

# CSI - Ohio

## The Common Sense Initiative

### Business Impact Analysis

Agency Name: Ohio Department of Insurance  
Regulation/Package Title: Regulation of Third Party Administrators  
Rule Number(s): 3901-8-05  
  
Date: April 22, 2013

Rule Type:

☐ New

☒ 5-Year Review

☐ Amended

☒ No Change

☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

*Please include the key provisions of the regulation as well as any proposed amendments.*

***The purpose of this rule is to define the requirements for licensing and regulation of third party administrators.***

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

***3901.041, 3959.01 to 39059.16, and 3959.99 of the Revised Code.***

3. Does the regulation implement a federal requirement? ☐ Yes ☒ No

Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

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☐ Yes    ☒ No

*If yes, please briefly explain the source and substance of the federal requirement.*

***Not applicable.***

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

***Not applicable.***

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

***The original purpose of this rule was to establish a framework of guidelines that third party administrators must adhere to in order to conduct business in the state of Ohio.***

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

***The Department will receive fewer complaints from consumers regarding the actions of third party administrators.***

### **Development of the Regulation**

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation. *If applicable, please include the date and medium by which the stakeholders were initially contacted.*

***In January 2013, an email requesting comment on the rule was sent to the general public, various stakeholders, interested parties, and trade associations who signed up for updates on the Department's rules and bulletins. The Department also reached out to the Ohio Association of Health Plans (OAHP), America's Health Insurance Plans (AHIP), the Ohio Association of Health Underwriters (OAHU), and the Professional Independent Agents Association (PIAA). The rule was also posted on the Department's web site for review.***

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

***This rule was reviewed as part of the five year rule review. Department staff decided that the rule should not be changed. The Department received no comments on the rule from industry or the general public.***

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

*Not applicable.*

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

*This rule is based upon the current NAIC model and provides consistent regulatory requirements for third party administrators.*

11. Did the Agency specifically consider a performance-based regulation? Please explain.  
*Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

*Not applicable.*

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

*The Department reviewed Ohio statutes and rules and determined that it does not duplicate other regulations.*

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

*The rule will be applied consistently and predictably through the licensing process, which has specific standards that third party administrators must meet in order to conduct business in Ohio.*

### **Adverse Impact to Business**

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

- a. Identify the scope of the impacted business community;
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and
- c. Quantify the expected adverse impact from the regulation.

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.*

*Third party administrators and their staff will be impacted by this rule. Staff time and resources are required to comply with the rule. However, since the rule has been in effect*

*for so long and the insurance industry is already meeting the provisions of the rule, those staff and resources appear to already be in place.*

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

*The consumer benefit this rule provides outweighs the impact on third party administrators. Even if Ohio rescinded the rule, third party administrators would still be required to follow similar requirements in other jurisdictions which have adopted the NAIC model.*

### **Regulatory Flexibility**

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

*No, the rule provides important consumer protections that are critical regardless of the insurer's size.*

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

*Minor paperwork errors would be handled by pointing out the mistake to the third party administrator and giving them an opportunity to fix the error.*

18. What resources are available to assist small businesses with compliance of the regulation?

*Department staff from the Office of Product Regulation and Actuarial Services is available to answer questions.*