

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Respiratory Care Board

Regulation/Package Title: 119.032 review for HME and RC Rules 8-2013

Rule Number(s): OAC 4761-3-01(amended), 4761-8-01 (amended), 4761-9-02 (amended), 4761-9-05 (amended), 4761-12-01 (amended), and 4761-4-03 (New)

Date: March 3, 2014

Rule Type:

- New
 Amended

- 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 Rescinded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.

Proposed amended rules 4761-3-01, 4761-8-01, 4761-9-02, 4761-9-05, 4761-12-01 and proposed new rule 4761-4-03.

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These rules are being proposed to meet the requirements of ORC Section 5903.03 and pursuant to the recommendations of the Valuing Ohio Veterans – Awarding Credit Toward College & Professional Licenses for Military Experience, under Executive Order 2013 – 05K.

Proposed rule 4761-4-03 – defines the military education deemed equivalent for the purposes of obtaining a license to practice respiratory care in Ohio.

Proposed rule 4761-3-01 – defines the terms “Active duty military service” and “Veteran.”

Proposed rule 4761-8-01 – adds language to waive late renewal fees and continuing education based on active duty military service. Includes spouses of active duty military members.

Proposed rule 4761-9-02 adds language to waive continuing education for active duty military members and spouses.

Proposed rule 4761-9-05 adds relevant military education and training as a source for continuing education.

Proposed rule 4761-12-01 will waive 50% of initial fee for active duty military members.

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Please include the key provisions of the regulation as well as any proposed amendments.

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

ORC Section 5903.03

ORC Section 4761.03 (A)(4)

ORC Section 4761.06 (B)

ORC Section 4761.07

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?

If yes, please briefly explain the source and substance of the federal requirement.

No.

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

The federal government has no specific requirements in this regard.

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)?

This set of rules meet the requirements of ORC Section 5903.03 and the recommendations of the Valuing Ohio Veterans – Awarding Credit Toward College & Professional Licenses for Military Experience, under Executive Order 2013 – 05K.

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

The success of these rules are reviewed by monitoring persons identifying themselves as active duty military, veterans, and spouses of active duty military, and veterans. Monitoring if licensing processes are expedited and continuing education is waived appropriately will be a key indicator of the success of these regulations.

Development of the Regulation

7. 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

The Ohio Respiratory Care Board developed these proposed rule amendments based upon recommendations of the Valuing Ohio Veterans – Awarding Credit Toward College & Professional Licenses for Military Experience, under Executive Order 2013 – 05K. The Board does not have a list of active service members or veterans, since the agency has not requested this type of data in the past. This limited the Board’s ability to seek general input into the proposed amendments.

The Ohio Respiratory Care Board will email these rules to the Ohio Department of Veteran’s affairs for CSI comment. The Board has no list of persons specifically identified as active duty military members or veterans. The Board also emailed the rules to all licensed therapists requesting input on the rules, assuming that a percentage of active therapists are veterans or active duty military.

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

See response to question #7.

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?

No scientific data used to develop these rules. These rules are being proposed in response to legislation and specific recommendations made by the Valuing Ohio Veterans – Awarding Credit Toward College & Professional Licenses for Military Experience, under Executive Order 2013 – 05K.

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?

These rules are being proposed to meet the requirements of ORC Section 5903.03 and pursuant to the recommendations of the Valuing Ohio Veterans – Awarding Credit Toward College & Professional Licenses for Military Experience, under Executive Order 2013 – 05K. The agency's rules were reviewed given the recommendation made under the Valuing Ohio Veterans – Awarding Credit Toward College & Professional Licenses for Military Experience report. These rules were found to be the best alternatives to meet the requirements and recommendations stated in this report.

11. 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.*

The Board did not consider performance based regulation. Most of the rules being proposed were not considered to be regulations that have performance based attributes. Continuing education waivers have a potential performance based effect, but the rule changes proposed did not consider the effect of the changes, only the necessity to implement the changes to address specific recommendations proposed in the Valuing Ohio Veterans – Awarding Credit Toward College & Professional Licenses for Military Experience document.

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

These rules are written specifically for entities regulated by the Ohio Respiratory Care Board. The Board is aware of no other Ohio regulation that duplicates these requirements.

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 rules are posted on the Board’s website and are available by request for any person or entity requesting them. In addition, the Board will send all amended rules, by email, to licensed providers upon adoption. These changes may also require the Board to amend parts of the initial application to track or identify active duty military members or veterans and/or develop a new form to meet this requirement. The Board will also list rules in its newsletter and discuss rule impact.

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 rules establish specific procedures for the collection of continuing education and the waiver of specific fees. These proposed rules would actually decrease costs to persons impacted by this rule. Minimizing cost to active duty military personnel and spouse is evident in nearly all of the proposed rules, which allow for waiver of the number of hours of continuing education, a decrease or waive of specific fees, and/or new sources of continuing education.

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

There should be no adverse impact related to the proposed rules changes.

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.

Not applicable.

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

There should be no adverse impact to the regulated community through these rules. These rules are intended to remove barriers to practice or provide advantage for active duty military members or veterans. Additionally, the proposed rules do not have any impact on the business community, only individuals that fall under the regulations.

There should be no adverse impact related to the proposed rules changes. Accordingly, there is no need to justify the adverse impact.

Regulatory Flexibility

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

This rule affects licensed individuals, not businesses.

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?

These rules are procedural rules and do not address paperwork filing or violations.

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

The rules are posted on the Board's website and are available by request for any person or entity requesting them. The rules will be sent, by email, to all active licensees and the Board will list them in their newsletter.