Ohio | Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Missy Anthony, Occupational Therapy, Physical Therapy, and Athletic Trainers Board

FROM: Emily Groseclose, Senior Policy and Business Advocate

DATE: June 26, 2020

RE: **CSI Review – OPP Rules**
Public Notice and CPI, Rescission of OAC Chapter 4779
(OAC 4755-61-01 through 4779-1-01, 4779-1-01, 4779-2-01, 4779-2-02, 4779-2-03, 4779-3-01, 4779-3-02, 4779-4-01, 4779-4-02, 4779-5-01, 4779-5-02, 4779-5-03, 4779-5-04, 4779-5-05, 4779-6-01, 4779-7-01, 4779-8-01, 4779-9-01, 4779-9-02, 4779-9-03, 4779-9-04, 4779-10-01, 4779-10-02, 4779-12-01, 4779-13-01, 4779-13-02, 4779-13-03, 4779-13-04, and 4779-13-05)
Licensure Requirements
(OAC 4755-63-01, 4755-63-02, 4755-63-03, 4755-63-04, 4755-63-05, 4755-63-06, 4755-63-07, 4755-63-08, 4755-63-09, 4755-63-10, 4755-63-11, 4755-63-12, 4755-63-13, and 4755-63-14)
Discipline and Enforcement
(OAC 4755-64-01, 4755-64-02, 4755-64-03, 4755-64-04, and 4755-64-05)
Continuing Education
(OAC 4755-65-01 and 4755-65-02)
Fees
(OAC 4755-66-01, 4755-66-02, 4755-66-03, 4755-66-04, 4755-66-05, 4755-66-06, 4755-66-07, 4755-66-08, 4755-66-09, 4755-66-10, and 4755-66-11)

On behalf of Lt. Governor Jon Husted, 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 Board as provided for in ORC 107.54.

Analysis

These five rule packages contain 29 rescinded and 38 new rules submitted by the Occupational

Therapy, Physical Therapy, and Athletic Trainers Board (Board) as part of the statutorily required five-year review process. The packages were submitted on June 2, 2020, and the public comment period was held open through June 15, 2020. No comments were received during that time. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI office on June 2, 2020.

These rules prescribe licensure requirements for orthotics, prosthetics, and pedorthics (OPP). Specifically, the rules establish requirements for initial licensure and licensure renewal, including education, continuing education and fees, prescribe the code of ethics for licensees, outline disciplinary and enforcement actions the Board may take, establish standards for the Board's use of confidential personal information, and provide steps the Board must take to notify the public of meetings.

Due to the elimination of the Orthotics, Prosthetics and Pedorthics Board, the Board is rescinding all of the current rules in OAC Chapter 4779 and reorganizing them into OAC Chapter 4755 with some updates intended to conform with the processes of the Board. Substantive changes proposed include the addition of the duty for a licensee to report another licensee for any unprofessional, incompetent, unethical, or illegal behavior, and a requirement that certain offenses must be self-reported to the Board. Additionally, the amount of continuing education hours that must be completed is reduced and the Board proposes to decrease the fee for licensure renewal from $200 annually to $70 every two years as stated in the BIA (although the rule allows the Board to charge up to $120 every two years).

As part of early stakeholder outreach, the Board shared the rules with license holders and the Ohio Orthotics and Prosthetics Association. The rules were also reviewed by the Board's Orthotics, Prosthetics, and Pedorthics Advisory Council. No comments were received during early stakeholder outreach or the CSI public comment period.

The rules impact all individuals licensed to practice orthotics, prosthetics, and pedorthics. Adverse impacts created by the rules include time and several monetary costs associated with completing required education and continuing education, exams, and background checks, as well as $1,800 for a residency program. Additionally, applicants must pay a $103.50 application fee to the Board and may incur costs associated with licensure verification across states. Licensees could face fines and/or penalties for violating the rules, including requirements that they take additional continuing education or potential license revocation. The Board asserted that the rules are necessary to implement requirements of the ORC and provide clear expectations to licensees and applicants, and that the rules are consistent with standards of practice for OPP and other regulated professions.

Recommendations

For the reasons described above, the CSI office has no recommendations on this rule package.

Conclusion

Based on its review of the proposed rule package, the CSI office recommends that the Occupational Therapy, Physical Therapy, and Athletic Trainers Board proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.