



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Carrie Kuruc**, Director

### Business Impact Analysis

**Agency, Board, or Commission Name:** Ohio Speech and Hearing Professionals Board \_\_

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**Regulation/Package Title (a general description of the rules' substantive content):**

Package Title: Temporary Licensure for Military Personnel. This rule is being proposed as a new rule under Ohio Administrative Code Chapter 4747 and as an amended rule under OAC 4753 to issue a temporary license for military personnel pursuant to the passage of Senate Bill 7

**Rule Number(s):** OAC 4747-1-24 and 4753-12-01 \_\_\_\_\_

**Date of Submission for CSI Review:** July 30, 2020\_\_

**Public Comment Period End Date:** 1st comment period July 1-24, 2020; 2<sup>nd</sup> comment period via CSI July 30-August 14, 2020

**Rule Type/Number of Rules:**

New/\_1\_\_ rules

No Change/\_\_\_\_ rules (FYR? \_\_)

Amended/\_1\_\_ rules (FYR? Yes)

Rescinded/\_\_\_\_ rules (FYR? \_\_)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies

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should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### **Reason for Submission**

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. ☒ Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. ☒ Requires specific expenditures or the report of information as a condition of compliance.
- d. ☐ Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

### **Regulatory Intent**

2. Please briefly describe the draft regulation in plain language.

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

Both the proposed new rule, e.g., 4747-1-24 and proposed change rule under its five-year review, e.g., 4753-12-01 are in accordance with legislation passed under Senate Bill 7, requiring the issuance of a temporary license for military personnel and military spouses who move to Ohio during active duty deployment.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

Rule making authority is pursuant to Ohio Revised Code sections 4744.28, 4747.04, and 4753.05. OAC 4747-1-24 will amplify ORC sections 4747.04 and 5903.03. OAC 4753-12-01 amplifies ORC sections 4753.06 and 5903.03.

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4. **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

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

N/A

6. **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 this regulation is to ensure the requirements of SB 7 are met and that the Board issues a temporary license to qualified military personnel and their spouses who are deployed to Ohio.

7. **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 rules package will be from the outcomes of individuals who are eligible and apply for the temporary license. Outcomes anticipated from this rule will be expedited licensure for military personnel and their spouses who qualify for licensure from the Board and no licensure application fees.

8. **Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

No

### **Development of the Regulation**

9. **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.*

The proposed rules were sent to over 10,000 licensees and various national and state associations. The proposed rules were sent to these groups via e-mail for public comment beginning July 1 through July 24, 2020. The rules were also posted to the Board's website and via its social media platform, e.g., Facebook.

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

The Board received input in support of the proposed rules from two state associations. The Board receive no input in opposition or concerns.

**11. 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 Board believes this question is not applicable since the rules are being proposed to meet the requirements under SB 7.

**12. 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 Board believes this question is not applicable since the rules are being proposed to meet the requirements under SB 7.

**13. 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 since the rules are being proposed to meet the requirements under SB 7.

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

The Board believes this question is not applicable since the rules are being proposed to meet the requirements under SB 7.

**15. 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 post information about the temporary license on its website. All board staff will receive orientation about the temporary license requirements.

**Adverse Impact to Business**

**16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

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**a. Identify the scope of the impacted business community; and**

As of August 2020, there were 1,094 licensed audiologists, 698 licensed hearing aid dealers and fitters, 7,983 licensed speech-language pathologists. 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 all adverse impact (e.g., fees, fines, employer time for compliance,); and**

Since the temporary license will not require a fee, the only adverse impact anticipated is the time it will take individuals to apply for the license. The Board will utilize eLicense Ohio to help streamline the licensure process and expects to process applications within a reasonable length of time.

**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 these regulations is difficult to calculate because the regulation provides a pathway to qualified individuals in the military to practice under a temporary license.

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

To the extent there is any adverse impact to the regulated business community, e.g., in terms of time to comply with the temporary licensure requirements and cost to complete the criminal background check, the Board maintains that the regulatory intent justifies these aspects of the adverse impact. For example, in terms of time it takes to complete the application, the regulatory intent justifies the adverse impact because the application process allows the Board to ensure that only qualified individuals the General Assembly intended under the law are being issued the temporary license. In terms of the cost for the criminal background check, the regulatory intent justifies the adverse impact because the criminal background check will ensure that applicants do not have a disqualifying offense for consumer protection.

**Regulatory Flexibility**

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

The proposed rules do not provide any exemption or alternative means of compliance for small businesses. These rules are being proposed to meet the requirements under SB 7 and are only

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applicable to individuals in the military who are deployed to Ohio and seek a temporary license to practice under Chapters 4744, 4747 or 4753.

**19. 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 these proposed rules, 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.

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

The Board's laws and rules governing the practice of audiology, hearing aid dealing and fitting, and speech-language pathology, e.g., Ohio Revised and Administrative Code Chapters 4744, 4747 and 4753 are available on our website. In addition, the Board provides updates regarding its laws and rules via an eNewsletter and via social media on its Facebook page.