



## Common Sense Initiative

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

**Joseph Baker**, 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 Trainers – Safe Haven educational requirements and reinstatement CE

**Rule Number(s):** 4755-43-01, 4755-43-06, 4755-45-01

**Date of Submission for CSI Review:** 2/17/2023

**Public Comment Period End Date:** 3/5/2023

**Rule Type/Number of Rules:**

New/\_\_\_ rules

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

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

Rescinded/\_\_\_ rules (FYR?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

4755-43-06: This rule details the requirements to reinstate a license in Ohio. A reinstatement happens when someone wants to reactivate an expired license. This rule would allow CE taken for reinstatement to count toward the next license renewal. This reduced the burden on license holders.

4755-43-01 and 4755-43-06: These rules have been changed to required individuals apply for initial licensure or reinstatement to view a brief video informing them of the OTPTAT Board's safe haven program. <https://www.ohiophp.org/faq>

4755-45-01: Adds a requirement for one hour of continuing education on mental health and/or substance use as a part of the biennial license renewal. This will count for one of the required 25 hours. Any course offering by the Board's Safe Haven program provider will count. Free course offerings are being planned.

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.**

Adopt: 4755.61

Amplify: 4755.61, 4755.62, 4755.63

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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.

5. **If the regulation implements a federal requirement, but 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)?**

Assuring continuing competence of licensees is a core mission of the board. This is done through continuing education requirements. The OTPTAT Board is launching a new Safe Haven program, which will make additional resources available to license holders who are seeking help for mental health and substance use issues. These resources are confidential and their use will not impact a professional's license. It is important raise awareness about these issues given the level of burnout and stress that many health care professionals are facing, especially as new tools are being offered.

Licensure related rules are there to give more detail to the public and applicants what is expected as part of a license application.

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

Less burden and confusion for reinstatement candidates.

Regular reports from the Safe Haven Program on use of the resource.

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.*

All rules were discussed at the November 2022 and January 2023 AT Section board meeting.

They were also released to the athletic trainers list serve for comment, which includes all licensed ATs.

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

<b>11. Commenter</b>	<b>Comment</b>
Patricia Harris	<p>While I truly believe that all healthcare workers in every setting need more education on mental health, and more resources for themselves and their patients, I think adding a “presentation” seems a bit excessive for licensure application. Especially when given very little detail of the requirement on the "presentation.</p> <p>With the changes coming to the BOC for renewals, a shortage of athletic trainers coming as a result of the entry level masters requirements (fewer students applying to programs, low first time pass rate of the BOC exam), and people leaving the profession in droves post COVID I don't think we need an additional hurdle for applicants to gain licensure.</p> <p>I would be 100% supportive of making a mental health CE requirement each renewal cycle as we do with the ethics credit, versus making someone complete a presentation at their initial application in addition to the other licensure requirements.</p> <p>The majority of us are professionals, no longer students. While many may choose to continue to teach, or do research for presentations at a conference, many of us go on to work in the field outside of the educational setting, and recent grads are finally looking forward to just being able to practice athletic training without homework.</p> <p>Is there additional information on this "presentation"? As this would largely affect individuals who are recent grads or are changing states, both of which may be in a time crunch for licensure for employment before they're able to start and as I said before this creates one additional hurdle that seems unnecessary, especially if it will just end up being a renewal requirement.</p> <p>Given the fact that every setting is struggling with being understaffed, this seems really short sighted and causing it to be even more difficult for young professionals to want to join the profession.</p>
Rebekah R. Bower, MS, AT, ATC	<p>Where does this stop? First, we have to have one hour of ethics education every cycle and now we are adding mental health or substance abuse education? I feel this is going to create a nightmare of continuing education needs!</p>

**12. 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. The OTPTAT Board consulted with the OPHP medical director in the creation of the Safe Haven program. OPHP conducted a survey during COVID-19 to expose the challenges

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of working in health care related to burnout, etc. <https://simplebooklet.com/covid-19survey#page=1>

- 13. 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?** *Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*  
None. No alternative was identified.

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

Review of Ohio 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.**

Continuing education audits after each renewal.

#### **Adverse Impact to Business**

- 16. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:**

- a. Identify the scope of the impacted business community, and
- b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).

*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.*

- a. All athletic trainers are impacted by continuing education.
- b. Continuing education on mental health and substance use is readily available for free.  
The board plans to advertise free resources on its website and is currently offering free CE on the safe haven program to all licensees.
- c. Low to no cost.

- 17. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**

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The reinstatement rule will avoid duplicative continuing education requirements by reducing the burden on a license holder.

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

The OTPTAT Board takes its responsibility to protect the public seriously. One of the best ways to do so is to encourage healthy practitioners by raising awareness about new resources which can help.

**Regulatory Flexibility**

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

No alternative means has been identified.

**20. 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 accounted for as a mitigating circumstance in board discipline.

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

Board staff is available by phone, email, and the Board's website is a resource tool.