



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Ronald Ross, State Board of Psychology

FROM: Michael Bender, Business Advocate

DATE: November 23, 2022

RE: **CSI Review – Impaired Practitioner Rules – Safe Haven Program (OAC 4732-17-04 and 4732-17-01)**

On behalf of Lt. Governor Jon Husted, 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 Board as provided for in ORC 107.54.

Analysis

This rule package consists of one new rule and one amended rule proposed by the State Board of Psychology (Board). This rule package was submitted to the CSI Office on November 1, 2022, and the public comment period was held open through November 11, 2022. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on November 1, 2022.

Ohio Administrative Code (OAC) 4732-17-04, a new rule, authorizes the Board to conduct mental and physical examinations of those who have applied for licensure or have been licensed by the Board and establishes a safe haven program for licensees to undergo treatment for impairment due to drug abuse or other medical condition or illness without fear of disciplinary action by the Board. OAC 4732-17-01 contains the rules of professional conduct for psychologists. The rule is amended to incorporate the safe haven program.

During early stakeholder outreach, the Board worked with a representative from the Ohio Psychological Association's (OPA) Prevention and Wellness Committee from April 2022 through September 2022 as well as with staff and legal counsel to the Ohio Physicians Health Program

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

(OPHP) during a meeting on July 26, 2022. Edits to the draft rules incorporated the perspectives of both the OPA and the OPHP. During the CSI public comment period, the Board received two comments from psychologists expressing their support for the safe haven program. The Board also made grammatical and typographical corrections upon inquiry from the CSI Office.

The business community impacted by the rules includes approximately 3,800 licensed psychologists and school psychologists in addition to license applicants. The adverse impacts created by the rules include the time needed to refer an impaired practitioner to the safe haven program and the time and expenditures by a license holder or applicant needed to go through the evaluation and rehabilitation process when recommended by the Board or the OPHP, which the Board intends to name as the monitoring organization of the program. According to the Board, the fees for evaluation and intervention vary depending on the organization and other factors such as whether the treatment is inpatient or outpatient. The Board states that the adverse impacts to business are justified to provide a program for licensed psychologists to receive confidential services to assist with impairments that impact the public's right to safe and competent services.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Board should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.