MEMORANDUM

TO: Tom Simmons, Policy Manager and Regulatory Ombudsman, Ohio Department of Aging

FROM: Sydney King, Regulatory Policy Advocate

DATE: October 2, 2013

RE: **CSI Review- Updating References and Cleaning-Up Language (Rules 173-3-06, 173-13-04, 173-14-01, 173-43-01, 173-43-02, 173-43-03, 173-43-04, 173-43-05, 173-44-04, 173-45-01, 173-45-08, and 173-50-01)**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This rule package consists of 12 amended rules being submitted by the Ohio Department of Aging (ODA). The rule package was filed with the CSI office on August 15, 2013 and the comment period for the rule closed on September 1, 2013. No comments were received during the public comment period.

The rules amended regulate adult care and long term care services. The proposed amendments provide clarity; update references to changed rules within the Ohio Administrative Code; and update sections in order to correspond with Ohio Revised Code changes.

According to the BIA, the Agency reached out to stakeholders to discuss the changes and to gather information about how the change will impact the industry. Stakeholders responded stating that they do not have any issues with the proposed changes. During the public comment period, ODA received no comments from providers or any other members of the public.

ODA provided a revised BIA to CSI in order to clarify the impact of a proposed amendment. Rule 173-43-05 is amended to state "ODA shall only certify a person to provide a long-term care consultation if, according to Chapter 173-9 of the Administrative Code, the person's criminal record does not disqualify the person from being employed in a direct-care position." According to ODA, this unburies a requirement to conduct checks on all applicants under final consideration for employment, as well as all current employees, who hold direct-care positions. ODA states this is not a new requirement because all consultants already undergo such criminal records checks. Additional outreach was performed to ensure that this did not create a new adverse impact.

ODA provided a second revised BIA on October 1st, 2013. The revised BIA is amended to reflect recent changes to the rule numbers. The Department of Job and Family Services' Office of Medicaid is now the Ohio Department of Medicaid and the Legislative Service Commission assigned new numbers to the related Medicaid rules.

Each rule, in its entirety, has an impact on businesses. These rules establish a framework of regulations placed on industry members active in adult care and long term care services. However, because the rules are not being reviewed under the five-year requirement of ORC 119.032, ODA was only required to analyze the impact of the amended changes to the rules.

The CSI Office is not suggesting any changes with respect to the rules or the BIA for the following reasons:

- The amendments do not have an adverse impact on business.
- No comments were received from the public during the public comment period.
- The BIA submitted by ODA is accurate and complete and does not raise any ongoing issues.
- Generally, the rule package satisfactorily meets the standards espoused by the CSI Office.

Recommendation

For the reasons explained above, this office does not have any recommendations regarding this rule package.

Conclusion

Based on the above comments, the CSI Office concludes that the Department should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office