

# CSI - Ohio

## The Common Sense Initiative

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### MEMORANDUM

**TO:** Tom Dilling, Ohio Board of Nursing

**FROM:** Jeffrey R. Kasler, Regulatory Policy Advocate

**DATE:** August 17, 2012

**RE:** **CSI Review – Schedule II Controlled Substances**

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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. This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

#### Analysis

Senate Bill 83 of the 129<sup>th</sup> General Assembly requires the Board of Nursing to adopt rules related to the authority of an Advanced Practice Nurse (APN) who holds a certificate to prescribe schedule II controlled substances. Accordingly, this rule package consists of twelve amended rules and one new rule pursuant to Senate Bill 83's mandate.

Rules 4723-8-01 and 4723-9-01 provide definitional changes. Rules 4723-8-02 through 4723-8-05, 4723-8-10, 4723-9-07 and 4723-9-11 through 4723-9-12 mostly provide for technical changes.

Rule 4723-9-02 expands the education requirements for individuals pursuing an advanced pharmacology education and rule 4723-9-10 expands the situations where a certified APN can prescribe a schedule II controlled substance.

Rule 4723-9-13 is a new rule and provides specific instructions regarding the educational and course requirements of an APN seeking the certification to prescribe schedule II controlled substances.

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### Regulatory intent

The overarching intent of the proposed rules is to ensure that the expanded authority of APNs to prescribe schedule II controlled substances is supported by the proper education and training. Specifically, Senate Bill 83 mandates that the rules include criteria for the components of APN standard care arrangement related to prescribing schedule II controlled substances.

### Development of the regulation

The Committee on Prescriptive Governance (CPG)<sup>1</sup> was involved in developing and reviewing the draft rules. Specifically, the CPG met three times during the first half of CY 2012, with the final meeting on May 14. Additionally, the Board met with the Ohio Council of Deans and Directors of Baccalaureate and Higher Degree Nursing Programs on April 19, 2012 to provide an overview of the rules.

In early May, the Board provided interested parties – including representatives from the Ohio Nurses Association, the Ohio Association of Advanced Practice Nurses, and the Council for Ohio Health Care Advocacy – with draft rule language and requested feedback. In late June, those same interested parties attended a meeting to share feedback and comments on the proposed rules with the Board.

Beyond that, the Board formed an Advisory Group on Continuing Education comprised of continuing education providers and approvers and one member of a national accreditation system for nursing continuing education. This group reviewed the rules in mid-June.

From these stakeholder reviews and meetings, the Board received numerous comments and suggestions, many of which were factored into the final draft rule package. The Board also intends to meet periodically with all of the interested parties described above to ensure that the rules are applied consistently and predictably for the regulated community.

### Adverse impact

The impacted business community may include post-licensure education programs and providers of continuing education who revise or add to their current curricula in an effort to meet the requirements set forth by the draft rules.

APNs who need to obtain the newly required education in schedule II controlled substances would likely be unaffected as they are already required to obtain 24 hours of continuing education for each two-year renewal, and the additional requirements set forth by the draft rules are absorbed by the existing 24-hour requirement, not in addition to it.

In either event, the Board anticipates the cost to the impacted community to be negligible.

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<sup>1</sup> The Committee is established in statute and includes APNs, pharmacists and physicians.

**Recommendations**

There are no recommended changes to the proposed rule package.

**Conclusion**

Based on the above comments, the CSI Office concludes that the Board should proceed in filing the rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office