

# CSI - Ohio

## The Common Sense Initiative

### Business Impact Analysis

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

**Regulation/Package Title:** Volunteer Continuing Education

**Rule Number(s):** 4755-9-01; 4755-45-01

**Date:** April 20, 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☒ Rescinded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.*

4755-9-01	This rule implements House Bill 290 from the 131st General Assembly, which permits licensees to provide volunteer services to an indigent and uninsured person in certain settings in order to fulfill a portion of their continuing education requirement. The rule changes also reflect the OT Section's decision to accept courses offered through the National Board for Certification in
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	Occupational Therapy's Navigator tool as distance learning continuing education.
4755-45-01	This rule implements House Bill 290 from the 131st General Assembly, which permits licensees to provide volunteer services to an indigent and uninsured person in certain settings in order to fulfill a portion of their continuing education requirement. The rule change also clarifies that any presentation by an AT Section member must address professional ethics in order to count toward the CE ethics requirement.

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

4755-9-01	ORC 4755.06; 4745.04
4755-45-01	ORC 4755.61; 4745.04

**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)?**

This particular regulation is needed so that licensees know how to obtain continuing education that state statute mandates they receive in order to continue to be licensed by the state. The changes in this set of rules implement HB 290 from last General Assembly, which requires boards to accept certain volunteer time as credit for continuing education.

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

Success will be measured by the amount of volunteer time spent by volunteers and the speed with which this time is approved for continuing education by the board.

**Development of the Regulation**

**7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

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*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 4/4/2018-4/15/2018 for comment. They were also sent out on the board list serv.

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

A total of 22 comments were received (see attached) Most comments were supportive of the use of volunteer continuing education. Feedback from AOTA was received and changes were made to address their concern.

**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.***

The nature of the volunteer CE requirement is performance-based.

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

These rules implement a new statute change.

**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 will educate licensees on this new requirement through presentations and other communications outreach. Use of a form to gather the right information components will help ensure consistency in implementation.

**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;**

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- 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.**

The community affected by continuing education is the license holders and their employers. There is a cost to continuing education. License holders are mandated by statute to have it. Cost varies dependent on the course being taken. The Board offers one free CEU on ethics to any license holder.

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

Continuing education is required by statute and is an important tool to help license holders maintain competency and learn new skills.

**Regulatory Flexibility**

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

No. This rule does not apply to small businesses, but only to individual licensees.

**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?**

The board takes into account past history and severity of offense when considering whether discipline should be issued as a result of noncompliance with continuing education.

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

This rule does not apply to small businesses, but only to individual licensees.