



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Holly Fischer, Ohio Board of Nursing

FROM: Ethan Wittkorn, Regulatory Policy Advocate

DATE: October 15, 2020

RE: CSI Review – Five Year Rule Review: OAC Chapters 4723-8, 4723-9, 4723-23 (OAC 4723-8-01, 4723-8-02, 4723-8-03, 4723-8-04, 4723-8-05, 4723-8-06, 4723-8-08, 4723-8-10, 4723-8-11, 4723-9-01, 4723-9-02, 4723-9-03, 4723-9-08, 4723-9-09, 4723-9-10, 4723-9-11, 4723-9-12, 4723-9-13, 4723-9-14, 4723-23-01, 4723-23-02, 4723-23-03, 4723-23-05, 4723-23-06, 4723-23-07, 4723-23-08, 4723-23-09, 4723-23-10, 4723-23-12, 4723-23-13, and 4723-23-14)

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

This Ohio Board of Nursing (Board) rule package consists of 24 amended rules, six no change rules, and one new rule. This rule package was submitted to the CSI Office on August 24, 2020, and the public comment period was open through September 8, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on August 24, 2020.

The rules in this package cover advanced practice registered nurse certification and practice, prescriptive authority, and dialysis technicians. One new rule is proposed to meet requirements of ORC 4723.51 to establish standards and procedures for advanced practice registered nurses using Federal Drug Administration approved drugs in medication-assisted treatments. The new rule includes language regarding withdrawal management and detoxification parameters, and the use of

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controlled substances. Amendments proposed for rules covering advanced practice nursing include updates to reflect statutory changes for certified registered nurse anesthetists (CRNAs), updated definitions and references, authority to issue medication in a facility, removal of provisions identified to be burdensome and unnecessary in OAC 4723-8-04, clarifications for standard of care arrangements, and removal of language on renewal applications in OAC 4723-8-08 to maintain consistency with other rules. Updates made to prescriptive authority rules include the removal of obsolete definitions, the addition of clarifying references and language, and updates to make language consistent with statute. Lastly, amendments proposed to OAC Chapter 4723-23 regarding dialysis technicians are proposed to update references of “OCDT” to “Ohio Certified Dialysis Technician,” updates to reflect current licensing processes, renewal, and reinstatement, and changes to require the Board to be notified of vacancies within 45 days.

During the period of early stakeholder outreach, the Board shared the proposed rules with the Advisory Committee on Advanced Practice Nursing and the Advisory Group on Dialysis, both of which are composed of members of the public. Additionally, the rules were posted to the Board’s website and emailed to interested parties. OAC 4723-9-14 was created in conjunction with the Medical Board to mirror withdrawal management rules for their licensees, and with input from the Ohio Department of Mental Health and Addiction Services. One comment was submitted during the period of early stakeholder outreach by the Ohio Association of Advanced Practice Nurses. This comment led to the removal of requirements deemed burdensome and unnecessary, updates to review requirements, and the removal of outdated definitions. No comments were received during the CSI public comment period.

Impacted communities include those seeking licensure as advanced practice nurses, dialysis technicians or dialysis technician assistants, training programs for dialysis technicians, individuals licensed under ORC Chapter 4723, and advanced practice registered nurses providing office-based withdrawal management. Adverse impacts identified by the Board include administrative time and costs associated with meeting continuing education requirements, producing required applications for approval of a certifying organizations, the completion of coursework on laws for drugs and prescriptive authority, the completion of assessments, applying for Drug Enforcement Agency waivers to prescribe controlled substances, meeting minimum standards of safe practice, and potential disciplinary measures for failure to comply with the rules. Fees in the rules include \$35 for a dialysis technician and technician intern license, \$150 for an advanced practice nursing license and \$135 for renewal, and \$300 for the approval of a dialysis technician training program.

The Board states that the rules are necessary to ensure public protection by reducing healthcare errors and substandard practice, and to ensure that applicants meet minimum qualifications and that standards are applied consistently. Additionally, the Board states that the rules are necessary to help

provide those seeking detoxification services with greater access to treatment.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Board should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.