

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio Board of Speech-Language Pathology and Audiology\_\_\_\_\_

Regulation/Package Title: Continuing Education Requirements\_\_\_\_\_

Rule Number(s): 4753-4-01

Date: October 2, 2012

**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Rescinded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.

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Ohio Administrative Code (OAC) section 4753-4-01 establishes the continuing education requirements that audiologists and speech-language pathologists must complete every two years to demonstrate their continued competency in order to renew their license. In summary, amendments are proposed to expand the types of continuing education experiences, allow for waivers and extensions of time to complete the continuing education requirements for extenuating circumstances, and require 1 hour of human trafficking training.

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

Ohio Revised Code sections 4753.05, 4753.07, 4753.08, and 4753.11 constitute the basis for the Board's statutory authority to adopt and/or amend 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.*

The proposed rule does 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 non-applicable since the proposed rule and related amendments 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 OAC Chapter 4753-4 is to ensure that audiologists and speech-language pathologists demonstrate their continued competency when providing professional services to the public by completion of continuing education hours. The provisions under this chapter fulfill the Board's mission, which is to regulate the practice of speech-language pathology and audiology by establishing, promoting, and enforcing practice standards and professional competency among licensees pursuant to Chapter 4753 of the Ohio Revised Code and Ohio Administrative Code. With regard to proposed amendment for human trafficking training, the public purpose for that amendment is to ensure that licensed audiologists and speech-language pathologist are

trained to recognize the indicators of human trafficking, and to report and take appropriate action when they encounter it.

**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 this proposed amendment will be from the outcomes of licensees who complete the continuing education requirements in order to renew their license. The Board expects to see a decrease in the number of licensees who cannot complete the continuing education requirements; therefore, resulting in fewer instances of disciplinary action for failure to meet the continuing education requirements. The proposed amendment allows licensees to complete continuing education activities in a variety of ways, including web-based activities and self-study.

**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.*

Stakeholders include the Ohio Speech and Hearing Governmental Affairs Coalition (GAC). GAC was founded in 1982 and is a coalition of speech and hearing professionals in Ohio. GAC consists of four member organizations, whose total membership represents nearly 50% of the total number of licensees regulated by the Board. Each year, the Board's Executive Director informs GAC of proposed rules and invites their input. In addition, this proposed amendment was reviewed by the Board's Rules Committee. The Rules Committee meets in public. Committee agendas are posted to the Board's website in advance of committee meetings. Committee minutes are also available to the public. The Board posted this proposed rule for public comment to its website in early 2012. Finally, the Board considers all licensees as individual stakeholders. In February 2012, the Board notified all licensees via the Winter 2013 eNewsletter about the proposed changes and that public comments could be submitted. In the Summer 2013 eNewsletter, distributed in August 2012, the Board informed all licensees of the proposed amendment, excluding the language related to Human Trafficking training. This provision was recently included after the Board received a copy of the Ohio Human Trafficking Task Force Report in August. In the fall 2012 eNewsletter, the Board will inform licensees about this provision being included in the proposed amendment.

With regard to the proposed amendment on human trafficking, stakeholders and licensees were not involved in the review process because the provisions related to human trafficking training were recommended by the Ohio Human Trafficking Task Force.

**8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

At least annually, the Board's Executive Director meets with GAC to review issues of mutual interest. One of the topics covered during this meeting is proposed rules the Board is considering, which includes the rules subject to 5-year review for the upcoming year. GAC was given an opportunity to provide input regarding this rule early on in the rule-drafting process. In addition, the Board has not received any complaints from stakeholders or interested parties about the current or proposed rules for continuing education.

**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?**

Continuing education is a standard requirement for regulated professions. The proposed changes to the Board's continuing education requirements were modeled after other regulatory boards nationally, and include provisions that are considered best practice. For example, the American Speech-Language-Hearing Association (ASHA) is the national association which establishes guidelines for model regulation. 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 utilized data from NCSB's guidelines on model legislation as well.

**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?**

One of the provisions the Board considered was whether twenty hours of continuing education hours was appropriate every two years. The Board found that a few states required thirty hours; however, the Board determined that keep the hours at twenty because this was the average among licensure boards across the country. Another provision the Board considered was whether to require 2 clock hours in ethics. The Board found that currently there are only two other states that require ethics, i.e., Texas and Wisconsin. The Board also received input from

stakeholders about the cost and lack of availability of continuing education programs related to ethics. Therefore, the Board decided to research this issue further and not propose ethics at this time. With regard to the amendment on human trafficking, the Ohio Human Trafficking Task Force considered this regulation among a number of approaches to providing licensees of the State of Ohio proper training on the identification and treatment of human trafficking situations. This approach was recommended as it allows the most leeway to ensure licensees receive industry-specific training.

**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 believes this question is not applicable in this situation because the proposed rule and amendments address a fundamental component, i.e. continuing education, which ensures the continued professional competency of licensed professionals.

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

To the extent that the Office of CSI deems this question applicable, the Board's Rules Committee takes into account whether its proposed rules are addressed in existing Ohio regulation. This rule is unique to the professions of speech-language pathology and audiology; therefore, the Board is the only entity that is authorized to regulate the continuing education requirements for speech-language pathology and audiology.

**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.**

In order to implement this regulation, the Board will notify licensees of the new continuing education requirements via the Board's eNewsletters and on the Board's website. The Board distributes an eNewsletter 3 to 4 times per year. The Board maintains a listserv which interested parties may join to receive these updates. In addition, all staff will receive orientation about the new requirements in order to respond to inquiries via telephone and e-mail. The Board will mail information about the new requirements to all licensees. 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 the new 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 October 1, 2012, there were 994 licensed audiologists, 6,681 licensed speech-language pathologists who are governed by the continuing education requirements. These licensees practice in a diverse group of work settings, from schools, hospitals, rehabilitation centers, private practice, skilled nursing facilities, community-based clinics, to name just a few.

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

The Board anticipates the following adverse impact from implementation of this Chapter: CE costs, penalties and time for compliance.

**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 expected adverse impact from this regulation is difficult to calculate because of the nature of the regulation and how licensees choose to complete their continuing education requirements. For instance, some licensees receive free continuing education programs through their employer, and are paid to attend them. Conversely, licensees who are independent practitioners must pay for their CE programs and spend time away from their practice.

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

The Board believes the regulatory intent for continuing education justifies the adverse impact to the regulated business community because ultimately licensees are maintaining their competency. The regulated profession of speech-language pathology and audiology, as with other regulated professions in the health field, changes on a regular basis. Continuing education requirements ensure that consumers are receiving appropriate services from competent professionals.

The Ohio Human Trafficking Task Force has determined that state licensees carry a certain responsibility to recognize the indicators of human trafficking, and to report and take appropriate action when they encounter it. The Task Force also found that human trafficking is a pervasive problem that infiltrates many aspects of the public arena, and it is not always obvious which professions may encounter it. Given the importance of the issue as a statewide priority, the impact of an hour of training is justified by the potential lives saved through this training.

To mitigate adverse impact to the regulated business community, the proposed rule allows for a variety of educational experiences, including web-based programs, and self-study activities. The training on human trafficking will be available from the Ohio Department of Health free of charge as a web-based training program. These activities will provide licensees the opportunity to complete their continuing education requirements with minimal adverse impact. Additionally, the proposed amendment allows the Board to grant extensions or waivers to the continuing education requirements for licensees who have extenuating circumstances. Currently, there are no such provisions to deal with extenuating circumstances and a licensee must discontinue practice if the continuing education requirements are not satisfied by the end of the renewal period. This amendment will alleviate the adverse impact the current regulations can cause.

### **Regulatory Flexibility**

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

The proposed amendment does not provide any exemption or alternative means of compliance for small business. This rule applies to all licensed speech-language pathologists and audiologists and requires licensees to complete 20 hours of continuing education. (Note, dual licensees must complete 40 clock hours). Accordingly, the Board maintains that the proposed amendment offers flexibility for small businesses, without the need for any exemptions.

#### **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?**

To the extent that Ohio Revised Code section 119.14 is applicable to this proposed amendment, the Board's Investigative Review Group always considers the special circumstances presented by first-time offenders and for paperwork violations on a case-by-case basis.



**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 the eNewsletter. With regard to the amendment on human trafficking, members of the Ohio Human Trafficking Task Force and the State's human trafficking coordinator are available to assist in developing industry-specific human trafficking training that remains relevant as the Attorney General's Office continues to study the problem of human trafficking in Ohio pursuant to HB 262.