

# CSI - Ohio

## The Common Sense Initiative

### Business Impact Analysis

Agency Name: State Board of Orthotics, Prosthetics, and Pedorthics (OPP)

Regulation/Package Title: Military/Veterans Occupational Licensing Accomodations

Rule Number(s): 4779-5-05 (NEW); 4779-8-01 (AMEND); 4779-9-04 (NEW)

Date: February 5, 2014

**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- Rescinded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.

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## **Regulatory Intent**

### **1. Please briefly describe the draft regulation in plain language.**

#### **NEW RULE: Proposed OAC Rule 4779-5-05 -- Consideration of Military Experience, Education, Training and Term of Service**

-- reports a finding that there are no military programs of training, military primary specialties, and lengths of service that are substantially equivalent to or which exceed the educational and experience requirements for licensure under Chapter 4779.

-- provides allowances for renewal of expired licenses of service members or veterans engaged in active service at the time of license expiration

-- provides allowance for extension of time to comply with continuing education requirements for veterans or service members engaged in active service during the required accrual period

-- allows a veteran to submit documentation demonstrating experience or training gained in military service to support licensing requirements

-- provides a standardized, state of Ohio definition of active military service member or veteran as anyone who is serving or has served under honorable conditions in any component of the Armed Forces, including the National Guard and Reserve

#### **RULE AMENDMENT: OAC 4779-8-01 --Renewal of License**

-- provides for waiver of late renewal penalty fee for service members, veterans or their spouses where member was engaged in active duty at the time of license expiration

-- housekeeping updates: (a) renewal notifications may be by email as well as first class mail; (b) licensees are required to report changes in contact information to the Board; (c) virtual, printable license cards may be provided as an alternative to printing and mailing hard copy cards; (d) language update to bring rule into compliance with Incorporation by Reference requirements

#### **NEW RULE: Proposed OAC 4779-9-04 -- Extension of OPPCE reporting period for licensee called to active duty military**

-- provides for the extension of time for Continuing Education reporting and for the extension to equal or exceed the period of time the service member was engaged in active service

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

4779-5-05: 4779.08; 5903.10; 5903.12

4779-8-01: 4779.08, 5903.10

4779-9-04: 4779.08; 5903.12

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- 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?**

No, none of the rules are related to federal requirements, laws or programs, except that documentation to advance the purpose of the regulation may originate from federal defense branch agencies.

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

Not applicable.

- 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 of the proposed rule is to increase employment opportunities among Ohioans who have served in the US Armed Forces and their spouses by streamlining the certification and licensing process to take into account relevant military education, skills training, and service when determining equivalency for the purposes of issuing certifications and licenses.

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

The agency will track applicants who self-identify as military service members, veterans or spouses and report the data as appropriate. Based on the finding of no primary military specialties that match up with licensing requirements, it is not expected that the initiative will produce a significant data set. Agency will continue to explore ways to provide outreach and assistance to veterans who may wish to enter or continue in the professions regulated by the Board. The Board has a proposal to update Chapter 4779 to provide for licensing of Fitters and Assistants, which pathways would include allowances for documentation/consideration of military education, training and experience for equivalence.

## **Development of the Regulation**

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

Posted information and updates to the website beginning 12/05/2013

Confer with Director of Ohio Orthotic and Prosthetic Association, request push out to membership 12/09/2013

Email blasts and seek feedback from stakeholder community 12/05/13; 12/31/13; 2/05/14

Meeting with CSI and Veterans Affairs staff and agency colleagues to review appropriate agency activities and responses 12/18/2013

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

No feedback was provided by the constituent licensed stakeholder community until 02/05.2014, when one constituent licensee expressed strong support for the effort. No language changes were suggested by stakeholder feedback.

- 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?**

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?**

No alternative regulations were considered because the Ohio Revised Code is prescriptive regarding this matter.

- 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/Commission did not consider a performance based regulation because the Statutes are prescriptive in what is required and because rules related to licensure and certifications, in general, are not conducive to a performance based approach to regulation.

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

The Board is solely responsible the licensure or certification which the proposed rules administer.

**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.**

- Posting prominently on the website
- Website tab to consolidate information directed at military service members, veterans, and their spouses.
- Outreach to veterans community and Dept of Veterans Affairs
- Internal processes to identify, track and expedite processing of applications from targeted constituency.

**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;**

Ohio military veterans and their spouses who are potential licensees under [one of] the profession[s] regulated by the Board

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

The nature of the adverse impact would include the time and effort required to complete an application, and any application fees. In addition, the time and cost required to comply with any initial and/or continuing education requirements and licensure renewal expenses. The purpose of this proposed rule filing is to reduce these adverse impacts by recognizing equivalent education and experience gained in the military and the duration of service which would offset some of the requirements of the standard licensing process.

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**c. Quantify the expected adverse impact from the regulation.**

*The Board's rules on licensure encompass the range of impacts described above in (b), which will be more fully quantified and justified in a five-year review. The specific changes being proposed in this rule filing are intended to reduce the impacts of standard licensing requirements by recognizing equivalent education and experience gained through a potential licensee's military experiences.*

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

The regulatory intent is justified because the Board recognizes that the experiences of our military are valuable, translatable, and should be accepted in the licensing process wherever possible to facilitate economic opportunities for veterans returning to civilian service in a professional field. Further, Executive Order 2013-05K and recently-enacted House Bill 98 both recognize the contributions and qualifications of Ohio veterans and encourage streamlining of the certification and licensing process to take into account relevant military education, skills training, and service.

**Regulatory Flexibility**

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

Not applicable.

**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?**

Agency will apply the provision liberally but upon appropriate documentation and review.

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

Agency staff is always available and willing to assist applicants with the licensing process.