

# CSI - Ohio

## The Common Sense Initiative

### Business Impact Analysis

Agency Name: Occupational Therapy, Physical Therapy, and Athletic Trainers Board

Regulation/Package Title: 2014 OT HB 98

Rule Number(s): 4755-3-12

Date: March 3, 2014

**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Rescinded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.*

The new rule outlines various provisions related to licensure that can impact applicants and licensees who are veterans, active duty in the armed forces, or the spouse of a veteran/active duty member. The rule outlines the military programs of training, primary specialties, and lengths of service that are substantially equivalent to or exceed the licensure requirements for

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OTs and OTAs. The rule also clarifies that an individual whose license expired due to being called to active duty can renew the license without penalty provided certain conditions are met. The rule also clarifies that the continuing education reporting period can be extended for licensees who are called to active duty. The rule also specifies that the Board will consider applying relevant military education, training, or service towards the continuing education requirements. Finally, the rule states that the application fee shall be waived for a current member of the armed forces.

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

Recently enacted H.B. 98 requires each licensing board to adopt rules identifying substantial military equivalents for its licensing education and experience requirements. The statutes authorizing the provisions in this rule include ORC 5903.03, ORC 5903.10, ORC 5903.12, and ORC 5903.121.

**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.*

No. The regulation is not related to federal requirements, laws, or programs.

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

Not applicable.

**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 the proposed rule is to recognize a veteran's education and experience obtained in the military that is substantially equivalent to or exceeds the training and education required for licensure as an occupational therapist or occupational therapy assistant so that it would meet certain requirements of the profession's standard licensing process. The proposed rule is intended to lead to increase employment opportunities among Ohioans who have served in the military by considering relevant military education, skills training, and service in the professional licensure process to establish the applicant's competency and sufficiency of education and training needed for safe practice. In addition, the proposed rules will allow licensees called to active duty, who might not be able to renew in a timely fashion or complete the required continuing education, to have the ability to renew the license without penalty.

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

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Military veterans should be able to have their military education, skills training, and experience more efficiently reviewed by the Board when the Board considers the education and other requirements required for licensure. The Board will track the number of veterans and their spouses who apply for licensure and will determine the expediency to which licensure is received in comparison with non-veteran applications. The expectation for success of this regulation is a reduced processing time for veteran applicants, as well as an increased ease for veterans to have their military service and education credited towards civilian licensure.

### **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.*

On December 3, 2013, the Board emailed a draft of the regulation to representatives of the Ohio Department of Veterans Services and the Governor's Office of Workforce Transformation. The regulation was also sent to the Board's standard stakeholders on December 4. The Board also received assistance from representatives with the Federation of State Boards of Physical Therapy and contacted representatives at the military's Medical Education and Training Campus (METC) at Fort Sam Houston.

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

Input received helped the Board identify the military programs and training and primary specialties that are substantially equivalent.

**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?**

Not applicable.

**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?**

No alternative regulations were considered because the Ohio Revised Code is prescriptive regarding this matter.

**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.**

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The Board did not consider a performance based regulation because the statutes are prescriptive in what is required and because rules related to licensure, in general, are not conducive to a performance based approach to regulation.

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

The Board is solely responsible for the licensure which that proposed rules administer.

**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 has established a Military Benefits page on its website. This page highlights many of the provisions that are addressed in the proposed regulation.

**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;**

Ohio military veterans and their spouses who are potential applicants for licensure as an occupational therapist or occupational therapy assistant.

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

The nature of the adverse impact would include the time and effort required to complete an application, and any applications fees. In addition, the time and cost required to comply with any initial and/or continuing education requirements and licensure renewal expenses. The purpose of this proposed rule filing is to reduce these adverse impacts by recognizing equivalent education and experience gained in the military that would offset some of the requirements of the standard licensing process.

**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 specific changes being proposed in this rule filing are intended to reduce the impacts of normal licensure by recognizing equivalent education and experience gained through an applicant's military experiences.

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

Executive Order 2013-05K and recently-enacted House Bill 98 both recognize the contributions and qualifications of Ohio veterans and encourage streamlining of the licensing process to take into account relevant military education, skills training, and service. The regulatory intent is further justified because the Board recognizes that the experiences of our military are valuable, translatable in certain circumstances, and should be considered in the licensing process wherever possible to facilitate economic opportunities for veterans returning to civilian service in a professional field.

**Regulatory Flexibility**

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

Not applicable.

**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?**

These are procedural rules and do not address paperwork filing or violations.

**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 43215-6108

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](mailto:board@otptat.ohio.gov)

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