

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

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

Regulation/Package Title: 2014 AT No Change

Rule Number(s): 4755-43-07; 4755-43-09

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 Rescinded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.

4755-43-07 – Criminal records checks

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This rule requires all applicants for licensure to submit a criminal records check from both the Ohio BCI and the FBI. The rule also clarifies that the Board will only consider the results of the check as valid for six (6) months from the date the checks are received by the Board.

4755-43-09 – Verification of licensure

This rule outlines the process to have an official verification of the Ohio license sent to another state Board.

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

ORC 4755.61 for both rules and ORC 4776.03 for 4755-43-07

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 criminal records check rule, this regulation implements a statutory requirement that states that the Board may not issue an initial license until the BCI and FBI criminal records checks are received and reviewed. Since criminal status change quickly change, the Board implemented the 6 month validity period.

Regarding the verification of licensure, all state licensing boards need to determine if an applicant who is licensed in another state has any action taken against that license. This is done through official license verifications. This rule outlines the process that an Ohio licensee must follow to have the Board submit an official verification to another state Board.

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 criminal records checks results in a timely fashion and by licensees making an appropriate request for an official verification.

Development of the Regulation

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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 did not receive any comments regarding the rules included in this package.

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?

This question does not apply to these proposed changes.

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?

The Board did not consider alternatives. The Ohio Revised Code requires the Board to obtain the criminal records checks prior to issuance of an initial license and other state Boards need Ohio to submit official verifications of its licensees to another state Board where an Ohio licensed athletic trainer is seeking to obtain a 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 Board has information on its website that outlines the verification process. Information regarding the criminal records check process is included in the licensure application and also posted on the Board's website..

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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.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance);

Applicants for licensure must obtain a criminal records check and licensees seeking licensure in another state must apply for a verification from the Board.

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 license verification costs \$15. The Board typically processes the verifications to the other state within 2 business days of receiving the request.

The fingerprints cost \$46 plus an administrative fee charged by the fingerprinting vendor. For out of state applicants, it can take the FBI 3-4 months to process ink rolled fingerprints, which can delay the ability for the Board to timely license the applicant. For applicants who have the fingerprints electronically taken within Ohio, it typically takes 1-2 weeks for the Board to receive the results.

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

The requirement to have the criminal records checks completed is contained in state law. This rule implements that statutory requirement. Unfortunately, a licensee with criminal history is more likely to lie on the application about the criminal history. Receipt of the official records checks help ensure that the Board makes appropriate licensure decisions.

If the Board did not process verifications to other states, it would be impossible for those individuals to obtain a license in another state.

Regulatory Flexibility

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

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No. All applicants for licensure must obtain the criminal records check and all licensees must complete the same verification process.

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 an applicant has criminal history identified on the records check, the Board reviews the official court records to determine if that applicant should be licensed. In most cases, applicants with criminal history are licensed with no restrictions to practice.

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>