CSI - Ohio
The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Board of Speech-Language Pathology and Audiology_____

Regulation/Package Title: Telepractice_____

Rule Number(s): 4753-2-01

Date: January 28, 2013

Rule Type:

X 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Rescinded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.**

Ohio Administrative Code (OAC) section 4753-2-01 is being proposed to adopt guidelines for speech-language pathology and audiology services delivered via telepractice.

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

   Ohio Revised Code sections 4753.05, 4753.07, 4753.08, and 4753.11 constitute the basis for the Board's statutory authority to adopt and/or amend 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.

   The proposed amendment does 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 non-applicable since the proposed amendment does 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 this amendment is to ensure that appropriate and reasonable guidelines are in place for the delivery of speech-language pathology and audiology services via telepractice.

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

   Delivery of speech and audiology services via telepractice is increasing. The Board's measurement of success of this proposed amendment will be from the outcomes of licensees who comply with the guidelines proposed in the rule.

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.

   The Board included a broad base of experts, stakeholders and interested parties in all phases in the development of this rule. A workgroup consisted of universities, licensees with expertise in this area, and the Ohio Speech and Hearing Governmental Affairs Coalition (GAC). GAC was founded in 1982 and is a coalition of speech and hearing professionals in Ohio. GAC consists of four member organizations, whose total membership represents nearly 50% of the total number of licensees regulated by the Board. In addition, all licensees were informed about the proposed rule and given an opportunity for public comment. Notice of the formal rules hearing will be posted to the Ohio Business Gateway's website.

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

   Input provided by stakeholders and licensees were incorporated into the proposed rule. In summary, the input provided ensured that the guidelines were appropriate and reasonable.

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?**

   A national expert on delivery of speech services via telepractice served on the working committee. Many provisions under the proposed rule were based on research and pilot programs.

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 Board believes this question is not applicable in this situation because the proposed rule addresses a delivery of speech and audiology services via telepractice.

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 believes this question is not applicable in this situation because the proposed rule addresses a component of the regulated practice of speech-language pathology and audiology, i.e. delivery of services via telepractice.

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

To the extent that the Office of CSI deems this question applicable, the Board's Rules Committee takes into account whether its proposed rules are addressed in existing Ohio regulation. The Board is the only entity authorized to regulate Ohio Revised and Administrative Code Chapter 4753, which governs the practice of speech-language pathology and audiology.

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.

In order to implement this regulation, the Board will notify licensees of the requirements under this proposed rule via the Board's eNewsletters and on the Board's website. The Board distributes an eNewsletter 3 to 4 times per year. The Board maintains a listserv which interested parties may join to receive these updates. The Board will also update stakeholder groups and provide information for inclusion in their newsletters. These communication efforts will ensure the regulation is applied consistently.

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 January 28, 2013, there were 914 licensed audiologists and 6,085 licensed speech-language pathologists who are governed by this proposed rule. These licensees practice in a diverse group of work settings, including but not limited to schools, hospitals, rehabilitation centers, private practice, skilled nursing facilities, and community-based clinics.

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

The nature of the adverse impact from this proposed rule primarily relates to the time and cost associated with education and training to ensure compliance with the requirements. Additionally, criminal and other sanctions could be imposed if the requirements are not followed. The rule does not require specific expenditures or the report of information as a condition of compliance.

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.

Delivery of services via telepractice is not mandatory; therefore, the impact expected from this regulation is difficult to calculate. Despite the difficulty to calculate the expected adverse impact from the regulation, the Board acknowledges that the regulation will cause an adverse impact to licensees and businesses that employ speech-language pathologists and audiologists. In order to provide speech and audiology services via telepractice to consumers located within Ohio, the individual must be licensed by the Board and have education and training regarding the guidelines specified in the proposed rule.

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

The Board believes the regulatory intent for this proposed regulation justifies the adverse impact to the regulated business community because the rule ensures consumers receive quality services via telepractice from licensed individuals.

Regulatory Flexibility

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

The proposed amendment does not provide any exemption or alternative means of compliance for small business.

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?

To the extent that Ohio Revised Code section 119.14 is applicable to this proposed rule, the Board's Investigative Review Group always considers the special circumstances presented by first-time offenders and for paperwork violations on a case-by-case basis.

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 the eNewsletter. The Board maintains a listserv which interested parties may join to receive these updates.