

**MEMORANDUM**

**TO:** David Ingram, Ohio State Board of Embalmers and Funeral Directors

**FROM:** Christopher Smyke, Regulatory Policy Advocate

**DATE:** October 16, 2018

**RE:** **CSI Review – Requirements for Licensure (OAC 4717-7-02, 4717-7-03, 4717-7-04, 4717-7-05, 4717-7-06, and 4717-7-07)**

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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 (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 from the Ohio State Board of Embalmers and Funeral Directors (Board) consists of four amended and two new rules submitted for review. The rule package was submitted to the CSI Office on October 1, 2018 and the public comment period ended on October 8, 2018 with two comments received.

The rules in this package address the licensure requirements for funeral homes, crematory facilities, and embalming facilities, as well as requirements surrounding the sale or disposition of any such facilities. The amended rules are proposed with changes to align the rules with the new statutory language of ORC 4717.06 and 4717.11 that resulted from House Bill 48 of the 132nd General Assembly. The two new rules establish notification requirements for the sale or disposition of embalming and crematory facilities in order to maintain consistency with the rule that exists for funeral homes.

Prior to filing the rules with CSI, the Board contacted all licensed professionals under its jurisdiction, as well as the Cincinnati School of Mortuary Science and the three active associations which represent funeral service providers in the state. No comments were received

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during early stakeholder outreach; however, two comments were received during the CSI public comment period. One commenter offered a non-substantive comment regarding two of the rule headings. A representative of the Ohio Funeral Directors Association requested that the actually in charge (AIC) be exempt from the signage requirements if the name of the AIC is included in the main facility signage. Board staff responded that the signage requirement the AIC and ultimately responsible of a facility is appropriate in light of the statutory changes and necessary to inform and protect the public. Staff added that the rule has been specifically designed to make compliance easy and cost effective by specifying that the sign be measured at 8.5 by 11 inches with readable font while identifying the funeral director who is AIC and ultimately responsible.

The rule affects all licensed funeral directors, embalmers, funeral home operators, funeral homes, crematories, and embalming facilities in Ohio. This industry encompasses 1,168 facilities licensed by the state. The BIA states that the adverse impact of the rule changes is administrative discipline that may result from a failure by a licensee to notify the Board of a change in address within fifteen days and to comply with ORC 4717.11 to apply for a new license. The BIA justifies the rules and proposed amendments as a necessary step to align with state statute.

After reviewing the proposed rules and 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 are justified.

### **Recommendations**

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

CC: Emily Kaylor, Lt. Governor's Office