

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

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

Regulation/Package Title: Continuing Education Requirements_____

Rule Number(s): 4753-4-01

Date: October 2, 2012

Rule Type:

New

X 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Rescinded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 4753-4-01 is being amended to allow additional activities as meeting the continuing education requirements. In addition, the proposed amendment allows the Board to grant an extension or waiver if licensees are not able to complete the continuing education requirements due to special circumstances, such as a medical issue or military leave. The proposed amendment accepts training in human trafficking as meeting the continuing education requirements and specifies the procedures for continuing education audits.

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 licensees who renew their license demonstrate continued competence by completion of continuing education hours. This amendment fulfills the Board's mission, which is to regulate the practice of speech-language pathology and audiology by establishing, promoting, and enforcing practice standards and professional competency among licensees pursuant to Chapter 4753 of the Ohio Revised Code and Ohio Administrative Code.

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 this proposed amendment will be from the outcomes of licensees who complete the continuing education requirements in order to renew their license. The proposed amendment allows licensees to complete continuing education activities in a variety of ways, including web-based activities and self-study.

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.

Stakeholders include 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. Each year, the Board's Executive Director informs GAC of proposed rules and invites their input. In addition, this proposed amendment was reviewed by the Board's Rules Committee. The Rules Committee meets in public. Committee agendas are posted to the Board's website in advance of committee meetings. Committee minutes are also available to the public. The Board posted this proposed rule for public comment to its website in early 2012. Finally, the Board considers all licensees as individual stakeholders. In February 2012, the Board notified all licensees via the Winter 2013 eNewsletter about the proposed changes and that public comments could be submitted. In the Summer 2013 eNewsletter, distributed in August 2012, the Board informed all licensees of the proposed amendment, excluding the language related to Human Trafficking training. This provision was recently included after the Board received a copy of the Ohio Human Trafficking Task Force Report in August. In the fall 2012 eNewsletter, the Board will inform licensees about this provision being included in the proposed amendment.

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

GAC will be officially notified of the Board's intent to submit this proposed amendment through this business impact analysis. We will notify them via e-mail and include CSI's e-mail address for comments.

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?

Continuing education is a standard requirement for regulated professions. The proposed changes to the Board's continuing education requirements were modeled after other regulatory boards nationally, and include provisions that are considered best practice.

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 amendment addresses a fundamental component, i.e. continuing education, which ensures the continued professional competency of licensed professionals.

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 amendment addresses a fundamental component, i.e. continuing education, which ensures the continued professional competency of licensed professionals.

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. This rule is unique to the professions of speech-language pathology and audiology; therefore, the Board is the only entity that is authorized to regulate the continuing education requirements for 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.

The Board plans to implement the proposed amendment beginning January 1, 2013, which will be the beginning of a practice period. Licensees will have two years to complete their continuing education in accordance with the new requirements. A percentage of licensees would be audited for compliance of the new requirements beginning in March 2015.

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 October 1, 2012, there were 994 licensed audiologists, 6,681 licensed speech-language pathologists who are governed by the continuing education requirements. These licensees practice in a diverse group of work settings, from schools, hospitals, rehabilitation centers, private practice, skilled nursing facilities, community-based clinics, to name just a few.

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

The Board does not anticipate that the proposed amendment will increase the adverse impact caused by the overall continuing education rule. Completing continuing education hours cost money and time away from the practice. By amending the rule to allow for other educational activities, including web-based programs, and self-study activities, licensees will have opportunities to complete their continuing education requirements without detrimental adverse impact. Additionally, the proposed amendment allows the Board to grant extensions or waivers to the continuing education requirements for licensees who have extenuating circumstances. Currently, there are no such provisions to deal with extenuating circumstances and a licensee must discontinue practice if the continuing education requirements are not satisfied by the end of the renewal period. This amendment will alleviate the adverse impact the current regulations can cause.

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.

In terms of the overall rule for continuing education, the adverse impact from this regulation consists of costs to complete the continuing education and time. However, by

amending the rule to allow for other educational activities, including web-based programs, and self-study activities, licensees will have opportunities to complete their continuing education requirements with minimal adverse impact. Additionally, the proposed amendment allows the Board to grant extensions or waivers to the continuing education requirements for licensees who have extenuating circumstances. Currently, there are no such provisions to deal with extenuating circumstances and a licensee must discontinue practice if the continuing education requirements are not satisfied by the end of the renewal period. This amendment will alleviate the adverse impact the current regulations can cause.

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 continuing education justifies the adverse impact to the regulated business community because ultimately licensees are maintaining their competency. The regulated profession of speech-language pathology and audiology, as with other regulated professions in the health field, changes on a regular basis. Continuing education requirements ensure that consumers are receiving appropriate services from competent professionals. As previously stated in question 14, the Board believes the proposed amendment will not cause any additional adverse impact to the regulated business community, but rather, will alleviate any existing adverse impact that is justified by the regulatory intent.

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. This rule applies to all licensed speech-language pathologists and audiologists and requires licensees to complete 20 hours of continuing education. (Note, dual licensees must complete 40 clock hours). Accordingly, the Board maintains that the proposed amendment offers flexibility for small businesses, without the need for any exemptions.

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 amendment, 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.