



## MEMORANDUM

**TO:** Jeff Greene, Ohio State Board of Optometry

**FROM:** Paula Steele, Regulatory Policy Advocate

**DATE:** July 11, 2014

**RE:** **CSI Review** – Licensing and Military Considerations (OAC 4725-3-02, 4725-3-10, 4725-3-11 and 4725-3-12)

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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. This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

### **Analysis**

This Ohio State Board of Optometry (Board) rule package contains four draft rules – two no-change and two new rules. The no-change rules, OAC 4725-3-02 *Required From Applicants* and 4725-3-10 *Criminal Records Check*, are being submitted as a five-year rule review as required by ORC 119.032. The two new rules, OAC 4725-3-11 *Consideration of Military Experience, Education, Training and Term of Service* and 4725-3-12 *Temporary License for Military Spouse*, are being proposed by the Board to implement the recently-enacted House Bill 98 which requires each licensing board to adopt rules identifying substantial military equivalents for its licensing, education and experience requirements. This rule package was submitted to the CSI Office on April 29, 2014 with the comment period ending on May 6, 2014. Two comments concerning the military considerations were received during the comment period. One comment was seeking clarification of the temporary license rule. The other comment was in favor of 4725-3-12 but was not in favor of rule 4725-3-11 because to the commenter, the rule seemed unnecessary.

The proposed no-change licensure rules contain certain requirements for licensure applications including a criminal records check, passport photo and licensure fee. The *Required by Applicants* proposed rule requires the application fee be paid by a certified check, a cashier's check or a money order. According to the BIA, the justification for this requirement was to prevent returned personal checks and that the requirement is part of the standard application process. The CSI Office completed a cursory review of the Ohio Medical and Nursing Board rules and determined that no such special payment method was required of their applicants when submitting fees with an application.

In order to obtain a license to practice optometry in Ohio, the Revised Code requires the completion of no less than six years of college, graduation from a Board-approved school of optometry, and successful passing of a board-approved licensing exam. The proposed *Consideration of Military Experience, Education, Training and Term of Service* explicitly states that the Board determined there were no military programs of training, specialties, and lengths of service that are equivalent or exceed the educational and training requirements for licensure as an optometrist. The proposed rule also includes definitions, provides for waivers of certain continuing education and fee requirements, addresses expired licenses for active duty members and expedites licensure for military applicants. Review of the proposed rule revealed duplication of (C)(2)(a). The proposed *Temporary License for Military Spouse* rule makes it possible for a qualified spouse of an active-duty military to be eligible for a temporary license to practice as a licensed optometrist.

The initial BIA did not identify the special fee payment requirement as an adverse impact to business. The CSI Office followed up with Board staff and requested a revised BIA that included the rationale and justification for such payment requirements.

In this case, after reviewing the proposed rules and the associated revised BIA, the CSI Office has determined that the Board has not justified the special payment requirement.

### **Recommendations**

1. Revise OAC 4725-3-02 to include standard methods of payment for fees.
2. Review 4725-3-11 (C)(2)(a) for duplicative rule language and amend as appropriate.

### **Conclusion**

Until the Board considers the recommendations above, it **should not** file this proposed rule package with JCARR.

cc: Mark Hamlin, Lt. Governor's Office