

**MEMORANDUM**

**TO:** Jeff Rosa, Executive Director, OTPTAT Board

**FROM:** Paula Steele, Regulatory Policy Advocate

**DATE:** February 2, 2015

**RE:** **CSI Review** – Occupational Therapist Rules (OAC 4755-3-10, 4755-7-01 through 4755-7-04, 4755-7-08, 4755-7-09 and 4755-9-01)

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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**

These Ohio Occupational Therapy, Physical Therapy, & Athletic Trainers (OTPTAT) Board rules includes eight proposed rules – five amended and three no-change. All of the draft rules except OAC 4755-3-10 Biennial Renewal of License are being reviewed subject to the five-year rule review requirement prescribed in Ohio statute. The proposed rules were submitted with individual BIAs but are combined for the purposes of this recommendation. The proposed rules were submitted to the CSI Office on December 16, 2014 with the comment period ending on January 9, 2015. Three comments were received during the comment period.

The proposed rules address licensure renewals, continuing education, supervision, roles and responsibilities, ethical conduct and credentials. The proposed rule addressing licensure renewals for occupational therapists and occupational therapist assistants contains adverse impacts but because the rule is not subject to a five-year review and for the purposes of this analysis, only the amendments' impacts are under review and do not appear to create adverse impacts to business. When the rule is reviewed subject to the five-year rule review requirements, all adverse impacts contained in the rule are required to be justified.

The most substantive amendments proposed in this package removed the supervisory ratio requirements in rule 4755-7-04 Supervision and removed the Continuing Education (CE) requirements for first time license renewals in 4755-9-01 Continuing Education.

The Board engaged stakeholders during the review of the proposed rules. Most of the input received concerned the removal of the supervisory ratio requirements. More than 60 percent of the 1,300 respondents to a Board survey felt that removing the ratios would be good for their practice or have no impact. The American Association of Occupational Therapists expressed its lack of support for defined ratio requirements. The proposed amendment reflects a general shift to using professional judgment and collaborative efforts to maintain standards in performance. Of the three public comments, one was in favor of amendments pertaining to CE, one made comments but did not express support or opposition to the proposed change in ratio requirements in addition to commenting about the Board's role in regards to ethical conduct, and the third comment opposed removing the ratio requirements.

After reviewing the proposed rules and BIAs, the CSI Office followed up with Board staff to request revised BIAs regarding the adverse impacts of the proposed rules. Upon receipt of the revised BIAs, the CSI Office has determined that the rule package satisfactorily meets the standards espoused by the CSI Office, and the purpose of the rules justifies 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, Lt. Governor's Office