



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Carrie Kuruc**, Director

### MEMORANDUM

**TO:** Missy Anthony, Occupational Therapy, Physical Therapy, and Athletic Trainers Board

**FROM:** Emily Groseclose, Senior Policy and Business Advocate

**DATE:** May 6, 2020

**RE:** **CSI Review – Minimum Age Requirement for Occupational Therapy and Occupational Therapy Assistant Students (OAC 4755-3-01, 4755-7-01, and 4755-7-04)**

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On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) office under Ohio Revised Code (ORC) section 107.54, the CSI office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI office's comments to the Board as provided for in ORC 107.54.

#### Analysis

This rule package contains three amended rules submitted by the Occupational Therapy, Physical Therapy, and Athletic Trainers Board (Board) as part of the statutorily required five-year review process. The package was submitted on December 13, 2019, and the public comment period was held open through January 8, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI office on December 13, 2019.

The rules establish requirements for applicants for initial licensure as occupational therapists and occupational therapy assistants, define terms used throughout the rules, and detail circumstances and requirements for supervision within the occupational therapy profession. Changes to the rules include new requirements that an occupational therapy student or occupational therapy assistant student must be at least 18 years old to participate in learning activities outside of the classroom involving clients and to participate in Level I or Level II fieldwork. Additionally, the Board proposes to amend the rules to require that an applicant for licensure must be at least 18 years old to receive a license.

**77 South High Street | 30th Floor | Columbus, Ohio 43215-6117**  
**CSIOhio@governor.ohio.gov**

As part of early stakeholder outreach, the Board solicited feedback from active license holders and others who have requested notification. Fourteen comments were received, with several commenters expressing opposition to the age requirement to begin a program and/or participate in fieldwork, a few supportive of the changes, and some requesting that the language be clarified to reflect the intention of the Board. In response, the Board made changes to clarify the intent of the rules and when the minimum age will apply.

OAC 4755-7-01 as originally filed with CSI required that an occupational therapy or occupational therapy assistant student be at least 18 years old by October 1 of the first year of their program enrollment. One comment was received during the CSI public comment period from an occupational therapist who stated that she agrees with the requirement that an applicant for a license must be 18 years old, but disagrees that a student must be 18 before starting a program. She noted that dual enrollment (or post-secondary) students could be 16 or 17 years old when starting a program, and that some students start college at an earlier age. In response, the Board filed updated rules with CSI on February 10, 2020. OAC 4755-7-01 was changed to clarify that a student must be 18 years old to participate in learning opportunities outside of the classroom involving clients, but does not prohibit them from starting an occupational therapist or occupational therapist assistant education program prior to turning 18 years old. Additionally, minor changes were made to OAC 4755-3-01 and 4755-7-04.

The rule impacts all occupational therapists, occupational therapist assistants, students and prospective students, and schools providing occupational therapy or occupational therapy assistant programs. The Board stated that adverse impacts include the changes that schools may need to make to their admission requirements and program structures, and the requirement to obtain a license to be an occupational therapist or occupational therapist assistant. Applicants are required to apply, pay a \$103.50 fee, pass a national exam at a cost of \$500, and are also responsible for the fees/tuition for their educational programs and must invest their time in the required programs.

The Board asserted that there are significant concerns with the liability of having a minor student involved in fieldwork and helping to treat patients when the student is not considered legally responsible for themselves. The Board has heard concerns from programs and employers about the liability that participation of minor students in certain fieldwork can bring, and it has handled complaints related to minor student involvement in a health care setting. The Board also stated that the application requirements and fees are justified because of the expense required for staff to review applications as well as pay for the eLicense technology.

## **Recommendations**

For the reasons described above, the CSI office has no recommendations on this rule package.

## **Conclusion**

Based on its review of the proposed rule package, the CSI office recommends that the Occupational Therapy, Physical Therapy, and Athletic Trainers Board should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.