



Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board

77 South High Street, 16th Floor
Columbus, Ohio 43215-6108

Governor
Ted Strickland
Executive Director
Jeffrey M. Rosa

THE OTPTAT BOARD AND THE RULE MAKING PROCESS: A GUIDE TO PUBLIC PARTICIPATION

INTRODUCTION

This guide is intended to assist the general public in understanding how the Board adopts rules. It provides highlights only and is not intended to be an in-depth review of the rule making process. This guide is required by section 119.0311 of the Ohio Revised Code (ORC). Rules, if adopted in accordance with Ohio's Administrative Procedures Act (Chapter 119. of the ORC), have the force and effect of law. Therefore, the rules of the Board are important for every licensee's practice. While the process of rule adoption may seem complex at times, it is designed to offer adequate opportunity for the public to provide input to the Board regarding the contents of any rule being considered. How to take advantage of the opportunities for public participation is the focus of this publication. If you have questions after reading this document, contact the Board at 614-466-3774 or by email at board@otptat.ohio.gov.

On February 12, 2008, Governor Strickland signed Executive Order 208-04S, requiring that all state regulations create an atmosphere in which individuals affected by those regulations are treated as partners in identifying and achieving regulatory goals. Accessibility, flexibility, respect, timely responsiveness, problem solving, and continuous improvement must be the hallmarks of Ohio's approach to regulatory activity. These objectives can be achieved only when the process for enacting regulations is transparent and accessible to those outside government, and when all regulations are written so they are easy to understand.

MISSION

The mission of the Occupational Therapy, Physical Therapy, and Athletic Trainers Board is to actively promote and protect the health of the citizens of Ohio through the effective regulation of the professions of occupational therapy, physical therapy, and athletic training.

The Board is an agency created by statute and charged with the responsibility of administering and enforcing Chapter 4755. of the Ohio Revised Code, which is the law regulating the practice of occupational therapy, physical therapy, and athletic training. The primary purpose of the law is to serve as a safeguard for the health, safety, and welfare of the public and to protect the public against unqualified practitioners of physical therapy, occupational therapy, and athletic training. The Board consists of three separate Sections, which are responsible for licensing and regulating their specific profession. The members of the Occupational Therapy Section consist of four occupational therapists and one occupational therapy assistant. The members of the Physical Therapy Section consist of nine physical therapists. The members of the Athletic Trainers Section consist of four athletic trainers and one physician. The members of all three sections and one public member meet two times a year as a Joint Board to discuss fiscal and personnel issues. The Governor, with the advice and consent of the Senate, appoints all Board members to serve a term of three years. The Board employs a full-time executive director and a support staff to assist in implementing the various functions of the Board that are mandated by law.

RULE MAKING AUTHORITY

By law, the Board is authorized to promulgate (adopt, amend, and rescind) all rules necessary to carry out the provisions of the Occupational Therapy, Physical Therapy, and Athletic Trainers Practice Act. All rules of the Board can be found in Chapters 4755-1 to 4755-48 of the Ohio Administrative Code. Specifically, through rules, the Board may provide for the government and control of its actions and business affairs; describe the minimum qualifications for examination and licensure; establish fees and procedures for renewing and reinstating licenses; specify requirements for continuing education and standards for professional conduct, supervision requirements,

disciplinary actions, investigations, and other areas relevant to the practice of occupational therapy, physical therapy, and athletic training.

RULE-MAKING PROCESS

In accordance with Ohio law, the respective Section of the Board (“the Board”) must review each of its rules every five years. As a result of the review, the Board determines whether a particular rule should be unchanged, revised, or rescinded in light of the purpose, scope, and intent of the statute under which the rule was adopted. Factors the Board considers when reviewing the rules include whether the rule should be amended or rescinded to allow more flexibility at the local level; to eliminate unnecessary paperwork; or to avoid duplication, overlap, or conflict with other rules. In making the review, the Board considers the continued need for the rule, the nature of any complaints or comments received concerning the rule, and any relevant factors that have changed in the subject matter area affected by the rule.

In addition to the regular five-year review required by law, the Board may consider its other rules to determine what, if any, modifications may be needed as a result of the enactment of new laws by the General Assembly or because of changes to professional regulation. The Board may also propose the adoption of new rules.

The main steps in the OTPTAT Board rule-making process are as follows:

1. Agency staff conducts an internal review to write or make changes to a rule, as necessary. The findings of the internal review are shared with the members of the Board.
2. The Board posts the draft rules for review and comment on the Board’s website (<http://otptat.ohio.gov>) and asks interested parties, such as professional associations and individual licensees, to review and comment on the draft rules. An email is sent to the Board’s listserv to notify them of the opening of the comment period for the draft rules. This process typically occurs in the fall.
3. The Board considers comments made by interested parties, make changes where appropriate, and prepare the rules for formal filing.
4. The Board formally votes to file the rules. This vote is typically taken at a Section meeting in January or March. The full text of the rules and the rule analyses are posted on the *Register of Ohio* website (<http://www.registerofohio.state.oh.us>). For the public’s convenience, the OTPTAT Board provides a link to those rules on the Board’s website (<http://otptat.ohio.gov>).
5. The Board considers each comment, concern or question received, and responds to those comments.
6. The Board holds a public hearing on the proposed rules changes. The public rules hearing occurs during a regularly scheduled meeting of the Section (typically in the spring). At the public hearing, the Board takes testimony from all interested parties on the proposed rules. Testimony may be provided either orally or in writing. Written testimony may be submitted to the Board’s Executive Director by email (board@otptat.ohio.gov), mail, or fax (614-995-0816).
7. The Board revises the rules, where appropriate, based on the comments and testimony.
8. The Joint Committee on Agency Rule Review (JCARR) conducts its hearing on the proposed rule. The members of JCARR ensure that: (1) the proposed rules do not exceed the scope of the Board’s statutory authority; (2) the proposed rules do not conflict with any other rule of the Board or another rule-making agency; (3) the proposed rules do not conflict with the intent of the legislature in enacting the statute under which the rule is proposed; and (4) the Board has prepared a complete and accurate rule summary and fiscal analysis of the proposed rule, amendment, or rescission.

9. The Board files the rule in final form with JCARR. Rules become effective no sooner than ten days after the Board final files the rule.
10. The rule becomes effective (typically on May 1).

PUBLIC INVOLVEMENT

The Board relies on **public** input to guide its rule making activities. The general **public** and licensees are strongly encouraged to get involved in the rule making process. This public input is an essential ingredient if the Board's rules are to be reasonably enforceable, clear, and consistent. Licensees and the general public are strongly encouraged to provide feedback and comments to the Board throughout the year. Not only do Board members review all correspondence they receive, but the Board also schedules an Open Forum session during each Board meeting, which provides an opportunity for the public to express concerns about any topic relevant to the Board's mission. Individuals wishing to speak during Open Forum are asked to notify the Board by letter, telephone, fax, or email of their desire to participate. Other ways for members of the public to participate in the rule-making process include:

- Becoming involved in the professional association and other advocacy groups.
- Signing up for one of the Board's listserv to be notified electronically when the draft rule review process begins.
- Reviewing and commenting on draft rules.
- Viewing notices of rule proposals and public hearings.
- Attending the Board's public rules hearings.
- Attending JCARR hearings.

INFORMATION RESOURCES

If you have questions or need assistance, please send an email to board@otptat.ohio.gov.

To view proposed rules and public hearing notices posted to the Register of Ohio, go to <http://www.registerofohio.state.oh.us>.

To view agendas for JCARR hearings on proposed rules, go to <http://www.jcarr.state.oh.us>.

All Board rules currently in effect are posted on the Board's website under the "Laws" option for each profession's dropdown menu.

(Rev. 3/2010)