



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Summer Corson, State of Ohio Board of Pharmacy

FROM: Michael Bender, Business Advocate

DATE: January 3, 2024

RE: CSI Review – Accessible Pharmacy Services (OAC 4729:5-2-05)

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 Board as provided for in ORC 107.54.

Analysis

This rule package consists of one new rule proposed by the State of Ohio Board of Pharmacy (Board). This rule package was submitted to the CSI Office on November 9, 2023, and the public comment period was held open through November 27, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on November 9, 2023.

Ohio Administrative Code (OAC) 4729:5-2-05 requires every outpatient pharmacy providing pharmacy services in Ohio to report to the Board the type of language translation services offered for patients who are of limited English proficiency as well as the type of services available for patients who are hard of hearing or have low vision. Any changes in the accessible services provided by a pharmacy must be reported, and a pharmacy that offers such services must provide them to patients upon request barring a temporary software or equipment failure.

During early stakeholder outreach, the Board posted the rules to its website for initial public comment. Based upon feedback given by the Ohio Council of Retail Merchants, the Board amended

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the rule to account for software or equipment failure. During the CSI public comment period, the Board received comments from the Cleveland Clinic, Services for Independent Living (SIL), and three members of the National Federation of the Blind of Ohio (NFB Ohio). SIL and the NFB Ohio members fully supported the proposed rule. The Cleveland Clinic urged the Board to only require notification of significant changes rather than any change, citing the example of its interpretive services firms occasionally adding new services. The Board replied that it would not require all languages to be submitted but would simply offer options on its online notification form for the most common languages spoken in the state in addition to an “other – please contact the pharmacy” option. Consequently, no changes were made to the rule.

The business community impacted by the rule includes outpatient pharmacies. The adverse impacts created by the rule include the requirement to notify the Board about any accessible services that are offered as well as administrative discipline for violation of the rule. Such discipline may include reprimand, a monetary fine, and/or denial, suspension, or revocation of a license. The Board estimates that it will take three to five minutes for an employee of an outpatient pharmacy to complete an online form describing the accessible services provided by the pharmacy. The Board states that the adverse impacts to business are justified to ensure that those with disabilities covered under the federal Americans with Disabilities Act have access to necessary services.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Board should proceed in filing the proposed rule with the Joint Committee on Agency Rule Review.