

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

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

Regulation/Package Title: Certificate of license; display; copies

Rule Number(s): 4755-3-02

Date: December 6, 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☐ Rescinded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.

This rule describes how an occupational therapist or occupational therapy assistant receives a physical copy of a license and how that license can be verified or displayed, as required by law.

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

4755.06

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- 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?**

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 issue licenses for professional regulation in occupational therapy. The federal government does require a professional to have a state license in order to be reimbursed for services.

- 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 rule amplifies Revised Code 4755.08, which requires display of a license in a conspicuous place.

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

Greater access to licensure information by the public. Fewer complaints to the Board.

Development of the Regulation

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

This rule was posted on the Board website and all license holders and stakeholders were notified by email regarding the ability to offer comment. The initial draft and subsequent comments were discussed in public Board meetings.

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

This rule was changed due to positive comments we received from occupational therapists on a similar rule change we are making for physical therapists.

- 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?**

The Board is proposing an alternative regulation and way of meeting the statutory requirements in place of the one in existence today, about which we get complaints.

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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.

There are several ways included in this rule to achieve the outcome of compliance with license display.

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

A review of the current laws and rules ensured that it is the only applicable regulation to the topic of licenses and license display.

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 agency will make license holders aware through communications via email and on the website, as well as outreach efforts to the professional associations, trainings, and speaking to students.

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 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.

This rule applies to all licensed occupational therapists and occupational therapy assistants. There are 11,193 with active licenses in the state. This could also apply to the businesses for which they work, if physical license display is required, but that would no longer be needed according to this rule. There should be no cost to compliance with this rule. The rule allows various ways to comply with license display, including through electronic means, which is readily available. In order to obtain an official duplicate copy of a license, there is a \$10 fee, but that is not required in order to comply with the regulation.

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

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The adverse impact is negligible.

Regulatory Flexibility

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

The rule offers various ways to comply with license display: handing it up on a wall or relying on electronic means.

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?

Our disciplinary standards take into account when a person has a first time offense and other mitigating factors.

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

The eLicense lookup is available to the entire public.