

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Mental Health and Addiction Services

Regulation/Package Title: Licensing of Psychiatric Hospitals and Units: Fee Schedule

Rule Number(s): 5122-14-08

Date: July 29, 2014

Rule Type:

New

Amended

5-Year Review

Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

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

The department of mental health and addiction services shall inspect and license all hospitals that receive mentally ill persons, except those hospitals managed by the department. Per R.C. 5119.33, a reasonable fee is charged for licenses and license renewals, and this rule sets a fee schedule based on the psychiatric bed capacity of a licensed facility.

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As required by statute, the rule has had a five-year review conducted. The rule is been found to be current and effective. Paragraph (D) has had one word changed to indicate that the fee is payable with each license application for licensure or renewal.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

R.C. 5119.33

3. 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.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable.

5. 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 Department licenses 83 private psychiatric inpatient units in Ohio and incurs certain expenses in relation to this licensure on an ongoing basis, which includes but is not limited to review of initial and renewal applications, on-site surveys, provision of in-person, telephone, or email technical assistance to providers, review and oversight of corrective action plans, etc. Additionally, licensure fees may be utilized to promote the Department's mission/vision related to the mental health/AOD population.

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

Hospitals have an incentive to pay the licensure fee to obtain an initial license or to remain licensed in accordance with licensure requirements so as to provide services to the acute psychiatric inpatient population. In the past 5 years, there have been no known closures of acute psychiatric inpatient units due to financial hardship caused by licensure fees.

Development of the Regulation

7. 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.

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Stakeholders on the Department's standing Rules and Policy committee meeting reviewed the rule and the amendment on July 18, 2014.

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

Stakeholders find the rule as amended to be acceptable.

9. 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 known scientific process was utilized to develop the fee schedule.

10. 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?

No alternative fee schedule was proposed by stakeholders.

11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

Not applicable.

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

By statute the Department is the sole regulator of hospitals for the mentally ill.

13. 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 fee schedule has been in place and unchanged for over five years, providing predictably for hospitals in regards to this license fee.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

The fee schedule applies to all hospitals serving the mentally ill, not run by the Department.

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- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**

The adverse impact is the license fee.

- c. Quantify the expected adverse impact from the regulation.**

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.

No adverse impact to hospital providers has been identified beyond the cost of licensure fees. Licensure fees received by the agency in fiscal year 2014 were approximately \$92, 550.00.

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

The licensure fee helps offset the agency expense related to hospital licensing while promoting the agency mission to provide the mental health population access to acute care.

Regulatory Flexibility

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

There are no exemptions, however the license fee is based on facility capacity, and smaller facilities will pay smaller licensing fees.

- 17. 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 Department will work with hospitals to resolve paperwork violations or first-time failures to pay licensing fees.

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

Not applicable.