

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: State Board of Psychology

Regulation/Package Title: Correcting ORC citations from HB263

Rule Number(s): 4732-9-01

Date: June 10, 2022

Rule Type: Amendments

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.

Proposed Amendments

4732-9-01 Requirements for admission to the examination for a psychologist license.

This rule reiterates statutory requirements and sets forth specific educational and supervised training requirements for psychologist licensure. This rule was recently amended to make training options more flexible and to comply with HB263 (133rd GA, effective October 9, 2021) which deleted from our law the “good moral character” requirement in ORC 4732.10. When the rule was filed for amendment (effective 3/21/22), we missed several ORC citations that need to be corrected. The proposed amendments only serve to correct those incorrect citations left over from HB263.

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

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- 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)?**

These rules are integral to the State Board of Psychology's statutory mission to regulate the practice of psychology, including rules governing training supervision requirements for licensed supervisors and unlicensed psychology trainees. As long as the profession of psychology is regulated secondary to the inherent risks of harm and the public's right to safe and competent services, the Board will continue to review rules for continuation, amendment or rescission to clarify requirements and reduce confusion and redundancy.

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

These regulations will be deemed to have successful outcomes if they are clear to the reader and additional significant resources are not required. To assist in this, the rules were reviewed and recommended to the full Board after receipt of correspondence from license holders involved in the pre-licensure training supervision of psychologists.

Development of the Regulation

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

Prior to the BIA submission for this same rule (October 28, 2021; CSI recommendation received December 10, 2021), the Board solicited early stakeholder feedback from psychologists in the training community to gauge appropriateness of updating 4732-9-01 and 4732-13-03 to allow for supervision to be conducted virtually via synchronous audiovisual communication vs. insisting that a minimum amount of supervision be conducted in-person (what the current rule requires). Response was very positive and the changes were proposed. The BIA was also sent to all Ohio psychologists but no additional comments were received. The current proposed changes would not change any requirements and simply serve to correct citations.

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

In August 2021 a preliminary call for comment was announced by email blast in anticipation of this proposed rule filing—a request for positions in support of and in opposition to allowing supervision via telepsychology. The Board received approximately sixteen (16) letters (some of them were co-signed) from Ohio psychologists in support of amending rules to allow for training supervision via distance technology. The letters are consistent in their rationale and justification that “virtual” supervision, first embraced to foster mandatory social distancing and public health strategies, has rapidly become an efficient and standard part of the graduate education of psychologists. When we filed the BIA on October 28, 2021 we sought comments from all Ohio psychologists and no formal comments were received.

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. The support for rule amendments is not measurable, although it reflects the professional judgment and experience of members of Ohio’s psychology training community.

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 deletion of “good moral character” as a licensure requirement is not optional. The Board considered leaving the supervision rules as-is, although the opinion in the training community is strong in support of the amendments. In addition, Board members involved in the training of psychologists share the view that there should not be a requirement that supervision take place only in-person.

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.

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In this package, the primary implementation strategy will be to notify all license holders of the changes via our email list serve, eLicense Ohio instructions, website, and through the Ohio Psychological Association and Ohio School Psychologists Association. Changes to the rules of professional conduct will be highlighted to assist license holders and the Board to appreciate how to apply the changes to day-to-day practice.

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;

Licensed psychologists who conduct training supervision (approximately 500) and who do psychotherapy with adults and/or children involved in domestic relations litigation.

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

Time & Effort: Like any healthcare regulatory board, these rules exist for the purpose of public safety and to provide license holders with minimum requirements for applications, renewals, and ethical practice. License holders and applicants would be expected to expend some degree of effort to review rules changes and apply them to day-to-day professional practice.

Money: This package does not contain rules specifying fees charged by the Board for various services and processes and complying with these rules per se do not involve the expenditure of money.

c. Quantify the expected adverse impact from the regulation.

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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 working under regulations that are clear and as flexible as possible while maintaining health a safety. Proposed updates the 4732-17-01 will help foster compliance with prevailing standards of care and to protect the rights of clients and other persons (these proposed amendments are not so much seen as affecting time or money, but effort and compliance with the requirements to practice psychology in a competent and ethical manner).

Regulatory Flexibility

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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 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.