



## Common Sense Initiative

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

**Sean McCullough**, Director

### Business Impact Analysis

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

Rule Contact Name and Contact Information:

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

Athletic Trainer practice act changes (House Bill 176)

Rule Number(s): 4755-41-01, 4755-41-04, 4755-42-02, 4755-43-11, 4755-46-02

Date of Submission for CSI Review: 2/7/2022

Public Comment Period End Date: 2/21/2022

Rule Type/Number of Rules:

New/\_\_\_ rules

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

Amended/\_\_\_X\_\_\_ rules (FYR? \_\_\_)

Rescinded/\_\_\_ rules (FYR?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

Rule Number	Title	Summary of Changes
<a href="#">4755-41-01</a>	Code of Ethical Conduct	<p>This rule includes the code of ethics by which athletic trainers must abide.</p> <p>Changes include:</p> <ul style="list-style-type: none"><li>1. Reference to the updated “Professional Practice and Discipline Guidelines and Procedures,” effective January 1, 2020 from the Board of Certification, Inc.</li><li>2. Correcting a cross reference that has changed as a result of House Bill 176.</li><li>3. Updating the rules around sexual misconduct to match changes to the statute as a result of House Bill 119, which passed last year.</li><li>4. Corrects a typographical error (missing word).</li><li>5. Explicitly states that an AT may not create a hostile work environment.</li></ul>
<a href="#">4755-41-04</a>	Scope of Practice	<p>This rule is new. It restates the provisions of HB 176 in plainer language.</p>

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		This new rule defines the scope of practice for those practicing with a collaboration agreement with a physician versus those who are not.
<a href="#">4755-42-02</a>	Referring Practitioner	This rule lists out the practitioners who may refer to athletic trainers. That list was expanded by HB 176  House Bill 176 makes changes to the list of referring practitioners to explicitly refer to other athletic trainers, physician assistants, and certified nurse practitioners. This rule has been updated with those changes.
<a href="#">4755-43-11</a>	Approval of an event	This rule allows the AT Section to approve an event at which ATs licensed out of state may temporarily work.  Corrects a cross reference that has changed as a result of House Bill 176 related to referring practitioners.
<a href="#">4755-46-02</a>	Athletic Training Students	This rule describes the role of a student studying in an approved athletic training program of education.  Changes include: <ul style="list-style-type: none"> <li>1. Clarifying changes to the definition of a student.</li> <li>2. A provision requiring an athletic trainer who is supervising a student athletic trainer to be able to demonstrate knowledge and competency in any procedure or services delegated to the student.</li> </ul>

**3. 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.**

4755.61, 4755.621, 4755.622, 4755.623, 4755.65,

**4. 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.*

Not a federal requirement. Occupational licensure is a state level issue.

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

Not Applicable.

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- 6. 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)?**

A license is required by law to practice athletic training in the state of Ohio. These regulations spell out more specifically the requirements for licensure and the scope of practice under which athletic trainers may work.

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

Compliance with the AT Practice Act may be measured by questions submitted to the Board or enforcement actions taken to discipline errant license holders.

- 8. 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.*

The draft rules were sent out to all licensed athletic holders and other interested parties via listserv on November 26, 2021 after being discussed at the November 12, 2021 AT Section Board meeting. No comments were received as a result of this email. The rules were subsequently discussed again by the AT Section on January 20, 2022. Comments were directly solicited from the Ohio Athletic Trainers Association, but none were received.

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

No comments were received.

- 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?**

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None. Licensure is required by the Ohio Revised Code.

- 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.*

These rules require a new documentation – a collaboration agreement. The Board offered a template agreement, but did not dictate the format. Any format which works for the AT and physician may be used.

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

Review of the AT Practice Act and the physician regulation. The Board also consulted with the State Medical Board of Ohio.

- 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 AT Section has prepared Frequently Asked Questions and a tool to delineate the changes in scope of practice. The AT Section has multiple speaking engagements and trainings in the near future to further discuss the changes.

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

- Athletic trainers, their referring practitioners, and their employers
- Time for development of a collaboration agreement as required by HB 176
- Time it takes to comply may vary by employer depending on the system for such reviews.

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

It is required by House Bill 176,

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### **Regulatory Flexibility**

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

No. Athletic trainers are individually licensed.

**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?**

First time offenses are taken into account as a part of the disciplinary process.

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

Any license holder or member of the public may contact the Board with questions via website, social media, email, or telephone. Publications were also developed to assist with education on these changes:

#### **House Bill 176 - Changes in Scope of Practice for Athletic Training**

- [Guidelines for AT Practice January 2022](#)
- [Frequently Asked Questions on Athletic Training Practice Act Changes](#)
- [Sample Collaboration Agreement](#)
- [Updated Laws and Rules January 2022](#)
- [House Bill 176](#)