

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

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

Regulation/Package Title: Five-Year Rule Review – Occupational Therapy

Rule Number(s): 4755-03-01, -02, 03, -04, -05, -06, -07, -08, -09, -10, -12, -13, -14, -15

Date: April 26, 2018 revised 6/15/2018

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☐ Rescinded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.

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| 4755-3-01 | This rule describes the process of obtaining an initial license. Changes were made to account for the online-based eLicense system. |
| 4755-3-02 | This rule describes requirements for license certificates. The rule has been edited to account for the online-based eLicense system and for clarity. |

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| 4755-3-03 | This rule describes the board-approved educational requirements for licensure by Ohio for occupational therapy and occupational therapy assistants. No change. |
| 4755-3-04 | This rule describes the board-approved examination requirements for licensure by Ohio for occupational therapy and occupational therapy assistants. No change. |
| 4755-3-05 | This rule describes the process for putting a license in escrow and restoring it upon resuming active practice. Changes were made to account for the online-based eLicense system. |
| 4755-3-06 | This rule details the discipline process and the results of discipline. Changes align this rule with that of the physical therapy and athletic trainers sections. |
| 4755-3-07 | This rule describes how a license may be reconsidered after being revoked or denied. No change. |
| 4755-3-08 | This rule describes how the board can be notified of a change in contact information. Changes were made to account for the online-based eLicense system. |
| 4755-3-09 | This rule defines active practice for the purpose of needing licensure. This rule has been streamlined to simply refer to the Ohio Revised Code definitionally. |
| 4755-3-10 | This rule describes the license renewal process. Changes were made to account for the online-based eLicense system. Changes were also made to delete reference to an obsolete fee. |
| 4755-3-12 | This rule describes the process for reinstating one's license. Changes were made to account for the online-based eLicense system. |
| 4755-3-13 | This rule outlines the process of issuing verification of Ohio licensure to another state. Updated to reflect e-License. |
| 4755-3-14 | This rule delineates the procedures for obtaining a background check for licensure by the board. No change. |
| 4755-3-15 | This rule describes the process for licensure for military members and spouses. No change |

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

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|-----------|-------------|
| 4755-3-01 | ORC 4755.06 |
| 4755-3-02 | ORC 4755.06 |
| 4755-3-03 | ORC 4755.06 |

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| 4755-3-04 | ORC 4755.06 |
| 4755-3-05 | ORC 4755.06 |
| 4755-3-06 | ORC 4755.06 |
| 4755-3-07 | ORC 4755.06 |
| 4755-3-08 | ORC 4755.06 |
| 4755-3-09 | ORC 4755.06 |
| 4755-3-10 | ORC 4755.06 |
| 4755-3-12 | ORC 4755.06 |
| 4755-3-13 | ORC 4755.06 |
| 4755-3-14 | ORC 4755.06; 4776.03 |
| 4755-3-15 | ORC 5903.03 |

- 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.**

The federal government does not license the OTPTAT professions.

- 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)?**

Regulations are necessary in order for the public to know what to expect when dealing with the agency and how to get licensed by the board. The purpose of regulation is ultimately to protect public safety.

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

Success is measured through successful and timely licensure processes and through customer feedback and timeliness of investigations.

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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.

These rules were posted on the OTPTAT Board website from 10/20/2017-11/5/2017 for comment. They were also sent out on the board list serv. The rules were subsequently discussed at the March board section public meetings.

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

A few comments were received on grammar corrections, which have been made. One commenter requested that the board send out wallet cards to license holders rather than having licenses be looked up on eLicense. Another commenter wanted the license renewal process to be unchanged, rather than go electronic. Neither of these last two issues were addressed.

- 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?**

No scientific data was used.

- 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?**

No alternative regulations were considered. These rules amplify current statute.

- 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.***

Most of the board's regulatory processes are defined within the framework of the eLicense system, which is meant to streamline and make an electronic process that is better for the user.

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

The board reviewed the rules and attempted to line them up with other board rules to ensure consistent regulation. For instance, the disciplinary rule will now be the same across all sections.

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.

None of these rules are new. They are updates to existing rules and require little implementation change. The board relies on its rules being up-to-date to ensure a consistent regulatory process across all license holders and license applicants.

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;**
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
- c. Quantify the expected adverse impact from the regulation.**

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| 4755-3-01 | License holders are impacted having to spend time submitting license applications and to pay the \$100 application fee. Businesses may be impacted to the extent that this process impacts a worker. The time required to gather paperwork depends on the license holder – it varies. The regulation and submissions are necessary to verify that an individual is qualified to be an OT or OTA. |
| 4755-3-02 | Since the Board’s mission is to protect the public, the public must be able to have ready access to see that a person has a license. Right now, license holders are required to display it for view. Cost is minimal - \$10 – should the person need a new wall certificate. Businesses must provide a place for wall certificate display. Cost would be negligible. |
| 4755-3-03 | The cost of an education to become an OT or OTA varies depending on institution. Businesses are impacted to the extent it impacts the job pool. It is necessary to have the right education to be qualified to work in these fields. Training is necessary. |
| 4755-3-04 | There is a cost to take the licensure exam of \$515. This is typically paid by the applicant. Businesses are impacted to the extent this requirement, which is necessary to test knowledge base before licensing, impacts ability to provide professionals to a patient base. |
| 4755-3-05 | There is a cost of \$20 to put a license in escrow. There is a cost of \$80 to restore a license from escrow. These costs are typically paid by the license holder. |

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| 4755-3-06 | As is typical with other licensing boards, the cost of an administrative hearing for discipline may be borne by the license holder unless the board is ruled against. The cost of any required medical examination or treatment is also borne by the license holder. Discipline can also impact a business through the loss of personnel and ability to bill for services. But discipline is a core tenet of why boards exist. |
| 4755-3-07 | This rule impact how long it takes and whether a revoked license is reconsidered. This could have a very secondary impact on a business whose employee's license has been revoked. |
| 4755-3-08 | No impact. eLicense makes this a process without cost and it is very simply, providing a license holder knows their log in credentials. |
| 4755-3-09 | Could impact a business trying to employ therapist who has been out of work for more than five years. Some extra steps are required to make the license active again. |
| 4755-3-10 | License renewal fee is \$75. Renewal is completely online. |
| 4755-3-12 | Reinstatement is \$100 fee. It is an online process that requires paperwork and review. Extra steps are required to ensure a reinstated license holder has an ability to practice. |
| 4755-3-13 | Verifications are \$15 and required by nearly every state. They can be easily requested online. |
| 4755-3-14 | BCI and FBI checks have a cost and take some time to process, but are necessary according to the Ohio Revised Code. |
| 4755-3-15 | This rule aims to reduce the burden on military members and spouses. Some regulations are more difficult due to the fact that these individuals move around. |

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

Fees are needed to operate a regulatory agency without burdening taxpayers. The Board has a duty to verify that someone is qualified according to the revised code and has a clean background in order to practice OT and OTA.

Regulatory Flexibility

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

No.

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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?

The board also uses standard discipline guidelines to ensure the consistency of discipline for licensees, which includes lower penalties for lesser and first-time violations.

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

Paperwork for licensure is primarily conducted through the Ohio eLicense system, which is strictly electronic. For help with the system, there are a variety of avenues, including calling or emailing board personnel.