



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Carrie Kuruc**, Director

### 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):**

Physical Therapy Section – 2020 Five Year Review

**Rule Number(s):** 4755-23-01, 4755-23-05, 4755-23-06, 4755-23-07, 4755-23-08, 4755-23-09, 4755-23-11, 4755-23-13, 4755-23-14, 4755-23-15

**Date of Submission for CSI Review:** 2/24/2020

**Public Comment Period End Date:** 3/9/2020

**Rule Type/Number of Rules:**

New/\_\_\_ rules

No Change/\_\_\_X\_\_\_ rules (FYR? \_Y\_)

Amended/\_\_\_X\_\_\_ rules (FYR? \_Y\_)

Rescinded/\_\_\_ rules (FYR?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 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.

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### **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.*

Rule number	Title	Description of proposed change
4755-23-01	Applications for initial license	The rule describes how a license application should be submitted to the Board and the basic conditions of the licensure process. No changes proposed.
4755-23-05	Certificate of license; display	This rule describes how a physical therapist or physical therapist assistant license shall be displayed, per the requirements of the Ohio Revised Code. No changes proposed.
4755-23-06	Biennial renewal of licensure	This rule describes the licensure renewal process for physical therapist and physical therapist licenses, including the term of renewal and how an application is submitted. Changes made to reflect the use of the eLicense Ohio system and to make language consist across rules.

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4755-23-07	Notice of change of name; place of business; address	This rule describes how a person may inform the Board of change of name, place of business, and address. No changes proposed.
4755-23-08	Continuing education	This rule describes the continuing education requirements for physical therapists and physical therapist assistants, including the amount of hours and what educational opportunities may count for credit. Changes reflect that the continuing education requirements are a minimum standard. License holders may take more hours than the amount listed. A correction is made to reflect that proof of clinical instruction does not always include documentation of the number of hours completed. Other changes make language use consistent across all rules.
4755-23-09	Waivers for continuing education	This rule describes the circumstances under which a physical therapist or physical therapist assistant may receive a waiver of continuing education requirements. Clarifies that the Section may accept a request for CE waiver if a circumstance requiring a waiver occurs after October 1 preceding a renewal. Also makes language use consistent across rules.
4755-23-11	Verification of licensure	This rule describes how a person may request verification of licensure to another state via the Ohio eLicense system. Changes made to reflect the use of the eLicense Ohio system and to make language consist across rules.
4755-23-13	Requirements for teaching physical therapy	Describes the conditions under which a person may teach physical therapy in the state of Ohio, particularly without a license. No changes proposed. We have discovered a fix that should be made to statute in order to accommodate physical therapist assistant faculty.
4755-23-14	Criminal records check	Describes the process and requirements for obtaining a BCI/FBI criminal records check. No changes proposed.
4755-23-15	Reinstatement or reconsideration of	This rule governs the terms under which someone may apply for reinstatement of their physical therapist or physical therapist assistant license after it has been revoked or denied. Clarifies the earliest date when a person may apply for reinstatement of a license that has been

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	denied/revoked license	disciplined or reconsideration of a license denial to be one year after Board action OR the date included in the Board order.
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**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.**

Ohio Revised Code 4755.411 is the rule making statutory authority for rules. They are amplified as follows:

Rule number	Title	ORC Section
4755-23-01	Applications for initial license	4755.42, 4755.421
4755-23-05	Certificate of license; display	4755.41 , 4755.44, 4755.411 , 4755.45, 4755.451
4755-23-06	Biennial renewal of licensure	4755.46
4755-23-07	Notice of change of name; place of business; address	4755.411 , 4755.47
4755-23-08	Continuing education	4755.46, 4755.47, 4755.51, 4755.511, 4755.52
4755-23-09	Waivers for continuing education	4755.51, 4755.511, 4755.52
4755-23-11	Verification of licensure	4755.411
4755-23-13	Requirements for teaching physical therapy	4755.482
4755-23-14	Criminal records check	4755.70
4755-23-15	Reinstatement or reconsideration of denied/revoked license	4755.47

**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?**

No. Licensure is a state level requirement.

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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)?**

Rules enhance the transparency of the licensure process and support its implementation. The Ohio Revised Code explicitly allows the Board to make rules.

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

Successful compliance with OTPTAT Board processes and rules, customer service inquiries

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.

### **Development of the Regulation**

1. **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 to the agency list serve which includes all active license holders and anyone else who has signed up to receive notices. The rule comment period was December 13, 2019-January 8, 2020.

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

I just reviewed the draft and don't understand how volunteer work for the indigent qualifies for continuing education credits?

I have no objection to the proposed changes.

Just wondering why the Apta has let the new Medicare rule pass? Which seems to basically make the future of a PTA questionable? Makes you wonder why to even be a part of the apta

Reviewed all rules thank you.

I agree with the change and feel it will be a benefit to PT/PTA 's.

3. **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?**

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None

- 4. 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 Board seeks to find efficiencies in its operations, but the core mission is related to regulation that is authorized by the Ohio Revised Code. One of the Board's main tasks is to issue licenses.

- 5. 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. For regulation to work, there needs to be a defined process that is transparent to all.

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

Review of existing laws and rules

- 7. 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 OTPTAT Board will notify license holders of the change and update the website and application materials to reflect the changes.

### **Adverse Impact to Business**

- 8. 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**
- b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and**
- 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.*

- a. All physical therapists and physical therapist assistants in Ohio were licensed or want to be licensed, and the business for which they will work.
- b. The applicant must pay a \$100 license fee, plus a \$3.50 eLicense fee, any fees needed to complete required continuing education, plus any potential cost to verify a clean license

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in other states. The applicant must take the National Physical Therapy Exam to show continued competence in the field, which costs \$485. The Laws and Rules exam is \$75.

c. \$153.50 plus variable licensure verification costs and unknown costs to comply with 24 or 12 hours of continuing education. Potential additional \$485 for the national physical therapy exam and \$75 for jurisprudence. The cost of a license verification is \$15.

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

The information being collected is important to ensure the competence of individuals licensed and assists with the mission of public protection.

### **Regulatory Flexibility**

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

No. This regulation applies to individuals.

**d. 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 agency has guidelines which consider lesser fees/fines for first time offenses.

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

Any individual may contact the Board via email, phone, mail, fax, etc. to receive personal assistance with an application.