CSI - Ohio
The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Board of Optometry

Regulation/Package Title: No Change 5-Year Rule Review

Rule Number(s): 4725-5-02 through 4725-5-15 and 4725-7-03 and 4725-7-05

Date: 8/15/13

Rule Type:

- ☐ New
- ☐ Amended
- X 5-Year Review
- ☐ Rescinded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.**

   Chapters 4725-5 and 4725-7 of the Ohio Administrative Code addresses various situations that could warrant the Board of Optometry to discipline an optometrist by not adhering to the administrative rules. No changes are being made to these rules.

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

   Ohio Revised Code (ORC) Section 4725.09 is the statutory authority for Ohio Administrative Code rules stating, "(A) The state board of optometry shall adopt rules as it considers necessary to govern the practice of optometry and to administer and enforce sections 4725.01 to 4725.34 of the Revised Code. All rules adopted under those sections shall be adopted in accordance with Chapter 119. of the Revised Code."

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

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

   Not applicable

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)?**

   The listed rules are necessary to ensure safety to the public and acceptable business practices for all licensees. The regulations are required by the Ohio Revised Code and they allow the Board to consistently interpret the laws and rules providing the citizens of Ohio uniformity in these matters.

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 for the 5-Year Rule Review including; 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 and our Program Administrator 2.

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

An email was forwarded to the above listed stakeholders for an early review requesting comments. The stakeholders reviewed the rules listed and had no changes or comments to date to Chapter 4725-5-02 through 4725-5-15 and 4725-7-03 and 4725-7-5.

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?**

    Upon review of this chapter, the agency assessed the relevancy of the rules, the appropriateness of the rules, and critically reviewed for any needed changes. There were no changes proposed. The Board feels it is in the best interest to continue to be consistent with the rules as they are stated.

11. **Did the Agency specifically consider a performance-based regulation? Please explain.**
    N/A

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

    Chapter 4725 does not duplicate any other existing Ohio regulations.

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 Members and Board Staff will continue to apply the listed rules fair and consistently, when confronted with a situation that would apply to that specific rule.

Adverse Impact to Business

14. **Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**
    There is no cost associated with the compliance of the listed rules.
    a. **Identify the scope of the impacted business community;**
       The impacted business community includes over 2100 Ohio licensed optometrists and the professional and/or general corporations who offer services through authorized business entity.

b. **Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance);**
The adverse impact for non-compliance by an Ohio licensed optometrist could result in license suspension, fines or other discipline deemed necessary by the Board.

c. **Quantify the expected adverse impact from the regulation.**
There is no adverse impact to be quantified regarding the no change rules listed.

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

Most of the listed rules have been in place for many years and their regulatory intent justifies the adverse impact to the regulated business community in a fair and consistent manner. Without the listed rules, it would be extremely difficult to oversee our licensees and ensure safety to the public.

Regulatory Flexibility

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

The listed rules provide optometrist with the direction necessary to prevent them from violating our laws.

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 proposed rule changes do not necessarily impose fines or penalties. The Board generally applies the ORC section 119.14 waiver provision to all optometric programs, including those that meet the definition of "small business" as defined in paragraph (G)(1) of that section.

The Board reviews any complaint or offense on a case-by-case basis and each is investigated fairly and consistently.

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

The Board staff is always available to respond to inquiries without hesitation.