



## MEMORANDUM

**TO:** Missy Craddock, Occupational Therapy, Physical Therapy, and Athletic Trainers Board

**FROM:** Christopher Smyke, Regulatory Policy Advocate

**DATE:** June 29, 2018

**RE:** **CSI Review – Five-Year Rule Review: Athletic Trainers (OAC Chapters 4755-40, 4755-41, and 4755-42)**

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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 (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 Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board (Board) rule package consists of four amended<sup>1</sup> rules and nine no-change rules for their statutorily-required five-year review. This rule package was submitted to the CSI Office on April 26, 2018 and the public comment period was open through May 16, 2018. One comment was received during that time. The Board provided their response to stakeholder comment to the CSI Office on May 18, 2018 and provided a revised BIA on June 15, 2018.

This rule package encompasses all of the rules in Ohio Administrative Code (OAC) Chapters 4755-40, 4755-41, and 4755-42. These chapters address public notice requirements and accessing confidential information for the Athletic Trainers section of the Board, as well as the code of ethics, use of title, and referrals for licensed athletic trainers. The rule concerning public notice of meetings is being amended to allow for electronic correspondence, and the rule relating to public notice for rulemaking is being streamlined to remove redundant language. OAC 4755-41-01,

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<sup>1</sup> OAC 4755-40-02 is being amended to the extent that the Legislative Service Commission requires the Board to rescind the rule and replace it with a new rule of the same rule number.

regarding the code of ethics, is being updated for consistent terminology and to align its policies more closely with the Board of Certification, the national accrediting body for athletic trainers. Finally, a court finding of malpractice is proposed to be added to the list of reporting requirements. All other rules are proposed with no changes.

The Board sought early stakeholder input by posting the rules on its website, sending the rules electronically to their stakeholder listserv, and reviewing the rules at the Board's public meeting in March. No substantive comments were received during this period of early stakeholder engagement. One comment was received during the CSI public comment period. The comment expressed support for the rules, but offered a suggestion for the code of ethics to change a prohibition of "date or engage in a sexual activity" to "romantic or dating relationship", so the language would be more comprehensive. The Board approved the suggested change and will incorporate it when filing with the Joint Committee on Agency Rule Review.

The rules impact licensed Athletic Trainers and any entity which employs them. All seven rules in OAC Chapter 4755-40 relate to Board operations, and do not have any substantial impact on business. The code of ethics outlined in OAC 4755-41-01 requires athletic trainers to abide by confidentiality requirements, stay current with their education, and practice ethical billing standards; the Board considers non-compliance with these standards to be in violation of the Revised Code. The rules also impose minor administrative costs for licensees to comply with the requirements for confidential information, reporting, and referrals. In addition the rules prohibit individuals from engaging in the practice of athletic training or advertising themselves as an athletic trainer unless licensed under ORC 4755.60 or 4755.65.

The BIA justifies the rules as a necessary way to inform the public on how the Board operates, and to protect the private information and safety of clients. The rules also serve to provide clarity on Board policies and procedures for licensees and the greater public. After reviewing the proposed rules, BIA, and response to comments the CSI Office has determined that the rule package satisfactorily meets the standards espoused by the CSI Office, and the purpose of the rules justifies the adverse impact 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 Board should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

CC: Emily Kaylor, Lt. Governor's Office

