



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

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

FROM: Joseph Baker, Business Advocate

DATE: December 6, 2021

RE: **CSI Review – Ethical and professional conduct – orthotics, prosthetics, pedorthics (OAC 4755-64-01)**

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 Commission as provided for in ORC 107.54.

Analysis

This rule package consists of one amended rule proposed by the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board (Board). This rule package was submitted to the CSI Office on October 27, 2021, and the public comment period was held open through November 12, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on October 27, 2021.

Ohio Administrative Code (OAC) 4755-64-01 outlines ethical requirements for orthotists, prosthetists, and pedorthists. These requirements include that the license holder does not discriminate on the basis of factors irrelevant to the provision of professional services, does not engage in activities to benefit the license holder at the expense of the health care recipient, discloses any financial interest in devices promoted by the license holder, does not engage in misleading or false advertising, maintains consumer care documentation appropriately, self-reports to the Board if the license holder is impaired by illness or chemical dependency, felony conviction, or additional cause, and others. The rule is amended to include prohibitions on billing for services not provided, falsifying or destroying patient records, inappropriately abandoning a patient relationship, engaging in a sexual relationship with a patient or any conduct reasonably determined to be sexual in nature, sexual harassment, and refusing to provide testimony at an

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administrative hearing, among others. The Board states in the BIA that these changes are designed to be consistent with Board requirements for other Board-regulated professions.

During early stakeholder outreach, the Board shared the proposed rule with license holders via email. One comment was received in response to the request for feedback in support of the amendment.

Two comments were received during the CSI public comment period. The first comment raised a question regarding the scope of practice for pedorthists. The Board responded to the comment and stated that it does not have policy position on the issue raised and recommended that practitioners approach the legislature to request desired statutory changes. The second comment requested clarification regarding a specific patient interaction and whether directing the patient to another practice would be considered patient abandonment. The Board responded to the comment stating that the actions described by the commenter would not be considered patient abandonment under the rule.

The business community affected by this rule includes all orthotists, prosthetists, and pedorthists licensed by the Board and their employers. The adverse impact to business includes potential disciplinary action for failure to comply with the ethical requirements outlined in the rule, including potential fines, remedial courses, suspension, or license revocation. The Board states that the adverse impact created by the rule is necessary to promote ethical behavior by licensees and protect the public.

Recommendations

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

Conclusion

The CSI Office concludes that the Ohio Occupational Therapy, Physical Therapy, and Athletic Training Board should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.