

**MEMORANDUM**

TO: Tom Dilling, Ohio Board of Nursing

FROM: Sydney King, Regulatory Policy Advocate

DATE: October 13, 2015

RE: **CSI Review – Nursing Board Five Year Rule Review (OAC 4723-8-01 through 4723-8-10, 4723-9-01 through 4723-9-12, 4723-23-01 through 4723-23-01, 4723-23-05 through 4723-23-10, and 4723-23-12 through 4723-23-14)**

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 twenty-seven¹ amended and seven no-change rules proposed by the Ohio Board of Nursing. This chapter of the Ohio Administrative Code was reviewed by the Board pursuant to the statutory five-year review requirement. The rule package was filed with the CSI Office on August 25, 2015 and the public comment period was held open until September 4, 2015.

The rule package provides regulations for advanced practice nurse (APRN) certifications, certificates to prescribe, courses of study in advanced pharmacology, externships, standards and procedures for review of the Ohio Automated Rx Reporting System (OARRS), dialysis technician intern certificates, and dialysis technician certificates. The APRN certificate is the authority to practice as a certified nurse-midwife, certified nurse practitioner, certified registered nurse anesthetist, or clinical nurse specialist. The regulations include education, application, and licensing requirements.

¹ Rules 4723-9-08 and 4723-9-12 are being amended by more than 50 percent. Therefore, the Legislative Service Commission requires that the existing rules be rescinded and replaced by new rules that have the same rule numbers.

The Board identifies health care employers and entities as the impacted industry. According to the BIA, the adverse impacts include the costs associated with licensure and certification. The CSI Office identified additional adverse impacts to the regulated professions during the review of the rule package. The impacts include requirements for contracting, scope of practice requirements, quality assurance standards, record maintenance requirements, verifying the licensure of collaborating physicians, form and application requirements, written procedures regarding prescribed drugs and therapeutic devices, certificate of prescription instructional courses, and continuing education requirements.

During the CSI public comment period, three comments were received. The comments were surrounding the requirements for APRNs to retain the standard care agreements with collaborating physicians for six years, to annually verify the licensure status of the collaborating physicians, and requesting the Committee for Prescriptive Governance (CPG) to meet twice per year (instead of the current and proposed requirement of once per year). The CSI Office discussed the justifications for the requirements with the Board. The Board states that the standard care agreement retention requirement is necessary to conduct investigations. According to the Board, if a complaint alleges that an APRN practices outside of the scope of the agreement, it is necessary for the Board to understand the terms of the agreement to adequately investigate the matter. The six-year retention period is similar to other record retention requirements, and previous investigations were also considered when developing the time period requirement. The Board states that APRNs are statutorily required to collaborate with licensed physicians and that by ensuring a physician is licensed annually, APRNs demonstrate compliance with the law. Additionally, the Board states that with licensure verification available online, the amount of time needed to complete the requirement is minimal. The Board also addressed the suggestion that the CPG meet twice a year. The CPG makes recommendations to the Board for the composition of the formularies of drugs and therapeutic devices, and the manner they are prescribed by a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe. In order to allow for flexibility, the draft rule states that the nurse may prescribe drugs approved by the FDA if the CPG has not yet met to make a recommendation on prescriptive governance. Additionally, Board records indicate that the CPG has met at least twice a year since 2008.

After reviewing the proposed rules and the BIA, the CSI Office has determined that the rules satisfactorily meet the standards espoused by the CSI Office, and the purpose of the rule package is justified.

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