

# CSI - Ohio

## The Common Sense Initiative

### Business Impact Analysis

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

**Regulation/Package Title:** House Bill 131 – Foreign educated PTA licensure

**Rule Number(s):** 4755-23-02, -03, -04, -12

**Date:** April 24, 2019, revised May 12, 2019

**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☐ Rescinded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.*

These rules implement a law change from House 131 from the 132<sup>nd</sup> General Assembly. The law change enables foreign-educated physical therapist assistants to be licensed in Ohio. Currently, 26 states will license foreign-educated physical therapists assistants. The law mirrors the same wording for physical therapists, and so do the rules. The law change also makes it clear that a physical therapist assistant education is required for licensure.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIOhio@governor.ohio.gov](mailto:CSIOhio@governor.ohio.gov)

The rules also raise the minimum Test of English as a foreign language (TOEFL) passing score to be at minimum the same as what is soon to be required in order to take the National Physical Therapy Examination.

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

ORC 4755.411, 4755.421

**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.**

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)?**

These rules are necessary to describe in greater detail the process to obtain a physical therapist and physical therapist assistant license in the state of Ohio. The rules contain important information to help guide the applicant on the requirements.

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

Successful license of foreign educated physical therapist assistants.

**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 rules were posted for two weeks earlier this year on the website and sent out to all physical therapist and physical therapist assistant license holders, as well as to the Ohio Physical Therapy Association

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

Comments were supportive and reiterated that foreign trained individuals must have an education that has been deemed equivalent to a US education by an expert reviewer.

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**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?**

None. The Federation of State Boards of Physical Therapy convened a task force to determine the minimum TOEFL scores.

**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?**

None. The Board thought it was important to mirror the existing process for physical therapists in the physical therapist assistant rules, as that process has been working.

**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.***

No.

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

This implements new statute. Research was done to fit the new regulations in with existing ones.

**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 has adjusted its applications and procedures to account for this change of law and will notify current license holders.

### **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;**

Foreign trained physical therapist assistants and their potential employers

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

Fees. It costs \$100 for an initial license. It also takes extra review time for foreign trained individuals, as an evaluation of their education must be finished.

Cost of taking the TOEFL exam varies. Can be as much as \$250.

An educational credential review by FCCPT is \$1,200.

If additional courses are required to achieve additional education in order to be equivalent to a US education, there is an unknown cost.

If the applicant has not already passed the National Physical Therapy Exam, the cost is \$485.

The fee to take the Ohio jurisprudence exam, also required, is \$90.

**c. Quantify the expected adverse impact from the regulation.**

See above.

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

License fees are needed to operate the agency. A review of education is needed to ensure minimum standards are met. It takes a certain special expertise for this review. An equivalent education to US trained is required by law.

### **Regulatory Flexibility**

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

No. The regulation implements the basic qualifications as required by law, no matter whether the practice setting for the licensed individuals is a small or large business.

**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?**

First time offenses are accounted for in disciplinary guidelines. This regulation enables foreign trained PTAs to be licensed for the first time in Ohio. They are currently unable. The standard is set the same as it is for foreign trained physical therapists.

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

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIOhio@governor.ohio.gov](mailto:CSIOhio@governor.ohio.gov)

The Board may be reached directly for assistance Monday through Friday, 8:00 AM to 4:30 PM via mail, email, and phone.

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