



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: Missy Anthony,
missy.anthony@otptat.ohio.gov

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

Requirements for foreign educated applicants

Rule Number(s): 4755:2-1-07 (New), 4755-23-12 (rescind)

Date of Submission for CSI Review: 10/26/2023

Public Comment Period End Date: 11/9/2023

Rule Type/Number of Rules:

New/ X rules

No Change/ rules (FYR?)

Amended/ rules (FYR?)

Rescinded/ X rules (FYR? Y)

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.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

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 states the additional requirements for licensure in Ohio for individuals who were educated outside of the United States in a program that was not accredited by the Commission on Accreditation in Physical Therapy Education. In short, applicants for a physical therapist or physical therapist assistant license must:

1. Have their education deemed equivalent to a US program by an independent evaluation company;
2. Pass the National Physical Therapy Examination;
3. Achieve minimum scores on a test of English language.

It is this first item that this rule change impacts. In House Bill 33, the legislature made changes to the standard that must be met for foreign education. Under previous law, the standard was to be equivalent based on the date when the applicant was licensed in a different country. However, many other countries do not require licensure. So, the law requires them to meet today's educational standard, which may be much higher than when they originally went to school and disregards many years of practice experience.

The law change, which is mirrored in this rule, would allow their educational standard to be based on when they completed their educational coursework in the other country, if that country does not require licensure.

- 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.**

Authorized by: 4755.411

Amplifies: 4755.42, 4755.421, 4755.43, 4755.431, 4755.44, 4755.441, 4755.45, 4755.451

- 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)?**

Ohio law requires individuals to meet an equivalent education standard to a US applicant in order to practice physical therapy in Ohio.

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

Successful licensure of equivalent candidates for licensure.

- 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.

This rule was sent to stakeholders for comment from August 11, 2023-August 24, 2023. The rule was also discussed at the July and September Board meetings. It was also available for comment during the legislative process due to the ORC change.

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

No feedback was 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?
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 Board has some flexibility over the acceptance of the educational standards for outlier cases.

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

Review of existing law and rules.

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.

Changes to published materials to assist applicants with licensure. Outreach to the credential evaluators to ensure they are aware of the change.

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

Individuals educated in physical therapy in a country other than the United States and their potential employers.

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.

Cost of a credential evaluation, which is hundreds of dollars.

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 intent of this change is to make Ohio law more akin to other states' to avoid having people jump through additional hoops to get a license in Ohio.

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

The OTPTAT Board is required by ORC 4755 to regulate physical therapy in the state of Ohio. Ensuring that educational standards are met are part of that duty so that Ohioans are confident in receiving physical therapy care by a qualified individual.

Regulatory Flexibility

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

The Board has the flexibility to interpret educational evaluations for outlier cases.

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?

Not Applicable.

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

Board website and staff resources are available to assist any individual needing assistance with an application.