Ohio Association of Area Agencies on Aging

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TESTIMONY TO
JOINT COMMITTEE ON AGENCY RULE REVIEW
AGE RULE 173-2-08 AAAs: COMMERCIAL RELATIONSHIPS

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Ohio Association of Area Agencies on Aging (o4a)
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Good afternoon, Chair Callender, Chair Gavarone, and Members of JCARR. My name is Kelsey Bergfeld and I am the Chief Policy Officer of the Ohio Association of Area Agencies on Aging (o4a). Thank you for the opportunity to testify today.

O4a sincerely appreciates the engagement by JCARR members, JCARR staff, and the Department of Aging (AGE) on proposed rule 173-2-08 AAAs: Commercial Relationships. Our members continue to have significant concerns regarding the implementation of the rule and the impact the current version would have on AAA's ability to form innovative partnerships with private entities to expand vital services to older Ohioans.

As written, the rule will expand bureaucracy, delay partnerships, and discourage innovation that helps older Ohioans access critical services. As detailed below, the rule implements the corresponding federal law in a manner that is more stringent and burdensome than required and intended by the federal government and will hinder our ability to form private partnerships that expand the capacity of the aging network. Our concerns that have not been addressed and recommendations to the rule were included in our testimony submission.

Stringent and Burdensome Implementation

The rule implements a federal law or rule in a manner that is more stringent and burdensome than the federal rule or law requires.

AGE's current approval form requests more information than Administration for Community Living's minimum requirements and could conflict with nondisclosure agreements. It contradicts federal guidance that explicitly states, "Although State Units on Aging have the discretion to request to review contract documents if they deem it necessary to determine whether the contract or commercial relationship may be approved, it should not generally be necessary to do so."

The rule should follow the ACL Guidance and state that AGE may request the underlying contract or agreement documents only if risk screening indicates necessity. Generally, review of contract documents should not be required for approval.

Federal guidance also explicitly warns that state processes must be “streamlined, transparent, and not overly burdensome,” and advises that “too much caution may inhibit the provision of vital services and the sustainable growth of the aging network.”

Given our recommendations and attempts to compromise have not been accepted by AGE, **we respectfully request the effective date of 173-2-08 AAAs: Commercial Relationships be delayed until July 1, 2026.** Implementation requires new approval processes and internal procedures that AGE is still developing, and the OAA reauthorization currently pending before Congress (S.2120) may materially alter the federal framework underlying this rule. Implementing the rule prior to federal action risks requiring AAAs and the state to expend significant resources on processes that may soon need to be revised or undone. A five-month delay would allow for alignment with federal policy, completion of implementation guidance, and avoidance of unnecessary administrative and compliance costs. There has been no direction given by AGE regarding implementation of this rule or opportunities for technical assistance moving forward.

To address previous concerns regarding potential federal penalties regarding the delay of this rule, the Administration for Community Living disbursed Ohio's expected segmented allocation of OAA funds to AGE in December. We are currently waiting on AGE to disburse these funds to support OAA services across the state.

Thank you again for your time and attention in working through this rule with o4a and our members. I am happy to answer any questions you may have.