



## Common Sense Initiative

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

**Sean McCullough**, Director

### Business Impact Analysis

Agency, Board, or Commission Name: State Board of Psychology

Rule Contact Name and Contact Information:

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

Implementing SB131 Licensure by Reciprocity

Rule Number(s): 4732-1-02, 4732-9-01, 4732-9-02, 4783-1-01, 4783-4-01, 4783-4-02

Date of Submission for CSI Review: 8/9/23

Public Comment Period End Date: 8/18/23

Rule Type/Number of Rules:

New/ 0 rules

No Change/ 0 rules (FYR? N/A)

Amended/ 6 rules (FYR? No)

Rescinded/ 0 rules (FYR? N/A)

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 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.

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### **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.*

### **Proposed Amendments**

4732-1-02: This rule specifies application requirements for the psychologist and school psychologist licenses. The proposed amendment in (B) is required to implement SB131 by calling attention to the reciprocity pathway to licensure.

4732-9-01: This rule provides applicants for the psychologist license with the details about the education and training requirements. The proposed amendments in (C) are required to remove U.S. psychologists from the “senior psychologist” pathway that allows licensure for those licensed a minimum of ten (10) years in another jurisdiction (because SB131 changes that to one (1) year). The proposed amendment here also clarifies that Canadian psychologists can still be licensed via the “senior psychologist” pathway. The proposed addition of paragraph (D) is required to implement SB131 by outlining the option to seek licensure if licensed a minimum of one (1) year in another state.

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4732-9-02: This rule provides applicants for the school psychologist license with the details about the education and training requirements. The proposed addition of paragraph (E) is required to implement SB131 by outlining the option to seek licensure if licensed as a school psychologist by another state board of psychology for a minimum of one (1) year.

4783-1-01: This rule provides applicants for the Certified Ohio Behavior Analyst (COBA) license with the requirements for licensure. The proposed amendment in paragraph (B)(1) is required by SB131 to call attention to the one (1) year reciprocity pathway to licensure.

4783-4-01: This rule contains requirements for licensure for applicants for the Certified Ohio Behavior Analyst (COBA) license. The proposed amendments in the intro paragraph are required by SB131 and point the reader to the reciprocity rule in 4783-4-02. The proposal to strike paragraph (A) is unrelated to SB131 but should be deleted because it is no longer relevant to COBA license applicants. The struck paragraph was only in force for the year following the original effective date of the rule (2014).

4783-4-02: This rule exists to clarify that behavior analysts licensed in other states can be licensed as COBA's without having the BCBA certification. The proposed amendments serve to implement SB131 by clarifying that licensure for at least one (1) year as a behavior analyst in another state is qualifying, so long as the applicant complies with reference letter requirements and the COBA exam requirement.

**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.**

ORC 4732.06

**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.**

There are no federal requirements to exceed.

**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)?**

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These rules are integral to the State Board of Psychology's statutory mission to regulate the practice of psychology, including setting forth the licensure requirements for psychologists and COBAs. .

**7. 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.

**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.*

N/A

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

These proposed amendments are required by SB131 and therefore are not amenable to stakeholder participation.

**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?**

N/A. These rule amendments are required by SB131.

**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?**

N/A. These rules are required by SB131.

**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.**

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

**14. 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 authority to govern the practice of psychology and the practice of school psychology outside of school settings. Chapter 4783 of the Administrative Code contains the only regulations in Ohio granting authority to govern the practice of applied behavior analysis.

**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.**

SB131 requires licensure via reciprocity (licensed at least 1 year in another state) effective December 28, 2023. This new option for candidates will be clear in the eLicense portal, where applications are submitted. Application instructions will clarify that this pathway is available and will save paperwork and the submission of information required by general applicants who are not licensed in other states yet.

**Adverse Impact to Business**

**16. 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; and**

Applicants for licensure as psychologists, school psychologists, and COBAs.

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

Time & Effort: Completing a license application requires the expenditure of limited time and effort to comply with the statutory and regulatory requirements.

Financial: Submission of a license application requires payment of a fee (set in statute). For psychologists and school psychologists the fee is \$300. For COBA applicants the fee is \$125.

**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.*

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Please see (b) above.

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

These rules are required by SB131.

**Regulatory Flexibility**

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

SB131 was enacted to provide additional flexibility and ease of licensure for those wanting to become psychologists, school psychologists, and COBAs.

**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?**

These rules do not involve waiver of paperwork violations.

**20. 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.