

# CSI - Ohio

## The Common Sense Initiative

### Business Impact Analysis

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

Regulation/Package Title: 2015 OT CE

Rule Number(s): 4755-7-01 & 4755-9-01

Date: 1/30/2015

**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 Rescinded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.*

Rule 4755-7-01 defines various terms that are used in the occupational therapy rules and rule 4755-9-01 establishes the continuing education requirements for occupational therapy licensees. The two rules are being amended to allow for continuing education credit for supervision of Level I fieldwork students. Under current rules, a licensee can only earn CE

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credit for supervising a Level II fieldwork student. Rule 4755-9-01 is also being amended to eliminate the requirement that licensees must complete continuing education for their first renewal.

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

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. Based on a request from stakeholders, the Board is proposing to allow for CE credit to be obtained through supervision of Level I fieldwork students. Under the current rule, only supervision of Level II students is eligible for CE credit.

**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 licensees utilizing student supervision as a way to meet the continuing education requirements. Success will also be measured by a reduction in phone calls/email from licensees asking if they are required to complete continuing education for their first renewal.

**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 November 14, 2014. Stakeholders were informed that comments were due to the Board by December 5. Stakeholders included licensees who are on the Board's listserv and individuals who follow the Board's Facebook and Twitter pages.

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

The Board did not receive any input from stakeholders on these proposed changes.

**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 regulations adopted by other state occupational therapy boards indicated that it is not uncommon for state boards to award CE credit for supervision of Level I students. This review also illustrated that the value of the CE awarded for Level I was less than for Level II supervision in many of these states.

**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?**

The Board considered various ways to calculate the continuing education awarded for student supervision. It ultimately decided to follow the calculations contained in the draft rule.

**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**

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**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); and**

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.

Many CE options for licensees are little or no cost. Major conferences can cost \$500+ to register. For example, the annual American Occupational Therapy Association conference costs \$508 for AOTA members and \$733 for non-members. There would also be costs associated with lodging since this is a 3+ day conference. Although it appears costly, attending this conference can earn a licensee up to 24 hours of CE, which is more than the amount required for license renewal. For the annual state professional association conference, fees range from \$250 for members to \$325 for non-members. Attendance at OOTA’s conference can earn a licensee up to 16 hours of CE.

**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.

The requirement of 20 hours of continuing education per two-year renewal period has been in place since at least 2003. The national certification organization, NBCOT, requires 36 hours over a 3 year period. Many of the surrounding states require 24 hours for a two year renewal (Illinois, West Virginia, and Pennsylvania). One state requires 12 hours for an annual

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renewal (Kentucky), and one state requires 18 hours for a two year renewal (Indiana). Based on these finding, the Board feels that the requirement of 20 hours is appropriate.

### **Regulatory Flexibility**

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

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, 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)

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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