrative violations that limit access to education about long term care options of an individual by failing to refer for long term care consultations as opportunities for improvement through warning notices and solicitation of corrective action.

20. What resources are available to assist small businesses with compliance of the regulation?

ODA and its designees are available to help providers of all sizes with their questions. Any person may contact [Tom Simmons](#), ODA's policy development manager, with questions about the rules.

Additionally, ODA maintains an online rules library to help providers find rules regulating them. Providers may access the online library 24 hours per day, 365 days per year.

173-43-01

Long-term care consultation program: introduction and definitions.

(A) Introduction: This chapter regulates the long-term care consultation program that sections 173.42 to ~~173.425~~ [173.424](#) of the Revised Code established. The program provides information to individuals and their representatives about options available to meet their long-term care needs and factors to consider when making long-term care decisions.

(B) Definitions for this chapter:

- (1) "Individual" means a person who may qualify to receive a long-term care consultation.
- (2) "Level of care" means the review and determination process under rule 5160-3-14 of the Administrative Code.
- (3) "Long-term care consultation" has the same meaning as in section 173.42 of the Revised Code.
- (4) "Nursing facility" has the same meaning as in section 5165.01 of the Revised Code.
- (5) "ODA" means "the Ohio department of aging."
- (6) "Pre-admission screening and resident review" has the same meaning as in rules 5160-3-15.1 and 5160-3-15.2 of the Administrative Code.
- (7) "Program administrator" has the same meaning as in section 173.42 of the Revised Code.
- (8) "Representative" has the same meaning as in section 173.42 of the Revised Code.

173-43-02

Long-term care consultation program: process and general standards for providing consultations.

(A) Process:

- (1) When an individual contacts the program administrator to seek information about options available to meet long-term care needs, the program administrator shall offer a long-term care consultation to the individual, [which may also be done by telephone or video conference.](#)
- (2) When an individual applies for admission to a nursing facility or is seeking medicaid payment for a continued stay in a nursing facility, the program administrator shall provide a long-term care consultation to the individual, [which may also be done by telephone or video conference.](#)
- (3) The nursing facility shall notify the program administrator of any individual who is a nursing facility resident that was admitted under a time-limited convalescent exemption or who was admitted under a categorical determination in accordance with rule 5160-3-15.1, 5122-21-03, or 5123:2-14-01 of the Administrative Code, but has since been found to require a stay in a nursing facility that will exceed the time limits specified in those rules. The nursing facility shall notify the program administrator no later than seventy-two hours after the expiration of the time limit, unless rule 173-43-03 of the Administrative Code exempts the individual. Upon being notified, the program administrator shall determine if a long-term care consultation is required.
- (4) If the nursing facility determines that an individual is exempt from a long-term care consultation under rule 173-43-03 of the Administrative Code, the nursing facility shall document the reason for the exemption in the individual's record.
- (5) If the program administrator determines that it is not required to provide a long-term care consultation to an individual under rule 173-43-03 of the Administrative Code, the program administrator shall provide documentation to the individual (or the individual's representative, if any) and to the nursing facility (if known) that identifies the exemption being met.
- (6) For an individual for whom the program administrator is required to provide a long-term care consultation, the program administrator, in consultation with the individual, shall determine whether to provide a long-term care consultation before or after admission to a nursing facility.
- (7) Information about an individual who is applying to a nursing facility or seeking

medicaid payment for a continued stay in a nursing facility may come from the individual, the nursing facility to which admission is being sought, or through the pre-admission screening and resident review process. The program administrator may access the nursing facility resident assessment data the nursing facility collects through the resident assessment instrument to identify individuals who are likely to benefit from a long-term care consultation. As used in this paragraph, "resident assessment instrument" has the same meaning as in rule 5160-3-43.1 of the Administrative Code.

(8) Concurrent assessments: The program administrator may provide a long-term care consultation to an individual that also assesses the individual's functional capabilities, so long as ODA has authorized the program administrator to assess the individual's functional capabilities, as follows:

(a) Level of care: The program administrator may incorporate the level-of-care assessment that section 5165.04 of the Revised Code requires in the long-term care consultation it provides to an individual. The individual who is subject to the level-of-care review shall comply with the requirements for the level-of-care review. The program administrator providing the level-of-care review shall comply with rules 173-43-05 and 5160-3-14 of the Administrative Code.

(b) Pre-admission screening and resident review: The program administrator may incorporate portions of the determinations that section 5165.03 of the Revised Code requires in the long-term care consultation that it provides to an individual. The individual who is subject to the pre-admission screening and resident review shall comply with the requirements for the pre-admission screening and resident review. The program administrator providing the pre-admission screening and resident review shall comply with rules 173-43-05, 5160-3-15.1, and 5160-3-15.2 of the Administrative Code.

(9) At the conclusion of the long-term care consultation, the program administrator shall provide the individual (or the individual's representative) with a written summary of options and resources discussed.

(B) General standards:

(1) When providing a long-term care consultation, the program administrator shall focus on the individual's needs, circumstances, and values and provide the individual with information about options available to meet his or her needs. At a minimum, the program administrator shall include the following

information in each long-term care consultation:

- (a) The availability of any long-term care options open to the individual.
 - (b) Sources and methods of both private and public payment for long-term care services.
 - (c) Factors to consider when choosing among the available program, services, and benefits.
 - (d) Opportunities and methods for maximizing independence and self-reliance, including support services provided by the individual's family, friends, and community.
 - (e) Support for the individual as he or she explores the range of options available, makes decisions about the appropriate services to meet his or her needs, and creates a plan of care.
- (2) The nursing facility shall not deny or limit access to the facility or a resident of the facility to any person who is attempting to provide a long-term care consultation.
 - (3) A nursing facility that has a provider agreement with the department of job and family services may only admit an individual as a resident upon receipt of evidence that the nursing facility has complied with rules 173-43-02 and 173-43-03 of the Administrative Code and that the program administrator has provided a long-term care consultation to the individual, unless rule 173-43-03 of the Administrative Code exempts the individual.
 - (4) The information the program administrator provides to an individual during a long-term care consultation is not binding. The individual may choose the long-term services and supports that best meets his or her needs.

173-43-03

Long-term care consultation program: required consultations and exemptions.

- (A) The program administrator shall provide a long-term care consultation [by telephone, video conference, or in person](#) to each individual in one or more of the following categories, unless paragraph (B) or (C) of this rule exempt the individual:
- (1) An individual who applies, or indicates an intention to apply, for admission to a nursing facility, regardless of the source of payment to be used for the individual's care in the nursing facility.
 - (2) A nursing facility resident who was admitted under a time-limited convalescent exemption or who was admitted under a categorical determination in accordance with rule 5160-3-15.1, 5122-21-03, or 5123:2-14-01 of the Administrative Code, but has since been found to require a stay in a nursing facility that will exceed the time limits specified in those rules, unless paragraph (B) or (C) of this rule exempt the individual.
 - (3) An individual who contacts the program administrator for the purpose of seeking information about options available to meet long-term care needs.
 - (4) Any individual that ODA or the program administrator identifies as being likely to benefit from a long-term care consultation.
- (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:
- (1) The program administrator has attempted to provide the long-term care consultation, but the individual (or the individual's representative) refuses to cooperate.
 - (2) The individual is to receive care in a nursing facility under a contract for continuing care, as defined in section 173.13 of the Revised Code.
 - (3) The individual has a contractual right to admission to a nursing facility operated as part of a system of continuing care in conjunction with one or more facilities providing a less-intensive level of services, including a residential care facility licensed under Chapter 3721. of the Revised Code; a residential facility licensed under section 5119.34 of the Revised Code providing accommodations, supervision, and personal care services for three to sixteen unrelated adults; or an independent living arrangement.

- (4) The individual is to receive continual care in a home for the aged that is exempt from taxation under section 5701.13 of the Revised Code.
 - (5) The individual is seeking admission to a facility that is not a nursing facility with a provider agreement under section 5165.07, 5165.511, or 5165.512 of the Revised Code.
 - (6) The individual is exempt from the requirement for a face-to-face visit, as described in rule 5160-3-14 of the Administrative Code.
- (C) The program administrator may determine that it is not required to provide a long-term care consultation to each individual in one or more of the following categories, unless the individual (or the individual's representative) requests a long-term care consultation:
- (1) The individual is being admitted to a nursing facility directly from a hospital and is expected to have a short length of stay (ninety days or less). In making this determination, the program administrator shall consider factors such as medical condition, probably 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.
 - (2) The individual has care needs clearly exceeding the services available to the individual in an alternative setting to the nursing facility. 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.
 - (3) The individual has been admitted to a nursing facility under a convalescent exemption from the pre-admission screening and resident review, under a time-limited categorical PAS-SMI defined in rule 5122-21-03 of the Administrative Code, or under a time-limited categorical PAS-MR/DD determination defined in rule 5123:2-14-01 of the Administrative Code,.
 - (4) The individual received an in-person long-term care consultation from the program administrator within the previous one hundred and twenty days.
- (D) The program administrator may provide a long-term care consultation [by telephone](#).

video conference, or in person, 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.

173-43-04

Long-term care consultation program: time frames.

(A) The program administrator shall complete every long-term care consultation no later than five calendar days after it receives a request for the long-term care consultation, unless the program administrator has an exemption from the five-day time frame under paragraph (B) of this rule.

(B) Exemptions:

- (1) If an individual has applied for medicaid coverage, the program administrator shall complete the long-term care consultation in accordance with the applicable time frame for providing a ~~face-to-face~~ level-of-care determination.
- (2) An individual (or the individual's representative) may request that the program administrator provide a long-term care consultation before or after the date required under paragraph (A) of this rule. In such cases, the program administrator shall provide the long-term care consultation at a time that is mutually agreed-upon between the individual (or the individual's representative) and the program administrator.
- (3) If the program administrator cannot complete the long-term care consultation before the date required under paragraph (A) of this rule, the program administrator shall provide the long-term care consultation as soon as practicable.

173-43-05

Long-term care consultation program: staff certification.

(A) Certification requirements:

- (1) Only a person that ODA certifies to provide a long-term care consultation may provide a long-term care consultation.
- (2) ODA shall only certify a person to provide a long-term care consultation who is an employee of the program administrator and who meets at least one of the following four requirements:
 - (a) The person possesses a current, valid license to practice as a registered nurse under Chapter 4723. of the Revised Code or a current, valid license to practice as a licensed social worker under Chapter 4757. of the Revised Code.
 - (b) The person possesses a current, valid license to practice as a licensed professional counselor under Chapter 4757. of the Revised Code or a current, valid license to practice in a related profession upon approval by ODA.
 - (c) The person possesses a bachelor of arts degree or a bachelor of science degree and also possesses at least one year of experience in one or both of the following:
 - (i) Providing individuals with information about options available to meet long-term care needs or providing individuals with related information such as that which is provided through information and referral, information and assistance.
 - (ii) Managed care experience or other such healthcare experience related to individuals' long-term care needs.
 - (d) The person possesses at least three years of experience in one or both of the following:
 - (i) Providing individuals with information about options available to meet long-term care needs or providing individuals with related information such as that which is provided through information and referral, information and assistance.
 - (ii) Managed care experience or other such healthcare experience related to individuals' long-term care needs.

- (3) Any person who provides ~~an in-person~~ a long-term care consultation that includes an assessment of the individual's functional capabilities, fulfills any portion of a required pre-admission screening and resident review determination, or fulfills any portion of a level-of-care review shall meet the requirements of paragraph (A)(2)(a) of this rule.
- (4) No employee of a provider of long-term services and supports shall provide a long-term care consultation.
- (5) ODA shall only certify a person to provide a long-term care consultation if, according to Chapter 173-9 of the Administrative Code, the results of database reviews on the person or the person's criminal record do not prohibit the program administrator from hiring or retaining the person in a paid direct-care position.

(B) General standards regarding certification:

- (1) ODA shall notify the program administrator the date that it certifies a person to provide long-term care consultations.
- (2) If, at any time, a certified person no longer complies with this rule, the person shall not provide another long-term care consultation until he or she complies with the rule.
- (3) Training:
 - (a) The program administrator shall train and orient each certified person. Training and orientation shall include the following topics:
 - (i) Local availability of publicly-financed and privately-financed long-term care options, programs, services, and benefits.
 - (ii) Factors to consider when choosing among available options.
 - (iii) Opportunities and methods for individuals to maximize independence and self-reliance.
 - (b) Each certified person shall successfully complete fifteen clock hours of professional development every two years beginning with the date ODA certified the person to provide long-term care consultations. The

professional development curriculum shall transmit knowledge relevant to the duties involved in providing a long-term care consultation.

- (4) For each certified person, the program administrator shall track and keep records demonstrating that the requirements of this rule are met.