Ohio | Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

Business Impact Analysis

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

Rule Contact Name and Contact Information:

Missy Anthony, Executive Director – missy.anthony@otptat.ohio.gov, 614-466-3474

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

OPP rules – licensure requirements

Rule Number(s): 4755-63-01, 63-02, 63-03, 63-04, 63-05, 63-06, 63-07, 63-08, 63-09, 63-10, 63-11, 63-12, 63-14

Date of Submission for CSI Review: 6/2/2020

Public Comment Period End Date: 6/15/2020

Rule Type/Number of Rules:

New/_X__ rules **No Change/____ rules (FYR? ___)**

Amended/____ rules (FYR? ___) **Rescinded/____ rules (FYR?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.

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.**

4755	63	01	Applications for initial licensure by examination	Replaces 4779-5-03	Defines the requirements and documents to submitted to obtain initial licensure by examination, including a BCI/FBI check, exam passage, and other licensure requirements as set by Ohio Revised Code
4755	63	02	Licensure by endorsement	Replaces 4779-5-04	Defines the requirements and documents to submitted

					to obtain initial licensure by endorsement, including a BCI/FBI check, verification of licensure in another state, and other licensure requirements as set by Ohio Revised Code.
4755	63	03	Educational programs	Replaces 4779-4-01	Identifies the educational programs that are accepted by the Board for licensure.
4755	63	04	Certificate program requirements	Replaces 4779-4-02	Describes in detail the requirements of a certificate program of study for orthotics, prosthetics, and pedorthics, including subject matter and skills required
4755	63	05	Examinations	Replaces 4779-5-01	Describes the certification exams accepted by the Board for licensure
4755	63	06	Temporary license application procedure	Replaces 4779-6-01	Details the process for applying for a temporary license
4755	63	07	Certificate of license; display	Replaces 4779-7-01	This rule lines up OPP licensure with OTPTAT. The OPP Board previously offered wallet cards, which have been eliminated. The wall certificate is issued upon licensure and a duplicate may be issued for $10. The wall certificate is also found in a person's eLicense account, which can be saved to an electronic device and used to

					fulfill display requirements.
4755	63	08	Biennial renewal of licensure	Replaces 4779-8-01	Requires renewal every two years by January 31 of odd numbered years. A penalty can be imposed for practicing without an active license. Cost for renewal is $70 every two years compared to $200 every year for the former OPP Board.
4755	63	09	Reinstatement of licensure	Replaces 4779-8-01	Aligns the process for reinstating a license to the OTPTAT Board. The OPP Board previously allowed for late renewals. This is no longer permitted.
4755	63	10	Reinstatement or reconsideration of denied/revoked license	NEW	Aligns the process for reinstating a license to the OTPTAT Board. Outlines the circumstance for reinstating a license after it has been revoked for disciplinary reasons
4755	63	11	Verification of licensure	NEW	Details the process of requesting a licensure verification through eLicense for a fee of $15.
4755	63	12	Criminal records checks	NEW	Requires background checks (FBI/BCI) per statute.
4755	63	14	Foreign education licensure	NEW	Addresses the requirements to assess a person's education qualifications when they have been board education. The previous OPP Board did this by policy. Clearer

					guidelines should be in place for the applicant in rule. It requires the person's education to be evaluated for equivalency by third party entity at the cost of the licensee. The cost is approximately $200.

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.**

   ORC 4779.08, 4779.10, 4779.11, 4779.12, 4779.13, 4779.14, 4779.15, 4779.18, 4779.25, 4779.26,

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?**
   No. Licensure is according to state law.

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)?**

   State law (ORC 4779) requires the OTPTAT to license orthotics, prosthetics, and pedorthics. These rules give necessary details on the requirements to become licensed in these professions for the state of Ohio.

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

   Successful applications being approved for licensure.

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?**
   No.

Development of the Regulation

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

Rules were posted to all license holders for orthotics, prosthetics, and pedorthics, as well as the Ohio O& P Association. Rules were reviewed by the Orthotics, Prosthetics, and Pedorthics Advisory Council.

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

    No feedback was received on these rules.

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?**

    None. These rules provide more detail to amplify Ohio Revised Code.

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. These rules further clarify statute.

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

    These rules further clarify statute.

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.**

    These rules maintain the current OPP Board standards that are currently in place, but are rewritten to fit the processes of the OTPTAT Board. New procedures are being written. Application instructions are available on the Board website and eLicense. The licensure team that reviews applications are cross trained to implement the requirements uniformly.

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.**

a. These rules impact all individuals licensed in Ohio to practice orthotics, prosthetics, and pedorthics.
b. These rules define licensure requirements, so the costs related to compliance include:
    - Cost of education (master's degree for new graduates, except for pedorthics requires a high school diploma)
    - Cost of residency program ($1,800)
    - Cost of ABC exam (
    - Cost of a BCI/FBI background check ($47.25)
    - Cost of licensure fee ($100, plus $3.50 eLicense fee)
    - Possible verification of licensure to Ohio (varies)
    - Verification sent by Ohio ($15)
    - Upgrade of licensure temp to full or LO/LP to LPO ($50)
c. See above

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

These rules implement the licensure requirements in Ohio Revised Code chapter 4779. The adverse impacts of having a license, such as fees, and documentation, are necessary to fund the operation of the Board and eLicense system and to conduct primary documentation reviews to ensure that a person has met the requirements for licensure according to the Ohio Revised Code.

Regulatory Flexibility

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

No. The statute does not allow for alternative paths to licensure. The Board makes use of the eLicense Ohio system which allows applications and most other business with the board to be conducted electronically, eliminating cost for copying and mailing documents.

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 Board has disciplinary guidelines that take into account first offenses when issuing discipline through enforcement.

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

The OTPTAT Board website and social media strive to make Board business accessible and transparent. Anyone may reach the Board for assistance at any time via mail, email, phone, website, and social media.