Ohio | Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

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Business Impact Analysis

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

Rule Contact Name and Contact Information:

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

_OPP rules – fees

Rule Number(s): _4755-66-01, 66-02, 66-03, 66-04, 66-05, 66-06, 66-07, 66-08, 66-09, 66-10, 66-11_____

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 ___) **Rescinded/____ rules (FYR?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	66	01	Initial license fee	Replaces 4779-12-01	Adopts new fees approved by the Board to align with other OTPTAT Board fees. Fee was maintained at the OPP Board level of $100.
4755	66	02	Temporary license fee	Replaces 4779-12-01	Adopts new fees approved by the Board to align with other OTPTAT Board fees. Fee was maintained at the OPP Board level of $100.

4755	66	03	Reinstatement fee	Replaces 4779-12-01	Adopts new fees approved by the Board to align with other OTPTAT Board fees. Fee was maintained at the OPP Board level of $100.
4755	66	04	License renewal fee	Replaces 4779-12-01	Adopts new fees approved by the Board to align with other OTPTAT Board fees. Fee was reduced from $200 annually to $70 every two years.
4755	66	05	Fee to upgrade from temporary to full license	Replaces 4779-12-01	Adopts new fees approved by the Board to align with other OTPTAT Board fees. Fee was maintained at the OPP Board level of $50.
4755	66	06	Fee to consolidate a license	Replaces 4779-12-01	Adopts new fees approved by the Board to align with other OTPTAT Board fees. Fee was maintained at the OPP Board level of $50.
4755	66	07	License verification fee	Replaces 4779-12-01	Adopts new fees approved by the Board to align with other OTPTAT Board fees. This rule maintains a fee ceiling, but the actual amount of the fee was reduced from $25 to $15.
4755	66	08	Duplicate wall certificate fee	Replaces 4779-12-01	Adopts new fees approved by the Board to align with other OTPTAT Board fees. This rule maintains a fee ceiling, but the actual amount of the fee was

					reduced from $25 to $10.
4755	66	09	Fee for mailing lists	Replaces 4779-12-01	Clarifies that mailing lists requested electronically are free of charge. Other means may incur a fee to cover costs.
4755	66	10	Fee for continuing education review	Replaces 4779-12-01	Puts in place a fee consistent with other OTPAT sections of $25 for review of a continuing education activity. This is rarely necessary, as the Board accepts all CE that is required by the certification body.
4755	66	11	Waiver of fees	Replaces 4779-12-01	Describes circumstances under which fees may be waived.

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

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 information on the fees that are charged by the Board.

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

   Proper collection of fees to fund the business of the OTPTAT Board.

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. Fees are permitted by statute to cover the costs of doing business. The OTPTAT Board is funded entirely through fees of license holders.

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 specify statute that allows for fees which are necessary for Board operation.

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.**

Revenue is reconciled monthly to ensure the proper accounting of fees.

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 and the business for which they work.

b. Fee amounts are listed above.

c. See above

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

Fees are necessary to fund the operation of the Board. The fees were reduced upon the consolidation of OPP Licenses with the OTPTAT Board.

Regulatory Flexibility

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

No. The continuing education requirements are on the individual license holder. A business can choose the degree to which they accommodate compliance for the staff. Some businesses choose to pay the license fees for their staff.

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?

Fees are required to do business with the Board.

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. The Board has sent out several reminders via mail, email, and via the association to remind license holders of these new requirements.