



Common Sense Initiative

Mike DeWine, *Governor*
Jim Tressel, *Lt. Governor*

Joseph Baker, *Director*

MEMORANDUM

TO: Tom Simmons, Ohio Department of Aging

FROM: Michael Bender, Business Advocate

DATE: August 29, 2025

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)

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This rule package consists of ten amended rules and one rescinded rule proposed by the Ohio Department of Aging (Department) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on July 16, 2025, and the public comment period was held open through July 29, 2025. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on July 16, 2025.

Ohio Administrative Code (OAC) 173-45-01 contains definitions pertaining to the long-term care consumer guide that the Department publishes electronically to provide detailed information to the public on Ohio's long-term care facilities (LTCFs). This includes nursing homes, residential care facilities (RCFs), skilled nursing facility units of hospitals, and county homes certified to receive Medicare and Medicaid reimbursement. The rule is amended to remove references to Class II

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

residential facilities and add a reference to the long-term care quality navigator. OAC 173-45-03 describes the information that the Department must include in the guide. The rule is amended to remove the requirement to include the telephone numbers of government agencies and private organizations. OAC 173-45-04 outlines the information about nursing facilities and RCFs that is displayed to the public through the guide's search query page. The rule is amended to allow for the listing of payment sources besides Medicaid waiver payments that are accepted in addition to private sources, clarify that services are reported by facilities to the Department through an electronic portal, and remove the requirement for the guide to facilitate a search by keyword or facility name. OAC 173-45-05 describes the information about long-term care providers that is displayed by the guide following the execution of a search query. The rule is amended to remove the requirement for the guide to display quality data for each facility from the federal Centers for Medicare & Medicaid Services (CMS) and a reference to publishing an electronic link for each provider.

OAC 173-45-06 describes the facility page content that is found in the guide. The rule is amended to update language. OAC 173-45-06.1 provides for the description of services provided by or in affiliation with each facility listed in the guide. The rule is amended to update language. OAC 173-45-06.2 requires LTCFs to submit certain staffing information to the Department. The rule is amended to clarify that the information is submitted through an electronic portal and remove requirements for facilities to identify certain employees. OAC 173-45-07 provides for the incorporation of quality data from CMS for each facility into the guide. The rule is proposed for rescission. OAC 173-45-08 requires the guide to include Ohio Department of Health survey data for each facility. The rule is amended to replace the requirement for the guide to publish ten specific measures of information with a requirement to include references and links to resources and remove requirements for the Department to group facilities by peer groups and display a peer group average. OAC 173-45-09 authorizes the Department to collect fees related to the guide from LTCFs. The rule is amended to declare that the fees are collected for the purpose of conducting statutorily required satisfaction surveys rather than for the operation of the guide. OAC 173-45-10 requires the guide to include certain information that is derived from annual customer satisfaction surveys of each LTCF. The rule is amended to remove the requirement to use a survey audit form to confirm a facility's occupancy and the number of surveys that were distributed to the facility's customers.

During early stakeholder outreach, the Department emailed interested parties on February 13, 2025, to request recommendations for improving the rules. Stakeholders who were contacted include Catholic Social Services of the Miami Valley, LeadingAge Ohio, the Ohio Academy of Senior Health Sciences, Inc., the Ohio Adult Day Healthcare Association, the Ohio Association of Area Agencies on Aging, the Ohio Assisted Living Association, the Ohio Association of Medical Equipment Suppliers, the Ohio Association of Senior Centers, the Ohio Health Care Association (OHCA), the Ohio Council for Home Care and Hospice, Ohio Jewish Communities, and the Office of the State Long-Term Care Ombudsman. The OHCA asked if the Department had considered adding a

reference to the long-term care quality navigator. The Department replied that it would add a provision to the rules explaining that the navigator publishes information obtained from the guide and satisfies the requirements for the guide. During the CSI public comment period, the Department received a comment from an area agency on aging (AAA) requesting that the guide or the navigator indicate whether facilities have a secured Alzheimer disease or dementia care unit. The AAA also asked the Department to clarify the term “formalized wellness programs” in the rules. The Department incorporated both of these suggestions into the rules and assured the AAA that it would work to update the guide and the navigator to reflect these changes.

The business community impacted by the rules includes all Ohio nursing homes and RCFs. The adverse impacts created by the rules include the requirement to submit information to the Department regarding specialized services, policies, staffing levels, quality, and bed capacities. Additionally, each Ohio nursing facility and RCF must pay fees of \$650 and \$350 respectively, with penalties established in ORC 131.02 and 173.48 at twice the original invoiced amount for failure to pay such fees within ninety days after the deadline. The Department notes that the guide includes information about supportive living facilities, although these facilities are not required by the rules to provide such information and are not statutorily required to pay a fee. According to the Department, the proposed rule changes will reduce the amount of information that LTCFs must report. The Department states that the adverse impacts to business are justified to comply with statutory requirements, protect consumers from making long-term care decisions that are dangerous to their health, and assist consumers with special healthcare needs by ensuring accurate information about specialized services provided by Ohio LTCFs.

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.