



## Common Sense Initiative

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

**Sean McCullough**, Director

### Business Impact Analysis

Agency, Board, or Commission Name: Occupational Therapy, Physical Therapy, and Athletic Trainers Board

Rule Contact Name and Contact Information:

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

Orthotics, Prosthetics, and Pedorthics – CE and HB 263

Rule Number(s): 4755-65-01, 4755-62-01, 4755-63-06, 4755-63-01

Date of Submission for CSI Review: 3/16/2022

Public Comment Period End Date: 3/31/2022

**Rule Type/Number of Rules:**

New/\_\_\_ rules

No Change/\_\_\_ rules (FYR? \_\_\_)

Amended/ X rules (FYR? N)

Rescinded/\_\_\_ rules (FYR?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 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.

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### **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.*

4755-65-01 – Continuing education requirements and reporting

- Sets for the continuing education requirements for the professions
- Change: Adds an exemption from continuing education requirements for license holders' first renewal, identical to the exemption for the other OTPTAT Board license holders.

4755-62-01 – Definition of terms

4755-63-06 – Temporary license application procedure

4755-63-01 – Applications for initial licensure by examination

- These rules define key terms used within the rules and set forth licensure standards.

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- Change: Eliminates references to "good moral character" as a term for initial licensure per the passage of House Bill 263. Initial applicants will still undergo a BCI/FBI background check.

**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.**

All rules authorized by 4779.08

4755-65-01 – Continuing education requirements and reporting – Amplifies 4779.20

4755-62-01 – Definition of terms – Amplifies 4779

4755-63-06 – Temporary license application procedure – Amplifies 4779.18

4755-63-01 – Applications for initial licensure by examination – Amplifies 4779.09, 4779.10, 4779.11, 4779.12, 4779.13, 4779.15, 4779.18

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

No. Licensure is regulated by states.

**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)?**

Licensure is required by Ohio Revised Code 4779. The purpose is public protection – ensuring that orthotists, prosthetists, and pedorthists are properly educated to enter the profession and to protect patients against harmful behavior.

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

Compliance with continuing education requirements and the licensing changes in HB 263 (Second Chance law)

**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.

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## **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.*

Rules were sent out to all license holders for comment 3/12/2022-3/21/2022.

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

One comment, which was supportive – no changes:

I see no reason to not allow the exemption for first time renewals on continued education. Also removing the “of good moral character” should have little effect on any who are seeking licensure in the state.

**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?**

None.

**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 nature of the CE change is an alternative regulation. The Board determined it was unnecessary to require continuing education of new licensees.

The HB 263 changes were required by legislation.

**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.***

No.

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

Review of rules and law.

**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.**

Information will be sent to license holders and distributed via website and newsletter.

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

- a. Licensed Orthotists, Prosthetists, Pedorthists, and Prosthetist-Orthotists, the businesses for which they work, and potential new applicants.
- b. Continuing education courses have a variable cost of attendance, including the professional’s time. Some employers help pick up some of this financial cost, but that is optional. But these rule changes make compliance easier for first time renewals. The HB 263 changes are designed to allow individuals with a criminal history to have a path to licensure, which also eases regulation.

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

Continuing education and background checks for licensure are required by ORC 4779.

## **Regulatory Flexibility**

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

No. This regulation does not directly impact businesses. The Board only licenses individuals.

**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?**

The OTPTAT Board has disciplinary guidelines that take into account first time offenses as a mitigating factor.

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

Board website, phone, email, social media – we are available to personally assist as needed.

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