Ohio | Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Tom Simmons, Ohio Department of Aging

FROM: Ethan Wittkorn, Regulatory Policy Advocate

DATE: **July 28, 2020**

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 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 Ohio Department of Aging (Department) rule package consists of eleven amended rules. It was submitted to the CSI Office on June 29, 2020 as part of the statutory five-year review, and the public comment period was open through July 12, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on June 29, 2020.

The proposed rules cover the Long-Term Consumer Care Guide (Guide) and its content, features operation, and administration. This Guide is published on the Department's website to be used as a resource for long-term care facilities, such as nursing facilities, residential care facilities, and class II residential facilities under the Department of Mental Health and Addiction Services. Amendments are proposed to update language, references, and rule titles, and to remove requirements that a facility list the percentage of agency pool staff used to provide care.

During the period of early stakeholder outreach, the Department posted the proposed rules on its

website to encourage stakeholders to submit comments. Additionally, the Department sent emails requesting comments to representatives of Senior Health Sciences, Inc., LeadingAge Ohio, Ohio Assisted Living Association, and the Ohio Health Care Association. The Department did not receive any comments during the early stakeholder outreach period or the CSI public comment period.

Impacted communities include all of Ohio's nursing facilities, residential care facilities (RCF), and residential facilities. Potential adverse impacts of the rules include reporting requirements of specialized services, policies, staffing, quality, and bed capacity. Additionally, fees associated with the rules include annual fees of $650 for nursing facilities and $350 for RCFs. Lastly, failure to pay fees or comply with the rules may result in penalties. The Department states that the rules are necessary to implement an effective Guide and to collect the fees required by ORC 173.48.

Recommendations

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

Conclusion

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