

# CSI - Ohio

## The Common Sense Initiative

### Business Impact Analysis

Agency Name: Ohio State Chiropractic Board

Regulation/Package Title: 2017 Five Year Rule Review

Rule Number(s): 4734-7-03 (Proposed New Rule)

4734-6-06; 4734-7-04; 4734-7-05; 4734-10-01; 4734-10-02 (5 Year Review Rules)

Date: May 18, 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☐ Rescinded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.**

Rule 4734-6-06 defines the passing score for the Board's Jurisprudence exam. The Board is proposing removal of language permitting the Board to contract with a third party to administer the exam since the Board can contract with a third party without administrative language in accordance with ORC 4734.09.

Rule 4734-7-03 pertains to continuing education (CE) credit permitted for providing services as a volunteer to uninsured and indigent persons. The Board is required to adopt this rule due to recent legislation (HB 290, 131<sup>st</sup> GA).

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Rules 4734-7-04 and 4734-7-05 pertain to restoration of inactive licenses and reinstatement of forfeited licenses. The Board is proposing amendment to these rules to remove unnecessary language.

Rule 4734-10-01 pertains to maintaining an acupuncture certificate. The Board proposes no change to this rule.

Rule 4734-10-02 pertains to applications for acupuncture program approval.

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

ORC Section 4734.10

**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.**

N/A

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

N/A

**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)?**

ORC Section 4734.22 requires the Board to administer a Jurisprudence exam. Rule 4734-6-06 defines the passing score for the Board's Jurisprudence exam.

Rule 4734-7-03 required in accordance with ORC Section 4745.04 due to recent legislation (HB 290, 131<sup>st</sup> GA).

ORC Sections 4734.25 and 4734.26 require the Board to restore/reinstate inactive/forfeited licenses. Rules 4734-7-04 and 4734-7-05 explain the restoration/reinstatement process for licensees who wish to restore/reinstate inactive/forfeited licenses.

Rule 4734-10-01 to explain that acupuncture certificate holders must also possess a current chiropractic license.

Rule 4734-10-02 to provide guidance to apply for approval of a 300 hour acupuncture program.

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

Clear, concise and plain language will provide consistent processes for those affected.

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## **Development of the Regulation**

- 6. 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.**

An email seeking early stakeholder input was sent to licensees with an email on file and to our stakeholder notification list on February 16, 2017.

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

One written comment was received suggesting the passing Jurisprudence exam score be changed from 75% to 80%. The Board is maintaining the 75% passing score.

- 8. 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.

- 9. 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?**

There is no alternative to: passing the Jurisprudence exam; permitting CE for volunteer services to indigent and uninsured persons; inactive and forfeited licensees paying restoration/reinstatement fees; and maintaining a chiropractic license to practice acupuncture. Providing guidance via rule for acupuncture programs provides clear information as to what is required to apply for approval.

- 10. 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.***

Performance based outcomes don't apply to the rules in this package.

- 11. 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.

- 12. 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.**

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Staff training is conducted for all rules changes to ensure regulations are applied consistently and predictably. The Board uses its website, email notifications and newsletters to educate and update stakeholders on its rules.

### **Adverse Impact to Business**

**13. 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;**

Rule 4734-6-06 impacts applicants for licensure.

Rule 4734-7-03 impacts licensees.

Rules 4734-7-04 and 4734-7-05 impact inactive/forfeited licensees.

Rule 4734-10-01 impacts licensees who hold an acupuncture certificate.

Rule 4734-10-02 impacts organizations seeking approval of 300 hour acupuncture programs.

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

Rule 4734-6-06 – requires studying and time taking the exam.

Rule 4734-7-03 – documentation/paperwork.

Rules 4734-7-04 and 4734-7-05 – documentation/paperwork/fees/fines.

Rule 4734-10-01 - fee to maintain chiropractic license.

Rule 4734-10-02 documentation/paperwork.

**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.**

Applicants seeking licensure must take the Board’s online Jurisprudence exam which takes 30-60 minutes. Should the applicant fail the exam, he or she can immediately and automatically retake the exam for no additional fee or paperwork.

Chiropractors who wish to claim CE credit for providing care to indigent and uninsured persons must maintain documentation of such.

Chiropractors wishing to restore/reinstate inactive/forfeited licenses must pay the applicable restoration/reinstatement fee (\$500 for 2 years \$250 for 1 year). Forfeited applicants must also pay a \$150 penalty fee.

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Chiropractors who wish to practice acupuncture must maintain an active chiropractic license. A chiropractic license costs \$500 every two years to renew.

Organizations seeking approval of an acupuncture program must submit paperwork and documentation which should be readily available to the entity.

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

The Board is required to test applicants for licensure to ensure their knowledge and understanding of the laws and rules governing the practice of chiropractic.

HB 290 (131<sup>st</sup> GA) requires the Board to implement a rule to permit licensees to earn CE credit for providing care to indigent and insured persons.

Chiropractors wishing to restore/reinstate inactive/forfeited licenses must pay the applicable restoration/reinstatement fee to activate the license.

Chiropractors who wish to practice acupuncture must maintain an active chiropractic license in order for the chiropractor to diagnose and treat patients.

Approval of 300 hour acupuncture programs is required by statute. The rule provides guidance to the applicant.

**Regulatory Flexibility**

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

There is no exemption from the Jurisprudence exam.

Allowing CE credit for providing care to indigent and uninsured persons is an exception to earning CE.

Fees for applicants for restoration/reinstatement are prorated based upon the date of reinstatement.

There is no provision to only hold an acupuncture certificate.

There is no exemption or alternative means of seeking approval of acupuncture programs since it is required by statute.

**16. 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?**

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Waiver of fines/penalties for paperwork violations and first-time offenders do not apply to the rules in this package.

Renewal/restoration/reinstatement/penalty fees are a collection of revenue in accordance with ORC § 119.14 (C)(4) for which fees may be imposed.

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

The Board's website provides information pertaining to the rules in this package. All forms are posted on the Board's website. The Board also communicates with licensees via email and newsletters. The staff of the Board also personally answers and responds to each phone call, email, correspondence, etc.

Contact Information:

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