



## Common Sense Initiative

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

**Carrie Kuruc**, Director

### MEMORANDUM

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

**FROM:** Emily Groseclose, Senior Policy and Business Advocate

**DATE:** October 15, 2020

**RE:** **CSI Review – Long-Term Care Consultation Program (OAC 173-43-01, 173-43-02, 173-43-03, 173-43-04, and 173-43-05)**

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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 package contains five amended rules submitted by the Ohio Department of Aging (Department). The rule package was submitted to CSI on September 15, 2020 as part of the statutorily required five-year review process, and the public comment period was held open through September 28, 2020. No comments were received during that time. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI office on September 15, 2020.

These rules implement the Long-Term Care Consultation Program, which provides information to individuals about options available to meet their long-term care needs and factors to consider. Specifically, the rules define key terms used in the chapter, outline the process, standards, consultations, and exemptions, and establish requirements for certification to provide a consultation. Amendments incorporate flexibility allowing consultations to be conducted via telephone or video conference, which extends the options the Department adopted through emergency rules in response to the COVID-19 pandemic.

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As part of early stakeholder outreach, the Department posted the rules on its website and solicited feedback via email from the Academy of Senior Health Sciences, Ohio Health Care Association, LeadingAge Ohio, the Ohio Assisted Living Association, and the state long-term care ombudsman. One comment supporting the proposed changes was received from LeadingAge Ohio. No comments were received during the CSI public comment period.

The rules impact nursing facilities in Ohio. Under the rules, nursing facilities are required to only admit residents who have been offered a consultation, determine which individuals must be offered a consultation and report that information to the Department's program administrator, retain records when it has determined a resident is exempt from consultation, and allow consultants to enter the facility. The Department also noted an additional adverse impact, which it believes to be an indirect effect of the rules, that consultations could have on nursing facilities if the individual chooses to receive care in a home or community-based setting instead of a nursing facility, which could result in potential revenue loss for a facility.

The Department stated that the rules implement statutory requirements and ensure Ohioans are informed of their long-term care options.

### **Recommendations**

For the reasons described above, the CSI office has no recommendations on this rule package.

### **Conclusion**

Based on its review of the proposed rule package, CSI recommends that the Ohio Department of Aging proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.