

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio Occupational Therapy Physical Therapy, & Athletic Trainers Board

Regulation/Package Title: Licensing, Examination, Education, and Training for the Occupational Therapy Section

Rule Number(s): 4755-3-02; 4755-3-03; 4755-3-04; 4755-3-07; 4755-3-08; 4755-3-09;  
4755-3-10, 4755-3-13; 4755-3-14

Date: February 17, 2012

**Rule Type:**

☐ New

☒ 5-Year Review

☐ Amended

☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. 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  
[CSIOhio@governor.ohio.gov](mailto:CSIOhio@governor.ohio.gov)

## **Regulatory Intent**

### **1. Please briefly describe the draft regulation in plain language.**

*Please include the key provisions of the regulation as well as any proposed amendments.*

#### 4755-3-02 – Certificate of license; display; copies

This rule states that all licensees will receive a wall certificate upon initial licensure that the licensee must display at the licensee's main practice location.

#### 4755-3-03 – Educational requirements

This rule states that educational requirements referenced in the Ohio Revised Code are satisfied by completion of an entry-level education that is accredited by the Accreditation Council for Occupational Therapy Education (ACOTE).

#### 4755-3-04 – Examination requirements

This rule states that applicants for licensure must pass the National Board for Certification in Occupational Therapy (NBCOT) certification exam.

#### 4755-3-07 – Reinstatement or reconsideration of denial of license

This rule lists the factors considered by the Occupational Therapy Section when reviewing the application from an individual whose license was revoked or whose application for licensure was denied.

#### 4755-3-08 – Notice of change of address

This rule requires licensees to notify the Board of an address change within 30 days of the change. It also specifies how the notification may be made.

#### 4755-3-09 – Active practice defined

This rule restates the definition of active practice of occupational therapy that is contained in the Ohio Revised Code. It clarifies that only individuals licensed by the Board may practice or offer to practice occupational therapy.

#### 4755-3-10 – Biennial renewal of licensure

This rule outlines the requirements for biennial renewal of an occupational therapist/occupational therapy assistant license. As noted in the rule, all OTs must renew by June 30 of odd-numbered years and all OTAs must renew by June 30 of even-numbered years. If a license is issued on or after April 1 of the renewal year, the expiration date will be June 30 of the next appropriate year (i.e.: an OT license issued on April 15, 2013 will be valid until June 30, 2015).

#### 4755-3-13 – Verification of licensure

This rule outlines the process to request an official license verification to another state. It requires a written request and payment of the verification fee.

#### 4755-3-14 – Criminal records check

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

**[CSIOhio@governor.ohio.gov](mailto:CSIOhio@governor.ohio.gov)**

Section 4755.70 of the Ohio Revised Code requires the Board to receive the result of a criminal records check from the Ohio BCI and the FBI prior to issuance of a license. This rule states that the Board considers the results of the BCI/FBI criminal records check valid for 6 months from the date received by the Board. If a license is not issued within this 6 month period, the applicant must submit new criminal records checks results to the Board.

**2. Please list the Ohio statute authorizing the Agency to adopt this regulation.**

ORC 4755.06

**3. 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.*

The answer is no to both questions for the rules in this package.

**4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

Not applicable to the rules in this package.

**5. 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 public purpose of these regulations is to ensure that the consumers of occupational therapy services in Ohio receive services from individuals who have demonstrated the requisite knowledge to be safe practitioners and to ensure that consumers can determine that an individual is licensed to practice occupational therapy in the State of Ohio.

Rules 4755-3-03 and 4755-3-04 establish the minimum requirements to be eligible for a license. These requirements include graduation from a nationally accredited occupational therapy education program and passage of a national exam that measures entry-level competence.

Rule 4755-3-02 requires licensees to have proof of current licensure available. With the implementation of electronic databases, this proof can be done electronically through the Ohio e-License Center.

Rule 4755-3-07 outlines the factors considered by the Board when reviewing an application for reinstatement of a revoked license. This rule provides guidance to licensees applying to reinstate since it outlines what factors are taken into account by the Board when reviewing the reinstatement application.

Rule 4755-3-08 requires licensees to notify the Board, in writing, of an address change within 30 days of the change. This deadline is required because the Board needs to have a current address when mailing out renewal notices or when mailing other official mailings to licensees. If an address change is not made in a timely fashion, the mail can get returned to the Board office. If there is a forwarding address, we must incur the cost of postage and

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

**[CSIOhio@governor.ohio.gov](mailto:CSIOhio@governor.ohio.gov)**

supplies to resend the mailing. If there is no forwarding address, a licensee might not receive the notification of renewal and could potentially have their license to practice expire, which would prevent them from practicing occupational therapy in Ohio until such time as the license is reinstated.

Rule 4755-3-10 outlines the biennial license renewal process required by ORC 4755.10. This rule outlines the initial expiration date for new licensees, based on when the first license is issued.

Most states require an individual seeking licensure in that state to submit an official verification of any out of state licenses, to ensure that the individual is licensed in good standing in the other state. Rule 4755-3-13 protects the public by outlining the official license verification process.

Sections 4755.06 and 4755.70 of the Revised Code require all applicants for initial licensure to submit criminal records checks from BCI and FBI. This rule outlines the process by which an applicant must submit the criminal records check information. To ensure accuracy and that the board receives a primary sourced document, we require the results to be received directly from the Ohio BCI. In addition, since criminal activity can occur in a short period of time, the Board only considers the results of the records check valid for 6 months from the date the results are received by the Board.

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

Success will be measured by having the rules written in plain language for clarity, by no individual receiving a license without the Board receiving a valid criminal records check, by licensees understanding when their initial licenses expire, and by consumers who know how to verify current licensure status of occupational therapy personnel.

**Development of the Regulation**

**7. 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.*

The Board emailed stakeholders on February 7, 2012. Stakeholders were informed that comments were due to the Board by Tuesday, February 21. Stakeholders included licensees who are on the Board's listserv, staff at the Ohio Department of Education, Office for Exceptional Children, representatives of the Ohio Occupational Therapy Association, representatives of the National Board for Certification in Occupational Therapy, the national organization that administers the certification exam, representatives of the American Occupational Therapy Association, representatives from the Accreditation Council for Occupational Therapy Education (ACOTE), the national accrediting organization for entry-

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

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

level educational programs, and the directors of the entry-level occupational therapist and occupational therapy assistant education programs in Ohio.

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

One stakeholder suggested that the address change notification timeline be extended to 60 days. Based on operational issues, the Board felt that keeping the 30 days limit was appropriate.

**9. 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 question does not apply to most of these proposed rules. The educational and exam requirements are national requirements, established in accordance with appropriate standards. Other rules are outlining processes followed by the Board in accordance with provisions of the Ohio Revised Code.

Based on past experience, the Board determined that 30 days was an appropriate timeline to require the notifications of address changes in rule 4755-3-08. The timelines outlined in the biennial renewal rule (4755-3-10) were based on statute and operational need. State law states that licenses shall be renewed biennially in accordance with the schedule established in rule. Since the Board mails renewal applications in April, the renewal deadline for an initial license is set at the following renewal period for any license issued after April 1 (which is the tied to mailing of the renewal applications).

**10. 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?**

Since these rules govern national standards and/or statutorily mandated procedures, the Board did not consider alternative regulations.

**11. 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.***

This question does not apply to these rules.

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

This question does not apply to these rules.

**13. 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.**

This question does not really apply to these rules since the rules either govern specifying compliance with national standards common to the profession of occupational therapy in the United States or are no change rules that continue with current procedures followed or required by the Board. Information regarding procedures related to the biennial license renewal process, the verification of licensure, and the criminal records check requirements are available on the Occupational Therapy Applications page of the Board's website.

### **Adverse Impact to Business**

**14. 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;**

Licensed occupational therapists and occupational therapy assistants.

**b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance);**

State law requires individuals seeking to practice occupational therapy in the State of Ohio to obtain a license to practice, which includes graduating from an accredited educational program, passing a national exam, and submitting the results of a criminal records check from the BCI and FBI.

**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.*

Applicants for licensure as an occupational therapist must graduate from an entry-level master's or doctorate program. Applicants for licensure as an occupational therapy assistant must graduate from an entry-level associates degree program. The NBCOT exam registration fee, including the cost to have the score sent to Ohio, is \$540. The cost for the criminal records check is \$22 for the BCI and \$24 for the FBI, plus a processing fee that may be charged by the entity processing the fingerprints.

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

All states that regulate the profession of occupational therapy require graduation from an ACOTE accredited program and passage of the NBCOT exam. By complying with national standards, the Board can both accomplish its mission of public protection by ensuring that applicants for licensure have met minimal standards required to ensure that the individual will be a safe and competent practitioner and can help allow for mobility between states. The requirements for the criminal records check and the license are established in state law.

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

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



## **Regulatory Flexibility**

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

The rule regarding educational requirements provides an alternative means of compliance for foreign educated applicants, who did not graduate from an ACOTE accredited program, since ACOTE only accredits U.S.-based occupational therapy educational programs. All other rules in the package either govern requirements where there is only one way to comply or the public protection mission of the Board can only be met via the path specified in the rule.

### **17. 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?**

Under the Board's internal guidelines, thresholds are established that govern if a violation falls into the non-disciplinary warning letter category. Typically, a licensee who practices for a short period of time on an expired license will receive the warning letter instead of formal disciplinary action. As with all violations, the Board takes aggravating and mitigating factors into account when making the warning letter determination, too. For example, if the applicant indicates on the reinstatement application that they did not practice on the expired license when they actually did, the Board would view that as an aggravating factor that might lead to formal disciplinary action, even if the individual only practiced for 2 days on the expired license.

Regarding the criminal records check requirement, the Board has some flexibility on extending the validity date and the requirement that the results are received directly from the BCI. If a license is ready to be issued by the fingerprint results are 6.5 months old, the Board will typically still consider the results to be acceptable and does not require the applicant to submit updated fingerprints. In addition, if a law enforcement agency, in error, has the results returned to the agency instead of the Board, the Board will accept the results if they are received in a sealed envelope from the law enforcement agency. We do not accept the results if they are sent by a non-law enforcement agency.

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

The Board and its staff are dedicated to working with members of the regulated community and the public to ensure that the consumers of occupational therapy services in Ohio receive safe and effective services from the Board's licensees. As a result, the following resources are available:

Board's mailing address:  
77 S. High Street, 16<sup>th</sup> Floor  
Columbus, Ohio 43215

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

**[CSIOhio@governor.ohio.gov](mailto:CSIOhio@governor.ohio.gov)**

Board's phone number: 614-466-3774

Board's fax number: 614-995-0816

Board's website: <http://otptat.ohio.gov>

Board's email: [board@otptat.ohio.gov](mailto:board@otptat.ohio.gov)

To Join a Board listserv: <http://otptat.ohio.gov/consumers/boardlistservs.aspx>

Board's Facebook: <https://www.facebook.com/OhioOTPTATBoard>

Board's Twitter: <http://twitter.com/OhioOTPTATBd>