



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Joe Kirk, Ohio Department of Public Safety

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: August 27, 2020

RE: **CSI Review – Capnography (OAC 4765-15-04, 4765-16-04, and 4765-17-03)**

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 Agency as provided for in ORC 107.54.

Analysis

This rule package consists of three amended rules proposed by the Ohio Department of Public Safety (DPS). This rule package was submitted to the CSI Office on May 18, 2020, and the public comment period was held open through June 10, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on May 18, 2020.

The rules included in this package set forth the scope of practice for emergency medical service (EMS) providers, including emergency medical technicians, advanced emergency medical technicians, and paramedics. The rules include the types of procedures approved for use and requirements for training and limiting the scope of practice by an overseeing physician. Each rule is being amended to require the use of waveform capnography for all patients who receive invasive airway devices during care. The changes are a result of research that shows waveform capnography assists in the early detection of airway compromise.

During early stakeholder outreach, DPS reviewed the rules at public meetings of the Emergency

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Medical, Fire, and Transportation Services (EMFTS) Board, which is made up of industry stakeholders representing the various EMS fields and industries. The amendments to the rules were approved based on efforts by the State Board of EMFTS to recognize the benefits of emergency services utilizing capnography equipment. During the CSI public comment period, DPS received three comments from stakeholders. One stakeholder supported using capnography devices during routine responses but also suggested including a provision in the rules that would ease requirements in the event of a mass casualty incident. DPS replied and stated that the suggested provision would be addressed during an emergency declaration and would be too specific to include within the rule. Another stakeholder suggested that the use of capnography equipment would not be appropriate for some individuals, including newborn children. DPS replied that the use of capnography equipment is useful for the early detection of improperly placed invasive airway devices and that waveform capnography is not required for interfacility transport of stable patients.

The business community impacted by these rules includes approximately 41,382 EMS providers and 1,020 EMS organizations, as well as instructors and institutions for training and continuing education. The adverse impacts created by the rules include the cost of acquiring capnography equipment, heart monitors, and automated external defibrillators (AED), as well as the cost of training EMS providers who have not received waveform capnography training. DPS notes in the BIA that the costs for acquiring or upgrading equipment can vary based on the model purchased and provides a range of grant reimbursements that reflect the costs. AED purchases and upgrades ranged in cost from \$349 to \$15,000, heart monitor and defibrillator costs ranged from \$1,000 to \$67,908, and waveform capnography equipment costs between \$433 and \$6,703. DPS states in the BIA that the rules are necessary to ensure that EMS providers operate within a specified scope of practice. The amendments to these rules are included to ensure that individuals with airway devices are monitored to prevent further harm.

Recommendations

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

Conclusion

The CSI Office concludes that the Ohio Department of Public Safety should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.