



# Common Sense Initiative

Mike DeWine, Governor  
Jon Husted, Lt. Governor

Joseph Baker, Director

## MEMORANDUM

**TO:** Anita DiPasquale, Ohio Board of Nursing

**FROM:** Michael Bender, Business Advocate

**DATE:** July 15, 2024

**RE:** **CSI Review – Doula Certification (OAC 4723-3-02, 4723-24-01, 4723-24-02, 4723-24-03, 4723-24-04, 4723-24-05, 4723-24-06, and 4723-24-07)**

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 seven new rules and one amended rule proposed by the Ohio Board of Nursing (Board). This rule package was submitted to the CSI Office on June 11, 2024, and the public comment period was held open through June 21, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on June 11, 2024.

Ohio Administrative Code (OAC) 4723-3-02 defines mental and physical impairment for the purpose of Board compliance. The rule is amended to apply to proposed new rule OAC 4723-24-07 and add references to other Board certificate holders, including certified doulas. OAC 4723-24-01 contains definitions pertaining to doula certification. OAC 4723-24-02 establishes the requirements to obtain doula certification. OAC 4723-24-03 provides for the renewal of doula certification. OAC 4723-24-04 specifies the continuing education requirements for certified doulas. OAC 4723-24-05 provides for doula certification by endorsement. OAC 4723-24-06 establishes minimum acceptable standards of practice for certified doulas. OAC 4723-24-07 authorizes the Board to conduct investigations and take disciplinary actions against certified doulas for certain offenses or violations.

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During early stakeholder outreach, the Board had the draft rules reviewed by its Doula Advisory Group (DAG) at several meetings from January 2024 through May 2024. The Board also emailed targeted stakeholders on February 28, 2024, and posted a notice on its website to solicit comments on the rules through March 14, 2024. The DAG reviewed the submitted comments, listened to public guests who attended its meetings, and recommended changes to the rules. The Board's Advisory Group on Rules (AGR) first reviewed the rules on March 28, 2024. On April 18, 2024, the AGR agreed to all changes recommended by the DAG, with only one exception. The DAG recommended further changes on May 1, 2024. From May 22-23, 2024, the Board finalized its changes to the rules. The revisions made to the rules concerned requirements for proof of certification from a doula certification organization, requirements for initial certification and documentation of education and experience, continuing education requirements and documentation of continuing education completion, requirements for certification by endorsement, standards for documentation of practice, standards for use of universal precautions, use of social media, display of certificate holder identification, deletion of aiding and abetting unauthorized practice of nursing from grounds of discipline, updating language, and providing clarification. The Board declined to accept other suggestions that it deemed were inconsistent with authorizing statutes.

During the CSI public comment period, the Board received thirty comments from individuals who practiced either as birthing doulas or end-of-life doulas. Commenters shared two primary concerns about the rules. First, many commenters asked the Board to clarify that the rules applied to birthing doulas only as opposed to end-of-life doulas. The Board pointed out that the definition of "doula" in its rules reflected the definition was used in the authorizing statute and explicitly referred to doulas who supported pregnant women through and immediately after the delivery of her child. The second main concern of the commenters was that they did not want to be required to obtain certification to work as a doula, and they consequently had concerns with the use of the term "certified doula." The Board noted that neither the rules nor the authorizing statute required doulas to be certified to start or continue their professional work, explaining that certification is only necessary if a doula wishes to bill the Ohio Department of Medicaid (ODM) for providing doula services. The Board added that the term "certified doula" as it appears in the rules reflects the usage of the term in the authorizing statute. A few commenters asked about the technicalities of how doulas would be reimbursed for providing their services. The Board replied that ODM would promulgate rules of its own regarding payments for the provision of doula services. Some commenters also wanted the Board to remove training requirements pertaining to racial bias, health disparities, and cultural competency. The Board replied that it was required to enact these requirements by ORC 4723.89(D)(3). Lastly, the Board revised the rules to clarify training requirements and make some grammatical corrections.

The business community impacted by the rules includes certified doulas and those seeking doula certification. The adverse impacts created by the rules include the requirements to obtain doula

certification, continuing education and renewal requirements, standards of practice, and discipline for committing certain offenses or violations of practice. Individuals who seek certification must complete an online application, pay a \$35 fee, and submit supporting documentation. Every two years, renewal applicants must complete an online renewal application, submit a \$35 fee, and complete ten hours of continuing education. Possible disciplinary actions that a certified doula or applicant for certification could face include reprimand, restrictions on practice, a fine of up to \$500, or denial, revocation, or suspension of a doula certificate. According to the Board, obtaining doula certification will allow an individual to seek payment for doula services from the Ohio Department of Medicaid. The Board also notes that efforts were made to minimize the adverse impacts to business by streamlining the online application process, recognizing training provided or accepted by doula certifying organizations, allowing for carryover of up to five hours of excess continuing education credit to the following renewal period, and offering flexibility for the format of required documentation. The Board states that the adverse impacts to business are justified to implement statutory requirements and positively impact maternal and infant health outcomes.

### **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.