MEMORANDUM

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

FROM: Sydney King, Regulatory Policy Advocate

DATE: September 3, 2015

RE: **CSI Review – Long-Term Care Consumer Guide (OAC 173-45-01, 173-45-03, 173-45-04, 173-45-05, 173-45-06, 173-45-06.1, 173-45-06.2, 173-45-07, 173-45-08, 173-45-09, and 173-45-10)**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (O.R.C) 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

The Ohio Department of Aging (ODA) submitted to the CSI Office eleven amended[1] rules being reviewed under the five-year review process required by statute. The rule package was submitted to the CSI Office on July 6, 2015, and the comment period for the rules closed on July 19, 2015. ODA submitted a revised BIA on August 6, 2015 that reflects stakeholder input during the CSI public comment period.

ODA administers an online long-term care consumer guide that allows visitors to search long-term care providers by area and services. The consumer guide provides details about the facility's services, the staff-consumer ratio, information on regulatory compliance, and consumer satisfaction survey results. Members of the long-term care industry, specifically nursing homes

[1] Rule 173-45-01 is being amended by more than 50 percent. Therefore, the Legislative Service Commission requires that the existing rule be rescinded and replaced by a new rule that has the same rule number.

and residential care facilities, are required to submit information to ODA and pay fees associated with the maintenance of the consumer guide. The consumer guide acts as a resource to individuals seeking specialized care for their special health care needs. The rules are amended to comply with recent statutory changes, and provide uniformity and clarity to the requirements.

The BIA states that ODA provided the draft language to stakeholders via email, seeking comments and suggestions. One comment was received from the Ohio Assisted Living Association (OALA) during the CSI public comment period. The comment addressed the increase in fees for residential care facilities, which is a result of recent statutory changes, and consumer privacy protection. OALA suggested the fee increase was too costly and that there also should be standards for facilities when disclosing resident information for the annual consumer satisfaction survey. ODA responded explaining the statutory justification for the fee increase and stated that the rules allow facilities to inform consumers of any resident information disclosure policies, in order to address concerns.

The BIA identifies nursing facilities and residential care facilities as the impacted industry. ODA provided a description of the fees for the impacted industry. Additional adverse impacts include costs associated with reporting requirements and maintaining information. ODA states the rules are necessary to comply with statutory requirements but also to provide consumers with an objective resource for long-term care services.

After reviewing the proposed rules and the BIA, the CSI Office has determined that the rules satisfactorily meet the standards espoused by the CSI Office, and the purpose of the rules is justified.

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