

**MEMORANDUM**

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

**FROM:** Danielle Dillard, Regulatory Policy Advocate

**DATE:** July 24, 2018

**RE:** **CSI Review – Opioid Prescribing Rules for Sub-acute & Chronic Pain; Dialysis Technician Certification; Youth Concussion Assessment and Clearance (OAC 4723-1-03, 4723-8-11, 4723-9-10, 4723-9-12, 4723-23-03 and 4723-23-10)**

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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 six amended rules proposed by the Ohio Board of Nursing. The rule package was submitted to the CSI Office on June 14, 2018 and the public comment period was held open through June 29, 2018. Three comments were received during this time.

Ohio Administrative Code (OAC) 4723-9-10 and 4723-9-12 establish the formulary and standards of prescribing for certified nurse practitioners (CNP), certified nurse midwives (CNM), and clinical nurse specialists (CNS). The proposed amendments establish parameters for opioid analgesic prescriptions for the treatment of sub-acute and chronic pain. Prescribers must first explore non-medication treatment options, create safety checkpoints for patient assessment, and consult with a pain management specialist at extremely potent dosage levels associated with overdose. The proposed language does not apply to hospice care patients, terminal conditions, or inpatient prescriptions.

OAC 4723-23-03 and 4723-23-10 outlines the requirements for dialysis technician certification. The Board would like to reduce the training time for certification from twelve months to six months, and update related testing organization and application form references. OAC 4723-1-03 will also be updated to reflect testing and application references.

Finally, OAC 4723-8-11 establishes medical procedures for youth concussion assessment and clearance to return to sports by CNSs and CNPs. The Board would like to amend the rule to reflect the Consensus Statement on Concussion in Sports, which contains the most current guidelines for youth concussion assessment and clearance.

As part of the early stakeholder outreach process, the Board worked closed with the Directors and staff from the Boards of Medicine, Dentistry and Pharmacy, and the Department of Mental Health and Addiction Services on the rules regarding sub-acute and chronic pain. The groups discussed the need for consistent standards of practice reflective of a common goal to reduce the frequency and amount of opioids prescribed for sub-acute and chronic pain, while preserving the ability for providers to prescribe when clinically appropriate.

The Board also sent the draft rules to interested parties for comment prior to filing the rule package with CSI. It held an interested party meeting in conjunction with review of the rule language by the Advisory Committee on Advanced Practice Nursing (APRN Committee). The interested party meeting reflected a broad base of public members, including representatives from nursing associations, health care systems, and higher education programs. The APRN Committee reviewed and approved all the rules in this package at the meeting; it recommended a few minor language changes that the Board accepted.

Three comments were received during the CSI comment period. Two commenters expressed strong support for the reduced training time for dialysis technicians. The third commenter expressed concerns over the sub-acute and chronic pain amendments. The commenter noted general concerns about the opioid epidemic, and took issue with existing language in the rules not affected by the proposed amendments. The Board responded, stating that the language the commenter expressed discontent over was not currently being considered for revision, and that the commenter's sentiments were more applicable to the statutory authority for the Board rules. It encouraged the commenter to reach out to the relevant members of the Ohio legislature for further discussion.

The rules impact all individuals licensed by ORC Chapter 4723, education and training programs, and other health care providers, employers, and entities. Individuals are required to have a license and meet minimal standards of care in order to maintain and renew licensure. Advanced practice registered nurses are required to complete advanced pharmacology coursework as part of their initial licensure, and complete continuing education as part of the biennial renewal process. The amended rules lessen the adverse impact on dialysis technicians, as their training time will be reduced from 12 months to 6 months. The Board notes that the regulatory intent of these rules

outweigh any impact on business because the rules are critical to establishing consistent standards for the education and practice of nursing, and further the Board's commitment to public health and safety, particularly with regards to the opioid epidemic.

### **Recommendation**

For the reasons explained above, this office does not have any recommendations regarding this rule package contingent on the Board's amendment as described above.

### **Conclusion**

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