

**MEMORANDUM**

TO: Kaye Norton, Ohio Department of Health

FROM: Travis Butchello, Regulatory Policy Advocate

DATE: November 30, 2017

RE: **CSI Review – Infectious Disease Reporting; Biting Animals; Tuberculosis Program Standards (OAC 3701-3-02, 3701-3-28 through 3701-3-30, and 3701-15-01 through 3701-15-03)**

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 three amended and four no-change rules proposed by the Ohio Department of Health (ODH) as part of the statutory five-year rule review requirement. The rule package was submitted to the CSI Office on September 19, 2017 and the public comment period was held open through October 20, 2017. Six comments were received during the comment period and responses to comments were provided to the CSI Office on October 23, 2017.

The rules further expound the ORC's mandatory reporting of infectious diseases to public health authorities. Specifically, ODH wishes to change Rule 3701-3-02 to list additional reportable conditions including Hepatitis C to maintain consistency with the national notifiable disease list. In addition, ODH notes in the BIA that it is proposing amendments to other rules to clarify the time period for quarantine for dogs, cats, and ferrets as well as update references to the Clinical Practice Guidelines for the treatment of drug susceptible Tuberculosis. The BIA notes that the public purpose of the regulation is to ensure that ODH have supervision over all matters relating

to the life and health of Ohioans and establish authority on matters of quarantine and isolation for infectious diseases.

As part of the early stakeholder outreach process, ODH contacted local health departments, infectious disease physicians, hospital infection preventionists, and laboratorians. All stakeholders expressed support for the proposed changes.

Six comments were submitted during the CSI public comment period. Four commenters expressed concern regarding the new reporting processes for newly listed diseases. In response, ODH assured the commenters that each entity who is submitting information will have some discretion on how they may complete the requirement instead of using a statewide form. They further noted that entities will also be given detailed guidance as to what information ODH needs. Two commenters expressed concern as to what constitutes a non-bite rabies exposure and reporting requirements within that context. ODH replied that they decided not to include the provision because the definition of a scratch could be subjective and thereby cause confusion for reporting.

The rules impact all local health departments, hospitals, laboratories, and other providers who report infectious diseases under the rules. ODH contends that no additional adverse impact exists because adding another reportable disease will not have an impact on the current work of the aforementioned professionals, however, the existing adverse impact must be analyzed for the five-year review. Based upon the nature of the rules, there is expected to be an administrative impact to report the listed diseases to applicable authorities, which will take staff time and potentially office resources to complete. In addition, non-compliance with reporting requirements to ODH or any other required entity may carry a penalty. ODH emphasizes in the BIA that the public purpose of the regulation outweighs any adverse impact because the Department is acting within statutory mandates and the rules help ensure the public health and welfare by reporting diseases which will also use the information to help prevent the spread of infectious diseases.

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 Ohio Department of Health should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.