



## Common Sense Initiative

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

**Sean McCullough**, Director

### MEMORANDUM

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

**FROM:** Jacob Ritzenthaler, Business Advocate

**DATE:** October 5, 2021

**RE:** **CSI Review – Long-Term Care Consumer Guide (OAC 173-45-03, 173-45-06, 173-45-06.2, 173-45-09, and 173-45-10)**

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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 three amended rules and two no change rules proposed by the Ohio Department of Aging (Department). This rule package was submitted to the CSI Office on August 24, 2021, and the public comment period was held open through September 6, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on August 24, 2021.

Ohio Administrative Code (OAC) Chapter 173-45 establishes requirements for the Long-Term Care Consumer Guide, an electronic publication that offers information on different types of available long-term care facilities. OAC 173-45-03 lists the requirements for the guide's content, including disclaimers, recommendations, and facility-specific information, and is proposed without changes. OAC 173-45-06 and 173-45-06.2 describe guide pages and staffing information for individual facilities and are amended to update the electronic method of timestamping a facility's information updates. OAC 173-45-09 establishes the fees for facilities, invoicing processes, and penalties for late payment, and is amended to remove references to mailed invoices. OAC 173-45-10 requires the Department to include consumer satisfaction survey data in the guide, which

**77 South High Street | 30th Floor | Columbus, Ohio 43215-6117**  
**CSIOhio@governor.ohio.gov**

includes the types of scores presented and the calculations used. The rule is proposed without changes. Many of these changes were made as a result of research conducted for the CSI regulatory reform project using an artificial intelligence software tool.

During early stakeholder outreach, the Department sent the proposed rules to industry stakeholders for feedback. No comments were received during that time or during the CSI public comment period.

The business community impacted by these rules includes all nursing facilities, residential care facilities, and other residential facilities. The adverse impact created by the rules includes the time spent by facilities supplying information for the consumer guide and the fees associated with operating the guide. The fees, which are established in ORC 173.48, cost \$650 annually for nursing homes and \$350 annually for residential care facilities. Type II residential facilities are not required to pay a fee. The rules also set forth penalties for late payment, which require payment of the fee at two times the amount of the fee. The Department states that the rules are necessary to ensure the provision of accurate facility information to consumers and to properly implement the statutory requirements to provide the consumer guide.

### **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.