

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Chiropractic Board

Regulation/Package Title: 2019 Five Year Rule Review

Rule Number(s): 4734-5-02; 4734-5-03; 4734-6-01; 4734-6-02; 4734-6-04; 4734-6-08;
4734-8-01; 4734-8-04; 4734-8-07; 4734-9-02; 4734-9-07; 4734-11-01

Date: March 21, 2019

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☐ Amended ☐ Rescinded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.

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.

Rules 4734-5-02 and 5-03 address doctor of chiropractic degree programs; Rules 4734-6-01, 6-02, 6-04 and 6-08 address licensure matters and pre-chiropractic college prerequisites; Rules 4734-8-01, 8-04, 8-07, 9-02 and 9-07 address practice related issues; and rule 4734-11-01 outlines all considerations given to military and/or military spouses.

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Rules 4734-5-02 and 03 pertain to the Board's relationship with the Council on Chiropractic Education and site visitation procedures for doctor of chiropractic degree programs. No changes are proposed to these rules.

Rules 4734-6-01, 6-02, 6-04 and 6-08 pertain to applications for licensure, preceptorships and pre-chiropractic educational requirements. Minor changes are proposed to rules 4734-6-01, 02 and 04 to update requirements to align with online eLicense applications.

Rule 4734-8-01 provides guidance on dismissing a patient. Language is proposed to eliminate notification requirements to patients, or patient representatives, who display threatening or disruptive behavior towards their chiropractor, staff, or other patients.

Rule 4734-8-04 pertains to documentation of patient care. No changes are proposed to this rule.

Rule 4734-8-07 pertains to notification requirements licensees must make when leaving, selling, or retiring from practice. The Board is proposing to reduce the notification to patients who received chiropractic services within the past two years to six months.

Rule 4734-9-02 pertains to advertising and solicitation and 9-07 pertains to billing. No changes are proposed to these rules.

Rule 4734-11-01 outlines considerations given to military personnel and/or their spouses. Minor changes are proposed to update the rule and requirements to align with online eLicense applications.

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

4734.10; 4734.20; 4734.21; 4734.23; 4734.27, 4734.31 and 4743.04

- 2. 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.

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

N/A

- 4. 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)?**

Clear and consistent requirements for education programs, licensure processes, and practices create fair treatment and consistent standards for the public.

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5. 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.

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.

Notification seeking stakeholder input was posted on the front page of the Board's website and an electronic notification was sent on January 11, 2019 to all licensees, all Board-approved chiropractic colleges; the Ohio State Chiropractic Association (OSCA); and the Council on Chiropractic Education (CCE).

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

Rule 4734-8-07

- a. Reduce the notification requirements to patients who received chiropractic services within the past two years to six months (para A).

Rule 4734-9-07

- b. The Board should define the percentage of discount for time of service discounts.
- c. The Board should amend the rule to permit write offs of co-pay or deductible balances of \$5 to \$10 (para G).
- d. The Board should remove the \$75 limit on promotional items. (para I).

Rule 4734-9-02

- a. Leave the rule unchanged.
- b. The rule needs changed, it is not being enforced.
- c. The Board should require that only chiropractors own chiropractic clinics since unlicensed owners who telemarket are not regulated by the Board or held accountable for bad telemarketing.

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?

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The Board reviewed, discussed and considered all alternative regulations and input received from stakeholders (see question 7).

The Board declined to define a specific percentage of discount for time of service discounts because licensees work in a variety of settings that may offer time of service discounts for which the licensee cannot control (such as hospitals).

The Board declined to remove the \$75 limit on promotional items. The Board considers \$75 per year per patient sufficient for promotional items. Prior to enacting a limit, the Board received stakeholder input requesting a limit because licensees could not compete against other licensees offering substantial promotional items.

The Board cannot promulgate prohibitions against ownership of a chiropractic office by non-licensees via rule.

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.

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. Stakeholder organizations also ensure that new rules and rules changes are provided to their members through communications and CE opportunities.

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;

Chapter 5 rules impact doctor of chiropractic degree programs.

Chapter 6 rules impact individuals applying for licensure and preceptors who supervise interns.

Chapters 8 & 9 rules impact licensees in regard to practice compliance and directly affect public health, safety and welfare due to the subject matter.

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Rule 4734-11-01 impacts military personnel and/or military spouses.

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

The nature of the adverse impact for the Chapter 5 rules impact doctor of chiropractic degree programs (colleges). Rule 4734-5-03 addresses site visitations which would incur time for compliance, reimbursement to team members for per diem, meals, travel and report preparation and presentation expenses.

The nature of the adverse impact for the Chapter 6 rules impact individuals applying for licensure. The rules require specific pre-chiropractic education and submission of an application, credentials, and application fees. Fees for fingerprint background checks are also required of applicants for chiropractic licensure.

The nature of the adverse impact for the Chapters 8 & 9 rules impact the Board's licensees in regard to time for compliance. Compliance directly affects public health, safety and welfare due to the subject matter. Non-compliance with these rules could result in disciplinary action/fines.

The nature of the adverse impact for rule 4734-11-01 impact military personnel and/or military spouses applying for licensure, temporary licensure, extension of continuing education reporting period, and reinstatement of inactive licenses and require specific pre-chiropractic education and submission of an application, credentials, and application fees. Fees for fingerprint background checks are also required of applicants for chiropractic licensure.

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.

How long does it take to complete the application, how much?

The expected adverse impact for Chapter 5 rules is site visitation team per diem, travel, meals, and report preparation and presentation. Cost is dependent upon the number of team members (up to 7) and location of the program. Source: Board Rule 4734-5-03.

The expected adverse impact for Chapter 6 rules is 15-30 minutes to complete an online application; a \$250 application fee for initial licensure; \$500 for initial

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licensure via endorsement, both of which require a fingerprint background check that is typically \$46, and \$75 for a temporary preceptorship license. Source: ORC 4734.20; 4734.202; 4734.23 and 4734.27.

The expected adverse impact for Chapters 8 & 9 rules is time for compliance. A violation could result in a fine up to and including \$5,000 (depending on if the offense is a 1st, 2nd, or 3rd or subsequent offense). Source: OAC 4734-9-01.

The expected adverse impact for rule 4734-11-01 is 15-30 minutes to complete any online application; a \$75 temporary license fee; a \$250 license application fee; a fingerprint background check that is typically \$46, and \$75; and \$500 reinstatement fee of inactive license. Source: ORC Sections 4743.04, 5903.03, 5903.10, 5903.12, 5903.121 and Board Rule 4734-11-01.

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

Chapter 5 Rules: Consistent requirements for doctor of chiropractic degree programs ensure consistent educational standards.

Chapter 6 Rules: Consistent requirements for applicants for licensure ensure consistent standards and processes for licensure.

Chapters 8 & 9: Consistent standards directly protect public health, safety and welfare.

Rule 4734-11-01: Consistent requirements for military personnel and/or military spouses ensure consistent standards and processes for licensure, renewal and reinstatement for this population.

Regulatory Flexibility

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

Rule 4734-5-02 permits the Board to accept CCE designations and determinations in lieu of sending a site visitation team to doctor of chiropractic programs

Rules 4734-8-01 and 07 provide two means of compliance (mail and email).

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

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?

Paperwork violations are not applicable to this rules package.

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17. 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. Staff of the Board personally answer and respond to each phone call, email, correspondence, etc.

Contact Information:

Ohio State Chiropractic Board
77 South High Street, 16th Floor
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Toll Free: 888-772-1384

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