MEMORANDUM

TO: Trudy Rammon, Ohio Department of Job and Family Services

FROM: Christopher Smyke, Regulatory Policy Advocate

DATE: March 30, 2018

RE: **CSI Review – Children Services Licensing (OAC 5101:2-5-04.1, 5101:2-5-14, 5101:2-5-15, 5101:2-5-32, 5101:2-5-34, 5101:2-9-04, 5101:2-9-07, 5101:2-9-09, 5101:2-9-15, 5101:2-9-18, 5101:2-9-26, 5101:2-9-31, and 5101:2-9-35)**

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) 107.54, CSI has reviewed the abovementioned administrative rules and associated Business Impact Analysis (BIA). This memo represents CSI's comments to the Agency as provided for in ORC 107.54.

Analysis

On March 12, 2018 the Ohio Department of Job and Family Services (ODJFS) submitted a draft rule package consisting of one amended rule and twelve no-change rules to the CSI Office for their statutorily-required five-year review. The official public comment period closed on March 19, 2018 with no comments submitted.

Ohio Administrative Code (OAC) Chapter 5101:2-5 pertains to licensing of children services agencies and the rules under review address accreditation in lieu of certification, treatment or diagnostic services, volunteers, occupancy limits, and administrative review of case plans. The rules from OAC Chapter 5101:2-9 issue guidance to foster care residential facilities on topics such as maintenance, written plans for emergency situations, facility handbooks, recreational equipment and activities, living areas, and special programmatic requirements for behavioral management. The sole amendment in this package is a non-substantive grammatical correction in OAC 5101:2-5-32.

Prior to filing with CSI, ODJFS presented the rules to public interest groups, as well as county and private agencies through regional stakeholder meetings. ODJFS conducted its early clearance

process from January 29, 2018 through February 12, 2018 and furnished the resulting comments and responses for the CSI Office. ODJFS received comments from ODJFS licensing staff and a representative of the House of New Hope regarding criminal background checks, occupancy limits, and the overlap between the accreditation period and the ODJFS certification period. ODJFS responded to each comment, and justified their position on each topic but ultimately did not make any additional changes to the rules. No comments were received during the CSI public comment period.

The rules can be expected to impact approximately 158 private and public children services agencies. The main impact arises from the administrative time necessary to complete the documentation requirements for statutory and rule compliance. The BIA estimates that completing the accreditation process would require approximately $80-$100 based on a clerk making $8 per hour and taking 10-12 hours to complete the necessary work. In addition, an agency may have its certification revoked for not adhering to the statutorily-prescribed requirements in the rules.

The BIA justifies the adverse impacts with the health and safety of children who are placed in the care of child service agencies and foster care residential facilities. The rules serve to guide agencies and foster care residential facilities to maintain compliance with established statutory requirements. Following review of the draft rules, BIA, and stakeholder outreach, it has been determined that the standards espoused by the CSI Office have been met, and the adverse impacts of the draft rules are 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 Ohio Department of Job and Family Services should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

CC: Emily Kaylor, Lt. Governor's Office