



Common Sense Initiative

Mike DeWine, Governor
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Business Impact Analysis

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

Rule Contact Name and Contact Information:

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

Chapter 4747 Rules Package

Rule Number(s): 4747-1-11(B)(2); 4747-1-11(C)(1); 4747-1-11(C)(4); 4747-1-11(F)(1);
4747-1-14(B)(2) and (3); 4747-1-17(B)

Date of Submission for CSI Review: 10/25/2021

Public Comment Period End Date: 11/8/2021

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/ X rules (FYR? No)

Rescinded/___ rules (FYR?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 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.

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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.

4747-1-11 – Renewal Procedures and Continuing Education Hours

- 4747-1-11(B)(2) – the proposed amendment clarifies the statutory language under Ohio Revised Code section 4747.10, e.g., the law, which allows the Board to renew a trainee permit once. The initial trainee permit would be valid for one year, and the trainee permit may be renewed one time for an additional one year. Therefore, an individual would have up to two years under their trainee permit to be supervised by a licensed hearing aid dealer or fitter in preparation for the Board’s written and practical exams to become a licensed hearing aid fitter.

Proposed Amendment Language:

(B)(2) There shall be a thirty-day period immediately following the expiration date shown on the trainee permit in which that permit may be renewed, which period applies to the time in which an application for trainee permit renewal may be made once. It does not authorize a trainee whose permit has expired to engage in any way in the fitting and sale of hearing aids after the expiration date shown on his permit. If renewal is not effected within this thirty-day period, [the trainee shall submit a renewal application and statement attesting that the trainee has not](#)

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engaged in the fitting and sale of hearing aids from the date of the expiration of the trainee permit to the present, and the prescribed fee to the board. ~~a new trainee permit must be obtained by submitting a new trainee permit application, a physician's statement, and the prescribed fee to the board.~~ The board shall not renew a trainee permit to an individual more than one time.

- 4747-1-11(C)(1) – the proposed amendment would require at least ten of the twenty hours of continuing education be specific to the measurement and testing of human hearing, the making of impressions for earmolds, or the selecting and adapting of hearing aids.

Proposed Amendment Language:

(C)(1) A licensee shall earn twenty hours of continuing education within the two-year licensure period immediately preceding the licensee's renewal application. One clock hour of continuing education is equal to sixty minutes of continuing education. Only actual hours of education activity shall be counted. Lunches, breaks and other interruptions of the education program shall not count toward the required hours. For a hearing aid fitter license, at least ten hours shall be specific to the measurement and testing of human hearing, the making of impressions for earmolds, or selecting and adapting of hearing aids. Continuing education clock hours must be acquired in subjects related to hearing aid fitting or audiology.

- 4747-1-11(C)(4) – the proposed amendment clarifies that continuing education hours may not be carried over from one licensure period to the next. The term “licensure” is the correct terminology and therefore will be inserted to replace “renewal” for better clarity.

Proposed Amendment Language:

(4) Continuing education hours may not be carried over from one licensure ~~renewal~~ period to the next.

- 4747-1-11(F)(1) – the proposed amendment changes the length of time a licensed hearing aid fitter shall retain supporting documents of continuing education for inspection by the Board from two years to four years after the date of renewal.

Proposed Amendment Language:

(F) Documentation of continuing education:

(1) The licensee shall sign and submit to the board a form or via the Ohio eLicense system attesting to completion of required hours of continuing education at the time of license renewal.

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The licensee shall retain supporting documents for inspection by the board for ~~two~~four years after the date of renewal.

4747-1-14 – Trainees

- 4747-1-14(B)(2) and (3) – the proposed amendment clarifies that a supervisor shall be onsite and physically present with a trainee permit who is engaged in the fitting or selling of hearing aids for at least ninety days. The proposed amendment also clarifies that the ninety days of onsite supervision shall occur within the first six months following the effective date of the trainee permit. The proposed amendment allows a trainee permit to request an extension from the Board. The proposed amendment under section (B)(3) requires a trainee permit holder to submit to the Board an attestation that the trainee permit holder and supervisor complied with all the supervision requirements under R.C. section 4747.10.

Proposed Amendment Language:

(B) "Supervision," as required by section 4747.10 of the Revised Code, means that:

(2) ~~During the ninety calendar days immediately following the effective date of the trainee permit as shown thereon, a supervisor must be physically present with a trainee who is engaged in the fitting or selling of hearing aids.~~ A supervisor shall be onsite and physically present with a trainee permit who is engaged in the fitting or selling of hearing aids for at least ninety days. The ninety days of onsite supervision shall occur within the first six months following the effective date of the trainee permit. If the ninety days of onsite supervision does not occur within the first six months following the effective date of the trainee permit, the trainee may request an extension from the board.

(3) Prior to submitting an application for a hearing aid fitter license or upon expiration of the trainee permit or a renewal thereof, the trainee permit holder shall submit to the board a "Trainee Supervision Report" attesting that the trainee permit holder and supervisor have complied with all the supervision requirements under section 4747.10 of the Revised Code and this rule.

4747-1-17 – Licensee Responsibilities

- 4747-1-17 – the proposed amendment requires a licensed hearing aid dealer to notify the Board of any sale of its licensed hearing aid business no later than thirty days from the date of the sale.

Proposed Amendment Language:

(B) A licensed hearing aid dealer or fitter, firm, partnership, association, or corporation shall notify the board of any change of business or home address within thirty days after the change. [A](#)

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licensed hearing aid dealer, firm, partnership, association, or corporation shall notify the board of any sale of its licensed hearing aid business no later than thirty days from the date of the sale.

Notification may be made by mail, fax, eMail, or electronically by logging into the Ohio eLicense system.

- 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)?**

4747-1-11 – Renewal Procedures and Continuing Education Hours

The public purpose for rule 4747-1-11 is to ensure consumer protection for individuals receiving services from hearing aid dealers, hearing aid fitters, and trainees for hearing loss. The rule specifies the procedures to renew a license or permit and the continuing education requirements for hearing aid fitters to maintain their skills and competency.

4747-1-14 – Trainees

The public purpose for rule 4747-1-14 is to ensure consumer protection for individuals receiving services from a trainee permit holder while under the supervision of a hearing aid dealer or hearing aid fitter.

4747-1-17 – Licensee Responsibilities

The public purpose for rule 4747-1-17 is to ensure consumer protection by requiring licensees under Chapter 4747 to report and update their contact information with the Board within thirty days.

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

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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

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 February 2021 via its newsletter, social media platform, and website of the proposed amendments for each rule under this package. The Board received input and comments on the initial proposed amendments which were taken into consideration. The Board made additional changes to the proposed amendments and notified licensees and interested parties and accepted additional input and public comments in June 2021. The proposed amendments under this package reflect the input and comments received. Stakeholders included the American Speech-Language-Hearing Association (ASHA), the Hearing Healthcare Alliance of Ohio (HHAO), and the Ohio Speech and Hearing Governmental Affairs Coalition (GAC). These stakeholders are national and 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 following comments were received and demonstrate the Board's consideration.

4747-1-11 – Renewal Procedures and Continuing Education Hours

Regarding section (B)(2), comments focused on how many times a trainee permit could be renewed and confusion over the current language in the rule. The Board reviewed the language and the statutory language with our Assistant Attorney General and determined that the rule must be consistent with the law, which indicates that a trainee permit can only be renewed one time. Consequently, under section (B)(2), the proposed language simply clarifies the statutory language under R.C. section 4747.10, e.g., the law, which allows the Board to renew a trainee permit once. The initial trainee permit would be valid for one year, and the trainee permit may be renewed one time for an additional one year. Therefore, an individual would have up to two years under their trainee permit to be supervised by a licensed hearing aid dealer or fitter in preparation for the Board's written and practical exams to become a licensed hearing aid fitter.

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Regarding section (C)(1), comments focused on the following:

- whether the Board was intending to approve continuing education programs;
- that the initial language in the proposed amendment implied at least ten hours of continuing education be completed in all of these listed subjects, e.g., the measurement and testing of human hearing, the making of impressions for earmolds, and selecting and adapting of hearing aids; and
- why the Board listed these subject areas.

Under section (C)(1), the Board changed “and” to “or” in the sentence specifying the subject areas to make it clear that the ten hours of continuing education can be specific in any of the specified areas, and not all of them. The Board also clarified that the listed areas, e.g., the measurement and testing of human hearing, the making of impressions for earmolds, and selecting and adapting of hearing aids are from the hearing aid dealers and fitters scope of practice, which is defined under R.C section 4747.01. The Board clarified that any continuing education program specific to the measurement and testing of human hearing, the making of impressions for earmolds, or selecting and adapting of hearing aids will meet the continuing education requirements.

Additionally, this proposed change will not require the Board to approve continuing education programs in these areas. The Board will verify a practitioner’s continuing education hours through the Board’s continuing education audit procedure, as specified under section (G). Acceptable continuing education programs are specified under section (D) of the rule, as well as Ohio Revised Code section 4747.06, and include programs certified by any of the following: 1) International Hearing Society; 2) American Academy of Audiology; and 3) American Speech-Language-Hearing Association. Continuing education programs certified by these entities are assigned special code numbers by those entities designating the program into specific categories, such as ethics, practice specific, etc. It is the practitioner’s responsibility to know what category the continuing education program they are taking falls under, and can easily be verified by reviewing the program information or contacting the program sponsor. Continuing education programs that are not certified by any of the aforementioned entities may also be submitted to the Board for approval.

The Board also clarified other changes to sections (C)(1) and (C)(4). The Board indicated that sections (C)(1) and (C)(4) clarify clock hours and that continuing education hours cannot be carried over from one licensure period to the next. “Licensure period” is the correct terminology instead of “Renewal period”. The Board received no input or comments on these changes.

4747-1-14 – Trainees

Regarding section (B)(2), comments focused on the following:

- that supervisors should be allowed to remotely supervise a trainee permit holder; and
- that audiologists should be allowed to supervise a trainee permit holder;

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In order to prevent confusion expressed in the public comments, the Board removed the proposed reference to remote video-conferencing applications. The Board also clarified that under the law, R.C. section 4747.10, only a licensed hearing aid dealer or fitter shall supervise a trainee permit. Therefore, a licensed audiologist would not be authorized to supervise a trainee permit holder. The Board noted that most audiologists who are engaged in the supervision of a trainee permit holder hold a hearing aid dealers license and would therefore be permitted to supervise under their dealers license.

4747-1-17 – Licensee Responsibilities

The Board did not receive any comments of concern for the proposed amendment under section 4747-1-17(B), which would require a hearing aid dealer to notify the Board of any sale of its licensed hearing aid business no later than thirty days from the date of the sale.

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 rules under this package are 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.

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.

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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 the rules 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 October 2021, the Board licenses just over 10,800 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 these rules will be the result of fees individuals will pay to apply for and renew their license, complete continuing education hours, and time required for hearing aid dealers or hearing aid fitters to provide onsite supervision of trainee permit holders for ninety days.

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’s fee schedule is available for review at: <https://shp.ohio.gov/fees>. There is cost and time associated with completing continuing education. There is also cost and time for hearing aid dealers and fitters to provide onsite supervision of trainee permit holders for ninety days.

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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 that these rules create an adverse impact to the regulated business community, the Board believes the regulatory intent justifies the adverse impact because individuals who are providing professional services to consumers with hearing loss must be qualified with the appropriate education, training, and experience. The training and experience are demonstrated through completion of continuing education hours required to renew a license. Additionally, the regulatory intent justifies the adverse impact of the time that a hearing aid dealer or hearing aid fitter must provide onsite supervision of a trainee permit holder. The minimum education to become a licensed hearing aid fitter is a high school diploma. Although not required to become a licensed hearing aid fitter, the trainee permit is a good option for individuals to receive training and practicum experience by a licensed hearing aid dealer or hearing aid fitter, before they take the Board's written and practical exams for licensure as a hearing aid fitter. The trainee permit is valid for one year and allows the permit holder to receive training for up to one year in hearing test procedures, hearing aid fitting, dispensing and sales of hearing aids. The trainee permit can be renewed one time, allowing the trainee permit holder to receive training for up to two years while they are working under the supervision of a hearing aid dealer or hearing aid fitter. The proposed rule only requires the hearing aid dealer or hearing aid fitter to provide onsite supervision for ninety days. The remaining period of time under which the trainee permit holder is completing their training does not require the hearing aid dealer or hearing aid fitter to be onsite. The Board believes that its regulatory intent is focused on consumer protection and the rules under this package are 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 rules under this package do 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 violation and other violations by committed by first-time offenders.

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

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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.

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