

# CSI - Ohio

## The Common Sense Initiative

### Business Impact Analysis

Agency Name: Ohio Department of Mental Health and Addiction Services \_\_\_\_\_

Regulation/Package Title: Waiting List for Services \_\_\_\_\_

Rule Number(s): 5122-8-01 \_\_\_\_\_

Date: March 16, 2017 \_\_\_\_\_

**Rule Type:**

☒ New

☐ Amended

☐ 5-Year Review

☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### **Regulatory Intent**

1. Please briefly describe the draft regulation in plain language.

*Please include the key provisions of the regulation as well as any proposed amendments.*

The Department of Mental Health and Addiction Services (Department) is required by ORC section 5119.362 to implement a waiting list procedure for community addiction services providers, and adopt any rules necessary to put the waiting list and its related reporting requirements into operation. The Department has worked with stakeholders

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIOhio@governor.ohio.gov](mailto:CSIOhio@governor.ohio.gov)

to develop a waiting list implementation that will meet the statutory requirements that become effective on July 1, 2017.

The proposed rule requires that providers create and maintain a waiting list of individuals who are seeking opioid and co-occurring drug addiction services and recovery supports. The waiting list shall contain non-identifying but individualized data such as the last four digits of the individual's social security number, the first two letters of their last name, county of residence, and so forth. The waiting list process shall also collect, as applicable to the individual, the number of days the individual waits before receiving services, being assessed for services, and the number of days between an assessment and receiving services.

The rule sets forth the contact procedures for when a service opening is available, and how long to wait if an individual does not respond.

Providers report waiting list data to the Department, which will post aggregate data to its website and provide to boards of alcohol, drug addiction, and mental health services information about waiting times within each board's service area.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

ORC 5119.362

ORC 5119.364

ORC 340.20

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

*If yes, please briefly explain the source and substance of the federal requirement.*

No.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable.

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The waiting list is intended to identify gaps in the states opioid and co-occurring drug addiction services. By analyzing data on wait times for services providers, the Department, and Boards will be able to better address needs of both individuals and the community.

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6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The Department will be expecting to obtain usable data that can be used by the system to identify gaps in coverage. If the data obtained can be used to shorten times those in need are waiting for assistance, the program will be successful.

### **Development of the Regulation**

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

The Department has held meetings with the Ohio Council of Behavioral Health & Family Services Providers, the Ohio Association of County Behavioral Health Authorities, and individual stakeholders including Sunrise Treatment, Compdrug, Meridian Community Care, and The LCADA Way. These meetings were held to discuss changes to the statutory authority and develop the rule for implementing the program.

Meetings were held on:

September 10, 2015

September 18, 2015

September 24, 2015

November 24, 2015

December 16, 2015

February 9, 2017

February 28, 2017

March 8, 2017

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

The stakeholders provided direct input on the reporting procedure and methodology. At stakeholder request the definitions of terms were added in paragraph (A) to bring clarity to what was being asked for in the waiting list process. Stakeholders, both providers and boards worked with the Department to develop the spreadsheet that is the template for the electronic system for the reporting of waiting list data. Through

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this process, the Department was able to identify what data beyond the minimum statutory requirements was necessary to be collected and how to best collect the statutorily required data. The concept of defining the required services and supports through ICD-10 codes in appended to the rule was developed by dialog in stakeholder meetings. All parties at the table feel this may be an approach that gives providers certainty in what data to collect, while collecting meaningful data.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

Not applicable.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

The Department has worked through several iterations of the rule in stakeholder discussions described in question 8. This is believed to be the most workable solution for what is required, although the waitlist process will be closely monitored and reviewed for problems.

11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

The statute does direct the reporting of data, and the rule, as much as possible, allows for provider discretion on how the data is collected.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

This is an area regulated only by the Department, and is an activity which the Department is statutorily directed to conduct.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The Department is developing a standardized form for reporting waiting list data, and a secure electronic portal for submission. Providers will be able to use the form without regard to the types of systems in place. The Department will look to future improvements in reporting as it learns what works most efficiently.

### **Adverse Impact to Business**

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**14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

- a. Identify the scope of the impacted business community;**
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
- c. Quantify the expected adverse impact from the regulation.**

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.*

The waiting list will be required of any community addiction services provider and will impact them through employee time to record data. The time per individual will vary per procedures implemented at each provider; however it is a consistent amount of data to be entered. The basic data for each individual will require a few minutes of an employee’s time per individual seeking services, with follow-up data collection for call backs taking similar amounts of time. Providers may be able to automate some aspects of this data collection through integration with existing systems. Nevertheless, the required data collection and reporting should be around 1-5 hours per month.

**15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

The Department has been directed to implement this program by statute in order to identify gaps in the state opioid and co-occurring drug addiction services system.

### **Regulatory Flexibility**

**16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

No, the statutory authority requires the same reporting for all providers.

**17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

The Department will work with providers to identify issues with compliance and solve them. The goal with this program is to collect data to identify problems.

**18. What resources are available to assist small businesses with compliance of the regulation?**

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**The Department will be assisting all providers with the implementation of the waiting list program.**

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