

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

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

Regulation/Package Title: 2013 OT CE Changes

Rule Number(s): 4755-9-01

Date: October 15, 2012

Rule Type:

☐ New

☒ Amended

☒ 5-Year Review

☐ Rescinded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.

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.

4755-9-01 – Continuing education

This rule establishes the continuing education requirements that a licensed occupational therapist and occupational therapy assistant must meet to renew their license to practice in

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Ohio. The rule is being amended to broaden the existing ethics requirement. Under the proposed change, licensees will now be required to complete at least one hour of CE each renewal period that addresses ethics, jurisprudence, or cultural competence.

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)?

Section 4755.10 of the Ohio Revised Code states that all licensees must complete continuing education requirements to renew the license to practice. This rule outlines the continuing education requirements that must be met by licensees. Understanding ethical issues, as well as the laws and rules governing the practice and the impact of changing demographics on practice are import topics that licensees should be familiar with. Therefore, the Board has specified that all licensees must have at least one hour that addresses one of these three topics as part of the 20 hours required every two years.

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 and by applicants understanding ethical, jurisprudence, and cultural competency issues in day to day practice, which will reduce potential violations of the Ohio OT Practice Act.

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.

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The Board emailed stakeholders on August 28, 2012. Stakeholders were informed that comments were due to the Board by September 5. Stakeholders included licensees who are on the Board's listserv. The email stated that after reviewing some AOTA resources, the OT Section is considering amending this rule to add a requirement that licensees complete CE activities in the area of cultural competence.

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

The Board received many comments regarding the issue of adding cultural competence as a mandatory continuing education requirement. Many licensees were concerned that by adding this requirement, in addition to the existing 1 hour of ethics, could negatively impact their ability to complete CE activities in areas that were more clinically focused.

Based on the comments, the Board decided to amend the existing ethics requirement versus adding a new cultural competence requirement.

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 these proposed changes. A review of the literature developed by national professional organizations indicated that the issue of cultural competence impacted practice in many areas in Ohio. For example, the increase in the Somali population in central Ohio and the unique socioeconomic issues that a practitioner would face in southeastern Ohio.

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?

Based on the feedback from the impacted community, the Board decided to move forward with the alternative of broadening the existing ethics category rather than adding a new requirement for one hour in cultural competence.

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.

The Board’s website contains information for licensees on how to comply with the continuing education requirements. We would use our existing listserv, website, and Facebook/Twitter pages to notify licensees of the change to the ethics requirement.

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);

Applicants must complete 20 contact hours of continuing education to renew the Ohio license. For most activities, there is a cost associated with the activity. In addition, licensees must devote time to complete the activity, whether it is an online activity that can be completed at home or an in person conference/workshop.

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.

The cost of the adverse impact is the fee for the activity and time potentially spent away from work. Many employers will allow employees time during the work day to complete continuing education requirements.

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

The Ohio Revised Code states that licensees must complete appropriate continuing education to be eligible to renew a license. In addition, as life-long learners, licensees must complete activities during the course of their practice that will help maintain and improve clinical and related skills needed to maintain current competence in the practice of occupational therapy.

Regulatory Flexibility

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

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Yes. In individual cases involving disability, illness, or undue hardship, the Board may grant waivers or extensions of the continuing education requirements.

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?

For first time offenders who were deficient by up to one contact hour or who did not comply with the one hour of ethics requirement, the Board sends a non-disciplinary warning letter, requires the licensee to complete the missing continuing education, and automatically audits the individual for continuing education compliance on their next renewal.

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, 16th Floor
Columbus, Ohio 43215-6108

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

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>

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