

# CSI - Ohio

## The Common Sense Initiative

### Business Impact Analysis

**Agency Name:** Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board

**Regulation/Package Title:** Five-Year Rule Review

**Rule Number(s):** 4755-1-01, 4755-1-02, 4755-1-03, 4755-3-11, 4755-24-03, 4755-24-04, 4755-24-05, 4755-24-06, 4755-24-07, 4755-24-08, 4755-24-09, 4755-48-01, 4755-48-02

**Date:** March 5, 2018

**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☐ Rescinded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.*

|                     |                                                                                                                                                                                                                                                                       |
|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4755-1-01, -02, -03 | These rules govern notice given for various board activities under the occupational therapy section, including meetings, rule-making, and investigations. Rule amendments are proposed to simplify the language, streamline internal business practices, and refer to |
|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

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|                                          |                                                                                                                                                                                                                                                                                                                                                                       |
|------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                          | applicable Ohio Revised Code section instead of repeating language located elsewhere.                                                                                                                                                                                                                                                                                 |
| 4755-3-11                                | This rule provides detail on what is needed to obtain a temporary license to practice as an occupational therapist or occupational therapist assistant in Ohio. No changes are proposed.                                                                                                                                                                              |
| 4755-24-03, -04, -05, -06, -07, -08. -09 | These rules lay out the maximum amount of fees that can be charged for various activities under the physical therapy section. There are no plans to change the fee amounts that are currently in place. One change in 4755-24-05 eliminates the need for a notarized statement, which lines the rule up with current practice and places less burden on the licensee. |
| 4755-48-01, -02                          | These rules detail processes for investigations, inspections, and discipline for the athletic trainers section. A slight change is being made to reflect current practice that a license holder in a disciplinary situation must pay for any health examinations required by the board.                                                                               |

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

|                                          |              |
|------------------------------------------|--------------|
| 4755-1-01, -02, -03                      | ORC 4755.06  |
| 4755-3-11                                | ORC 4743.04  |
| 4755-24-03, -04, -05, -06, -07, -08. -09 | ORC 4755.411 |
| 4755-48-01, -02                          | ORC 4755.61  |

**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.**

The federal government does not license the OTPTAT professions.

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- 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)?**

Regulations are necessary in order for the public to know what to expect when dealing with the agency and how to get licensed by the board. The purpose of regulation is ultimately to protect public safety.

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

Success is measure through successful and timely licensure processes and through customer feedback measured by survey.

### **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.*

These rules were posted on the OTPTAT Board website from 10/20/2017-11/5/2017 for comment. They were also sent out on the board list serv. The rules were subsequently discussed at the January board section public meetings.

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

There were few comments with regard to these rules. The comments with the most substance were related to the fee rules for physical therapists. In most instances, the commenters were opposed to what they viewed as fee increases. In each case, the board responded to the commenter to help them understand that the fees in the rules are fee ceilings, they are unchanged, and that the agency is not planning any fee schedule changes.

- 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 used.

- 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 regulations were considered. These rules amplify current statute.

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- 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.*

Most of the board's regulatory processes are defined within the framework of the eLicense system, which is meant to streamline and make an electronic process that is better for the user.

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

Rather than duplicating language around the rule-making process, these rules now simply refer to the existing revised code.

- 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.**

None of these rules are new. They are updates to existing rules and require little implementation change. The board relies on its rules being up-to-date to ensure a consistent regulatory process across all license holders and license applicants.

### **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;**
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
- c. Quantify the expected adverse impact from the regulation.**

The scope of the impacted business community are regulated professionals and possibly the businesses for which they work. The only identified adverse impact is in a change to 4755-48-02 which requires the licensee to pay for any health examinations required by the board for a disciplinary proceeding. This change simply reflects current process.

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

The rule language change is simply in line with current practice. If a licensee is subject to discipline, it is reasonable to expect them to bear some of the cost.

### **Regulatory Flexibility**

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

No.

**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?**

The fees in these rules do not pertain to small businesses. Only individual licensees.

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

Paperwork for licensure is primarily conducted through the Ohio eLicense system, which is strictly electronic. For help with the system, there are a variety of avenues, including calling or emailing board personnel.