

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Occupational Therapy Physical Therapy, & Athletic Trainers Board

Regulation/Package Title: 2015 OT Concussion

Rule Number(s): 4755-7-11

Date: July 13, 2015

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☐ Rescinded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.

This rule outlines the requirements that must be met for an occupational therapist to assess and clear a youth to return to practice of competition. The content of the rule is based on the final report issued by the Ohio Youth Sports Concussion & Head Injury Return-to-Play Guidelines Committee.

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

ORC 3707.521

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)?**

In HB 143 of the 129th GA and HB 487 of the 130th GA, the Ohio General Assembly adopted laws governing return to play decisions for youth sports. As part of this process, section 3707.521 of the Revised Code was enacted. Under division (E) of this section, a licensing agency must adopt rules establishing standards that are equal to or stronger than the guidelines developed by the Ohio Youth Sports Concussion & Head Injury Return-to-Play Guidelines Committee if it seeks to have its licensees authorized to assess and clear athletes for return to practice or competition.

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

Success will be measured by licensees safely making return to play decisions in accordance with the guidelines established by the Ohio Youth Sports Concussion & Head Injury Return-to-Play Guidelines Committee.

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 content of the draft regulation was based on the information contained in the Final Guidelines Report issued by the Ohio Youth Sports Concussion & Head Injury Return-to-Play Guidelines Committee.

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

The Ohio Youth Sports Concussion & Head Injury Return-to-Play Guidelines Committee published its final report in March 2015 following receipt and review of extensive testimony by experts who routinely treat youth sports concussions and head injuries. The Ohio Revised Code directs the Board to adopt rules by September 17, 2015, that implement the recommendations contained in the final report.

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?

The Committee was made up of professional licensees with expertise in treating youth sports concussions and head injuries. The Committee heard extensive testimony while developing guidelines. The Committee relied upon and directed licensees to meet the “Zurich Guidelines” which is the “Consensus Statement on concussion in sport: the 4th International Conference on Concussion in Sport held in Zurich, November 2012.” The Board is incorporating the Zurich Guidelines by reference in the proposed rule.

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?

The Board did not consider alternative regulations because the statutory mandate required compliance with the specific and detailed minimum standards determined in the Final Guidelines Report of the Ohio Youth Sports Concussion & Head Injury Return-to-Play Guidelines Committee.

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.*

The Board did not consider performance-based regulations because the statutory mandate required compliance with the specific and detailed minimum standards determined in the Final Guidelines Report of the Ohio Youth Sports Concussion & Head Injury Return-to-Play Guidelines Committee.

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

This question does not apply to this rule.

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.

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The statutory mandate required compliance with the specific and detailed minimum standards determined in the Final Guidelines Report of the Ohio Youth Sports Concussion & Head Injury Return-to-Play Guidelines Committee. The Board will implement the regulations while using its website, email listserv, and social media to update and inform licensees and other stakeholders.

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;

Licensed occupational therapists

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

Individuals are required to have a license and meet various conditions for licensure to provide youth concussion assessment and clearance. The rule recommends that a portion of the required continuing education be focused on youth concussion assessment and clearance.

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.

The requirement to use a specific form developed by the Ohio Department of Health could create additional work that is not currently required by licensees.

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

The Ohio General Assembly determined that the established of these requirements were necessary to ensure public safety.

Regulatory Flexibility

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

This question does not apply.

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?

This question does not apply.

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

The Board and its staff are dedicated to working with members of the regulated community and the public to ensure that the consumers of occupational therapy services in Ohio receive safe and effective services from the Board's licensees. As a result, the following resources are available:

Board's mailing address:

77 S. High Street, 16th Floor
Columbus, Ohio 43215-6108

Board's phone number: 614-466-3774

Board's fax number: 614-995-0816

Board's website: <http://otptat.ohio.gov>

Board's email: board@otptat.ohio.gov

To Join a Board listserv: <http://otptat.ohio.gov/consumers/boardlistservs.aspx>

Board's Facebook: <https://www.facebook.com/OhioOTPTATBoard>

Board's Twitter: <http://twitter.com/OhioOTPTATBd>