



## Common Sense Initiative

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

**Sean McCullough**, Director

### Business Impact Analysis

**Agency, Board, or Commission Name:** Occupational Therapy, Physical Therapy, and Athletic Trainers Board

**Rule Contact Name and Contact Information:**

Missy Anthony, 614-466-3474, [missy.anthony@otptat.ohio.gov](mailto:missy.anthony@otptat.ohio.gov)

**Regulation/Package Title (a general description of the rules' substantive content):**

Occupational Therapy – Safe Haven educational requirements and TOEFL for internationally educated

**Rule Number(s):** 4755-3-01, 4755-3-12, 4755-9-01

**Date of Submission for CSI Review:** 2/17/2023

**Public Comment Period End Date:** 3/5/2023

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Rescinded/\_\_\_ rules (FYR?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

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

### **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.*

4755-3-01: This rule details the requirements to receive initial licensure as an OT or OTA in the state of Ohio. The change to this rule aligns OTPTAT Board rule English language requirement to the criteria used by the National Board of Certification for Occupational Therapy (NBCOT) to evaluate internationally educated individuals with respect to obtaining a Visa Credential Verification Certificate.

4755-3-01 and 4755-3-12: These rules have been changed to required individuals apply for initial licensure or reinstatement to view a brief video informing them of the OTPTAT Board's safe haven program. <https://www.ohio.php.org/faq>

4755-9-01: Adds a requirement for one hour of continuing education on mental health and/or substance use as a part of the biennial license renewal. This will count for one of the required 20 hours. Any course offering by the Board's Safe Haven program provider will count. Free course offerings are being planned.

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.**

**77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117**

**CSIPublicComments@governor.ohio.gov**

Authorization: ORC 4755.06,

Amplifies: 4755.04, 4755.06, 4755.062, 4755.07, 4755.08, 4755.10

- 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)?**

Licensure is required by the Ohio Revised Code for occupational therapists and occupational therapy assistants. This rule prescribes the process to obtain licensure if a person has been educated in a country other than the United States.

The OTPTAT Board is launching a new Safe Haven program, which will make additional resources available to license holders who are seeking help for mental health and substance use issues. These resources are confidential and their use will not impact a professional's license. It is important raise awareness about these issues given the level of burnout and stress that many health care professionals are facing, especially as new tools are being offered.

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

Appropriate licensure of individuals educated in a country other than the United States.

Regular reports from the Safe Haven Program on use of the resource.

- 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.**

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

Rule 4755-9-01 was discussed at both the July and September 2022 Occupational Therapy Section Board meetings.

All rules were discussed at the January 2023 OT Section board meeting.

They were also released to the occupational therapy list serve for comment, which includes all licensed OTs/OTAs.

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

Commenter	Comment
Michael Babinec	I am NOT a fan of trimming back the requirements for "Demonstrating a working knowledge of the English Language". NOT a fan at all. I would vote against this change - if a retired OT has a vote.  Perhaps NCBOT should change their language rules to match ours??
Heather Betke, OTR/L	Please know that I believe this is a positive step to further enrich our profession with people of many cultures, languages and religions who can only better serve our clients/patients.
Emily Vailoces OTR/L	I agree with the new changes requiring all licensed OT or OTA to be qualified to understand and speak English. Education is completely different outside of the US and they should be held to the same standards.
Commenter	Comment
Jared Cass	Very small percentage of those that practice in that setting. I do not agree with the recommendation.
David Pennington	I support this proposed change. Mental health and substance abuse are an important element of holistic treatment, and I believe OT is a holistic discipline.
Adam Miller OT	I am not in favor of adding more mandatory continuing Education requirements. We are professionals and know well the needs of our

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

	patients. Please do us the courtesy of allowing us to choose the courses that interest us.
Ria Caldwell	This is an excellent idea, I fully support this much needed addition to our unique profession (s).
Lynette Groves	I think with an increasing number of mental health needs and substance abuse, the more educated we are the better we can provide direction and compassion for these situations. Add it!!
Melissa Kimbrough	This requirement seems redundant for those of us who are already working closely with this population on a daily basis. Why not allow us to attest clinical hours based on practice setting?
Allison Timbrook	Yes, I believe getting CEUs on mental health and substance abuse would be a good idea.
Melissa Thompson, OT/L	While it sounds like a good idea, the fact is that very few job opportunities are in mental health for OTs, relatively speaking. There are probably not more in the area of substance abuse. I think OTs should be allowed to get as many CEUs in the areas of their choice, and if they choose these areas, so be it.
Kendra Shonk	I think it's a bad idea to put such specific requirements on continuing education. It just places more of a possible risk to be in noncompliance for no good reason. If you adopt this I think you should at least get rid of the ethics requirement.
Mary E. Eilerman, OTR/L 4811, CLT.	Thank you for the email about the proposal, but the one hour of mental health and/or substance abuse is a bit much and too specific especially if you are an OT who is really specialized like myself ( Certified Lymphedema Therapist). I believe if you are in a field that is encountering mental health diagnosis and/or substance abuse then please seek this type of continued education out. Otherwise, the board would be over stepping

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

	boundaries and micromanaging. Besides continuing education is really expensive.
Caroline Piliero COTA/L	I think this is a great idea to require at least an hour to be on mental health/substance abuse.
Shannon Ponko, COTA	I do not believe that it should be required CEUs. They should be offered as accepted CEUs only. Making these CEUs required could force individuals with emotional traumas associated with these topics unnecessary stress and discomfort. We should not use CEUs as therapeutic intervention for someone who might be struggling with these issues themselves or with a loved one.
Amelia Tharpe	Re the proposed rule <a href="#">4755-9-01</a> , I think it's ok to add this requirement as long as there are free offerings. To expect us to pay more money to satisfy this Mental Health requirement seems a bit much. It would be nice if we could still focus on continuing education that applies to our specified fields (although I fully realize that mental health is found in every setting). I also find issue with the fact that OT Mental health is very often not reimbursed, yet you are considering adding this expectation.
Tara Walker	Fully support the proposed Rule Number 4755-9-01 that adds a requirement for one hour of continuing education on mental health or substance use. Regardless of the practice setting this topic impacts us all and feel it is our duty as healthcare providers to offer assistance when we can. As with the one hour ethics requirement, feel it is in the best interest to provide a free course offering on this topic. Recognize this is being planned and wanted to voice my support.
Jennifer Tobias MS, MBA, OTR/L	Is comment and feedback is in relation to the proposed change requiring one hour of continuing education addressing mental health.  From the aspect of occupational therapy, we look at a patient holistically. This includes mind, body, and spirit. I don't believe under that context that a course in mental health should be required.

	<p>If a course in mental health should be required, it should include addressing mental health in therapists and prevention of burnout. I would expand the category to include professional-based mental health, and not patient-based mental health.</p>
Shanese Higgins	<p>I am excited to see this as an opportunity to increase all OTPs knowledge of (and hopefully comfort with addressing) treating psychosocial aspects of occupational function.</p> <p>I implore the board to pass this as a regulation for the state of Ohio Practice Act.</p>
Christine Partin	<p>I am not in favor of this.</p> <p>As OT's we get significant training in this area during our education courses.</p> <p>My work institution also requires various yearly education competency be completed thru their education modules that address this subject.</p>
Cathie Wertz	<p>I agree for the need of continuing education on the subject.</p>
Vicki Guggenbiller, OT	<p>Free course options are great. Thank you. I don't usually comment on these but this one catches my eye as to why the requirement status? Yes, it is important but leave it to the therapist to decide where their CEUs head and highlight/needs. Would it just be this upcoming renewal or always? Comment and feedback only that I hope is considered.</p>
Brandy Deering	<p>I do not support this new proposed rule of continuing education for substance abuse requirement in our continuing education. Occupational Therapy already has more continuing education hour requirements than physical therapy and an additional stipulation on an hour of ethics. I don't support even more stipulations to our choice of continuing education requirements. It narrows our focus and limits our choices in what we deem appropriate for our</p>

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

	<p>areas if practice. It may also not be reimbursed by our employer if it doesn't pertain to our area of practice. I believe you should let us as clinicians chose this topic as a continuing education course as deemed appropriate by our practices. Please stop trying to manage our courses of study!</p>
Kelly Pruett	<p>I am not in favor of the additional CEU's on these topics proposed. One hour doesn't seem like much but is not needed. If people are interested in these topics let them do the CEU' as part of the 20 hrs required</p>
Teresa Bochenek OTR	<p>I do not feel this is necessary. It is not applicable to all areas of practice, for example those working with newborns, early intervention, pre-school, in patient infants, or NICU. I feel my continuing education could be used more appropriately related to my population. Yes we should be aware and educated on these issues, I do not believe it should be a requirement for OT Licensure. While an educates knowledge of this area is impertinent it is not required to perform an Occupational Therapist role, particularly in many specialty areas.</p>
Lisa Carvitti Occupational Therapist	<p>KY has been doing something similiar for awhile. Any chance Ohio guidelines could match the KY guidelines since Cincinnati is close to the border of KY and many in the tri-state (Cincinnati area) practice in both states?</p> <p>KENTUCKY:</p> <p>(5)At least once every six (6) years from date of initial license issue or from date of last completed training program in suicide assessment, treatment, and management that is pre-approved by the board, each licensee shall complete a training program in suicide assessment, treatment, and</p>

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)



	management that is pre-approved by the board.
David Sweisberger	as long as you offer it for free you can add anything you want:)
Kris Warner OT002626	I think this is a good proposal, however, will it effect OT's who have hours due this June? If so, will there be some courses available before then?
Shawn Weisberger	I completely agree.
Kathleen Myers OTR/L	I do not agree with the new proposed rule to have 1 credit towards mental health. It would not allow people to pursue their own interests and place undue hardship on the OT's and OTA's to find and pay for specific classes. It is also difficult to make sure that a class does indeed fit the criteria. We already wait a long time for a class to give credit towards licensing. Thank you for letting us give our input.
Deborah Hummel	It is my opinion that this ruling requiring one hour of substance abuse/ mental health training is not necessary for ALL practitioners. It seems as though there could instead be an hour of ethics in each field of practice or an hour of medication education would be more meaningful. I would like to see documentation of continuing education count toward our continuing education requirements as it is vital to the explanation of our profession and in obtaining payment of services in all settings.
Rosalie King	Good idea
Heidi Demooy, OTR/L	Hello. Can you please be a bit more specific about the changes for the CEU requirements...mental health and substance abuse. Can I have a couple examples of a course title that could be used to fulfill these requirements?

**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?**

This rule makes equal Ohio TOEFL requirements with NBCOT's requirements. NBCOT is accredited to conduct equivalency reviews and their process is reviewed regularly by a credentialing agency.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

- 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?**

None. No alternative was identified.

- 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.***

No. NBCOT is the generally accepted pathway for determining educational compliance for licensure.

The new CE requirement is very broad and can encompass many topics related to mental health and substance use that may be of interest to the license holder.

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

Review of Ohio laws and 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.**

Continued measurement of applications from individuals who are internationally educated.

Continuing education audits after each renewal.

### **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. Individuals with an OT or OTA education in a different country and their potential employers. All OTs and OTAs are impacted by the continuing education.
- b. The TOEFL test costs vary by location, average of \$195. Application fee is \$100 to the OTPTAT Board. A Visa Credential Verification Certificate from NBCOT is \$500.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

Continuing education on mental health and substance use is readily available for free. The board plans to advertise free resources on its website and is currently offering free CE on the safe haven program to all licensees.

- c. It costs approximately \$800 (at least) to gather materials related to licensure when a person has been educated in a different country. These costs are required to comply with the Ohio Revised Code, which requires educational equivalence.

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

Part of the duty of the OTPTAT Board is to verify that a practicing occupational therapist or occupational therapy assistant has been adequately educated to practice in Ohio. This ensures the protection of the public against unqualified practice of occupational therapy.

The OTPTAT Board takes its responsibility to protect the public seriously. One of the best ways to do so is to encourage healthy practitioners by raising awareness about new resources which can help.

**Regulatory Flexibility**

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

No alternative means has been identified.

**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 accounted for as a mitigating circumstance in board discipline.

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

Board staff is available by phone, email, and the Board's website is a resource tool.