

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Chiropractic Board

Regulation/Package Title: Chapter 9 Rules

Rule Number(s): 5 Year Rule Review Rules: 4734-9-03; 4734-9-08; 4734-9-10

Proposed New Rule: 4734-9-11

Date: March 11, 2013

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☐ Rescinded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.

Rule 4734-9-03 pertains to signage and display of license. Proposed amendments provide clarification to eliminate licensee confusion and allow for ease of compliance.

Rule 4734-9-08 pertains to professional ethics. Proposed amendment removes outdated language and incorporates text from OAC 4734-9-02 and 4734-9-06 for ease of reference.

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Rule 4734-9-10 pertains to conduct following disciplinary action against a licensee. Proposed amendments update and reorganize the text of the rule to allow for clearer guidance and ease of compliance.

Proposed Rule 4734-9-11 proposes to implement guidelines for pre-payment of chiropractic and/or acupuncture services.

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

ORC § 4734.10 is the statutory authority for all rules in this package.

Rule 4734-9-03 amplifies ORC 4734.285 and 4734.31; Rule 4734-9-08 amplifies ORC 4734.16 and 4734.31; Rule 4734-9-10 amplifies ORC 4734.14 and 4734.31; Proposed Rule 4734-9-11 amplifies 4734.31.

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 to this rules package.

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 rules establish certain standards of practice in order to protect those that are receiving chiropractic services and to maintain professional and ethical standards so that all licensees are treated consistently and equally.

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

Success will be measured by having clear and up to date rules, resulting in ease of compliance for licensees and reductions in the number of inquiries for clarification and number of consumer complaints.

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.

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An email was sent to stakeholder organizations on August 15 and 17, 2012 regarding rules 4734-9-03, 9-08, and 9-10. Stakeholder organizations included the Ohio State Chiropractic Association; the Northeast Ohio Academy of Chiropractic, the Chiropractic Association of Ohio, all Board-approved chiropractic colleges, the CCE, the CCE International, the Federation of Chiropractic Licensing Boards and the International Academy of Medical Acupuncture. An email was sent to stakeholder organizations on November 16, 2012 regarding draft rule 4734-9-11 and was sent to the Ohio State Chiropractic Association; the Northeast Ohio Academy of Chiropractic, North Central Academy of Chiropractic, Northwest Ohio Chiropractic Association and the Chiropractic Association of Ohio.

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

The only comment received regarding the rules in this package was received from the Ohio State Chiropractic Association regarding the draft pre-payment rule. All input received from the OSCA was incorporated into the final draft of the pre-payment rule.

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?

Scientific data was not used to develop the rules as the rules are not data driven.

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?

No alternate regulations were suggested by any stakeholder.

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 Board did not see an application for the rules in this package to be performance based.

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

There is no other agency that regulates the practice of chiropractic in Ohio.

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 Board will continue to use its website and newsletters to educate and update licensees on its rules. Stakeholder organizations also ensure that new rules and rules changes are provided to their members through communications and CE opportunities. Staff training is

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conducted for all rules changes to ensure that regulations are applied consistently and predictably.

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;

The rules in this package impact the Board's licensees in regard to compliance and directly affect public health, safety and welfare due to the subject matter.

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

Non-compliance with the rules in this package could result in warning or violation letters or disciplinary action.

Rule 4734-9-10 adversely impacts licensees in that it prohibits the practice of chiropractic while suspended or revoked resulting in loss of income.

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 rules in this package ensure consistent, ethical and safe treatment of patients receiving chiropractic care. The rules establish certain standards of practice in order to protect those that are receiving chiropractic services and to maintain professional and ethical standards so that all licensees are treated consistently and equally.

The adverse impact of Rule 4734-9-10 is dependent upon the licensee's income as it pertains to loss of income during suspension or revocation.

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

Requiring licensees to maintain standards in the areas of signage and display of license, professional ethics and conduct following disciplinary action protects the public.

The Board determined the need for a pre-payment of services rule for public protection due to consumer complaints.

Regulatory Flexibility

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

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There are no specific exemptions or alternative means of compliance outlined in the rules.

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?

Paperwork violations are not applicable to this rules package.

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

The Board's website provides comprehensive information and newsletters are published to provide information and updates. The Board also publishes informative articles in the professional magazine of the Ohio State Chiropractic Association, the largest chiropractic association in Ohio. Staff of the Board personally answer and respond to each phone call, email, correspondence, etc.

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