



## Common Sense Initiative

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

**Joseph Baker**, Director

### Business Impact Analysis

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

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**Regulation/Package Title (a general description of the rules' substantive content):**  
OTPTAT Board Five-year Rule Review and Rule Restructuring New Rules for OT/PT/AT/OPP

**Rule Number(s):** 4755-1-01, 4755-1-02, 4755-1-03, 4755-1-04, 4755-1-05, 4755-1-06, 4755-1-07, 4755-1-08, 4755-2-02, 4755-2-03, 4755-2-04, 4755-3-01, 4755-3-02, 4755-3-03, 4755-3-05, 4755-4-01, 4755-4-02

**Date of Submission for CSI Review:** 6/29/2023

**Public Comment Period End Date:** 7/14/2023

**Rule Type/Number of Rules:**

New/ 17 rules

No Change/      rules (FYR?     )

Amended/      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Rescinded/      rules (FYR?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.

#### **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

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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.*

New rule number	Subject	Description	Rules being replaced
4755-1-01	Notice of meetings	Replaces identical rules for all OTPTAT Board sections detail how a person can receive notice of OTPTAT Board meetings in accordance with the sunshine law. Changes relate to removing specificity around exact contact information, which can be more easily found on the board website.	4755-1-01, 4755-21-01, 4755-40-01, 4755-61-01
4755-1-02	Method of public notice in adopting, amending, or rescinding rules	Replaces identical rules for all OTPTAT Board sections detail the rule-making process for the Board in accordance with Chapter 119 and section 106.03 of the Ohio Revised Code. The Common Sense Initiative process was added to the rule.	4755-1-02, 4755-21-02, 4755-40-02, 4755-61-02
4755-1-03, 1-04, 1-05,	Personal Information Systems, Definitions,	Replaces identical rules for all OTPTAT Board sections	4755-8-01, -02, -03, -04, -

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1-06, 1-07, 1-08	Procedures for accessing confidential personal information, confidentiality statutes, restricting and logging access to CPI in computerized personal information systems	implement the restrictions to accessing confidential personal information that are Ohio Revised Code Chapter 1347.	05, -06, 4755-26-01, -02, -03, -04, -05, -06, 4755-40-03, -04, -05, -06, -07, 4755-61-03, -04, -05, -06, -07
4755-2-02	Denial and disciplinary procedures	Replaces rules that detail the board's authority to discipline or deny a license in accordance with Ohio Revised Code Chapters 4755 and 4779.	4755-3-06, 4755-21-03, 4755-48-02, 4755-64-04
4755-2-03	Reinstatement of a revoked license or reconsideration of a denied license	Replaces rules that detail the board's authority and the questions to consider when asked to reconsider the reinstatement of a revoked or denied license	4755-3-07, 4755-23-15, 4755-43-10, 4755-63-10
4755-2-04	Investigations and inspections	Replaces rules that detail the various Board sections' ability to conduct investigations and inspections at workplaces related Ohio Revised Code chapters 4755 and 4779. Only change is to reiterate the ORC Section that deems investigations confidential since we receive so many questions about public records.	4755-1-03, 4755-48-01, 4755-64-03
4755-3-01	Certificate of license; display; copies	Replaces rules that detail the manner by which a license holder must be able to display their certificate of license. No substantive change.	4755-3-02, 4755-23-05, 4755-44-02, 4755-63-07
4755-3-02	Notice of change of name, place of employment, e-mail, and mailing address	Replaces rules to remind a license holder that they must update the board with important contact information within 30 days of a change.	4755-3-08, 4755-23-07, 4755-44-01, 4755-64-05

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4755-3-03	Verification of licensure	Replaces rules that detail the process to obtain an official verification to another state or entity of license status from the OTPTAT Board.	4755-3-13, 4755-23-11, 4755-43-09, 4755-63-11
4755-3-05	Criminal records check	Replaces rules that detail the process for obtaining a criminal background check as required by ORC 4779.091 and 4755.70 for the purpose of obtaining an initial license.	4755-3-14, 4755-23-14, 4755-43-07, 4755-63-12
4755-4-01	Fees	Each individual rule sets a single fee amount or ceiling. These will be consolidated into one single rule with all board fees. <u>No fees are being raised by the Board.</u>	4755-5-01, - 04, -05, -06, - 07, -08, -09, - 11, 4755-24- 01, -03, -04, - 05, -06, -07, - 08, 4755-47- 01, -02, -03, - 04, -05, -06, 4755-66-01, - 03, -04, -06, - 07, -08, -09, - 10
4755-4-02	Waiver of fees	Replaces rules that detail the circumstances when the Board may waive a required fee.	4755-5-10, 4755-24-09, 4755-66-11

**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.**

Rule number	Authorized By	Amplifies
4755-1-01	4755.06, 4755.411, 4755.61, 4779.08	121.22
4755-1-02	4755.06, 4755.411, 4755.61, 4779.08	106.03, 119.03, 119.0311, 4755.06, 4755.41, 4755.61, 4779.08
4755-1-03, 1-04, 1-05, 1- 06, 1-07, 1-08	1347.15	1347.15
4755-2-02	4755.06, 4755.411, 4755.61, 4779.08	4755.02, 4755.11, 4755.47, 4755.48, 4755.482, 4755.64, 4779.28, 4779.29, 4779.33

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4755-2-03	4755.06, 4755.411, 4755.61, 4779.08	4755.10, 4755.11, 4755.47, 4755.61, 4755.62, 4755.64, 4779.28, 4779.31
4755-2-04	4755.06, 4755.411, 4755.61, 4779.08	4755.02, 4779.28
4755-3-01	4755.06, 4755.411, 4755.61, 4779.08	4775.08, 4755.41, 4755.44, 4755.411, 4755.45, 4755.451, 4755.62, 4779.10, 4779.11, 4779.12, 4779.13, 4779.16, 4779.17, 4779.18
4755-3-02	4755.06, 4755.411, 4755.61, 4779.08	4755.06, 4755.411, 4755.47, 4755.61, 4779.21
4755-3-03	4755.06, 4755.411, 4755.61, 4779.08	4755.08, 4755.411, 4755.61, 4779.08
4755-3-05	4755.06, 4755.411, 4755.61, 4779.08, 4776.03	4755.70, 4779.091
4755-4-01	4755.06, 4755.41, 4755.411, 4755.57, 4755.61, 4779.08	4755.05, 4755.06, 4755.10, 4755.12, 4755.41, 4755.411, 4755.42, 4755.421, 4755.44, 4755.45, 4755.451, 4755.46, 4755.57, 4755.61, 4755.62, 4755.63, 4779.09, 4779.10, 4779.11, 4779.12, 4779.13, 4779.18, 4779.20, 4779.21, 4779.22, 4779.23, 4779.24
4755-4-02	4755.06, 4755.411, 4755.61, 4779.08	4755.11, 4755.41, 4755.44, 4755.61, 4779.09, 4779.10, 4779.11, 4779.12, 4779.13, 4779.17, 4779.18

**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)?**

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The Ohio Revised Code requires licensure for occupational therapy, physical therapy, athletic trainers, orthotics, prosthetics, and pedorthics. The purpose of regulation is protection of the public – ensuring that practitioners meet the minimum level of competency to practice and removing those who should no longer be practicing due to discipline.

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

Efficient board operations, processing of applications, investigating complaints, revenue from fees. Standard metrics.

**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.*

Current rules were posted for early stakeholder comment and sent to the list serves for all professions.

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

See below. Comments were related to fees. Commenters did not understand that the fee amounts are ceilings. Fees are not being raised by the Board through these rules.

- Comment: a fee of \$50 seems exorbitant. As I imagine getting replacement fees primarily affects women getting married or divorced, I would recommend a more reasonable fee of \$20 or less if any fee at all is required- as in this case it would appear that that would be something that would be able to be absorbed within the cost of license renewal unless the re-issue was for damage or loss.
- The fee for taking the mandatory laws and rules exam which is required for renewal should be rolled into this fee as taking and passing the mandatory laws/rules exam provided by the board is a mandatory element of renewal. The fee is duplicative in that it is part of renewal and licensees are being charged twice for fees related to renewal. This is dissimilar to the continuing education requirement which may be fulfilled by licensees with the licensees having choice over content and cost.
- As a side note, I recommend licensees be tested after initial passing of laws and rules test for licensing only on issues which are regularly issues of infractions cited by the board and that which are new changes to the laws since the last update. I recommend licensees be given a list highlighting these issues prior to taking the test as the current content of testing

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appears excessive in terms of testing content. I imagine the goals of the testing are to keep licensees abreast of changes to the laws and reminded of issues that are troublesome disciplinary infractions that current licensees have been involved in . I hope that the money spent on these endeavors would measurably decrease the amount by numbers and type of board actions and dollars spent by the board on disciplinary issues.

- Several years ago, the fee for a biennial license was lowered and much ado was made of this. Shortly after, the training module was added, for a fee, which had to be completed for re-licensure so that raised the fee. This module is probably redundant for most PT's because it is covered at their work site or is not applicable to them in their setting. PT education and quality continuing education have skyrocketed so let's keep the relicensure fee low. Not above \$100 would be great.

**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? *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. The nature of these rules is so license holders understand how to navigate the processes of the board.

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

The purpose of this rule package is to eliminate duplication.

**14. 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.**

There are not many changes included in this rule packages except for reorganization, but all revisions will be sent out to the license holders in the form of a complete practice act document.

**Adverse Impact to Business**

**15. 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**  
Board license holders and the businesses for which they work.
- b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).**

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*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.*

Fee rules are included in this package. The board is not raising fees. The fee schedule can be found here: <https://otptat.ohio.gov/Fee-Listing>

Additional costs to initial licensure include the cost of a college education, Cost of taking an examination, cost of the BCI/FBI background check (\$47.25), Cost of obtaining continuing education.

- 16. 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*).**

The goal of this rule package is to streamline and simplify rules.

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

Ohio Revised Code chapters 4755 and 4779 require licensure of the OTPTAT board professions.

### **Regulatory Flexibility**

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

No. The Board regulates individuals, not businesses.

- 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?**

Fee waiver rules are included in this package.

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

Call, email, mail, or visit the board in order to receive personal assistance.