

173-39-01

**Introduction and definitions.**

(A) ~~Introduction: The This rules in Chapter chapter 173-39 of the Administrative Code establish establishes criteria for the certification requirements of for persons and governmental entities to provide community-based long-term care services providers under programs administered by the Ohio department of aging the assisted living program, the choices program, or the PASSPORT program; the minimum requirements for a provider of services under those programs; disciplinary action against providers who do not maintain the minimum requirements; and appeal hearings for providers receiving disciplinary action.~~

(B) ~~As used in this chapter~~ Definitions for this chapter:

(1) ~~"ADL" means activities of daily living, including: bathing; grooming; toileting; dressing; eating; and mobility, which refers to bed-mobility, transfer, and locomotion.~~ "Activity of daily living" ("ADL") has the same meaning as in rule 5101:3-3-06 of the Administrative Code.

(2) ~~"Assessment" means an in-depth gathering of information about an individual's current situation and ability to function. It is comprehensive and identifies the individual's strengths, problems, and care needs of an individual in the following major functional areas: physical health, medical care utilization, activities of daily living ADLs, instrumental activities of daily living IADLs, mental and social functioning, financial resources, physical environment, and utilization of services and support.~~

(3) ~~"Assistance with self-administration of medication" has the same meaning as in section 3722.011 of the Revised Code.~~ means an unlicensed person assisting with self-administration of medications may do only the following:

(a) ~~Remind a consumer when to take the medication and observe to ensure that the consumer follows the directions on the container; and,~~

(b) ~~Assist a consumer in the self-administration of medication by taking the medication in its container from the area where it is stored and handing the container with the medication in it to the consumer. If the consumer is physically unable to open the container, the unlicensed person may open the container for the consumer.~~

(4) ~~"Assisted living provider" means a licensed residential care facility certified by ODA to furnish assisted living and community transition services.~~

(5)(4) ~~"Assisted living care plan" means a written plan that identifying specifies whether a consumer shall receive the services under the extent and types of services, as described in rules 173-39-02.16 and 173-39-02.17 of the~~

Administrative Code, and to what extent the provider shall provide those services to the consumer to be provided to the consumer by an assisted living provider.

~~(6)~~(5) "Authorized representative" means an adult eighteen years of age or older who is designated to act on behalf of the consumer.

~~(7)~~(6) "Caregiver" means a relative, friend, ~~and/or~~ or significant other who voluntarily provides assistance to the consumer and is responsible for the consumer's care on a continuing basis.

~~(8)~~(7) "Case management" means coordinating and monitoring the delivery of all services identified on the service plan; periodic re-evaluation of the consumer's goals and objectives for long-term care services; periodic re-determination of program eligibility; authorization of the amount, scope, and duration of long-term care services; and assisting the consumer to access needed medicaid-waiver services and other medical and social services, regardless of their source of funding source.

~~(9)~~(8) "Case manager" means the registered nurse or licensed social worker employed by ~~a regional area agency on aging PAA~~ who is responsible for the planning, coordinating, monitoring, evaluation, and authorization of ~~ODA-certified~~ medicaid-waiver funded community-based long-term care services and the non-medicaid waiver funded PASSPORT program described in section 173.40 of the Revised Code.

~~(10)~~(9) "CDJFS" means "county department of job and family services."

~~(11)~~(10) "Certification" means ~~the ODA's approval of a provider to furnish one or more of the long-term care services described in~~ under rules 173-39-02.1 to ~~173-39-02.16~~ 173-39-02.18 of the Administrative Code.

~~(12)~~ "Certified health care professional" means ~~an individual with a professional license or certificate to provide a health care service.~~

~~(13)~~ "COALA program" means ~~the home health aide training program developed and copyrighted by the council on aging of southwestern Ohio.~~

~~(14)~~(11) "Consumer" means an individual who ~~has been accepted for enrollment and is receiving ODA-certified~~ is enrolled in a medicaid-waiver program administered by ODA that provided community-based long-term care services or non-medicaid waiver PASSPORT services as described in section 173.40 of the Revised Code.

- (15) ~~"Consumer directed individual provider" means a provider who is certified to furnish consumer directed long term care services to a consumer. The consumer directed individual provider may not be a spouse, parent, or stepparent of the consumer, or serve as the consumer's legal guardian.~~
- (16)(12) "Consumer signature" means the signature or mark of the consumer or the consumer's caregiver.
- (17)(13) "Denial" means that a provider applying for certification as a long-term care service provider has been refused or not accepted.
- (18)(14) "Department" means "the Ohio department of aging."
- (19)(15) "Dietary reference intakes" ("DRI") means dietary reference intakes as a comprehensive set of nutrient reference values that are based on healthy individuals that can be used for assessing and planning individual diets. "Dietary reference intakes" are established by the food and nutrition board of the institute of medicine of the national academy of sciences.
- (20) ~~"Emergency Contact" means an individual identified by a consumer and/or caregiver to be contacted in the event of an emergency and informed about the nature of the emergency.~~
- (21)(16) "Incident" means any event that is not consistent with the routine care and service delivery for a consumer. ~~Incidents include, but are not limited to: Examples of an incident are~~ abuse, neglect, abandonment, accidents, or unusual events or situations ~~which that might may~~ result in injury to a person or damage to property or equipment. ~~Incidents~~ An incident may involve ~~consumers~~ a consumer, caregivers a caregiver (to the extent the event impacts ~~on~~ the consumer), ~~providers a provider, facilities a facility, provider or facility staff, a staff member from of ODA's regional designee, a provider, facility, PAA, ODA staff, and or~~ other administrative ~~authorities~~ authority.
- (22)(17) ~~"Instrumental activity of daily living" and "IADL" means any of the following activities: shopping; meal preparation; laundry; community access activities including telephoning, transportation, legal or financial services; and environmental activities including house cleaning, heavy chores, yard work or maintenance. ("IADL") has the same meaning as in rule 5101:3-3-08 of the Administrative Code.~~
- (23)(18) "Level of care" ("LOC") means ~~that the~~ the designation describing a ~~person's~~ consumer's functional levels and nursing needs ~~pursuant to the requirements~~

~~in~~ under rules 5101:3-3-05 to 5101:3-3-08 of the Administrative Code.

~~(24)~~(19) "Licensed practical nurse" ~~and "LPN" mean ("LPN") an individual who holds a current, valid license issued pursuant to Chapter 4723. has the same meaning as in section 4723.01 of the Revised Code.~~

~~(25)~~ "Long term care agency provider" means a legally organized entity that is certified by ODA to furnish certified long term care services and employs staff.

~~(26)~~ "Long term care non agency provider" means a provider entity that is owned and controlled by one person who is certified by ODA to furnish certified long term care services and does not employ staff.

~~(27)~~ "Mailing date" means the date that has been metered or postmarked by the United States post office.

~~(28)~~(20) "ODA" means "the Ohio department of aging."

~~(29)~~(21) "ODA's ODA's Designee" designee means the PAA for a particular ~~PSA~~ regional area agency on aging, or other entity, designated by the Ohio department of aging to administer certified long term care services funded by the department.

~~(30)~~(22) "ODJFS" means "the Ohio department of job and family services."

~~(31)~~(23) "Nursing facility" ("NF") means a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of the Ohio department of health (ODH) in accordance with Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, and is not an intermediate care facility for the mentally retarded. "Nursing facility" includes a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of ODH in accordance with Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, and is certified as a skilled nursing facility by the director in accordance with Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended has the same meaning as in section 5111.20 of the Revised Code.

(24) "PASSPORT administrative agency" ("PAA") means a public or non-profit entity that has entered into a contract with ODA to provide administrative services on behalf of ODA within a specific geographic region for medicaid waiver programs under the authority of ODA, the nonwaiver-funded PASSPORT program under section 173.40 of the Revised Code, the residential state supplement program under section 173.35 of the Revised

Code, and the long-term care consultation program under section 173.42 of the Revised Code.

~~(32) "Payroll agent" means the entity operating under contract with ODA's regional designee to facilitate payment of individual providers on behalf of the consumer for the provision of consumer-directed services.~~

~~(33)~~(25) "Plan of treatment" means a physician's orders.

(26) "Provider" means a person or entity that provides services under this chapter. There are four types of providers:

(a) "Agency provider" means a legally-organized entity that employs staff and that ODA certifies to provide one or more of the services under rules 173-39-02.1, 173-39-02.3, 173-39-02.4, 173-39-02.5, 173-39-02.6, 173-39-02.7, 173-39-02.8, 173-39-02.9, 173-39-02.10, 173-39-02.11, 173-39-02.12, 173-39-02.13, 173-39-02.14, 173-39-02.15, 173-39-02.17, or 173-39-02.18 of the Administrative Code.

(b) "Assisted living provider" means a licensed residential care facility that ODA certifies to provide services under rules 173-39-02.16 and 173-39-02.17 of the Administrative Code.

(c) "Consumer-directed individual provider" means a person who is not the spouse, parent, or stepparent of the consumer, nor serves as the consumer's legal guardian, that ODA certifies to provide one or more of the services under rules 173-39-02.2, 173-39-02.3, or 173-39-02.4 of the Administrative Code.

(d) "Non-agency provider" means a legally-organized entity that is owned and controlled by one person, that does not employ a staff, and that ODA certifies to provide one or more of the services under rules 173-39-02.5, 173-39-02.7, 173-39-02.9, 173-39-02.10, 173-39-02.12, 173-39-02.13, 173-39-02.17, or 173-39-02.18 of the Administrative Code.

~~(34) "Region" means the geographic area of Ohio in which ODA's designee administers ODA-certified long-term care services.~~

~~(35)~~(27) "Registered nurse" and "RN" mean ("RN") an individual who holds a current, valid license issued pursuant to Chapter 4723. has the same meaning as in section 4723.01 of the Revised Code.

~~(36)~~(28) "Service plan" means the written outline of ~~the consumer's~~ services that

~~are provided to a consumer, including certified long term care services and all other services~~ regardless of funding source for those services.

~~(37)~~(29) "Significant change" means a remarkable change in a consumer's health status, mood, behavior, ~~and/or~~ or demeanor that may indicate the need for a re-assessment of the consumer's needs.

~~(38)~~(30) "Special review" means a non-electronic review of documentation submitted for payment of services compared with authorization and service provision documentation.

~~(39)~~ "Sub-region" means a geographic area located within a region for the purpose of establishing unit rates as set forth in rule 5101:3-31-11 of the Administrative Code.

~~(40)~~(31) "Vocational program" means a planned series, or a sequence of courses or modules, that incorporate challenging, academic education and rigorous, performance-based ~~Skills~~ training to prepare participants for success in a particular health care career ~~field~~ or occupation.

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