



Common Sense Initiative

Mike DeWine, 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):
Temporary Licensure – military and military spouse – Senate Bill 7

Rule Number(s): 4755-3-15, 4755-43-12, 4755-63-13; rescission of 4755-3-11, 4755-23-16, 4755-43-12

Date of Submission for CSI Review: 6/5/2020

Public Comment Period End Date: 6/19/2020

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/ X rules (FYR? X)

Rescinded/___ rules (FYR?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

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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.**

Please include the key provisions of the regulation as well as any proposed amendments.

These rules implement several benefits for members of the military and their spouses, including:

1. Military licensure – temporary license for military and spouses for up to six years if they have a license in good standing in another state and comply with the BCI/FBI background check. (Senate Bill 7)
2. Lists the programs of education within the military which would meet the education requirements for licensure. (ORC 5903.03)
3. Extends the renewal time for a license holder rather than having to reinstate a license if military services resulted in the person's absence from the state (ORC 5903.10)

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4. Extends continuing education deadlines for a person on active duty in the military (ORC 5903.12)
5. Allows service in the armed forces to be considered for continuing education (ORC 5903.121)
6. Allows a person to identify if they are in the armed services, a veteran, or a spouse in eLicense.

The OTPTAT Board is simultaneously rescinding three rules existing rules on military benefits and filing consolidated rules which speak to all of the benefits to military members and their spouses, including continuing education, military education, and temporary licensure. This will allow for one single rule per section on all military related benefits.

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 4743.041, 5903.03, 5903.04, 5903.10, 5903.121

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?**
If yes, please briefly explain the source and substance of the federal requirement.

No.

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)?**

The rules amplify the statute by giving more details on how a person would be eligible for benefits for military members and their spouses.

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

Successful benefits for members of the military and their spouses.

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?**

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

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Development of the Regulation

- 9. 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 sent out the licensure lists for comment and posted on the Board website.

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

The Board received one comment in support of the rule.

- 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. The direction for these rules is dictated by statute.

- 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 reflect the best way to get the outcome dictated by statute to comply with Board business processes.

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

Review of statute and rules.

- 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.**

The Board will update its military benefits section of its website. The eLicense system is being reprogrammed to allow for the Senate Bill 7 military temporary licenses.

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**

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Members of the military and their spouses in Ohio who work in occupational therapy, athletic trainer, orthotics, prosthetics, and pedorthics and their potential employers.

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

In order to obtain a license, a person must obtain the appropriate education, pass a certification exam, and have completed licensure in another state.

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.

Cost of education – varies. For occupational therapy, athletic training, orthotics, and prosthetics a master’s degree is required, for occupational therapy assistants, a 2-year degree, and for pedorthics, a high school diploma

Cost of examination: For OT/OTA - \$555; For AT - \$300; For orthotics and prosthetics - \$1,250; for pedorthics - \$400

Cost of licensure in other states – varies

Cost of BCI/FBI check - \$47.25

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

These rules lighten the regulatory burden for the affected population.

Regulatory Flexibility

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

No.

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 guidelines in place with regard to discipline that take first time offenses into account.

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

The Board is available by website, email, phone, and social media.

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