



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

Unique and Exceptional qualifications

Rule Number(s): 4755:4-1-09

Date of Submission for CSI Review: 10/26/2023

Public Comment Period End Date: 11/9/2023

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/ X rules (FYR? N)

Rescinded/___ rules (FYR?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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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.

This rule describes a pathway to licensure in Ohio to licensure for individuals who were educated prior to the current educational framework and residency requirement, including an experiential component. Senate Bill 131, passed last General Assembly, requires the Board to issue a license to a person who holds a substantially equivalent license in another state or who has held a private certification in a state that doesn't require licensure for the past two years.

Changes to this rule for licensure under unique and exceptional circumstances will allow someone who is in Ohio who has a BOC accreditation to become licensed in Ohio similar to the requirements of the new reciprocity language under SB 131 for those licensed or certified in another state. In doing so, the experiential requirements are reduced from 15 year to two, in line with SB 131.

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.**

Authorized By: 4779.08

Amplifies: 4779.08, 4779.10, 4779.11, 4779.12, 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)?**

The rule sets forth a standard to ensure that individuals have adequate education and experience to practice orthotics and prosthetics in Ohio, as set forth by Ohio law, which requires licensure.

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

Successful licensure for candidates outside the traditional education pathway.

- 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.

This rule was sent to stakeholders for comment from August 11, 2023-August 24, 2023. The rule was also discussed at the July and September Board meetings. It was also available for comment during the legislative process due to the ORC change.

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

To whom it may concern,

We are happy to see that the Board is offering a reasonable pathway for BOC Certified individuals to become licensed in the State of Ohio. This rule change will bring Ohio Rules more in line with Federal/CMS Rules on certification.

As an Ohio business/employer since 1963, we have employed both ABC and BOC Certified individuals, and both groups have excellent skills.

Sincerely,

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Stephen R. Kempf, ABC Certified Orthotist (#1388); Ohio License #LO 63
Kempf Surgical Appliances, Inc.

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.

Because this rule takes into account experience practicing in the field, it is an alternative regulation.

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

Review of existing laws and 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.

New rules will be posted to the web and application materials will be changed so that new applicants understand the changes.

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

Individuals educated outside the traditional pathway who have been practicing under supervision in Ohio and their employers.

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.

Application fees (\$100)

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*).

Previously, these individuals were not eligible for licensure until they had been working 15 years. Now they can be licensed in two years.

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

Lines up with legislative intent of SB 131 to reduce barriers to work in Ohio.

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 agency will work with applicants to help them complete the application.

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

Board staff are available during business hours via email and phone, agency website.