

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

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

Regulation/Package Title: Five Year Rule Review-2016_____

Rule Number(s): 4753-1-01, 4753-1-02, 4753-1-03, 4753-1-05, 4753-3-02, 4753-3-03, 4753-3-04, 4753-3-05, 4753-3-06, 4753-3-07, 4753-3-09, 4753-3-10, 4753-5-02, 4753-6-01, 4753-7-01, 4753-7-02, 4753-7-03, 4753-10-03, 4753-11-01, 4753-11-02, 4753-11-03, 4753-11-04, 4753-11-05_____

Date: August 29, 2016_____

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☐ Rescinded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.

Twenty three administrative rules are being submitted to the Common Sense Initiative Office as one package. These rules are scheduled for five year rule review in 2016. A brief

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117
CSIOhio@governor.ohio.gov

description of each rule under this package follows and are grouped into two categories, e.g., “no-change” and “proposed change.”

No-Change Rules

1. 4753-1-01 Procedure for adoption of rules.
2. 4753-1-02 Method of determining time and place of meetings.
3. 4753-1-03 Business filing.
4. 4753-1-05 Duties of officers and staff.
5. 4753-3-02 Certificate of license; display; duplicate license certificate.
6. 4753-3-03 Notice of change of address.
7. 4753-3-04 Educational requirements for licensure.
8. 4753-3-05 Student clinical experience requirements for applicants in audiology applying for licensure with at least a master's degree or equivalent obtained prior to January 1, 2006 and for speech-language pathologists.
9. 4753-3-06 Examination requirements.
10. 4753-3-07 Professional experience requirements for licensure of applicants for audiology applying for licensure with at least a master's degree or equivalent obtained prior to January 1, 2006 and for speech-language pathology.
11. 4753-5-02 Speech-language pathology aide or audiology aide; fee for initial license; fee for renewal of license.
12. 4753-6-01 Screening.
13. 4753-7-01 Licensure of aides.
14. 4753-7-02 Supervision requirements; aides.
15. 4753-7-03 Renewal of aide license.
16. 4753-10-03 Supervision of speech-language pathology permit holders.
17. 4753-11-01 Definitions for accessing confidential personal information.
18. 4753-11-02 Procedures for accessing confidential personal information.
19. 4753-11-03 Valid reasons for accessing confidential personal information.
20. 4753-11-05 Restricting and logging access to confidential personal information in computerized information systems.

Proposed Change Rules

1. 4753-3-09 Reinstatement of license.
2. 4753-3-10 Exempt practice; renewal.
3. 4753-11-04 Confidentiality statutes.

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 Board’s statutory authority to adopt these rules.

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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?**

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.

No-Change Rules

4753-1-01 Procedure for adoption of rules – this rule ensures that the Board provides proper notice to the public before adopting, amending, or rescinding a rule.

4753-1-02 Method of determining time and place of meetings – this rule ensures that the Board provides proper notice of all board and committee meetings.

4753-1-03 Business filing – this rule ensures that an entities providing speech-language pathology and audiology services without licensure attest to following the laws and rules of Chapter 4753, and provide a list of all names of employees who engaged in the direct practice of speech-language pathology and audiology during the previous calendar year.

4753-1-05 Duties of officers and staff – this rules specifies the duties of officers and staff on the board.

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4753-3-02 Certificate of license; display; duplicate license certificate – this rule ensures that individuals display their license in a conspicuous location where clients/patients are served so that consumers can verify the name and license number of the person providing speech-language pathology or audiology services.

4753-3-03 Notice of change of address – this rule ensures that individuals licensed by the board notify of any change in contact information within 30 days.

4753-3-04 Educational requirements for licensure – this rule ensures that applicants meet the educational requirements for licensure.

4753-3-05 Student clinical experience requirements for applicants in audiology applying for licensure with at least a master's degree or equivalent obtained prior to January 1, 2006 and for speech-language pathologists – this rule ensures that individuals complete a student clinical experience in order to meet the requirements for licensure.

4753-3-06 Examination requirements – this rule ensures that individuals complete and pass a national competency exam prior to being licensed.

4753-3-07 Professional experience requirements for licensure of applicants for audiology applying for licensure with at least a master's degree or equivalent obtained prior to January 1, 2006 and for speech-language pathology – this rule ensures that individuals complete a supervised professional experience mentorship to help them transition between being a student to a licensed professional.

4753-5-02 Speech-language pathology aide or audiology aide; fee for initial license; fee for renewal of license – this rule sets forth the initial license and renewal fees for speech-language pathology and audiology aides.

4753-6-01 Screening – this rule specifies the requirements for performing speech and hearing screenings.

4753-7-01 Licensure of aides – this rule sets forth the qualifications and duties for aides.

4753-7-02 Supervision requirements; aides – this rule sets forth the supervision requirements for aides.

4753-7-03 Renewal of aide license – this rule sets forth the license renewal process for aides.

4753-10-03 Supervision of speech-language pathology permit holders – this rule ensures that student permit holders receive adequate supervision.

4753-11-01 Definitions for accessing confidential personal information – this rule covers the definitions for accessing confidential personal information.

4753-11-02 Procedures for accessing confidential personal information – this rule ensures that board members and staff follow proper procedures when accessing confidential personal information.

4753-11-03 Valid reasons for accessing confidential personal information – this rule requires a valid and legitimate business reason for the Board to access confidential personal information.

4753-11-05 Restricting and logging access to confidential personal information in computerized information systems – this rule requires the Board to maintain a log when accessing confidential personal information.

Proposed Change Rules

4753-3-09 Reinstatement of license – this rule specifies the process to reinstate a license to practice speech-language pathology or audiology. A minor change is being proposed to this rule to correct a grammatical error in the rule, e.g, removing duplicate verbiage under sections G, H, I, and J.

4753-3-10 Exempt practice; renewal – this rule specifies the process to renew a license and apply for relicensure to practice speech-language pathology or audiology. A minor change is being proposed to this rule to correct a grammatical error in the rule, e.g, removing duplicate verbiage under sections G, H, and I.

4753-11-04 Confidentiality statutes – this rule ensures that the Board follows proper procedures when accessing confidential and personal information. This rule section is being updated to include federal statutes or regulations that make medical records and college and university transcripts covered under confidential personal information.

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 an eNewsletter that contains information

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

about the rules and regulations. The Board's outcomes are also assessed annually during its strategic planning meeting. During the past two strategic planning meetings (2015 & 2016), there were no significant concerns identified related to the rules that are subject to this five year review.

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 May 2016, the Board communicated these rules in its Newsletter to all licensees, stakeholder groups, and employers, and posted the rules on its website inviting public comment. The rules have remained posted on the Board's website. The Board has received one comment to rule 4753-7-03, which recommended that online renewal be available for aides. The State of Ohio is transitioning boards to a new eLicensing system, e.g., eLicense 3.0. The Board is scheduled to begin the process of transitioning over to the new system in 2017. One of the many enhanced features anticipated with the new licensing system will include online application and renewal for aides.

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 being submitted as no-change, for five-year review, 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?

The rules included in this package for 5-year review 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

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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 that are subject to five-year review since the rules are being submitted as no-change. The Board concedes that some rules in this package are not performance-based because the rules dictate the process the regulated stakeholder must use to achieve compliance. Many rules within this package are requirements that the Board must adhere to, such as access of confidential personal information (4753-11-01, 02, 03, 04, 05), procedure for adoption of rules (4753-1-01), method of determining time and place of meetings (4753-1-02), duties of officers and staff (4753-1-05), etc.

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 and should be submitted as no-change. 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 investigate complaints involving alleged violations of Chapter 4753. The Board's licensure program will continue to process and evaluate licensure applications to ensure that individuals meet the educational and professional experience requirements. The Board maintains a listserv which interested parties may join to receive

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updates about regulations. In order to implement these regulations, the Board will notify licensees via the Board's eNewsletters and on the Board's website. The Board distributes an eNewsletter 3 to 4 times per year. 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 9, 2016, there were 1,026 licensed audiologists, 7,285 licensed speech-language pathologists, 366 conditional speech-language pathologists, 37 inactive audiologists, 210 inactive speech-language pathologists, 37 dual licensees, and 83 aides for a total licensure count of 9,044. Licensees practice in a wide-range of work settings, such as 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

No-Change Rules

4753-1-01 Procedure for adoption of rules – there is no adverse impact since no requirements are imposed on licensees.

4753-1-02 Method of determining time and place of meetings – there is no adverse impact since no requirements are imposed on licensees.

4753-1-03 Business filing – there is an adverse impact under this rule in terms of the time it would take to complete the business filing statement. There is no fee associated with submitting the business filing statement or penalty for not submitting the statement.

4753-1-05 Duties of officers and staff – there is no adverse impact since no requirements are imposed on licensees.

4753-3-02 Certificate of license; display; duplicate license certificate – there is no adverse impact to comply with this rule. The Board provides license certificates at no cost.

4753-3-03 Notice of change of address – there is no adverse impact to comply with this rule. The Board accepts notice of change of address via fax or e-mail.

4753-3-04 Educational requirements for licensure – there is an adverse impact to this rule in terms of the time and expense for an individual to complete their educational program to qualify for a speech-language pathology or audiology license.

4753-3-05 Student clinical experience requirements for applicants – there is an adverse impact to this rule in terms of the time and expense for an individual to complete their student clinical experience to qualify for a speech-language pathology or audiology license.

4753-3-06 Examination requirements – there is an adverse impact to this rule in terms of the time and expense for an individual to take the national examination to qualify for a speech-language pathology or audiology license.

4753-3-07 Professional experience requirements for licensure – there is an adverse impact to this rule in terms of the time and expense for an individual to complete their supervised professional experience.

4753-5-02 Speech-language pathology aide or audiology aide; fee for initial license; fee for renewal of license – there is an adverse impact to this rule in terms of the expense to apply and renew the aide license. The application fee and renewal fee for an aide license is \$50 and has not increased in over ten years.

4753-6-01 Screening – there is no adverse impact to compliance with this rule. Screenings are considered best practice during the provision of speech and audiology services to patients/clients.

4753-7-01 Licensure of aides – there is an adverse impact to this rule in terms of the time to complete the aide application.

4753-7-02 Supervision requirements; aides – there is an adverse impact to this rule in terms of the time and expense a licensed speech-language pathologist or audiologist must spend to supervise the aide.

4753-7-03 Renewal of aide license – there is an adverse impact to this rule in terms of the time required to complete the renewal aide application, which is not available online.

4753-10-03 Supervision of speech-language pathology permit holders – there is an adverse impact to this rule in terms of the time and expense a licensed speech-language pathologist must spend to supervise a permit holder.

4753-11-01 Definitions for accessing confidential personal information – there is no adverse impact since no requirements are imposed on licensees.

4753-11-02 Procedures for accessing confidential personal information there is no adverse impact since no requirements are imposed on licensees.

4753-11-03 Valid reasons for accessing confidential personal information – there is no adverse impact since no requirements are imposed on licensees.

4753-11-05 Restricting and logging access to confidential personal information in computerized information systems – there is no adverse impact since no requirements are imposed on licensees.

Proposed Change Rules

4753-3-09 Reinstatement of license – there is an adverse impact to this rule in terms of the time and expense to an individual to reinstate their license. The reinstatement fee is \$120.

4753-3-10 Exempt practice; renewal – there is an adverse impact to this rule in terms of the time and expense to an individual to renew their license or apply for relicensure. The renewal fee is \$120, and the relicensure fee is \$200. Additionally, the applicant may be to complete continuing education.

4753-11-04 Confidentiality statutes – there is no adverse impact since no requirements are imposed on licensees.

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?

The Board determined that the regulatory intent justifies the adverse impact to the regulated business community because the no-change rules under this package ensure that consumers are protected. Individuals with communications disorders must receive early intervention and appropriate services from a licensed speech-language pathologist or audiologist. The rules promote the prevention, identification, and treatment of consumers with communication impairments by qualified and licensed speech-language pathologists and audiologists.

Regulatory Flexibility

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

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CSIOhio@governor.ohio.gov

The proposed no-change rules 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 five-year rules will not impact Ohio Revised Code section 119.14 since any alleges 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 the eNewsletter.