



MEMORANDUM

TO: Sallie Debolt, State Medical Board of Ohio

FROM: Sophia Papadimos, Regulatory Policy Advocate

DATE: March 15, 2016

RE: **CSI Review – Hearing Rules (OAC 4731-13-01, 4731-11-02, 4731-13-03, 4731-13-04, 4731-13-05, 4731-13-06, 4731-13-07, 4731-13-08, 4731-13-09, 4731-13-10, 4731-13-11, 4731-13-12, 4731-13-13, 4731-14, 4731-15, 4731-13-16, 4731-13-17, 4731-13-18, 4731-13-20, 4731-13-20.1, 4731-13-21, 4731-13-22, 4731-13-23, 4731-13-24, 4731-13-25, 4731-13-26, 4731-13-27, 4731-13-28, 4731-13-30, 4731-13-31, 4731-13-32, 4731-13-33, 4731-13-34, 4731-13-35, and 4731-13-36)**

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

This rule package consists of thirty-five rules being proposed by the State Medical Board of Ohio pursuant to the five-year review requirement in statute. One new rule is being proposed, twenty-four rules are being proposed with amendments¹ and eleven rules are being proposed without

¹ OAC 4731-13-06, 4731-13-08, and 4731-13-18 are being amended by more than 50 percent. Therefore, the Legislative Service Commission requires that the rules be rescinded and replaced with new rules with the same numbers.

changes. The rule package was submitted to the CSI Office on February 4, 2016 and the comment period was held open through February 22, 2016. No comments were received during this time.

The draft rules set forth the procedures for administrative hearings, including pre-hearing and post-hearing activities. The proposed rules explain the process for notifying applicants and licensees, attorneys, and the public of the procedures and expected actions. The proposed amendments include the requirement that the hearing date and dates for exchange of documents be set according to a case management schedule and allowing for electronic filing of documents. The proposed new rule allows for witness testimony via real-time video or telephonic testimony.

The Board reached out to medical organizations and attorneys who represent applicants and licensees before the Medical Board specifically regarding changes to OAC 4731-13-06, Continuance of Hearing. Based on the comments received, the Board made additional amendments to the rule. Additionally, the Board emailed all stakeholders seeking comment for the remainder of the hearing rules. No feedback was provided.

The Board explained in the BIA that the impacted community includes attorneys who represent clients before the Medical Board, as well as applicants and licensees who receive a notice of an allegation. The adverse impacts include attorney fees and the time associated with the hearing process.

After reviewing the proposed rules and associated BIA, the CSI Office has determined that the purpose of the rules is justified.

Recommendation

For the reasons explained above, this office does not have any recommendations regarding this rule package.

Conclusion

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