

**MEMORANDUM**

**TO:** Mark Levy, State Board of Orthotics, Prosthetics and Pedorthics

**FROM:** Paula Steele, Regulatory Policy Advocate

**DATE:** December 10, 2012

**RE:** **CSI Review – Five-Year Rule Review (OAC 4779-1-01; 1-02; 4779- 4-01; 5-01; 5-02; 5-04; 5-05; 6-01; 9-01; 9-02; 9-03; 10-02; 11-01; 11-02; 11-03; 11-04; 11-05; 11-06; 11-07; 11-08; 11-09; 11-10; 11-11; 11-12)**

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

**Analysis**

This rule package consists of seventeen (17) no change rules and seven (7) amended rules related to licensure of the allied health professionals administered by the State Board of Orthotics, Prosthetics and Pedorthics. The rules are being proposed under the five-year review required by ORC 119.032. The rules were submitted to the CSI Office on October 18, 2012, and the comment period expired on November 30, 2012. There was one favorable comment received during that time.

Ohio statute requires the majority of what is prescribed in the proposed rules including the educational programs, licensing, and continuing education requirements. According to the Board, a portion of the rules maintain alignment of Ohio's requirements with national educational standards. Amendments to the existing rules include changes in the national accreditation organizations, recognition of the pedorthic practitioner-level exams offered by the *Board for Certification International*, authority for the Board to approve more test vendors for license examinations, and clarification that approval to take the exam is valid for 36 months. Other

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changes include the deletion of redundant verbiage and the incorporation of a training program on identifying cases of human trafficking as recommended by the Human Trafficking Task Force in 2012.

In its BIA, the Board staff described a comprehensive outreach process which included a June 2012 email notification to licensees, employers, trade associations, and credentialing partners of the pending review. Stakeholder input was minimal.

Because the rule package includes public notification rules, the CSI Office followed-up with the Board to ensure it was aware of Ohio's [publicnotice.ohio.gov](http://publicnotice.ohio.gov) web site; a free web site for Ohio government organizations to post various types of public notices. The Board was not aware of the site but said it would investigate its use.

Review of the Board's BIA and proposed rules prompted several discussions with Board staff and a request for a revised BIA. The CSI Office asked the Board to acknowledge and justify the proposed rules' adverse impacts which were primarily the time and expense of obtaining and maintaining a license, including fees. While specific fee amounts were not included in the proposed rules under review, the fees were referenced and ultimately included as an adverse impact. Fees are required in statute but are not quantified. The Board sets the renewal fees at \$300 per year (OAC 4779-12-01). Licensure fees are the funding mechanism for the Board that enables it to carry out the duties as required by Ohio law. Therefore, the Board's justification for the proposed rules adverse impacts are that either it is required by statute or, it funds the Board in order implement the ORC requirements.

Although the expense of obtaining and maintaining licensure for these allied health professions is high in comparison to other licensed professionals, the CSI Office believes that the Board has engaged in an open, transparent, and thorough process to review the rules and has justified the potential adverse impacts to businesses.

### **Recommendations**

For the reasons discussed above, the CSI Office does not have any recommendations for this rule package.

### **Conclusion**

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

cc: Mark Hamlin, Director of Regulatory Policy