



Common Sense Initiative

Mike DeWine, *Governor*
Jon Husted, *Lt. Governor*

Joseph Baker, *Director*

MEMORANDUM

TO: Gregg Thornton, Ohio Speech and Hearing Professionals Board

FROM: Michael Bender, Business Advocate

DATE: September 19, 2023

RE: **CSI Review – Amended Rules Package – 2023 (OAC 4747-1-02, 4747-1-19, 4753-3-05, 4753-8-01, and 4753-8-03)**

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Board as provided for in ORC 107.54.

Analysis

This rule package consists of five amended rules proposed by the Ohio Speech and Hearing Professionals Board (Board). This rule package was submitted to the CSI Office on August 15, 2023, and the public comment period was held open through August 31, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on August 15, 2023.

Ohio Administrative Code (OAC) 4747-1-02 provides definitions pertaining to licensed hearing aid dealers or fitters. The rule is amended to clarify that the practice of dealing in or fitting of a hearing aid applies to prescription hearing aids only and not the category of hearing aids defined by the United States Food and Drug Administration (FDA) as over-the-counter hearing aids. OAC 4747-1-19 describes the appropriate test procedures performed by a licensee for the purpose of dealing in or fitting of hearing aids. The rule is amended to remove provisions prohibiting a licensee from selling a hearing aid unless the prospective user has presented to the licensee a written medical evaluation statement signed by a licensed physician. OAC 4753-3-05 sets forth the student clinical experience

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requirements for speech-language pathologists and for applicants in audiology applying for licensure with at least a master's degree or equivalent obtained prior to January 1, 2006. The rule is amended to remove the requirement to notarize the signature of the department head or applicant's clinical supervisor that verifies student clinical experience. OAC 4753-8-01 establishes definitions pertaining to hearing aid sales and advertising. The rule is amended to update definitions to clarify that they apply to prescription hearing aids only and not the category of hearing aids defined by the FDA as over-the-counter hearing aids. OAC 4753-8-03 describes the appropriate test procedures performed by an audiologist for the purpose of selling or fitting hearing aids. The rule is amended to clarify its applicability to prescription hearing aids only and remove provisions prohibiting an audiologist from selling a hearing aid unless the prospective user has presented to the audiologist a waiver or a written medical evaluation statement signed by a licensed physician.

During early stakeholder outreach, the Board notified all licensees and interested parties in the fall of 2022 via its newsletter and website that it would accept public comments on the rules. The stakeholders that were notified included the American Speech-Language Hearing Association, the American Academy of Audiology, the Ohio Speech and Hearing Governmental Affairs Coalition, and the Hearing Healthcare Alliance of Ohio. The Board did not receive any issues or concerns from stakeholders. No comments were received during the CSI public comment period.

The business community impacted by the rules includes 11,000 audiologists, hearing aid dealers and fitters, speech-language pathologists, conditional speech-language pathologists, aides, and trainee permits. The adverse impacts created by the rules include appropriate test procedures and student clinical experience. The Board points out that the revisions to the rule remove both the requirement to notarize the signature of the department head or applicant's clinical supervisor that verifies student clinical experience and the prohibition on selling a prescriptive hearing aid unless the prospective user presents medical clearance or a waiver. The Board states that the adverse impacts to business are justified to align with FDA regulations and protect consumers.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Board should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.