



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: Alicyn Carrel, Ohio Department of Health

FROM: Jacob Ritzenthaler, Business Advocate

DATE: December 27, 2021

RE: **CSI Review – Expedited Inspections (OAC 3701-16-03.1 and 3701-17-03.1)**

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 Department as provided for in ORC 107.54.

Analysis

This rule package consists of two amended rules and two rescinded rules proposed by the Ohio Department of Health (ODH). This rule package was submitted to the CSI Office on October 14, 2021, and the public comment period was held open through November 14, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on October 14, 2021.

Ohio Administrative Code (OAC) 3701-16-03.1 establishes requirements for requesting an expedited licensure inspection for new residential care facility and existing facilities that are increasing or decreasing bed capacity. The rule lists the procedures for completing an application for expedited review and the procedures for inspection. OAC 3701-17-03.1 sets forth similar requirements for nursing homes, including allowing nursing homes to conduct inspections remotely. These rules replace the previous rules of the same rule number.

During early stakeholder outreach, ODH reviewed the proposed rules with industry stakeholders. No comments were received during that time or during the CSI public comment period.

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The business community impacted by the rules includes nursing homes and residential care facilities that seek initial inspection or an increase or decrease in bed capacity. ODH states that there are approximately 955 nursing homes and there are only three are not subject to other federal inspection guidelines. ODH also estimates that between 25 and 35 residential care facilities are initially licensed annually and 65 to 75 require inspection each year. Expedited licensure surveys cost \$2,250. ODH states in the BIA that the adverse impacts are necessary to ensure the safety of individuals receiving services through nursing homes and residential facilities. ODH also notes that an expedited licensure allows facilities to start operations or increase capacity, which many facilities could benefit from.

Recommendations

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

Conclusion

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