



## Common Sense Initiative

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

**Joseph Baker**, Director

### MEMORANDUM

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

**FROM:** Michael Bender, Business Advocate

**DATE:** April 28, 2023

**RE:** **CSI Review – Occupational Therapy – Safe Haven educational requirements and TOEFL for internationally educated (OAC 4755-3-01, 4755-3-12, and 4755-9-01)**

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On behalf of Lt. Governor Jon Husted, 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 Board as provided for in ORC 107.54.

#### Analysis

This rule package consists of three amended rules proposed by the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board (Board) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on February 17, 2023, and the public comment period was held open through March 5, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on February 17, 2023.

Ohio Administrative Code (OAC) 4755-3-01 sets forth the requirements for applicants for initial licensure from the Board as an occupational therapist or occupational therapy assistant. The rule is amended to require applicants to view a presentation on the Board's safe haven program, incorporate the Test of English as a Foreign Language (TOEFL), and update language. OAC 4755-3-12 sets forth the requirements for applicants for reinstatement of an expired occupational therapist or occupational therapy assistant license. The rule is amended to require applicants to view a presentation on the Board's safe haven program. OAC 4755-9-01 requires all occupational therapist and occupational therapy assistant license holders to complete twenty contact hours of continuing education activities

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within each two-year renewal cycle and provides for such activities. The rule is amended to require at least one contact hour to consist of mental health and/or substance use education per renewal cycle.

During early stakeholder outreach, the Board discussed the rules at meetings of its Occupational Therapy Section in July and September 2022 as well as January 2023. Additionally, the Board sent out the rules for comment to its occupational therapy listserv, which includes all licensed occupational therapists and occupational therapy assistants. The Board received numerous comments as a result of this outreach, with some in support of the proposed changes to the rules and others opposed. During the CSI public comment period, the Board received comments from four individuals regarding the mental health continuing education requirement. One individual expressed support for it as a one-time mandate, another approved of it as long as free course offerings would be available, and two expressed the belief that it was unnecessary. The Board stated that it intends to retain a list of free course offerings on its website and would offer an on-demand option in conjunction with the safe haven program. Furthermore, the Board emphasized that the mental health continuing education requirement was not onerous but that the topic was very important. The Board did make a technical correction to the rules.

The business community impacted by the rules includes all licensed occupational therapists and occupational therapy assistants and applicants for licensure, including individuals with an occupational therapist or occupational therapy assistant education in a different country. The adverse impacts created by the rules include test costs, application fees, certificate costs, and continuing education requirements. According to the Board, the TOEFL costs vary by location and average \$195, the application fee to the Board is \$100, a Visa Credential Verification Certificate from the National Board for Certification in Occupational Therapy is \$500, and it costs approximately \$800 for a person to gather materials related to licensure when he or she has been educated in a different country. The Board states that the adverse impacts to business are justified to fulfill statutory requirements and to ensure the protection of the public against unqualified practice of occupational therapy by verifying that a practicing occupational therapist or occupational therapy assistant has been adequately educated to practice in Ohio.

### **Recommendations**

Based on the information above, the CSI Office has no recommendations on this rule package.

### **Conclusion**

The CSI Office concludes that the Board should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.