

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-2017_____

Rule Number(s): 4753-5-01, 4753-8-01, 4753-8-03, 4753-8-05, 4753-9-01, 4753-10-01,
4753-10-02, 4753-10-04, 4753-10-05, 4753-10-06_____

Date: August 31, 2017_____

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☐ Rescinded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.

Ten administrative rules are being submitted to the Common Sense Initiative Office as one package. These rules are scheduled for five year rule review in 2017. A brief 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. 4753-8-01 Hearing Aid Sales and Advertising - Definitions

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2. 4753-8-03 Rules on appropriate hearing aid test procedures
3. 4753-8-05 Fraud or misrepresentation; hearing aid, assistive listening device
4. 4753-9-01 Code of Ethics
5. 4753-10-01 Educational requirements for student permits
6. 4753-10-02 Ohio speech-language pathology graduate program requirements
7. 4753-10-04 Application for speech-language pathology student
8. 4753-10-05 Speech-language pathology student permit holder caseload
9. 4753-10-06 Identification of speech-language pathology student permit holder

Proposed Change Rules

1. 4753-5-01 Speech-language pathologist or audiologist; fee for initial license; fee for renewal of license; late renewal fee

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

Ohio Revised Code sections 4753.05, 4753.072, 4753.073, and 4753.09 constitute the Board's statutory authority to adopt 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.

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

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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

4753-8-01 Hearing Aid Sales and Advertising – Definitions – this rule specifies definitions for hearing aid sales and advertising to ensure consumers receive appropriate services during the sale, fitting, and prescribing of hearing aids.

4753-8-03 Rules on appropriate hearing aid test procedures – this rule specifies appropriate hearing test procedures when consumers are tested, fitted, and prescribed hearing aids.

4753-8-05 Fraud or misrepresentation; hearing aid, assistive listening device – this rule specifies grounds that constitute fraud or misrepresentation in the sale of hearing aids to consumers.

4753-9-01 Code of Ethics – this rule specifies the ethical conduct, responsibilities and duties licensees must provide to their patients/clients.

4753-10-01 Educational requirements for student permits – this rule specifies the requirements for student permits.

4753-10-02 Ohio speech-language pathology graduate program requirements - this rule specifies the requirements for student permits.

4753-10-04 Application for speech-language pathology student - this rule specifies the requirements for student permits.

4753-10-05 Speech-language pathology student permit holder caseload - this rule specifies the requirements for student permits.

4753-10-06 Identification of speech-language pathology student permit holder - this rule specifies the requirements for student permits.

Proposed Change Rules

4753-5-01 - Speech-language pathologist or audiologist; fee for initial license; fee for renewal of license; late renewal fee – this rule specifies the fees applicable for initial and renewal applications. The proposed change would eliminate the need for the Board to issue and for licensees to display a renewal card.

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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 its eNewsletter which contains information about the rules and regulations. The Board's outcomes are also assessed annually during its strategic planning meeting. During the last strategic planning meeting in 2017, 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 August, the Board communicated to all licensees, stakeholder groups, and employers via its eNewsletter that five-year rules were available for public comment.

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 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. Other states, such as Indiana, have similar rules for student permits to address shortages in specific work settings, such as schools.

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.

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

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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. The Board maintains a listserv and Facebook page which interested parties may join to receive updates about regulations. In order to implement these regulations, the Board will notify licensees via the Board's eNewsletters, Facebook page, and on its website. 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 2017, there were approximately 9,000 licensed audiologists and speech-language pathologists required to complete continuing education under this provision.

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

No-Change Rules

4753-8-01 Hearing Aid Sales and Advertising – Definitions – this rule's adverse impact relates to licensee's being subject to disciplinary action for non-compliance.

4753-8-03 Rules on appropriate hearing aid test procedures – this rule's adverse impact relates to licensee's being subject to disciplinary action for non-compliance.

4753-8-05 Fraud or misrepresentation; hearing aid, assistive listening device – this rule's adverse impact relates to licensee's being subject to disciplinary action for non-compliance.

4753-9-01 Code of Ethics – this rule's adverse impact relates to licensee's being subject to disciplinary action for non-compliance.

4753-10-01 Educational requirements for student permits – this rule's adverse impact relates to the cost for applying for the permit.

4753-10-02 Ohio speech-language pathology graduate program requirements - this rule's adverse impact relates to the cost for applying for the permit.

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4753-10-04 Application for speech-language pathology student - this rule's adverse impact relates to the cost for applying for the permit.

4753-10-05 Speech-language pathology student permit holder caseload - this rule's adverse impact relates to the cost for employer's providing adequate supervision for management of the student permit holder's caseload.

Proposed Change Rules

4753-5-01 - Speech-language pathologist or audiologist; fee for initial license; fee for renewal of license; late renewal fee – there is no adverse impact to the proposed changes under this rule. Licensees would not be required to display a renewal card.

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 individuals.

Regulatory Flexibility

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

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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 its eNewsletter and Facebook page.