

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

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

Regulation/Package Title: Elimination of Escrow of license

Rule Number(s): 4755-3-05, 4755-5-03, 4755-5-09

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☐ Rescinded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.

These rules detail the process to put a license in escrow for a period of time. Escrow is a status that is inactive – a person cannot practice with their license in escrow. It is available to occupational therapists and occupational therapy assistants. A person may renew their license in escrow up to three times for a lesser fee than a regular renewal and without having to meet

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continuing education requirements. These rules detail how to put a license in escrow, restore it from escrow, the fee required to place a license in escrow, and to restore from escrow.

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

ORC 4755.06

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.

Not Applicable.

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 escrow of a license option chosen by individuals who wished to not practice for a period of time but did not want to let their license lapse. Over time, this option has been confusing to some. Many who put their license in escrow did not realize that they may have to meet additional requirements when reinstating to active status besides taking continuing education. In practice, the restoration of a license from escrow status requirements are the same as reinstating an expired license. In essence, license holders are paying a fee to put a license in escrow with very little difference in service. This rule proposes to eliminate the option of putting a license in escrow.

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

Fewer complaints and confusion about the escrow process.

Development of the Regulation

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

These rules were released for public comment in August. The Board has also discussed them in their July and September Board meetings. Additionally, the Board reached out to the Ohio Occupational Therapy Association.

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

Comment Received

The changes look OK to me

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I agree with this rule as we need to be clear with each rule with no confusion.

I have used the escrowed license in the past when I was too busy raising my two sons to be able to keep up with the continuing education. If the rule eliminates that option, then would we as practitioners need to let our license lapse and then reinstate? And if so, what would be required to take the boards again? I always thought this was a practical application and would not like to see it go.

I agree with the proposed 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?

Not Applicable.

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?

This rule eliminates regulation that is deemed unnecessary. The OTPTAT Board regulates nine total license types. Of those, the OT and OTA licenses were the only ones with the escrow option. The other license types have worked out fine without that option.

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.*

The rule change eliminates regulation and process.

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

The rule change eliminates regulation and process.

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.

There may be some initial confusion about the elimination of escrow, as escrow has been an option for many years. The Board will notify stakeholder groups and post information on the website about the elimination of this option ahead of the next renewal period for occupational therapists in March 2019.

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;

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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.

The cost of compliance with this rule is that a license holder pays \$20 to place a license in escrow and \$80 to restore the license from escrow.

In the future, the recommended process would be to forfeit the escrow status, saving the license holder the \$20 to renew the license in escrow (up to three times for \$60). The reinstatement fee would be \$100 instead of \$80. Essentially, this change is cost neutral from a fee standpoint.

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

The change is neutral for the license holder from a fee perspective. It should not negatively impact the business community, but could reduce confusion over escrow status.

Regulatory Flexibility

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

Not applicable.

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?

Not applicable.

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

Board staff is available to answer questions for license holders, businesses, and members of the public. There are numerous ways to contact the Board. Additionally, the Board website contains information, as does the eLicense website, available 24/7.