

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio State Board of Optometry

Regulation/Package Title: Continuing Education Requirements

Rule Number(s): 4725-9-01, 4725-9-03 and 4725-15-04

Date: 04/28/2014

**Rule Type:**

New

5-Year Review

Amended

Rescinded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.

Chapter 4725-9-01 (no change) defines how many hours of continuing education that is required for license renewal.

Chapter 4275-9-03 (no change) outlines specific information for what type of continuing education the Board will accept.

Chapter 4725-15-04 (no change) outlines specific information for Board approval of pharmacology and ocular disease continuing education.

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

4725-9-01 is amplified by ORC 4725.12.

4725-9-03 is amplified by ORC 4725.16.

4725-15-04 is amplified by ORC 4725.16.

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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?

No, the regulation is not related to federal requirements, laws or programs.

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

N/A

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)?

Pursuant to O. R. C. 4725.09, the Board is directed to adopt rules that establish the standards and procedures, under which the Board may issue, renew, suspend, or revoke certificates of licensure for the practice of optometry and set forth the requirements for what are acceptable continuing education courses and who may provide the training.

These no change rules help to ensure that licensed optometrists attend continuing education programs that will contribute to the advancement of their professional skill and knowledge, which enables them to render continuously better and more comprehensive optometric care to their patients.

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

Success will be measured by licensee's compliance to the administrative rules.

**Development of the Regulation**

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

Those reviewing the listed rules include; 6 Board Members, which include 5 licensed optometrists and 1 public member, the Ohio Optometric Association, the Ohio State University College of Optometry, Luxottica, our assigned Assistant Attorney General, the Executive Director of the Board, our Program Administrator 2 and our Board Investigator.

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

The Stakeholders contacted had no changes or comments to date to the three no-change rules. Any comments submitted will be reviewed at the June 11, 2014 board meeting, all comments and input will be included in any proposed revisions set forth.

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

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 because the Ohio Revised Code is prescriptive regarding continuing education requirements.

11. Did the Agency specifically consider a performance-based regulation? Please explain.

The Board did not consider a performance based regulation because the Statutes are prescriptive in what is required and because rules related to licensure and certifications, in general, are not conducive to a performance based approach to regulation. The continuing education standards referenced in these three rules are competency based education requirements and not performance based.

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

Chapter 4725 is the only regulation that has the authority to govern the practice of optometry and its licensees. It does not duplicate or overlap with any other existing Ohio regulation. The Board of Optometry has exclusive authority to regulate the practice of optometry by Ohio licensees. Board of Optometry staff reviewed O.R.C. 4729 and O. A. C. 4729 to avoid duplication and/or conflict with the Pharmacy Board in regards to rule 4725-15-04 and how it references pharmacology

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 Board of Optometry will use our website and OPT listservs, to distribute these three no change rules to our stakeholders.

Notices will also be sent to the Ohio Optometric Association, the Ohio State University – College of Optometry and all other stakeholders listed.

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## **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 scope of the impacted business community includes over 2100 Ohio licensed optometrists and the professional and/or general corporations who offer services through authorized business entity. Additionally, those providing the continuing education courses could potentially be impacted by these rules.

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

These three no-change rules, in and of themselves, do not require specific expenditures or impose specific fines or discipline measures for failure to comply. However, some provisions of these rules if not followed could result in late fees and/or non-renewed optometry licenses.

**c. Quantify the expected adverse impact from the regulation.**

The renewal fee of \$175 is required along with the proof of the required continuing education hours. Other costs expected from these three rules would be the actual continuing education training an optometrist receives. These costs vary depending on where they receive their continuing education hours. It can range from zero dollars, as some courses are free, to several hundred dollars, depending on the training, time, location, travel, etc.

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

O. R. C. 119.032 references the requirement for Boards/Commissions to review their rules every 5 years, having the agency review the rule to determine whether the rule should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rule was adopted. The 5 year rule review encompasses all adverse impacts to the regulated business community.

Pursuant to O. R. C. 4725.09, the Board is statutorily required to adopt rules that establish the standards and procedures, under which the Board may issue, renew, suspend, or revoke certificates of licensure for the practice of optometry and set forth the requirements for what are acceptable continuing education courses and who may provide the training.

**Ensuring professional standards in the requirements of continuing education for our licensed optometrists and the care they provide justifies the minimal adverse impact to the business community.**

**The purpose of the no-change rules justify the adverse impact as identified in this business impact analysis. They are necessary to further clarify the measures necessary to complete licensure.**

### **Regulatory Flexibility**

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

**The listed no change rules provide optometrists with the requirements for compliance of continuing education for annual renewal of the license. The rules do not provide any exemptions or alternative means of compliance, but O. R. C. 4725.16 does provide the possibility of an exemption for continuing education requirements based on illness or undue hardship.**

**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?**

**The no change rules do not necessarily impose fines or penalties; however, failure to complete the continuing education requirements will result in late fees and could possibly lead to non-renewal of their optometric license for failure to comply.**

**The Board reviews any complaint or offense on a case-by-case basis and each is investigated fairly and consistently. The Board's Assistant Attorney General is consulted whenever any discipline is considered.**

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

**The Board posts the statute and rules on the website. There is the office phone number and email links to correspond with the director of the board. There are also guidelines and newsletters, which are supplemental resources to assist in understanding licensure compliance. The board is very timely about responding to emails or telephone inquiries, usually within 1-24 hours.**

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