

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: State Board of Psychology

Regulation/Package Title: Partial No Change Five Year Review Package and 4732-9-01.1 To Be Rescinded

Rule Number(s): 4732-1-08, 4732-1-09, 4732-1-10, 4732-1-11, 4732-1-12,
4732-1-13, 4732-9-01.2, 4732-9-03, 4732-9-04, 4732-11-03, 4732-9-01.1

Date: May 28, 2014

Rule Type:

✓ 5-Year Review

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.

Rules 4732-1-08, 4732-1-09, 4732-1-10, 4732-1-11, 4732-1-12, and 4732-1-13 comprise the Psychology Board's required rules concerning collection, storage, access, and restrictions concerning personal information, including confidential personal information (CPI). Rule 4732-9-01.2 contains requirements for applicants with degrees earned from institutions

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outside of the United States (and Canada, if the degree program is accredited). Rule 4732-9-03 outlines requirements and timelines for the completion of training experiences prior to being eligible for licensure as a psychologist or as a school psychologist. Rule 4732-9-04 provides notice to licensure applicants that a criminal background check satisfactory to the Board is required prior to licensure, while 4732-11-03 briefly sets forth that the Board has established a school psychology examination committee by law (ORC 4732.11).

4732-9-01.1 Proposed to Be Rescinded: This rule no longer serves any purpose because it relates to a phased-out statute that allowed applicants to be eligible for psychologist licensure based on a non-psychology doctoral degree deemed “equivalent to a doctoral degree in psychology.” By law candidates were given a three-year notice to complete degrees for consideration by the Board as being “equivalent.” The deadline for the receipt of applications was in May 2010. Any adverse impact is related to the statute change, not to rescinding the rule.

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

ORC 4732.06, 4732.10, 4732.15, 4732.091

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.

No.

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

There are no federal requirements to exceed.

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 rules in 4732-1 relative to confidential personal information are required rules pursuant to ORC 1347.15 and put the burden only on the Board staff, not on the regulated community of license holders. Similarly, 4732-9-04 is a rule required for all occupational licensing boards in Ohio, setting forth the requirement and procedures for applicants to follow specific to completing a pre-licensure civilian criminal background check satisfactory to the board. The impetus for such a rule is rooted in public safety and assisting boards in making determinations about moral character and licensure. Rule 4732-9-01.2 is required for the purpose of providing the public with assurance that “foreign” degrees are judged to be satisfactory and academically equivalent to doctoral degrees in psychology from accredited institutions in the U.S. Rule 4732-9-03 essentially provides the Board and applicants with

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specific requirements for the timing and completion of relevant experience to be toward licensure and also serves to specify the examination required for psychology licensure applicants. Finally, 4732-11-03 serves to clarify a Board requirement relative to licensing school psychologists and gives the Board authority to form an examination committee specific to psychologists.

4732-9-01.1 Proposed To Be Rescinded: This rule was required to give fair notice to licensure candidates about the statutory change requiring doctoral degrees from programs accredited or recognized by the American psychological association, office of program consultation and accreditation, the accreditation office of the Canadian psychological association, a program listed by the association of state and provincial psychology boards/national register designation committee; or, the national association of school psychologists.

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

First, this package of rules contains current rules being proposed to remain in effect for another five years without change. The rules were reviewed by a committee inclusive of representatives of the major professional stakeholder groups, including the Ohio Psychological Association, the Association of Black Psychologists, and the Ohio School Psychologists Association. Second, the regulations will be deemed to have successful outcomes if they are clear to the reader and additional work to clarify the rules is not required by the Board staff.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

At its April 4, 2014 meeting of the State Board of Psychology Rules Committee, the following persons reached consensus on recommending to the full Board that the rules be filed as “no change” rules during the five year review process:

Ann Brennan, Executive, Ohio School Psychologists Association
Michael Ranney, Executive, Ohio Psychological Association
Bridgette Petite, Ph.D., Association of Black Psychologists
Robin Graf-Reed, Ph.D., National Center for Organizational Development
Roger Carroll, Principal Assistant Attorney General and Board Counsel
Kenneth Drude, Ph.D., Member of the State Board, Chair
Victor McCarley, Psy.D., Board President
Carolyn Knauss, Board Investigator
Ronald Ross, Ph.D., Executive Director

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All members, State Board of Psychology

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

The stakeholder group studied the rule language and the context in which they were originally proposed and promulgated, and ultimately there was unanimous consensus that the rules do not require any changes.

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?

N/A

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?

No alternative regulations were regarding the CPI rules and background check rules because those are required by unequivocal mandate. On the other hand, a decision was made to propose no changes to the remainder of the rules because they are rooted in licensure requirements that are generally consistent and robust across jurisdictions with membership in the Association of State and Provincial Psychology Boards. Specifically, the process relative to reviewing non-U.S. degrees is working well, and there was agreement that allowing for the amounts of time listed in 4732-9-03 was fair and flexible for licensure candidates.

11. Did the Agency specifically consider a performance-based regulation? Please explain.

The Board did not consider any performance-based regulations in this package because either the rules are mandated and/or the rules are not conducive to a performance-based approach to regulation.

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

Chapter 4732 of the Administrative Code contains the only regulations in Ohio granting an agency authority to govern the practice of psychology and the practice of school psychology outside of school settings.

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.

Internal controls are in place and are subject to biennial review by the Auditor of State for:

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- 1) Ensuring that no license is issued without the Board determining that the results of a criminal background check is consistent with licensure;
- 2) Ensuring that pre-licensure training/experience is completed in a timely manner following the completion of graduate-level coursework
- 3) Maintain the school psychology examination committee as required in law (ORC 4732.11).

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;

Applicants for the psychologist and school psychologist licenses

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

Time: Applicant compliance with criminal background checks; “foreign” degree applicants completing required processes; and, time to complete the required pre-licensure training/experience.

Money: The costs of complying with the mandated rules for the completion of a criminal background check are set by the specific entities, including public police agencies and private companies; “foreign” degree applicants completing required processes are charged by the company that the applicant selects for review of the transcript for equivalence to a doctorate in psychology from a regionally accredited institution in the U.S. and any associated translation into English.

4732-9-01.1 Proposed to Be Rescinded: The proposed rescission of this rule will square the Administrative Code with the Revised Code at ORC 4732.10, where the updated program accreditation requirements are listed. Therefore, the adverse impact is from the statutory changes, not from rescission of this rule per se. Adverse impact from the new statutory requirements include time to apply to accredited programs, effort related to attending interviews, and possible increased costs of the doctoral degree education.

c. Quantify the expected adverse impact from the regulation.

Becoming a psychologist requires compliance with substantial supervised training and experience. Law and rules require the completion of 3,600 hours of supervised training for psychologist licensure, and 3 years of full-time experience post-master’s degree internship for the school psychologist license. The cost of the BCI background check is approximately \$22 and the FBI is approximately \$24 according to

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information from various vendors on the Internet. The cost for a “foreign” degree review in compliance with Rule 4732-9-01.2 ranges from approximately \$100 to \$150, based on information on the websites of the two most commonly selected credential evaluation companies (World Education Services and Credential Evaluation Services).

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

Ohio needs well-trained psychologists and school psychologists of good moral character (background check is really one of the only ways of getting specific data to assist in this), and the Board must ensure that applicants with “foreign” degrees have been judged to comply with basic standards of educational rigor before the applicant is considered for licensure.

4732-9-01.1 Proposed to Be Rescinded: At the risk of being redundant, the rescission of this rule will not have adverse impact per se, because its proposed rescission is for the purpose of omitting a rule that is inconsistent with Revised Code 4732.10.

Regulatory Flexibility

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

No. The public looks to the Board to ensure that reasonable steps are taken to review the education, training, experience, and criminal histories of prospective license holders.

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?

These rules do not involve waiver of paperwork violations.

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

The Board’s website contains a wealth of information about each of the rules at issue. The Board staff is comprised of 5 individuals available during business hours by phone and email. The Board has earned a reputation for being responsive and available, and the Executive Director’s direct dial telephone number and email address are published on the Board’s website.

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