



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 – Certificate of Need Review (OAC 3701-12-05 and 3701-12-23)**

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 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) 3701-12-05 establishes the activities that require a review and valid certificate of need, including building a new facility, renovating an existing facility, increasing bed capacity, or expenditures of a certain cost. OAC 3701-12-23 sets forth the criteria for reviewing a certificate of need application that relates to an existing or proposed long-term care facility, including the required documentation, bed capacity, and applications. Both rules are amended to increase the cost of a proposed renovation or addition to a facility that would require a review from \$2 million to \$4 million.

During early stakeholder outreach, ODH sent the rules to relevant industry stakeholders, including health care associations. No comments were received during that time or during the CSI public

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comment period.

The business community impacted by the rules includes all long-term care facility operators. The adverse impact created by the rules includes the cost associated with applying for a certificate of need. Projects that do not require a capital expenditure cost \$5,000. For projects that do require a capital expenditure, the cost is assessed as the greater of \$5,000 or 1.5 percent of the proposed expenditure, with a maximum fee of \$20,000. ODH states that the adverse impacts are necessary to ensure public access to long-term care facilities, as well as complying with state statute.

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