

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

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

Regulation/Package Title: 2014 AT Practice Standards Changes

Rule Number(s): 4755-46-01

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Rescinded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.

4755-46-01 – Delegation of tasks to unlicensed persons

This rule defines an “unlicensed person” as any individual who is not licensed who supports the delivery of athletic training services. The rule clarifies that the unlicensed person can only support the delivery of athletic training services by personally-assisting the licensed

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athletic training while the athletic trainer is providing services to the same client at the same time. The rule requires direct supervision of the unlicensed individual and also sets out various tasks that may not be delegated to an unlicensed individual.

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

ORC 4755.61

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)?

The mission of the Board is to ensure that consumers of athletic training services receive safe, competent, and adequate services from licensed practitioners. Although there are certain situations where assistance from an on the job trained individual can be useful for the licensed athletic trainer, ultimately, only the licensed individual has demonstrated competence to be a safe practitioner of athletic training services. This rule will help ensure that licensees do not inappropriately utilize unlicensed individuals to provide athletic training services to consumers.

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 licensees appropriately utilizing unlicensed personnel.

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

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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 role of unlicensed personnel must be restricted to ensure consumer protection.

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 will educate all licensees of the appropriate role of unlicensed personnel.

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 other unlicensed individuals that are providing athletic training services.

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

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There is not a clear adverse impact as a result of this rule other than potential disciplinary action that could be taken if a licensee improperly utilizes unlicensed personnel when providing athletic training services.

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.

A licensee that improperly utilized unlicensed persons could potential face disciplinary action, including monetary fines.

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

The mission of the Board is to ensure that the consumers of athletic training services receive competent services from the Board’s licensees. Unlicensed individuals have not demonstrated competence in the provision of athletic training services. Therefore, it is important for the Board to adopt regulations that limit the role of unlicensed individuals in the provision of athletic training services.

Regulatory Flexibility

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

No. All unlicensed individuals must follow the same restrictions on their activities.

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 improperly uses unlicensed personnel, the first incident would typically be addressed through a non-disciplinary educational outreach to clarify the rule and the appropriate use of unlicensed personnel.

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:

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Board's mailing address:

77 S. High Street, 16th Floor
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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>

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