



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Tom Simmons, Ohio Department of Aging

FROM: Jacob Ritzenthaler, Business Advocate

DATE: October 31, 2022

RE: **CSI Review – Long-Term Care Consultation Program (OAC 173-43-01 through 173-43-05)**

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 Department as provided for in ORC 107.54.

Analysis

This rule package consists of five amended rules proposed by the Ohio Department of Aging (Department). This rule package was submitted to the CSI Office on September 27, 2022, and the public comment period was held open through October 11, 2022. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on September 27, 2022.

Ohio Administrative Code (OAC) Chapter 173-43 establishes requirements for the Long-Term Care Consultation Program, which provides information to individuals regarding long-term care needs. OAC 173-43-01 lists the definitions used throughout the chapter and is amended to include a definition for "consultation" and to update language. OAC 173-43-02 sets forth general standards for providing consultations and is amended to include information regarding benefits and assistance provided by the US Department of Veterans Affairs and other congressionally chartered veterans service organizations be provided to veterans or their spouses and representatives. The rule also removes unnecessary regulatory restrictions and updates outdated methods of communication, in addition to reorganizing rule content. OAC 173-43-03 establishes the

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circumstances when a program administrator is required to provide a long-term care consultation and is amended to update the length of a stay in a nursing facility that requires a consultation, as well as removing unnecessary regulatory restrictions and duplicative language. OAC 173-43-04 sets forth deadlines for consultations and is amended to extend the deadline for consultations that fall on a Saturday, Sunday, or legal holiday and to require a record on the reason that the program administrator was unable to complete a consultation before the deadline. OAC 173-43-05 lists staff certification requirements and includes amendments that include registered nurses with a multistate license, licensed independent social workers, and licensed social workers, introduce training requirements related to consultations for veterans, and remove unnecessary regulatory restrictions and duplicative requirements. The rule is also amended to remove professional development requirements for nurses and social workers, as these licensees already complete continuing education requirements, as well as removing language related to licensed professional counselors.

During early stakeholder outreach, the Department sent the proposed rules to industry stakeholders for feedback, including professional organizations representing health care and social services providers. In response to stakeholder comments, the Department made amendments that would extend consultation deadlines that fall on a Saturday, Sunday, or legal holiday. Stakeholder feedback was also used to justify the removal of professional counselor requirements, since no programs currently utilize professional counselors in consultations. During the CSI public comment period, the Department received one comment that suggested increasing the deadline for consultations from five days to ten days. The Department included this suggestion in the proposed rule.

The business community impacted by the rules includes nursing facilities as well as program administrators. The adverse impact created by the rules includes requirements for admitting individuals and determining whether a consultation is required. The Department states that the adverse impact created by the rules is necessary to provide individuals with information regarding long-term care options.

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