



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Matthew Gajkowski, D.C., Northeast Ohio Academy of Chiropractic

FROM: Common Sense Initiative Office

DATE: April 25, 2019

RE: R.C. §107.56 Referral—*Northeast Ohio Academy of Chiropractic*

On March 21, 2018, the Northeast Ohio Academy of Chiropractic referred for review under Ohio Revised Code (R.C.) §107.56 a rule prescribed by the Ohio State Medical Board (“Medical Board”), Ohio Administrative Code (“O.A.C”) §4731-1-05, Scope of Practice: Massage Therapy. The referral alleged the Medical Board’s violation of antitrust laws by “not allowing chiropractic physicians to delegate services to licensed massage therapists.”¹

O.A.C. §4731-1-05 establishes the scope of practice for massage therapy, one of the two limited branches of medicine the Medical Board is required to regulate under O.R.C. §4731.05 and §4731.15. The statutes clearly require the Medical Board to adopt rules “to carry out the purposes of the chapter” and “to govern” the practice of massage therapy.

When the Northeast Ohio Academy of Chiropractic referred O.A.C. §4731-1-05 to CSI, the version of the rule then in effect prohibited licensed massage therapists from performing three specific modalities, ultrasound, diathermy, and electrical muscle stimulation.² However, since that time, the Medical Board has revisited its policy considerations for a licensed massage therapist’s scope of practice and proposed an amendment to O.A.C. §4731-1-05 that will permit the performance of those three previously prohibited modalities under the on-site supervision of licensed practitioners. The newly proposed language allows for licensed massage therapists to perform “ultrasound, electrical neuromuscular stimulation, or substantially similar modalities” as long as the treatment is supervised by a physician, podiatric physician, physician assistant, *chiropractor*, advanced practice registered nurse, or physical

¹ See Referral, Question 7.a.

² See Referral, Appendix A.

therapist acting within the scope of the professional license.³ With that change, chiropractors will be able to delegate to licensed massage therapists treatments that fall within their scope of practice as prescribed by the Ohio State Medical Board, resolving the issue raised in the Northeast Academy of Chiropractic's March 21, 2018 referral.

³ See, Medical Board Referral Response dated June 15, 2018, along with the Medical Board rule package filing for CSI review on September 25, 2018.