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.
(1) Rule 4731-10-01 Definitions
   • This is a no change rule.

(2) Rule 4731-10-03
   • Allows for a waiver of continuing medical education if the applicant or licensee establishes that an illness or absence affected the reasonable opportunity to participate in continuing medical education activities.
   • This is a no change rule.

(3) Rule 4731-10-04
   • Sets the continuing medical education requirements for the restoration of a license.
   • Rescinds the current rule.
   • Replaces the rescinded rule with a new rule which states the continuing medical education requirement for restoration and references Section 4731.222, Revised Code, in more plain language.

(4) Rule 4731-10-05
   • Establishes the continuing medical education requirements for applicants and licensees residing or practicing out of the state who wish to renew or reinstate their licenses.
   • This is a no change rule.

(5) Rule 4731-10-06
   • Establishes a cutoff date for the preparation of renewal application notices for the Board’s staggered biennial renewal process.
   • This is a no change rule.

(6) Rule 4731-10-07
   • Allows for continuing medical education credit for licensees in internships, residencies, or fellowships in accredited programs approved by the Board.
   • This is a no change rule.

(7) Rule 4731-10-11
• Establishes the renewal sequence and continuing medical education for individuals with a telemedicine license.
• This is a no change rule.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.
   The rules are authorized by Sections 4731.05, 4731.281, and 4731.295, 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.
   This question is 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 set forth requirements for the continuing medical education requirements for licensees and applicants for allopathic, osteopathic, and podiatric physicians.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?
   Outcomes will be measured by having rules written in plain language, licensee compliance with the rules and minimal questions from licensees, medical practices and medical facilities regarding the provisions of the rules.

**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.

In June 2016, the rules were circulated to interested parties for comment. The interested parties included professional associations representing physicians, hospitals, physicians and other entities who have requested notice of the Board’s proposed rules.
The rules were also reviewed by the Policy Committee of the Medical Board.

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

   Blair Barnhart-Hinkle, Director of Government Relations for the Cleveland Clinic, had a question regarding the application of Rule 4731-10-04. Board staff answered the question for Ms. Barnhart-Hinkle and no changes are proposed.

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 was utilized in the development of the rules. The Board members have expertise as practicing physicians regarding continuing medical education requirements for physicians.

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?

   The Board did not consider alternative regulations. Rule 4731-10-04 was rescinded and replaced with a new rule that was more clear and easy to understand. The rules reflect the Board’s processes regarding continuing medical education.

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 propose performance-based regulations in this rule package due to the necessity of maintaining established processes and standards to achieve its public protection mandate.

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

   The regulations in this rule package have been in effect since 2002 and the Board is the sole licensing entity for physicians.

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, information concerning the rules will be included in informational materials e-mailed to licensees and notices will be sent to associations, individuals and groups. Medical Board staff members are available by
telephone and e-mail to answer questions. Medical Board staff members also give presentations to groups and associations who seek an update on physician practice regulations.

**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 scope of the impacted business community would be physicians holding an M.D., D.O., D.P.M. or telemedicine license.
   b. **Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
      Licensees and applicants must meet the continuing medical education requirements of these rules. The rules do allow for some easing of the adverse impact by allowing for a waiver of continuing medical education for individuals with illnesses or absences which make it impossible for them to comply. The rules also allow licensees participating in internships, residencies and fellowships to earn continuing medical education credits and Rule 4731-10-11 allows a holder of a telemedicine license to meet the continuing education requirements by meeting the requirements in the state in which he or she holds a 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.*
      Continuing medical education is generally provided through paid programs. A review of the Ohio State Medical Association website shows continuing medical education courses ranging from $99 to $300.

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

The Board has determined that rules regarding continuing medical education are helpful to provide clear guidance to applicants and licensees. The rules in this package provide some clarification regarding waiver of continuing medical education and the expectations for out-of-state licensees.
Regulatory Flexibility

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

Rule 4731-10-03 provides for a waiver of continuing medical education if the licensee has an illness or absence. Rule 4731-10-07 allows participants in internships, residencies and fellowships to earn continuing medical education and Rule 4731-10-11 allow a telemedicine license holder to meet Ohio’s continuing medical education requirements by, in certain circumstances, meeting the requirements in the individual’s state of residence.

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?

Due process requires the Medical Board to consistently apply its rules regarding continuing medical education to be consistent to all physician licensees and applicants.

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

Medical board staff members are available by telephone and e-mail to answer questions.
4731-10-01 Definitions.

(A) As used in this chapter of the Administrative Code:

(1) "License" means the legal authorization issued by the board to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery in Ohio.

(2) "Certificate of registration" means the document issued by the state medical board which evidences an individual's license to practice medicine and surgery, osteopathic medicine and surgery, or podiatry in Ohio during a specific registration period.

(3) "CME" means continuing medical education.

(4) "License renewal" means the extension of a current license by fulfilling the requirements of section 4731.281 of the Revised Code, and this chapter of the Administrative Code.

(5) "License reinstatement" means the return of a license which has lapsed or been in a suspended or inactive status for two years or less for any reason.

(6) "License restoration" means the return of a license which has lapsed or been in a suspended or inactive status for more than two years for any reason.

(7) "Applicant" means an individual who seeks to attain a certificate of registration from the board.

(8) "Licensee" means a person who holds a current and valid license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery in Ohio.

(9) "CME period" means a period of two years in which every doctor of medicine, doctor of osteopathic medicine, and doctor of podiatric medicine licensed in Ohio must attain one hundred hours of CME to register their certificate as current and valid pursuant to section 4731.281 of the Revised Code, and this chapter of the Administrative Code.

(10) "Registration period" means the period between granting of initial licensure or renewal and the next scheduled license renewal date.

(11) "Volunteer registration period" means a period of three years between the granting or renewal of a volunteer certificate and the next scheduled renewal date. Every doctor of medicine or doctor of osteopathic medicine holding a volunteer's certificate, shall be required to earn one hundred and fifty hours of CME to register their certificate as current and valid pursuant to sections 4731.295 and 4731.281 of the Revised Code and this chapter of the Administrative Code.

(12) "Board" means the state medical board of Ohio.

(13) "CME waiver" means a reduction of hours that may be granted by the board on an individual basis to those applicants who have been ill for more than six consecutive months or out of the United States for more than six consecutive months during the CME period.
(B) Action by the board refusing "license restoration" as that phrase is used in this chapter of the Administrative Code shall be deemed refusal to "register" or "reinstate" as such words are used in section 4731.22 of the Revised Code.

Eff 5-16-83; 10-31-96; 3-10-98 (Emer.); 7-20-98; 2-28-03
Rule promulgated under: RC 119.03
Rule authorized by: RC 4731.05, 4731.281, 4731.295
Rule amplifies: RC 4731.22, 4731.281, 4731.291, 4731.292, 4731.293, 4731.294, 4731.295, 4731.296
NO CHANGE

4731-10-03 CME waiver.

(A) For purposes of obtaining a CME waiver, the applicant or licensee shall have the burden of establishing that the illness or absence affected the reasonable opportunity to participate in CME activities. No more than five hours will be subtracted from the CME requirement for each month which is approved for reduction of hours. Application for CME waiver shall be completed by the applicant or licensee and submitted to the board at least sixty days prior to the end of the CME period. Applicants shall not sign and submit the renewal application prior to receiving approval from the Board of the waiver request.

(B) The board shall not waive the total CME requirement for any CME period.

(C) The board shall not grant a CME waiver for consecutive CME periods.

(D) Applicants shall be eligible to apply for CME waiver only if the applicant's illness or absence from the United States lasted a minimum of six consecutive months and occurred in its entirety within a single CME period.

Eff 5-16-83; 10-31-96; 3-10-98 (Emer.); 6-8-98; 2-28-03
Rule promulgated under: RC 119.03
Rule authorized by: RC 4731.05, 4731.281, 4731.295
Rule amplifies: RC 4731.22, 4731.281, 4731.291, 4731.292, 4731.293, 4731.294, 4731.295, 4731.296
Replaces: 4731-10-09
R.C. 119.032 review dates: 03/25/2006
Any application for license restoration shall invoke the provisions of section 4731.222 of the Revised Code. The authority of the board to impose terms and conditions includes the following:

(A) Requiring the applicant to obtain additional training and to pass an examination upon completion of such training;

(B) Restricting or limiting the extent, scope, or type of practice of the applicant.

(A) To be eligible for restoration of a license the applicant shall submit evidence establishing the completion of one hundred hours of continuing medical education during the twenty four months after the most current expiration date which proceeded the board's receipt of the application for restoration.

(B) The board may impose terms and conditions for the restoration of a license pursuant to section 4731.222 of the Revised Code.
NO CHANGE

4731-10-05 Out-of-state licensees.

Those applicants and licensees residing or practicing out of the state who wish to renew or reinstate their licenses to practice medicine or surgery, osteopathic medicine and surgery or podiatric medicine and surgery in Ohio must complete the required CME within the CME period even though not currently residing or practicing in Ohio.

Eff 5-16-83; 6-8-98; 2-28-03
Rule promulgated under: RC 119.03
Rule authorized by: RC 4731.05, 4731.281, 4731.295
Rule amplifies: RC 4731.22, 4731.281, 4731.291, 4731.292, 4731.293, 4731.294, 4731.295, 4731.296
4731-10-06 Licensure after cutoff for preparation of registration notices.

(A) The mailing of renewal applications requires that a cutoff date be established for preparation of renewal application notices. Individuals who are initially licensed between the cutoff date and the last day of a registration period are not required to renew for that registration period but shall be required to renew for all subsequent registration periods. These licensees shall be responsible for the requisite CME hours at the time of their next renewal.

(B) Each licensee's registration group is based on the first letter of his or her last name at the time of the implementation of the staggered renewal system or at the time of initial licensure, whichever occurred later. Each licensee shall remain in their originally assigned license registration group for all subsequent license renewals.

Eff 2-28-03
Rule promulgated under: RC 119.03
Rule authorized by: RC 4731.05, 4731.281, 4731.295
Rule amplifies: RC 4731.22, 4731.281, 4731.291, 4731.292, 4731.293, 4731.294, 4731.295, 4731.296
Replaces: 4731-10-12, part of 4731-10-16
R.C. 119.032 review dates: 03/25/2006
4731-10-07 Internships, residencies, and fellowships.

(A) CME program requirements certified by the respective state professional societies and approved by the board may contain provisions authorizing CME credit for licensees in internships, residencies, or fellowships in an accredited program approved by the board. The training shall have been taken during the CME period. Any training received prior to initial licensure or license restoration shall not be utilized for CME credit.

(B) Interns, residents, and fellows holding full licenses to practice shall make application for license renewal and comply with CME requirements under section 4731.281 of the Revised Code and this chapter of the Administrative Code.

Eff 7-22-83; 6-8-98; 2-28-03
Rule promulgated under: RC 119.03
Rule authorized by: RC 4731.05, 4731.281, 4731.295
Rule amplifies: RC 4731.22, 4731.281, 4731.291, 4731.292, 4731.293, 4731.294, 4731.295, 4731.296
NO CHANGE

4731-10-11 Telemedicine certificates.

(A) A telemedicine licensee's registration group shall be based on the first letter of his or her last name at the time of initial telemedicine licensure. Each licensee shall remain in their originally assigned license registration group for all subsequent license renewals. If a telemedicine certificate is converted, pursuant to division (E) of section 4731.296 of the Revised Code, to a certificate issued under section 4731.29 of the Revised Code the licensee shall remain in the same registration group as at the time of initial telemedicine licensure.

(B) An initial telemedicine certificate shall be valid until the renewal date for the telemedicine licensee's registration group. If initial telemedicine licensure is granted on or after the first day of the eighteenth month of a registration period, the licensee shall not be required to renew for that registration period but shall be required to renew for all subsequent registration periods.

(C) An applicant for an initial telemedicine certificate or for renewal of a telemedicine certificate shall hold a current, unrestricted license to practice medicine and surgery or osteopathic medicine and surgery issued by another state that requires license holders to complete at least fifty hours of CME every two years. A holder of a telemedicine certificate who fails to meet the CME requirements of the state in which he or she holds the license used to qualify for the telemedicine certificate shall report that failure in writing to the board.

Eff 2-28-03
Rule promulgated under: RC 119.03
Rule authorized by: RC 4731.05, 4731.281, 4731.295
Rule amplifies: RC 4731.22, 4731.281, 4731.291, 4731.292, 4731.293, 4731.294, 4731.295, 4731.296
R.C. 119.032 review dates: 03/25/2006