



## 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):

Occupational Therapy Section – Supervision rule

Rule Number(s): 4755-7-04

Date of Submission for CSI Review: 2/8/2022

Public Comment Period End Date: 2/21/2022

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Rescinded/\_\_\_ rules (FYR?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

Rule Number	Title	Summary of Changes
<a href="#">4755-7-04</a>	Supervision	Makes changes to the qualifications needed to supervise students for fieldwork. These changes more closely align with the Accreditation Council for Occupational Therapy Education (ACOTE) standards for program accreditation. 1. A level I fieldwork student OT or OTA may be supervised according to program requirements per the ACOTE standards. Previously the rule required supervision by an OT or OTA with one year experience. 2. A level II fieldwork OT student must be supervised by an OT with at least one year of professional practice.

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		3. A level II fieldwork OTA student must be supervised by an OT or an OTA with at least one year of professional practice.
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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.

[4755.04](#), [4755.06](#) , [4755.08](#), [4755.11](#)

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.*

No. Occupational licensure is governed at the state level.

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

Not Applicable.

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)?

Students training to be licensed professionals need a forum to learn. In the case of occupational therapy, this is called fieldwork. Students team up with other health care professionals in order to spend time in the field in a supervised way so they can work with clients in the real world. A certain level of experience is required to supervise Level II students in more advanced fieldwork. This rule strikes a balance between public protection in making sure that experienced OTs and OTAs are working with students, but also allows some flexibility so that OT and OTA programs can adequately recruit health care professionals who are willing and able to provide adequate supervision.

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

Successful OT and OTA programs in the state of Ohio who are able to fulfill their student fieldwork experiences, yet still graduate qualified future OTs and OTAs.

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.

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## **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 rules were discussed publicly at the November 2021 and January 2022 OT Section meetings after clinical instructors brought to the OT Section some challenges in recruiting fieldwork supervisors. The rule was sent out to the Board list serve 12/8/21-12/24/21 and advertised in the December Board newsletter.

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

This rule generated a lot of comment. Many believe that the one year requirement for all supervision should be maintained. Other comments seemed based on the rule summary and not the actual text of the rule. This has been addressed. The OT Section discussed the comments at their January board meeting and adopted one comment related to the term professional practice. The Ohio Occupational Therapy Association has expressed support for the changes in the current version of the rule being submitted to CSI.

**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. This rule was developed with quite a bit of input from actual practitioners.

**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.***

No. Licensure is required by Ohio Revised Code.

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

Review of the Ohio Revised Code.

**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.**

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The Board will publish information related to this rule change on its website and newsletter.

### **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.*

Scope of the impacted business community includes OTs, OTAs, students and the institutions of higher education which they attend, and businesses for who the OTs and OTAs work.

The adverse impact includes a requirement for adequate student supervision, which includes employer time, compliance requirements, and supervision time by an OT or OTA. It also includes the risk of taking a student into the health care environment. More detailed information may be found here: <https://www.aota.org/education/fieldwork>

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

These rules are designed to slightly ease the burden while maintaining the safety of the public by balancing increased fieldwork opportunities with adequate oversight of the unlicensed student.

### **Regulatory Flexibility**

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

No.

**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 violations are considered by the enforcement review panel when considering disciplinary matters.

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**20. What resources are available to assist small businesses with compliance of the regulation?** The Board website, newsletter, FAQ. Any questions can be directed to the Board via email, phone, and website submission.

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