



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: March 14, 2022

RE: **CSI Review – 4765-10 (Complaints) Five-year Review (OAC 4765-10-01, 4765-10-02, 4765-10-03, 4765-10-05 and 4765-10-06)**

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 five amended rules proposed by the Ohio Department of Public Safety (Department). This rule package was submitted to the CSI Office on February 7, 2022, and the public comment period was held open through March 2, 2022. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on February 7, 2022.

Ohio Administrative Code (OAC) 4765-10-01 establishes definitions related to State Board of Emergency Medical, Fire and Transportation Services (Board) discipline of an emergency medical service (EMS) provider, instructor, or training institution. The rule is amended to eliminate a definition for probation, which is a term the Department notes is not used in the chapter. OAC 4765-10-02 specifies processes related to investigations, requires patient confidentiality, authorizes the Board initiate disciplinary proceedings depending on the outcome of the investigation, and prohibits a board member who participates in an investigation to participate in the adjudication of the case. The rule is amended to streamline language.

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OAC 4765-10-03 permits the Board to impose a fine of up to \$1,000 or suspend, revoke, refuse to grant, refuse to renew, or otherwise limit a license for various causes, including a felony offense, violation of controlled substance laws, and others. The rule is amended to include convictions for engaging in sexual contact with a patient, assaulting or causing physical harm to a patient, preventing the patient from being able to summon assistance, as well as a denial, revocation, suspension, or other related restriction of a license that took place in Ohio or another state or jurisdiction.

OAC 4765-10-05 requires the Board to notify the individual when a disciplinary action is taken, as well as other state or public agencies and EMS organizations that employ or are affiliated with the individual. The rule also requires that the disciplinary action be published on the website maintained by the Division of Emergency Medical Services (Division) at the Board and that the Division compile a report annually outlining complaints, investigations, and administrative actions. The rule is amended to eliminate reference to publishing notice in a newsletter. Finally, OAC 4765-10-06 specifies that nothing in the chapter limits the discretion of a medical director for an EMS organization to determine which EMS providers are authorized to provide care. The rule is amended to streamline language.

During early stakeholder outreach, the Department collaborated with the Ohio State Board of Emergency Medical, Fire, and Transportation Services Board and provided the rules to the Board for comments prior to filing with CSI. No comments were received during the CSI public comment period.

The business community impacted by the rules includes EMS training institutions, providers and instructors. The Department estimates that there are currently 91 such training institutions and 577 continuing education providers in Ohio, as well as 41,385 providers and 5,741 instructors. The adverse impact to business consists of the costs associated with disciplinary action, which may include a fine of up to \$1,000 as well as license revocation, suspension, or denial. The Department reports that over the last twelve months, 28 fines were issued to EMS providers or instructors, and 104 disciplinary actions were taken. Additionally, 5 disciplinary actions were taken with respect to training institutions or continuing education providers. The Department states that the adverse impact to business is justified to ensure high standards for a provider's professional conduct and the effective delivery of emergency medical services.

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.