



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Carrie Kuruc**, Director

### MEMORANDUM

**TO:** Tom Simmons, Ohio Department of Aging

**FROM:** Jacob Ritzenthaler, Regulatory Policy Advocate

**DATE:** April 8, 2020

**RE:** **CSI Review – Certification of Community-Based Long-Term Care Service Providers (OAC 173-39-02, 173-39-02.7, 173-39-02.12, 173-39-02.23, 173-39-03.5, and 173-39-04)**

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On behalf of Lt. Governor Jon Husted, 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This rule package consists of four amended rules, three new rules, and two rescinded rules proposed by the Ohio Department of Aging (ODA). This rule package was submitted to the CSI Office on February 28, 2020, and the public comment period was held open through March 12, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on February 28, 2020.

Ohio Administrative Code (OAC) Chapter 173-39 establishes certification requirements for community-based long-term care service providers. OAC 173-39-02 sets forth certification requirements for all providers through ODA, including record keeping, provider agreement maintenance, and standards for interacting with individuals receiving care. The rule is amended to update and streamline language and expand the activities which providers may not engage in while providing services. OAC 173-39-02.7 describes certification requirements specific to home medical equipment and supplies and is being amended to change the services description to “specialized medical equipment, supplies, and devices” and to reflect requirements set forth in

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OAC 5160-44-23. OAC 173-39-02.12 describes certification requirements for providers of social work counseling services. The rule includes amendments that address service payment, extend deadlines, and generally update the rule language for clarity. Due to the extent of changes to OAC 173-39-02.7 and 173-39-02.12 both are being proposed as new rules of the same rule number. OAC 173-39-02.23 addresses providers of out-of-home respite services and includes minor amendments that update service terminology. OAC 173-39-02.26 is a new rule that establishes certification requirements for providers of vehicle modification services and includes compliance requirements, and unit and rate information. OAC 173-39-03.5 sets forth military provisions for providers and includes minor language updates. OAC 173-39-04 states that providers are subject to regular structural compliance reviews and establishes timeframe for the reviews and whether they are conducted on-site or through a desk review. The rule includes amendments that adjust the employee qualification review standards.

During early stakeholder outreach, ODA sent the proposed rules to stakeholders for feedback and held interested party meetings. During this time, ODA received comments that suggested changes to business site prohibitions and clarifications to the rule language. In response to these comments, ODA made changes to the rule that allow providers to take an individual to the provider's business site in certain circumstances, as well as additional technical changes. No comments were received during the CSI public comment period.

The business community impacted by these rules includes businesses provider services through the PASSPORT program. ODA states that there were 114 providers of home medical equipment and supplies and 41 providers of social work counseling certified in 2019. The adverse impacts created by the rules include various measures that must be met to become certified and maintain certification, including maintaining provider agreements, completing background checks, and reporting system requirements. ODA states in the BIA that the rules ensure that providers of long-term care services are prepared, insured, and in compliance with standards of care.

### **Recommendations**

Based on the information above, the CSI Office has no recommendations on this rule package.

### **Conclusion**

The CSI Office concludes that the Ohio Department of Aging should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.