

# CSI - Ohio

## The Common Sense Initiative

### Business Impact Analysis

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

Regulation/Package Title: Mediation procedures for boards of alcohol, drug addiction, and mental health services and service providers of those boards.

Rule Number(s): 5122:2-1-06 \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

**Rule Type:**

☐ New

☒ 5-Year Review

☒ Amended

☐ Rescinded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.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117  
[CSIOhio@governor.ohio.gov](mailto:CSIOhio@governor.ohio.gov)

## **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.*

This rule is due for the statutorily required five-year review, and is being updated to be consistent with the Department of Mental Health and Addiction Services as it is presently constituted.

The Department is required by ORC 340.036(D) to adopt procedures for a dispute resolution process when either a board of alcohol, drug addiction, and mental health services or a service provider decide not to renew a contract with the other party. The dispute resolution process is intended to only cover the circumstances of a non-renewed contract, and the Department is not required by ORC 340.036(D) to force the parties into the process and the parties are not bound by the outcome of the dispute resolution process.

The rule is being amended to be consistent with the current statutory authority and other changes in Department structure since the last update of the rule.

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

ORC 340.036(D).

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 Department is statutorily required to have this process in rule.

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

The rule is successful if it provides an alternative process for solving contract disputes. It is not intended to solve all disputes or force parties into the dispute resolution process.

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

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

### **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 Ohio Association of County Behavioral Health Authorities and The Ohio Council of Behavioral Health & Family Services Providers were contacted for their input on the proposed changes.

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

No requests for changes have been received at this time.

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?

Not applicable.

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.*

Not applicable, this is the alternative to lengthy and costly litigation.

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

There are no other regulatory bodies that cover this particular area.

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 rule is voluntary and provides an alternative process for boards and providers to use. There is no implementation necessary.

### **Adverse Impact to Business**

**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.*

Any board or provider that contracts with boards could be impacted. The only adverse impact will be the cost of the actual dispute resolution process, which ORC 340.036(D) requires to be shared between the parties. Mediators charge \$100 to \$150 per hour. Each party would be responsible for half that amount and the total would depend on how long the mediation process lasted. Of course, as neither side is bound by the process, they are free to walk away at any time and curtail any expenses.

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

The Department is required to adopt rules with a dispute resolution process. This is the least impactful to the parties.

### **Regulatory Flexibility**

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

This is an alternative process.

**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?**

Not applicable.

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

There are mediation resources available for any business not familiar with the process, and the Department would work to connect them.

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

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