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
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.

The Department has reviewed the rule in accordance with the five-year rule review statutory requirements. The Department is proceeding with no change at this time.

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.

ORC 5119.33

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.
5. If the regulation 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)?

   The Department is required to have a licensing program for private psychiatric hospitals per ORC 5119.33

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

   The Department will review incoming fees and assure that they are helping to defraying the inspection costs associated with a hospital and are scaled accordingly due to the workload required by the size of the hospital.

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.

   Andy White, Director, Health Economics and Policy, Ohio Hospital Association

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

    The stakeholder organization agreed that maintaining the rule as is in line with their needs.

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?

    Fee is scaled based on bed capacity, as size of unit be inspected determines the agency workload.
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?

NA

13. 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.

NA

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

The Department is the sole regulator for Ohio private psychiatric hospitals.

15. 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.

This rule is not being changed and all current licensees are aware of the fee structure.

Adverse Impact to Business

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

   This rule impacts any private psychiatric hospital. The fee structure is as laid out in the rule, and no other impact exists from this rule.

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

   The Department is required to administer this licensing program and has used this fee structure to defray costs of inspection.

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

The rule is scaled for lower fees for smaller hospital bed capacity.

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?

There are no fines associated with this rule, and applications without proper fees are returned for correction without further sanction.

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

The Department’s Office of Licensure and Certification has staff available to work with any hospital seeking licensure.