



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, 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

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

Senate Bill 131 reciprocity changes

Rule Number(s): 4755:2-1-02, 4755:2-1-03, 4755:2-1-04, 4755:2-1-08, 4755:3-1-03, 4755:4-1-02

Date of Submission for CSI Review: 8/10/2023

Public Comment Period End Date: 8/24/2023

Rule Type/Number of Rules:

New/ X rules

No Change/ rules (FYR?)

Amended/ rules (FYR?)

Rescinded/ rules (FYR?)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.

4755:2-1-02	PT - Educational requirements	Sets minimum educational requirements for licensure to include graduating from a program accredited by CAPTE or meeting equivalence for an individual educated internationally. Changes Ohio Revised Code cross references to align with Senate Bill 131 language.
4755:2-1-03	PT - License by examination	States that an applicant must pass the NPTE/PES and a laws and rules exam to be eligible for a license. Changes Ohio Revised Code cross references to align with Senate Bill 131 language.
4755:2-1-04	PT - License by endorsement	Sets the requirements to obtain a license in Ohio if the individual has a license in another state. Changes cross references to align with Senate Bill 131.

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4755:2-1-08	PT - Requirements for teaching physical therapy	Sets the requirements for licensure for persons teaching physical therapy in the state of Ohio. Changes clarify that licensure is required if a person is teaching in Ohio for more than one year.
4755:3-1-03	AT - Education	Sets minimum educational requirements for licensure. Changes Ohio Revised Code cross references to align with Senate Bill 131 language.
4755:4-1-02	OPP - Licensure for out-of-state applicants	Describes the requirement for applicants for licensure in orthotics, prosthetics, and pedorthics if they are coming from another state. Aligns with Senate Bill 131 by: Allowing a person to be certified by either ABC or BOC if they have had a license in another state for at least one year. Allows a person who is certified by either ABC or BOC for at least two years in a state that doesn't offer licensure to be licensed in Ohio.

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.

Adopt: 4755.411, 4796.03, 4755.61, 4779.08

Amplify: 4755.42, 4755.421, [4755.441](#), [4755.44](#), [4755.431](#), [4755.43](#), [4755.421](#), [4755.45](#), [4755.451](#), [4755.482](#), [4755.61](#), [4755.62](#), 4779.17

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)?

Ohio Revised Code Sections 4755 and 4779 require the professions regulated by the OTPTAT Board to be licensed. Licensure assures minimum standards to practice are met and protects the public through enforcement of the laws and rules.

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

Continued licensure of individuals who have been practicing in other states.

- 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.

Rules were released to Board list serves from July 3-July 14, 2023 and discussed at July and August Board meetings.

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

Several grammar issues, which have been resolved in this latest draft.

- 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. The Ohio Revised Code requires licensure.

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

Review of OTPTAT Board rules and statute, including the new ORC 4796.03.

- 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.**

The OTPTAT Board publishes laws and rules on its website in the form of a practice act document and will highlight changes in its newsletter and be sure they are reflected in jurisprudence tools.

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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.

These rules impact all individuals license applicants and their potential employers.

The cost of a license application is \$100 plus a \$3.50 eLicense fee.

Cost of the required background check is \$47.25.

Other costs include, obtaining the minimum required education and taking the national exam, but since the individuals impacted by these rules are already licensed in another state, they have already borne that expense.

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*).

The Board is currently undergoing a project to reduce its rules by combining rules that are duplicative across professions.

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

Licensure is required by the Ohio Revised Code.

Regulatory Flexibility

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

No. All practitioners are required to be licensed.

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 first time offenses when deciding whether discipline is warranted through its disciplinary guidelines.

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

A person can email, call, or visit the Board offices. Information is available on the website as well.

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Business Impact Analysis RESCINDED RULES

This form is intended for rules that are being permanently rescinded and not replaced by a new rule. New, Amended, No Change, and Rescind/New rules must use the standard BIA.

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

Rule Contact Name and Contact Information: Missy Anthony, missy.anthony@otptat.ohio.gov, 614-466-3474

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

Senate Bill 131 Rule Rescissions

Rule Number(s): 4755-23-02, 4755-23-03, 4755-23-04, 4755-23-13, 4755-43-04, 4755-63-02,

Date of Submission for CSI Review: 8/10/2023

Public Comment Period End Date: 8/24/2023

Rule Type/Number of Rules:

✓ Rescinded/ X rules (FYR? X)

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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 describe in plain language the regulation that is being rescinded.**

4755-23-02	PT - Educational requirements	Sets minimum educational requirements for licensure to include graduating from a program accredited by CAPTE or meeting equivalence for an individual educated internationally. Changes Ohio Revised Code cross references to align with Senate Bill 131 language.
4755-23-03	PT - License by examination	States that an applicant must pass the NPTE/PES and a laws and rules exam to be eligible for a license. Changes Ohio Revised Code cross references to align with Senate Bill 131 language.
4755-23-04	PT - License by endorsement	Sets the requirements to obtain a license in Ohio if the individual has a license in another state. Changes cross references to align with Senate Bill 131.
4755-23-13	PT - Requirements for teaching physical therapy	Sets the requirements for licensure for persons teaching physical therapy in the state of Ohio. Changes clarify that

		licensure is required if a person is teaching in Ohio for more than one year.
4755-43-04	AT - Education	Sets minimum educational requirements for licensure. Changes Ohio Revised Code cross references to align with Senate Bill 131 language.
4755-63-02	OPP - Licensure for out-of-state applicants	Describes the requirement for applicants for licensure in orthotics, prosthetics, and pedorthics if they are coming from another state. Aligns with Senate Bill 131 by: Allowing a person to be certified by either ABC or BOC if they have had a license in another state for at least one year. Allows a person who is certified by either ABC or BOC for at least two years in a state that doesn't offer licensure to be licensed in Ohio.

3. Why is the regulation being rescinded?

Please be specific (ORC change, request of stakeholders, etc.)

The Board is currently undergoing a project to reduce its rules by combining rules that are duplicative across professions.

4. Please describe in general terms the adverse impacts to business, including currently impacted industries, in the existing rule(s).

These rules impact all individuals license applicants and their potential employers.

The cost of a license application is \$100 plus a \$3.50 eLicense fee.

Cost of the required background check is \$47.25.

Other costs include, obtaining the minimum required education and taking the national exam, but since the individuals impacted by these rules are already licensed in another state, they have already borne that expense.

5. Are there other regulations (either existing or to be created) which will replace the regulation being rescinded or which will now apply because this regulation is being rescinded? This can include rules, statute, federal regulations, agency policies, or industry standards etc.

Yes. These rules are being renumbered (see separate BIA).

6. Does the rescission of this regulation eliminate flexibility or create more adverse impacts for stakeholders? If yes, please describe stakeholder outreach and justify the impacts.

No. These rules are being renumbered.