



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Joseph Baker**, Director

### Business Impact Analysis

Agency, Board, or Commission Name: Chemical Dependency Professionals Board

Rule Contact Name and Contact Information:

Jill Smock , [Jill@ocdp.ohio.gov](mailto:Jill@ocdp.ohio.gov)  
614.387.1114

Regulation/Package Title (a general description of the rules' substantive content):

License requirement changes, Confidential non- disciplinary program, HB 509 changes fees modifications, and updating language

Rule Number(s): 4758-2-01; 4758-3-01; 4758-5-03-06, 11; 4758-6-03,06; 4758-11-02, 4758-13-01,05, 4758-17-02,03 (new: 4758-11-03)

Date of Submission for CSI Review: 3.24.23

Public Comment Period End Date: 4.4.23

**Rule Type/Number of Rules:**

New/ 1 rules

No Change/      rules (FYR?     )

Amended/ 13 rules (FYR? X)

Rescinded/ 1 rules (FYR? X)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing

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regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### **Reason for Submission**

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. ☒ Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. ☒ Requires specific expenditures or the report of information as a condition of compliance.
- d. ☒ Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

### **Regulatory Intent**

2. Please briefly describe the draft regulation in plain language.

*Please include the key provisions of the regulation as well as any proposed amendments.*

Rule	Title	Summary of changes
4758-2-01	Definitions, Abbreviations, and titles	Substituting old language of “chemical dependency” with substance use disorder; Expanding the definition of “Behavioral science degree” to allow for opportunity for more individuals with certain degrees or expanded list of courses to enter the workforce through licensure; Defining language used in application requirements for clarity.
4758-3-01	Fees	Updating conversion application fees to match other application fees as they require additional review. Small increase to the fee for the RA application as it requires a staff review and was intended to be a small fee as a short time place holder to then apply for prevention certification. But since the RA gives a scope of practice for two years, the field has found it encourages people not to move ahead as intended with certification, thus the board is covering costs associated with a record. Removing stigma language of

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		<p>“Senior Citizen” and changing to Part-time 65 and still offering half the cost for renewal for those 65 and working only part-time. Similar fees for approving continuing education hours consistent with other boards to cover staff costs to review. Created a one-time reduced fee for reviewing CDCA CEU coursework as requested by the field. Removing application fee and reducing fee for Master’s Degree accreditation and changing name to endorsement due to less requirements to review Removing inactive, holding fee as it is not necessary with the grace period, but adding a five-year Inactive Escrow fee for those wanting to have to opportunity to return to the field due to moving out of state, health reasons or changing fields without having to reapply for a license. Including a tiered fee for those who failed continuing education audits similar to other boards. Removing dual discount as the board was losing over \$41,000 for a two year renewal period from those who falsely renewed using the dual discount fee; costs to change coding in elicense to stop it were cost-prohibitive. Board felt they are two separate professional credentials and dual discount does not need to be provided. Removing exam fees as those are collected by IC&amp;RC and the testing company not the board.</p>
4758-5-03	Requirements for LCDCLII	Updated requirements as a result of HB5. Reorganization of rule layout for all license requirements for consistency and clarity., Reduced to 12 separate core functions to match updated IC&RC four core functions, updated education content areas replacing “Prevention Strategies”(since not within their scope) to Recovery and Relapse Strategies, changed stigma language from “with addicted populations and updated to “as applied to those with substance use disorder.”
4758-5-04	Requirements for LCDCLIII	Reorganization of all license requirements for consistency and clarity, see above
4758-5-05	Requirements for LICDC	Changes made in license requirements as a result of HB509. Removing the restrictive 40-semester hour requirement and documentation of certain masters level courses with verification of certain masters degrees, and allowing for some graduate courses to be taken outside of masters degree. Reorganization of all license requirements for consistency and clarity, see above
4758-5-06	Requirements for LICDC-CS	Updated and removing unnecessary requirements since a LICDC license must be obtained prior to applying for the CS
4758-5-11	Requirements for GAMB	Adding a 4 hr minimum for each content area so all 30 required hours are not obtained in just one content area.

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4758-6-03	Scope of Practice LCDClI	Updating old language of “chemical dependency” to substance use disorder” Added “family” to individual and group counseling as it is a work experience requirement to achieve licensure. Adding missing list of those who may supervise a LCDClI as listed in ORC 4758.561
4758-6-06	Scope of Practice LICDC-CS	Updating old language of “chemical dependency” to substance use disorder”, New link to OHMHAS Chapter 5122-29; old link no longer works
4758-11-02	Procedures in Impairment Cases	Added language for clarity, adding certificate/certificate holder/applicant
4758-11-03	Confidential, non-disciplinary program	New rule to allow the CDP board to offer a confidential, non-disciplinary program for certificate/license holders and applicants with potential impairment issues either reported to the board or self-reported to the program. The program is run by an external organization, uses licensed professionals to evaluate and monitor any needed treatment. As long as participants are compliant, the Board will be unaware of their case thus no disciplinary action will occur. If they choose to not participate or leave the program before approved completion of the program, the participant can face disciplinary action under the impairment rule.
4758-13-01	Continuing education requirements for CD counselors	Changes to number of CEUs required due to passing of HB509
4758-13-05	Lapsed license and renewals	Clarifies the CDCA PRE is not renewable, changes initial CDCA to CDCA preliminary to match the certificate name in elicense, Changes the grace period from two years to one year due to passing of HB509. Removes language under military license renewal as covered under 4758-17-02
4758-17-02	Active Duty Military, spouses and veterans	Align with ORC 4743.041 and combined with 17-03
4758-17-03	Military application processing	Rescind, combined with 17-02

3. **Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.** 4758.01, 4758.02, **4758.20**, 4758.21, 4758.23, 4758.24, 4758.26, 4758.27, 4658.28, 4758.30, 4758.39, 4758.40, 4758.41, 4758.42, 4758.48, 4758.51, 4758.52, 4758.54, 4758.561
4. **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? No**  
*If yes, please briefly explain the source and substance of the federal requirement.*

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5. **If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.** N/A
6. **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)?**

One of the new rules establishes a “safe haven” program which will better equip the CDP Board to get certificate/license holders back to work once they are able to receive necessary treatment and recovery supports for mental health or substance use disorders rather than impose punitive measures which will stay on their certificate/license publicly in perpetuity. The rules are necessary to spell out the parameters of the program.

License/certification requirements are necessary to ensure the public and the businesses that employ these credential holders that they have met minimum education and experience standards to conduct the services within their scope of practice. They also help vet employees that in turn assist agencies and businesses in hiring.

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

The CDP Board will receive reports from the safe haven program administrator with regard to participation (non- identifying information), and will monitor the grievance intake for changes to the number of impairment violations the Board receives.

The requirements for licensure changes the Board expects to see an increase in the number of individuals that have the opportunity to seek licensure and will monitor the number of advanced and initial licenses.

The board will monitor the number of failed continuing education audits for compliance with renewal license/certificate requirements, and number of disciplinary violations and expects to see a decrease in number.

8. **Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.* No

### **Development of the Regulation**

9. **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.*

Rules were reviewed with input given to the Board from the CDP Treatment Committee, Education and Training Committee, Ethics Committee and Prevention Committee. These committees consist of members representing professional associations such as The Ohio Council, Ohio Association of Recovery Providers, Ohio Association of Alcoholism and Drug Addiction Counselors, Ohio Coalition of Associate Degree Human Service Educators, Ohio Prevention Professionals Association, along with representative of treatment and prevention

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agencies, continuing education providers, colleges and universities, and individual license/certificate holders. Members of Ohio Department of Mental Health and Addiction Services also serve on the Board's public committees.

The Ohio's Physician Health Program (newly named Ohio Professionals Health Program), the organization that will be the safe haven administrator, presented to the Ethics Committee on 10/21/21 and to the entire Board on 11/19/21 when they voting to move forward.

All comments from committees and rule revisions were reviewed by the CDP Board members within Board meetings on 2/19 and 11/19, 2021, 2/ 23, 4/13, and 8/17, 2022 and 2/10/2023.

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

Stakeholders requested the board look at expanding the definition of behavioral science degree as it is the first requirement to meet to obtain licensure. Both the TX and Education & TRN committee members brought recommendations to the board to expand the definition to include certain degrees, along with more college courses that could be considered to meet the definition. This expanded definition will allow entry to the workforce by obtaining additional substance use disorder specific education and experience without having to complete another degree. They also asked why education in prevention was required for licensure if not part of their scope and asked if education in relapse and recovery strategies was more appropriate and could be considered. The board had a massive number of emails and phone calls from applicants, as well as college and universities, regarding the restrictive requirements of a 40-semester master's degree which inhibited those with an Advanced/Accelerated Social Work master's degree (typically only 30 semester hours) from acquiring an independent license. They also asked why they could not take graduate courses outside of their behavioral science master's degree if missing a few hours of coursework outlined in the requirements. With the restrictive language removed from 4758.20 in HB509, it allowed the board to revise the LICDC requirements removing the 40 semester hour requirement, removing masters level coursework not found relevant to the scope of practice of the independent practitioner, and allow for additional graduate courses hour to be obtained outside of the master's degree. Educational continuing education providers, especially community colleges providing courses not for college credits, inquired with the Board for an easier, more cost-effective way to receive board approved CEUS as a package as opposed to submitting training courses by day as required currently, thus the CDCA package fee for three years approval is proposed.

The Board will be providing these rules to all license/certificate holders and stakeholders to provide comments that will be forwarded to CSI after the comment period.

**11. 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?** None

**12. 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?**  
*Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to*

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**comply.** The non-disciplinary, confidential “safe haven” program is an alternative regulation as it is a path to changing behavior without being punitive. Substance use disorder is a disease with potential relapse in its recovery. The board wants to support its license/certificate holders and applicants in being healthy and well while also protecting the public. The board has issued written reprimands for those with failed audits over the years, however we still are finding credential holders who are renewing and practicing without obtaining the required continued education hours. The reduction in CEUS to thirty hours should reduce costs and time in obtaining the CEUs, but mirroring other licensing boards with fees for failing continuing education audits will provide additional incentive to remain compliant with the statutes for practice under renewing a license.

**13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?** Review of Ohio laws and rules.

**14. 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 work closely with the monitoring organization through regular reports to ensure consistency and predictability. The monitoring organization, PHP, has been working with other health professional boards, such as the Medical Board for decades and is experienced.

PHP will also be conducting informational sessions geared to our license/certificate holders and provider agencies at applicable conferences across the State, including Addiction Studies Institute.

The Board will make application changes within the elicense system for review of application requirements, forms will be updated, and new information will be shared on the website. New training will occur for all license reviewers. Communication of license requirements will be shared directly with license/certificate holders, board approved continuing education providers, and colleges and universities with endorsed curriculums with the Board.

### **Adverse Impact to Business**

**15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:**

- a. Identify the scope of the impacted business community, and**
- b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).**

*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.*

- a. All certificate and license holders

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Certificate/License Type	Number of active as of 3.23.23 TOTAL=13,676
CDCAPRE	2654
CDCA	5125
LCDCII	493
LCDCIII	1321
LICDC and LICDC-CS	2486
RA	868
OCPSA	380
OCPS	182
OCPC	167

b. Discipline of violations of Ethic Practice and Professional Conduct has an adverse impact and can include warnings, written reprimands, remedial courses, suspension and revocation. Fees may be covered by individuals and have no effect on business, or if reimbursed employee expenses it may increase in costs.

- 16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**  
The board has simplified the rules for license requirements to improve readability, eliminated unnecessary requirements, and assist in expanding access to higher licensure. The reduction of continuing education hours will reduce costs to agencies who cover fees for renewal of licenses. Continuing education providers will be able to reduce fees for approval of educational courses provided to individuals to obtain CDCA certification.

- 17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?** Public protection is a core mission of the board. One way it is achieved is through expecting people to have achieved a certain level of education and experience and to work according to minimal standards of practice as outlined in the profession's practice act.

### **Regulatory Flexibility**

- 18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.** No. The board regulates individuals, not businesses.
- 19. 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?** The Board's disciplinary continuum of sanctions guidelines take first time offenses into account as a mitigating factor.
- 20. What resources are available to assist small businesses with compliance of the regulation?** Board website, Board staff are available via phone, email and if requested in person. Communication to all active license/certificate holders will be sent out, along with requests to include information in OHMHAS E-news.

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