

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Board of Dietetics

Regulation/Package Title: Supervision of persons claiming exemption; Student practice exemption; Plan of treatment exemption; Additional nutritional activities exemption; Distribution of literature exemption; Weight control program exemption; Standards of practice in nutrition care; Standards of professional performance; and Interpretation of standards.

Rule Number(s): 4759-5-01 through 4759-5-06 and 4759-6-01 through 4759-6-03;

All are NO CHANGE rules except: 4759-05-01, 4759-6-02, and 4759-6-03 Changes include name change of national organization; addition of dietetic practices being consistent with the Centers for Medicare and Medicaid Services, the Academy and the Federal Register, as approved by each healthcare facility.

Date: 11/21/12

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 Rescinded |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.**

Chapter 4759-5 administrative rules address various exemptions. Those that are exempt from licensure must meet requirements for such. They either work directly under a dietitian's license or they are only allowed to engage in certain activities. Chapter 4759-6 addresses the standards of practice (SOP) in nutritional care, the standards of professional performance (SOPP) and the interpretation of these standards. The board's SOP and SOPP are consistent with those of the national organization, the Academy of Nutrition and Dietetics.

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

4759.10 and 4759.05 of the Ohio Revised Code

- 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?**

No, the board's SOP and SOPP are consistent with those of the national organization, the Academy of Nutrition and Dietetics.

- 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)?**

In order to ensure safety of Ohio citizens, there must be standards of practice and standards of professional performance which to guide the profession's conduct and performance. There must be certain exemptions in place to ensure that those without a license are able to be involved in nutrition-related activities at some level.

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

Based on our compliance and enforcement information, the Board investigates 80-90 cases per year and most are willing to comply when educated how to do so. Less than 6 formal actions have resulted in the past year.

Development of the Regulation

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

Those reviewing this chapter for FYR include: the five-member board of dietetics, which includes 3 dietitian members, one PhD Educator member and one public member; the assistant attorney general assigned to the board; the state associations liaison to the board; the executive director and compliance specialist.

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

Yes, the comments and input were included in any proposed revisions set forth.

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?

Upon review of this chapter, the agency assessed the relevancy of the rules, the appropriateness of the rules, and critically reviewed for any needed changes. There were updates included in the proposed rules. The board feels strongly that it is in the best interest to continue to be consistent with the Academy's standards.

11. Did the Agency specifically consider a performance-based regulation? Please explain.

N/A.

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

Chapter 4759 does not duplicate any other existing Ohio regulation.

- 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 educates several entities about the standards of practice, standards of professional performance and exemptions. The executive director or compliance specialist conducts presentations on licensure to students, dietetic interns, professors, at local association meetings, at various other conferences and at places of employment. The board is clear that their standards are consistent with the Academy’s. It is the responsibility of each dietitian to understand what is expected and that the board is readily available to assist with any questions. We only enforce rules or statutes, to ensure we are consistent and predictable.

Adverse Impact to Business

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

There is no cost associated with the compliance of the above rules.

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

To ensure that there are minimum standards in place for standards of practice and standards of professional performance, the board adopted rules consistent with the standards of the national organization, the Academy of Nutrition and Dietetics.

Regulatory Flexibility

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

There are several exemptions in the above rules as a means to allow unlicensed individuals to engage in nutrition at some level, usually limited in scope or with the oversight of a dietitian or physician.

- 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?**

The board reviews any complaint or offense on a case-by-case basis and each is investigated as to violation of Chapter 4759.

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

The Board staff is always available to respond to inquiries.