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OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research
and Drafting

Legislative Budget
Office

H.B. 5*
134th General Assembly

Occupational Regulation Report

[Click here for H.B. 5's Bill Analysis / Fiscal Note](#)

Primary Sponsor: Rep. Manning

Impacted Profession: Chemical dependency counselors

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LSC is required by law to issue a report for each introduced bill that substantially changes or enacts an occupational regulation. The report must: (1) explain the bill's regulatory framework in the context of Ohio's statutory policy of using the least restrictive regulation necessary to protect consumers, (2) compare the regulatory schemes governing the same occupation in other states, and (3) examine the bill's potential impact on employment, consumer choice, market competition, and cost to government.¹

LEAST RESTRICTIVE REGULATION COMPARISON

Ohio's general regulatory policy

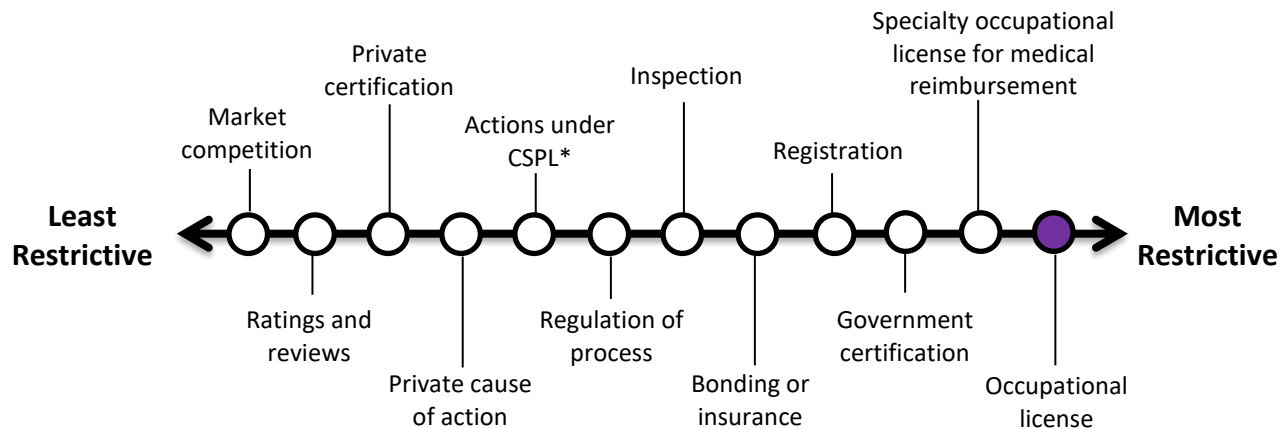
The general policy of the state is reliance on market competition and private remedies to protect the interests of consumers in commercial transactions involving the sale of goods or services. For circumstances in which the General Assembly determines that additional safeguards are necessary to protect consumers from "present, significant, and substantiated harms that threaten health, safety, or welfare," the state's expressed intent is to enact the "least restrictive regulation that will adequately protect consumers from such harms."²

The degree of "restrictiveness" of an occupational regulation is prescribed by statute. The following graphic identifies each type of occupational regulation expressly mentioned in the state's policy by least to most restrictive:

*This report addresses the "As Introduced" version of H.B. 5. It does not account for changes that may have been adopted after the bill's introduction.

¹ R.C. 103.26, not in the bill.

² R.C. 4798.01 and 4798.02, neither in the bill.



*CSPL – The Consumer Sales Practices Law

Necessity of regulations

Representative Gayle Manning, the bill's sponsor, testified that the bill is intended to address a workforce shortage of chemical dependency counselors. According to proponent testimony, the profession is in high demand due in large part to opioid abuse; a problem made worse by the COVID-19 pandemic. The same testimony suggests that 2018 changes to Medicaid reimbursement rates for behavioral health services render it infeasible for addiction treatment centers to rely on chemical dependency counselor assistants to fill the void. By creating alternative pathways to licensure, the bill might encourage chemical dependency counselor assistants to obtain a chemical dependency counselor II license and thereby address a workforce need.³

Restrictiveness of regulations

Licensure is the most restrictive of all regulatory options identified within the state's continuum of regulations. Accordingly, the state's policy prescribes a narrow range of situations in which required licensure is appropriate; specifically, when all of the following circumstances are present: (1) the occupation involves providing a service regulated by both state and federal law, (2) the licensing framework allows individuals licensed in other states and territories to practice in Ohio, and (3) the licensing requirement is based on uniform national laws, practices, and examinations that have been adopted by at least 50 U.S. states and territories.⁴

The bill creates alternative pathways to obtain an existing occupational license. It does not create a new license or expand the scope of activities for which licensure is required. Chemical dependency counselors have been licensed in Ohio since 2002, and similar

³ Representative Gayle Manning, [H.B. 5 Proponent Testimony](#), February 9, 2021; Thomas Stuber, [H.B. 5 Proponent Testimony](#), February 9, 2021; Ohio Department of Medicaid, [Behavioral Health Redesign: For Providers](#).

⁴ R.C. 4798.02, not in the bill.

certifications and credentials were available before that time for Medicare and Medicaid reimbursement purposes.⁵ The profession is regulated by federal law and by most (if not all) other states.⁶ Ohio is one of 48 U.S. states and territories that are members of the International Certification and Reciprocity Consortium (IC&RC), which establishes uniform standards and examinations for prevention, substance use treatment, and recovery professionals.⁷ The Ohio Chemical Dependency Professionals Board utilizes IC&RC professional examinations and allows for the transfer of equivalent credentials from other IC&RC member states and territories.⁸

Other regulatory policies

The bill modifies an established regulatory framework that applies to chemical dependency counselors under continuing law. The chemical dependency counselor II license is one of four licenses administered by the Ohio Chemical Dependency Professionals Board (Board). Licensed individuals must participate in continuing education, comply with ethics rules, and keep patient information confidential.⁹ Counselors who violate these rules are subject to discipline by the Board.¹⁰ Ohio law does not contain a general statement explaining the state's intent in regulating chemical dependency counselors.

IMPACT STATEMENT

Opportunities for employment

The two new pathways to qualify for a chemical dependency counselor II license both require an individual to first be licensed as a chemical dependency counselor assistant. Therefore, only individuals who are licensed as chemical dependency counselor assistants and opt to obtain licensure as a chemical dependency counselor II are affected by the bill. At the end of FY 2020, there were approximately 4,249 chemical dependency counselor assistants, 2,671 chemical dependency counselor assistant preliminaries, and 420 individuals licensed as a chemical dependency counselor II.

Market competition

The bill may increase the number of individuals practicing as a chemical dependency counselor II and decrease the number practicing as a chemical dependency counselor assistant. The scope of practice is the same for these two licenses. However, the chemical dependency counselor II is able to work without supervision while the chemical dependency counselor assistant is required to work under the supervision of specified practitioners. Allowing more

⁵ See the LSC final analysis of H.B. 496 of the 124th General Assembly.

⁶ See, e.g., 42 United States Code (U.S.C.) § 290dd-2, requiring confidentiality of records related to substance abuse education, training, rehabilitation, or treatment; see also, **COMPARISON TO OTHER STATES**, below.

⁷ International Certification & Reciprocity Consortium, [About IC&RC](#).

⁸ Ohio Chemical Dependency Professionals Board, [Reciprocity](#).

⁹ R.C. 4758.06 and 4758.28, not in the bill; Ohio Administrative Code (O.A.C) Chapter 4758-8.

¹⁰ R.C. 4758.30, not in the bill; O.A.C. Chapter 4758-10.

individuals to practice without direct supervision could impact the market. For instance, the number of individuals practicing could be increased if the individual did not have to find a practitioner willing to provide direct supervision. In addition, there may be less administrative costs if an individual did not have to consult with another practitioner.

Consumer choices and costs

Again, the bill may increase the number of individuals practicing as a chemical dependency counselor II. As mentioned previously, the chemical dependency counselor II is able to work without supervision while a chemical dependency counselor assistant must be supervised. While this distinction may not play a large role in a consumer's choice of practitioner, it might lead to additional practitioners in the marketplace. If this occurs, consumers would have more providers to choose from when seeking treatment.

Since the chemical dependency counselor II works without supervision, they may be reimbursed at a higher rate than a chemical dependency counselor assistant. However, the practitioner supervising the chemical dependency counselor assistant would presumably receive some form of reimbursement for providing these services. If chemical dependency counselor assistants opt to practice as a chemical dependency counselor II, reimbursements related to supervision would be reduced.

Costs to government

For the costs of the bill to government, please see the [LBO fiscal note](#).

SUMMARY OF PROPOSED REGULATIONS

Chemical dependency counselor II license

The bill establishes two additional pathways to qualify for a chemical dependency counselor II license issued by the Ohio Chemical Dependency Professionals Board. A chemical dependency counselor II is authorized to (1) practice chemical dependency counseling, (2) perform treatment planning, assessment, crisis intervention, individual and group counseling, case management, and education services as they relate to alcohol and drug abuse or dependency, and (3) refer individuals to appropriate sources of help for conditions that are not chemical dependency.¹¹

The two new pathways toward licensure as a counselor II are made available to someone who already holds a certificate from the Board as a chemical dependency counselor assistant. A counselor assistant performs the same functions as a counselor II, but must practice under supervision. Neither may make diagnoses or practice as independent practitioners.¹²

Both pathways allow a counselor assistant to qualify for a counselor II license by meeting requirements that take into account the experience attained as a counselor assistant. One

¹¹ R.C. 4758.57, not in the bill.

¹² O.A.C. Chapter 4758-6.

pathway requires a college degree specializing in counseling, whereas the other does not require any college degree. The pathway that does not require a college degree relies on the 40 hours of training that had to be completed to become a counselor assistant and work experience attained as an assistant. This pathway is available as an option only for three years following the bill's effective date.¹³

Specialized-degree pathway

A counselor assistant who is following the bill's specialized college degree pathway toward a counselor II license must satisfy all of the following when applying for the license:

- Hold an associate's degree or bachelor's degree in a behavioral science or nursing, each with a specialization in chemical dependency counseling. In comparison, there is no degree specialization requirement for applicants seeking licensure under the current system, which requires either (1) an associate's degree in a behavioral science or nursing or (2) a bachelor's degree in any field.
- Have a minimum of 180 hours of education in chemical dependency that meets requirements specified in Board rules.
- While holding a valid counselor assistant certificate, have successfully completed, over the course of no more than two semesters, at least 240 hours of practicum experience in chemical dependency that meets requirements specified in Board rules, including at least two hours of supervised practicum experience.
- Have at least 1,000 hours of compensated work experience as a chemical dependency counselor assistant. In comparison, applicants who are not already counselor assistants must complete 2,000 hours of compensated work or supervised internship experience and 220 hours of practical experience in 12 core function areas.¹⁴
- Provide to the Board a written recommendation from an individual who supervised the individual's practice as a counselor assistant.
- Have passed one or more examinations administered to determine competence to practice as a chemical dependency counselor II. Ohio uses the examination offered by the International Certification and Reciprocity Consortium (IC&RC).

Experience-based pathway

A counselor assistant who is following the bill's experience-based pathway toward a counselor II license must satisfy all of the following:

¹³ O.A.C. 4758-5-01; R.C. 4758.42(C) and (D).

¹⁴ R.C. 4758.42(A); O.A.C. 4758-5-03.

- Since at least December 31, 2008, have continuously (1) held a valid chemical dependency counselor assistant certificate and (2) practiced chemical dependency counseling while under supervision;
- Provide to the Board a written recommendation from an individual who supervised the individual's practice as a chemical dependency counselor assistant;
- Have earned the minimum number of hours in chemical dependency training specified in Board rules, which currently require 40 hours of training in specific content areas;¹⁵ and
- Have passed one or more examinations administered for the purpose of determining competence to practice as a chemical dependency counselor II. As noted above, Ohio uses IC&RC's examination.¹⁶

Supervision of prevention services

The bill eliminates the statutory authority of chemical dependency counselors to supervise the practice of certified professionals engaged in prevention services. Board rules require prevention specialist assistants and registered applicants to practice under the supervision of a person licensed in one or more enumerated health care professions (for example, a physician, nurse, social worker, certified prevention specialist or consultant, or psychologist). Chemical dependency counselors are not included on the list. Therefore, a chemical dependency counselor is expressly authorized (by statute) to supervise prevention specialist assistants and registered applicants, but individuals engaged in those professions are prohibited (by rule) from practicing under the supervision of a chemical dependency counselor. The bill conforms the statute to the rule but the change should not have a substantive impact on individuals engaged in either profession.¹⁷

¹⁵ O.A.C. 4758-05-01; R.C. 4758.53, not in the bill.

¹⁶ R.C. 4758.42(D).

¹⁷ R.C. 4758.61 and 4758.20(A)(30)(c); O.A.C. 4758-6-07 and 4758-6-08, neither in the bill.

COMPARISON TO OTHER STATES

None of the five states surrounding Ohio issues a license expressly designated as a “chemical dependency counselor II license,” but they all have functionally similar occupational categories. Indiana has a licensure process, while Kentucky, Michigan, Pennsylvania, and West Virginia have a certification process. Like Ohio, all five states specify education, work experience, and examination requirements, although Michigan does not have a minimum degree requirement. Specific requirements vary by state, but all five states use the comprehensive examination offered by IC&RC. Indiana also accepts the National Addiction Counselor, Level II examination offered by the National Certification Commission for Addiction Professionals.

The table below summarizes the addiction counselor license requirements of the surrounding states in greater detail.

Regulation of Addiction Counselors				
State	Degree	Education Hours	Compensated Work/Supervised Internship	Examinations
Indiana (Licensed Addiction Counselor) ¹⁸	Bachelor’s degree or higher in addiction counseling or in a related area as determined by the Behavioral Health and Human Services Licensing Board.	40 semester hours or 60 quarter hours of coursework including addictions theory, psychoactive drugs, addictions counseling skills, theories of personality, developmental psychology, abnormal psychology, group work, cultural competency, ethics and professional development, family education, and other areas of content approved by the Board.	At least two years of addiction counseling experience including at least 150 hours under supervision. Also, 350 hours in either a practicum or internship completed as part of meeting the educational requirements.	Comprehensive exam offered by IC&RC or the National Certified Addiction Counselor II exam offered by the National Certification Commission for Addiction Professionals.

¹⁸ Ind. Code Ann. 25-23.6-10.5-1.5; 839 Ind. Admin. Code 1-2-1; Indiana Professional Licensing Agency, [Licensed Addiction Counselor \(LAC\)](#).

Regulation of Addiction Counselors				
State	Degree	Education Hours	Compensated Work/Supervised Internship	Examinations
Kentucky (Certified Alcohol and Drug Counselor) ¹⁹	Bachelor's degree or certification as a certified alcohol and drug counselor associate II.	Complete minimum education hours required by IC&RC.	Complete minimum work experience and supervision requirements prescribed by IC&RC6.	Comprehensive exam offered by IC&RC.
Michigan (Certified Alcohol and Drug Counselor) ²⁰	None specified.	300 education hours, 180 must be specific to substance use disorders.	6,000 hours counseling experience working with substance use disorder clients at a Michigan-licensed program. An associate degree in social science or a human service field counts as 1,000 hours, a bachelor's degree counts as 2,000. At least 300 hours of direct supervision performing substance use disorder counseling; a bachelor's degree in a related field counts as 100 hours.	Comprehensive exam offered by IC&RC.

¹⁹ Ky. Rev. Stat. 309.083; 201 Ky. Admin. Reg. 35:025.

²⁰ Michigan Certification Board for Addiction Professionals, [CADC – Certified Alcohol and Drug Counselor, Overview of Requirements](#).

Regulation of Addiction Counselors				
State	Degree	Education Hours	Compensated Work/Supervised Internship	Examinations
Pennsylvania (Certified Alcohol and Drug Counselor) ²¹	Bachelor’s degree.	300 hours of education relevant to substance use disorders. 100 of the hours must be specific to substance use disorders; six of the hours must be in the area of ethics.	Two years of full-time employment in addiction counseling or 4,000 hours of part-time employment for those with a bachelor’s degree in a relevant field. Three years of full-time employment or 6,000 hours of part-time employment for those with a bachelor’s degree in a nonrelevant field. For all applicants, 200 hours of supervision.	Comprehensive exam offered by IC&RC.

²¹ Pennsylvania Certification Board, *Certifications*.

Regulation of Addiction Counselors				
State	Degree	Education Hours	Compensated Work/Supervised Internship	Examinations
West Virginia (Alcohol and Drug Counselor Certification) ²²	High school diploma/equivalent or higher.	300 contact hours of training, 70 specific to addiction. Of the 70, six must be in the area of ethics. One three-hour college semester course equals 45 contact hours.	Six years of qualifying experience. An accredited degree can count for three of the six years. Required number of hours of practical experience supervised by a certified alcohol and drug counselor varies by education level: a high school diploma or equivalent requires 300 hours, an associate degree in a related field requires 250 hours, a bachelor's degree in a related field requires 200 hours, and a master's degree or higher in a related field requires 100 hours.	Comprehensive exam offered by IC&RC.

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²² West Virginia Certification Board for Addiction & Prevention Professionals, [Certification Applications & Manuals](#).