



# Common Sense Initiative

Mike DeWine, Governor  
Jon Husted, Lt. Governor

Joseph Baker, Director

## MEMORANDUM

**TO:** Loretta Medved, Ohio Department of Insurance

**FROM:** Caleb White, Business Advocate

**DATE:** May 10, 2024

**RE:** CSI Review – Long-Term Care (OAC 3901-4-01 and 3901-4-02)

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 two amended rules proposed by the Ohio Department of Insurance (ODI) as a part of the statutory five-year review process. This rule package was submitted to the CSI Office on January 5, 2024, and the public comment period was held open through January 14, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on January 5, 2024.

The rules in this package set forth regulations surrounding long-term care insurance which is a product that helps to cover the costs of home care, assisted living, adult daycare, hospice care, and nursing homes for individuals with a chronic illness or disability that cannot care for themselves over the course of a long period. Ohio Administrative Code (OAC) 3901-4-01 sets forth the definitions, requirements, and standards surrounding the long-term care insurance product, in addition to marketing and disclosure requirements insurers are to follow when they are selling long-term care insurance. Additionally, this rule also includes nine appendices containing worksheets, information, forms, letters, templates, and notices for insurers and policy holders to use in relation to the sale or purchase of long-term care insurance. This rule is amended to update and streamline language, update

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language related to reporting annual values and lifetime projections following a premium rate schedule increase, and update terminology related to dementia. OAC 3901-4-02 establishes the long-term care partnership program. This rule establishes the definitions relating to this program and the requirements insurers and plans must meet to qualify for and remain in the program. This rule also contains two appendices which contain forms related to the program. This rule is amended to update and streamline language.

During early stakeholder outreach, ODI posted the draft rules on its website and emailed stakeholders in early November 2023 informing them of a two-week comment period. The stakeholders included the Ohio Association of Health Plans, the Ohio Insurance Agents Association, the National Association of Insurance and Financial Advisors, and the Ohio Insurance Underwriters Association, in addition to insurance companies. No comments were received during this period. During the CSI public comment period, ODI received two comments. The first comment came from the American Council of Life Insurers (ACLI). The ACLI expressed concerns over a proposed change to OAC 3901-4-01 which updated requirements for reporting projections following a premium rate schedule increase. The ACLI expressed concerns that this change would make the rule inconsistent with the corresponding NAIC Long-Term Care Model Regulation which has been widely adopted by states and would make Ohio inconsistent with other states regarding long-term care insurance. In response to this comment ODI decided to remove this amendment to the rule and revert the language back to the current requirement. The second comment came from the Ohio Department of Aging which had several suggestions for language related to adult daycare, home health care, and dementia. In response to this comment ODI adopted the Department of Aging's suggestions related to dementia but elected not to adopt the other changes as they did not align with the NAIC model regulation.

The business community impacted by the rules includes insurance companies and agents that choose to sell long-term insurance care products, as well as insurance companies that choose to offer partnership qualified plans. The adverse impacts created by the rules include the time and resources required to meet the rule requirements which includes developing policy forms and rates and filing them with ODI as well as the \$50 filing fee which can be charged for each form if they are filed separately. ODI states that the adverse impacts to business are justified to provide the standards for insurers to follow for the development and solicitation of long-term care insurance policies and for the selling of long-term care partnership qualified plans; this in turn protects the state insurers and consumers, as well as provides uniformity.

### **Recommendations**

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

## **Conclusion**

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