



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: Joseph Kirk, Ohio Department of Public Safety

FROM: Joseph Baker, Business Advocate

DATE: November 22, 2021

RE: **CSI Review – Chapters 4766-1 and 4766-2-Five Year Review (OAC 4766-1-01, 4766-2-01, 4766-2-02, 4766-2-03, 4766-2-04, 4766-2-05, 4766-2-06, 4766-2-07, 4766-2-08, 4766-2-09, 4766-2-11, 4766-2-12, 4766-2-13, 4766-2-14, 4766-2-15, 4766-2-16, 4766-2-17, and 4766-2-18)**

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 11 amended rules and 7 no change rules proposed by the Ohio Department of Public Safety (Department). This rule package was submitted to the CSI Office on September 20, 2021, and the public comment period was held open through October 13, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on September 20, 2021.

The rules in this package set forth operational responsibilities, definitions, licensure standards, disaster relief policies, and staffing minimums for medical transport organizations (MTOs) regulated by the Ohio State Board of Emergency Medical, Fire, and Transportation Services Board (Board).

Ohio Administrative Code (OAC) 4766-1-01 requires the Board to provide public notice prior to adopting, amending, or rescinding rules. OAC 4766-2-01 establishes definitions relating to

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emergency medical care and is amended to establish definitions for advanced life support, basic life support, ambulance, stairchairs, stretchers, gurneys, cots, the medical transportation licensing system, non-transport vehicles, and to adopt other clarifying changes. OAC 4766-2-02 requires MTOs to apply for a license through the medical transportation licensing system, to provide various information relating to licensure (such as Medicare and Medicaid provider numbers, medical license number of the service's medical director, contact information, among others) and specifies the types of patients who may be transported by such providers. The rule is amended to establish a new level of licensure (non-emergency only) for basic life support providers and to adopt the new medical transportation licensing system for applications in lieu of a form submission process.

OAC 4766-2-03 specifies MTO licensure fees, including initial licensure fees, renewal licensure fees, inspection fees, temporary permit fees, and reprint fees for vehicle decals. The rule is amended to delete language prohibiting fees from being refunded and to remove a reference to a 50% fee reduction for vehicles that operate within and are licensed by a municipality. OAC 4766-2-04 establishes physical and sanitary standards for MTO service headquarters and satellite bases and requires the Board to conduct initial and renewal inspections of MTO facilities. The rule is amended to adopt technical changes. OAC 4766-2-05 establishes recordkeeping requirements for MTOs, including maintaining a copy of the organization's medical protocol, a current certificate of liability insurance, records related to patient care, and others. OAC 4766-2-06 requires MTOs to be equipped with a base station capable of two-way communications with associated ambulances and non-transport vehicles and to maintain a log of communications between the dispatch center and ambulances or vehicles. The rule is amended to correct a grammatical error.

OAC 4766-2-07 requires MTOs to comply with federal occupational safety and health administration pathogen regulations, to ensure that sanitation procedures are provided to personnel, and to maintain and follow a written sanitation plan. OAC 4766-2-08 establishes vehicles inspection standards for MTOs and states that any vehicle deemed to be in violation by the Board must be placed out of service until it passes reinspection, or the violation is corrected, and documentation of the correction is provided to the Board. The rule is amended to adopt technical changes and to state that MTO vehicles licensed at the basic life support level must include permanently affixed lettering indicating that they are used for non-emergency transport only. OAC 4766-2-09 requires MTOs to maintain documentation regarding period repairs and maintenance conducted on each vehicle. OAC 4766-2-11 permits certain ambulances and vehicles to use emergency lights and audible warning devices when responding to emergency calls. The rule is amended to state that any ambulance operating a basic life support, non-emergency level is not permitted to respond to emergency calls or use audible warning devices.

OAC 4766-2-12 establishes special considerations for MTOs operating in a disaster situation, such as permitting the MTO to use whatever means necessary to transport and treat patients. The rule is amended to reflect the use of the new medical transportation licensing system, to correct a grammatical error, and to streamline language. OAC 4766-2-18 establishes staffing requirements for MTOs, including that at least two certified individuals and one permitted ambulance respond to requests for emergency assistance. The rule also requires personnel who drive the ambulance to complete an emergency vehicle operator course and is amended to establish alternative standards for entities that respond on a non-emergency level. OAC 4766-2-14 exempts out-of-state MTOs when transporting a patient in Ohio to an out-of-state location or when transporting a patient received in another state. OAC 4766-2-15 requires MTOs to report various changes in organizational structure or information to the Board and is amended to streamline language and reflect the use of the medical transportation licensing system. OAC 4766-2-16 permits the investigation of all complaints regarding MTOs and authorizes the Board to initiate disciplinary proceedings at its discretion, while OAC 4766-2-17 permits the Board to issue a fine of up to \$1,500 for various offenses. OAC 4766-2-18 incorporates various forms and external documents by reference and has been amended to reflect various changes, updates, and replacements to existing forms.

During early stakeholder outreach, the Board established a workgroup to review the rules. The workgroup received feedback from various entities, including the American Ambulance Association, the Centers for Medicare and Medicaid Services, and others. Based on feedback from stakeholders, the Board modified the rules prior to submitting to the CSI Office. During the CSI public comment period, the Department sent the proposed rules to entities registered to receive notification regarding EMS rules, as well as approximately 131 licensed MTOs as well as the Ohio Ambulance Association. One comment was received from Robinaugh EMS suggesting that creating a non-emergency, basic life support license level would be a mistake and could result in confusion for the public regarding the non-emergency provider's capacity to assist in an emergency. The Department responded to the comment noting that the new basic life support EMS license level would help address EMT and paramedic shortages in Ohio and was designed to help fulfill non-life-threatening medical transportation needs in various communities across the state. The Department also received supportive comments from LeadingAge Ohio, Dennis Frazier of the Bureau of Health Plan Policy at the Department of Medicaid, and First Care.

The business community affected by the rules includes 335 licensed MTOs in Ohio that operate ambulettes, 104 licensed MTOs that operate ambulances, 27 MTOs that operate moICUs, and 16 licensed air medical service organizations. The adverse impacts created by the rules include the costs of obtaining and maintaining an MTO licensing, such as the time necessary to complete applications of licensure and submit documentation, provide a color photograph, and pay the \$100

annual application or renewal fee as well as an annual \$100 permit fee per vehicle. The associated adverse impacts also include the administrative expense necessary to maintain licensure-related documentation, comply with inspection requirements for facilities, meet health, safety, and sanitation standards, comply with vehicle inspections (\$100 per vehicle inspection), display required signage and lettering indicating the use of the vehicle, document maintenance and upkeep for vehicles, file periodic vehicle safety inspections and reports, comply with staffing minimums, and potential disciplinary action for non-compliance. The Department notes that the implementation of the medical transportation licensing system is likely to improve efficiency in the licensing process and reduce the amount of time necessary to obtain, renew, and maintain licensure. The Department states that the adverse impact to business is necessary to assure the safety and effective delivery of EMS care to patients who must use an MTO ambulance or MoICU service.

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.