

**MEMORANDUM**

**TO:** Becky Phillips, Ohio Department of Developmental Disabilities

**FROM:** Jacob Ritzenthaler, Regulatory Policy Advocate

**DATE:** March 27, 2018

**RE:** **CSI Review – Abuser Registry (OAC 5123:2-17-03)**

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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 one amended<sup>1</sup> rule proposed by the Ohio Department of Developmental Disabilities (DODD) as part of the statutory five-year rule review requirement. The rule package was submitted to the CSI Office on October 18, 2017 and the public comment period was held open through November 1, 2017.

Ohio Administrative Code (OAC) 5123:2-17-03 establishes the procedures for the placement of a developmental disabilities employee on the abuser registry maintained by DODD, as well as steps for removal from the registry upon rehabilitation. The registry consists of individual employees who have committed an offense that renders them ineligible to work in Ohio's developmental disabilities service industry. The rule is being amended to clarify portions of the rule, as well as to shorten the length of time an individual must remain in the registry before filing a petition for removal from five years to one year.

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<sup>1</sup> OAC 5123:2-17-03 is 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.

During early stakeholder outreach, DODD sent the rule to Ohio's county boards of developmental disabilities and relevant developmental disabilities service industry organizations and associations. No comments were received during this time. During the CSI public comment period, two comments were received. One comment suggested removing amended language that shortens the time an individual must spend on the list before petitioning for removal. The stakeholder stated that individuals placed on the registry should remain on the registry for five years, as originally required by the rule. DODD did not implement these changes, stating that placement on the registry can have significant impact on an individual. DODD further noted that the rule still allows for DODD to deny any petitions that do not meet its standards for rehabilitation. One comment supported the amendments to the rule.

The business community impacted by the rule includes all developmental disabilities service providers in Ohio. DODD states that the business community includes approximately 2,000 agency providers, 8,400 independent providers, and 1,100 licensed residential facilities. The adverse cost created by the rule primarily impacts providers who have been placed on the registry, as it disqualifies the individual from employment in developmental disabilities service provision for a minimum of one year. DODD states in the BIA that the rule protects Ohioans with developmental disabilities from harm by removing abusive and neglectful providers from the developmental disabilities service industry. After reviewing the proposed rule and the BIA, the CSI Office has determined that the rule satisfactorily meets the standards espoused by the CSI Office, and the purpose of the rule package is justified.

### **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, the CSI Office recommends the Ohio Department of Developmental Disabilities should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.