

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Insurance
Regulation/Package Title: Agent Continuing Education
Rule Number(s): 3901-5-01

Date: September 17, 2015

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☐ Rescinded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 purpose of this rule is to establish continuing education (CE) requirements, standards and procedures for insurance agents.

Agents must complete a total of 24 credit hours each biennial renewal cycle.

Proposed amendments will allow agents to carry over no more than fifty per cent of continuing education credit hours during their renewal cycle. All credits that carry over will be applied as general credits to ensure that special CE requirements such as ethics, surety bail bond, and title will still be completed within each period.

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Additional amendments include correcting an error in citation as well as clarifying that the department no longer issues transcripts by mail, as they are now accessible via online login through the department website or by direct request.

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

Sections 3901.041, 3901.20, 3905.16, 3905.486, and 3905.95 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 this rule is to establish uniformity and compliance through agent CE requirements in order to create a fair and competitive marketplace for the sale and purchase of insurance products. By establishing these requirements, agents are able to assist consumers in making the proper selection of insurance products necessary for their individual or group needs. Ultimately, this rule works to ensure appropriate consumer protection. The proposed amendment comes in response to a statutory change to allow for the carry over of excess CE credits from one biennial period to the next. This amendment assists agents greatly in their professional duties by creating a more flexible and accommodating structure.

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

The agent continuing education rule provides a clear structure for individuals to meet their continuing education requirements. By maintaining such guidance, the department will see a decrease in confusion and stronger protection for consumers. The proposed amendment will modernize these requirements, bringing them in line with many other professional licensing requirements.

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.*

On July 15th, 2015 the department sent an email for public comment regarding the proposed amendments to the following associations; the Professional Insurance Agents Association of Ohio, the Ohio Insurance Institute, the Ohio Association of Health Plans, among others. On August 21st the department held an interested party meeting in which eight individuals representing the industry attended.

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

The department has received over forty emails from individual insurance agents providing support for the amendment as proposed. These individuals reiterate that under the current language, agents are not able to earn credit for any courses that exceed the 24 hour requirement. This amendment allows these credits to be applied for credit for the following renewal period. Additionally, a strong turnout at the interested party meeting found all attendees to be in support of the language as proposed.

The department received a written comment expressing concern for the extended time period of when an agent could complete a course and apply it to a future time period. Stating that this may create an allowance for applying out-of-date course material. While the department does recognize that certain course materials change frequently, as written, the amendment limits the amount of credits that may be carried over. This strikes a good balance between allowing flexibility and maintaining the integrity of the CE requirements.

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?

This rule is established according to the National Association of Insurance Commissioners (NAIC) and industry standards and guidelines. The proposed amendment derives from an industry request to make available the opportunity to carry over excess credits. This option is available in over twenty states, as well as other professional licenses in Ohio.

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 licensing process strikes a good balance across varying industry needs.

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.

This rule defines a specific set of requirements used to establish CE standards for insurance agents. In order to maintain compliance, it is essential to agents and agencies that the process be thoroughly defined. By implementing the proposed amendment, the process for completing the required CE credits will be more flexible and agents will have greater availability to schedule courses based on their needs.

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

The department maintains regulatory authority over insurance agents and the sale of insurance products. This regulation is confined to one chapter and applied consistently.

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.

Most of the requirements within this rule are already in place and are administered by the department's licensing business unit. This division has been structured to support individuals and businesses that must comply with these regulations. The process for carry over will be built into the automatic approval system currently in use for renewing an agent license. In addition, the department will provide notice of the opportunity to carry over credits. The licensing division section of the department's web page will provide information regarding this change moving forward.

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

a. The impacted business community consists of individual insurance agents and business entities engaging in the sale of insurance products.

b. - c. This rule speaks to the requirements surrounding agent continuing education. Agents shall complete the required amount of hours according to their individual lines of business. Costs will vary dependent on which education provider they so choose. The proposed amendment will not impose any additional adverse impact.

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 this rule 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 is a national body for licensing and appointment laws. It is in the best interest of any business to maintain an educated and compliant staff to ensure consumer protection and avoid potential harm to consumers. The proposed amendment to the rule will allow for greater flexibility in meeting the requirements of the rule.

Regulatory Flexibility

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

The agent continuing education rule is in place to create uniformity among individual insurance agents doing business in the state of Ohio. The specific education requirements sustain a uniform and competitive marketplace for agents and maintain consumer protections. The proposed amendment allows for an increase in flexibility surrounding the time of completion for CE courses. Small businesses may find substantial benefits in this increased flexibility as they work to ensure compliance of their individual agents.

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?

Overall, the proposed amendment will increase flexibility in the completion date and scheduling of CE courses, creating a more accommodating environment.

In regards to paperwork violations and/or first time offender issues, current practices will be maintained in that they will 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's licensing division staff is available to answer questions regarding this amendment. Furthermore, the department's website includes a complete section on agent and agency information which will be updated to explain the benefits and details of the carry over process.