

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

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

Regulation/Package Title: Restoration of License_____

Rule Number(s): 4753-3-11

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Rescinded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 4753-3-11 went into effect on October 10, 2010, to allow licensees the option to place their license in ‘Inactive’ status and streamline the licensure process when the license is restored to ‘Active’ status. The rule requires the completion of continuing education when the licensee is ready to restore their license. The amount of continuing education hours that must be completed is determined by the length of time the license has been inactive. An amendment is necessary to prevent an outcome not intended when the rule was initially adopted. As the rule is currently written, a licensee who completes continuing education hours to restore their license may not apply those same hours towards the renewal of their active license. The end result is that licensees who restore their license must complete more continuing education hours to renew their license, than someone who allowed their license to expire and subsequently applies for relicensure. The amendment restores the intent of the rule and allows licensees in this status to count their additional continuing education hours obtained during the time the license was inactive toward their continuing education requirements for the first renewal of the restored license.

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 restore their license from 'Inactive' status 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 restore their license. The proposed amendment allows licensees in this status to count their additional continuing education hours obtained during the time the license was inactive toward their continuing education requirements for the first renewal of the restored license. The end result is that licensees in the status will not be required to complete additional continuing education hours the first time they renew their restored license.

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. Finally, the Board considers all licensees as individual stakeholders. In the fall 2012 eNewsletter, the Board will inform licensees about this 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?

The Board believes this question is not applicable in this situation because the proposed amendment will prevent an unintended outcome, e.g., licensees who restore their license will not be subject to additional continuing education hours the first time they renew the restored license.

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 will prevent an unintended outcome, e.g., licensees who restore their license will not be subject to additional continuing education hours the first time they renew the restored license.

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 will prevent an unintended outcome, e.g., licensees who restore their license will not be subject to additional continuing education hours the first time they renew the restored license.

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

The Board believes this question is not applicable in this situation because the proposed amendment will prevent an unintended outcome, e.g., licensees who restore their license will

not be subject to additional continuing education hours the first time they renew the restored license. 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 'Inactive' status and restoration of license under this rule.

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 ensure that any licensee who is renewing their restored license for the first time will be able to count their additional continuing education hours completed during the time the license was in 'Inactive' status. The Board is currently in the midst of a renewal period, which is the first renewal since 'Inactive' status was available to licensees. The Board will communicate with licensees who are renewing their restored license for the first time about the implementation of this amendment.

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 eligible to place their license in 'Inactive' status. There are currently 127 licensees who are in 'Inactive' status. Since January 1, 2011, 7 licensees have applied for restoration of their license from 'Inactive' status. At this time, the scope of the impacted business community is limited to only the licensees in 'Inactive' status or to those few licensees who have restored their license.

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

The Board does not anticipate any adverse impact caused by the proposed amendment. Indeed, an adverse impact would result if this amendment is not adopted.

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 does not expect any adverse impact from the proposed amendment because it prevents licensees who are renewing their restored license for the first time from having to complete additional continuing education hours.

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

The Board believes this question is not applicable due to the reasons stated under question 14.

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 allows licensees to option to place their license in ‘Inactive’ status for a fee of \$25.00, as compared to \$120.00 if the license was renewed. The rule also streamlines the licensure process when the licensee is ready to return to practice. Accordingly, the Board maintains that this rule includes 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.