MEMORANDUM

TO: Howard Henry, Ohio Department of Mental Health and Addiction Services

FROM: Danielle Dillard, Regulatory Policy Advocate

DATE: August 31, 2018

RE: **CSI Review – Opioid Treatment Program License (OAC 5122-40-01 through 5122-40-15)**

On behalf of Lt. Governor Mary Taylor, 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 Agency as provided for in ORC 107.54.

<u>Analysis</u>

This rule package consists of amendments for the entirety of Ohio Administrative Code (OAC) Chapter 5122-40, including new rule OAC 5122-40-15, submitted by the Ohio Department of Mental Health and Addiction Services (MHAS). The rule package was submitted to the CSI Office on May 25, 2018 and the public comment period was held open through June 25, 2018. Six comments were received during this time.

Ohio Administrative Code 5122-40 includes methadone licensure rules. The rules in this Chapter are being amended to reflect changes in the scope of the methadone licensure program; consequently, the entire Chapter requires language and reference updates to reflect this change. The methadone licensure program is being expanded because of changes to the authorizing statute. OAC 5122-40-15 is a new rule that creates medication units that providers may use away from their primary location in certain underserved areas. The units must still meet all MHAS requirements and remain under the authority of the main provider location.

As part of early stakeholder outreach the Department worked closely with opioid treatment programs throughout Ohio through a series of provider meetings. Stakeholders were able to provide feedback, and give information on medication units and a proposed transfer policy. The proposed medication units rule is the direct result of stakeholder input regarding the locations of medications units; specifically, in the language describing "urban units," and the definition of "rural units." Stakeholders also provided input on how telehealth services should be included in the proposed rule.

Six comments were received during the CSI public comment period. Most of the comments were nonsubstantive and suggested language and definition changes. MHAS incorporated the suggested changes to make the rules more clear. The Department declined to incorporate suggestions that would result in noncompliance with statutory authority. Specifically, suggestions concerning liquid medication, good standing, and the requirement of monitoring and compliance reports were not considered, as those topics are carefully defined by the authorizing statute.

The rules impact opioid treatment providers. Providers must be licensed by the Department and maintain compliance standards in order to remain in good standing. Providers must also have policies and procedures regarding patient transfers, report any transfers to the central registry within 24 hours, and maintain the required data for entry into the central registry as well as for recordkeeping purposes. As a result of the new rule, providers will need to spend some time reviewing and overseeing the implementation of their records policies regarding transfers to ensure their effectiveness. The Department does not anticipate the time spent reviewing to be substantial. It justifies any adverse impacts by noting that the goal of the licensing program is to make opioid treatment available in a safe manner.

Recommendation
For the reasons explained above, this office does not have any recommendations regarding this rule package.

Conclusion
Based on the above comments, the CSI Office concludes that the Ohio Department of Mental Health and Addiction Services should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.