Electronic Rule Filing

The Honorable Jon Husted
Secretary of State
180 E. Broad St., 15th Floor
Columbus,OH 43215

Mark Flanders, Director
Legislative Service Commission
77 South High St., 9th Floor
Columbus,OH 43215

Larry Wolpert, Director
Joint Committee on Agency Rule Review
77 South High St., Concourse Level
Columbus,OH 43215

It is hereby confirmed that the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board **original filed** the following rule(s) pursuant to section 119.03 of the Ohio Revised Code.

Package Number: 157259
File Date and Time: 11/30/2015 03:24 PM
Confirmation Number: a03191d62022309e5920dceed456717d

ORIGINAL FILE

Rule Number	Type	FYR	CSI	JE Date	Eff Date	Next FYR	Tagline
4755-27-08	New	N	Y	02/03/2016			Youth sports concussion and head injury assessment and clearance.

ACTION: Original

DATE: 11/30/2015 3:24 PM

Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board
77 South High Street, 16th Floor
Columbus, Ohio 43215-6108

Governor
John R. Kasich
Interim Executive Director
Diane Moore

Notice of Public Hearing

In accordance with section 119.07 of the Ohio Revised Code and rule 4755-21-02 of the Ohio Administrative Code, you are hereby notified that the Physical Therapy Section of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board will conduct a public hearing on Thursday, January 7, 2016 at 10:30 AM on the 31st Floor of the Vern Riffe Center for Government and the Arts located at 77 S. High Street, Columbus, Ohio, 43215.

4755-27-08
Youth sports concussion and head injury assessment and clearance (New)

Persons intending to testify are encouraged to pre-register by sending an email to board@otptat.ohio.gov or writing to:

Diane Moore, Interim Executive Director
Ohio OTPTAT Board
Physical Therapy Section
77 S. High Street, 16th Floor
Columbus, OH 43215-6108

Testimony presented during the hearing or submitted to the Section will be considered by the Section at its January7, 2016 meeting. A copy of the proposed rules referenced above may be obtained at the Board's website, http://otptat.ohio.gov, or by contacting the Board by email or telephone.

ACTION: Original

DATE: 11/30/2015 3:24 PM

Rule Summary and Fiscal Analysis (Part A)

Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board
Agency Name

Division

Diane Moore
Contact

77 South High St. 16th floor Columbus OH 43215-6108
Agency Mailing Address (Plus Zip)

614-995-5323
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diane.moore@otptat.ohio.gov
Email

4755-27-08
Rule Number

NEW
TYPE of rule filing

Rule Title/Tag Line

Youth sports concussion and head injury assessment and clearance.

RULE SUMMARY

1. Is the rule being filed for five year review (FYR)? **No**

2. Are you proposing this rule as a result of recent legislation? **Yes**

Bill Number: **HB487** General Assembly: **130** Sponsor: **Brenner**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **3707.521**

5. Statute(s) the rule, as filed, amplifies or implements: **3707.511, 3707.52, 3707.521**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

HB 487 of the 130th GA required licensing boards to adopt a rule implementing the standards developed by the Ohio Youth Sports Concussion & Head Injury Return-to-Play Guidelines Committee. The Committee issued its final report in March 2015.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The rule states that a physical therapist may access and clear a youth to return to practice or competition if all of the following are met:

1) The assessment and clearance is done in collaboration/consultation/referral of a physician

2) The PT has completed education and training consistent with the Zurich Guidelines

3) The PT maintains competency through continuing education activities consistent with the Zurich Guidelines

The rule also recommends that licensees complete a portion of their required CE activities focused on the items listed in the rule and use the medical clearance return to play form located at the Ohio Department of Health's website.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

Not applicable.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each

specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

$0.00

Not applicable.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

Licensees might incur costs associated with continuing education activities.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **Yes**

Physical therapists must be licensed to practice in Ohio.

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **Yes**

If a licensee does not comply with the provisions of the rule, they would be subject to disciplinary action against the license.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

Licensees might incur costs associated with completing continuing education activities.

4755-27-08 **Youth sports concussion and head injury assessment and clearance.**

(A) For purposes of this rule:

(1) "Interscholastic athletics" means an interscholastic extracurricular activity that a school or school district sponsors or participates in that includes participants from more than one school or school district.

(2) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(3) "Youth" means an individual between the ages of four and nineteen who participated in a youth sports organization or interscholastic athletics and was removed from practice of competition under division (D) of section 313.539 of the Revised Code or division (D) of section 3707.511 of the Revised Code, based on exhibiting signs, symptoms, or behaviors consistent with having sustained a concussion or head injury while participating in practice or competition.

(4) "Youth sports organization" has the same meaning as in section 3707.51 of the Revised Code and means a public or nonpublic entity that organizes an athletic activity in which the athletes are not more than nineteen years of age and are required to pay a fee to participate in the athletic activity or whose cost to participate is sponsored by a business or nonprofit organization.

(5) "Zurich Guidelines" means the consensus statement on concussion in sport: the 4th international conference on concussion in sport held in Zurich, November 2012.

(B) A physical therapist may assess and clear a youth to return to practice or competition if all of the following requirements are met:

(1) Pursuant to sections 3313.539 and 3707.511 of the Revised Code, the assessment and clearance is done:

(a) In consultation with a physician;

(b) Pursuant to the referral of a physician;

(c) In collaboration with a physician; or

(d) Under the supervision of a physician.

(2) The physical therapist has completed education and training in the detection of concussions and/or sports and recreation-related traumatic brain injuries, the clinical features of concussions and/or sports and recreation-related traumatic brain injuries, assessment techniques, and the principles of safe return to play

protocols consistent with the Zurich Guidelines and/or nationally accepted standards and guidelines consistent with the Zurich Guidelines.

(3) The physical therapist maintains competency through continuing education activities in the detection of concussions and/or sports and recreation-related traumatic brain injuries, the clinical features of concussions and/or sports and recreation-related traumatic brain injuries, assessment techniques, and the principles of safe return to play protocols consistent with the Zurich Guidelines and/or nationally accepted standards and guidelines consistent with the Zurich Guidelines.

(C) The physical therapy section recommends that physical therapists who assess and clear a youth to return to practice or competition in accordance with this rule do both of the following:

(1) Ensure that a portion of the required twenty-four contact hours of continuing education focus on the items listed in paragraphs (B)(2) and (B)(3) of this rule.

(2) Use the medical clearance to return to play after suspected concussion form located at http://www.healthy.ohio.gov/vipp/concussion.aspx (March 2015).

Effective:

Five Year Review (FYR) Dates:

_____

Certification

_____

Date

Promulgated Under:	119.03
Statutory Authority:	3707.521
Rule Amplifies:	3707.511, 3707.52, 3707.521

ACTION: Original

DATE: 11/30/2015 3:24 PM

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

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

Regulation/Package Title: 2015 PT Concussion

Rule Number(s): 4755-27-08

Date: July 13, 2015

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.

   This rule outlines the requirements that must be met for a physical therapist to assess and clear a youth to return to practice of competition. The content of the rule is based on the final report issued by the Ohio Youth Sports Concussion & Head Injury Return-to-Play Guidelines Committee.

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

   ORC 3707.521

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.

   No.

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

   Not applicable.

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)?**

   In HB 143 of the 129th GA and HB 487 of the 130th GA, the Ohio General Assembly adopted laws governing return to play decisions for youth sports. As part of this process, section 3707.521 of the Revised Code was enacted. Under division (E) of this section, a licensing agency must adopt rules establishing standards that are equal to or stronger than the guidelines developed by the Ohio Youth Sports Concussion & Head Injury Return-to-Play Guidelines Committee if it seeks to have its licensees authorized to assess and clear athletes for return to practice or competition.

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

   Success will be measured by licensees safely making return to play decisions in accordance with the guidelines established by the Ohio Youth Sports Concussion & Head Injury Return-to-Play Guidelines Committee.

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 content of the draft regulation was based on the information contained in the Final Guidelines Report issued by the Ohio Youth Sports Concussion & Head Injury Return-to-Play Guidelines Committee.

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

   The Ohio Youth Sports Concussion & Head Injury Return-to-Play Guidelines Committee published its final report in March 2015 following receipt and review of extensive testimony by experts who routinely treat youth sports concussions and head injuries. The Ohio Revised Code directs the Board to adopt rules by September 17, 2015, that implement the recommendations contained in the final report.

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 Committee was made up of professional licensees with expertise in treating youth sports concussions and head injuries. The Committee heard extensive testimony while developing guidelines. The Committee relied upon and directed licensees to meet the "Zurich Guidelines" which is the "Consensus Statement on concussion in sport: the 4th International Conference on Concussion in Sport held in Zurich, November 2012." The Board is incorporating the Zurich Guidelines by reference in the proposed rule.

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 alternative regulations because the statutory mandate required compliance with the specific and detailed minimum standards determined in the Final Guidelines Report of the Ohio Youth Sports Concussion & Head Injury Return-to-Play Guidelines Committee.

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.***

    The Board did not consider performance-based regulations because the statutory mandate required compliance with the specific and detailed minimum standards determined in the Final Guidelines Report of the Ohio Youth Sports Concussion & Head Injury Return-to-Play Guidelines Committee.

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 this rule.

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 statutory mandate required compliance with the specific and detailed minimum standards determined in the Final Guidelines Report of the Ohio Youth Sports Concussion & Head Injury Return-to-Play Guidelines Committee. The Board will implement the regulations while using its website, email listserv, and social media to update and inform licensees and other stakeholders.

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 physical therapists

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and
Individuals are required to have a license and meet various conditions for licensure to provide youth concussion assessment and clearance. The rule recommends that a portion of the required continuing education be focused on youth concussion assessment and clearance.

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 requirement to use a specific form developed by the Ohio Department of Health could create additional work that is not currently required by licensees.

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

The Ohio General Assembly determined that the established of these requirements were necessary to ensure public safety.

Regulatory Flexibility

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

This question does not apply.

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?

This question does not apply.

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 physical therapy 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

ACTION: Original

DATE: 11/30/2015 3:24 PM

MEMORANDUM

TO: Diane Moore, Interim Executive Director, OTPTAT Board

FROM: Sophia Papadimos, Regulatory Policy Advocate

DATE: September 3, 2015

RE: **CSI Review – Concussion Rule (OAC 4755-7-11, 4755-43-13, and 4755-27-08)**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This rule package consists of three new rules proposed by the Ohio Occupational Therapy, Physical Therapy, & Athletic Trainers (OTPTAT) Board. The rule package was filed with the CSI Office on July 30, 2015 and the public comment period was held open until August 31, 2015. Six comments were received during this time. The proposed rules were submitted with individual BIAs but have been combined for the purpose of this recommendation.

The proposed rules outline youth concussion assessment and clearance guidelines recommended by the Ohio Youth Sports Concussion & Head Injury Return to Play Guidelines Committee. The Committee was made up of professional licensees with expertise in treating youth sports concussions and head injuries. The Committee also relied upon and directed licensees to meet the "Zurich Guidelines" which is the international consensus statement on concussions in sports. The rules explain that athletic trainers, physical therapists, and occupational therapists may assess and clear youth athletes provided they consult with a physician and have received training in the area of concussion management. The rules recommend that athletic trainers, physical therapists, and occupational therapists maintain a level of continuing education in the field of concussion management.

While the rules do require a certain level of education and training in detecting concussions or recreation-related traumatic brain injuries; they are required by House Bill 487 of the 130th General Assembly. Most of the comments received were requesting clarification. One comment that was received, though, questioned the continuing education recommendation. The Board explained that continuing education in the field of concussion management is recommended but not required. Therefore, the CSI Office has determined the purpose of the rules is justified.

Recommendations

For the reasons discussed above, the CSI Office does not have any recommendations for this rule package.

Conclusion

Based on the above comments, the CSI Office concludes that the Board should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office

ACTION: Original

DATE: 11/30/2015 3:24 PM

Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board
77 South High Street, 16th Floor
Columbus, Ohio 43215-6108

Governor
John R. Kasich
Interim Executive Director
Diane Moore

MEMORANDUM

TO: Sophia Papadimos, Regulatory Policy Advocate, CSI - Ohio

FROM: Diane Moore, Interim Executive Director

DATE: November 30, 2015

SUBJECT: CSI Review – Concussion Rule (OAC 4755-7-11, 4755-43-13, and 4755-27-08)

On September 3, 2015, the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board ("Board") received the Common Sense Initiative Office's Recommendation Memorandum ("CSI Recommendation") for the review conducted on the above-referenced rules. The Board appreciates the timely response and comprehensive review.

The CSI Recommendation stated that, "the CSI Office does not have any recommendations regarding this rule package." The CSI Recommendation also stated that "Based on the above comments, the CSI Office concludes that the Board should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review."

At this time, the Board will continue moving forward with its filing of the rules packages identified above with the Joint Committee on Agency Rule Review.

If you have any questions, please do not hesitate to contact me at diane.moore@otptat.ohio.gov or at (614) 995-5323.