



# Common Sense Initiative

Mike DeWine, Governor  
Jim Tressel, Lt. Governor

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## Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Public Safety (DPS) - Division of Emergency Medical Services (EMS), State Board of Emergency Medical, Fire, and Transportation Services

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

Impaired Practitioners Safe Haven Program

Rule Number(s): 4765-10-07, 4765-23-04

Date of Submission for CSI Review: 6/26/2025

Public Comment Period End Date: 7/7/25

Rule Type/Number of Rules:

New/ 2 rules

No Change/      rules (FYR?     )

Amended/      rules (FYR?     )

Rescinded/      rules (FYR?     )

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.***

Rule 4765-10-07 establishes a "Safe Haven" program for EMS professionals for issues with alcohol, drugs, mental health, or other health/illness issues. This rule provides criteria for participating monitoring organizations and EMS professionals to participate in the program, and guidelines for the EMFTS Board's involvement.

Rule 4765-23-04 establishes the same provisions for fire professionals.

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.**

4765-10-07 is authorized by Section 4765.11 and amplifies Section 4765.30 of the Revised Code.

Rule 4765-23-04 is authorized by 4765.04 and 4765.55 of the Revised Code and amplifies Section 4765.30 of the Revised Code.

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.*

The regulations do not implement federal requirements, nor are they being adopted to participate in a federal program.

- 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.**

Not applicable.

- 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)?**

Pursuant to sections 4765.11, 4765.18, and 4765.33 of the Revised Code, the EMFTS Board is statutorily required to promulgate rules in regard to issuing disciplinary sanctions to EMS providers, instructors, and training institutions. Specifically, Chapters 4765-10 and 4765-23 of the Administrative Code set forth the standards, procedures, and controls that may be utilized by the EMFTS Board or the Executive Director. These rules allow a practitioner to be referred to appropriate treatment prior to discipline should the practitioner demonstrate they meet the program guidelines.

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

The Division of EMS will monitor all agreements established between practitioners and the Division of EMS. The number of agreements leading to a practitioner successfully completing the program and returning to practice is a means to measure success.

- 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.*

Not applicable.

## **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 Ohio State Board of Emergency Medical, Fire, and Transportation Services (EMFTS) is a twenty-one member board. The director of the Ohio Department of Public Safety designates a member of the Ohio Department of Public Safety as a member of the Board. Twenty members who each have “background or experience in emergency medical services or trauma care” are appointed by the Governor with the advice and consent of the Ohio Senate. The Governor attempts “to include members representing urban and rural areas, various geographical regions of the state, and various schools of training” in making appointments to the Ohio State Board of EMFTS. The appointees to the board represent Ohio’s fire and emergency medical services, private medical transportation services, mobile intensive care providers, air medical providers, trauma programs, hospitals, emergency physicians, EMS training institutions, and ODPS. Members of the EMFTS Board and individuals with similar backgrounds and experiences make up the committees, subcommittees, and workgroups of the EMFTS Board.

The EMFTS Board met on February 27, 2025 and approved filing these rules with JCARR and CSI to offer this service to EMS and Fire Service practitioners.

In addition, the state medical director, EMS education coordinators, and other staff of the Ohio Division of EMS, and legal staff of the Ohio Department of Public Safety participate in revisions to administrative rules and the scope of practice. The Division of EMS uses GovDelivery to send subscribers information about proposed rules and solicit stakeholder comments during the rule-review process. Proposed rules and related information are also posted at the DPS “Administrative Rules” Website.

The Division of EMS sent the draft rules to fire service and EMS practitioners signed up for GovDelivery lists with a request for comment between April 15 and April 25, 2025, with six (6) comments received. After filing with JCARR, the draft rules will be posted to the DPS website for additional comments.

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

In addition to representation by members of the Fire Committee and the EMFTS Board, practitioners were given the opportunity to comment on the proposed rules through the GovDelivery email messaging system. The Division of EMS held an open comment period for these rules from April 15 to April 25, 2025, and received 6 comments. Three of the comments were generally in support of the rules and one was generally opposed. Two comments made suggestions to modify the rules; one suggested additional limits on the involvement of the EMFTS Board, and the other offered several changes in the terminology used in the rules. The final comment asked if the program would also be available to patients treated by the practitioners. Of the six comments, only one included a full name and employer (Marcella Fleming, Squad Chief/EMT, Salem Township Volunteer Fire Department, Washington County), providing the last comment listed above.

The suggestions provided were shared with EMFTS Board and Fire Committee members, who offered no requests to change the proposed rules based on said suggestions. The Board chose to allow the Ohio Professionals Health Program (OPHP) to administer the program. OPHP offers help to a variety of healthcare providers across a wide range of concerns, including mental health and substance abuse disorders. OPHP currently offers services through multiple state healthcare boards, including:

- Ohio Board of Psychology
- Ohio Chemical Dependency Professionals Board
- Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board
- Ohio Speech and Hearing Professionals Board
- Ohio Veterinary Medical Licensing Board
- Ohio Vision Professionals Board
- State Medical Board of Ohio
- Ohio Board of Pharmacy
- Ohio State Chiropractic Board
- Ohio State Dental Board

**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?**

The EMFTS Board sought to provide quality assistance for impaired fire service and EMS providers, and OPHP offers such assistance. From their most recent annual report covering 2023, OPHP served over 8,300 healthcare workers, with 93% of participants remaining in recovery with no relapse during that year. In addition, all Safe Haven programs follow similar protocols, so it is reasonable to believe that similar results would be expected for fire service and EMS providers choosing to enter these programs.

- 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.***

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

The Division of EMS and ODPS legal staff members reviewed OAC Chapter 4765 of the Administrative Code and Chapter 4765. Of the Revised Code. Additionally, a search was conducted using RegExplorer to assure there was no duplication or conflict among Ohio EMS regulations.

- 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.**

The Division has already announced this program to fire and EMS stakeholders via conferences, meetings, and other communication means, and will continue to do so. OPHP will be assisting with public relations based on their experiences with other medical licensure boards.

### **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**

Fire service and EMS providers who voluntarily enroll in the Safe Haven program.

**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.*

There are fees involved for the individuals taking part in the program. Each individual will be assessed a Well-Being Screening fee (\$150-\$250), as a one-time fee and with the enrollment fee being waived. In addition, there is a monthly monitoring fee (\$55-\$125/mo.) as part of the program. The Division of EMS will work with providers on implementing payment plans based on economic hardship.

Based on their most recent annual report, OPHP receives most of its revenue from program fees, so these costs are vital for providing the services necessary for fire service and EMS practitioners.

**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*).**

The Safe Haven program does not directly impact the business community, as the rules specifically target individual practitioners. However, by having impacted practitioners take advantage of the program, public and private EMS companies and fire departments can retain trained service professionals rather than replacing them due to violations of rule or law that could threaten their ability to maintain their certification(s).

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

Prior to implementing this program, the only process that the EMFTS Board had at its disposal when dealing with an impaired practitioner was to impose disciplinary sanction(s). This resulted in a permanent mark on the provider's certification records which likely resulted in adverse impact on future employment possibilities. The Safe Haven program preserves the certification status for those providers who voluntarily enter and successfully complete the outlined program.

### **Regulatory Flexibility**

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

These rules only apply to individual licensees. Small businesses may choose to provide a similar program for any fire service or EMS practitioner.

**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?**

The program itself is already an alternative to traditional discipline.

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

Not applicable.