

**MEMORANDUM**

TO: Sallie Debolt, State Medical Board of Ohio

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: June 7, 2018

RE: **CSI Review – Physician Assistants (OAC 4730-1-01 through 4730-1-04, 4730-1-06, 4730-1-07, 4730-2-01 through 4730-2-03, 4730-2-07 through 4730-2-10, 4730-3-01, and 4730-3-02)**

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This rule package contains eight amended rules¹ and seven rescinded rules proposed by the State Medical Board of Ohio (Board). The rule package was submitted to the CSI Office on August 2, 2017 and the public comment period was held open through August 18, 2017. One comment was received during this time.

The rules included in this package set forth the requirements for physician assistant licensure and practice. The rules are primarily being amended to implement new statutory requirements (Senate Bill 110 and House Bill 290, both of the 131st General Assembly) for physician assistants, including prescriptive practices and continuing medical education. Ohio Administrative Code

¹ OAC 4730-1-01, 4730-1-06, 4730-1-07, and 4730-2-10 are being amended to the extent that the Legislative Service Commission requires the Department to rescind the rules and replace them with new rules of the same rule number.

(OAC) 4730-1-02, 4730-1-03, 4730-1-04, 4730-2-02, 4730-2-03, 4730-2-08, and 4730-2-09 are being rescinded to eliminate repetition of requirements found in statute.

During early stakeholder outreach, the Board sent the rules to medical professional associations, relevant organizations, attorneys, and individuals interested in receiving rule updates from the Board. The Board also worked with the Physician Assistant Policy Committee (PAPC) in reviewing the rules. PAPC feedback for the rules included amending OAC 4730-1-06 to include further sources for obtaining continuing medical education. Additionally, PAPC recommended that OAC 4730-2-02 be rescinded, in order to allow provisional certificate applications to be reviewed on a case-by-case basis to determine applicant capability based on education coursework. Both of these recommendations were accepted and implemented into the rules by the Board. The Board received another stakeholder comment, which suggested only altering the continuing medical education language to include more sources for obtaining continuing education. The Board agreed with the comment and only amended the rule to include new sources.

One comment was received during the CSI public comment period. The comment suggested that the rule be changed to curtail the prescription of medication by physician assistants. The Board replied that the prescriptive ability of physician assistants is provided for in statute and that changes to these rules could not prevent physician assistants from prescribing medicine.

The business communities impacted by these rules include physician assistants and the medical practices and facilities that employ physician assistants. The adverse costs created by the rules include the time and effort to comply with application, staffing, and monitoring requirements. The rules also require monetary costs to maintain compliance, including application fees and continuing medical education course costs. The application fee costs \$500 and background check fees range from \$58 to \$67. The Board states that continuing medical education courses can vary in cost from \$44 to \$350, and can sometimes cost much more for registration and travel. Additionally, violations of the rules may result in penalties, including license suspension or revocation and fines of not more than \$20,000. The rules also implement new provisions which alleviate some of the cost of the required continuing medical education hours by allowing up to one-third of continuing education to be obtained through free medical care to the indigent and uninsured, in accordance with House Bill 290 of the 131st General Assembly. The Board states that most of the adverse costs are created by necessity to comply with statute and basic medical practice standards that protect the public. After reviewing the proposed rules and the BIA, the CSI Office has determined that the rules satisfactorily meet the standards espoused by the CSI Office, and the purpose of the rule package is justified.

Recommendations

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

Conclusion

Based on its review of the proposed rule package, the CSI Office recommends the State Medical Board of Ohio should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.