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# OHIO LEGISLATIVE SERVICE COMMISSION

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**H.B. 265\***  
**133<sup>rd</sup> General Assembly**

## Occupational Regulation Report

[Click here for H.B. 265's Bill Analysis / Fiscal Note](#)

**Primary Sponsor:** Reps. Arndt and Howse

**Impacted Professions:** Health care professionals

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LSC is required by law to issue a report for each introduced bill that substantially changes or enacts an occupational regulation. The report must: (1) explain the bill's regulatory framework in the context of Ohio's statutory policy of using the least restrictive regulation necessary to protect consumers, (2) compare the regulatory schemes governing the same occupation in other states, and (3) examine the bill's potential impact on employment, consumer choice, market competition, and cost to government.<sup>1</sup>

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### Summary of Proposed Regulations

The bill establishes a voluntary government certification for individuals — likely health care professionals — who provide care to patients with dementia, Alzheimer's disease, or related disorders. To obtain a "dementia care certificate," an individual must complete a course of study in dementia care approved by the Department of Aging, submit a completed application to the Department, and pay a license fee.

The content of the application, license and renewal fees, duration of the certificate, and provisions for suspension or revocation are prescribed by rule of the Department. The dementia care course or training must include all of the following topics:

- Expectations of health care providers when caring for individuals with dementia;
- Person-centered training and care planning, including cultural awareness;

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\*This report addresses the "As Introduced" version of H.B. 265. It does not account for changes that may have been adopted after the bill's introduction.

<sup>1</sup> R.C. 103.26, not in the bill.

- Social and physical environment characteristics that trigger or exacerbate behavioral and psychological symptoms of dementia;
- Meaningful and engaging activities for individuals with dementia;
- Pain assessment;
- Medication management;
- Family dynamics for families with a member who has dementia;
- General information about dementia;
- How to assist an individual with dementia with daily living activities, including evaluating preferences and goals;
- Problem-solving challenging behavior from an individual with dementia, including nonpharmacological intervention;
- Communication skills relating to individuals with dementia.

The bill prohibits individuals from referring to themselves as certified in “dementia care,” “dementia practitioner,” “certified Alzheimer’s disease practitioner,” or “certified in Alzheimer’s care” without obtaining a dementia care certificate.<sup>2</sup>

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## **Least Restrictive Regulation Comparison**

### **Ohio’s general regulatory policy**

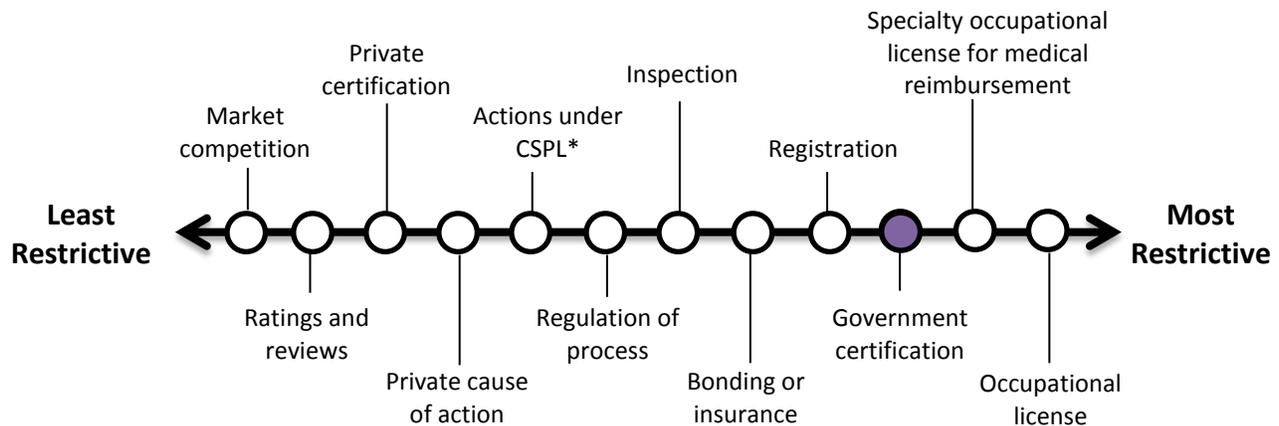
The general policy of the state is reliance on market competition and private remedies to protect the interests of consumers in commercial transactions involving the sale of goods or services. For circumstances in which the General Assembly determines that additional safeguards are necessary to protect consumers from “present, significant, and substantiated harms that threaten health, safety, or welfare,” the state’s expressed intent is to enact the “least restrictive regulation that will adequately protect consumers from such harms.”<sup>3</sup>

The degree of “restrictiveness” of an occupational regulation is prescribed by statute. The following graphic identifies each type of occupational regulation expressly mentioned in the state’s policy by least to most restrictive:

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<sup>2</sup> R.C. 173.07, 173.071, 173.072, and 173.073.

<sup>3</sup> R.C. 4798.01 and 4798.02, not in the bill.



\*CSPL – The Consumer Sales Practices Law

## Necessity and restrictiveness of regulation

The state’s policy stipulates that a government certification is an appropriate means to “protect consumers against asymmetrical information between the seller and buyer,” unless “suitable, privately offered voluntary certification of the relevant occupation is available.”<sup>4</sup> The bill’s sponsors have not yet identified the public health, safety, or welfare concerns that led to the proposed regulation. Therefore, it is not yet certain whether the policy objectives served by the bill are consistent with the types of public health, safety, and welfare concerns that merit a voluntary certification under the state’s policy.

There are a number of private certifications available to individuals who provide care to patients with dementia, Alzheimer’s disease, or related disorders. For example:

- CARES Dementia Specialist (C.D.S.) Credentialing Program (HealthCare Interactive);<sup>5</sup>
- essentiALZ Certification (Alzheimer’s Association);<sup>6</sup>
- Certified Alzheimer Caregiver (C.A.C.) and Certified Alzheimer Educator (C.A.Ed.) (National Certification Board for Alzheimer & Aging Care);<sup>7</sup>
- Dementia Care Specialist and Advance Dementia Care Specialist (Crisis Prevention Institute);<sup>8</sup> and
- Certified Dementia Practitioner, Certified Dementia Care Manager, Certified First Responder Dementia Trainer, Certified Montessori Dementia Care Professional, Certified First Responder – Dementia Trained, Certified Personal Care and Home Care

<sup>4</sup> R.C. 4798.02(B)(5), not in the bill.

<sup>5</sup> See, <https://www.hcinteractive.com/1>.

<sup>6</sup> See, <https://www.alz.org/professionals/professional-providers/dementia-care-training-certification>.

<sup>7</sup> See, <https://ncbac.net/content/certifications>.

<sup>8</sup> See, <https://www.crisisprevention.com/What-We-Do/Dementia-Care-Specialists/Dementia-Care-Specialist-Certification>.

Professional, Certified Correctional Personnel Dementia Trainer, and Certified Dementia Trained Correctional Personnel (National Council of Certified Dementia Practitioners).<sup>9</sup>

Whether these private certifications are suitable to serve the sponsors' objectives is a policy judgment.

## **Other regulatory policies**

Ohio law does not contain a general statement explaining the state's intent in regulating health care professionals who provide care to patients with dementia, Alzheimer's disease, or related disorders. Nonetheless, health care professionals who work in that field and their employers are subject to a number of education and training-related regulations under continuing law. For example, licensed nursing homes and residential care facilities are required to conduct training and competency evaluations for all nurse aides who work in the facility.<sup>10</sup> If the facility has a unit that specializes in dementia care, it must provide regular in-service training to nurse aides that address the specific needs of that unit.<sup>11</sup>

The Director of Aging is required, under continuing law, to distribute dementia training materials to health care professionals who assist in the care or treatment of persons with dementia. The Director, to the extent funds are available, must also administer respite care programs and supportive services for persons who have dementia, their families, and their care givers. The statutorily prescribed purposes of these programs include "preventing or reducing inappropriate institutional care" and giving "persons who normally provide care or supervision for a person who has dementia relief from the stresses and responsibilities that result from providing such care."<sup>12</sup>

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## **Impact Statement**

### **Opportunities for employment**

Since the certification created by the bill is voluntary, it may not directly restrict overall opportunities for employment. However, if employers choose to open access to some jobs or promotions only to certificate holders, it may create a two-tiered hierarchy among caretakers. Those caretakers who are able to obtain the certification through completing the approved course of study and paying the fee, may see their opportunities for employment increase; whereas those not receiving certification may see their opportunities for employment decrease. The impact of the bill will depend on fees and training requirements established in rule. Private certification programs currently vary significantly in cost and duration, with some

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<sup>9</sup> See, <https://www.nccdp.org/>.

<sup>10</sup> R.C. 3721.28.

<sup>11</sup> Ohio Administrative Code (O.A.C.) 3701-17-07.1

<sup>12</sup> R.C. 173.04; See also, Ohio Department of Aging, "Alzheimer's Disease Education Resources," available at <https://aging.ohio.gov/EducationCenter#631561-cares-training-for-ohio-area-agencies-on-aging>.

as low as \$100 for a 29-hour online course,<sup>13</sup> and others as high as \$2,200 for a three-day in-person instructor-led certification course.<sup>14</sup>

## **Consumer choice**

Because the bill does not mandate that caretakers obtain dementia care certification, the bill is unlikely to significantly reduce the total number of caregivers available; however, creation of a government certification program may result in a two-tiered system where certified caregivers receive higher rates for care.

## **Market competition**

While certifications are not required for caretakers, the creation of a dementia care certification may result in pressure on providers to hire certified caretakers, potentially increasing the costs associated with providing care.

## **Cost to government**

For any potential costs to government see the [LBO fiscal note](#).

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<sup>13</sup> <https://www.careandcompliance.com/popular-courses/dementia-care-training/dementia-care-certification.html> and <https://www.hcinteractive.com/CDS>.

<sup>14</sup> <https://www.crisisprevention.com/Training-and-Events/Dementia-Capable-Care-11-05-2019-Wichita-KS-US>.

## STATE BY STATE COMPARISON

Of the surrounding states, none offers or requires an individual to hold a government-issued certification in dementia care to care for patients with dementia or related disorders. The states, including Ohio, instead require the operators or owners of long-term care or similar residential facilities to ensure staff members are properly trained to provide care to patients with dementia, Alzheimer’s disease, or related disorders.

Government-Issued Dementia Care Certifications					
State	Fee	Regulated entity	Who is required to receive training?	Content of training	Duration of training
Ohio – proposed dementia care certificate	To be determined in rules adopted by the Department of Aging.	Individual health care professionals, determined by the Department of Aging.	Individual health care professionals seeking certification.	To be determined in rules adopted by the Department of Aging, but must include the following: <ol style="list-style-type: none"> <li>1. Expectations of health care providers when caring for individuals with dementia;</li> <li>2. Person-centered training and care planning, including cultural awareness;</li> <li>3. Social and physical environment characteristics that trigger or exacerbate behavioral and psychological symptoms of dementia;</li> <li>4. Meaningful and engaging activities for individuals with dementia;</li> <li>5. Pain assessment;</li> <li>6. Medication management;</li> <li>7. Family dynamics for families with a member who has dementia;</li> </ol>	To be determined in rules adopted by the Department of Aging.

Government-Issued Dementia Care Certifications					
State	Fee	Regulated entity	Who is required to receive training?	Content of training	Duration of training
				8. General information about dementia; 9. How to assist an individual with dementia with daily living activities, including evaluating preferences and goals; 10. Problem-solving challenging behavior from an individual with dementia, including nonpharmacological intervention; 11. Communication skills relating to individuals with dementia.	
Ohio – current law <sup>15</sup>	N/A	Long-term care facilities (LCF).	Nurse aides employed by an LCF.	As part of a required 75-hour training program, training in Alzheimer’s disease, dementia, mental illness, or intellectual disability and nonelderly persons with other disabilities.  For nurse aides employed in dementia care specialty units, in-service training related to dementia care.	Not specified.

<sup>15</sup> O.A.C. 3701-17-07.1.

Government-Issued Dementia Care Certifications					
State	Fee	Regulated entity	Who is required to receive training?	Content of training	Duration of training
Indiana <sup>16</sup>	N/A	Comprehensive care facilities and residential care facilities.	Facility directors, nurse aides, and other staff providing services to residents in these facilities.	<p>Directors: learn to meet the needs or preferences, or both, of cognitively impaired residents and gain understanding of the current standards of care for residents with dementia.</p> <p>Other personnel:</p> <ol style="list-style-type: none"> <li>1. Techniques for addressing the unique needs and behaviors of individuals with dementia.</li> <li>2. Communicating with cognitively impaired residents.</li> <li>3. Understanding the behavior of cognitively impaired residents.</li> <li>4. Appropriate responses to the behavior of cognitively impaired residents.</li> <li>5. Methods of reducing the effects of cognitive impairments.</li> </ol>	<p>Directors: 1 year prior experience with dementia or Alzheimer's residents prior to employment, 12-hours training at initial employment, and 6-hours annual training thereafter.</p> <p>Other personnel: 6 hours of dementia-focused training at initial employment and 3-hours annual training thereafter.</p>

<sup>16</sup> 410 Indiana Administrative Code 16.2-3.1-13, 16.2-5-1.3, and 16.2-5-1.4.

Government-Issued Dementia Care Certifications					
State	Fee	Regulated entity	Who is required to receive training?	Content of training	Duration of training
Kentucky <sup>17</sup>	N/A	LCFs, personal care home, and day respite care programs.	Staff and managers at facilities.	<p>Assisted living personnel: orientation training on dementia.</p> <p>Dementia care LCF personnel: facility policies, etiology and treatment, disease stages, behavior management, and residents' rights.</p> <p>Day respite care personnel: causes and manifestations of dementia, managing clients with dementia, crisis intervention with combative clients, and effects of dementia on the caregiver.</p>	<p>Assisted living personnel: not specified.</p> <p>Dementia care LCF personnel: 8 hours as part of orientation and 5-hours annual training.</p> <p>Day respite care personnel: 34-hours training within first 3 months' employment.</p>
Michigan <sup>18</sup>	N/A	LCFs specializing in dementia care	N/A	<p>Specialized LCFs must provide to staff and patients a written statement that includes the following:</p> <ol style="list-style-type: none"> <li>1. The overall philosophy and mission reflecting the needs of patients or residents with Alzheimer's disease or a related condition.</li> </ol>	N/A

<sup>17</sup> Kentucky Revised Statutes 194A.719 and 216B.072; 910 Kentucky Administrative Regulations 1:150.

<sup>18</sup> Michigan Compiled Laws Annotated 333.20178.

Government-Issued Dementia Care Certifications					
State	Fee	Regulated entity	Who is required to receive training?	Content of training	Duration of training
				2.The process and criteria for placement in, or transfer, or discharge from a program for patients or residents with Alzheimer’s disease or a related condition. 3.The process used for assessment and establishment of a plan of care and its implementation. 4.Staff training and continuing education practices. 5.The physical environment and design features appropriate to support the function of patients or residents with Alzheimer’s disease or a related condition. 6.The frequency and types of activities for patients or residents with Alzheimer’s disease or a related condition. 7.Identification of supplemental fees for services provided to patients or residents with Alzheimer’s disease or a related condition.	

Government-Issued Dementia Care Certifications					
State	Fee	Regulated entity	Who is required to receive training?	Content of training	Duration of training
Pennsylvania <sup>19</sup>	N/A	Personal care homes and assisting living residences.	Administrators and direct-care staff at these facilities.	<p>Personal care home staff training: dementia, cognitive impairments, and other related matters.</p> <p>Assisted living residence staff training: dementia care and services. For direct care providers in specialized units, training also includes: an overview of Alzheimer's disease and related dementias, managing challenging behaviors, effective communications, assistance with activities of daily living, and creating a safe environment.</p>	<p>For personal care home workers in specialized dementia care settings, 6 hours annually dedicated to dementia care. For other staff, unspecified.</p> <p>For assisted living residence staff in specialized dementia direct care, 8 hours of initial training and 8 hours of annual training on dementia care. For other staff, unspecified.</p>

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<sup>19</sup> 55 Pennsylvania Code 2600.236, 2600.64, 2600.65, 2800.236, and 2800.69.