



## MEMORANDUM

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

**FROM:** Travis Butchello, Regulatory Policy Advocate

**DATE:** December 22, 2017

**RE:** **CSI Review – Assisted Living Program - State-Funded Component (OAC 173-51-01, 173-51-04, and 173-51-05)**

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On behalf of Lt. Governor Mary Taylor, 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<sup>1</sup> proposed by the Ohio Department of Aging (ODA) pertaining to assisted living as part of the statutory five-year rule review requirement. The rule package was submitted to the CSI Office on October 26, 2017 and the public comment period was held open through November 12, 2017. No comments were received during this time.

The amended rules provide information about the State-funded component of the assisted living program. Specifically the rules let readers know which rule to comply with to become a provider for the assisted living program and without them, may not know which chapters of the ORC spell out the specific requirements. In addition, the rules also state definitions used in the Chapter. ODA wishes to amend the rules because most individuals visit rules on their website via search engines and changes to the rules will make them easier to search. The Department also wishes to

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<sup>1</sup> OAC 173-51-04 and OAC 173-51-05 are being amended to the extent that the Legislative Service Commission requires the Department to rescind the rule and replace it with a new rule of the same rule number.

delete redundant paragraphs and make necessary terminology changes.

ODA explained in the BIA that it contacted numerous assisted living associations, corporations, and other providers as part of its early stakeholder outreach process. During this time, ODA did not receive any suggestions or concerns from stakeholders regarding the draft rules.

No comments were received during the CSI public comment period.

The rules impact each ODA-certified provider of assisted living services in the state. ODA notes in the BIA that the definition rules, which are up for five-year review, do not explicitly contain provisions which would create an adverse impact on business, however they do cross-reference provisions that do. For example, the statutory definition for certified providers is not explicitly stated in 173-51-04 but that rule references ORC 173.91, which does outline the definition of a provider of assisted living services. CSI recognizes that the cross-referenced provisions to obtain licensure and comply with the assisted living standards may cause individuals to incur fees for licensure, continuing education, and administrative time for paperwork to ensure compliance. ODA explains in the BIA that these rules are necessary to ensure that other rules in the Chapter are easily understood by providers and individuals who need them.

### **Recommendation**

For the reasons explained above, the CSI Office does not have any recommendations regarding this rule package.

### **Conclusion**

Based on the above comments, the CSI Office concludes that the Ohio Department of Aging should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.