

**MEMORANDUM**

**TO:** Kaye Norton, Ohio Department of Health

**FROM:** Sydney King, Regulatory Policy Advocate

**DATE:** May 11, 2015

**RE:** **CSI Review – Nursing Homes (OAC 3701-17-03.1, 3701-17-06, and 3701-17-21)**

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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 (O.R.C.) § 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 new and two amended rules being proposed by the Ohio Department of Health (ODH). The rule package was submitted to the CSI Office on February 12, 2015, and the comment period for the rules closed on March 14, 2015.

The rule package regulates nursing home expedited initial licensure applications, quality improvement projects, and requirements regarding dining and recreation space. Newly drafted Rule 3701-17-03.1 is created as a result of recent statutory changes that created the option for new nursing home facilities to submit an expedited initial licensure application. Once a facility submits a complete application, licensure fee, expedited initial licensure survey fee, and other necessary documents, ODH is required to survey the facility within ten days of the expedited initial licensure request. Rule 3701-17-06 is being amended to require participation in quality improvement projects. Rule 3701-17-21 is being amended to clarify requirements for dining and activity spaces that share with adult day programs, residential care facilities, or both.

ODH identifies nursing homes as the impacted industry. The BIA indicates that ODH performed stakeholder outreach with the Ohio Health Care Association, LeadingAge Ohio, and the Academy

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of Senior Health Sciences. Stakeholders asked for assurances that the expedited initial licensure surveys would not interfere with regular licensure inspection schedule. ODH states that the survey inspections will be performed during overtime hours so as not to impact the regularly scheduled inspections. Stakeholders participated in this decision and the fee of \$2,250 reflects the overtime costs.

Because the rule package was not submitted as a five-year rule review, ODH was only required to analyze the costs associated with amendments to Rules 3701-17-06 and 3701-17-21. Participating in the quality improvement project of Rule 3701-17-06 will require administrative and staff time. Designing a shared space that complies with Rule 3701-17-21 will incur construction related costs. The BIA provides estimates for each of the associated costs. ODH states the adverse impacts are justified because the amendments to the rules enact statutory requirements.

After reviewing the proposed rules and the BIA, the CSI Office has determined that the rule package satisfactorily meets the standards espoused by the CSI Office, and the purpose of the rules is justified.

### **Recommendation**

For the reasons explained above this office does not have any recommendations regarding this rule package.

### **Conclusion**

Based on the above comments, the CSI Office concludes that the Department should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office