



# Common Sense Initiative

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## Business Impact Analysis

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

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

Spring 2024 Rules. Rule Revisions for Prevention Certification requirements and scope of practice and Code of Ethical Practice for providing telehealth.

Rule Number(s): 4758-5-07, 08, 09,10; 4758-6-07,08, 09,10; 4758-8-04

Date of Submission for CSI Review: 2.28.24

Public Comment Period End Date: 3.13.24

**Rule Type/Number of Rules:**

New/ 1 rules

No Change/      rules (FYR?     )

Amended/ 8 rules (FYR? Yes     )

Rescinded/      rules (FYR?     )

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.

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### **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
4758-5-07	Requirements for certification of registered applicants (RA)	Aligning with entry level certification for treatment CDCAs and making it a thirteen-month certificate. Individuals may reapply for the RA after two years from expiration as opposed to the current five years.
4758-5-08	Requirements for certification of Ohio prevention specialist assistants (OCPSA)	Aligned the format with the treatment license applications, allow social workers or CHES to bypass RA application and apply directly for the OCPSA, remove requirement for nine hours of alcohol and other drug specific education hours, includes a maximum of hours that can be used under the required P6 education content area in ethics and cultural humility.
4758-5-09	Requirements for certification of Ohio prevention specialist (OCPS)	Aligned the format with the treatment license applications, clarifies in rule that must have held the OCPSA for a minimum of eight months however the 2000 hours of work experience may have been obtained under the RA or OCPSA scope of practice, includes a maximum of hours that can be used under the required P6 education content area in ethics and cultural humility.
4758-5-10	Requirements for certification of Ohio prevention consultant (OCPC)	Aligned the format with the treatment license applications and removes all the duplicative requirements that were needed to obtain the OCPS and not listing again in OCPC requirements, requires the 4000 hours of work experience to be obtained under a OCPS that was

		held active for a minimum of two years, and defines more clearly the supervisory and administrative education requirements as Personnel Supervision and Program Management education and Administrative and Consultation education, and reduces the number of those education hours from ninety hours to sixty hours.
4758-6-07	Scope of practice for registered applicants (RA)	Specify supervision for engaging in certain prevention activities. Add school counselor to list of approved supervisors for prevention services.
4758-6-08	Scope of practice for Ohio prevention specialist assistants (OCPSA)	Specify supervision for engaging in certain prevention activities as similar changes as RA .
4758-6-09	Scope of practice for Ohio prevention specialist (OCPS)	Expand and clarification of prevention services that can be done without supervision as this certification requires the passing of an exam and a level of knowledge in these prevention services.
4758-6-10	Scope of practice for Ohio prevention consultant (OCPC)	Align language with other scopes, removal that an OCPC can supervise an OCPC as it is not needed.
4758-8-04	Code of ethical practice and professional conduct: telehealth services	NEW rule guiding the ethics and professional conduct of practice for certificate holders and licensees when using telehealth

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.** 4758.20, 4758.22, 4758.24, 4758.44, 4758.46, 4758.45, 4758.44, 4758.61, 4758.60, 4758.23, 4758.80

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? If yes, please briefly explain the source and substance of the federal requirement.**

NO

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. Rule requirements help ensure the public and the communities served by certified preventionist that they meet the minimum education standards and experience requirements. Aligning the RA certification with the entry level treatment CDCA to be a thirteen-month certification will eliminate the large number of RA who may be providing prevention services for up to two full years in communities and schools with no demonstrated prevention science background or prevention knowledge. Thirteen months is ample time to secure 100 hours of prevention experience and forty hours of entry level education to obtain the prevention specialist assistant certification as it is the same amount of education hours is required for the CDCA preliminary certificate BEFORE they have certification and can provide services. Requirements for the OCPS must align with the International Certification and Reciprocity Consortium since a reciprocal international certification is awarded with the OCPS certification. The scope of practice helps to define the supervision requirements and changes the supervision requirements only for the engagement in more advanced community level planning that should be supervised by those with demonstrated competency due to its necessary knowledge of prevention science by exam and certification. Other prevention services remain with a vast list of those who may supervise this entry level certification.

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

The board expects movement of the RA to the OCPSA certification to occur in a timelier manner and increase in the number of OCPSAs and OCPSs, thus giving Ohioans competent delivery of services from those who have prevention science knowledge and an educational foundation in effective prevention. Also, the clarification of education required for those who seek the independent prevention consultant certification, and the reduction of those hours should decrease barriers and increase the number of qualified OCPCs in the state.

**7. 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.*

Prevention Rules were developed and reviewed by the CDP Prevention Committee during its quarterly meetings in 2023 (January, April, July and October) and their meeting on January 17, 2024. This Committee consist of members representing Prevention First/Ohio Coaching and Mentoring (OCAM), Problem Gambling Network of Ohio (PGNO), Prevention Action Alliance, Boys and Girls Clubs, along with prevention/treatment agencies such as Youth to Youth/CompDrug, Recovery Center, Talbert House and UMADAOP. Also represented on the Boards' Prevention Committee is Ohio Prevention Professionals Association (OPPA), and the Ohio Department of Mental Health and Addiction Services (OMHAS) Office of Prevention Services. Final input from this Committee was given to the Board on February 16, 2024.

Ohio Council of Behavioral Health and Family Services Providers asked the Board to consider adopting similar standards of practice around telehealth that were adopted by the CSWMFT Board. The Boards' Ethics Committee then helped to draft the rule around ethical practice when providing telehealth.

All comments from committees and rule revisions were reviewed by the CDP Board members and approved at the February 16, 2024 Board meeting.

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

Prevention professionals in our stakeholder meetings felt that the Registered Applicant certification is the only certification allowing someone to have a scope or practice with no demonstration of education or experience. The RA was intended to be a start into the profession with the expectation the RA would quickly obtain the basic education in prevention knowledge and advance to the assistant certification. This is not what is occurring in reality. Many providers say that the RA will stay as RA for two years and then leave without ever pursuing the intended prevention education hours. Thus, the RAs work in schools and communities for up to twenty-four months delivering prevention services sometimes with no prevention science foundation or other prevention knowledge. The prevention stakeholders felt that thirteen months (similar to the time the entry level treatment certification is held) was enough time for the RA to obtain the required 100 hours of prevention service delivery and the forty hours of education (same number of hours that the CDCA PRE must have PRIOR to their certification). The prevention committee members also believed that the engagement of planning and evaluation and community-based environment strategies should be supervised by those with the requisite knowledge of prevention science by exam and certification. However, the vast types of licenses and certification that can supervise the entry level prevention certificate holders in delivering prevention services remains the same. Also, currently as the RA is not renewable, and if someone allows their certification to expire often because they leave the field and come back they have no entry point to get the certification until five years from the expiration. This rule allows someone to obtain the RA again two years from its expiration, but also does not allow

someone to use the opportunity to obtain the RA over and over again without gaining the prevention education to work in the field.

The Board receives many questions from the field around telehealth. After consultation with our AAG, the Board decided to adopt similar language as the CSWMFT Board as suggested by Ohio Council to guide the field on professional conduct expected when delivering services via telehealth.

**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.*

Though the consideration of eliminating the barrier of a degree and allowing for years of work experience to obtain the OCPS and OCPC, the requirements in the ORC clearly outline the degree must be held. The stakeholders also discussed aligning the OCPSA with the CDCA, with a preliminary certificate first and then a renewable certification, and removing the registered applicant certification, the RA is also in the ORC as a certification; thus, the Board must comply with the statutes.

**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 plans to provide informational sessions to all current certified prevention certificate holders on the changes in certification requirements. Currently registered applicants have the full thirteen months to complete their continuing education hours if they are within their two-year window. The Board plans to reach out to all prevention stakeholders including the Center of Excellence for Prevention and Ohio OCAM to assist in reaching the field. New training will occur for board reviewers, customer service staff and the Investigative team.

The telehealth ethics rule will be shared with all certified and license holders as well as asking stakeholders such as OHMHAS, Ohio Council, OARP etc. to share in their newsletters. The Board will make any changes to our website as well as sharing it through its Constant Contact email messaging.

## **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.**

Certificate/License Type	Number of active as of 2.1.2024 TOTAL=14,084
Prevention Registered Applicant (RA)	930
Ohio Certified Prevention Specialist Asst. (OCPSA)	502
Ohio Certified Prevention Specialist. (OCPS)	186
Ohio Certified Prevention Consultant	166
Prevention Certificate holders TOTAL	<b>1784</b>
Treatment Certificate holders and Licensees TOTAL	<b>12,300</b>

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

**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 reduction of administrative and supervisory education hours and the clarity and relevance to the work of a prevention consultant should allow more OCPS to pursue this independent certification. The expansion of scope for the OCPS and the potential increase number of OCPCs should decrease the burden on agencies providing prevention services to have appropriate supervisors within their agencies. Also the removal of the specific alcohol and other drug (AOD) education hours for the OCPSA allows those working in other prevention specific areas like gambling prevention, suicide prevention and/or other mental health promotion work to not necessarily need to have the specific AOD hours that were part of the certification while prevention scope was specifically AOD focused. Thus agencies may not have to cover the costs of those continuing education hours that are not as relevant to the prevention work they are doing.



**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.