

**MEMORANDUM**

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

FROM: Paula Steele, Regulatory Policy Advocate

DATE: March 23, 2015

RE: **CSI Review** – Five-year Rule Review (OAC 4779-9-01, 4779-11-01 through 4779-11-12, 4779-12-01, 4779-13-01 through 4779-13-05)

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 State Board of Orthotics, Prosthetics and Pedorthics (Board) rule package consists of nineteen draft rules – two amended,¹ twelve rescinded, and five no-change rules – being proposed under the five-year rule review requirements of Ohio statute. The rule package was submitted November 7, 2014, and the public comment period for the rules closed on November 28, 2014. No public comments were received during the comment period.

Of the rules included in this rule package, OAC Chapters 4779-11 and 4779-13 address Board hearings and Board staff access to confidential personal information. According to the BIA, Chapter 4779-11 is being rescinded upon the advice of the Ohio Attorney General's Office to ensure the rules do not conflict with hearing laws in Ohio statute. As identified in the BIA, the proposed rescinded rules do not present an adverse impact to business and the CSI Office concurs. The amended draft rules address continuing education requirements and licensure fees.

¹ One of the existing rules is being amended by more than 50 percent; therefore, the Legislative Service Commission requires that the existing rule be rescinded and replaced by a new rule that has the same rule number.

Rule 4779-9-01, Continuing Education Requirements and Reporting (OPPCE), outlines continuing education requirements for the professions licensed under the Board. The rule is being amended to remove the terminology that makes non-compliance of CE hours an automatic suspension of the license. While the BIA did not identify the continuing education requirements as an adverse impact to business, the proposed rule reiterates the required number hours of continuing education prescribed in the Ohio Revised Code.

Rule 4779-12-01 Fees, address licensure fees and is being amended to increase licensure fee ceilings. ORC Chapter 4779 establishes licensure requirements and requires the Board to carry out the requirements of the Chapter. Licensure fees provide the main source of revenue for the Board's operations. In its BIA, the Board indicated that the change in the proposed rule enables it to increase fees within a certain range so that it can continue to carry out the requirements of Ohio statute. Again, no comments were submitted during the rule review to indicate that the potential fee increases would be unduly burdensome.

According to the BIA, the Board's early stakeholder outreach process resulted in no substantial input for the proposed rules.

After reviewing the proposed rules and BIA, and following up multiple times with the Board's staff in order to gain an understanding of the budgetary issues underlying the proposed fee amendments, 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 described above, the CSI Office has no recommendations regarding 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, Lt. Governor's Office