

# CSI - Ohio

## The Common Sense Initiative

### Business Impact Analysis

Agency Name:	<u>Ohio State Chiropractic Board</u>
Regulation/Package Title:	<u>Preceptorships; Continuing Education; Concussion Management</u>
Rule Number(s):	<u>4734-6-04; 4734-7-01; 4734-7-02; 4734-7-03; 4734-7-04; 4734-7-05;</u> <u>4734-8-09; 4734-10-04; 4734-10-06</u>
Date:	<u>July 6, 2015</u>
Rule Type:	
<input checked="" type="checkbox"/> New 4734-8-09	<input checked="" type="checkbox"/> 5-Year Review 4734-10-06
4734-7-01; 4734-7-02 (Rescinding and Filing as New)	<input checked="" type="checkbox"/> Rescinded 4734-7-01; 4734-7-02
<input checked="" type="checkbox"/> Amended 4734-6-04; 4734-7-03; 4734-7-04	4734-7-05; 4734-10-04

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 of rules includes:

##### A. Preceptorships (4734-6-04)

Removal of requirement that colleges apply for approval of preceptorship programs if the college is already approved by the Board;

Reduces the number of years in practice for preceptors from 7 years to 5 years;

Removes the requirement that a malpractice report excludes a licensee from being a preceptor;

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Clarifies that malpractice insurance must be in effect during the preceptorship;

Removes the prohibition that interns cannot perform radiologic procedures without a valid GXMO license in accordance with ORC Section 4773.02.

B. Continuing education; Inactive Licenses; Forfeited Licenses (CE) (4734-7-01; 7-02; 7-03; 7-05; 7-05; 4734-10-04 and -10-06)

Combines chiropractic and acupuncture CE requirements into one rule for ease of reference;

Outlines licensee responsibilities for earning CE and CE exceptions into one rule for ease of reference;

Removes the biennial 1.5 hour ethics and/or professionalism CE requirement and replaces it with 2 hours biennially of Board mandated CE on any combination of ethics and professionalism, human trafficking awareness, and/or laws and rules of the Board;

Increases the number of out of state/online CE hours a licensee may earn and removes the in-state earning requirement;

Permits a chiropractor who simultaneously holds a chiropractic license and acupuncture certificate to earn his or her required acupuncture hours within the 36 hours required for chiropractic renewal;

Clarifies that CE earned via teaching or earning college credit must be from a 300 level course or above;

Updates the topics permitted and not permitted for chiropractic CE;

Provides guidance to licensees on what constitutes acceptable online CE;

Removes the requirement that the Board approve CE sponsors;

Amends the reinstatement and restoration of chiropractic license and acupuncture certificate rules to incorporate the proposed changes to the CE earning requirements.

C. Concussion Management (4734-8-09)

Addresses treatment of concussed youth athletes in order to authorize chiropractic physicians to assess and clear youth athletes for return to practice or competition and addresses treatment of the concussed general population.

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

4734.10; 4734.25; 4734.27; 4734.284; 3707.521.

**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?**

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*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)?**

Preceptorships provide valuable practical experience for students prior to licensure;

Continuing education and renewal of chiropractic licenses and acupuncture certificates is required by Chapter 4734.

The Board is required by ORC Section 3707.521 to adopt a rule regarding treatment of concussed youth athletes in order to permit chiropractors with specific education to assess and clear youth athletes for return to practice or competition.

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

Clear, concise and plain language will provide consistent processes for those affected.

### **Development of the Regulation**

- 6. 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.*

Preceptorships (4734-6-04)

On June 3, 2015 the Board sent notification seeking stakeholder input to those licensees with an email address on file with the Board and posted the notification on the Board's website. Electronic notification was also sent to all Board-approved chiropractic colleges; Board-approved CE sponsors; the Ohio State Chiropractic Association (OSCA); the Council on Chiropractic Education (CCE); the Council on Chiropractic Education-International (CCE-I); the Student American Chiropractic Association (SACA); the American Chiropractic Association (ACA).

Continuing education (CE) (4734-7-01; 7-02; 7-03; 7-05; 7-05; 4734-10-04 and -10-06)

The Board initially conducted a survey in September 2014 to obtain input from stakeholders on the Board's current CE requirements. Based upon comments and results received from the survey, the Board determined it would amend its CE rules. Formal communication seeking early stakeholder input was sent on October 27, 2014.

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#### Concussion Management (4734-8-09)

On May 27, 2015 the Board sent notification seeking stakeholder input to those licensees with an email address on file with the Board and posted the notification on the Board's website. Electronic notification was also sent to all Board-approved chiropractic colleges; Board-approved CE sponsors; the Ohio State Chiropractic Association (OSCA); the Council on Chiropractic Education (CCE); the Council on Chiropractic Education-International (CCE-I); the Student American Chiropractic Association (SACA); the American Chiropractic Association (ACA).

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

#### Preceptorships

Remove the malpractice report exclusion;

Reduce the number of hours a preceptor must be in practice from 7 years to 3 years;

Allow a student to have more than one preceptor.

#### Continuing Education

36 hours of CE per biennium is sufficient;

Reduce the required number of CE hours to 24;

Mandatory topic hours should not be required;

Approve programs in more topics, less in others;

Practice management, conflict resolution, employment law topics CE should be approved;

Mandate CE on proper documentation;

Eliminate or reduce required in-state hours;

Create an electronic database for reporting CE;

For profit associations and accredited non-academic sponsored programs should be acceptable resources from which to earn CE;

12 hour seminars in one day should be prohibited;

Not enough 12 hour seminars;

Allow carryover of extra CE hours into the next biennium;

Reduce renewal fee by half;

CE requirements should be uniform across the country;

Acupuncture CE should be earned over and above the required 36 hours of CE;

Acupuncture CE should be included within the required 36 hours of chiropractic CE;

CE should not be a platform for sales of services and products;

All certification/diplomate programs should be acceptable for CE/license renewal;

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Alternative methods of earning CE should be accepted for some or all 36 hours (DVDs, CDs, MP3, video, internet);

Alternative methods of earning CE (DVD, CD, internet, etc.) should require an exam;

Reduce required CE hours for licensees in practice after 25 years.

#### Concussion Management

The only comments received were to request that the Board not require specific credentials for to assess and grant clearance for youth athletes to return to play.

The Board thoroughly considered all of the above listed input when developing the rules in this package. All input was incorporated into the rules in this package with the exception of input listed in question no. 9.

**8. 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?**

Scientific data was not used to develop the rules as the rules are not data driven.

**9. 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?**

#### Preceptorships

Reduce the required 7 years in practice to 3 years for preceptors: The Board reduced the number of hours to 5 years so that preceptors have more practice experience before preceptoring and so that all college preceptorship programs could operate in Ohio since at least two colleges require at least 5 years in practice for preceptors.

#### Continuing Education:

Reduce the required number of CE hours to 24: In 2010 the Board reduced the number of CE hours over a two year period from 48 to 36 when biennial renewal was implemented.

Twenty-five other state chiropractic boards require the same or more hours as Ohio. 36 hours will maintain appropriate competency.

Mandatory topic hours should not be required: The Board is increasing the mandatory hour requirement from 1.5 hours to 2 hours over the biennium because most CE is offered in hour increments. Ethics, professionalism and/or laws and rules of the Board CE is being mandated to reduce violations of law. The Board will offer one hour of free online CE on the topic of laws and rules of the Board to satisfy one hour of the mandatory CE requirement. Including human trafficking awareness training within the mandated topics will satisfy the human trafficking task force's recommendation to incorporate human trafficking training into CE learning for licensed professionals.

Practice management, conflict resolution, employment law topics CE should be approved:

These topics do not enhance professional competency or patient care.

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Mandate CE on proper documentation: Documentation and recordkeeping is an approved topic.

Create an electronic database for reporting CE: The Board does not have the capability or resources to create such a database.

12 hour seminars in one day should be prohibited: The Board does not regulate the number of hours a program may consist of.

Allow carryover of extra CE hours into the next biennium: Not permitting carryover hours will keep licensees up to date by earning CE each biennium.

Reduce renewal fee by half: The Board cannot fiscally substantiate such a cut. The current renewal fee has been in effect since 1997.

CE requirements should be uniform across the country: The Board has no purview over the CE requirements of other jurisdictions.

Acupuncture CE should be earned over and above the required 36 hours of CE: Acupuncture is an approved topic for all licensees.

Reduce required CE hours for licensees in practice after 25 years: Requiring CE each biennium of all licensees ensures continued competency.

#### Concussion Management

The Board must require the credentials outlined in the draft rule since the Board must follow the guidelines recommended as provided for in ORC Section 3707.521.

- 10. 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.*

Performance based outcomes don't apply to the rules in this package.

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

There is no other agency that regulates the practice of chiropractic in Ohio.

- 12. 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.**

Staff training is conducted for all rules changes to ensure regulations are applied consistently and predictably. The Board uses its website, email notifications and newsletters to educate

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and update stakeholders on its rules. Stakeholder organizations also ensure that new rules and rules changes are provided to their members through communications and CE opportunities.

### **Adverse Impact to Business**

**13. 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;**

Preceptorship: The rule affects any intern that wishes to participate in a preceptorship in Ohio.

Continuing Education: The rules affect every Ohio licensed chiropractic physician.

Concussion Management: The rule affects those licensees who treat concussed patients.

**b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**

Temporary license fees for interns in a preceptorship program; license and certificate renewal fees, CE costs, penalties for late renewal; costs associated with earning a diplomate or certified chiropractic sports physician status; time for compliance.

**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. How long does it take to complete the application, how much?*

Preceptorship intern application fee is \$75 and takes approximately less than 15 minutes to complete. Preceptor application is free and takes approximately 5 minutes to complete.

Chiropractic license renewal fee is \$500; acupuncture certificate renewal fee is \$100; both take approximately 5-10 minutes to complete; penalty fee for late renewal and forfeited license reinstatement is \$150; CE costs average \$0 to \$299 per 12 hour course. CE is offered on the weekends and online and can be earned during non-working hours.

CCSP with concussion registry, minimum of 120 hours of education, approximately \$2,500-\$3,000. Minimum of 12 hours of CE per year to maintain.

Diplomate, minimum of 300 hours of education, approximately \$3,000 to \$7,000. Minimum of 24 hours of CE per year to maintain.

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

Preceptorship: Permitting preceptorship programs provides valuable hands on practical experience for students.

Continuing Education: Requiring CE ensures licensee competency and skills are maintained and kept up to date. All chiropractic licensing jurisdictions in the country require CE, with more than half requiring 36 hours or more over a two year period. Renewal fees are necessary for the Board to fulfill its statutory mandates.

Concussion Management: Licensees who wish to independently assess and clear concussed youth athletes must comply with the guidelines developed in accordance with ORC Section 3707.521.

**Regulatory Flexibility**

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

The CE rules provide for a waiver of CE for first initial renewal for new licensees; allows for waivers, extensions or reduction of CE for good cause and permits alternative methods of earning CE such as teaching or education earned through college courses.

**16. 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?**

License/certificate renewal is a collection of revenue in accordance with ORC § 119.14 (C)(4) for which the late renewal penalty fee may be imposed.

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

The Board's website provides comprehensive information pertaining to renewal, restoration/reinstatement and continuing education. All forms are posted on the Board's website. The Board also communicates with licensees via email and newsletters. The staff of the Board also personally answers and responds to each phone call, email, correspondence, etc.

Contact Information:

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