MEMORANDUM

TO: Tom Dilling, Ohio Board of Nursing

FROM: Sydney King, Regulatory Policy Advocate

DATE: September 18, 2013

RE: **CSI Review – Rule Review Due Legislative Amendments and Technical Changes (OAC Chapters 4723-5, 4723-7, 4723-8, 4723-9, 4723-14, 4723-17, 4723-23, 4723-25, 4723-26, and 4723-27)**

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 61 rules proposed by the Ohio Board of Nursing relating broadly to the issues of education programs, examinations and licensures, and certifications. Each rule contains several amendments. The rule package was filed with the CSI Office on August 23, 2013, and the comment period for the rules closed on September 17, 2013. Six comments were received during the public comment period.

The rules under review establish requirements for education programs, examinations and licensures, certification for advanced practice registered nurses, dialysis technicians, community health works, and certified medication aides. The rules are updated to comply with legislative amendments recently enacted by House Bill 303,Senate Bill 83,House Bill 59, and House Bill 490 (129th GA), for technical or non-substantive reasons, and to comply with the Governor's Executive Order 2013-05K.

Executive Order 2013-05K requires all boards and commissions to review and revise policies and procedures to take into account relevant military education and training, skills training, and service

when determining equivalency for purposes of issuing certifications and licenses. The Board-proposed language creates a performance-based regulation requiring nursing education programs, and dialysis, medication aide, and community health worker training programs to establish policies for review of military training and skills and award the credit for military education or skills substantially similar to the curriculum established in rule.

According to the BIA, the Board performed significant stakeholder outreach. This process included several interested party meetings, and Advisory Group (Nursing Education, Continuing Education, and Dialysis) meetings. The BIA details the recommendations of the stakeholders and many of the proposed edits were incorporated into the rules. Additionally, the Board responded to comments and provided clarity to any issues. Several comments also offered support for the changes.

The BIA cites significant administrative costs to licensing and education programs as the adverse impact. The change from a 30-day timeframe to 45 days for Board approval of a program may cause the programs to adjust timeframes for submission of materials. However, the Board anticipates this change will not increase the financial impact on the program.

The Board states education and training programs will be required to establish policies for review of military education and training and award the student credit for any military education or skills training that is substantially similar to the curriculum established in rule. This may cause an adverse impact due to increased administrative work needed to comply. The BIA also notes that it may decrease education program revenue. This will depend on the number of academic hours awarded to a veteran based on his/her military training and skills.

During the review, the Board and CSI discussed a comment received regarding the proposed language to comply with Executive Order 2013-05K. The commenter suggested the proposed rule use terms that parallel language found in other rules that regulate the impacted industry. The Board subsequently amended the proposed language to mirror the language found in other rules. Additional clarification was provided to CSI by the Board for the addition of the criminal background check requirement for dialysis technicians and patient care information.

The Board states these amendments are needed in order to comply with statutory authority and Executive Order 2013-05K. Additional justification was provided stating that the rules must also be updated for technical or non-substantive reasons to provide clarity, to delete obsolete or redundant language and reflect “plain English.”

Upon review of the proposed rule and BIA, the CSI Office has determined that the rule package satisfactorily meets the standards espoused by the CSI Office, and the purpose of the rules justifies the adverse impact identified in the BIA.

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 of Nursing should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office