

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: State Medical Board of Ohio

Regulation/Package Title: Podiatry Licensure

Rule Number(s): 4731-12-01, 4731-12-02, 4731-12-03, 4731-12-04, 4731-12-05, 4731-12-06,
4731-12-07

Date: July 11, 2016

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☒ Rescinded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.

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

The rules in Chapter 4731-12, OAC, define terms applicable to the licensing of podiatric physicians and clarify applicable processes and procedures. Rule 4731-12-01 clarifies how an

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applicant evidences meeting the preliminary education requirement of Section 4731.53 of the Revised Code. Rule 4731-12-02 clarifies what podiatric colleges are in “good standing,” for purposes of Section 4731.53 of the Revised Code. Rule 4731-12-03 clarifies the eligibility requirements for the podiatric licensing examination. Rule 47431-12-04 clarifies requirements for podiatric licensure by endorsement of a licensing examination taken in another state, territory, or the District of Columbia. Rule 4731-12-05 sets forth the licensure application process for podiatrists. Rule 4731-12-06 sets forth the process for applying for a visiting podiatric faculty certificate. Because the current language is amended by at least fifty percent, the current rule will be rescinded and the amended language adopted as a new rule. Rule 4731-12-07 sets forth the process for applying for a podiatric training certificate.

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

The rules in Chapter 4731-12 are authorized by Sections 4731.05 and 4731.55 of the Revised Code.

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, the rules do not implement a federal requirement.

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 rules in Chapter 4731-12 facilitate the licensure of podiatrists in Ohio by setting forth the requirements, processes, and procedures for licensure.

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

The success of the rules in Chapter 4731-12 will be measured by the extent to which the applications filed for podiatric licensure comply with the rules. The Medical Board measures the time it takes to process an application. An application that is incomplete because the applicant did not understand the process or the requirements takes more days to process.

Development of the Regulation

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

On February 12, 2016, the proposed rule actions were sent to the Ohio Foot and Ankle Medical Association (formerly the Ohio Podiatric Medicine Association); Ohio Association of Physician Assistants, Ohio State Medical Association, Ohio Academy of Family Physicians, Academy of Medicine of Cleveland and Northern Ohio, Ohio Osteopathic Association, governmental affairs representatives for numerous organizations, attorneys who appear before the Medical Board, and all others persons and organizations who have requested notice of Medical Board rule activity.

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

No comments were received from interested parties. The podiatrist member of the Medical Board provided guidance as to amendments to update the language to current terminology.

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 rules generally set processes and procedures that are in keeping with the standards implemented by podiatric licensing boards across the United States. See information on the website of the Federation of Podiatric Medical Boards at the following link:

<https://www.fpmb.org/Resources/Compendium.aspx>.

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?

Alternative regulations were not considered. The rules, most of which have been in effect since at least 2004, have facilitated the podiatric licensure process in Ohio.

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 in Chapter 4731-12 define terms, clarify what information is needed as part of an application for licensure, and set forth the Medical Board's procedures for processing podiatric training certificates. The rules do not dictate the process applicants must use to achieve compliance.

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

The Medical Board is the only agency that has authority to promulgate rules applicable to the licensure application process for podiatric licensure.

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 current rules were amended for clarity and to determine whether the language reflects the current processes and procedures, but the amendments do not change the established processes that have been in place. The rules will be posted on the Medical Board's website and notice that the rules have been amended will be sent to interested parties. The Medical Board has applied the rules consistently since they were first adopted and will continue to do so.

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;

The impacted business community is made of persons wishing to practice podiatry in Ohio.

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

Rule 4731-12-01 implements the requirements of Section 4731.53 of the Revised Code requiring the applicant to establish having completed high school graduation and at least two years of college work in an approved college by stating that a diploma from a podiatric college in good standing constitutes meeting the requirement.

Rule 4731-12-03 implements Section 4731.55 of the Revised Code by specifying the examination sequence that comprises the podiatric licensure examination. It also implements Section 4731.53 of the Revised Code by clarifying preliminary education required for the applicant to be able to sit for the licensure examination.

Rule 4731-12-04 is only applicable to persons who hold current podiatric medical licensure in another state, territory, or the District of Columbia. It implements Section 4731.57 of the Revised Code by clarifying that the applicants who hold podiatric licenses in another state may be licensed without re-examination if they passed one of the specified examination sequences.

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Rule 4731-12-05 implements Sections 4731.52, 4731.53, 4731.56, and 4776.02 of the Revised Code by setting forth in one provision the application requirements. The requirements include the payment of an application fee and compliance with the requirement to undergo a criminal records check.

Rule 4731-12-06 implements Section 4731.752 of the Revised Code for visiting podiatric medical faculty certificates. The rule requires that the duties of the applicant be set forth in the application and that dean of the school and the medical director of each affiliated teaching hospital be responsible for assuring that the certificate holder does not engage in practice outside of the scope given in the application.

Rule 4731-12-07 requires the applicant for a podiatric training certificate to pay the appropriate application fee.

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.

For Rule 4731-12-01, the cost of tuition and fees for one year of podiatric education at Kent State University, the only podiatric school in Ohio, is \$38,364. (See <https://www.kent.edu/cpm/tuition-fees>) The program is generally a four-year program. (See <https://du1ux2871uqvu.cloudfront.net/sites/default/files/file/KSUCPM%20Viewbook.pdf>)

For Rule 4731-12-03, Section 4731.53 of the Revised Code sets the fee for the preliminary education review as \$35. Each of the three examinations in the required examination sequence costs \$900.00. See information on the American Podiatric Medical Licensing Examination website at: <http://www.apmle.com/about-the-exam/exam-cost/>.

For Rule 4731-12-04, the adverse impact cannot be quantified. The rule is only applicable to persons already licensed in another state, territory, or the District of Columbia. The cost of licensure differs in each jurisdiction. The cost of the licensure

examination sequence the applicant would have already completed also differs upon the examination sequence completed and the date the examination was taken.

For Rule 4731-12-05, Section 4731.56 of the Revised Code sets the application fee at \$300. The standard fee for the fingerprints upon which the criminal records check is based varies, depending on the location or agency providing the service. See information on the Ohio Attorney General website at:

<http://www.ohioattorneygeneral.gov/Services/Business/WebCheck/Webcheck-Community-Listing>.

For Rule 4731-12-06, the costs cannot be quantified as the costs will vary depending on whether the college dean or an administrative assistant completes the form for the dean's signature. The cost for "assuring that the holder of the certificate does not engage in practice outside its scope," depends upon the salary of the dean and/or medical director and the amount of time required.

For Rule 4731-12-07, the fee for a training certificate is listed in Section 4731.573 as being \$75.

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

The rules in Chapter 4731-12, OAC, facilitate licensure of persons seeking to practice podiatric medicine in Ohio by defining terms, clarifying expectations for licensure examination, and setting forth the process and procedures for the application process.

Regulatory Flexibility

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

There are no exemptions or alternative means of compliance for small businesses. The Medical Board does not license businesses, only individuals. Tenets of good government require that each applicant for a podiatric medicine license, visiting podiatric faculty certificate, or training certificate be treated alike, no matter the size of the practice or facility they will practice in.

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?

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There are no fines or penalties for paperwork violations or first-time offenders. Failure to comply with the rules will result in a longer time for processing the application or the denial of the application based upon failure to provide the required fee or information to establish eligibility for licensure.

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

Medical Board staff members are available to assist applicants and others.