CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: **Ohio Occupational Therapy Physical Therapy, & Athletic Trainers Board**

Regulation/Package Title: **2014 AT License Changes**

Rule Number(s): **4755-43-04; 4755-43-05; 4755-43-06; 4755-45-01**

Date: **September 27, 2013**

Rule Type:

- ✓ **New**
- ✓ **Amended**
- ☐ **5-Year Review**
- ☐ **Rescinded**

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. **Please briefly describe the draft regulation in plain language.**
   Please include the key provisions of the regulation as well as any proposed amendments.

   4755-43-04 – Education

   This rule states that the educational requirements referenced in statute are satisfied by completion of an entry level education program that is accredited by the Commission on

Accreditation of Athletic Training Education (CAATE). The rule also states that the educational requirements can be waived for an applicant who has engaged in the active practice of athletic training with an unrestricted license for the five year period immediately preceding the date the application was received by the Board.

The amendment reflects the new terminology for entry-level programs accredited by CAATE.

4755-43-05 – Temporary license for military spouse

This new rule establishes a temporary license for an individual whose spouse is on active military duty in this state. The rule establishes various criteria that the applicant must document to be eligible for the temporary license.

4755-43-06 – Reinstatement of licensure

This rule outlines the requirements to reinstate an expired Ohio athletic training license. The proposed amendment to the rule states that reinstatement applicants must submit proof that the applicant holds current certification by the Board of Certification if the application is submitted on or after December 1 of the year the license expires.

4755-45-01 – Continuing education

This rule outlines the continuing education requirements for licensees. The amendment reflects the fact that CAATE is now the organization accrediting post-professional programs instead of the National Athletic Trainers Association.

2. **Please list the Ohio statute authorizing the Agency to adopt this regulation.**

   ORC 4743.04 for 4755-43-05 and ORC 4755.61 for the other rules in this package.

3. **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.

   The answer is no to both questions for the rules in this package.

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

   Not applicable to the rules in this package.

5. **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)?**

   Regarding the education rule, all applicants must obtain the appropriate education in athletic training to demonstrate that they can practice at entry-level competence.

The rule establishing the temporary license will help ensure that the spouse of a member of the armed services that gets stationed in Ohio can quickly start practicing athletic training in Ohio while they complete the standard application process.

When an individual is applying to reinstate an expired license, the Board needs to ensure that the individual is able to practice at current entry-level standards. The addition of a requirement that the applicant's certification be current will help ensure that they have complied with certain continuing competence requirements associated with maintaining the certification issued by the Board of Certification. This certification will serve as the Board's proxy that the applicant is currently competent to safely practice athletic training.

Graduation from a CAATE accredited program and passage of the licensing exam are ways the Board can determine if an applicant for licensure is initially competent. Continuing education requirements are a tool that the Board uses to help ensure that current licensees maintain competence to practice.

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

   Success will be measured by having the rules written in plain language for clarity and by applicants submitting the appropriate materials for licensure.

   For military spouses, success will be measured by the timeframes in which the temporary license is issued.

Development of the Regulation

7. **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 Board emailed stakeholders on August 14, 2013. A message seeking comment was also posted to the Board's Facebook and Twitter pages. Stakeholders were informed that comments were due to the Board by September 6. Stakeholders included licensees who are on the Board's listserv and individuals who follow the Board's Facebook and Twitter pages.

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

   The Board one comment related to the continuing education rule asking for clarification on the post-professional coursework change. The Board was able to explain that the proposed change was in accordance with his question, so it did not change the proposed amendment.

9. **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?**

   The change to the reinstatement rule was selected to ensure that all applicants applying to reinstate an expired license are able to demonstrate activities related to maintaining competence to practice. The Board of Certification maintains various requirements to keep certification active. In addition, if an individual's certification is expired for a certain period of time, the Board of Certification requires the individual to retake the certification examination. These requirements will help the Board to ensure the reinstatement applicant is practicing at current entry-level competence.

   The requirements for the temporary licensure were based on information required for other state's that issue temporary licenses for military spouses.

10. **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?**

    For the educational requirements, the rule allows for non-CAATE graduates to be eligible for licensure if they have been practicing in good standing in another state for at least five years.

    In addition, the Board must be sure that a military spouse meets certain minimum requirements to safely practice with the temporary license.

11. **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.***

    This question does not apply to these rules.

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

    This question does not apply to these rules.

13. **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.**

    The licensure requirements, including reinstatement, continuing education, and initial education, are posted on the Board's website and, where appropriate, included in the application for licensure.

    For military spouses, the Board will post the application on the website, which will list the various documents that must be received prior to the issuance of the temporary license.

Adverse Impact to Business

14. 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;
Licensed athletic trainers and applicants for licensure as an athletic trainer.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance);
Applicants for licensure must graduate from a CAATE accredited program. Applicants applying to reinstate an expired license must ensure that their BOC certification is current. Applicants renewing must complete continuing education activities. For the military spouse, there will be the $100 application fee. In addition, the required proof of marriage, licensure, and active duty station could take some time and have some cost to obtain

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.

The cost of an entry level education will vary based on the tuition charged by that educational institution.

For the military spouse, there will be the $100 application fee. In addition, the required proof of marriage, licensure, and active duty station could take some time and have some cost to obtain. The application fee will be applied to the full license application, provided that the full license is issued before the expiration of the temporary license (6 months).

The cost to apply to reinstate is $100. The cost to renew certification with the BOC is $50 for a two year period. If an individual's certification has been expired for more than four years, they would be required to retake the BOC certification exam to reactivate the certification. The cost to sit for the exam is $300.

The cost to complete 25 contact hours of continuing education varies based on the activities attended by the licensee.

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

One of the core requirements for a licensing board is to determine if an applicant is minimally competent to safely practice. This is primarily done by requiring passage of a licensing exam and completion of a specified educational program. In addition, once a licensee has been practicing, it is still important to ensure that the licensee is maintaining

competence, which is the rationale behind continuing education requirements. Both of these are also statutorily required regulations.

When an individual's license has expired, the Board needs a mechanism to ensure the individual is practicing at current entry level competence. This is the rationale behind having requirements associated with reinstating an expired license.

Additionally, ensuring that a military spouse has met the minimal requirements to safely practice pending receipt of a full license also justified the adverse impact.

Regulatory Flexibility

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

For the most part, the answer is no. There is language in the education rule that allows for a waiver of the required education if the applicant has been practicing athletic training with a license in good standing in another state for at least five years.

17. 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?

If a licensee does not comply with the continuing education requirements, they are potentially subject to disciplinary action. For a first offense, the Board typically issues a non-disciplinary warning letter.

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

The Board and its staff are dedicated to working with members of the regulated community and the public to ensure that the consumers of athletic training services in Ohio receive safe and effective services from the Board's licensees. As a result, the following resources are available:

Board's mailing address:
77 S. High Street, 16th Floor
Columbus, Ohio 43215-6108

Board's phone number: 614-466-3774

Board's fax number: 614-995-0816

Board's website: http://otptat.ohio.gov

Board's email: board@otptat.ohio.gov

To Join a Board listserv: http://otptat.ohio.gov/consumers/boardlistservs.aspx

Board's Facebook: https://www.facebook.com/OhioOTPTATBoard

Board's Twitter: http://twitter.com/OhioOTPTATBd