

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: State Medical Board of Ohio

Regulation/Package Title: Podiatry Licensure

Rule Number(s): 4731-12-01, 4731-12-02, 4731-12-03, 4731-12-04, 4731-12-05, 4731-12-06,

4731-12-07

Date: July 11, 2016

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Rescinded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.

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

The rules in Chapter 4731-12, OAC, define terms applicable to the licensing of podiatric physicians and clarify applicable processes and procedures. Rule 4731-12-01 clarifies how an

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applicant evidences meeting the preliminary education requirement of Section 4731.53 of the Revised Code. Rule 4731-12-02 clarifies what podiatric colleges are in “good standing,” for purposes of Section 4731.53 of the Revised Code. Rule 4731-12-03 clarifies the eligibility requirements for the podiatric licensing examination. Rule 47431-12-04 clarifies requirements for podiatric licensure by endorsement of a licensing examination taken in another state, territory, or the District of Columbia. Rule 4731-12-05 sets forth the licensure application process for podiatrists. Rule 4731-12-06 sets forth the process for applying for a visiting podiatric faculty certificate. Because the current language is amended by at least fifty percent, the current rule will be rescinded and the amended language adopted as a new rule. Rule 4731-12-07 sets forth the process for applying for a podiatric training certificate.

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

The rules in Chapter 4731-12 are authorized by Sections 4731.05 and 4731.55 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?

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

No, the rules do not implement a federal requirement.

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 rules in Chapter 4731-12 facilitate the licensure of podiatrists in Ohio by setting forth the requirements, processes, and procedures for licensure.

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

The success of the rules in Chapter 4731-12 will be measured by the extent to which the applications filed for podiatric licensure comply with the rules. The Medical Board measures the time it takes to process an application. An application that is incomplete because the applicant did not understand the process or the requirements takes more days to process.

Development of the Regulation

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

On February 12, 2016, the proposed rule actions were sent to the Ohio Foot and Ankle Medical Association (formerly the Ohio Podiatric Medicine Association); Ohio Association of Physician Assistants, Ohio State Medical Association, Ohio Academy of Family Physicians, Academy of Medicine of Cleveland and Northern Ohio, Ohio Osteopathic Association, governmental affairs representatives for numerous organizations, attorneys who appear before the Medical Board, and all others persons and organizations who have requested notice of Medical Board rule activity.

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

No comments were received from interested parties. The podiatrist member of the Medical Board provided guidance as to amendments to update the language to current terminology.

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?

The rules generally set processes and procedures that are in keeping with the standards implemented by podiatric licensing boards across the United States. See information on the website of the Federation of Podiatric Medical Boards at the following link:

<https://www.fpmb.org/Resources/Compendium.aspx>.

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. The rules, most of which have been in effect since at least 2004, have facilitated the podiatric licensure process in Ohio.

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 rules in Chapter 4731-12 define terms, clarify what information is needed as part of an application for licensure, and set forth the Medical Board's procedures for processing podiatric training certificates. The rules do not dictate the process applicants must use to achieve compliance.

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

The Medical Board is the only agency that has authority to promulgate rules applicable to the licensure application process for podiatric licensure.

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 current rules were amended for clarity and to determine whether the language reflects the current processes and procedures, but the amendments do not change the established processes that have been in place. The rules will be posted on the Medical Board's website and notice that the rules have been amended will be sent to interested parties. The Medical Board has applied the rules consistently since they were first adopted and will continue to do so.

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 impacted business community is made of persons wishing to practice podiatry in Ohio.

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

Rule 4731-12-01 implements the requirements of Section 4731.53 of the Revised Code requiring the applicant to establish having completed high school graduation and at least two years of college work in an approved college by stating that a diploma from a podiatric college in good standing constitutes meeting the requirement.

Rule 4731-12-03 implements Section 4731.55 of the Revised Code by specifying the examination sequence that comprises the podiatric licensure examination. It also implements Section 4731.53 of the Revised Code by clarifying preliminary education required for the applicant to be able to sit for the licensure examination.

Rule 4731-12-04 is only applicable to persons who hold current podiatric medical licensure in another state, territory, or the District of Columbia. It implements Section 4731.57 of the Revised Code by clarifying that the applicants who hold podiatric licenses in another state may be licensed without re-examination if they passed one of the specified examination sequences.

Rule 4731-12-05 implements Sections 4731.52, 4731.53, 4731.56, and 4776.02 of the Revised Code by setting forth in one provision the application requirements. The requirements include the payment of an application fee and compliance with the requirement to undergo a criminal records check.

Rule 4731-12-06 implements Section 4731.752 of the Revised Code for visiting podiatric medical faculty certificates. The rule requires that the duties of the applicant be set forth in the application and that dean of the school and the medical director of each affiliated teaching hospital be responsible for assuring that the certificate holder does not engage in practice outside of the scope given in the application.

Rule 4731-12-07 requires the applicant for a podiatric training certificate to pay the appropriate application fee.

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.

For Rule 4731-12-01, the cost of tuition and fees for one year of podiatric education at Kent State University, the only podiatric school in Ohio, is \$38,364. (See <https://www.kent.edu/cpm/tuition-fees>) The program is generally a two-year program. (See <https://du1ux2871uqvu.cloudfront.net/sites/default/files/file/KSUCPM%20Viewbook.pdf>)

For Rule 4731-12-03, Section 4731.53 of the Revised Code sets the fee for the preliminary education review as \$35. Each of the three examinations in the required examination sequence costs \$900.00 See information on the American Podiatric Medical Licensing Examination website at: <http://www.apmle.com/about-the-exam/exam-cost/>.

For Rule 4731-12-04, the adverse impact cannot be quantified. The rule is only applicable to persons already licensed in another state, territory, or the District of Columbia. The cost of licensure differs in each jurisdiction. The cost of the licensure

examination sequence the applicant would have already completed also differs upon the examination sequence completed and the date the examination was taken.

For Rule 4731-12-05, Section 4731.56 of the Revised Code sets the application fee at \$300. The standard fee for the fingerprints upon which the criminal records check is based varies, depending on the location or agency providing the service. See information on the Ohio Attorney General website at:

<http://www.ohioattorneygeneral.gov/Services/Business/WebCheck/Webcheck-Community-Listing>.

For Rule 4731-12-06, the costs cannot be quantified as the costs will vary depending on whether the college dean or an administrative assistant completes the form for the dean's signature. The cost for "assuring that the holder of the certificate does not engage in practice outside its scope," depends upon the salary of the dean and/or medical director and the amount of time required.

For Rule 4731-12-07, the fee for a training certificate is listed in Section 4731.573 as being \$75.

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

The rules in Chapter 4731-12, OAC, facilitate licensure of persons seeking to practice podiatric medicine in Ohio by defining terms, clarifying expectations for licensure examination, and setting forth the process and procedures for the application process.

Regulatory Flexibility

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

There are no exemptions or alternative means of compliance for small businesses. The Medical Board does not license businesses, only individuals. Tenets of good government require that each applicant for a podiatric medicine license, visiting podiatric faculty certificate, or training certificate be treated alike, no matter the size of the practice or facility they will practice in.

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?

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There are no fines or penalties for paperwork violations or first-time offenders. Failure to comply with the rules will result in a longer time for processing the application or the denial of the application based upon failure to provide the required fee or information to establish eligibility for licensure.

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

Medical Board staff members are available to assist applicants and others.

*** DRAFT - NOT YET FILED ***

4731-12-01

Preliminary education for licensure in podiatric medicine and surgery.

Production of a diploma from a college of podiatric medicine and surgery in good standing as ~~defined~~ determined by the board at the time the diploma was issued constitutes prima facie evidence that the individual has completed the requisite preliminary education under section 4731.53 of the Revised Code.

*** DRAFT - NOT YET FILED ***

4731-12-02

Standing of colleges of podiatric surgery and medicine.

- (A) A college of podiatric medicine and surgery in the United States shall be defined as being in good standing at the time the diploma was issued for the purposes of section 4731.53 of the Revised Code if the institution is accredited by the ~~council on podiatry education of the American podiatric medical association~~["Council on Podiatric Medical Education"](#), or its predecessor accrediting organizations as determined by the board.
- (B) To meet the requirement of section 4731.53 of the Revised Code that an applicant present a diploma from a college of podiatric medicine and surgery in good standing as defined by the board at the time the diploma was issued, an applicant presenting a diploma from a college located outside the United States must present evidence sufficient to establish to the board's satisfaction that the educational program completed at such school meets or exceeds the standards established by the ~~council on podiatry education of the American podiatric medical association~~["Council on Podiatric Medical Education"](#) for colleges of podiatric medicine and surgery in the United States.

***** DRAFT - NOT YET FILED *****

4731-12-03

Eligibility for the examination in podiatric medicine and surgery; passing average.

- (A) An applicant for a certificate to practice podiatric medicine and surgery is eligible for consideration to take the examination in podiatric medicine and surgery if, in addition to meeting the other requirements of sections 4731.52 and 4731.53 of the Revised Code, the applicant holds a diploma from a college in good standing as defined in rule 4731-12-02 of the Administrative Code.
- (B) The examination in podiatric medicine and surgery shall consist of parts I, II and III of the national board of podiatric medical examiners examination. . Prior to applying for a certificate to practice podiatric medicine and surgery, and prior to sitting for part III of the national board of podiatric medical examiners examination, an applicant shall have passed parts I and II of the national board of podiatric medical examiners examination.
- (C) An applicant shall obtain diplomate or passing status with the national board of podiatric medical examiners on parts I, II and III of the national board examination in order to be considered as having passed the examination in podiatric medicine and surgery.

*** DRAFT - NOT YET FILED ***

4731-12-04

Eligibility for licensure in podiatric medicine and surgery by endorsement from another state.

- (A) An applicant for a license to practice podiatric medicine and surgery who holds a license from another state, United States territory, or the District of Columbia, shall be eligible for licensure consideration without examination if, in addition to any other requirements of sections 4731.51 to 4731.61 of the Revised Code and Chapter 4731-12 of the Administrative Code, the requirements of paragraphs (B) to (E) of this rule are met.
- (B) If the license being endorsed is based upon an examination administered between June 12, 1990 and December 4, 2000, the license shall be based upon the passing of the "PMLexis" in addition to the holding of a passing status or diplomate status with the national board of podiatric medical examiners.
- (C) If the license being endorsed is based upon an examination administered after December 4, 2000, the license shall be based on passing parts I, II and III of the national board of podiatric medical examiners examination.
- (D) If the license being endorsed is based upon an examination administered before June 12, 1990, it shall have been:
- (1) Administered by the state, United States territory, or district issuing the license, and, have been in part, a written examination;
 - (2) Taken without having failed the national board of podiatric medical examiners examination unless an intervening passing status or diplomate status on that examination has been achieved; and
 - (3) Taken without having failed to achieve a minimum passing score on the PMLexis or part III of the national board of podiatric medical examiners examination unless an intervening passing status on that examination has been achieved. For purposes of this rule, a minimum passing score will be that figure recommended by the national board of podiatric medical examiners/federation of podiatric medical boards.
- (E) An applicant for endorsement licensure shall file ~~a written application, under oath, on a form prescribed by the board~~ [an application in the manner provided in section 4731.52 of Revised Code](#), furnish satisfactory proof that he or she is more than eighteen years of age and of good moral character and provide other facts and materials as the board requires.
- (F) The license being endorsed shall be current and in good standing and shall be a full

and unlimited license to practice podiatric medicine and surgery. An exception may be made by the board in those cases where an applicant cannot renew his or her license in the other jurisdiction for purposes of endorsement due to residency or similar requirements.

~~(G) Notwithstanding paragraphs (A) to (E) of this rule, and in addition to grounds otherwise contained in a statute or rule, the board may refuse an applicant endorsement who has not been engaged in any of the following activities during the two years immediately prior to the date of application:~~

- ~~(1) Active clinical practice of podiatric medicine and surgery;~~
- ~~(2) The taking of postgraduate training approved by the council on podiatric medical education of the American podiatric medical association or conducted under sponsorship of an institution accredited by the council;~~
- ~~(3) The attendance as a student at a school of podiatric medicine and surgery recognized by the board pursuant to rule 4731-12-02 of the Administrative Code and section 4731.53 of the Revised Code.~~

*** DRAFT - NOT YET FILED ***

4731-12-05

Application procedures for licensure in podiatric medicine and surgery; investigation; ~~notice of hearing rights.~~

- (A) All applicants for licensure in podiatric medicine and surgery shall file ~~a written~~ an application under oath on the form prescribed by the board in the manner provided in section 4731.52 of the Revised Code, and provide such other facts and materials as the board requires including proof of completion of a minimum of one year of postgraduate training in a podiatric internship, residency or clinical fellowship program accredited by the ~~council on podiatric medical education of the American podiatric medical association~~ "Council on Podiatric Medical Education.
- (B) No application shall be considered filed until the appropriate fee has been received by the board.
- (C) No application shall be considered complete until the applicant has complied with the requirements of paragraph (A) of rule 4731-4-02 of the Administrative Code and the board has received the results of the criminal records checks and any other forms required to be submitted pursuant to paragraph (A) of rule 4731-4-02 of the Administrative Code.
- (D) All application materials submitted to the board by applicants for licensure in podiatric medicine and surgery will be thoroughly investigated. The board will contact individual agencies or organizations for recommendations or other information about applicants as the board deems necessary. Applicants may be requested to appear before the board or a representative thereof as part of the application process.
- (E) Applications to take the examination for licensure in podiatric medicine and surgery in Ohio shall be filed at the board offices not less than sixty days prior to the first day of the examination. Under special circumstances, later filing may be permitted at the discretion of the board.
- ~~(F) Any applicant to whom the board proposes to deny licensure in podiatric medicine and surgery pursuant to Chapter 4731. of the Revised Code or because of failure to meet any of the requirements of Chapter 4731-12 of the Administrative Code shall be entitled to a hearing on the issue of such proposed denial. Notice and hearing requirements incident to such proposed denial will be in compliance with the provisions of Chapter 119. of the Revised Code and any rules adopted by the board pursuant to Chapter 119. of the Revised Code.~~

*** DRAFT - NOT YET FILED ***

4731-12-06

Visiting podiatric faculty certificates.

- (A) ~~A visiting podiatric faculty certificate may be issued to an applicant holding a current, unrestricted license to practice podiatric medicine and surgery in another state or country if he or she has been appointed to serve in this state on the academic staff of a college of podiatric medicine and surgery accredited by the council on podiatry education of the American podiatric medical association, or its predecessor accrediting organizations as determined by the board, and he or she meets the eligibility requirements of section 4731.572 of the Revised Code. A current, unrestricted license is a license or other authority granted by the appropriate entity or governmental body which lawfully permits the applicant to practice podiatric medicine and surgery without governmental restriction or limitation.~~ For purposes of section 4731.572 of the Revised Code, the following definitions apply:
- (1) "Approved college of podiatric medicine and surgery in good standing" means a college of podiatric medicine and surgery accredited by the "Council on Podiatric Medical Education," or its predecessor accrediting organizations.
- (2) "A current, unrestricted license" means a license or other authority granted by the appropriate entity or governmental body which lawfully permits the applicant to practice podiatric medicine and surgery without governmental restriction or limitation.
- (B) The ~~holder of a visiting podiatric faculty certificate shall practice only as is incidental to teaching duties at the school, or at those teaching hospitals affiliated with the school. Those~~ duties of the applicant shall be set forth upon the application and approved by the board.
- (C) By signing the application for a visiting podiatric faculty certificate, the dean of the school and the medical director of each affiliated teaching hospital are responsible for assuring that the holder of the certificate does not engage in practice outside its scope. They are further responsible for reporting to the board any belief that practice outside its scope has occurred.
- (D) An individual shall be granted only one visiting podiatric faculty certificate, and shall be ineligible to apply for its renewal ~~or a second visiting podiatric faculty certificate.~~

***** DRAFT - NOT YET FILED *****

4731-12-07

Podiatric training certificates.

~~(A) A training certificate is mandatory for participation in an internship or residency accredited by the council on podiatric medical education (CPME) or the American podiatric medical association (APMA), or a clinical fellowship program at an institution with a residency program accredited by CPME or the APMA in the same or a related field unless the participant holds a current certificate to practice podiatric medicine and surgery under section 4731.53 of the Revised Code.~~

~~(B) A training certificate shall be issued to those applicants meeting the requirements of section 4731.573 of the Revised Code and this chapter of the Administrative Code. In addition, those applicants who are training as clinical fellows will be eligible to receive a training certificate in sub-specialty areas only if the institution in which they are pursuing a clinical fellowship has a residency program in the same or related clinical field and that residency program is accredited by the CPME or APMA.~~

~~(C) The holder of a training certificate must limit his or her activities to those set forth in section 4731.573 of the Revised Code. The acknowledgment letter and subsequent training certificate entitle the holder to perform only such acts as may be prescribed by or incidental to the internship, residency, or clinical fellowship program, but do not entitle one to otherwise engage in the practice of podiatric medicine and surgery in this state.~~

~~(D) A training certificate may be renewed annually for a maximum of five years.~~

~~(E) The holder must limit activities under the acknowledgment letter or training certificate to the programs of the hospital or facilities for which the training certificate is issued. The holder must train only under the supervision of the physicians responsible for supervision as part of the internship, residency, or clinical fellowship program.~~

~~(F) The board may take disciplinary action against an applicant or holder of a training certificate upon proof, satisfactory to the board, that the holder has engaged in practice in this state outside the scope of the internship, residency, or clinical fellowship program for which the training certificate has been issued, or upon other proof, satisfactory to the board, that the applicant has engaged in conduct that is grounds for action under section 4731.22 of the Revised Code. In accordance with section 3719.121 or section 4731.22 of the Revised Code, the board may suspend without a prior hearing a training certificate or the right to participate in training under an acknowledgment letter issued pursuant to this rule.~~

~~(G)~~(A) Upon the board's receipt of an application for a training certificate, or upon the board's receipt of written notice from an applicant for a certificate to practice podiatric medicine and surgery under section 4731.53 of the Revised Code, that the applicant intends to participate in a training program described in paragraph (A) of this rule, and after verifying that the applicant has paid the appropriate fee, the

board will issue to the applicant an acknowledgment letter. Upon receipt of that acknowledgment letter the applicant may begin participating in the program that meets the requirements of section 4731.573 of the Revised Code, and this chapter of the Administrative Code, to which he or she has been appointed while the application is being processed. That acknowledgment letter will serve as proof that the board has received the application and that the applicant is entitled to continue participation in the training program. If an applicant has not received an acknowledgment letter from the board within forty-five days of submitting an application, then the applicant shall immediately inform the board and the director of his or her training program in writing.

~~(H)~~(B) An acknowledgment letter issued under this rule shall authorize participation in a training program for one hundred and twenty days, unless prior to that time the board:

- (1) Issues the certificate; or
- (2) Issues an order in accordance with Ohio law suspending without a prior hearing the authority to participate; or
- (3) Accepts a withdrawal of the application; or
- (4) Issues a notice of opportunity for hearing in accordance with Chapter 119. of the Revised Code, in which case the authority to participate shall continue until the board's issuance of a final order granting or denying the application, or until the end of the training year, whichever comes first; or
- (5) In the case of an applicant for a certificate under section 4731.53 of the Revised Code, advises the applicant in writing that a substantial question of a violation of this chapter or the rules adopted under it exists and that investigation is continuing, in which case the authority to participate shall continue until one of the following occur:
 - (a) The board issues a certificate; or
 - (b) The board issues a final order in accordance with Chapter 119. of the Revised Code; or
 - (c) The training year ends.

Except as provided above, participation in a training program pursuant to an acknowledgment letter cannot be renewed or extended beyond

one hundred and twenty days.

- (C) If at the end of one hundred and twenty days following issuance of an acknowledgment letter to an applicant for a training certificate the board has commenced but not yet concluded investigation or inquiry into issues of possible violations of Chapter 4731. of the Revised Code, it shall issue a training certificate to the applicant but shall not be deemed to have waived any issues which would constitute grounds to impose discipline under Chapter 4731. of the Revised Code.
- (D) If the applicant or training certificate holder changes training programs before the end of the training year while maintaining the same finishing date of his or her post graduate training year (e.g., June thirtieth), the board must be notified in writing immediately. A new application need not be completed. However, acknowledgment by the board of receipt of written notification of change in training programs will be required prior to starting the new training program. The new training certificate will only be valid for the remainder of the training year for which the applicant has been issued a current certificate.
- (E) A training certificate shall be valid for one training year, but may, at the discretion of the board, be renewed annually for a maximum of five years. Renewal applications are mailed approximately April first for those who initiated their training on July first. Interns, residents, or clinical fellows who began their training after July first of the training year will be mailed their renewal application approximately three months prior to the expiration of their training certificate.
- (F) This rule and section 4731.573 of the Revised Code do not apply to or prohibit any graduate of a podiatric school or college from performing those acts that may be prescribed by or incidental to participation in an accredited podiatric internship, residency, or fellowship program accredited by the ~~"Council on Podiatric Medical Education of the American Podiatric Medical Association."~~ ["Council on Podiatric Medical Education."](#)
- (G) A person who holds a suspended certificate to practice podiatric medicine and surgery under section 4731.53 of the Revised Code is not eligible for a training certificate. Such a person must restore that certificate in accordance with sections 4731.222 and 4731.281 of the Revised Code before beginning postgraduate training in Ohio. A person whose certificate has been permanently revoked or permanently denied is ineligible to participate in postgraduate training in Ohio.