



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Emily Henry, Ohio Department of Mental Health and Addiction Services

FROM: Ethan Wittkorn, Regulatory Policy Advocate

DATE: March 16, 2021

RE: CSI Review – Opioid Treatment Program Rules (OAC 5122-40-01, 5122-40-03, 5122-40-04, 5122-40-05, 5122-40-06, 5122-40-07, 5122-40-08, 5122-40-12, and 5122-40-15)

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 Ohio Department of Mental Health and Addiction Services (Department) rule package consists of nine amended rules. It was submitted to the CSI Office on January 29, 2021, and the public comment period was open through February 19, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on January 29, 2021.

The proposed rules concern the licensing of Opioid Treatment Programs (OTP) in Ohio. The rules are being updated to remove outdated references, expand reasons why a license may be revoked to include loss of required certifications, add certifications that may be used, create flexibility for on-site requirements of specific personnel, add telehealth allowances, and add buprenorphine as a drug that can safely be stored at a patient's home.

During the period of early stakeholder outreach, the Department discussed proposed rule updates with federal agencies, individual OTP providers, the Nursing Board of Ohio, addiction resource organizations, and the Ohio Council of Behavioral Health and Family Service Providers. As a result

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of stakeholder input, the Department included updates to the rules to allow for additional certifications and more flexibility in on-site time requirements for OTP Medical Directors. During the CSI public comment period one comment was received from the Ohio Association for the Treatment of Opioid Dependence. This comment led to updates including substitutions for toxicology testing, reducing on-site time from 25 to 24 hours as the limit for other staff to contribute to the patient to Medical Director ratio, and alternative arrangements to allow flexibility for Medical Director absences.

The proposed rules have an effect on all of Ohio's OTPs. Adverse impacts of the rules require OTPs to maintain adequate supplies of medication, follow records maintenance and notification requirements, meet licensure requirements, follow Department rules for program policies and plans, submit information to the central registry, and follow requirements of medication units. The Department states that they are required by ORC 5119.37 to create rules that establish requirements for the control, storage, furnishing, use, dispensing, and administration of medications in medication assisted treatment.

Recommendations

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

Conclusion

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