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Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Manning

Alyssa Bethel, Attorney

SUMMARY

- Instead of referring to “chemical dependency conditions,” refers to “substance use disorders.”
- Modifies the membership of the Chemical Dependency Professionals Board.
- Prohibits the Board from discriminating based on sex, sexual orientation, gender identity, national origin, or ancestry.
- Allows the Board to adopt rules for: a system of fines against individuals for violations, course requirements for a behavioral sciences or nursing master’s degree, and a process for endorsing degree programs.
- Modifies the transition from an initial chemical dependency assistant counselor certificate to a renewable certificate.
- Modifies the education requirement for a counselor III license to include individuals who have any bachelor’s degree if the individual also does a substance abuse course and internship.
- Modifies the eligibility for a chemical dependency counselor assistant certificate to individuals who are 18 years of age or older and who have a high school degree or an equivalent degree.
- Prohibits a counselor II from supervising or diagnosing, and requires a counselor II with a gambling endorsement to be supervised when engaged in gambling disorder-related tasks.

DETAILED ANALYSIS

The bill makes various changes throughout the law regarding the Chemical Dependency Professionals Board and its regulation of chemical dependency professionals. This analysis first

discusses changes that impact the Board itself (e.g., membership), then discusses changes to licensing and certificate requirements for chemical dependency professionals.

Chemical Dependency Professionals Board

Membership

Both currently and under the bill, the Board consists of 13 members: 12 appointed by the Governor with the advice and consent of the Senate and one appointed by the Director of Mental Health and Addiction Services. Currently, two Governor-appointed members must hold valid chemical dependency counselor III licenses. The bill reduces this to one, and adds a member who holds a valid chemical dependency counselor assistant certificate.¹

Quorum

Current law specifies a quorum – the number of members necessary to conduct business – is seven members. The bill decreases this to six members. No action may be taken by the Board without a concurrence of at least a quorum.²

Discrimination

The bill expands the classifications upon which the Board cannot discriminate against licensees, certificates holders, endorsement holders, or applicants. Current law prohibits discrimination on the basis of race, color, religion, gender, national origin, disability, or age. The bill expands this to include sex, sexual orientation, gender identity, and ancestry.³

Rulemaking

The bill modifies three aspects of the Board's rulemaking authority.

Fines and costs

The Board has existing authority to reprimand an individual for certain reasons, such as committing a criminal offense in the course of practice or practicing outside the individual's scope of practice. The bill also allows the Board to impose fines or costs against an individual for the same reasons. The Board may adopt, in accordance with the Administrative Procedure Act,⁴ a graduated system of fines, based on the scope and severity of the action and history of the individual's compliance or noncompliance. No fine may exceed \$500 per incident.⁵

¹ R.C. 4758.10.

² R.C. 4758.13.

³ R.C. 4758.16.

⁴ Chapter 119 of the Revised Code, not in the bill, and R.C. 4758.20(B).

⁵ R.C. 4758.20(A)(8) and 4758.30 (contains the list of reasons the Board may reprimand or impose a fine against an individual).

Endorsing programs

The bill authorizes the Board to adopt rules, again under the Administrative Procedure Act, regarding a process the Board may use to endorse degree training programs and prevention credentialing programs offered by accredited educational institutions. The rules also may establish fees for issuing an endorsement.⁶

To elaborate on this authority: one pathway to a counselor III license requires the individual to hold at least a bachelor's degree in behavioral science or nursing; the degree must meet the course requirements specified in rule by the Board.⁷ The Board's endorsement authority under the bill would allow the Board to endorse degree programs that satisfy the course requirements.

The Board currently provides endorsements – called “master's accreditations” – to qualified behavioral science master's degree training programs.⁸ A master's in behavioral science or nursing is necessary in one pathway to the independent counselor license and in one pathway to the independent chemical dependency counselor-clinical supervisor license.⁹

Course requirements for behavioral science or nursing masters

Continuing law requires the Board to establish via rule course requirements for a master's degree in behavioral sciences or nursing held by an applicant for an independent counselor license or an independent chemical dependency counselor-clinical supervisor license. However, minimum course requirements currently are set forth in statutory law (e.g., 40 semester hours in a counseling procedures course). The bill removes these minimum requirements, but specifies that it is the intent of the General Assembly that the Board “update current standards through rules while still maintaining content areas and hour requirements that are substantially similar to those identified in [current statutory law].”¹⁰

Exempt from +1, -2 rule

Under continuing law, until June 30, 2023, any state agency that adopts a new regulatory restriction must remove two or more existing regulatory restrictions. “Regulatory restriction” is not defined, but the law specifies that any rule that includes the word “shall,” “must,” “require,” “shall not,” “may not,” or “prohibit” is considered to contain a regulatory

⁶ R.C. 4758.20(A)(33) and 4758.21(A)(7).

⁷ R.C. 4758.41 (specifies the requirements for a counselor III license) and 4758.20(A)(15) (allows the Board to adopt rules specifying the course requirements), and Ohio Administrative Code (O.A.C.) 4758-5-03 (specifies the course requirements).

⁸ O.A.C. 4758-14-01.

⁹ R.C. 4758.40(A) and 4758.39(A).

¹⁰ R.C. 4758.20(A)(11) and 4758.201.

restriction. The bill exempts the Board's new administrative rulemaking authority from this requirement.¹¹

Chemical dependency professionals

Chemical dependency counselor III license

There are three pathways to obtain a chemical dependency counselor III license. Each pathway contains a set of requirements regarding education and experience. The first pathway, which the bill modifies, requires an applicant to hold a bachelor's degree in a behavioral science or nursing, to have a certain number of hours of experience in a related practice, to have a certain number of hours of training in substance use disorders, and to hold either a license/certificate or pass an exam. Regarding the bachelor's degree requirement, the bill alternatively allows an individual to have a bachelor's degree in *any field*, if the individual also completes a specific course of study in substance use disorders and a specialized substance use disorder internship or practicum.¹²

Chemical dependency counselor II license with gambling disorder endorsement

Individuals who have both a chemical dependency counselor II license and a gambling disorder endorsement currently are allowed to treat gambling disorder conditions; perform treatment planning, assessment, crisis intervention, individual and group counseling, case management, and educational services related to gambling disorders; and refer individuals to appropriate sources of help. The bill modifies this authority in two ways. First, counseling is expanded to include family counseling.

Second, the bill requires supervision for these activities. A counselor II (with a gambling endorsement) must be supervised by one of the following when engaging in the above activities related to gambling disorders:

- An independent chemical dependency counselor-clinical supervisor;¹³
- An individual authorized to practice medicine and surgery or osteopathic medicine and surgery;¹⁴
- A licensed psychologist;¹⁵

¹¹ R.C. 4758.201.

¹² R.C. 4758.41.

¹³ Licensed under Chapter 4758 of the Revised Code.

¹⁴ Licensed under Chapter 4731 of the Revised Code.

¹⁵ Licensed under Chapter 4732 of the Revised Code.

- A registered nurse, if the supervision is consistent with the scope of practice of the registered nurse;¹⁶
- A certified nurse practitioner or clinical nurse specialist;¹⁷
- A professional clinical counselor, independent social worker, or independent marriage and family therapist, if the supervision is consistent with the scope of practice;¹⁸
- An independent chemical dependency counselor, or a chemical dependency counselor III, who is being supervised by any of the professionals in this list.

Finally, the bill prohibits a counselor II from providing clinical supervision or providing diagnoses.¹⁹

Chemical dependency counselor assistant certificate

Age and education

The bill requires an individual wishing to hold a chemical dependency counselor assistant certificate to be at least 18 years old, and to have either a high school diploma or certificate of high school equivalence.²⁰

Initial and renewable certificates

Under continuing law, an individual wishing to hold a chemical dependency counselor assistant certificate first obtains an “initial” certificate, which expires after 13 months. Currently, an individual may *renew* the certificate by completing 30 hours of training during the first 12 months while the initial certificate is active. If an individual allows the initial certificate to expire (rather than renewing it), the individual may complete 30 hours of training to *restore* the certificate.

The bill removes the renewal and restoration options for the initial certificate. Under the bill, an initial certificate still lasts 13 months; after that, an individual who completes the 30 hours of training receives a “renewable” chemical dependency counselor assistant certificate. The training must be completed within one year of the expiration of the initial certificate. The bill allows an individual whose initial certificate expires to complete the training after the expiration and still obtain a renewable certificate, so long as the training is completed not later than one year after the initial certificate expired. The individual must pay a “renewal fee,” but

¹⁶ Licensed under Chapter 4723 of the Revised Code.

¹⁷ Licensed under Chapter 4723 of the Revised Code.

¹⁸ Licensed under Chapter 4757 of the Revised Code.

¹⁹ R.C. 4758.64.

²⁰ R.C. 4758.43.

rather than having the initial certificate renewed, the individual is in fact applying for a renewable certificate.²¹

Chemical dependency counselor I license

The bill removes a reference to the chemical dependency counselor I license, which the Board no longer issues. The removed language prohibits an individual from engaging in, or representing to the public that they engage in, counseling as a counselor I. Continuing law prohibits any individual from engaging in, or representing to the public that they engage in, chemical dependency counseling unless properly licensed; specific reference to the counselor I license is not necessary.²²

“Substance use disorder”

The bill modifies numerous references, mainly throughout the Chemical Dependency Counselor Licensing Law,²³ to “chemical dependency.” The bill instead uses the term “substance use disorder.”²⁴

HISTORY

Action	Date
Introduced	10-12-21

H0452-I-134/ts

²¹ R.C. 4758.26, 4758.27, and 4758.52.

²² R.C. 4758.02 and 4758.99.

²³ Chapter 4758 of the Revised Code.

²⁴ R.C. 3923.29, 4758.01, 4758.02, 4758.03, 4758.10, 4758.13, 4758.20, 4758.22, 4758.221, 4758.23, 4758.30, 4758.31, 4758.36, 4758.39, 4758.40, 4758.41, 4758.42, 4758.43, 4758.52, 4758.54, 4758.55, 4758.56, 4758.57, and 4758.59.