



Common Sense Initiative

Mike DeWine, Governor
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Occupational License Review Testimony
Ohio House State and Local Government Committee

Chairman Wiggam, Vice Chair John, Ranking Member Kelly, and members of the House State and Local Government Committee, thank you for the opportunity to testify today to discharge the duties of the Common Sense Initiative (CSI) Office in accordance with O.R.C. 101.64, specifically as it relates to the State Chiropractic and Vision Professionals Boards. My name is Sean McCullough, and I am the Director of CSI.

I will first address my statutory duty regarding the State Chiropractic Board.

Ohio State Chiropractic Board

The Ohio State Chiropractic Board oversees the chiropractic profession in Ohio, which includes approximately 2,600 chiropractors, 175 acupuncture certificate holders, and 35 preceptorships (clinical programs in which chiropractic interns serve under supervision of licensed chiropractors), according to the 2020 annual report.

In the past six years, the CSI Office has reviewed 53 rules from the Ohio State Chiropractic Board addressing a variety of regulatory areas such as license renewal requirements, continuing education responsibilities, acupuncture certification, animal chiropractic practice, license discipline, deceptive advertising, licensing of military spouses, and chiropractic degree programs.

In 2016, CSI did not review any rules for the Board.

In 2017, CSI reviewed rules defining the passing score for the jurisprudence exam, continuing education credit for providing volunteer care, restoration of inactive licenses, acupuncture program approval, and others. One comment was received during this time sharing a concern that chiropractors might unduly rely on indigent care as a means of completing continuing education requirements in lieu of completing training programs. According to the recommendation issued by the CSI Office at the time, the Board responded to the commenter but did not adopt the recommended changes.

In 2018, the CSI Office reviewed two separate packages regarding the evaluation of chiropractic degree programs and a collection of rules subject to five-year review. The Board received one comment seeking clarifying language regarding concussion management certification and the Board adopted the recommended change in response to the comment.

In 2019, the CSI Office reviewed a rule package submitted by the Board which established licensure requirements, application processes, and various other occupational standards for the profession. The Board reported adopting several changes to this package based on early stakeholder feedback, but no comments were received by CSI during the public comment period.

In 2020, the CSI Office reviewed a rule package from the Board addressing the treatment of concussions in athletes. The Board received three comments from the public during the CSI comment period, including recommendations that the use of hyperbaric oxygen be authorized, that educational requirements for chiropractors seeking to assess concussions in young athletes be removed, and that definitions for various athletic activities and youth athletes be included in the rule. The Board adopted the definitional changes, but did not authorize the use of hyperbaric oxygen, as it stated that hyperbaric oxygen can only be obtained by individuals issued a certain type of license by the Board of Pharmacy. Additionally, the Board stated that it did not modify the educational standards for assessing youth concussions as the current rule was designed to align with statutory guidelines. The Board also submitted a rule package in 2020 designed to implement military license reciprocity standards as outlined in S.B. 7 (133rd General Assembly) but the CSI Office did not receive any comments on the proposed change.

In January of 2021, CSI reviewed a Board rule package requiring animal chiropractors to register with the Board, clarifying sexual misconduct definitions, updating advertising and solicitation standards, and requiring that license-holders who are subject to discipline provide a copy of the board's action to the licensing authority of any state in which the licensee holds a license. One comment was received during the CSI public comment period suggesting reducing timeline restrictions on chiropractors contacting individuals following a motor vehicle accident, while other comments suggested clarifying changes for determining instances of sexual abuse. The Board did not make changes to the rules in response to these comments, stating that the motor vehicle accident soliciting restrictions are specified in statute and that the sexual misconduct rule as written provided necessary clarification to areas of the body and the types of conduct surrounding them that would constitute sexual abuse.

Finally, in May of 2021 the Board recommended technical changes to the rule that allows inactive acupuncture certificates to be restored upon payment of a \$50-\$100 fee and completion of 6-12 hours of continuing education. The package also suggested changes to the renewal requirements for a chiropractor license, including a \$50 increase for the two-year renewal fee (from \$500 to \$550), as well as various changes to continuing education requirements, such as mandating boundaries and trauma-informed care as topical requirements, and adopting clarifying changes to address online-based continuing education programs. During the public comment period, CSI received feedback objecting to the fee increase for chiropractor license renewals. In response to the feedback, the Board has determined to remove the renewal fee increase from the proposed rule.

In the past six years, the CSI Office has not received input from the Small Business Advisory Council related to the Board. The CSI Office does not have any other information that we believe will elucidate the effectiveness and efficiency of the Board or the quality of customer service provided by the Board.

I will now address my statutory duty related to the Vision Professionals Board.

Vision Professionals Board

The Ohio Vision Professionals Board was created in January 2018 after the State Board of Optometry and the Optical Dispensers Board were merged in H.B. 49 of the 132nd General Assembly. The Board regulates approximately 7,000 optometrists, opticians, and ocularists according to the 2020 annual report.

As the Board was created in 2018, the CSI Office has reviewed no rules from the Board prior to 2018.

Since the creation of the Board in 2018, the CSI Office has reviewed 126 rules from the Ohio Vision Professionals Board. Ninety-nine of these rules involved 2019 changes made to the Administrative Code to consolidate the State Board of Optometry and the Optical Dispensers Board. The CSI Office received two comments on the rules requesting clarification on terminology used in the new rules and one letter of support during the consolidation rule comment process.

In 2020, CSI reviewed rules from the Board updating its code of professional ethics, establishing fees for certificate name change and replacement wall certificates. The rules also addressed prohibitions on hiring a solicitor to secure patients or guaranteeing optometric services, delegation of optometric duties to other individuals, standards of care for vision-related prescriptions, permitted duties of unlicensed persons, continuing education requirements, and the administration of controlled substances, among others. During the CSI public comment period, comments were received from the National Association of Optometrists and Opticians (NAOO) and the Ohio Optometric Association (OAA). The OAA expressed support particularly for the flexibility provided in the rules regarding telehealth, and the NAOO suggested clarifying to the telehealth and delegation guidelines, as well as removing a section requiring licensees from an unlicensed state to complete the national qualifying exam within 36 months of applying to the Board to be considered for licensure. Following the CSI public comment period, the Board adopted changes to update the delegation of duties to ancillary personnel and to instruct patients on insertion, removal, and wearing regimen of contact lenses. The Board also determined to remove the requirement that an individual from an unlicensed state seeking licensure in Ohio based on work experience complete the qualifying exam within the previous 36 months (the examination is still required for reciprocal licensure, but no timeframe is specified).

In 2020, the CSI Office also reviewed the Board's plan to rescind its previous military licensure rule and replace it with an updated model based on the passage S.B. 7 (133rd General Assembly), which requires the Board to issue a temporary occupational license to military members and spouses who are on military duty in Ohio if they hold a valid license in another state. During the CSI public comment period, comments suggested reducing the required number of continuing education hours, and that conflicting language existed relating to military training programs that are substantially equivalent for licensure as an optician. The OAA also shared their support of the rules. Based on the comments, the Board amended the proposed rule to make organizational updates and removed the potentially conflicting sections relating to substantially equivalent military training programs.

Finally, the CSI Office is currently reviewing rules from the Board outlining continuing education requirements to maintain a license and education requirements for initial licensure. Amendments have been proposed to the rules that would more clearly specify required education for licensees and allowable forms of continuing education. Several comments were submitted on the rules including requests to increase the minimum number of allowable online continuing education courses (currently capped at 10 out of 25 total continuing education hours) and reducing the number of required continuing education hours from 25 to 20.¹ As the review process for these rules is still ongoing, the outcome of these comments is still pending resolution.

¹ This would require a statutory change, as the number of continuing education hours is specified in ORC 4725.16(B).

In the past six years, the CSI Office has not received input from the Small Business Advisory Council related to the Board. The CSI Office does not have any other information that we believe will elucidate the effectiveness and efficiency of the Board or the quality of customer service provided by the Board.

This concludes my testimony, and I am happy to answer any questions at this time.