



## Common Sense Initiative

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

**Joseph Baker**, 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):**

House Bill 509 – orthotics, prosthetics, pedorthics changes

**Rule Number(s):** 4755-62-01, 4755-63-01, 4755-63-06, 4755-63-15, 4755-66-02, 4755-66-05

**Date of Submission for CSI Review:** 4/7/2023

**Public Comment Period End Date:** 4/19/2023

**Rule Type/Number of Rules:**

New/\_\_\_ rules

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

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

Rescinded/\_\_\_X\_\_\_ rules (FYR? \_N\_)

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.*

4755-62-01 Defines terms related to the practice of orthotics, prosthetics, and pedorthics. The rule change eliminates references to temporary licenses and supervision that were eliminated in House Bill 509.

4755-63-01 Explains the process of obtaining a license for orthotics, prosthetics, and pedorthics. The rule change eliminates references to temporary licenses and supervision that were eliminated in House Bill 509 and clarifies in more general terms how to enroll in eLicense Ohio.

4755-63-06 Explains the process of obtaining a temporary license – this rule will be rescinded since temporary licenses were repealed in HB 509.

4755-63-15 Explains the process of obtaining a license through unique and exceptional circumstances. The rule change eliminates references to temporary licenses and supervision that were eliminated in House Bill 509.

4755-66-02 Establishes a fee for temporary licenses. The rule is rescinded because temporary licenses were eliminated by HB 509.

4755-66-05 Establishes a fee for temporary to full license upgrades. The rule is rescinded because temporary licenses were eliminated by HB 509.

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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.

Authority: ORC 4779.08

Amplify: 4779.09, 4779.10, 4779.11, 4779.12, 4779.13, 4779.15, 4779.17, 4779.18

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 implements a federal requirement, but 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)?

The rules give clarity to license applicants and the public on definitions and the requirements needed to obtain licensure in Ohio in orthotics, prosthetics, and pedorthics. The rule further details the requirements set by Ohio Revised Code.

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

Successful licensure applications.

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 reviewed these rules at its January Joint Board meeting and its January and March orthotics, prosthetics, and pedorthics council meetings.

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

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Advisory Council members helped determine what elements should be eliminated to align with the new law changes in House Bill 509.

**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?**

None.

**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? *Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.***

None. Licensure is required by Ohio Revised Code chapter 4779.

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

Review of existing regulations. These changes eliminate several rules.

**14. 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.**

House Bill 509 is already effective. These rule changes will align processes and make changes more clear to stakeholders.

**Adverse Impact to Business**

**15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:**

- a. Identify the scope of the impacted business community, and
- b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).

*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. Scope of impacted community is all orthotics, prosthetics, and pedorthics license holders and the businesses for which they work.
- b. These rules define licensure requirements, so the costs related to compliance include:
  - Cost of education (master's degree for new graduates, except for pedorthics requires a high school diploma)
  - Cost of residency program (\$1,800)
  - Cost of ABC exam
  - Cost of a BCI/FBI background check (\$47.25)
  - Cost of licensure fee (\$100, plus \$3.50 eLicense fee)

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- Possible verification of licensure to Ohio (varies)
- Verification sent by Ohio (\$15)

**16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**

Yes. House Bill 509 removed an unnecessary requirement for applicants to obtain eight months of supervision by an Ohio licensed orthotist, prosthetist, or pedorthist. This supervision was required even of professionals coming in from another state who had worked many years in the field and was in addition to an extensive residency process. This rule change will eliminate the requirements and related fees, making it easier to get a full license, faster.

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

A license is required to practice in Ohio per ORC 4779.

#### **Regulatory Flexibility**

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

No.

**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?**

The Board takes into account such mitigating factors when determining discipline.

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

Board staff are reachable by email, phone, and in person during business hours. The Board website gives clear guidance on the licensure process. Applicants apply online at <http://elicense.ohio.gov>.