

**MEMORANDUM**

**TO:** Missy Craddock, Occupational Therapy, Physical Therapy, and Athletic Trainers Board

**FROM:** Christopher Smyke, Regulatory Policy Advocate

**DATE:** June 29, 2018

**RE:** **CSI Review – Five-Year Rule Review- Occupational Therapy (OAC 4755-3-01 to 4755-3-10 and 4755-3-12 to 4755-3-15)**

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On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

**Analysis**

This Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board (Board) rule package consists of nine amended rules and five no-change rules for their statutorily-required five-year review. This rule package was submitted to the CSI Office on April 26, 2018 and the public comment period was open through May 16, 2018. No comments were received during that time. The Board submitted a revised BIA on June 15, 2018.

This rule package encompasses all of the rules in Ohio Administrative Code (OAC) Chapter 4755-3 which governs licensing, examination, education, and training requirements for occupational therapists (with the exception of OAC 4755-3-11, which was reviewed by CSI in a previous rule package). The majority of the rule changes related to the online-based eLicense system. In addition, amendments to OAC 4755-3-06 align the rule with its physical therapy and athletic training counterparts by stipulating that wall certificates must be destroyed in the event of a license suspension/revocation, as well as clarifying that a licensee is responsible for the cost of a Board-ordered medical examination as part of a disciplinary proceeding. The rules also include minor changes, including removing redundant language and rescinding an obsolete fee. The rules that

address educational and exam requirements, license reinstatement, criminal records checks, and military provisions are proposed with no changes.

The Board sought early stakeholder input by posting the rules on its website, sending the rules electronically to their stakeholder listserv, and reviewing the rules at the Board's public meeting in March. Several comments included editorial changes, which the Board incorporated. The Board also received a suggestion to issue wallet cards rather than cataloging them on eLicense, and another comment suggested that the license renewal process remain unchanged, rather than move to eLicense. The Board declined to incorporate either of these changes. No comments were received during the CSI public comment period.

The rules impact licensed occupational therapists and any entities that employ them. The licensing process entails several fees, including fees for initial licensure (\$100), requesting a wall certificate (\$10), putting a license into escrow (\$20) and restoring it (\$80), renewal (\$75), reinstatement (\$100), and verification (\$15). In order to become licensed, an applicant must incur the cost of required education, which varies based on the institution, and pass the licensure exam, which costs \$515. If a licensee becomes subject to a disciplinary proceeding, they would be responsible for the cost of an administrative hearing (if found at fault) and the licensee is responsible for the cost of any Board-ordered medical exam ordered as part of the disciplinary action. Any licensee found in violation of Ohio law or rules may face disciplinary action, including licensure denial, suspension, or revocation. In addition, an individual must submit to a criminal background check prior to issuance of a license.

The BIA justifies the rules as a necessary way to inform the public on how the Board operates, how to attain and maintain licensure, and to protect public safety by holding licensed professionals accountable to Ohio law and regulations. The rules also serve to provide clarity on Board policies and procedures for licensees and the greater public. The BIA asserts that monetary fees are necessary to operate a licensing and regulatory scheme without burdening taxpayers.

After reviewing the proposed rules, BIA, and response to comments the CSI Office has determined that the rule package satisfactorily meets the standards espoused by the CSI Office, and the purpose of the rules justifies the adverse impact identified in the BIA.

### **Recommendations**

For the reasons described above, the CSI Office has no recommendations regarding this rule package.

**Conclusion**

Based on the above comments, the CSI Office concludes that the Board should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

CC: Emily Kaylor, Lt. Governor's Office