



Common Sense Initiative

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

Joseph Baker, *Director*

MEMORANDUM

TO: Jill Smock, Ohio Chemical Dependency Professionals Board

FROM: Michael Bender, Business Advocate

DATE: March 25, 2024

RE: **CSI Review – Rule Revisions for Prevention Certification Requirements and Scope of Practice and Code of Ethical Practice for Providing Telehealth (OAC 4758-5-07, 4758-5-08, 4758-5-09, 4758-5-10, 4758-6-07, 4758-6-08, 4758-6-09, 4758-6-10, 4758-8-04)**

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Board as provided for in ORC 107.54.

Analysis

This rule package consists of one new rule and eight amended rules proposed by the Ohio Chemical Dependency Professionals Board (Board) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on February 28, 2024, and the public comment period was held open through March 13, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on February 28, 2024.

Ohio Administrative Code (OAC) 4758-5-07 sets forth the requirements for an individual to be certified as a registered applicant (RA). The rule is amended to make an RA a two-month certificate and allow individuals to reapply for RA certification two years after expiration. OAC 4758-5-08 sets forth the requirements for an individual to be certified as an Ohio prevention specialist assistant (OCPSA). The rule is amended to update typography, allow social workers and health education specialists to apply directly to become an OCPSA, and remove the requirement for nine hours of

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alcohol and other drug-specific education hours. OAC 4758-5-09 sets forth the requirements for an individual to be certified as an Ohio prevention specialist (OCPS). The rule is amended to update typography, clarify that applicants must have held OCPSA certification for at least eight months, allow the 2,000 hours of work experience to be obtained under RA or OCPSA certification, and establish a maximum number of education hours in ethics and cultural humility. OAC 4758-5-10 sets forth the requirements for an individual to be certified as an Ohio prevention consultant (OCPC). The rule is amended to update typography, remove requirements that were duplicative of those for obtaining OCPS certification, require the 4,000 hours of work experience to be obtained under OCPS certification that was held for at least two years, clarify the supervisory and administrative education requirements, and reduce the number of required supervisory and administrative education hours from ninety to sixty.

OAC 4758-6-07 establishes the scope of practice for an RA. The rule is amended to update language and typography, add school counselors to the list of approved supervisors for prevention services, and clarify supervision requirements. OAC 4758-6-08 establishes the scope of practice for an OCPSA. The rule is amended to update language and typography as well as clarify supervision requirements. OAC 4758-6-09 establishes the scope of practice for an OCPS. The rule is amended to update language and typography as well as expand and clarify the prevention services that can be performed without supervision. OAC 4758-6-10 establishes the scope of practice for an OCPC. The rule is amended to update language and remove a provision allowing an OCPC to supervise another OCPC. OAC 4758-8-04, a new rule, establishes the code of ethical practice and professional conduct for Board licensees and certificate holders when using telehealth services.

During early stakeholder outreach, the Board's Prevention Committee developed and reviewed the rules during all four of its 2023 quarterly meetings and during its January 17, 2024, meeting. The Prevention Committee includes representatives from Prevention First/Ohio Coaching and Mentoring, the Problem Gambling Network of Ohio, the Prevention Action Alliance, Boys & Girls Clubs, Youth to Youth/CompDrug, Recovery Center, Talbert House, Urban Minority Alcoholism and Drug Abuse Outreach Programs, the Ohio Prevention Professionals Association, and the Ohio Department of Mental Health and Addiction Services. The Ohio Council of Behavioral Health & Family Services Providers asked the Board to consider adopting telehealth standards of practice similar to those adopted by the Counselor, Social Worker, and Marriage and Family Therapist Board. The Board's Ethics Committee then drafted a rule regarding ethical practice when providing telehealth. On February 16, 2024, the Board's members reviewed all comments from both committees and approved the rule revisions. During the CSI public comment period received nine comments, including from an OCPSA, an RA, an OCPS, and individuals affiliated with PreventionFIRST!, Government Advantage Group on behalf of the Ohio School Counselors Association (OSCA), Family Resource Center (FRC), Sandusky County Public Health (SCPH), Hancock County Alcohol, Drug Addiction & Mental Health Service (HCADAMHS), and Capital University (Capital).

The OCPSA was concerned that the proposed rules removed the ability of an OCPSA to perform community-based process work, but the Board assured that this was not the case and that the rules instead allowed for a wide variety of licenses to supervise an OCPSA when delivering prevention services. The RA expressed concern with establishing maximum hour limits for ethics and cultural competency and with decreasing the amount of time an individual can hold RA certification from two years to thirteen months, noting that this would make it far more difficult for an RA to obtain the required 100 hours of volunteer work. The Board replied that it wanted to ensure that anyone getting a prevention certification had education in the foundation of prevention science rather than only ethics and cultural competency, but it did revise the rules to remove maximum hour limits for ethics and cultural competency and clarify that such hours would be excluded from the minimum hours in professional growth and responsibility. Furthermore, the Board noted that its decision to shorten the period of time that someone could work professionally in the field under the RA scope of practice was to align with other professional certifications that require some experience hours and/or education for a state certification or license. The OCPS asked for clarification on whether the OCPC requirement for 4,000 hours of experience needed to be in a position with a “manager” title. The Board responded that the title was less important than the task of administering or supervising prevention services as an OCPS. The commenter from PreventionFIRST! requested clarification regarding how these 4,000 hours needed to be obtained. The Board revised the rules to make this requirement clearer.

The OSCA wanted to know the reasoning for adding school counselors to the list of approved supervisors for those in the process of becoming chemical dependency specialists. The Board noted that there was no rule pertaining to chemical dependency specialists outside of the telehealth rule but explained that school counselors were listed among approved supervisors for OCPSA certificate holders because they were inadvertently left off this list when the rules were previously amended. FRC believed the rules contained too many obstacles for certificate holders seeking to obtain higher levels of certification, particularly the requirements to hold certain types of academic degrees. The Board stated that it was open to creating pathways for advancement based on years of experience but added that such changes would need to be made statutorily. The SCPH commenter supported most of the rules but thought that if an individual is supervising for prevention but is not an OCPC, then that individual should have some prevention education or training to gain knowledge of prevention science. The Board acknowledged the comment but noted that there were statutory limits on who could supervise certain prevention certifications. The commenter from HCADAMHS who held OCPS certification feared that the rule changes limited the ability of agencies to supervise someone with OCPS certification working to obtain OCPC certification. The Board explained that as preventionists advanced to performing more higher-level prevention work of planning and evaluation and managing prevention programs, supervision should come from those who are specialized and skilled in the science of prevention practice to protect public health. The individual from Capital who

was a licensed professional clinical counselor (LPCC) with supervision designation urged the Board to allow licensed professional counselors (LPCs) and LPCCs to apply directly for OCPSA certification. The Board declined this suggestion, pointing out that the scopes of practice for LPCs and LPCCs do not include prevention work. Lastly, the Board revised the rules to make technical and grammatical corrections.

The business community impacted by the rules includes 930 RAs, 502 OCPSAs, 186 OCPSs, 166 OCPCs, and 12,300 treatment certificate holders and licensees. The adverse impacts created by the rules include the time and costs associated with application fees, licensure/certificate requirements, working within the appropriate scope of practice, discipline for violations of ethical practice and professional conduct. Such discipline may include warnings, written reprimands, remedial courses, and suspension or revocation of a license/certificate. The Board notes that many of the changes to the rules reduce the burden on businesses, including the reduction of required supervisory and administrative education hours, the expansion of the OCPS scope of practice, and the removal of specific alcohol and other drug education hours. The Board states that the adverse impacts to business are justified to protect the public and the profession.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Board should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.