

CSI - Ohio
The Common Sense Initiative

Business Impact Analysis

Agency Name: **Ohio Department of Insurance**

Regulation/Package Title: **Insurance Agent and Education Provider Regulation**

Rule Number(s): **3901-5-01 to 3901-5-09 (9 rules)**

Date: **June 30, 2014**

Rule Type:

- ☐ New
☒ Amended
☒ Rescinded
☒ 5-Year Review
☒ No Change

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.

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

The rules included in this package set forth requirements in regards to the regulation of; agent pre-licensing education, agent continuing education (CE), qualifications of CE courses, and establishes requirements and market practices for CE providers.

This package also includes rules regarding; agent education violations, the regulation of agent education fees, and the general specifications of agent licensing and appointment procedures.

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Proposed amendments include; the addition of language regarding completing coursework classified as "distance learning" and "self-study", increasing efficiencies in agent licensing processes for military veterans and the rescission of 3901-5-08 which was established to assist in a transition period that has since passed, as well as various clarifications and corrections.

Specifically, rule 3901-5-09 establishes fees for the specified services performed by the department as referenced in section 3901.043 of the Revised Code.

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

Sections 3901.041, 3901.043, 3901.20, 3905.16, 3905.486, 3905.95, 3905.481, 3905.484, 3905.12, 3905.04, and 3905.20 of the Revised Code.

3. Does the regulation implement a federal requirement? ☐ Yes ☒ No

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?

☐ Yes ☒ No

If yes, please briefly explain the source and substance of the federal requirement.

Not applicable.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable.

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 purpose for these regulations is to establish uniformity through common business practices and requirements in order to create a fair and competitive marketplace for the sale and purchase of insurance products.

These regulations establish the licensing standards that insurance agents must follow to remain compliant with statutory requirements. These requirements establish basic consumer protections for agents to assist consumers in selecting insurance products necessary for their individual or group needs.

These rules also set forth guidance in regards to required fees, as well as potential violations. Collectively, these rules work to ensure consumer protection.

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

These regulations provide transparent guidance for businesses and individuals engaging in the sale of insurance products. The department will see a decrease in confusion surrounding such requirements as well as a decrease in complaints and or damages to consumers, given that the agent or business has completed their own education and licensing requirements established in these regulations.

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.

Many of the changes proposed in this rule package stem from changes to the National Association of Insurance Commissioners (NAIC) model act on the same topic. Therefore, it is important to know that insurance companies, consumer groups and regulators took part in the public stakeholder process during NAIC deliberations of the model regulations developed for agent regulation.

In addition, the department undertook outreach for the Ohio specific regulations which included both formal and informal communications with stakeholders. Specifically, the department posted information on our website regarding the rule updates and sent several communications to email lists for stakeholders that signed up to receive rule updates. Furthermore, the department met with a broad range of stakeholders including Professional Independent Agents Association (PIAA) and Ohio Association of Health Underwriters (OAHU) as well as holding an interested party meeting.

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

Generally, stakeholders are supportive of the proposed changes. In late May, PIAA suggested that the department consider allowing agents to carry over credits earned in excess of the twenty-four hour requirement to the next CE year. In concept the department is supportive, but more work is needed on specific details that cannot be completed before filing this rule to meet five year rule review requirements. Therefore, we have notified PIAA and will continue to work with them to consider such a change.

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?

The general framework for this regulation comes from guidance established by the NAIC which has been applied effectively in many other state markets.

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?

The structure of the requirements set forth in these rules was established by evaluating NAIC model regulations and discussions with stakeholders.

Analysis and discussions with stakeholders showed that the current appointment and licensing process strikes a good balance across varying industry needs, providing a clear path for companies to appoint and monitor appropriately licensed agents.

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 rules included in this packet define a specific set of requirements used to establish licensing and appointment standards for insurance agents. In order to maintain compliance, it is essential to agents and agencies that the process be thoroughly defined.

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

This regulation is confined to one chapter and therefore does not duplicate other statutes or regulations. In addition, many of the proposed changes are as a result of changes to the NAIC model act, which ensures consistent regulation across multiple states as well.

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.

The rules within this rule package are currently being reviewed under the five year rule review. Therefore many of the requirements within these rules are already in place. The department maintains the licensing business unit which has been structured to support individuals and business entities that must comply with these regulations.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:
- Identify the scope of the impacted business community;
 - Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and
 - 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.

a. The impacted business community consists of individual insurance agents, business entities engaging in the sale of insurance products, agent education providers, and insurers.

b. The nature of this impact is contained in the time and cost associated with complying with pre-licensing and continuing education requirements, as well as company compliance with appointing agents.

c. Both the cost and time requirements vary in regards to the line of business the individual is participating in. Although there is a cost, these regulations can be classified as the cost of doing business and are necessary to ensure compliance with Ohio law.

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

The regulatory intent set forth in these rules is to establish uniformity through common business practices and requirements in order to create a fair and competitive marketplace for the sale and purchase of insurance products. The guidelines set forth consist of national standards established by the NAIC which has become the national standard for licensing and appointment laws. Therefore, these regulations have become essential to the business of selling insurance products. The goal of these regulations is to maintain educated and compliant professionals to ensure consumer protection and avoid potential harm to consumers.

Regulatory Flexibility

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

The regulations set forth in this rule package are in place to create uniformity among insurance agents doing business in the state of Ohio. The specific education requirements, standards of practice for providers, associated fees and violations, as well as appointment standards must remain consistent for all individuals and businesses accordingly in order to sustain a uniform and competitive marketplace for agents and consumers alike. Regardless of size, it is essential that these regulations are applied consistently to maintain consumer protections.

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?

Paperwork violations and/or first time offender issues would be dealt with on a case by case basis to determine whether the violation could have a serious impact on the consumer or the general public.

Minor errors would be handled by advising the agent and giving them an opportunity to cure the omission.

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

The department has a specific division dedicated to agent licensing and staff is available to answer questions. Furthermore, the department website includes a complete section on agent and agency information.