

**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 – Volunteer Continuing Education (OAC 4755-9-01 and 4755-45-01)**

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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 two amended rules for their statutorily-required five-year review. This rule package was submitted to the CSI Office on April 20, 2018 and the public comment period was open through May 4, 2018. Twenty comments were received during that time. The Board provided their response to stakeholder comment to the CSI Office on May 18, 2018 and submitted a revised BIA on June 15, 2018.

The rules in this package establish continuing education (CE) requirements for licensed occupational therapists, physical therapists, and athletic trainers. The rules are proposed with amendments to implement House Bill 290 of the 131st General Assembly which allows licensees to fulfill part of their CE requirement by providing volunteer services to the uninsured and indigent population. Another rule change would permit licensees to utilize the National Board for Certification in Occupational Therapy's (NBCOT) Navigator's Tool for CE. The rules also clarify that any presentation by an Athletic Training section member must address professional ethics in order to fulfill the ethics CE requirement. Originally there were three rules in this package, but on May 18, 2018 the Board notified the CSI office that due to substantial changes to the rule, Ohio

Administrative Code (OAC) 4755-23-08 was pulled from the rule package, reposted for another comment period, and subsequently refiled separately.

The Board sought early stakeholder input by posting the proposed rules on its website and sending them to licensees and other interested parties on the Board listserv. Twenty one comments were received. The majority of the commenters were supportive of the rules, several asked questions, and a few objected to the idea of utilizing volunteer services as CE credit. The Board responded to all commenters, answered questions, and noted that the new CE language is mandated by statute. The Board received a letter from the American Occupational Therapy Association (AOTA), stating that although AOTA agrees with the addition of NBCOT Navigator courses, the new provision appears to conflict with the Board's requirement for distance learning under OAC 4755-9-01(B). AOTA suggested broader language that both complies with Board distance learning requirements, but also allows similar resources from other organizations to be utilized.

During the CSI public comment period, the Board received twenty comments. Fourteen of the comments expressed support for the proposed rules, three contained questions, and several more raised concern about the credit for volunteer services. The Board responded to each comment, answering the questions and noting that the new CE language is mandated by statute. In addition, the Board received a letter from the Ohio Occupational Therapy Association, which echoed the same concerns expressed by AOTA. The Board worked with both associations to incorporate their suggested language and alleviate their concerns. The Board furnished the revised rule for the CSI office on May 18, 2018.

The BIA identifies the impacted business community as licensed occupational therapists, occupational therapy assistants, and athletic trainers, as well as their employers. Licensees are required to complete twenty credit hours of CE every two years. While CE courses can vary in cost, the Board offers one CE unit on ethics free of charge. The Board conducts an audit of CE records every renewal year of at least 5% of licensees and failure on the part of a licensee to document compliance with the rule are referred for disciplinary action.

The BIA justifies the rules as a necessary way to ensure that licensed professionals maintain competency and learn new skills as the field changes over time. While the addition of volunteer work for CE credit is mandated by statute, it represents a slight decrease in adverse impact, as it provides an additional, non-mandatory avenue for licensees to fulfill their CE requirements. 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