



## MEMORANDUM

**TO:** Sallie Debolt, Senior Counsel  
State Medical Board of Ohio

**FROM:** Todd Colquitt, Business Advocate

**DATE:** August 15, 2016

**RE:** CSI Review – Emeritus Registration, O.A.C. Chapter 4731-22

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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 (O.R.C.) 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 O.R.C. 107.54.

### Analysis

The rule package proposed by the State Medical Board of Ohio ("Board") consists of seven rules setting out the parameters by which a medical professional holding specified credentials may register for emeritus status. Being registered as emeritus authorizes the credential holder to continue using the credential even after the Ohio license is expired and the holder is no longer engaged in active practice in Ohio. Four of the rules are proposed as No Change, and the remaining three are proposed with amendments. These seven rules comprise Chapter 4731-22 of the Ohio Administrative Code (O.A.C.) and have been reviewed by the Board under the five-year rule review requirement.

The Board is proposing few changes:

- O.A.C. 4731-22-01 proposes to revise the definition of "retired" to apply to the status of the underlying license in Ohio only.
- O.A.C. 4731-22-02 is proposed to be structurally edited for improved clarity with no changes to the substantive requirements of the rule.
- O.A.C. 4731-22-07 would be amended so that registered emeriti wanting to change their

status to active would be differentiated between those whose underlying licenses are two years or less past their expiration dates and those whose underlying licenses are more than two years past their expiration dates. The holder of an emeritus certificate seeking to change status to active and whose underlying license is more than two years past its expiration date may be required by the Board to demonstrate fitness to practice. The potential for being required to demonstrate professional fitness, however, exists in the current rule and does not represent a new requirement in the proposed amendment.

The BIA notes that while emeritus registration is voluntary, there are impacts associated with the application process such as the requirement to apply for the emeritus certificate. There are also impacts associated with seeking to vacate emeritus status and return to the practice of medicine by returning an inactive license back to active. These include the filing of a reinstatement or restoration application and the re-applicability of the licensing fees and continuing education requirements that apply to persons holding active licenses. The Board asserts that the rules are needed to clarify that O.R.C. 4731.34(A) does not prohibit persons who were licensed for at least ten years and without administrative discipline from using their professional credentials provided that they have ceased practice, allowed their license to expire, and have sought and been granted the honorary status of emeritus. The Board disseminated the proposed rules to a broad range of relevant stakeholders via email and received no early stakeholder comments, nor were any comments received from the public during the formal public comment period.

The purpose of a CSI recommendation memo is not to catalogue in detail each rule in all its subparts, but rather to weigh the rule package on the whole in whether stakeholders were included and their input considered, whether the appropriate balance has been struck, and whether the agency has adequately articulated the necessity for the adverse business impact. After reviewing the proposed rules and BIA, the CSI Office has determined that the rule package as a whole satisfactorily meets the standards espoused by the CSI Office and the purpose of the rule package justifies the adverse impacts 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 State Medical Board of Ohio 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