

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio Chemical Dependency Professionals Board

Regulation/Package Title: HB284

Rule Number(s): 4758-1-01, 4758-1-03, 4758-2-01, 4758-3-01, 4758-4-01, 4758-4-02, 4758-4-03, 4758-5-01, 4758-5-03, 4758-5-04, 4758-5-05, 4758-5-06, 4758-5-07, 4758-5-08, 4758-5-09, 4758-5-10, 4758-6-01, 4758-6-03, 4758-6-04, 4758-6-05, 4758-6-06, 4758-6-07, 4758-6-08, 4758-6-09, 4758-6-10, 4758-8-01, 4758-8-02, 4758-8-03, 4758-10-01, 4758-13-01, 4758-13-02, 4758-13-03, 4758-13-04, 4758-13-05, 4758-15-01, 4758-20-02, 4758-20-05

Date: 1/22/13

**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☒ Rescinded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.

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## **Regulatory Intent**

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

On 12/20/12 the 129<sup>th</sup> General Assembly passed HB 284. HB284 made several changes to the requirements and processes for certifying and licensing chemical dependency counselors and prevention specialists in the state of Ohio. This package of draft regulation changes will bring the Board's current regulations into compliance with the new statutory language which will take effect in March of 2013.

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

Chapter 4758 of the ORC authorizes the Board to adopt this package of regulations.

### **3. Does the regulation implement a federal requirement? No**

**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? No**

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

The federal government does not set minimum standards as it relates to the credentialing of chemical dependency counselors and prevention specialists. These standards are set at the state level.

### **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 mission of this Board is to assure high standards of alcohol and other drug treatment and prevention for all citizens through the assurance of a competent, well trained and ethical workforce. The Board's guiding principles further define its commitment to the development of a strong and sustainable profession. The Board's guiding principles are:

- The health and welfare of the citizens of Ohio and clients served in treatment and prevention programs are of critical importance.
- Policy related to credentialing of chemical dependency professionals should be responsive to the needs of workers in the alcohol and drug field and should take into consideration the views of agencies providing chemical dependency services.
- A variety of professions have the requisite skills to provide treatment and prevention services, but here is added value in holding a credential issued by the Board.

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- The Board acknowledges the value of technical education and training in alcohol and other drug addiction services and will advocate for the continued education of Ohio's chemical dependency treatment and prevention workforce.
- Training and service delivery should conform to best practices and should incorporate culturally appropriate methodologies.

These draft regulations support the mission and guiding principles of the Board.

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

Success will be measured by an increase in the number of competent and qualified individuals obtaining a certificate or license through the Board and by a decrease in ethical misconduct by the Board's credentialed professionals.

**Development of the Regulation**

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

The Board began work on these draft regulations in the summer of 2007. Two public stakeholders committees were formed which included membership by the Ohio Association of Alcohol and Drug Abuse Counselors (OAADAC), the Ohio Department of Alcohol and Drug Addiction Services (ODADAS), the Ohio Council of Behavioral Healthcare Providers, The Alcohol and Drug Abuse Prevention Association of Ohio (ADAPAO), various Alcohol and Drug Abuse Services (ADAS) Boards, educational providers and prevention and treatment programs. The treatment stakeholders committee met monthly from June of 2007 until February of 2008 to develop and provide feedback on the draft regulations. The committee additionally met at least once per calendar year in 2009, 2010 and 2011. The prevention stakeholders committee met every other month throughout to develop and provide feedback on the draft regulations. This committee additionally presented the draft regulations at the Ohio Prevention Education Conference (OPEC) for feedback.

In January of 2011 the Board announced to professionals in the field via its listserv the proposal that these stakeholders committees had approved and provided a three week comment period. These comments were then reviewed by the stakeholders committees and adjustments were made as needed. The proposal was then introduced as a bill in the Senate in early 2012 and passed in December of 2012.

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

The stakeholders committee set three goals when it started its review of the Boards regulations:

1. To review the requirements to obtain a credential with the Board and determine their appropriateness identifying potential barriers at each level of credentialing which prevent individuals from obtaining a credential.
2. To review the scopes of practice for credentialed professionals and make sure they are adequately defined.
3. To increase access to the Board's credentials to both new professionals and individuals who currently practice in the field under an alternate license.

The stakeholders further identified three populations of professionals to address while reviewing the draft regulations:

1. The degreed professional
2. The non-degreed professional
3. The professional seeking to advance in the field

These goals and focus populations as established by the stakeholders committee guided the entire discussion and creation of these draft regulations.

**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?**

When possible, the stakeholder committees and the Board reviewed scientific data relevant to the draft regulations. The committees reviewed the January 2006 Ohio Alcohol and Other Drug Addiction Workforce Development Project Executive Summary which addressed workforce needs in this field and included a 2005 assessment of the workforce. The committee reviewed Long-Term and Strategic Recommendations for Enhancing the Alcohol and Other Drug Addiction Treatment Workforce in Ohio published in July of 2007. Both of these documents identified the need to increase the workforce which was a focus of this regulation.

The stakeholder committee and the Board reviewed internal statistics regarding one particular certification level, the CDCA. Internal statistics showed that 50% of the newly certified individuals in this population did not renew this certificate (in each of 2005-2007). The committee and Board further reviewed internal statistics regarding ethical misconduct by

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this population of professionals and found that of the ethical sanctions taken against these professionals 63% of these violations occurred within the first two years of certification (for years 2004-2008). These statistics led to lengthy discussions by the stakeholders regarding the educational requirements and length of certification for this level with a focus on reducing the transience of this population and increasing the knowledge base to reduce ethical misconduct.

**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 Board considered re-instituting a former level of certification known as the CCDC I but after discussions with stakeholders determined that with the CDCA certification level this was not a necessary action.

The Board considered several proposals for restructuring the levels of certification for both treatment and prevention professionals. Each proposal was reviewed in depth and pros/cons were discussed with stakeholders. The structure continued to be revised until all stakeholders felt the best proposal for the field had been reached.

The Board considered revising the scope of practice for the CDCA certification to reduce the number of services this level could provide in an attempt to eliminate ethical misconduct. The stakeholders articulated that this measure would negatively impact the providers ability to hire, develop staff and bill for services. As an alternative to reducing scope, the committee and the Board reached an agreement to increase educational requirements for this population of professionals to insure quality and competent care.

**11. Did the Agency specifically consider a performance-based regulation? Please explain.**

The Board and stakeholders did not consider a performance-based regulation as it did not seem appropriate for this draft regulation.

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

The Board reviewed regulations of other professional licensing bodies in the state. The Board reviewed the treatment and prevention regulations of the Ohio Department of Alcohol and Drug Addiction Services (ODADAS).

**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.**

First and foremost the Board will continue to keep the field and its professionals informed of these regulations as they are approved and then implemented. The Board will train all staff on the new regulations to be able to assist the field with questions. The Board will create and update applications and forms to ensure that they are user friendly for the field and succinctly explain the requirements and processes. Instructions, forms and applications will be available on the Board's website for ease of use. The Board will additionally provide regional trainings to the field to explain the regulation changes and answer questions the field may have regarding new processes and will publish information on these regulation changes in appropriate publications.

**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;**

These regulations will impact new individuals applying for certification or licensure with the Board. These regulations may impact current individuals certified or licensed with the Board if those individuals choose to apply for a different level of certification or licensure.

**b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**

These regulations require certification and licensing fees for individual applying for a credential with the Board. These regulations in some cases also require examination fees for individuals applying for a credential with the Board. These regulations require various amounts of education depending on the certificate or license an individual is seeking to obtain and may require an individual to pay educational providers/institutions to obtain these required hours.

**c. Quantify the expected adverse impact from the regulation.**

For new applicants, application fees range from \$10 to \$50 and examination fees range from \$25 to \$150. For current certificate/license holders, application fees to advance a certificate/license to a higher level range from \$10 to \$50. For levels which require the completion of education hours, fees range from \$0 (for free continuing education options) to \$120,000 (for master's degrees at a private institution).

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

These regulations were based on feedback from stakeholders in the field which urged the Board to implement changes to increase access to its credentials. The Board receives calls daily from individuals who are ready and eager to apply with the Board under these new regulations because the regulations grant them the ability to advance their credentials or obtain their credentials more quickly than current regulations permit. The application, testing and education fees have been reasonable set to cover the associated administrative costs and are fees which one would expect to incur to obtain a certificate/license.

**Regulatory Flexibility**

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

No. These regulations are for individual certificate/license holders and require that all individuals meet and comply with the same standard.

**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?**

Our Board does not administer fines or civil penalties on small businesses therefore this rule does not have an impact on these regulations.

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

These regulations are for individual certificate/license holders. They are not regulations for small businesses.