



Common Sense Initiative

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Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Job and Family Services

Rule Contact Name and Contact Information: Michael Lynch

Regulation/Package Title (a general description of the rules' substantive content):

FYRR – 5101:2-40-02 Supportive services

Rule Number(s): 5101:2-40-02

Date of Submission for CSI Review: 11/30/23

Public Comment Period End Date: 12/7/23

Rule Type/Number of Rules:

New/ 1 rules

No Change/ rules (FYR?)

Amended/ rules (FYR? Y)

Rescinded/ 1 rules (FYR? Y)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. ☒ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☐ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

2. **Please briefly describe the draft regulation in plain language.**

Please include the key provisions of the regulation as well as any proposed amendments.

This rule is being rescinded and replaced with a new rule of the same number.

OAC 5101:2-40-02 entitled “Supportive services” sets forth requirements to agencies when supportive services are provided or arranged to children and families or caretakers.

3. **Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

Authorized by 2151.412, 2151.421, 5153.166.

Amplified by 2151.412, 5153.16, 2151.421.

4. **Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

If yes, please briefly explain the source and substance of the federal requirement.

No, the rules are not rescinded and adopted to administer or enforce a federal law.

5. **If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

The rules do not exceed federal requirements.

6. **What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The rules set forth requirements for agencies on how and when to provide supportive services to children and families or caretakers.

7. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The private child placing agency (PCPA) must be licensed under current law. Licensure is dependent, in part, on complying with the standards in this rule. ODJFS has technical assistance specialists assigned to assist the agency in compliance with the requirements of rule 5101:2-40-02. The technical assistance specialists and licensing staff monitor and complete reviews and audits of the PCPAs.

8. **Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

9. **Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

If applicable, please include the date and medium by which the stakeholders were initially contacted.

The rule went through public clearance on October 24, 2023, through November 7, 2023.

10. **What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

The rule completed external clearance on November 7, 2023, with one comment received resulting in a paragraph reworded for accuracy and clarification.

11. **What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

No scientific data was used to develop or measure outcomes of the rule.

12. **What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.

There were no alternative regulations or provisions added to the rules. However, revisions were made to remove language contained throughout resulting from a consent decree in

August 1986. The conditions of the consent judgment were met, and the order was terminated in May 1998.

13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

ODJFS policy and legal staff review the relevant regulations to agencies on a regular basis and no duplication with these rules is known to exist.

14. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

Once the rules are final filed, a transmittal letter will be generated explaining the changes to the rules and the rationale for the changes. ODJFS technical assistance specialists and licensing specialists review agencies to ensure compliance and the regulations are applied consistently.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

a. Identify the scope of the impacted business community, and

The rules contain requirements for private agencies (19 PCPAs) to make when providing or arranging supportive services for children and families or caretakers.

b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.

The adverse impact includes specific expenditures and the report of information. The adverse impacts of the requirements set forth in the rule include the time required to obtain, document, and share information as well as time spent completing forms (e.g., referral forms, family case plans, etc.). When services are directly provided by the agency, it would typically be completed by a caseworker/social worker. The time spent providing the service(s) and or activities varies based on each family.

When services are arranged by the agency, the caseworker/social worker would typically be obtaining the necessary information, documenting, sharing information and completing referrals for services. The time spent obtaining information and referring for services varies based on each family.

Time spent could range from approximately one hour to several hours. The anticipated cost to comply with these rules would depend on the wage for the specific worker as well as the availability and accessibility of the services for each family. The current average wage for a child welfare caseworker in the State of Ohio is \$28 per hour, according to

Salary.com. Therefore, the anticipated cost of compliance for an impacted agency to comply with these rules would range from \$28 - \$140 per hour, depending on administrative and staffing variables. There is no additional cost because of the recission and adoption to these rules.

- 16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**

Revisions were made to remove language contained throughout resulting from a consent decree in August 1986. The conditions of the consent judgment were met, and the order was terminated in May 1998. Additionally, the Ohio Department of Job and Family Services (ODJFS) issued the [Family, Children and Adult Services Procedure Letter No. 409 \(PCSA Workforce Strategies\)](#) identifying supported workforce strategies to allow flexibility in child protection casework practice requirements. One of the workforce strategies identified removed the letter of assurance requirement contained in this rule.

- 17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

The adverse impact is necessary for supportive services to be provided or arranged by the agency to protect, strengthen, or assist children and families or caretakers.

Regulatory Flexibility

- 18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

There are no exemptions or alternative means of compliance for these rules.

- 19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

Not applicable.

- 20. What resources are available to assist small businesses with compliance of the regulation?**

ODJFS publishes all rules online as an e-manual. All public and private agencies have access to this publication, which is located at [ODJFS eManuals \(ohio.gov\)](#).

ODJFS has regional offices with technical assistance specialists and licensing specialists that will be assigned to assist the agency in compliance with the requirements of this rule.