



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

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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):

OTPTAT Board – concussion rules for OT, PT, and AT

Rule Number(s): 4755-7-11, 4755-27-08, 4755-43-13

Date of Submission for CSI Review: 2/8/2021

Public Comment Period End Date: 2/19/2021

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/___X___ rules (FYR? ___X___)

Rescinded/___ rules (FYR?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

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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.

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.

These rules implement Ohio's concussion law for youth sports which allows licensed health care professionals to clear youth for sports. The amendments update the law with the most recent international protocol.

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.

3707.521

3705.511, 3707.52 , 3707.521

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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?

If yes, please briefly explain the source and substance of the federal requirement.

No.

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)?

ORC 3707.521 requires the adoption of rules in order for OTPTAT licensees to be able to clear athletes.

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

Along with all other Boards, an overall decrease in concussion problems in youth.

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

9. 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 Board sent the rules out to all of its license holders and people who have signed up for the list serv. 12/29/2020-1/12/2021

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

Several of these commenters were provided information on what the law requires specific to youth sports clearances. The Board replied to those comments with supplemental information.

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Comment
As a professional who has had first hand experience (my daughter has suffered 2 concussions, a grade I and a grade II) both Berlin and Zurich encompass the info. The Berlin is more encompassing of varying causes and the return to play is a must for school sports. Thanks for asking my opinion.
Why is OT involved in this??? This is not in their realm on academia!!!
I have read the above and agree. Thank you.
Excellent work! I am happy to see the update to the Berlin Guidelines for concussion treatment and return to sport. Thank you for creating a standard form as well. As a neuro physical therapist who works with a multi-disciplinary team, this is a wonderful resource. Great leadership. I appreciate all you do!
Regarding the email below, I am a physical therapist certified by the American Institute of Balance in Sport-related concussion management as of January 2020. I can fully attest to & highly recommend the concussion rules below be updated to the consensus 2016 Berlin guidelines as they were referred to throughout the specialty certification course, & due to the significant increase in evidence that has been published in these timelines & drastically changed treatment approaches to this diagnosis management, which is more complex than originally thought.
Not to mention- if it weren't for COVID-19 shutdowns, a more updated 2020 international consensus conference was already supposed to occur in October of 2020 in France I believe, again due to the rapidly changing & growing evidence in the field, to provide significant updates based on the 2016 publication. This got pushed back to 2021 I believe- but needless to say the OTPTAT guidelines could definitely use this update, as an even newer update is coming shortly on the horizon, so we keep up with best evidence & best practice!
Hi - I'm in agreement with these changes.
First, I object that the wording and rules for release to sport include almost identical requirements for an AT versus PT. Section 4755.60 of Ohio Law stipulates that an athletic trainer is required to have a referral from upon the referral of an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry, a dentist licensed under Chapter 4715. of the Revised Code, a physical therapist licensed under this chapter, or a chiropractor licensed under Chapter 4734. of the Revised Code. In Ohio, physical therapists have a doctoral level of entry level. Our practice act does not require a referral from another healthcare professional. Physical therapists have been qualified by scope of practice to perform clearance physical exam for commercial drivers that have a range of complex health conditions. It is therefore my opinion that the only reasonable requirement to consider for physical therapists should be to reference back to notification language requirements stipulated in Section 4755.481

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<http://codes.ohio.gov/orc/4755.481v1to> The additional educational stipulations seem reasonable to ensure competency.

I find the statements “(d) Under the supervision of a physician.” to be offensive and disrespect my professional expertise and the scope of practice for physical therapists. This provision may be a necessary requirement for an athletic trainer, but is not required for PTs to have a referral.

It seems redundant to reference both “in collaboration with” or “in consultation with”. For physical therapist, the only requirement should be notification language and some form of post-professional education that is reasonable for this.

Here are some feedback regarding the proposed rules of Youth Concussions!

Please be aware with the updated reference being the Berlin Guidelines, 2016. The International Concussion Group will be meeting in Paris for the 6th International Conference on Concussions in October, 2021.

In Sections:

OT-4755-7-11

(C)

(1) How can this be enforced and or documented and what is the Boards definition of “portion of the required:

(2) The medical clearance form to RTP was extremely difficult to locate in this section. Another RTP option could be the OHSAA “Medical Authorization to RTP when a student has nee removed due to a suspected concussion”. This form is under
the Sports Medicine section on the OHSAA website.

PT-4755-27-08

(C)

(1) How can this be enforced and or documented and what is the Boards definition of “portion of the required:

(2) The medical clearance form to RTP was extremely difficult to locate in this section. Another RTP option could be the OHSAA “Medical Authorization to RTP when a student has nee removed due to a suspected concussion”. This form is under
the Sports Medicine section on the OHSAA website.

AT-4755-43-13

(C)

(1) How can this be enforced and or documented and what is the Boards definition of “portion of the required:

(2) The medical clearance form to RTP was extremely difficult to locate in this section. Another RTP option could be the OHSAA “Medical Authorization to RTP when a student has nee removed due to a suspected concussion”. This form is under
the Sports Medicine section on the OHSAA website.

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11. 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?

Consensus statement on concussion in sport – the 5th international conference on concussion in sport held in Berlin, October 2016

12. 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?

Much of these rules repeat or are based on Ohio law.

13. 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 process in these rules is dictated by Ohio law.

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

Review of current rules and review of other health care boards' concussion rules.

15. 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.

Inform license holders of the rules via newsletter, list serv, and website. Posting the model clearance form on the OTPTAT Board website rather than relying on the Department of Health's.

Adverse Impact to Business

16. 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 active license holders

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- b. Restrictions on practice that are not normally present for all professions (referral required, practicing under physician guidance)
- c. Training and required continuing education

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

The regulation mirrors Ohio law.

Regulatory Flexibility

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

Not applicable in this case. The rule is focused on individual practitioners.

19. 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?

First time offenses are a factor that is considered in any proposed discipline by the Board.

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

Board website, email, phone, mail – information on the internet