

CSI - Ohio

The Common Sense Initiative

MEMORANDUM

TO: Kelly Caudill, Ohio State Chiropractic Board

FROM: Paula Steele, Regulatory Policy Advocate

DATE: June 19, 2012

RE: **CSI Review – Chiropractic and Acupuncture Renewal/Restoration Requirements; CE standards (ORC 4734-7-01 through 05; and 4734-10-04)**

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. This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This proposed rule package addresses the Ohio State Chiropractic Board's license renewal and restoration processes, fees, continuing education requirements, and acupuncture certificate renewal requirements. Of the six proposed rules, all are being amended to clarify language and incorporate various technologies for continuing education requirements. These rules and associated Business Impact Analysis (BIA) were filed with the CSI Office on May 1, 2012, and the comment period for the rule closed on May 21, 2012. One comment was submitted and suggested generalizing the rule language regarding online technology used for Continuing Education (CE) so that future technologies are not excluded. According to the Board, it will incorporate the suggestion in the rules prior to filing to allow for future technologies.

The BIA describes the stakeholder outreach process that included an email to all Board approved CE sponsors; professional chiropractic organizations; all Board-approved chiropractic colleges, and all licensees for whom an email address is on file to seek input on the proposed changes to the existing language. Many of the stakeholder suggestions were incorporated into the proposed rules prior to being submitted to CSI and sent out for public comment. Because these rules consist of relatively targeted changes to an existing rule, this method of stakeholder outreach seems appropriate.

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Review of the rules and the associated BIA prompted additional inquiry with the Board and a request for a revised BIA to include additional information, such as specific changes made to the rules as a result of stakeholder input and how the Board arrived at 36 hours of CE. As part of its discussion, the CSI Office reviewed ORC 119.14, which encourages regulatory agencies to provide a waiver of penalties for first-time paperwork offenses. The statute does not seem to require a waiver in instances such as the Board's license renewals. In practice, the Board provides a reasonable amount of flexibility for licensees, and appears to put forth every effort to ensure the licenses are renewed on time, in part to ensure that licensees do not experience licensure gaps for insurance purposes. The CSI office followed up with the Ohio State Chiropractic Association which reported the Board had engaged them for input and that the Association was in full support of the rules. Therefore, the CSI Office believes the first-time paperwork offense provision is not crucial for these proposed rules.

On June 6, 2012, the Board submitted a revised BIA incorporating the CSI suggestions described above. After reviewing the proposed rules and revised BIA, the CSI Office has determined that the rules satisfactorily meet the standards espoused by the CSI Office, and the purpose of the rules justify the adverse impact identified in the BIA.

Recommendations

For the reasons described above, the CSI Office has no recommendations regarding this rule package.

Conclusion

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

cc: Mark Hamlin, Director of Regulatory Policy