



# Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Sean McCullough**, Director

## Business Impact Analysis

Agency, Board, or Commission Name: State Medical Board of Ohio

Rule Contact Name and Contact Information:

Kimberly Anderson, Chief Legal Counsel,  
Kimberly.Anderson@med.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

Licenses Issued or Renewed under Interstate Medical Licensure Compact

Rule Number(s): 4731-38-01

Date of Submission for CSI Review: January 14, 2022

Public Comment Period End Date: January 31, 2022

**Rule Type/Number of Rules:**

New/ 1 rules

No Change/      rules (FYR?     )

Amended/      rules (FYR?     )

Rescinded/      rules (FYR?     )

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing

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regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### **Reason for Submission**

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a.  Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b.  Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c.  Requires specific expenditures or the report of information as a condition of compliance.
- d.  Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

### **Regulatory Intent**

2. Please briefly describe the draft regulation in plain language.  
*Please include the key provisions of the regulation as well as any proposed amendments.*

The rule clarifies the application fees for individuals applying for or renewing a license issued through the Interstate Medical Licensure Compact.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

Authorized by: 4731.05, 4731.11

Amplifies: 4731.09, 4731.281

4. 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?

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

No.

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

Not applicable.

- 6. 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)?**

Ohio joined the Interstate Medical Licensure Compact through the adoption of the Interstate Medical Licensure Compact in SB 6, 134<sup>th</sup> General Assembly. The State Medical Board has one year from September 30, 2021, the effective date of the statute, to fully implement the Interstate Medical Licensure Compact for Ohio. The IMLC does not set a licensure fee for the physicians seeking to obtain or renew an Ohio license through the compact. Section 6 of R.C. 4731.11 states that a member state issuing an expedited license may impose a fee for a license issued or renewed through the Compact. The proposed rule provides information about the statutory section which sets the fee for the initial application and renewal and clarifies that a license issued through the IMLC is valid for two years. The rule is necessary to provide clarity to applicants and licensees holding Ohio licenses issued through the IMLC.

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

The success of the rule will be measured by the rules being written in plain, understandable language, licensee compliance with the rules, and minimal questions from the licensees and applicants regarding the proposed rules.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

No.

### **Development of the Regulation**

- 9. 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.*

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The rule was circulated to interested parties, such as the Ohio State Medical Association, Ohio Osteopathic Medical Association and the Ohio Hospital Association. It was made available on the Board's website and included in an e-mail newsletter to licensees.

**10. 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.

**11. 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?**

This is a rule regarding licensure, including setting the fees. Scientific data was not applicable to the subject matter of the rule.

**12. 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 proposed rule is the most simple and straight-forward way to provide information regarding the cost and time-frame for licenses issued and renewed through the IMLC.

**13. 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 rule is performance-based.

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

The State Medical Board of Ohio is the sole agency responsible for licensure of physicians.

**15. 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 Medical Board will implement the rule by providing notice to licensees and other interested parties and by placing the updated rules on the Board's website.

**Adverse Impact to Business**

**16. 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; and**

The impacted community includes applicants and licensees seeking or holding licenses under the IMLC.

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

The rule sets forth the statutory fees for licensure and renewal.

- 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.*

The fees for initial licensure and renewal under the IMLC are \$305.00.

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

The agency determined that the rule was the most efficient way to let applicants and licensees know the applicable fees for licensure and renewal.

### **Regulatory Flexibility**

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

No. All applicants and licensees are required to pay the same fees for licensure and renewal.

- 19. 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?**

All applicants and licensees are treated equally with respect to implementation of the regulation.

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

The Medical Board provides information regarding its rules to all licensees and applicants on the website and maintains an e-mail inbox for individuals and entities to ask questions about the Board’s laws, rules and policies.

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

4731-38-01

Licenses Issued or Renewed Under the Interstate Medical Licensure Compact.

(A) "IMLC" means the Interstate Medical Licensure Compact

(B) "IMLCC" means the Interstate Medical Licensure Compact Commission

(C) An individual applying for a license through the IMLC, shall pay directly to the IMLCC the application fee in the amount described in Section 4731.09 of the Revised Code, and any additional fees required by the IMLCC.

(D) A license issued by the board through the IMLC shall be valid for two years, unless suspended or revoked.

(E) An individual renewing a license issued through the IMLC shall pay directly to the IMLCC the biennial renewal fee, reinstatement fee, or restoration fee, as applicable, in the amount described in Section 4731.281 of the Revised Code , and any additional fees required by the IMLCC.

(F) An individual renewing a license issued through the IMLC shall provide to the board, in the manner determined by the board, the information described in Section 4731.281 of the Revised Code.