

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Board of Speech-Language Pathology and Audiology _____

Regulation/Package Title: eLicense Alignment-2017 _____

Rule Number(s): 4753-1-03 and 4753-3-04 _____

Date: August 31, 2017 _____

Rule Type:

New

Amended

5-Year Review

Rescinded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.

Two administrative rules are being submitted to the Common Sense Initiative Office as one package. Both rules entail proposed amendments for better alignment with the new eLicense Ohio system. A brief description of each rule under this package follows.

Proposed Amendment

1. 4753-1-03 – Business Filing
2. 4753-3-04 – Educational Requirements for Licensure

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

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Ohio Revised Code sections 4753.05 and 4753.12(A) constitute the Board's statutory authority to adopt these rules.

- 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.**

These rules do not implement a federal requirement or being amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program.

- 4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

This question is not applicable since these rules do not implement a federal requirement.

- 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)?**

The public purpose for the rules listed under this rules package is to promote consumer protection. For instance, the rules regulate the professions of speech-language pathology and audiology in Ohio to ensure that licensed individuals have the appropriate education and training, and are qualified to provide professional services to patients/clients with communications disorders. Additionally, the public purpose for these regulations is to ensure that qualified licensees are providing services under their scope of practice, which enables consumers to possess maximum communication skills to achieve their social and vocational independence.

Proposed Amendments

4753-1-03 Business Filing – this rule is being amended to better align with the new eLicense Ohio system that will be utilized by entities required to submit a business filing statement. Specifically, the proposed amendment eliminates the requirement that a form be submitted by paper and under a notarized signature.

4753-3-04 Educational Requirements for Licensure – this rule is being amended to better align with the new eLicense Ohio system that will be utilized by individuals applying for licensure. Specifically, the proposed amendment eliminates the requirement that a letter from a university requesting expedited licensure be submitted under a university seal or notarized signature.

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

The Board's measurement of success of these rules will be through its education and enforcement programs. For example, the rules are written in plain language and easy to understand. The Board has not received any complaints or concerns from stakeholders, licensees, or the public about these rules. The Board believes that the outcome of clearly written rules and regulations is compliance, which ultimately protects consumers. The Board will also measure the success of these regulations by the number of complaints received and disciplinary action taken against licensees for violation of the applicable rules. The Board facilitates these successful outcomes by distributing its eNewsletter which contains information about the rules and regulations. The Board's outcomes are also assessed annually during its strategic planning meeting.

Development of the Regulation

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

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

In August, the Board communicated to all licensees, stakeholder groups, and employers via its eNewsletter that proposed rule changes were available for public comment.

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

The Board received no opposition from licensees, stakeholder groups, or interested parties regarding these rules.

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?

Since these rules are required under the board's statutory authority to verify educational requirements for licensure and lawful practice by entities that submit a business filing, the Board maintains that scientific data to support the regulations is not applicable.

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?

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The rules included in this package were modeled after other regulatory boards nationally, and include provisions that are considered to be a national standard. For example, the American Speech-Language-Hearing Association (ASHA) and the American Academy of Audiology (AAA) are national associations which establish guidelines related to the practice of speech-language pathology and audiology. The National Council for State Boards of Examiners for Speech-Language Pathology and Audiology (NCSB) is another national association, whose members consist solely of regulatory boards. The Ohio Board of Speech-Language Pathology and Audiology is a charter member of NCSB. The Board utilizes data from NCSB's position statements and model legislation as well.

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 specifically consider a performance-based regulation for these rules since the board is required by statute to verify an applicant's education for licensure and require entities to submit a business filing. The Board concedes that rules in this package are not performance-based because the rules dictate the process the regulated stakeholder must use to achieve compliance.

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

As part of its five year review, the Board considered whether these rules are necessary or obsolete. These rules were assigned to the Board's Rules Committee. The committee determined that these rules did not duplicate an existing Ohio regulation. Additionally, the proposed amendments are necessary to more efficiently align with the new eLicense Ohio system, which applicants and entities will utilize to submit their documentation. The rules under this package pertain to the practice of speech-language pathology and audiology which the Board has the sole authority to enforce.

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's plan for implementation will be to continue utilizing its education, licensure, and enforcement programs to ensure the regulations are applied consistently. For example, the Board has a full-time investigator to review business filing statements. The Board also has Administrative Professionals who review the licensure applications and verify all applicants are eligible for licensure, including meeting the board's educational requirements and eligibility for

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expedited licensure at the request of the university. The Board maintains a listserv and Facebook page which interested parties may join to receive updates about regulations. In order to implement these regulations, the Board will notify licensees via the Board's eNewsletters, Facebook page, and on its website. In addition, all staff will receive orientation about these regulations in order to respond to inquiries via telephone and e-mail. The Board will also update stakeholder groups and provide information for inclusion in their newsletters. These communication efforts will ensure that all licensees receive information about these requirements.

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;

As of August 2017, there were approximately 9,000 licensed audiologists and speech-language pathologists.

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

Proposed Amendment

4753-1-03 Business Filing – the proposed amendment will have an adverse impact in terms of the time it takes entities to complete and submit the filing statement.

4753-3-04 Educational Requirements for Licensure – the proposed amendment will have an adverse impact in terms of the time it will take applicants to complete the licensure application and cost for the licensure application.

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.

The Board believes that with regard to the rules identified as having an adverse impact, there would be minimal adverse impact on the regulated professions and affected business community. The most significant impact these rules have relates to the time that must be spent to ensure compliance.

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

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The Board determined that the regulatory intent justifies the adverse impact to the regulated business community because the changes to the submission of the business filing statement and university verification letter ensure that consumers are protected. The amendments ensure that entities are lawfully providing speech and audiology services under the exemption from licensure and that applicants' educational requirements for licensure have been met.

Regulatory Flexibility

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

The proposed amendments do not provide for any exemptions or alternative means of compliance for small businesses.

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 amendments under this package will not impact Ohio Revised Code section 119.14 since any alleged violations of these provisions are more serious and do not typically involve paperwork violations. However, the Board's Investigative Review Group always considers the special circumstances presented by first-time offenders.

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

The Board's laws and rules governing the practice of speech-language pathology and audiology (Ohio Revised Code and Administrative Code Chapters 4753) are available on our website. In addition, the Board provides updates regarding its laws and rules via its eNewsletter and Facebook page.