

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Chiropractic Board

Regulation/Package Title: Five Year Review of Rules

Rule Number(s): 4734-1-03; 4734-5-01; 4734-6-05; 4734-6-07; 4734-8-02;
4734-8-03; 4734-8-05; 4734-8-06; 4734-8-08; 4734-9-01; 4734-9-04; 4734-9-05; 4734-9-06;
4734-9-09; 4734-10-03; 4734-10-05

Date: January 16, 2013

Rule Type:

- | | |
|----------------------------------|---|
| <input type="checkbox"/> New | <input checked="" type="checkbox"/> 5-Year Review |
| <input type="checkbox"/> Amended | <input type="checkbox"/> Rescinded |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.

Rule 4734-1-03 pertains to payment of fees to the Board and insufficient fund payments to the Board. Proposed amendment to update rule due to biennial renewal.

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Rule 4734-5-01 establishes the objective and curriculum of Board-approved doctor of chiropractic degree programs as well as adopts the Council on Chiropractic Education (CCE) Accreditation Standards. Proposed amendments are to update terminology used by the CCE and to define that the rule applies to U.S. programs only.

Rule 4734-6-05 establishes the licensure process for doctors who wish to provide services solely on a gratuitous basis. Proposed amendments are to make a correction and to establish that voluntary public service license holders must earn CE to renew the license.

Rule 4734-6-07 establishes the address reporting requirements for licensees. No proposed amendment.

Rule 4734-8-02 establishes delegation of responsibilities to unlicensed staff. Proposed amendments are to provide clarification and further guidance to licensees.

Rule 4734-8-03 establishes the Board's Quality Intervention Program (QIP). Proposed changes are technical and/or provide clarification.

Rule 4734-8-05 establishes the examination and prescription protocols for patients. Proposed changes provide further guidance and clarification for licensees.

Rule 4734-8-06 establishes the relevant factors the Board may consider when considering disciplinary sanctions. No proposed amendment.

Rule 4734-8-08 establishes that recommended universal precautions should be utilized to minimize risk of exposure to bodily fluids. Proposed amendments are to update the rule.

Rule 4734-9-01 establishes a schedule of fines for violations of the Board's laws and rules. No proposed amendment.

Rule 4734-9-04 establishes ownership of chiropractic practices. No proposed amendment.

Rule 4734-9-05 establishes confidentiality of patient information. No proposed amendment.

Rule 4734-9-06 pertains to sexual misconduct. Proposed amendments are to update the rule.

Rule 4734-9-09 establishes prohibited fee splitting activities. No proposed amendment.

Rule 4734-10-03 establishes the application procedure for obtaining a certificate to practice acupuncture. Proposed amendments are technical and allow for retention of documents.

Rule 4734-10-05 establishes referral and compliance when referring a patient to an acupuncturist licensed in accordance with Chapter 4762. No proposed amendment.

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

ORC § 4734.10 is the statutory authority for rules 4734-1-03; 4734-6-07; 4734-8-02; 4734-8-05; 4734-8-06; 4734-8-08; 4734-9-04; 4734-9-05; 4734-9-06; 4734-9-09; 4734-10-05.

ORC § 4734.21 is the statutory authority for 4734-5-01.

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ORC § 4734.27 is the statutory authority for 4734-6-05.

ORC § 4734.31 is the statutory authority for 4734-9-01.

ORC § 4734.42 is the statutory authority for 4734-8-03.

ORC § 4734.282 is the statutory authority for 4734-10-03.

- 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.**

Not applicable to this rules package.

- 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)?**

Board rule 4734-1-03 establishes methodology of payment so that all licensees are treated equally.

Board rule 4734-5-01 establishes the objective and curriculum for Board-approved chiropractic educational programs and adopts the accreditation standards of the CCE for approval of programs so that all educational programs are consistent and treated equally.

Board rules 4734-6-05 and 4734-10-03 establish licensure requirements for voluntary public service licenses and acupuncture certificates.

Board rules 4734-6-07, -8-02, -8-03, -8-05, -8-06, -8-08, -9-01, -9-04, -9-05, -9-06, -9-09, and -10-05 establishes certain standards of practice in order to protect those that are receiving chiropractic services and to establish administrative methodologies to ensure chiropractors are kept informed of regulatory and other important changes, and maintain professional and ethical standards. The regulations also establish the Board's disciplinary sanctions to help ensure licensees accused of violations are treated fairly and equally.

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

Success will be measured by having clear and up to date rules, resulting in ease of compliance for licensees and a reduction in the number of inquiries for clarification.

Development of the Regulation

- 7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

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If applicable, please include the date and medium by which the stakeholders were initially contacted.

An email was sent to stakeholder organizations on August 17, 2012 regarding rules 4734-5-01, 6-05, 6-07, 8-02, 8-03, 8-05, 8-08, 9-06, 10-03 and 10-05. An email was sent to stakeholder organizations on December 3, 2012 regarding rules 4734-1-03, 8-06, 9-01, 9-04, 9-05 and 9-09. Stakeholder organizations included the Ohio State Chiropractic Association; the Northeast Ohio Academy of Chiropractic, the Chiropractic Association of Ohio, all Board-approved chiropractic colleges, the CCE, the CCE International, the Federation of Chiropractic Licensing Boards and the International Academy of Medical Acupunctur

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

Comments were received from the Council on Chiropractic Education (CCE), the Council on Chiropractic Education-International (CCEI) and the New Zealand College of Chiropractic (NZCC). The CCE and CCEI's input affected rule 4734-5-01 in that the Board is amending outdated terminology and language as suggested. No comment was received on any other rule in this package.

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?

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

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?

The only alternative regulation was suggested by the New Zealand College of Chiropractic that the Board incorporate approval of doctor of chiropractic degree programs outside of the US into rule 4734-5-01. The Board considered this alternative and decided to amend existing rule 4734-5-01 to clearly apply to US programs and draft new rules to address doctor of chiropractic degree programs outside of the US. Existing rule 4734-5-01 (and the remaining rules in Chapter 5), refer to CCE approved programs. The CCE does not approve programs outside of the US. There is currently no accrediting body for programs outside of the US and therefore the Board must research and develop standards for programs outside of the U.S.

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.*

The Board did not see an application for the rules in this package to be performance based.

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12. 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.

The Board considered the continued need for rules in this package during its five year rule review and made updates as necessary.

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 continue to use its website and newsletters to educate and update licensees on its rules. Stakeholder organizations also ensure that rules, particularly amended rules, are provided to their members through communications and CE opportunities.

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;

Rule 4734-5-01 impacts all doctor of chiropractic degree programs. The remaining rules in this package impact the Board’s licensees in regard to compliance. Rules 4734-6-07, -8-02, -8-05, -8-08, -9-05, -9-06, 9-09 directly also affect public health, safety and welfare due to the subject matter.

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

Rule 4734-1-03 requires reimbursement for insufficient check fees;
Rule 4734-6-05 requires an application fee and a biennial renewal fee;
Rule 4734-10-3 requires an application fee;
Rule 4734-8-03 requires CE fees and licensee time to earn CE;
Non-compliance with rules 4734-5-01, 6-07, 8-02, 8-05, 8-08, 9-04, 9-05, 9-06, 9-09 and 10-05 could result in warning or violation letters or disciplinary action.

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.

4734-1-03 - Insufficient funds fees \$20 to \$35 based upon internet research of banking fees;

Rule 4734-6-05 - \$75 application fee and \$75 biennial renewal fee;
Rule 4734-10-3 - \$100 application fee;
Rule 4734-8-03 - CE fees and time to complete CE. CE is offered on the weekends and online and can be earned during non-working hours;
Rules 4734-5-01, 6-07, 8-02, 8-05, 8-08, 9-04, 9-05, 9-06, 9-09 and 10-05 cannot be quantified in dollars or hours to comply but are necessary for the health, safety and welfare of the public.

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

Requiring licensees to reimburse the Board for insufficient funds fees allows the Board to recoup expenses; application and renewal fees are necessary for the regulatory Board to fulfill its statutory mandates; requiring licensees to maintain standards in the areas of address notification, unlicensed personnel, examination and prescription protocols, universal precautions, ownership of chiropractic practices, confidentiality, sexual misconduct, fee splitting and acupuncture referral protects the public; requiring objectives and curriculum for chiropractic education maintains minimal standards for all colleges; the quality intervention program is designed to actually alleviate adverse impact to licensees by allowing them to participate in a confidential program in lieu of discipline; and establishing aggravating and mitigating factors the Board may consider when imposing disciplinary sanctions and the minimum and maximum fines the Board may impose when considering disciplinary sanctions gives licensees and the public notice of the factors considered and the disciplinary range of fines available for specific misconduct.

Regulatory Flexibility

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

There are no specific exemptions or alternative means of compliance outlined in the rules.

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?

Paperwork violations are not applicable to this rules package, with the exception of the penalty fee that could be imposed for late renewal of the license in rule 4734-6-05. Unless extenuating circumstances exist, the Board would waive the penalty fee for late renewal of a voluntary practice license.

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

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The Board's website provides comprehensive information and newsletters are published to provide information and updates. The Board also publishes informative articles in the professional magazine of the Ohio State Chiropractic Association, the largest chiropractic association in Ohio. Staff of the Board personally answer and respond to each phone call, email, correspondence, etc.

Contact Information:

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