

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio Chemical Dependency Professionals Board

Regulation/Package Title: 2014 Five Year Rule Review

Rule Number(s): 4758-13-05, 4758-20-01, 4758-6-03, 4758-8-03, 4758-11-02

Date: 2/26/15

**Rule Type:**

New

5-Year Review

Amended

Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### **Regulatory Intent**

**1. Please briefly describe the draft regulation in plain language.**

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

This package includes rules that are due for five year rule review and include:

- 4758-13-05 defines circumstances in which a credential holder can or cannot renew a credential that has lapsed. We are not making any amendments to this rule.
- 4758-20-01 defines the Board's policies regarding maintaining credential holders' personal information. We are not making any amendments to this rule.
- 4758-6-03 establishes the scope of practice for LCDC II professionals. This rule includes a specific reference to another OAC rule. We are modifying that citation to

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a more general reference to the OAC rule so the citation will stay current and not require continual modification.

- 4758-8-03 establishes the code of ethical conduct for prevention professionals. We are making three minor amendments to this rule which include 1) a rule citation correction, 2) the inclusion of “gender identity” in the discrimination prohibition, and 3) the removal of “alcohol and other drug” from the description of prevention services as HB483 broadened services for this profession beyond alcohol and other drug services.
- 4758-11-02 defines the Board’s policies regarding impaired professionals. We are not making any amendments to this rule.

**2. Please list the Ohio statute authorizing the Agency to adopt this regulation.**

Ohio Revised Code 4758.20, 4758.26, 4758.26, 4758.57, 4758.23, 4758.30

**3. 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

**4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

N/A

**5. 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)?**

- 4758-13-05: This rule provides consumer protection. It requires certain individuals with lapsed credentials to meet additional standards before they can re-active their credentials. It provides demonstration that a credential holder has knowledge/experience that is up-to-date.
- 4758-20-01: This rule provides protection of credential holders’ personal information and is needed to allow both staff and credential holders to know the guidelines for this protection.
- 4758-6-03: This rule is necessary to identify those services that an LCDC II professional can and cannot perform. This ensures individuals are practicing at the level they have been trained for and that the consumers they serve are protected from unauthorized or harmful practice.

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- 4758-8-03: This rule provides consumer protection. It ensures individuals are practicing ethically and that the consumers they serve are protected from unauthorized or harmful practice.
- 4758-11-02: This rule provides consumer protection. It ensures that professionals who are impaired are required to demonstrate fitness for work to protect consumers they serve from harmful practice.

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

- 4758-13-05: Demonstration that staff are processing applications in accordance with this rule via annual performance evaluations.
- 4758-20-01: Demonstration that staff are processing personal information in accordance with this rule and that no breeches of information occurs.
- 4758-6-03: Demonstration that professionals who are found to be practicing outside of this scope are corrected and disciplined appropriately.
- 4758-8-03: Demonstration that ethics complaints received by the Board are reviewed for violations in accordance with these standards and that found violators are disciplined appropriately.
- 4758-11-02: Demonstration that the Board handles instances of professional impairment in accordance with this rule.

**Development of the Regulation**

**7. 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.*

These rules were reviewed by the Board’s Treatment Committee and Prevention Committee. These committees are comprised of both board members, credential holders and public stakeholders in the field. Key stakeholders serving on these committees include ADAPAO, The Ohio Council, OMHAS, prevention agency representatives and credential holders, treatment agency representatives and credential holders.

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

The Prevention Committee stakeholders recommended the addition of “gender identity” to rule 4758-8-03 and this was added per that request. The committees further determined no changes were necessary for several of the rules and the Board agreed.

**9. 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?**

N/A

**10. 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?**

None. The committees did not identify alternative provisions for the Board to consider. Most of these rules were no changes rules and the committees were comfortable with the way the regulations are currently operating.

**11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.***

N/A

**12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

The Board has the sole authority for regulating chemical dependency counselors so no duplication of regulation exists.

**13. 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 process the rules through JCARR. The Board will ensure that all staff is properly and continually trained on practices that are in accordance with these regulations. The Board will keep the field and its stakeholders updated on these regulations and their required compliance when applicable.

### **Adverse Impact to Business**

**14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

- a. Identify the scope of the impacted business community;**
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
- c. Quantify the expected adverse impact from the regulation.**

*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.*

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- 4758-13-05 affects all credential holders who allow their credential to lapse. Under certain circumstances this rule requires individuals to start the credentialing process anew and to re-test. Under certain circumstances this rule will cause a credential holder to incur application and testing fees as well as time to compile anew the necessary documentation to apply.
- 4758-20-01 affects all credential holders who wish to have access to their confidential personal information. Under certain circumstances this rule will cause a credential holder to incur fees for copies of this information. The Board would charge the per page copy rate in effect at the time of the request.
- 4758-6-03 affects all LCDC II professionals and limits the services they can perform. This rule has the potential to impact the salary or job opportunities of a credential holder based on services they can perform.
- 4758-8-03 affects all prevention credential holders and grants the Board the ability to discipline their credential for violation of the code of ethics. Violations may impact a professional's ability to obtain/maintain a job in this field.
- 4758-11-02 affects all credential holders that display signs of impairment. Credential holders in these situations may be required to obtain evaluations at their own cost and may have to pay out of pocket if their insurance does not cover the charges. Credential holders in these situations may be required to stop practicing in the field for a period of time which could impact the professional's income and job.

**15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

In all these rules consumer protection is the Board's justification for the adverse impact to the professional.

**Regulatory Flexibility**

**16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

N/A

**17. 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?**

N/A

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**18. What resources are available to assist small businesses with compliance of the regulation?**

N/A