Ohio | **Common Sense Initiative**

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Jarrod Williams, Ohio Board of Embalmers and Funeral Directors

FROM: Ethan Wittkorn, Regulatory Policy Advocate

DATE: **July 28, 2020**

RE: **CSI Review – Proposed Amendments in Response to COVID-19 Pandemic (OAC 4717-1-01, 4717-5-02, 4717-9-01, 4717-12-01, and 4717-15-02)**

On behalf of Lt. Governor Jon Husted, 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 Board as provided for in ORC 107.54.

Analysis

This Ohio Board of Embalmers and Funeral Directors (Board) rule package consists of five amended rules. It was submitted to the CSI Office on June 26, 2020, and the public comment period was open through July 10, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on June 26, 2020.

The rules cover training requirements and continuing education for licensees of the Board, forfeiture following violations, and permit renewals for crematory operators. Proposed amendments allow the Board to extend the validity of credentials and exempts some compliance requirements for a period when the governor has declared a state of emergency. Additional proposed amendments include the reduction of minimum fines imposed for violations of ORC Chapter 4717.

During the period of early stakeholder outreach, the Board worked with stakeholders to draft the proposed rules. The stakeholders included licensees of the Board, the Ohio Funeral Directors Association (OFDA), Buckeye State Funeral Directors and Embalmers Association, and the Ohio Embalmers Association. The OFDA encouraged the Board to adopt rules that recognized and

addressed hardships effecting Ohio's funeral directors as a result of the COVID-19 pandemic and expressed support for the proposed amendments. During the CSI public comment period, the Board received one comment expressing concern over the pandemic's effects on licensee's ability to attain required continuing education experience. The Board stated in response that the proposed amendments to the rules are intended to address those difficulties faced by licensees.

Impacted communities include licensees of the Board. Potential adverse impacts created by the rules include completing training and experience requirements for licensure, completing continuing education requirements every two years, reporting requirements, and meeting license renewal requirements. Additional impacts include fines as a disciplinary measure for violations such as fraud, failure to comply with the rules and regulations of the Board, unprofessional conduct, knowingly permitting an unlicensed person to engage in a licensed profession of the Board, refusal to promptly submit custody of remains, transferring ownership of a facility without notifying the Board, and misleading or deceptive advertising. Monetary fines for the listed violations vary based on the type and severity of the violation. The Board notes that several amendments to the rules will aid in easing the impact on licensees, such as a reduction in minimum fines, the inclusion of new settings for training, and changes to allow for extended certification and the validity of training courses when a state of emergency is declared. The Board states that these rules are necessary to protect consumers by establishing a standard of competency for licensees and licensed facilities.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Board should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.