

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

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

Regulation/Package Title: Five-Year Rule Review – Athletic Trainers

Rule Number(s): 4755-40-01, 4755-40-02, 4755-40-03, 4755-40-04, 4755-40-05, 4755-40-06, 4755-40-07, 4755-41-01, 4755-41-02, 4755-41-03, 4755-42-01, 4755-42-02, 4755-42-03

Date: April 26, 2018 revised 6/15/2018

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☐ Rescinded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.

4755-40-01	This rule describes the notice that the board is required to give when holding a public meeting. This rule has been amended to reference Ohio Revised Code and has been updated to accommodate electronic communication.
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4755-40-02	This rule describes the process of making rules. It has been streamlined to reference Ohio Revised Code rather than simply repeat it.
4755-40-03	This rule gives definitions of other terms contained in rule. No change.
4755-40-04	This rule outlines procedures for accessing confidential personal information. No change.
4755-40-05	This rule gives the reasons for which confidential personal information may be accessed. No change.
4755-40-06	This rule cites statutes that govern confidentiality. No change.
4755-40-07	This rule details restricting and logging access to confidential personal information systems. No change.
4755-41-01	This rule lays out the code of ethics for the profession, providing detail about the expectation for the profession and the issues for which the board could choose to impose discipline. Edits were made to ensure consistency in word use throughout the rule, update components to align them more closely with the Board of Certification (athletic training's accrediting body), and to provide additional detail and clarity.
4755-41-02	The rule governs the use of confidential information by athletic trainers. No change.
4755-41-03	This rule details the information which must be reported to the board by a licensee that, if not reported, could be grounds for discipline. Adds a finding of malpractice to the list, which aligns this rule with a similar rule for reporting by occupational therapists and occupational therapist assistants.
4755-42-01	This rule governs the use of titles with regard to the practice of athletic training to ensure that only someone with the proper education and requirements can hold themselves out as an athletic trainer. No change.
4755-42-02	This rule repeats the list of practitioners who may refer to athletic trainers per the Revised Code. No change.
4755-42-03	This rule indicates the title that should be used by licensed athletic trainers. No change.

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

4755-40-01	ORC 4755.61
4755-40-02	ORC 4755.61
4755-40-03	ORC 1347.15
4755-40-04	ORC 1347.15
4755-40-05	ORC 1347.15
4755-40-06	ORC 1347.15
4755-40-07	ORC 1347.15
4755-41-01	ORC 4755.61
4755-41-02	ORC 4755.61
4755-41-03	ORC 4755.61
4755-42-01	ORC 4755.61
4755-42-02	ORC 4755.61
4755-42-03	ORC 4755.61

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.

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

The federal government does not license the OTPTAT professions.

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)?

Regulations are necessary in order for the public to know what to expect when dealing with the agency and how to get licensed by the board. The purpose of regulation is ultimately to protect public safety.

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

Success is measured through successful and timely licensure processes and through customer feedback and timeliness of investigations.

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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.

These rules were posted on the OTPTAT Board website from 10/20/2017-11/5/2017 for comment. They were also sent out on the board list serv. The rules were subsequently discussed at the March board section public meetings.

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

No substantive comments were received on these rules.

- 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?**

No scientific data was used.

- 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. These rules amplify current statute.

- 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.***

Most of the board's regulatory processes are defined within the framework of the eLicense system, which is meant to streamline and make an electronic process that is better for the user.

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

Rather than duplicating language around the rule-making process, these rules now simply refer to the existing revised code.

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.

None of these rules are new. They are updates to existing rules and require little implementation change. The board relies on its rules being up-to-date to ensure a consistent regulatory process across all license holders and license applicants.

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;**
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
- c. Quantify the expected adverse impact from the regulation.**

4755-40-01	No impact on business. Attempts to make notice electronic reduce burden to public and license holders.
4755-40-02	No impact on business.
4755-40-03	No impact on business.
4755-40-04	No impact. This is for board staff.
4755-40-05	No impact. This is for board staff.
4755-40-06	The cost of regulation to protect confidentiality of license holders and applicants per the statute is borne through the payment of fees.
4755-40-07	No impact. This is for board staff.
4755-41-01	According to the code of ethics, ATs must abide by certain confidentiality requirements, which could be a cost to business, must keep current with their education, which has a cost, must ethically practice billing standards, which is good for business. It is a positive impact on business to have ethical employees.
4755-41-02	Cost to business is the cost of paper and materials to obtain written consent. Negligible.
4755-41-03	Cost to license holder to communicate with the Board is negligible. Reporting of certain actions/offenses may cost the license holder their license, and a business an employee.
4755-42-01	Proper use of title is important for billing reasons and to identify to the public that a person has the proper qualifications. Business impact is negligible.
4755-42-02	Cost to business is the cost of making a proper referral. Negligible.

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4755-42-03	Proper use of title is important for billing reasons and to identify to the public that a person has the proper qualifications. Business impact is negligible.
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15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

Costs of these rules are negligible, and they are necessary to maintain proper regulation and protect privacy.

Regulatory Flexibility

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

No.

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 rules do not apply. The board also uses standard discipline guidelines to ensure the consistency of discipline for licensees.

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

Paperwork for licensure is primarily conducted through the Ohio eLicense system, which is strictly electronic. For help with the system, there are a variety of avenues, including calling or emailing board personnel.