



**Common Sense  
Initiative**

**Mike DeWine**, Governor

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## Business Impact Analysis

Agency Name: **Ohio Department of Insurance**

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Regulation/Package Title (a general description of the rules' substantive content):

**Chapter 3901-1 - Disclosures**

Rule Number(s): **3901-1-14**

**3901-1-52**

**3901-1-58**

Date of Submission for CSI Review: **June 22, 2023**

Public Comment Period End Date: **July 8, 2023, 12:00AM**

Rule Type/Number of Rules:

- |  |                                    |                                     |               |
|--|------------------------------------|-------------------------------------|---------------|
| <input type="checkbox"/> New/                | rules                              | <input type="checkbox"/> No Change/ | rules (FYR? ) |
| <input checked="" type="checkbox"/> Amended/ | <b>3</b> rules (FYR? <b>2023</b> ) | <input type="checkbox"/> Rescinded/ | rules (FYR? ) |

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

**Reason for Submission**

1. R.C. 106.03 and 106.031 requires agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the Agency determined the rule(s) create?

The rule(s):

- ☒ a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- ☐ b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- ☒ c. Requires specific expenditures or the report of information as a condition of compliance.
- ☐ d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

**Regulatory Intent**

2. Please briefly describe the draft regulation in plain language.

*Please include the key provisions of the regulation as well as any proposed amendments.*

***Rule 3901-1-14: Credit insurance is a type of insurance policy purchased by a borrower that pays off one or more existing debts in the event of a death, disability, or in rare cases, unemployment. The purpose of this rule is to provide a framework for the policies and rates of credit insurance products issued and delivered in Ohio. Proposed amendments will reduce regulatory restrictions.***

***Rule 3901-1-52: The Ohio Life and Health Insurance Guaranty Association (OLHIGA) is an association of insurance companies that sell life insurance, health insurance and annuities in Ohio. It was created by law to protect eligible policyholders, up to certain limits, against financial failure of an insurance company licensed to sell those types of policies in Ohio. The purpose of this rule is to establish the form and content of the disclaimer to a policy summary document describing the general purposes and current limitations of OLHIGA, and notice that the policy or contract, may not be covered in part or in whole, by the association. The insurance agent or company is required to provide this form to the consumer upon delivery of the insurance policy summary documents. The proposed amendments to this rule will bring the rule into compliance with SB 273, which requires updated disclosures.***

***Rule 3901-1-58: The purpose of this rule is to prescribe the standard credentialing form to be used when credentialing healthcare providers. Health insurance companies contract with healthcare providers to establish networks of available physicians for consumers. As part of***

*the contracting process, the company verifies the credentials of the provider, such as educational degrees and certifications. Since providers will often times contract with more than one company, a standard form can save providers time and money by reducing necessary paperwork. Proposed amendments will reduce regulatory restrictions and make necessary technical amendments.*

3. Please list the Ohio statute(s) that authorize the Agency to adopt the rule(s) and the statute(s) that amplify that authority.

***Rule 3901-1-14: Sections 3901.041 and 3918.12 of the Revised Code.***

***Rule 3901-1-52: Section 3901.041 of the Revised Code.***

***Rule 3901-1-58: Sections 3901.041, 3901.21, 3963.08, and 1753.09 of the Revised Code.***

4. Does the regulation implement a federal requirement? ☐ Yes ☒ No  
Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?  
☐ Yes ☒ No

*If yes, please briefly explain the source and substance of the federal requirement.*

***Not applicable.***

5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

***Not applicable.***

6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

***Rule 3901-1-14: Consumers are often times approached with offers to purchase credit insurance when making large purchases. The regulation of these products is important to ensure that safe and fair products are available in the market.***

***Rule 3901-1-52: This rule provides for an upfront disclosure to the consumer that certain protections provided for by the guaranty association may not be applied. This is an essential disclosure for consumer protection, informing consumers that their policy or claim may not be paid or covered by OHLIGA.***

***Rule 3901-1-58: The purpose of using a standardized form assists in compliance matters for healthcare providers and insurance companies alike. Ultimately, the use of a standard form assists in maintaining accountability for providers, builds consumer protections, and also reduces time for providers and insurers to comply with the credentialing process.***

7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

*The success of this rule packet can be monitored by an understanding of the requirements throughout the regulated community and the department receiving a low number of consumer complaints and investigations, and market conduct and enforcement actions.*

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931? ☐ Yes ☒ No

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

*Not applicable.*

### **Development of the Regulation**

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation. *If applicable, please include the date and medium by which the stakeholders were initially contacted.*

*For rule 3901-1-52 specifically, the department began engaging with stakeholders regarding SB273 in summer of 2022. Once the legislation passed, the department maintained communication with stakeholders while drafting the amendments to the rule. Specifically, OLHIGA who reviewed and approved of the drafted amendments prior to public vetting of the rule.*

*In late April and early May, the department sent an email to stakeholders informing them that the rules have been posted to the department webpage for a two week comment period. Drafts of the rules have remained online for review since then. 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, as well as insurance companies.*

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

*The department worked with Stakeholders during the drafting process of the amendments to rule 3901-1-52. No other comments were received.*

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

*Rule 3901-1-14: Every three years the department conducts a study and reviews the experience in this market for current rates. The department then analyzes and publishes the aggregate rates for upcoming filings. Companies then can base their rates on their own experience if they are able to demonstrate that their individual experience is credible and*

*substantially different from what aggregate industry experience was found to be during the department study.*

*Rule 3901-1-52: ORC requires the superintendent to adopt a rule establishing the form and content of the disclaimer. The established disclosure to consumers informs them of the association and its potential coverages and limitations, providing a valuable protection for consumers. The language of the disclosure was reviewed by OHLIGA and updated according to the requirements of SB273.*

*Rule 3901-1-58: The use of a standard credentialing form was established after healthcare providers were required to complete multiple and potentially repetitive forms. The council for Affordable Quality Healthcare (CAQH), a non-profit alliance of health plans and trade associations developed a standardized form. This rule prescribes the use of the CAQH form.*

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives? *Alternative regulations may include performance based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*

*This rule packet requires the use of specific disclosures and forms, these documents and guidance were developed by NAIC national models. When developing a model, the NAIC works with a subgroup consisting of representatives from multiple states. Stakeholders also provided comment as to find the right balance between consumer protection and compliance.*

13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

*The department reviewed Ohio statutes and rules and determined that these rules do not duplicate other regulations.*

14. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

*The rules included in this packet have remained in effect for many years and are currently applied across the country. Proposed amendments have been vetted to interested parties and are available on the department web page. Department staff are available to answer any questions.*

### **Adverse Impact to Business**

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:
- Identify the scope of the impacted business community; and

- b. Quantify and identify the nature of the adverse impact (e.g., fees, fines, employer time for compliance).

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.*

***Rule 3901-1-14: This rule impacts insurance companies selling credit life and credit accident and health insurance. The quantifiable impact would be employee time to maintain compliance. Since the rule establishes a framework for how products are to be filed, the time required to comply with the rule would follow with the daily operation of business.***

***Rule 3901-1-52: This rule requires an agent or insurance company to provide a disclosure form to the consumer when purchasing a life, health or annuity product. The form is readily available and well known throughout the regulated community as the rule has been in effect for over twenty-five years. Therefore, any time or costs associated with providing this disclosure to the consumer are well established in conducting everyday transactions. The time associated with replacing the current form with the proposal, would depend on the internal methods of each carrier but should not exceed a few hours.***

***Rule 3901-1-58: Health care providers described in the rule seeking to be credentialed by carriers are impacted by this rule. Staff resources will be required to complete the standardized credentialing form which is extensive. Exact time would depend on the recordkeeping of the individual. Since the rule allows for one form for all carriers, this rule saves providers more time than previous to its promulgation. This rule has been in effect for several years, and therefore, there should be no additional expense on the part of the providers as they have been in compliance with the rule.***

16. Are there any proposed changes to the rule(s) that will reduce a regulatory burden imposed on the business community? Please identify. *(Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors.)*

***These rules promote uniformity and establish predictability for insurers. Proposed amendments will reduce regulatory restrictions.***

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

***Rule 3901-1-14: This rule establishes the standards for the regulation of an insurance product. Such established frameworks are necessary to insurance companies to ensure they are delivering a fair, competitive and compliant product.***

***Rule 3901-1-52: This rule provides for a disclosure to consumers that the protections from the guaranty association may not be available or may be limited, and therefore, the***

*consumer should be aware of this when choosing an insurance company or policy. Ultimately, the rule provides an important disclosure to consumers and does not impose a significant adverse impact on the company.*

*Rule 3901-1-58: The rule requires providers to fill out one standardized credentialing form that can be used by all carriers. Before this rule was enacted, healthcare providers were often required to complete multiple forms - a form for every carrier it contracted with. This rule cuts down on duplicative paperwork. Additionally, credentialing providers verifies their status and ultimately provides consumer protection.*

### **Regulatory Flexibility**

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

*No, these rules establish forms and processes that are necessary regardless of the insurer's size. Uniformity across the industry ensures consistent application and use of the required disclosures.*

19. How will the Agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

*Paperwork violations and/or first time offender issues would be dealt with on a case-by-case basis due to the fact that these types of violations could have a serious impact on the consumer.*

20. What resources are available to assist small businesses with compliance of the regulation?

*The department maintains the product regulation and agent licensing divisions which are available to answer general industry questions.*