



## MEMORANDUM

**TO:** Amanda J. Ferguson, Executive Director, Ohio Chemical Dependency Professionals Board

**FROM:** Sean T. McCullough, Regulatory Policy Advocate

**DATE:** December 22, 2014

**RE:** **CSI Review – Gambling Endorsement (OAC §§ 4758-2-01, 4758-3-01, 4758-4-01, 4758-5-11, 4758-6-01, 4758-6-04, 4758-6-05, 4758-6-07, 4758-6-08, 4758-6-09, 4758-6-10, 4758-6-11, 4758-6-12, 4758-6-13, 4758-6-14, 4758-8-01, 4758-10-01, 4758-13-01, 4758-13-04 and 4758-13-06)**

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On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (R.C.) § 107.54, CSI has reviewed the abovementioned administrative rules and associated Business Impact Analysis (BIA). This memo represents CSI's comments to the Agency as provided for in R.C. § 107.54.

### **I. INTRODUCTION AND BACKGROUND**

On November 19, 2014, the Ohio Chemical Dependency Professionals Board (the Board) submitted to CSI a rule package containing a total of twenty (20) rules; specifically five (5) new rules and fifteen (15) amended rules. One rule was submitted to CSI pursuant to the five-year rule review requirement in statute,<sup>1</sup> and the rest were submitted solely due to amended language. The rules concern the creation of a gambling disorder treatment endorsement for certain licensees of the Board, along with additional scope-of-practice language for certain licensees of the Board, both due to recent legislative changes. The Board cites R.C. §§ 4758.48, 4758.60 and 4758.20 as authority to establish these rules. The official comment period for this rule package ended November 30, 2014. One comment was submitted.

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<sup>1</sup> OAC § 4758-13-06.

## II. ANALYSIS

### A. ADVERSE IMPACT ON BUSINESS

As explained by the Board in the BIA, and in subsequent conversations with CSI, the scope of the business community impacted by the rules concerning the gambling endorsement encompasses licensees (Licensees) of the Board.<sup>2</sup>

The rules outline the process, recently enacted by House Bill 483, through which a Licensee can obtain a gambling endorsement, which would allow that Licensee then to offer and provide treatment services for those struggling with gambling disorders. The rules require a Licensee to pay a fee of \$50 and submit an application showing that Licensee has completed thirty (30) hours of gambling disorder education and one hundred (100) hours of supervised clinical gambling disorder experience. Each endorsement must be renewed every two (2) years. Renewal is accomplished by the Licensee paying a \$10 fee and showing completion of six (6) hours of continuing education concerning gambling disorders. The rules also provide the Board the power to refuse to issue, limit, suspend, or revoke an endorsement for certain reasons including instances of fraud, felony convictions, practicing outside that Licensee's scope of practice, etc.

The rules also include provisions, recently enacted in HB 483, which expand the scope of practice of certain licensees of the Board<sup>3</sup> to provide preventative and counseling services under the supervision of other medical professionals.

The above provisions contain fees, applications, create costs for compliance, and penalties for non-compliance; all of which are contained in R.C. § 107.52. Therefore, these provisions are considered adverse impacts to business.

### B. JUSTIFICATION FOR ADVERSE IMPACT

The Board explained through the BIA and discussions with CSI that all of the impacts as described above are required and enumerated in statute as a result of the enactment of HB 483. This was also confirmed by CSI in its review. Further, in helping to craft the legislation, the Board explained that the impacts are the result of a combination of (1) stakeholder input (which included practitioners and health professionals), and (2) consideration of national education standards for gambling disorders. The only comment submitted was by a Licensee. The comment generally inquired as to how current experience and education in gambling disorders would translate to the endorsement, along with how supervision of gambling endorsement applicants

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<sup>2</sup> Specifically, individuals holding the following licenses: licensed chemical dependency counselor II; licensed chemical dependency counselor III; licensed independent chemical dependency counselor; and licensed independent chemical dependency counselor clinical supervisor.

<sup>3</sup> Specifically, chemical dependency counselor assistants; licensed chemical dependency counselors III; licensed independent chemical dependency counselors; registered applicants; and certified prevention specialist assistants.

will function under the rules. It is CSI's position that the Board responded to the questions thoughtfully and addressed the comment appropriately.

As the adverse impacts are compelled by statute, and the Board worked directly with stakeholders to create the standards underpinning the rules, the adverse impacts have been sufficiently justified by Board.

### **III. RECOMMENDATIONS**

After reviewing the BIA, and pursuant to the more detailed reasons outlined above, CSI has no specific recommendations regarding the rule package.

### **IV. CONCLUSION**

Based on the above analysis and recommendations, CSI concludes that Board should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office