



Common Sense Initiative

Mike DeWine, Governor
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Business Impact Analysis

Agency Name:	<u>Ohio Department of Insurance</u>
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Regulation/Package Title (a general description of the rules' substantive content):	<u>Agent licensing and appointments</u>
Rule Number(s):	<u>3901-5-09</u>
Date of Submission for CSI Review:	<u>November 5, 2024</u>
Public Comment Period End Date:	<u>November 20, 2024, 11:59 p.m.</u>
Rule Type/Number of Rules:	
☐ New/ 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 Yes)	☐ Rescinded/ rules (FYR?)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 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.

The purpose of this rule is to set forth procedures and requirements for the licensing and appointment of insurance agents in the state of Ohio; and to identify lines of authority eligible for limited lines licenses. The rule has recommended technical revisions to improve clarity, align more closely with current best practices in the insurance industry, and regulatory restrictions have been reduced where possible.

3. Please list the Ohio statute(s) that authorizes the Agency to adopt the rule(s) and the statute(s) that amplify that authority.

Sections 3901.41, 3905.04, 3905.12, and 3905.20 of the Revised Code.

4. 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.

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

Not applicable.

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 purpose of this rule is to promote uniformity in business practices and requirements, fostering a fair and competitive marketplace for the sale and purchase of insurance products. The rule establishes licensing standards that insurance agents must adhere to in order to comply with statutory requirements. These standards provide essential consumer protections by enabling agents to help consumers choose insurance products that meet their individual or group needs. The rule safeguards consumer interests and ensures robust consumer protection measures are in place.

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

This rule offers clear guidance for businesses and individuals involved in selling insurance products. By ensuring agents and businesses fulfill the education and licensing requirements outlined in this rule, the department expects reduced confusion and fewer complaints or consumer damages related to non-compliance.

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? ☐ Yes ☒ No

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

Not applicable.

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.*

On July 26, 2024 an email requesting public comment on the rule was sent to various stakeholders, interested parties, trade associations and companies. Specifically, the department reached out to the Association of Ohio Life Insurance Companies (AOLIC), the American Council of Life Insurance (ACLI), the National Association of Insurance and Financial Advisors (NAIFA), Ohio Association of Health Plans (OAHP), the Professional

Independent Agents Association (PIA), and the Ohio Insurance Agents (OIA) among others. The comment period remained open for four weeks, and the rule has remain posted on the department's web site for review.

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

The department received no comments on the rule package from industry or the general public during the four week comment period.

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?

These rule follow a national model adopted by the National Association of Insurance Commissioners (NAIC). When developing a model, the NAIC works with broad industry stakeholders including consumer advocates, agents and insurers. Stakeholders provide comment on a range of issues as to find the right balance between consumer protection and ease of compliance.

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? *Alternative regulations may include performance based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*

Rule 3901-5-09 was established by both evaluating NAIC model regulations and conducting discussions with stakeholders. By creating a specific set of requirements, the department is able to assure that consumers are protected through adequate credentialing of agents. Performance based regulations are not appropriate for these rules.

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

The department, which serves as the sole regulator of the insurance industry in Ohio, reviewed Ohio statutes and rules and determined that it does not duplicate other regulations.

14. 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.

This rule has been in place for many years and the regulated community is familiar with the requirements. The rule is applied consistently to promote uniformity. The licensing division is available to assist with general questions regarding compliance.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

- a. Identify the scope of the impacted business community; and
- b. Quantify and identify the nature of the adverse impact (e.g., fees, fines, employer time for compliance).

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 impacted business community consists of individual insurance agents, business entities engaging in the sale of insurance products, agent education providers, and insurers.

The nature of this impact is contained in the time and cost associated with complying with pre-licensing and continuing education requirements, as well as company compliance with appointing agents.

Both the cost and time requirements vary in regard to the line of business in which the individual is participating. Although there is a cost, these regulations can be classified as the cost of doing business and are necessary to ensure compliance with Ohio Revised Code.

Generally, the changes that were made to the rules were recommended to align current industry practice and update language, or to reduce regulatory restrictions.

16. Are there any proposed changes to the rule(s) that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors.*)

Proposed amendments will reduce regulatory restrictions.

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

The regulatory intent set forth in 3901-5-09 is to establish national standards established by the NAIC which has become the national standard for licensing and appointment laws. The goal of the rule is to maintain educated and compliant professionals to ensure consumer protection and avoid potential harm to consumers.

Regulatory Flexibility

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

This rule is in place to create uniformity among insurance agents doing business in the state of Ohio. Appointment and licensing standards must remain consistent for all individuals and businesses accordingly in order to sustain a uniform marketplace for agents and consumers alike. Regardless of size, it is essential that these regulations are applied consistently to maintain consumer protections.

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?

Minor errors would be handled by advising the insurance company and/or agent and giving them an opportunity to remedy the omission.

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

Department staff is available to answer questions, regardless of the size of business. Furthermore, the department provides filing information and instructions on its web site. The department is available to continue dialogue with stakeholders through the implementation process to ensure compliance and facilitate questions.