



## Common Sense Initiative

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

**Carrie Kuruc**, Director

### Business Impact Analysis

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

Rule Contact Name and Contact Information:

Missy Anthony, Executive Director – [missy.anthony@otptat.ohio.gov](mailto:missy.anthony@otptat.ohio.gov), 614-466-3474

Regulation/Package Title (a general description of the rules' substantive content):

Occupational Therapy Section – continuing education requirements

Rule Number(s): 4755-9-01

Date of Submission for CSI Review: 7/12/2021

Public Comment Period End Date: 7/23/2021

**Rule Type/Number of Rules:**

New/\_\_\_ rules

No Change/\_\_\_ rules (FYR? \_\_\_)

Amended/  X \_\_\_ rules (FYR?  N\_\_\_)

Rescinded/\_\_\_ rules (FYR? \_\_\_)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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### **Reason for Submission**

- 1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

**Which adverse impact(s) to businesses has the agency determined the rule(s) create?**

**The rule(s):**

- a.  Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b.  Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c.  Requires specific expenditures or the report of information as a condition of compliance.**
- d.  Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

### **Regulatory Intent**

- 2. Please briefly describe the draft regulation in plain language.**

*Please include the key provisions of the regulation as well as any proposed amendments.*

This rule sets forth the requirements that occupational therapists and occupational therapy assistants complete twenty hours of continuing education every two years for renewal of their license. The rule describes the kinds of activities that count as continuing education

Changes:

1. Clarifies that completion of continuing education is not required for first time renewals.
2. Establishes a maximum number of sixteen hours for which fieldwork may count toward continuing education requirements.
3. States that proof of fieldwork as continuing education may either be the fieldwork performance evaluation tool or the school's designated evaluation tool.
4. Expands the category of mentorship for a maximum of four hours.

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5. Implements Senate Bill 7, which allows the Ohio Occupational Therapy Association to conduct course approvals on behalf of the OT Section of the Board.
6. **Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

ORC 4755.06, 4745.04

Amplifies: 4745.04 , 4755.06, 4755.10, 4755.062

7. **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.

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

Not Applicable.

9. **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)?**

Continuing education requirements are a way to encourage license holders to stay up on the latest advances in their profession and to stay engaged with the laws and rules.

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

Compliance with continuing education is measured through a question on the renewal application and subsequent continuing education audits. Quicker application approvals through the OOTA.

11. **Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

No.

### **Development of the Regulation**

9. **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 rule was sent out to all license holders for feedback via email. We also consulted with the OOTA. This rule was previously put out to stakeholders and filed with CSI, but pulled back while we waited for a statute change.

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

The original version that was distributed did not include the fieldwork changes or OOTA changes, but several commenters submitted feedback that a license holder should not be able to complete all of their requirements with fieldwork only. Upon discussion, the OT Section agreed and put a proposed limit in place.

**11. 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?**

None.

**12. 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?**

None. Continuing education is the widely used standard for continued professional competence in regulation.

**13. 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.***

In some ways this is performance based because license holders have a wide variety of ways they can complete their requirements.

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

Review of existing laws and rules.

**15. 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 agency conducts audits of continuing education following each renewal cycle. 20% of the license holders are asked to turn in their proof of completion and it is reviewed by the Board. Contract with and put in place processes for approval of continuing education with the OOTA.

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### **Adverse Impact to Business**

**16. 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; and**

All occupational therapists, occupational therapy assistants, and their employers

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

Time and expense of obtaining continuing education. **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.*

Cost varies. Requirement is for 20 hours. The Board offers one hours of ethics and jurisprudence that is free of charge on the website. A small fee will be charged by OOTA to conduct course approvals.

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

A well educated profession better serves the patient.

### **Regulatory Flexibility**

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

No. All licensees are required to complete the same requirements without regard to the size of employer.

**19. 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 typically gives leniency in first time offense and gives individuals the opportunity to make up their hours.

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

Board contact information and website.