



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

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

Updating SUD language, updating codes of ethical practice, removing duplicative language, updating education content areas in continuing educational rules affected by July 23 license requirement rules and HB509 changes, adding reciprocity rule to align with ORC

Rule Number(s): 4758-4-01, 02, 03, 04; 4758-5-01; 4758-6-01,04,05,11,12,13,14,15; 4758-8-01, 02, 03; 4758-10; 4858-13-02,03,04,06,07; 4758-14-01; 4758-15-01, 02

Date of Submission for CSI Review: 12-08-23

Public Comment Period End Date: 12-19-23

Rule Type/Number of Rules:

New/ 1 rules

No Change/ rules (FYR?)

Amended/ 22 rules (FYR? X)

Rescinded/ 2 rules (FYR?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 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.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

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	Comments
4758-4-01	Formal application for licensure or certification	Updated to match current requirements
4758-4-02	LICDC transition to LICDC-CS	Rescind, was valid over 10 years ago and no longer applicable, LICDC may convert to LICDC- CS thru 4758-5-06
4758-4-03	Administering examinations for individuals seeking to be DOT SAP	Rescind, board no longer directly administers nor collects fees for exams
4758-4-04	Examination remediation	Applications will close after three(3) years if a passing score is not received on the exam, and the candidate will have to apply again for a license or certificate with the board through formal application.
4758-5-01	Requirements for CDCA'S	Format changes to align with other license requirements in rule, update content area titles to match new rule in July, one hour of the ethics requirement to be a course specified by the Board, allow 50% college coursework to be used within five years as opposed to two years, specifies no duplication of education between CDCA pre and CDCA renewable, change language initial = preliminary for consistency and clarity

4758-6-01	Scope of practice for CDCA	CD= SUD language ,Add family to counseling; replace as they relate to abuse of dependency on alcohol and other drugs to as they relate to behavioral health conditions related to SUD. remove refer individuals... as already addressed in in ORC and 4758-8-01
4758-6-04	Scope of practice for LCDC III	CD= SUD language , Add family to counseling; replace as they relate to abuse of dependency on alcohol and other drugs to as they relate to behavioral health conditions related to SUD. remove refer individuals... as already in ORC and 4758-8-01
4758-6-05	Scope of practice for LICDC	CD= SUD language ,Add family to counseling ; replace as they relate to abuse of dependency on alcohol and other drugs to as they relate to behavioral health conditions related to SUD. remove refer individuals... as already in ORC and 4758-8-01 and REMOVE supervision req as it is an independent license.
4758-6-11	Scope of practice for LCDC II with gambling disorder endorsement	Aligning with license scope, CD= SUD language ,Add family to counseling ; add missing LCDCII Supervision req,
4758-6-12	Scope of practice for LCDC III with gambling disorder endorsement	Aligning with license scope ,CD= SUD language .Add family to counseling
4758-6-13	Scope of practice for LICDC with gambling disorder endorsement	Aligning with license scope, CD= SUD language, Add family to counseling and REMOVE supervision req for independent license
4758-6-14	Scope of practice for LICDC-CS with gambling disorder endorsement	Aligning with license scope ,Aligning with license scope CD= SUD language, Add family to counseling
4758-6-15	Clinical Supervision of chemical dependency counselor assistants	Clarifying language on holding a CDCA certification but not performing work under scope of practice and application of this supervision rule
4758-8-01	Code of ethics for chemical dependency counselors	CD=SUD language, ex- clients = former clients, keeping contact info up to date, required supervision, defining misdemeanor offenses, clarifying language around multiple relationships and sexual conduct, add reference to safe haven under impairment
4758-8-02	Code of ethics for clinical supervisors	Clarifying supervision, clarifying language,
4758-8-03	Code of ethics for prevention professionals	Aligned some language with clinical ethics codes that may fit, added impairment, mandatory reporting, add reference to safe haven under impairment
4758-10	Disciplinary Actions	CD=SUD language , Complaint= grievance, Defining misdemeanor offenses. Removing duplicative language and referring to ORC , Denial of application timeline to re-apply to one year instead of five.

4758-13-02	Continuing education requirements for prevention certificate holders	Match to CE 4758-13-01 for CD counselors, increase incentives for teaching prevention courses
4758-13-03	Special circumstances for the renewal of a license or certificate	Rename senior citizen to individuals 65 + or 65 and older, change both short and long term inactivation to inactive, escrow.
4758-13-04	Definition of continuing education units	CD=SUD language, Update content area titles to new rules passed in July
4758-13-06	Expired license or certificate	CD=SUD language
4758-13-07	Approval of continuing education units	Clarifying documentation that may be requested for CEU provider audits, update participant attendance to electronic submission on CE monitoring system, remove post approvals language
4758-14-01	Master's accreditation	Change language of accreditation to endorsement and update masters education coursework titles and hours to align with new requirement rule passed in July. Remove site visit .
4758-15-01	Reciprocity with IC&RC jurisdictions	Change title to just focus on IC&RC requirements to be reciprocal to other states for clarity since they already hold a license, Align reciprocity rules for only for IC and RC requirements as new reciprocity rule will cover others not coming from IC & RC Boards
4758-15-02	Reciprocity	NEW Reciprocity rule to align with SB 131 and ORC 4796 and 4758.25

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.** 4758.02, **4758.20**, 4758.221, 4758.22, 4758.23, 4758.24, 4758.241, 4758.25, 4758.26, 4758.30, 4758.31, 4758.40, 4758.43, 4758.51, 4758.55, 4758.56, 4758.561, 4758.59, 4758.62, 4758.63, 4758.64, 4758.99, 4796
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.
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)?** Scope of Practice and Code of Ethical Practice and Professional Conduct provide guidance and clarity to the work that the certificate or license holder has demonstrated competency to perform and helps to provide protection to the profession and the public. The revised rules provide clarity around supervision requirements to avoid confusion regarding when chemical dependency counselor assistants (CDCA) are working in facilities that provide substance use disorder treatment services but may not be performing work under that certificate scope of practice. The rule

also adds the requirement of the completion of an online ethics course created by the Board for CDCA preliminary applicants geared to provide more in depth, targeted education around scope of practice and ethics to reduce ethics violations among this entry level certification. It also expands the timeframe for college education coursework completion dates for acceptance for CDCA requirements reducing a barrier to those who received specific substance use disorder education in college. These CDCA rules help to ensure the public and the businesses that employ this entry level workforce have met minimum education standards and have a clear scope of practice and supervision requirements. The regulation also removes redundancy of language within certificate/license scope of practice of referring individuals without substance use disorder in scope as already addressed in 4758-8-01 and aligns with similar license scope of practice rules. The rules align the scope of practice of license holders that hold the gambling endorsement with the license type. Continuing education definitions and renewal rules are updated to the same education and quantity as rule revisions approved in July 2023 and to align with HB509. The rule revision also allows for .5 additional CEU to be earned by prevention professionals who provide training and education for the field to assist with the need for more prevention training for this workforce. Reciprocity rules provide the ability to be awarded a similar certificate or license if coming into Ohio from another state or coming from an International Certification and Reciprocity Consortium State board to Ohio to align with SB131 and 4758.25. The revised rules also provide clarification on the IC&RC reciprocity rule requirements to have an international reciprocal license to move an Ohio license to another state as well as how to move an IC&RC reciprocal license from an IC&RC state to Ohio.

7. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?** The CDP Board will continue to monitor the number and types of grievances and ethical violations, esp. among the CDCA certificate holders and we expect to see a decrease in the amount and/or severity of these ethical violations. The Board expects better compliance with the supervision requirements of this entry level certification with the change to the supervision requirement that allows agencies to reduce supervision if CDCA certificate holders work in their agencies but not performing any work within the CDCA scope of practice. We will monitor within our ethics cases regarding supervision records. We also expect less multiple relationship violations with the additional guidance within the ethics code rule changes. We will also monitor the number of prevention training courses submitted for continuing education requirements as we hope to have an increase of frequency and availability with the increase incentive for personal ceus offered to those presenting their expertise to the field. The board will also collect data for the number of Ohio certificates/licensed through reciprocity.
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 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.

All comments from committees and rule revisions were reviewed by the CDP Board members within 2023 Board meetings.

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

Language changes from chemical dependency to substance use disorder was applied to be consistent and updated with the language used within the profession and educational institutions. The clarification of the CDCA supervision requirements in rule was evident from calls, emails, ethic investigations and stakeholder conversations that demonstrated there was vast inconsistency with the rule as written. Clarifying the rule that one hour of face to face clinical supervision to CDCA certificate holders employed in treatment settings with non-related CDCA duties was necessary under regulation as it decreases the burden on agencies while still protecting the public as the CDCA holder is still bound by 4758-8-01. Prevention professionals and educational providers of prevention ethics courses asked why some of the ethics codes for counselors was not included in their professional code of ethical practice, so a review was done and aligned relevant ethic codes with that profession as well. Universities stated that the term "accreditation" has its own meaning in their settings and the use of the word accreditation in the rule was misleading, thus the language change to "endorsement" was made and matched the requirements with the new July 23 rule requirements for the master level license.

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 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 thus reference to safe haven is added under impairment for Code of Ethical Practice and Professional conduct rules in 4758-8 in hopes to encourage certificate /license holders to seek help versus disciplinary violations.

Proposed rescinded rule 4758-4-02 was offered as an opportunity ten years ago and 4758-5-06 allows an LICDC to obtain a LICDC-CS. The US Department of Transportation has a variety of alternatives to obtain the DOT/SAP and this board no longer accepts fees for exams or directly administers the exams thus proposing rescinding 4758-4-03.

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 make changes within the elicense system for review of reciprocity application requirements and any forms will be updated. New training will occur for all license reviewers. New FAQ documents regarding CDCA supervision rule changes will be shared with stakeholders. Communication of new rule revisions, in particular the updated Code of ethical Practice and Professional Conduct, will be shared directly with license/certificate holders, professional organizations, approved continuing education providers, and colleges and universities with endorsed curriculums with the Board. OHMHAS has already agreed to host the ethics course for CDCA holders at no cost on their online learning platform, so all applicants have access to the same content at no charge. The CDP website will provide all the updated reciprocity information so those coming into Ohio will have access to the information needed to apply for licensure through reciprocity.

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

Certificate/License Type	Number of active as of 11.13.2023 TOTAL=13,880
CDCAPRE	2608
CDCA	5188
LCDCII	527
LCDCIII	1268
LICDC and LICDC-CS	2619

RA	838
OCPSA	478
OCPS	187
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 employee expenses are reimbursed 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 changes to the CDCA supervision rule 4758-6-15 should result in a reduction of the burden of clinical supervision for SUD agencies that employ someone that holds a CDCA but no duties of their job at the agency are not within the scope of practice of a CDCA. CDCA requirement rule is streamlined to delineate between the initial CDCA PRE and renewable CDCA to clarify that the CDCA PRE will lapse into an inactive certification if they do not apply for the CDCA renewable, hopefully reducing the burden on agencies when an employee's CDCA PRE is closed as an inactive certification and the employee cannot provide billable services.

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 through direct email communication, along with requests to include information in OHMHAS E-news and professional organizations' communication tools.