



To: The Ohio Department of Developmental Disabilities

From: Ohio Provider Resource Association

Date: August 27, 2026

Re: DODD Rule 5123-2-08: Provider Certification – Agency Providers

OPRA appreciates the Department’s decision to convene a stakeholder group to review and suggest changes to this rule. OPRA believes that every person who relies on services should receive them from a great provider, and that the provider certification process is an important opportunity to establish the foundation for quality, accountability, and successful service delivery.

OPRA appreciated the opportunity to represent our more than 200 members and contribute to the Department’s work to strengthen the certification process. We also want to recognize the Department for the way this stakeholder process was conducted. This was one of the most well-run, efficient, and effective workgroups in which OPRA has participated.

We were particularly pleased to see concepts such as provisional certification and pre-certification readiness incorporated into the proposed rule. These concepts appropriately recognize that certification should not simply be a point-in-time determination, but should help ensure that providers have the knowledge, systems, and infrastructure necessary to operate successfully.

With the exception of ownership, most of our remaining comments are questions, clarifications, and recommendations for implementation or cleanup.

Definitions

(B)(7)(b) – Renewal certification

As written, this provision appears to contemplate that all providers seeking renewal certification previously held provisional certification. We recommend clarifying this provision so that it also appropriately applies to providers that were already certified when the new rule takes effect and therefore did not go through the proposed provisional certification process.

(B)(21) – Owner



OPRA appreciates the Department’s effort to establish a clear definition of “owner” and eliminate some of the repetitive language included in earlier drafts. We do, however, have significant concerns about the breadth of the proposed definition and, more importantly, the requirements that flow from that definition.

We want to be clear that OPRA recognizes the importance of ownership. Owners have an important role in establishing organizational direction, ensuring fiscal responsibility, and creating the conditions necessary for a provider to deliver high-quality services. We support appropriate accountability for individuals who have a meaningful ownership interest in a provider.

Our concern is that the proposed rule does not sufficiently distinguish between **ownership and operational responsibility**. The rule appropriately places substantial requirements on the director of operations, the individual who is responsible for and directly and actively involved in the overall management and day-to-day operations of the agency provider. We believe that distinction should be maintained throughout the rule.

The proposed definition could encompass a wide range of ownership structures, including national or multi-state organizations, private equity arrangements, corporate ownership structures, and other entities in which an individual owner may have little or no involvement in the day-to-day operation of an Ohio provider. It could also encompass individuals who do not live in Ohio and may have no direct involvement with Ohio’s developmental disabilities service system.

For example, it is difficult to identify the policy rationale for requiring an owner of a multi-state corporation who resides outside Ohio and has no operational involvement with the Ohio agency to complete a six-hour Ohio-specific pre-certification readiness course, enroll in Ohio’s Rapback system, or otherwise satisfy requirements designed to ensure competency in the operation of an Ohio provider. The proposed pre-certification course itself covers highly operational topics, including workforce management, internal compliance, provider systems, Ohio administrative rules, service delivery requirements, and Medicaid program integrity.

Accordingly, OPRA recommends aligning the definition of “owner” with the definition used by the Ohio Department of Medicaid:

“Owner” means any person having at least five per cent ownership in a noninstitutional Medicaid provider.



This approach would provide a clear and administratively workable definition while avoiding the expansion of the term to individuals whose relationship to the provider is primarily corporate, financial, or governance-related.

We further recommend that the Department distinguish between **ownership accountability** and **operational competency**. Owners should remain subject to appropriate ownership disclosure, financial, and other accountability requirements. However, requirements intended to establish competency in the operation of an Ohio developmental disabilities provider, including operational training and requirements tied to day-to-day service delivery, should apply to the director of operations or other individual with actual operational responsibility.

This distinction is particularly important given the administrative burden associated with background investigations and Rapback. The Department and providers are already experiencing significant workload associated with these systems. Requiring individuals who have no operational role in Ohio to complete these processes is unlikely to improve service quality or provider accountability and could instead divert limited Department and provider resources from the individuals who are actually responsible for operating the provider.

General Requirements

(C)(4) – Financial commitments

The phrase “fulfill financial commitments” would benefit from additional clarification. We recommend providing a clear cross-reference to the specific financial requirements elsewhere in the rule, including paragraphs (O)(1)(b) and (Q)(3)(d) and there either defining the standard (see comments below).

We also recommend that the Department provide additional guidance regarding what constitutes sufficient “proof” of compliance with this requirement (see comments below)

Ownership of the Agency Provider

(D)(1)(a)-(d)

OPRA supports appropriate background and accountability requirements for individuals who have meaningful responsibility for an agency provider. However, we do not believe the requirements in paragraphs (D)(1)(a)-(d) should apply categorically to every person who meets the definition of “owner.”



The proposed requirements, including a background investigation, Rapback enrollment, and possession of specified identity documents may be appropriate for individuals who are directly involved in operating the provider. They are substantially less connected to the Department's stated goal when applied to owners who have no operational role.

As noted above, agency providers increasingly operate under a variety of ownership structures, including multi-state organizations, corporate structures, mergers and acquisitions, and private investment arrangements. An owner may be located outside Ohio and may have no involvement in the provider's day-to-day operations.

We therefore recommend that these requirements be applied to the director of operations and other individuals with operational responsibility, rather than categorically to all owners.

(D)(3)(a)-(b)

These requirements appear more appropriately directed toward individuals responsible for the operation and management of the agency provider.

OPRA strongly supports ensuring that individuals responsible for operating Ohio providers are appropriately screened and accountable. However, the director of operations is the individual specifically defined by the rule as responsible for and directly and actively involved in the provider's overall management and day-to-day operations.

We recommend that these requirements apply to the director of operations rather than to every owner, particularly where an owner has no operational role in the Ohio provider.

(D)(6)

We question the practical value of requiring every owner to independently know and report whether they have been an owner of another agency provider whose certification was revoked or not renewed within the previous five years.

Again, OPRA supports appropriate accountability for individuals who have operational responsibility for providers. However, the breadth of the proposed owner definition means this requirement could apply to individuals whose connection to the provider is remote and whose knowledge of another organization's regulatory history may be limited.

Management of the Agency Provider

(E)(2)(b)



We recommend removing “owners” from this provision. The internal compliance program should appropriately address the individuals responsible for compliance and operation of the agency, including the director of operations and relevant staff.

Requiring an agency’s internal compliance program to account for every owner, regardless of whether that owner has any operational role, does not appear necessary to accomplish the purpose of the requirement.

Staff Training Documentation

(G)(1) and (2)

We recommend removing “owners” from the staff training plan and training documentation requirements.

The ongoing training and documentation requirements in paragraph (G), are more appropriately directed toward individuals who have an ongoing operational role within the agency. Applying these requirements to owners who have no operational involvement would create additional administrative burden without a corresponding improvement in service quality or provider accountability.

Standards of Service Provision

(H)(1)(h)(i)-(iv)

OPRA understands these notification requirements are intended to ensure that the SSA has timely information about changes affecting an individual’s services.

We would encourage the Department to consider adding comparable expectations to the SSA rule. Providers do not always know when an individual has moved, is no longer attending a day program, or has experienced another change affecting service delivery. In some circumstances, the SSA or another provider may become aware of the change before the provider responsible for the affected service.

We recognize that this issue is outside the scope of this rule. We raise it for future consideration because reciprocal communication expectations across the system would help ensure that all providers have the information necessary to appropriately serve individuals.

(H)(1)(l)(xi)



OPRA recommends additional clarification regarding this provision in the context of shared living arrangements.

The prohibition on consuming an individual's food or beverages without the individual's offer and consent may create practical challenges in shared living situations where food is routinely purchased, prepared, and consumed communally. We recommend that the Department clarify how this provision is intended to apply in shared living settings.

(H)(1)(l)(xii)

OPRA recommends adding "without the individual's consent" to this provision.

As currently written, the provision could prohibit a direct support professional from bringing a child, animal, friend, relative, or other person to an individual's residence regardless of the individual's wishes. For example, an individual may welcome a service animal or may invite a family member or friend to visit.

We recommend revising the provision to prohibit such conduct **without the individual's consent**, consistent with person-centered practices and individual choice.

(H)(2)

These requirements appear duplicative of requirements established elsewhere in the rule and/or other applicable rules. We recommend reviewing these provisions for duplication and removing requirements that are already adequately addressed elsewhere.

Requirements for Director of Operations

(I)(1)(e)(i)-(iii) – Experience

OPRA recognizes and supports the importance of ensuring that a director of operations has the knowledge and experience necessary to successfully operate an agency provider. However, we are concerned that the proposed specialized-services experience requirement may unnecessarily narrow the pool of qualified candidates.

The director of operations is responsible for overall management and day-to-day operations, including compliance, workforce oversight, program management, and financial management. The rule appropriately establishes requirements addressing these operational competencies.



We believe the requirements in paragraph (I)(1)(f), along with the applicable components of paragraph (I)(1)(g), more directly address the core competencies necessary for a successful director of operations.

A strong business or organizational leader should not necessarily be excluded from serving as a director of operations simply because their prior experience was outside the developmental disabilities system. The pre-certification readiness course also provides an opportunity to establish baseline knowledge of Ohio's developmental disabilities system, person-centered practice, individual rights, compliance, service delivery, and other system-specific requirements.

We therefore recommend reconsidering the specialized-services experience requirement in paragraph (I)(1)(e) so that it does not unnecessarily limit the pool of skilled leaders capable of running exceptional, accountable organizations.

(I)(1)(g)(ii)(b)

We do not understand how four years of experience providing care to a family member would establish the business, management, or organizational competencies necessary to serve as a director of operations.

While lived experience and experience supporting individuals with developmental disabilities are valuable, they are distinct from the management competencies required of a director of operations. We recommend removing this provision and relying instead on the management, supervisory, program oversight, and financial-management experience requirements established elsewhere in paragraph (I).

Required Actions and Notifications Regarding Director of Operations

(J)(5)(a)-(d) and (8)

OPRA members have raised significant questions regarding the implementation of these provisions, particularly as they relate to a provider's designation of a backup or interim director of operations.

Many providers already designate a backup director of operations in PNM. We recommend that the Department clarify:

- Whether an individual already identified in PNM as a backup or designee will satisfy these requirements;



- What additional application or approval is required when that individual assumes executive authority;
- What the Department expects providers to do in an emergency situation, such as the sudden death, incapacity, or departure of the director of operations; and
- How the thirty-day temporary delegation provision interacts with the requirement to identify and approve a new director of operations.

Clear implementation guidance will be particularly important because providers may need to respond to unexpected vacancies immediately while maintaining continuity of services.

(J)(6)

Would the Department consider notifying the affected agency providers when an individual reports serving as director of operations for multiple agencies?

An agency may not know that its director of operations is serving in that capacity for another agency or may not have agreed to such an arrangement. Providing notice to the affected agencies would support transparency and allow them to determine whether the arrangement is consistent with their own expectations and operational needs.

Procedure for Obtaining Initial Agency Provider Provisional Certification

(O)(1)(b) – Financial resources

OPRA supports the Department’s objective of ensuring that new providers have sufficient financial resources to maintain operations and meet financial obligations during the start-up period.

We would support increasing the \$10,000 threshold and/or tying the requirement to anticipated revenue or projected operating expenses. A \$10,000 reserve or line of credit may provide very little operating capacity depending on the size of the organization, anticipated payroll, and services to be provided.

A financial-responsibility standard should be meaningful enough to demonstrate actual capacity for operational continuity without creating an arbitrary threshold that may be inadequate for some providers and unnecessarily burdensome for others.

(O)(1)(k)

We recommend removing owners from this requirement consistent with our comments above regarding owner requirements.



The director of operations is the individual responsible for the provider's overall management and day-to-day operations and is already subject to background investigation and Rapback requirements.

(O)(4)(b)

We recommend removing "owner" from this provision.

The Department's ability to extend the application review period based on information involving an owner could significantly delay certification based on circumstances involving an individual who may have no operational involvement with the applicant. The rule should focus enhanced review on individuals whose conduct is reasonably connected to the provider's operation and the quality and safety of services.

Procedure for Obtaining Renewal Certification

(Q)(3)(d)(i)

OPRA appreciates the Department's recognition that financial sustainability is an important component of provider accountability and continuity of services.

We request further clarification regarding how "operating reserves sufficient to maintain operations for at least thirty calendar days" will be measured and demonstrated.

OPRA would support an objective attestation, such as:

"Thirty days cash on hand,"

or

"Cash or cash equivalents sufficient to cover one month of average operating expenses, calculated based on the preceding twelve months."

An objective standard would provide greater consistency for providers and the Department and reduce uncertainty regarding what constitutes sufficient documentation.

Appendix A – Pre-Certification Readiness Course

OPRA supports the concept of a pre-certification readiness course and believes this is an important improvement to the certification process. The course appropriately focuses on the knowledge and systems necessary to successfully operate an agency provider,



including governance and administration, workforce management, internal compliance, provider systems, Ohio rules, person-centered practice, individual rights, service delivery, and Medicaid program integrity.

However, consistent with our comments above, we recommend that the course be required for the director of operations rather than categorically for every owner.

The Department should focus this competency requirement on the individual who is responsible for and directly and actively involved in the day-to-day operation of the Ohio provider. Owners should remain appropriately accountable for ownership, governance, financial, and other responsibilities applicable to their role, but the operational competency requirements should be commensurate with actual operational responsibility.

Appendix B – Training Requirements for Owners of Agency Providers

OPRA recommends removing Appendix B and the requirement that every owner complete the pre-certification readiness course.

We support appropriate accountability for owners and recognize that ownership can have a significant impact on an organization's financial sustainability, governance, and culture. However, the proposed requirements conflate ownership with operational responsibility.

The Department has already established a separate and substantially more targeted set of requirements for directors of operations, including qualifications, management experience, training, background investigation, Rapback enrollment, and ongoing training.

That is the appropriate place to establish operational competency.

If the Department believes additional requirements for owners are necessary, we recommend that those requirements be narrowly tailored to the owner's actual role, for example, ownership disclosure, financial accountability, and appropriate screening for individuals with a meaningful controlling interest, rather than requiring all owners, regardless of their involvement in Ohio operations, to complete operational training.

In particular, the current Appendix B would require an owner who acquires an ownership interest after an application has been submitted to complete the readiness course within thirty days of becoming an owner. This could create substantial practical challenges in situations involving mergers, acquisitions, corporate restructuring, or changes in ownership involving individuals who are not involved in the Ohio provider's operations.



Appendix C – Training Requirements for Directors of Operations

(B)(1)

OPRA recommends that the training required under this provision be department provided or department approved, while allowing directors of operations flexibility to obtain the required training through the provider or training organization of their choice.

The Department should establish the competencies and content that must be covered, but providers should be able to meet those requirements through a variety of training opportunities, including training offered by provider associations and other qualified organizations.

This approach would maintain consistency and accountability while avoiding the need for providers to seek an individual waiver or permission from the Department each time they participate in an otherwise appropriate training opportunity. If a training has been approved by the Department as meeting the requirements of this paragraph, providers should be able to rely on that approval without having to obtain additional permission on an annual or case-by-case basis.

Conclusion

OPRA appreciates the Department's work to strengthen the agency provider certification process. We believe the proposed rule represents a significant step forward, particularly through the introduction of provisional certification and pre-certification readiness.

Our recommendations are intended to help the Department maintain a clear distinction between **who owns a provider and who is responsible for operating it**. Both roles matter, and both should be appropriately accountable. However, the requirements imposed by the certification rule should be proportionate to the individual's actual role and responsibility.

For the operational and competency requirements in particular, OPRA recommends focusing on the director of operations, the person responsible for and directly and actively involved in the day-to-day management of the Ohio provider. This approach would preserve meaningful accountability while avoiding requirements that are unlikely to improve quality, create significant administrative burden, and may be impractical for complex or multi-state ownership structures.

We appreciate the Department's consideration of these comments and its continued partnership with stakeholders to develop a certification process that establishes the strongest possible foundation for great providers in Ohio.

