



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Howard Henry, Ohio Department Mental Health and Addiction Services

FROM: Ethan Wittkorn, Regulatory Policy Advocate

DATE: August 15, 2019

RE: CSI Review – Certification Rules Update 2019 (5122-25-01, 5122-25-02, 5122-25-03, 5122-25-04, 5122-25-05, 5122-25-07, 5122-25-08, 5122-26-01, 5122-26-06, 5122-26-12, 5122-26-13, 5122-26-15, 5122-26-16, 5122-26-17, 5122-26-18, 5122-27-01, 5122-27-03, 5122-27-04, 5122-27-05, 5122-27-06, 5122-27-07, 5122-27-09, 5122-29-09, 5122-29-30, and 5122:2-1-06)

On behalf of Lt. Governor Jon Husted, 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 (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This Ohio Department of Mental Health and Addiction Services (Department) rule package consists of 25 rules. This rule package was submitted to the CSI Office on June 10, 2019 as part of a statutory 5-year review process, and the public comment period was open through July 10, 2019.

This package contains rules regarding the certification of community mental health and addiction services providers. Changes in the rules reflect law changes in HB 111 of the 132nd General Assembly, which expanded certification requirements to nearly all alcohol and drug service providers and opioid treatment programs. Additional changes include more general updates to citations, timelines, authority to deny or revoke certification when providers falsify client records or alter their certificates, requirements for child serving agencies, guidelines on release of records, client assessment procedures, and qualified behavioral health specialist credential requirements.

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During the period of early stakeholder outreach, the Department contacted several groups via e-mail to request input on the proposed rules. These groups included Ohio Citizen Advocates for Addiction Recovery, National Alliance on Mental Illness – Ohio, The Ohio Council of Behavioral Health & Family Services Providers, Ohio County Behavioral Health Authorities, and the Ohio Association of Recovery Providers. That engagement brought about some changes to the proposed rules, including a reduction in the time to file a renewal application in advance of a certificate expiration to ninety days (rules 5122-25-03 and 5122-25-04), the removal of a sentence added in error to rule 5122-25-08, a less intrusive application process outlined in rules 5122-25-03 and 5122-25-04, and lastly, some clarification and the removal of a hearing provision from rule 5122-26-17. No comments were received during the CSI public comment period.

Nearly all mental health and addiction services providers will be impacted by these rules. The impact is manifested in the time required for compliance, as well as fees associated with the certification process. Fees include a minimum certification fee of \$1,000. Certification for all other services not listed in rule 5122-25-08 incur a \$100 fee, as well as a \$2,500 fee for a provider not seeking to renew its accreditation and failing to notify the board of this decision within seven calendar days of the accrediting body's application deadline. A new certification fee may be levied against a provider if an incomplete application is returned. If the Department notifies the applicant of a non-compliant application, the applicant may submit up to three corrections before incurring a \$250 resubmission fee, followed by a \$500 fee for each subsequent non-compliant application. The current rule subjects providers to a maximum \$4,000 certification fee based on the provider's total annual budget. However, to better accommodate providers, the proposed rules change that structure to a fee based on the number of services being certified.

The Department is statutorily required to adopt rules establishing certification standards consistent with nationally recognized standards, to set certification fees, and to facilitate participation in federal assistance programs.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Department should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.