

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

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

Regulation/Package Title: Athletic Trainer five-year review, Continuing Education, and Standard Operating Procedures

Rule Number(s): 4755-43-05, 4755-43-06, 4755-43-07, 4755-43-09, 4755-46-01, 4755-41-01, 4755-45-01

Date: April 23, 2019 , revised May 12, 2019

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☐ Rescinded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.

Rule number	Title	Description of proposed change
4755-43-05	Temporary license for military spouse	No change.
4755-43-06	Reinstatement of licensure	Makes changes to accommodate electronic submission of applications via eLicense and corrects the legal name of the Athletic Trainers' Board of Certification.

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<u>4755-43-07</u>	Criminal records checks	No change.
<u>4755-43-09</u>	Verification of licensure	Proposed changes update the rule to reflect processes of the new eLicense system.
<u>4755-46-01</u>	Delegation of tasks to unlicensed persons	Clarifies that the athletic trainer has ultimate responsibility and accountability for unlicensed personnel over whom they have supervision.
<u>4755-41-01</u>	Code of ethical conduct	Defines Standard Operating Procedures. Adds Standard Operating Procedures to the list of accurate records that an athletic trainer must keep.
<u>4755-45-01</u>	Continuing Education	The rule makes the following three changes: 1. Removes the requirement that five of 25 continuing education hours be earned as in-person participation in professional workshops, seminars, and/or conferences. 2. Puts into place a recently passed law that allows up to four hours of continuing education to be earned by volunteering as an athletic trainer at a free clinic. 3. Clarifies that only certain presentations by the athletic trainers' section count toward the professional ethics requirement

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

Rule number	Title	Authorizing statute
<u>4755-43-05</u>	Temporary license for military spouse	4743.04
<u>4755-43-06</u>	Reinstatement of licensure	4755.61
<u>4755-43-07</u>	Criminal records checks	4755.61, 4776.03
<u>4755-43-09</u>	Verification of licensure	4755.61
<u>4755-46-01</u>	Delegation of tasks to unlicensed persons	4755.61
<u>4755-41-01</u>	Code of ethical conduct	4755.61
<u>4755-45-01</u>	Continuing Education	4755.61

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?

No.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Ohio law requires a license to practice athletic training in the state of Ohio. These rules implement policies and procedures necessary to carry out Ohio law.

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)?

The purpose of the OTPTAT Board is to protect the public. In doing so, the Board must ensure certain requirements are met to obtain licensure and that the law is being upheld regarding continuing education and enforcement of codes of ethics of the profession.

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

Increased compliance with continuing education requirements (fewer audit findings), increased efficiency of licensure, Increased knowledge of the code of ethics

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

The rules were posted online and sent out to all current athletic training license holders. Feedback was received from individuals and the Ohio Athletic Trainers Association.

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

Rule number	Title	Feedback
4755-43-05	Temporary license for military spouse	None
4755-43-06	Reinstatement of licensure	Changes to the legal name of the Athletic Trainers Board of Certification were questioned, because license holders are not familiar with the legal name. The legal name will continue to be used, but rule summaries will clarify that the entity did not change.
4755-43-07	Criminal records checks	None
4755-43-09	Verification of licensure	None
4755-46-01	Delegation of tasks to unlicensed persons	None
4755-41-01	Code of ethical conduct	Ohio Athletic Trainers Association suggested a slight change to the definition of standard operating procedures, which has been incorporated.
4755-45-01	Continuing Education	License holders sent support for the elimination of the 5 hour in-person credit requirement.

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?

None.

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?

One of these rules is a regulatory alternative (4755-45-01). The current continuing education requirements for athletic trainers include five hours that must be earned in-person and a seminar or training. With today's technology, continuing education is easily accessible online. The rule eliminates the in-person requirement.

11. Did the Agency specifically consider a performance-based regulation? Please explain.

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Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

The continuing education rule moves toward performance based by removing some of the specifics on how it should be earned.

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

A review of current rules and laws.

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.

The Board will send updates out to all license holders, include questions on the new rules in the online ethics module that licensees can use, and will work with the Ohio Athletic Trainers Association on outreach. The Board also has disciplinary guidelines which increase predictability in any enforcement action.

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 athletic trainers and their employers

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

License fees (\$100) and renewal fees (\$70 every two years), potential fines and discipline, cost of continuing education. There could be minor costs to employers in time off for continuing education and if they pay the license fees. But the benefits to ensuring competence are worth the minor fiscal impact.

Cost of obtaining an athletic training education – varied. Masters degree is now required to be certified. Minimum education is required by law.

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.

License fees (\$100) and renewal fees (\$70 every two years),

25 hours continuing education every two years – cost is variable. The Board offers one hour free continuing education through an online test. This rule change is intended to make it easier to meet continuing education requirements.

Cost of taking the BOC exam is \$330 – required for licensure.

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

Licensure is required by law to protect the public. It ensures baseline competency for entry into the profession and enables the investigation of complaints and discipline against a bad actor.

Regulatory Flexibility

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

No. The licensure and discipline requirements are the same for the individual who is licensed whether they work in a small or large business.

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?

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The Board's disciplinary guidelines consider mitigating circumstances, such as first-time offenses. The rule attempts to ease requirements for continuing education.

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

A small business may reach the Board at any time for assistance via email or phone.