



**TO:** Kaye Norton, Ohio Department of Health

**FROM:** Sophia Papadimos, Regulatory Policy Advocate

**DATE:** November 17, 2015

**RE:** **CSI Review – Investigations of Abuse (OAC 3701-64-01, 3701-64-02, 3701-64-03, 3701-64-04, 3701-64-05)**

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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. This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

### **Analysis**

This rule package consists of five rules – four amended and one no-change – proposed by the Ohio Department of Health (ODH) pursuant to the five-year review requirement in statute. The rule package was submitted to the CSI Office on September 22, 2015 and the comment period was held open through October 22, 2015. One comment was received during this time.

This package outlines the appropriate procedures for reporting or investigating allegations of abuse or neglect in long-term care facilities. The draft rules also set forth the timeframes for both the accused to request a hearing and for the Director of Health to hold a hearing. Additionally, the proposed rules explain that if an individual is found guilty of neglect, he or she can petition ODH for the removal of the incident of neglect on the nurse aide registry one year after the incident. The rules are being amended to include definitions for sexual and physical contact and clarify what constitutes failing to contact the accused. The hearing process is also being amended, requiring the Director to hold a hearing within 60 days of the request; previously, the hearing had to be held within 120 days.

Based on the comments received from Disability Rights Ohio, the Department made amendments to the draft rules. The adverse impact described in the BIA submitted by the Department is the time required to notify ODH of any incidents of neglect or abuse. Additional impacts include the time to request a hearing and participate in a hearing (if accused). None of the comments received suggested that the rules are overly burdensome. Therefore, after reviewing the BIA and associated rules, the CSI Office has determined that the purpose of the rules is justified.

### **Recommendations**

For the reasons discussed above, the CSI Office does not have any recommendations for 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.