



# Common Sense Initiative

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

Joseph Baker, *Director*

## MEMORANDUM

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

**FROM:** Michael Bender, Business Advocate

**DATE:** August 30, 2023

**RE:** **CSI Review – Disclosures and Record Retention (OAC 3901-4-03, 3901-6-02, 3901-6-05, and 3901-6-13)**

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 three amended rules and one no-change rule proposed by the Ohio Department of Insurance (ODI) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on June 26, 2023, and the public comment period was held open through July 12, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on June 26, 2023.

Ohio Administrative Code (OAC) 3901-4-03 requires insurers to maintain records of their agents' initial training and continuing education concerning long-term care insurance. The rule is amended to update language and the rule title, add clarifying language, and include a severability provision. OAC 3901-6-02 establishes minimum standards for the form of proposals and statements used to solicit, serve, or collect premiums for life insurance sold as part of a mutual fund or other security. The rule is amended to add clarifying language and update language and citations. OAC 3901-6-05 establishes minimum standards for insurers with respect to the replacement of existing life insurance and annuities. The rule is amended to update language. Three appendices referenced in the rule are

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also provided and contain notices regarding the replacement of life insurance or annuities. OAC 3901-6-13 requires insurers to establish and maintain a system to supervise recommendations so that the insurance needs and financial objectives of consumers at the time of the transaction are met.

During early stakeholder outreach, ODI posted the draft rules on its website and emailed stakeholders in late April and early May 2023 informing them of a two-week comment period. The stakeholders included consumer groups and associations such as 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. The Association of Ohio Life Insurance Companies (AOLIC) asserted that OAC 3901-6-05 created requirements for annuities duplicative of 3901-6-13. ODI requested that AOLIC submit a red line draft indicating desired changes. Upon reviewing the red line draft from AOLIC, ODI determined that it would eliminate certain consumer protections with respect to disclosures. ODI then held a meeting with AOLIC where the latter indicated that the specific forms required by the rules were burdensome. Despite not making any changes to the rules, ODI agreed to work with AOLIC going forward to remove duplicative and unnecessary regulations while maintaining consumer protections. During the CSI public comment period, ODI received a comment from AOLIC restating its concerns regarding duplicative requirements. ODI informed AOLIC that OAC 3901-6-05 and 3901-6-13 are based off of the Life Insurance and Annuities Replacement Model Regulation and the Suitability in Annuity Transactions Model Regulation, respectively, which are published by the National Association of Insurance Commissioners (NAIC). According to ODI, the NAIC acknowledges the overlap between these two models. Consequently, ODI declined to make any additional changes to the rules.

The business community impacted by the rules includes insurance companies that sell life and annuity products as well as insurance companies and agents that sell long-term care insurance products. The adverse impacts created by the rules include providing disclosure to consumers, following minimum standards, and recordkeeping. ODI notes that companies are already meeting the provisions of the rules and will take on no additional impacts as a result of the revisions. ODI states that the adverse impacts to business are justified to prevent consumers from facing significant financial harm and ensure the proper training and education of insurance agents.

### **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.