



Common Sense Initiative

Mike DeWine, Governor
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Business Impact Analysis

Agency, Board, or Commission Name: Ohio Speech and Hearing Professionals Board_

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Regulation/Package Title (a general description of the rules' substantive content):

Five Year Rules Up to Review in 2022

Rule Number(s):

4747-1-15

Date of Submission for CSI Review: 08/10/2022

Public Comment Period End Date: 08/19/2022

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/ X rules (FYR? X)

Rescinded/___ rules (FYR? ___)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing

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regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. ☒ Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. ☒ Requires specific expenditures or the report of information as a condition of compliance.
- d. ☒ Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

2. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

4747-1-15 Fraud and/or misrepresentation, suspension, revocation or refusal of issuance of licenses and trainee permits. This rule references “moral character” as grounds the Board may take disciplinary action. HB 263 (133rd GA) removed the language addressing “good moral character” in R.C. sections 4747.05 and 4747.10, which is no longer the basis under which the Board may take disciplinary action. Consequently, this is a technical clean-up to the rule, which also removes the “moral character” language to be consistent with the statutory change.

The following is the proposed change to section F:

(F) Refusal to issue license or trainee permit. [The Board may refuse to issue a license or](#)

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trainee permit for falsification ~~Falsification~~ of or the commission of perjury upon any application for license under section 4747.05 of the Revised Code or for a trainee permit under section 4747.10 of the Revised Code, or violation of any provision of section 4747.02 or 4747.14 of the Revised Code, ~~shall constitute lack of good moral character within the meaning of divisions (C) and (A)(2) of section 4747.05 and division (C) of section 4747.10 of the Revised Code, and the board may refuse to issue such license or trainee permit, for lack of good moral character under either of these sections~~ pursuant to Chapter 119. of the Revised Code.

- 3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

Ohio Revised Code sections 4744.28, and 4747.04(B).

- 4. 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.

No

- 5. 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 to the rules submitted under this package.

- 6. 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)?**

This rule (4747-1-15) is being submitted as a change rule for the scheduled five-year review. The rule sets forth the grounds that disciplinary action may be imposed against a licensed hearing aid dealer, hearing aid fitter, or trainee permit holder for violation of Ohio and Administrative Code Chapters 4744 and 4747.

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

The Board's success of these regulations is measured through its various reporting processes, such as board minutes and annual reports.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No

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Development of the Regulation

9. 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.

SHP notified all licensees and interested parties in March 2022 via its newsletter, social media platform, and website about the rules scheduled for five-year review in 2022. On August 10, 2022, the Board informed stakeholders of its intent to file this rule (4747-1-15) as a proposed change for the five-year rule review. Notice about this proposed change was sent to the Hearing Healthcare Alliance of Ohio (HHAO) and the Ohio Speech and Hearing Governmental Affairs Coalition (GAC). These stakeholders are state professional associations whose members are licensed by the Board.

10. 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 input to the five-year rules review package initially posted in March 2022.

11. 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 since the rule under this package is necessary to ensure consumer protection through its licensing and investigative programs. In order to be responsive to the question, the Board is a member of the National Council of State Boards of Examiners for Speech-Language Pathology and Audiology (NCSB), which consists of state licensure boards across the country, that also license and regulate speech and hearing healthcare professionals. The Board researches the laws and rules adopted by other NCSB member states for best practices and regulatory trends.

12. 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.

13. 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.

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

The Board took into consideration whether these rules are addressed in existing Ohio regulation and determined that the rules are unique and applicable to the licensed professions under the Board's jurisdiction.

15. 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.

In order to continue to implement this rule consistently and predictably, the Board will notify licensees about the provisions via the Board's eNewsletter, website, and social media. The Board also maintains a listserv which interested parties may join to receive these updates. In addition, all staff receive orientation about the rules in order to respond to inquiries.

Adverse Impact to Business

16. 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; and

As of May 2022, the Board licenses just over 11,100 audiologists, hearing aid dealers and hearing aid fitters, conditional speech-language pathologists, trainee permit holders, and aides. These licensees practice in a diverse group of work settings, from schools, hospitals, rehabilitation centers, private practice, retail, skilled nursing facilities, community-based clinics, to name just a few.

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

Any adverse impact associated with this rule will be the result of any disciplinary action taken against an individual's license for violation of any of the enumerated grounds for disciplinary action.

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.

Disciplinary action taken against a licensee may require the individual to reapply for licensure or complete additional continuing education. The Board's fee schedule is available for review at: <https://shp.ohio.gov/fees>. There is cost and time associated with completing continuing education.

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

To the extent this rule creates an adverse impact to the regulated business community, the Board believes the regulatory intent justifies the adverse impact because individuals who engage in professional misconduct pose a risk to consumers with hearing loss and communication disorders. Consequently, the Board believes that its regulatory intent is focused on consumer protection and the rule under this package is fair, reasonable, and easy to follow.

Regulatory Flexibility

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

The rule under this package does not provide any exemption or alternative means of compliance.

19. 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 Board has disciplinary guidelines in place that take into consideration paperwork violations and other violations committed by first-time offenders.

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

The Board's laws and rules governing audiologists, hearing aid dealers and fitters, and speech-language pathologists (Ohio Revised Code and Administrative Code Chapters 4744, 4747, and 4753) are available on our website. In addition, SHP provides updates regarding its laws and rules via the eNewsletter and social media, e.g., Facebook. The Board also responds to inquiries via telephone and e-mail.