



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: April 14, 2023

RE: **CSI Review – License requirement changes, Confidential non-disciplinary program, HB 509 changes fees modifications, and updating language (OAC 4758-2-01, 4758-3-01, 4758-5-03, 4758-5-04, 4758-5-05, 4758-5-06, 4758-5-11, 4758-6-03, 4758-6-06, 4758-11-02, 4758-11-03, 4758-13-01, 4758-13-05, 4758-17-02, and 4758-17-03)**

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This rule package consists of one new rule, thirteen amended rules, and one rescinded rule proposed by the Ohio Chemical Dependency Professionals Board (Board) as part of the statutory five-year review process.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 March 24, 2023, and the public comment period was held open through April 4, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on March 24, 2023.

Ohio Administrative Code (OAC) 4758-2-01 specifies definitions and titles pertaining to chemical dependency and substance use disorder counseling. The rule is amended to add and remove terms, update language and typography, add clarifying language, remove unnecessary language, and state that the definitions apply to all rules promulgated by the Board unless specified otherwise in such rules. OAC 4758-3-01 sets forth the fees charged by the Board related to applications and licensure. The rule is amended to require fees to be paid only by credit card unless specified otherwise by the

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Board, eliminate certain fees including all exam fees, increase other fees, add new fees, update language, and remove unnecessary language.

OAC 4758-5-03 and 4758-5-04 set forth the requirements for becoming a licensed chemical dependency counselor (LCDC) II, LCDC III, licensed independent chemical dependency counselor (LICDC), and licensed independent chemical dependency counselor clinical supervisor (LICDC-CS). The rules are amended to update language and typography, condense the twelve separate core functions to match the International Certification and Reciprocity Consortium (IC&RC) four core functions, replace the Prevention Strategies education content area with Relapse and Recovery Strategies, remove the forty-semester hour requirement and documentation of certain master's level courses for LICDCs, allow for some graduate courses to be taken outside of a master's degree for LICDCs, and remove unnecessary requirements for LICDC-CSs. OAC 4758-5-11 sets forth the requirements for individuals to receive a gambling disorder endorsement. The rule is amended to require a minimum of four hours of education in each gambling disorder content area and clarify the timeline for when an individual must comply with clinical experience requirements. OAC 4758-6-03 and 4758-6-06 specify the scope of practice for LCDC IIs and LICDC-CSs. The rules are amended to update language and citations, add family counseling, clarify that an LCDC II may not provide clinical supervision, clarify that an LCDC II scope of practice does not include diagnosis, and expand the list of professionals who may supervise an LCDC II. OAC 4758-11-02 outlines the steps the Board may take when it has reason to believe that a licensee or certificate holder suffers from impairment. The rule is amended to update language, add clarifying language, incorporate applicants into the rule, and allow the Board to determine the proper number of written reports needed to demonstrate a licensee or certificate holder has been found capable of practicing. OAC 4758-11-03, a new rule, establishes a safe haven program for licensees, certificate holders, and applicants for licensure or certification to undergo treatment for impairment due to substance use disorder or other mental health conditions without fear of disciplinary action by the Board.

OAC 4758-13-01 outlines the continuing education requirements for chemical dependency counselors. The rule is amended to require renewal applications to be submitted via the Board's electronic application system, decrease the total amount of continuing education hours required within the two-year renewal cycle from forty to thirty, require forty hours for the renewal of a license with an alcohol and drug counselor (ADC) or clinical supervisor (CS) reciprocal endorsement, require only twenty hours for certificate or license holders age sixty-five or older that don't have an ADC or CS reciprocal endorsement, establish a possible fee and disciplinary action for failure to produce proper documentation of continuing education hours or comply with a continuing education audit, add clarifying language, and remove unnecessary language. OAC 4758-13-05 provides for the renewal of lapsed licenses or certificates. The rule is amended to update language and the rule title, add clarifying language, clarify that chemical dependency counselor assistant preliminary (CDCAPRE) certification is not renewable, change the grace period from two years to one year, and

remove the provisions concerning military license renewal that covered under OAC 4758-17-02. OAC 4758-17-02 provides for the licensing and certification of individuals on active military duty in Ohio and their spouses. The rule is amended to update language and the rule title, incorporate the definitions of ORC 4743.041 and 5903.01, require licensees and certificate holders to keep all information current with the Board, and incorporate the content of proposed rescinded rule OAC 4758-17-03 which pertains to the processing of applications from Veterans, individuals on active military duty, and the spouses of individuals on active military duty. OAC 4758-17-03 is rescinded due to its contents being incorporated into OAC 4758-17-02.

During early stakeholder outreach, the Board received input from its Chemical Dependency Professionals Committee, Education and Training Committee, Ethics Committee, and Prevention Committee. These committees consist of members representing professional associations such as the Ohio Council of Behavioral Health & Family Services Providers, the Ohio Association of Recovery Providers, the Ohio Association of Alcoholism and Drug Addiction Counselors, the Ohio Coalition of Associate Degree Human Service Educators, and the Ohio Prevention Professionals Association, along with representatives of treatment and prevention agencies, continuing education providers, colleges and universities, individual license/certificate holders, and members of Ohio Department of Mental Health and Addiction Services. The Ohio's Physician Health Program (now the Ohio Professionals Health Program), which will be the administrator of the Board's safe haven program, presented to the Ethics Committee on October 21, 2021, and to the entire Board on November 19, 2021. The Board reviewed all comments from the committees and rule revisions during meetings on February 19 and November 19, 2021, February 23, April 13, and August 17, 2022, and February 10, 2023. As a result of this effort, the Board revised the rules to expand the definition of "behavioral science degree," replace the Prevention Strategies education content area with Relapse and Recovery Strategies, remove the forty-semester hour requirement and documentation of certain master's level courses for LICDCs, allow for some graduate courses to be taken outside of a master's degree for LICDCs, remove unnecessary requirements for LICDC-CSs, and propose a chemical dependency counselor assistant (CDCA) continuing education package fee for two years approval. During the CSI public comment period, the Board received thirty-one comments from individuals including licensed or certified professionals, potential applicants seeking licensure or certification, university professors from Kent State University, Drury University, and the University of Cincinnati, and individuals affiliated with organizations such as The LCADA Way, UMADAOP of Cincinnati, Problem Gambling Network of Ohio, the Ohio Department of Mental Health & Addiction Services, and the Ohio Alliance of Recovery Providers.

Eleven comments expressed support for the proposed changes, stating that they would expand access to the profession. Three comments urged the Board to lower the degree level required for licensure or certification, but the Board replied that the degree levels required are set in statute. Five comments requested clarification regarding the rule changes which the Board provided. One comment worried

that the proposed changes would limit the number of practitioners that could enter the field, but the Board reassured the individual that the changes expanded the ability for potential applicants to obtain licensure. Five comments pointed out possible additional hurdles to credentialing that could be addressed by the Board. The Board noted that not all potential barriers would be removed by the rule changes, but it acknowledged the arguments from the commenters and stated it would take them into consideration going forward. Six comments resulted in revisions to the rules by the Board, mostly to add clarifying language and update typography but also to add “education” to the list of possible courses which could be counted towards the twenty-four semester hours needed for a behavioral science degree, add a reference to IC&RC to the “core functions” definition, incorporate apprenticeships into the “work” definition, and clarify that work experience is needed in the core functions rather than education. Lastly, the Board also made a technical correction to the rules.

The business community impacted by the rules includes the CDCAs, CDCAPREs, LCDC IIs, LCDC IIIs, LICDCs, LICDC-CSs, registered applicants (RA) for prevention certification, Ohio certified prevention specialist assistants (OCPSA), Ohio certified prevention specialists (OCPS), and Ohio certified prevention consultants (OCPC) who are certified or licensed by the Board. According to the Board, there are 2,654 CDCAPREs, 5,125 CDCAs, 493 LCDC IIs, 1,321 LCDC IIIs, 2,486 LICDCs and LICDC-CSs, 868 RAs, 380 OCPSAs, 182 OCPSs, and 167 OCPCs in Ohio. The adverse impacts created by the rules include the education and experience needed to obtain certification or licensure, the continuing education required for renewal, working within the scope of practice of one’s certification or licensure, application fees, and possible fees or disciplinary action for violations of the rules. The Board states that the adverse impacts to business are justified to implement statutory requirements and protect the public.

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.