

**MEMORANDUM**

**TO:** Holly Fischer, Ohio Board of Nursing

**FROM:** Danielle Dillard, Regulatory Policy Advocate

**DATE:** October 3, 2018

**RE:** **CSI Review – Five-Year Rule Review: OAC Chapters 4,6,18 and 20 (OAC 4723-4-01, 4723-4-03, 4723-4-04, 4723-4-05, 4723-4-06, 4723-4-07, 4723-4-08, 4723-4-09, 4723-6-01, 4723-6-02, 4723-6-03, 4723-6-04, 4723-6-05, 4723-6-06, 4723-18-01, 4723-18-02, 4723-18-03, 4723-18-04, 4723-18-05, 4723-18-06, 4723-18-07, 4723-18-08, 4723-18-09, 4723-18-10, 4723-20-01, 4723-20-02, 4723-20-03, 4723-20-04, 4723-20-05, 4723-20-06, and 4723-20-07)**

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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 rule package consists of nineteen amended rules and twelve no-change rules submitted by the Ohio Board of Nursing as part of the statutorily required five-year rule review. The rule package was submitted to the CSI Office on September 7, 2018 and the public comment period was held open through September 21, 2018. No comments were received during this time.

Ohio Administrative Code (OAC) Chapters 4723-4, -6, -18, and -20 set forth the standards of practice relative to registered nurses and licensed practical nurses; alternative programs for chemical dependency and substance use disorder monitoring; the practice intervention and improvement program; and, prevention of disease transmission. The majority of the amended rules are being updated to change obsolete, unnecessary, ineffective, contradictory, or redundant

language. Cross-references have also been revised to reflect current citations and names for laws, rules, forms and applications, and entity names. OAC 4723-6-02 and 4723-6-03 are being amended to add an exception for medication-assisted treatment to reflect a recently promulgated rule, OAC 4723-9-13.

As part of the early stakeholder outreach process, the Board discussed the rule package at its public Board meetings. It was also reviewed by the Board Committee on Advanced Practice Registered Nursing. The draft rules were also posted on the Board's website, and sent electronically to interested parties requesting comment. The Board did not receive any feedback during early stakeholder outreach, and no comments were received during the CSI public comment period.

The rules impact all individuals licensed by ORC Chapter 4723, and nursing employers. In order to participate in the diversion program governed by OAC Chapter 4723-6, licensees must bear the cost of drug and alcohol screening, drug and alcohol evaluations, and treatment and recovery programs. Insurance may offset part of the costs, but drug screenings generally cost \$41 per screen and combined drug and alcohol screens are generally \$82. Approximately twelve to fifteen random screens per year are required. Evaluations may range from \$400-600. Employer costs would be the time associated with workplace monitoring and reporting to the Board about work performance and compliance with the program requirements.

If involved in the Practice Intervention and Improvement Program, licensees may incur costs for remedial education, if the employer does not offer the education. The employer may incur the cost of offering remedial education and practice monitoring, although most employers offer remediation and monitoring as part of the nurse's employment. OAC Chapter 4723-20 involves mostly operational costs. The cost of hand sanitizer, soap, gloves, and disinfectants for the purpose of prevention of disease transmission depends on the type and size of the institution or company. Employers have incurred these types of expenses for many years as part of their operational costs.

Violations of Chapter 4723-4, regarding standards of practice, may result in disciplinary sanctions. Sanctions include fines, required continuing education, license restriction, probation, suspension, and revocation, depending on the violation. Disciplinary sanction fines are established in ORC 4723.28, at not more than \$500 per violation. Continuing education may be free, but costs can range from \$10-\$200 depending on the continuing education the licensee chooses to complete.

The Board notes that the regulatory intent of these rules outweighs any impact on business because the rules are critical to establishing consistent standards for the education and practice of nursing, and further the Board's commitment to public health and safety.

**Recommendation**

For the reasons explained above, this office does not have any recommendations regarding this rule package contingent on the Board's amendment as described above.

**Conclusion**

Based on the above comments, the CSI Office concludes that the Ohio Board of Nursing should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.