# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

**Agency Name:** State Medical Board

**Regulation/Package Title:** Radiologist Assistant Rules

**Rule Number(s):** 4774-1-01, 4774-1-02, 4774-03, 4747-2-01, and 4774-2-02

**Date:** _____

**Rule Type:**

- ☐ New
- X 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- ☐ Rescinded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.**
   ***Please include the key provisions of the regulation as well as any proposed amendments.***

   **Rule 4774-1-01** defines terms used in Chapter 4774 of the Ohio Revised Code in terms consistent with the definitions applicable to physicians who supervise the radiologist assistants.

**Rule 4774-1-02** sets forth the procedure for applying for a certificate to practice (license) as a radiologist assistant.

**Rule 4774-1-03** sets forth the procedure for applying to renew a certificate to practice (license) as a radiologist assistant.

**Rule 4774-1-04** incorporates certain rules in Chapter 4731, Ohio Administrative Code, as though fully set out in Chapter 4774-1, Ohio Administrative Code.

**Rule 4774-2-01** defines terms applicable to Rule 4774-2-02, criminal records checks for radiologist assistant applicants.

**Rule 4774-2-02** sets forth the procedure for the radiologist assistant applicant's criminal records check.

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

   The rules in Chapter 4774-1 are authorized by Sections 4774.03, 4774.06, and 4774.11, Ohio Revised Code. The rules in Chapter 4774-2 are authorized by Sections 4774.11 and 4776.03, Ohio 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.***

   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)?**

   Rule 4774-1-01 is needed to clarify for physicians, radiologist assistants, others involved in health care, and the public the scope of practice for radiologist assistants.

   Rules 4774-1-02 and 4774-1-03 clarify for radiologist assistants the expectations for documents and information required for applications to be considered complete. Rule 4774-1-02 also sets the licensure application fee. Rule 4774-1-03 also sets the license renewal fee.

Rules 4774-2-01 and 4774-2-02 are required by Section 4776.03, Ohio Revised Code, in order to notify applicants of the required process for criminal records checks. Receipt of the criminal records reports is required for an application to be complete, pursuant to Section 4774.031, Ohio Revised Code.

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

   Success of the rules will be reflected in the percentage of complete applications received by applicants for initial licensure and renewal.

## 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 contacted.***

   On January 15, 2016 the rules were sent to interested parties indicating that the definitions in Rule 4774-1-01 were proposed to be amended to reflect current terminology, with all other rules to be "no change" rules. The interested parties included those persons, including lobbyists, who have indicated an interest in radiologist assistant rules, Ohio State Medical Association, Ohio Osteopathic Association, Ohio Hospital Association, Ohio Department of Health, The Ohio State University Medical Center, and the Ohio State Radiologic Society.

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 stakeholders.

   Subsequently it was discovered that additional changes were needed to reflect changes in process, and the changes were made without re-submitting the rules to interested parties. In Rules 4774-1-02 and 4774-1-03 reference to filing an application "on forms prescribed by the board" was removed. The Medical Board is removing this language from all rules concerning all types of licensure applications to reflect that applications are being transitioned to electronic filings instead of paper forms. Rule 4774-2-02 was amended to reflect that the out-of-state applicant no longer needs to have their fingerprints taken by a law enforcement agency in that state. This change is made because out-of-state applicants for Medical Board licenses have complained that the law enforcement agencies in their state decline to perform the service.

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 definitions in Rule 4774-1-01 were updated to current terminology by Medical Board physician members, including an anesthesiologist. The other rules set processes and procedures and do not need to be based on scientific data.

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 rules were considered because the rules have been successful since implemented in 2009.

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.***

    Rules 4774-1-01 and 4774-2-01 consist of definitions. Rules 4774-1-02, 4774-1-03, 4774-1-04, and 4774-2-02 are performance based in that they set out expectations but don't dictate how compliance is achieved.

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

    The State Medical Board is the only agency that regulates radiologist assistants. The medical terminology in Rule 4774-1-01 is being amended to reflect the definitions that will also be proposed as applicable to physicians in Rule 4731-25-01 so that terminology is consistent in all medical practice.

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 will be posted on the Medical Board's website. Notice will be sent to all interested parties who receive notice of Medical Board rule activity and included in the Medical Board's newsletter, which is emailed to all Medical Board licensees. The rules will continue to be applied consistently.

## 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 consists of persons who wish to practice as radiologist assistants. It also includes physicians and medical practices and hospitals who wish to use radiologist assistants to provide certain services.

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

The nature of the impact is that the person must file an application for licensure and then for renewal of the license, pay an application or renewal fee, and pay to have a criminal records check completed. For physicians and medical practices the adverse impact is the cost of employing a person who has had to obtain and maintain a radiologist assistant license.

**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.***

Section 4774.02, Ohio Revised Code, sets out the requirements for eligibility for a radiologist assistant certificate to practice.

- The person must hold a valid license as a radiographer issued under Chapter 4773, Ohio Revised Code. The licensure application fee paid to the Ohio Department of Health is $65.00. (See Rule 3701-72-02, Ohio Administrative Code.)
- The person must hold an appropriate degree from an advanced academic program for radiologist assistants. Fifty two academic hours are required to complete the Radiology Assistant Program at The Ohio State University. (See http://medicine.osu.edu/hrs/rd/future-students/graduate%20studies/radiologist-assistant-ra/Pages/index.aspx) The cost of the Radiology Assistant Program at The Ohio State University can be determined by the chart found at the following link: http://registrar.osu.edu/FeeTables/Web_AU15_Fee_Table/indiv_tables_au15/Graduate.pdf. The Ohio State program is the only radiologist assistant program in Ohio.
- The person must hold certification by the American Registry of Radiologic Technologists. Registration for the required certification examination is $200. (See https://www.arrt.org/pdfs/RRA/RRA-Handbook.pdf.)
- The person must pay an application fee to the Medical Board of $200.00. See Rule 4774-1-02(B).

- Pursuant to Section 4774.031, Ohio Revised Code, and Rule 4774-2-02, the applicant must undergo a criminal records check. The estimated price for both the Ohio and federal background checks ranges from $55 to $70, paid to the authorized provider. (See information on the Ohio Attorney General's website at: http://www.ohioattorneygeneral.gov/Business-and-Non-Profits/Business/Webcheck/Webcheck-Community-Listing.aspx.)

Section 4774.06, Ohio Revised Code, sets out the requirements for renewal of a certificate to practice as a radiologist assistant.

- The person must have a valid license as a radiographer under Chapter 4773, Ohio Revise Code. Renewal of the radiographer's license is $45.00. (See Rule 3701-72-02, Ohio Administrative Code.
- The person must have certification as a radiologist assistant from the American Registry of Radiologic Technologists, including the completion of continuing education established by the registry. The fee for renewal of the certification is $25.00 per year, plus the cost of the ten-year continuing quality requirements. (See https://www.arrt.org/Registration/Annual-Renewal.)
- The person must pay a renewal fee of $200.00 to the Medical Board for a two-year renewal.

For physicians and medical practices wishing to employ radiologist assistants, the 2008 (the most recent numbers available to the public) salaries ranged from $90,076 to $112,615. http://www.radiology-schools.com/radiologist-assistant.html.

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

Except for the certificate to practice application fee and renewal fee, the adverse impact results from the provisions of the Ohio Revised Code, which are implemented through the rules in question. The rules clarify for applicants and employers the requirements to receive and renew a certificate to practice as a radiologist assistant.

## Regulatory Flexibility

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

Each radiologist assistant is a "small business." It is more equitable to hold each applicant or licensee to the same standards.

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?**

    There are no fines or penalties for failing to submit the required initial and renewal applications. Failure to submit the required information and/or fee after having been sent a notice of "missing" information or fee will result in denial of the application.

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

    The Medical Board staff is available to answer questions concerning the rules.

*** DRAFT - NOT YET FILED ***

4774-2-02 **Criminal records checks.**

(A) An applicant for an initial certificate to practice or for a restored certificate to practice pursuant to Chapter 4774. of the Revised Code, shall submit fingerprints, required forms, and required fees to BCI&I for completion of state and federal criminal records checks.

(1) An applicant who is present in Ohio shall use the services of an entity that has been designated by the Ohio attorney general to participate in the BCI&I and FBI program, pay any processing fee charged by the entity, and cause the entity to submit both of the following to BCI&I, with the "State Medical Board of Ohio" designated to receive the results:

(a) The applicant's electronic fingerprints; and

(b) The applicant's payment of fees charged for the state and federal criminal records checks.

(2) An applicant who resides in a state or jurisdiction other than Ohio shall either appear in Ohio in order to comply with the requirements of paragraph (A)(1) of this rule or request that the board send the forms required for a criminal records check to the applicant's address.

~~When an applicant requests that the required forms be mailed by the board, upon~~ Upon receipt of the forms the applicant shall have ~~a local law enforcement agency process the forms.~~have their fingerprints processed, ~~The applicant shall~~ pay any processing fees charged by the ~~local law enforcement agency~~ entity, and cause the ~~local law enforcement agency~~ entity to submit to BCI&I all of the following, with the "State Medical Board of Ohio" designated to receive the results:

(a) A fingerprint card bearing the prints of the applicant's ten fingers;

(b) The applicant's completed request for exemption from the electronic fingerprint submission requirement; and

(c) The applicant's payment of fees charged for state and federal criminal records checks.

(3) The applicant who submits the criminal records check via the fingerprint card bearing the prints of applicant's ten fingers, pursuant to paragraph (A)(2) of this rule, shall also ensure that any other forms required by the board are completed and submitted to the board.

*** DRAFT - NOT YET FILED ***



(B) The board shall maintain the criminal records check report in a manner that ensures the confidentiality of the results, prevents disclosure pursuant to a public records request, and complies with applicable state and federal requirements.

(C) The board shall not accept the results of a criminal records check submitted by an entity other than BCI&I.

(D) In reviewing the results of a criminal records check to determine whether the applicant should be granted an initial or restored certificate to practice, the board may consider all of the following:

(1) The nature and seriousness of the crime;

(2) The extent of the applicant's past criminal activity;

(3) The age of the applicant when the crime was committed;

(4) The amount of time that has elapsed since the applicant's last criminal activity;

(5) The conduct and work activity of the applicant before and after the criminal activity;

(6) Whether the applicant has completed the terms of any probation or deferred adjudication;

(7) Evidence of the applicant's rehabilitation;

(8) Whether the applicant fully disclosed the arrest or conviction to the board; and

(9) Any other factors the board considers relevant.