

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

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

Regulation/Package Title: 2015 PT No Change Chap 23

Rule Number(s): 4755-23-01, 4755-23-05, 4755-23-07, 4755-23-08, 4755-23-11,
4755-23-13, 4755-23-14, 4755-23-15, 4755-23-16, 4755-23-17

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☐ Rescinded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.

4755-23-01 – Applications for initial license

This rule outlines the process to submit an initial licensure application.

4755-23-05 – Certificate of license; display

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The rule states that licensees must display their original license certificate at their principal place of business.

4755-23-07 – Notice of change of name; place of business; address

The rule requires licensees to notify the Board, in writing, of any name, address, or employment change within 30 days of the change.

4755-23-08 – Continuing education

This rule outlines the continuing education requirements for physical therapists and physical therapist assistants.

4755-23-11 – Verification of licensure

This rule establishes the process to have an official license verification sent to another regulatory entity.

4755-23-13 – Requirements for teaching physical therapy

This rule outlines the process and notification requirements under which a non-Ohio licensed physical therapist may teach a physical therapy theory and procedures course as the faculty of record without holding an Ohio license for a period of up to one year.

4755-23-14 – Criminal records check

The rule established the criminal records check required for all initial licensure applicants.

4755-23-15 – Reinstatement or reconsideration of denied/revoked license

The rule establishes the factors considered by the Board when reviewing the reinstatement application from an individual whose license was revoked or whose application was denied.

4755-23-16 – Temporary license for military spouse

The rule establishes the process by which a military spouse can obtain a temporary license.

4755-23-17 – Military provisions related to licensure

The rule establishes the various licensure benefits that may apply to applicants and licensees who are currently serving in the armed forces, have previously served in the armed forces, or are the spouse of an individual who is or has served in the armed forces.

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

4743.04 for rule 4755-23-16; 4755.411 for all other rules in this package

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.

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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 rules in this package govern procedures related to the licensure of physical therapists and physical therapist assistants, which is required pursuant to the Ohio Revised Code.

- 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 applicants requesting submitting applications in the appropriate form and by the specified deadlines.

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.

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 received one comment regarding the continuing education rule. The comment requested that the Board allow licensees to use continuing education courses that are approved by other state boards. The Board decided to maintain the current requirement that all CE activities be approved in Ohio since it feels that the review and approval process used in Ohio is appropriate to ensure the quality of the activities approved. A lack of knowledge about the rigor of the approval process in other states warrants maintaining this restriction.

- 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?**

This question does not apply to these proposed changes.

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- 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 are no alternative regulations that the agency considered since the licensure requirement is statutorily mandated.

- 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.**

The Board's website contains both the applications, as well as instructions for correctly completing the application.

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**

Applicants must submit the appropriate application to maintain/obtain a license to practice in Ohio. In addition, licensees must complete the required amount of continuing education.

- 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.

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The current application fee is \$100 and the license renewal fee is \$70. For continuing education, the cost is the fee for the activity and time potentially spent away from work. Many employers will allow employees time during the work day to complete continuing education requirements.

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

The Ohio Revised Code states that individual must hold a license to practice physical therapy.

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 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 rule 4755-23-08, this question does not apply. For rule 4755-23-08, in individual cases involving disability, illness, or undue hardship, the Board may grant waivers or extensions of the continuing education requirements.

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 4755-23-08. 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?

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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

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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