



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

Business Impact Analysis

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

Rule Contact Name and Contact Information:

Gregg Thornton, Executive Director; (614) 644-9046; gregg.thornton@shp.ohio.gov

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

Five Year Rules-2023

Rule Number(s): 4753-2-01, 4753-3-01, 4753-3-08, 4753-3-11, 4753-8-04

Date of Submission for CSI Review: 8/15/2023

Public Comment Period End Date: 8/31/2023

Rule Type/Number of Rules:

New/____ rules

No Change/___X___ rules (FYR? __Y__)

Amended/____ rules (FYR? ____)

Rescinded/____ rules (FYR?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.

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

CSIPublicComments@governor.ohio.gov

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.

4753-2-1: sets forth telehealth requirements for audiology and speech-language pathology services

4753-3-1: sets forth application requirements for audiology and speech-language pathology

4753-3-8: sets forth grounds for disciplinary action, such as denial, suspension or revocation of license

4753-3-11: sets forth requirements for place license in inactive status and to the restore license

4753-8-4: sets for the requirements for a sales receipt for the sale of hearing aids

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.**

Authorization: 4744.28, 4753.05

Amplification: 4753.02, 4753.06, 4753.10, 4753.091

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.

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

CSIPublicComments@governor.ohio.gov

No

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

N/A

- 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)?**

4753-2-01 - Telehealth communications

This rule specifies the requirements for the delivery of services by speech-language pathologists and audiologists via telehealth. The public purpose of this rule is consumer protection by ensuring service delivery via telehealth is equivalent to face-to-face delivery services.

4753-3-01 - Application for license

This rule specifies the requirements for application for license for speech-language pathologists, audiologists, and aides. The public purpose of this rule is consumer protection by ensuring that individuals are qualified for a license.

4753-3-08 – Denial, Suspension or Revocation of License

This rule specifies the grounds for disciplinary action. The public purpose of this rule is consumer protection by ensuring that the Board can take appropriate disciplinary action when violations occur.

4753-3-11 – Inactive status of license; restoration

This rule specifies the requirements for placing a license in inactive status and how to restore the inactive license to active status. The public purpose of this rule is consumer protection by ensuring practitioners returning to active status have completed continuing education to demonstrate their competency.

4753-8-04 – Sales Receipt

This rule sets for the requirements for a sales receipt for the sale of hearing aids. The public purpose of this rule is consumer protection by ensuring consumers have full disclosure for the hearing aids purchased and right to return them within thirty days.

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

The Board utilizes the Ohio eLicense license management system to track outputs and/or outcomes associated with these rules. Individuals will utilize the license management system to submit applications, renew their license, file complaints, etc. The Board also solicits

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

CSIPublicComments@governor.ohio.gov

feedback from licensees through surveys, newsletter communications, customer satisfaction surveys, and presentations about professional issues. The Board conducts an annual strategic planning meeting to address and prioritize issues related to its rules.

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.

N/A

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.

The Board notified all licensees and interested parties in late fall of 2022 via its newsletter and website that public comment would be accepted on the five-year rules scheduled for 2023, and that the rules would be submitted as no-change rules. The Board's notification also included state and national professional associations. The Board's notification included the American Speech-Language Hearing Association (ASHA), the American Academy of Audiology (AAA), the Ohio Speech and Hearing Governmental Affairs Coalition (GAC), and the Hearing Healthcare Alliance of Ohio (HHAO).

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 issues or concerns regarding this rules package.

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 used the following resources to develop and measure the outcome associated with the rules: the Ohio Administrative Procedures Act, Office of Budget and Management, other state regulatory boards, American Academy of Audiology, American Speech-Language-Hearing Association, and the International Hearing Society. All of the data that the Board utilized supports the rules.

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?

Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.

There are no alternative regulations applicable to these rules. These rules are unique to the professions regulated by the Board and necessary for consumer protection.

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

CSIPublicComments@governor.ohio.gov

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

The Board took into consideration whether the five-year 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.

14. 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 implement the rules consistently and predictably, the Board will continue to notify licensees about the requirements via the Board's eNewsletter and website. The Board also maintains a listserv which interested parties may join to receive these updates. In addition, the Board will continue to respond to inquiries via telephone and e-mail about licensure requirements.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

a. Identify the scope of the impacted business community, and

The Board licenses just over 11,000 audiologists, hearing aid dealers and fitters, speech-language pathologists, conditional speech-language pathologists, aides, and trainee permits. 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. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).

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.

4753-2-01 - Telehealth communications

The nature of the adverse impact from this rule will be the time and costs to licensees and businesses for compliance with the requirements for the delivery of services via telehealth communications. The Board cannot calculate the actual costs for equipment and training necessary to meet the requirements; however, the rule does not require additional compliance above and beyond what businesses and licensees already have to meet when providing telehealth services to consumers. For example, telehealth services must be encrypted to protect the patient's confidentiality. Employers and licensees are already required to protect

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

CSIPublicComments@governor.ohio.gov

and maintain the confidentiality of patient information under federal law, e.g., the Health Insurance Portability and Accountability Act (HIPAA).

4753-3-01 - Application for license

The nature of the adverse impact from this rule will be the cost and time to individuals applying for licensure. Applicants must meet the educational requirements for licensure as an audiologists, e.g., doctoral degree in audiology, or speech-language pathologists, e.g., master's degree or higher in communication science disorders, etc.

4753-3-08 – Denial, Suspension or Revocation of License

The nature of the adverse impact from this rule will be the disciplinary action taken against the practitioner's license when a violation of the Board's laws and rules is committed.

4753-3-11 – Inactive status of license; restoration

The nature of the adverse impact from this rule will be the cost of applying for inactive status; however, the cost is less than the cost to renew the license, e.g., \$25.00 versus \$120.00 respectively every two years. There will also be a cost to restore the license and complete continuing education when the practitioner wishes to return their license to active status; however, the cost to restore the license and complete continuing education hours are the same if the practitioner maintained their active license.

4753-8-04 – Sales Receipt

The nature of the adverse impact from this rule will be the cost of complying with the sales receipt requirement, such as printing and providing the patient/client with a copy.

- 16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**
No

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

With regard to these rules, the Board believes the regulatory intent justifies the adverse impact on the regulated business community for consumer protection and reasons mentioned under questions 6 and 15(b) above.

Regulatory Flexibility

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

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

CSIPublicComments@governor.ohio.gov

No

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?

To the extent that Ohio Revised Code section 119.14 is applicable to these rules, the Board considers the special circumstances presented by first-time offenders and for paperwork violations on a case-by-case basis.

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, the Board provides updates regarding its laws and rules via the eNewsletter. The Board also responds to inquiries via telephone and e-mail.