



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: Missy Anthony, Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board

FROM: Joseph Baker, Regulatory Policy Advocate

DATE: July 14, 2021

RE: **CSI Review – Physical Therapy Compact (OAC 4755-23-16 and 4755-24-01)**

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Board as provided for in ORC 107.54.

Analysis

This rule package consists of two new rules proposed by the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board (Board). This rule package was submitted to the CSI Office on May 28, 2021, and the public comment period was held open through June 9, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on May 28, 2021.

The rules in this package implement the processes necessary for Ohio to participate in the interstate Physical Therapy Compact (PT Compact), an agreement between member states to mutually recognize physical therapists (PTs) and physical therapist assistants (PTAs) licensed by other compact member states.

OAC 4755-23-16 states that the physical therapy section of the Board will comply with rules, laws, and regulations established by the PT Compact Commission. The rule also states that licensed PTs and PTAs from other states seeking to practice in Ohio by means of a compact privilege must successfully pass the Ohio jurisprudence assessment module prior to practicing in Ohio or renewing a compact privilege to practice in Ohio. The rule further states that practicing physical therapy in Ohio without passing the jurisprudence assessment may result in disciplinary action including termination of the applicant's compact privilege. OAC 4755-24-01 states that the Board may charge a compact privilege fee of \$50 upon application and renewal of a compact privilege

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and states that failure to pay the compact privilege fee may result in disciplinary action such as termination of the applicant's compact privilege.

During early stakeholder outreach, the Board shared the proposed rules with the Physical Therapy Compact Administrator and considered and discussed the rules at two meetings of the physical therapy section of the Board. Based on feedback from the PT Compact, changes were made to wording prescribing the penalties for failing to pay the compact privilege fee or complete the jurisprudence assessment. During the CSI public comment period, 12 comments were received. Seven comments commended the Board for reducing licensure barriers for physical therapists in Ohio by adopting the rules. One comment requested clarification regarding the general purposes of the rules. Two comments questioned the application of the Ohio jurisprudence module as a component of obtaining the compact privilege. The Board noted in its response that completion of this module is required of all PTs and PTAs in Ohio, and this standard is being applied identically to those who practice in Ohio by means of a compact privilege. Two comments addressed the \$50 compact fee provided by the rule. One commenter felt that the \$50 fee was an obstacle to practicing in the state, particularly when including the costs of the jurisprudence assessment. However, the Ohio Physical Therapy Association commented that the \$50 compact privilege fee suggested by the rule was slightly lower than the national average of \$53 and stated that the amount seemed appropriate. The Board noted in its response to the comments that the \$50 fee was less than the cost of licensing through endorsement, resulting in a net cost savings for applicant. No changes were made in response to the comments provided during the CSI public comment period.

The business community affected by these rules includes physical therapists and physical therapist assistants in Ohio and other PT compact states, as well as entities that employ such individuals for purposes of practicing physical therapy. The adverse impacts to business created by the rules include the \$50 fee assessed on individuals seeking to obtain a compact privilege to practice in Ohio based on holding a license in another compact state. The Board notes in the BIA that currently the fee to obtain licensure by endorsement in Ohio is \$100, meaning that compact privilege will be a significantly less costly option for out-of-state compact licensees to practice in Ohio. The adverse impacts also include costs and time necessary to complete the jurisprudence assessment prior to practicing in Ohio and upon renewal of a compact privilege. The cost of the assessment is \$48. The Board states in the BIA that the adverse impacts to business created by the rules are necessary to help educate holders of a privilege to practice in Ohio about the laws and rules of Ohio physical therapy, and to cover Board administrative costs to regulate the profession.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Ohio Occupational Therapy, Physical Therapy, and Athletic Training Board should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.