

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Occupational Therapy Physical Therapy, & Athletic Trainers Board

Regulation/Package Title: 2015 PT App/Lic Changes

Rule Number(s): 4755-23-02, 4755-23-03, 4755-23-04, 4755-23-06,
4755-23-09, 4755-23-10, 4755-23-12

Date: 1/30/2015

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☐ Rescinded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.

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

4755-23-02 – Educational requirements

This rule specifies the educational requirements needed for eligibility for licensure as a physical therapist (PT) or physical therapist assistant (PTA). The rule specifies that the education must be accredited by the Commission on Accreditation of Physical Therapy Education (CAPTE). The amendment splits provisions impacting PT and PTA that were in a

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single paragraph into two separate paragraphs to clarify the provisions that apply to the PT applicant from those that apply to the PTA applicant.

4755-23-03 – License by examination

The rule outlines the two examinations that an applicant must pass to be eligible for a license by examination for PT and PTA. The amendment clarifies that the requirements for foreign educated applicants only applies to PT applicants since state law requires PTA applicants to graduate from a CAPTE accredited program without a substantial equivalency route.

4755-23-04 – License by endorsement

The rule outlines the requirements that an applicant must meet to be eligible for a license by endorsement. One amendment clarifies that the requirements for foreign educated applicants only applies to PT applicants since state law requires PTA applicants to graduate from a CAPTE accredited program without a substantial equivalency route. The other amendment states that, as an alternative to retaking the National Physical Therapy Exam, the Board can also require applicants who have been out of practice for more than five years to complete the Practice Review Tool developed by the Federation of State Boards of Physical Therapy.

4755-23-06 – Biennial renewal of licensure

This rule outlines the renewal requirements for PT and PTA licensees. The amendment changes the word “mailed” to “sent” to recognize that the renewal information can be disseminated electronically, in addition to via U.S. Postal Service.

4755-23-09 – Waivers for continuing education

This rule establishes the process for a licensee to request a waiver/extension of the continuing education requirements due to disability, illness, or undue hardship. Under the rule, licensees must submit the waiver request by October 1 of the year prior to the individual’s renewal year. The rule also states that the July 1 deadline may be waived at the discretion of the Board. The amendment fixes various typographical errors.

4755-23-10 – Reinstatement of license

This rule outlines the requirements that must be met to reinstate an expired PT or PTA license. The amendment states that, as an alternative to retaking the National Physical Therapy Exam, the Board can also require applicants who have been out of practice for more than five years to complete the Practice Review Tool developed by the Federation of State Boards of Physical Therapy.

4755-23-12 – Requirements for foreign educated applicants

The rule outlines the additional licensure requirements that must be met by a physical therapist applicant who was not educated as a physical therapist in the United States. The amendment to the rule clarifies that the provisions of this rule only apply to PT applicants

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and not to PTA applicants, since state law requires PTA applicants to graduate from a CAPTE accredited program without a substantial equivalency route.

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

4755.411

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.

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

Not applicable to the rules in this package.

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 mission of the board is to ensure that consumers of physical therapy services receive safe, competent, and adequate services from licensed practitioners. The Ohio Revised Code, which requires a license to practice as a physical therapist or physical therapist assistant, establishes minimal standards that an applicant must meet to be eligible for an initial and renewed licensed to practice. For applicants who did not graduate from an accredited PT school in the United States, the Board needs to ensure that the applicant's foreign education is reasonably equivalent to the requirements of a U.S. PT program. In addition, the ability to communicate with a patient in English is an important requirement for all of the Board's licensees. Requiring an applicant to demonstrate the working knowledge of English helps ensure that consumers of physical therapy services will be able to communicate with their physical therapist.

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

Success will be measured by having the rules written in plain language for clarity and by licensees renewing their licenses in a timely fashion and not practicing on expired licenses.

Development of the Regulation

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

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If applicable, please include the date and medium by which the stakeholders were initially contacted.

The Board emailed stakeholders on November 14, 2014. Stakeholders were informed that comments were due to the Board by December 5. Stakeholders included licensees who are on the Board's listserv and individuals who follow the Board's Facebook and Twitter pages.

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

The Board did not receive any comments regarding the rules included in this package.

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?

For the foreign educated applicant rule, the standards for the TOEFL exam were recommended following a TOEFL iBT Standard Setting Workshop in 2005. The Educational Testing Service (ETS) conducted the standard setting workshop for healthcare professions when it introduced the new TOEFL iBT exam. The professions represented at this workshop included physical therapy, occupational therapy, nursing, pharmacy, and veterinary medicine.

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?

There were no alternative regulations that the agency considered since the Board must license eligible applicants and determine that a foreign educated applicant meets the educational requirements contained in state law.

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.*

This question does not apply to these rules.

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

This question does not apply to these rules.

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.

Since most of the proposed changes are to clarify existing provisions, there is not a need to implement the regulation any differently than how it is currently implemented. For the proposed change to the out of practice requirements, when the Board receives an application

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from an individual who has been out of practice for more than 5 years, Board staff will inform the individual of the options that might be selected by the Board.

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;

Physical therapists, physical therapist assistants, and applicants for licensure as a PT or PTA.

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

Licensure applicants must complete an entry level education, take the National Physical Therapy Exam and the Ohio Jurisprudence Exam, submit the licensure application, and obtain a credential evaluation if they are foreign educated.

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 current application fee is \$100 and the license renewal fee is \$70. The education costs are associated with the tuition charged by the educational institution. The NPTE costs \$400 and the Jurisprudence Exam costs \$50. The credential evaluation fee can range from \$500-800.

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

The mission of the Board is to ensure that the consumers of physical therapy services receive competent services from the Board’s licensees. Requiring minimal entrance requirements and ensuring that a foreign educated applicant has the appropriate education and English language skills to provide competent services to the consumers of physical therapy in Ohio justified any adverse impact.

ORC sections 4755.42, 4755.421, 4755.45, 4755.451, and 4755.46 establish a limit of \$125 that may be charged by the Physical Therapy Section for an initial or renewal license application. Section 4755.411 also authorizes the Physical Therapy Section to adopt rules pertaining to “fees for the verification of a license and license reinstatement, and other fees established by the section.” To determine the appropriate fees to levy, the Board conducted a long range forecast of potential expenditures through 2020. The fees were set to ensure that sufficient revenues would be collected by the Board to not require an increase in fees until

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the year 2020. In addition, in recent years, the Board lowered various fees when it determined that the gap between revenues and expenditures had grown too large. Some of the reduced fees include the license renewal fee (decreased from \$80 to \$70) and the license verification fee (decreased from \$30 to \$15).

Regulatory Flexibility

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

Other than rules 4755-23-09 and 4755-23-12, this question does not apply. For rule 4755-23-09, in individual cases involving disability, illness, or undue hardship, the Board may grant waivers or extensions of the continuing education requirements. For rule 4755-23-12, a foreign educated applicant is permitted to make a formal request to waive some or all of the requirements contained in the rule. Although the Board would not waive the requirement to submit a credential evaluation, after a review of the applicant's work/licensure history and the actual evaluation, the Board might determine that the applicant's education is acceptable, even if a few deficiencies are identified. As noted above, the requirement that the applicant demonstrate a working knowledge of English can also be waived upon request. These waivers are approved by the full Board, not by staff of the Board

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?

Since all components of the application must be received (or officially waived by the Board), this question did not apply to the rules in this package, other than rule 4755-23-09. For that rule, for first time offenders who were deficient by up to one contact hour, the Board sends a non-disciplinary warning letter, requires the licensee to complete the missing continuing education, and automatically audits the individual for continuing education compliance on their next renewal.

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

The Board and its staff are dedicated to working with members of the regulated community and the public to ensure that the consumers of physical therapy services in Ohio receive safe and effective services from the Board's licensees. As a result, the following resources are available:

Board's mailing address:

77 S. High Street, 16th Floor
Columbus, Ohio 43215-6108

Board's phone number: 614-466-3774

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Board's fax number: 614-995-0816

Board's website: <http://otptat.ohio.gov>

Board's email: board@otptat.ohio.gov

To Join a Board Listserv: <http://otptat.ohio.gov/consumers/boardlistservs.aspx>

Board's Facebook: <https://www.facebook.com/OhioOTPTATBoard>

Board's Twitter: <http://twitter.com/OhioOTPTATBd>

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