

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Board of Optometry

Regulation/Package Title: Licensing and Military Considerations

Rule Number(s): 4725-3-02, 4725-3-10 through and 4725-3-12

Date: 04/17/2014

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Rescinded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 4725-3-02 (no change) defines what is required from a license applicant.

Chapter 4725-3-10 (no change) outlines specific information for the criminal records

check. New Chapter 4725-3-11 includes definitions related to military service and veteran status, eligibility for licensure and provisions to waive jurisprudence continuing education upon renewal for active duty members.

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New Chapter 4725-3-12 includes provisions to issue a temporary license to the spouse of a military member if they are ordered to active duty in Ohio.

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

4725-3-02 is amplified by ORC 4725.12 and 4725.34.

4725-3-10 is amplified by ORC 4725.09 and 4725.12

The proposed rules are part of 5903 of the Ohio Revised Code and recently-enacted House Bill 98 requires each licensing board or commission to adopt rules identifying substantial military equivalents for its licensing education and experience requirements.

- 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)?**

The public purpose for 4725-3-02 and 3-10 are to clarify requirements to obtain a license. These rules are necessary to ensure compliance by applicants.

The public purpose of the proposed rules are to recognize a veteran's education and experience obtained in the military that is substantially equivalent to or exceeds training and education required for professional licensure so that it would meet certain requirements of the profession's standard licensing process. The proposed rules are intended to lead to increased employment opportunities among Ohioans who have served in the military by considering relevant military education, skills training, and service in the professional licensure process to establish the applicant's competency and sufficiency of education and training needed for safe practice. In addition, the proposed rules authorize the licensing agency to consider issuing to a qualified spouse of those serving on active military duty in this state, a temporary licensure or certificate to practice the trade or profession so that spouses can more quickly become employed in their profession.

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

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Military veterans should be able to have their military education, skills training, and experience more efficiently reviewed by the state agency when the agency considers the education and other requirements required for licensure and certification in applicable professions. The Board will track the number of veterans and their spouses who apply for licensure and will determine the expediency to which licensure is received in comparison with non-veteran applicants.

The expectation for success of this regulation is a reduced processing time for veteran applicants as well as an increased ease for veterans to have their military service and education credited towards civilian licensure.

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 board agreed that we should do whatever is possible to assist our military members in the licensure process. An email was forwarded to the above listed stakeholders for an early review requesting comments. The Stakeholders contacted had no changes or comments to date to the new rules proposed or the two no-change rules.

- 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?**

No alternative regulations were considered because the Ohio Revised Code is prescriptive regarding this matter.

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

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The Board/Commission 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.

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. Chapter 5903 is inclusive of the tasks for each board to include when writing these rules.

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.

When receiving applications for licensure, the board is adamant about reviewing each application for correctness, completeness as well as reviewing any violations on criminal background checks on an individual basis. We only enforce rules or statutes, so we are consistent and predictable. We have included questions on our application to determine if they are a military service member, or spouse of such, and process accordingly.

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;
Applicants and Ohio military veterans and their spouses who are potential licensees under the profession regulated by the Board.
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

The nature of the adverse impact would include the time and effort required to complete an application, and any application fees. In addition, the time and cost required to comply with any initial and/or continuing education requirements and licensure renewal expenses. The purpose of this proposed new rule filing is to reduce these adverse impacts by recognizing equivalent education and experience gained in the military which would offset some of the requirements of the standard licensing process.

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c. Quantify the expected adverse impact from the regulation.

There are fees associated with the applications for licensure, including \$175 initial license. The military service members may have the initial license fee waived. The specific changes being proposed in this rule filing are intended to reduce the impacts of normal licensure by recognizing equivalent education and experience gained through a potential licensee's military experiences.

In no-change rule 4725-3-10, there is a cost of \$46 to have the background check completed. The background check is essential to the application process.

The initial license fee is \$175, which is \$130 for application for a certificate of licensure and \$45 for application for a therapeutic pharmaceutical agents certificate, which all optometrists are required to have since 1992.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated 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. In no-change rule 4725-3-02, there is a requirement for a passport type photograph. This requirement is to prevent fraud and is part of the standard application process. There is also a requirement in this rule, which requires the application fee be paid by certified check, a cashier's check, or a postal money order. This requirement prevents returned personal checks and is also part of the standard application process.

The two new rules are due to Executive Order 2013-05K and recently-enacted House Bill 98 both recognizing the contributions and qualifications of Ohio veterans and encourage streamlining of the certification and licensing process to take into account relevant military education, skills training, and service. The regulatory intent is further justified because the Board recognizes that the experiences of our military are valuable, translatable in certain circumstances, and should be considered in the licensing process wherever possible to facilitate economic opportunities for veterans returning to civilian service in a professional field.

Regulatory Flexibility

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

Not applicable

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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 rules 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. For incomplete applications, the board will attempt to contact the applicant by phone, email and mail, to ensure the application can be completed and processed.

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.