### Business Impact Analysis

**Agency, Board, or Commission Name:** Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board

**Rule Contact Name and Contact Information:**

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**Regulation/Package Title (a general description of the rules’ substantive content):**

Reinstatement of physical therapist, physical therapist assistant license

**Rule Number(s):** 4755-23-10

**Date of Submission for CSI Review:** 12/6/2019

**Public Comment Period End Date:** 12/20/2019

**Rule Type/Number of Rules:**

- New/___ rules
- Amended/___X___ rules (FYR? _Y__)
- No Change/____ rules (FYR? ___)
- Rescinded/____ rules (FYR? ___)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing...
regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

**Reason for Submission**

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- ☒ Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- ☒ Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- ☒ Requires specific expenditures or the report of information as a condition of compliance.
- ☐ Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

**Regulatory Intent**

2. 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 describes the terms under which a physical therapist or physical therapist assistant can reinstate an Ohio license. The first change allows the applicant to take the renewal jurisprudence module instead of the Ohio laws and rules examination. The module, which is under development, can be taken at home instead of at a prometric center and the exam fee will be less. This change makes it easier to complete a reinstatement application. The second change eliminates reference to the general practice review tool, which is no longer in existence.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

Statutory Authority: 4755.411
Rule Amplifies: 4755.411, 4755.46
4. 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? No.

5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement. There is no federal requirement. These rules are pursuant to Ohio law.

6. 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 rule defines more specifically the documentation needed to reinstate a physical therapist or physical therapist license. The rule helps the agency be transparency about licensure requirements.

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

Successful reinstatement applications.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931? If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

**Development of the Regulation**

9. 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 rules were sent out to the agency list serve which includes all active license holders and anyone else who has signed up to receive notices. The rule comment period was June 28, 2019-July 14, 2019.

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

The comments support the rule change.

- This would facilitate reinstatement HUGELY! It was VERY difficult for me to work through all the steps and fees as an impoverished recently widowed therapist that found it necessary to reinvent myself for the 4th time in my life. It would also put Ohio more in
line with other states' parameters. Relocating here from out West presented one hurdle after another......this state is in dire need of modernizing and updating itself in many ways. This change to the Board rules is a welcome one, and would sure simplify the process!

- I support the proposed rule change

11. 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?

None.

12. 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?

None. Statute requires a license. The rule does attempt to ease the process by requiring a module to be completed at home in alternative to an exam which must be taken at a testing center.

13. 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.

No. The requirements that must be met are defined by the Board.

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

Review of existing laws and rules.

15. 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 OTPTAT Board will notify license holders of the change and update reinstatement application materials to reflect the change.

Adverse Impact to Business

16. 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; and

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

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. All physical therapists and physical therapist assistants in Ohio who once practiced in Ohio and let their license expire and now want to practice again, and the business for which they will work.

b. The applicant must pay a $100 reinstatement fee, plus a $3.50 eLicense fee, any fees needed to complete required continuing education, plus any potential cost to verify a clean license in other states. If out of practice more than five years, the applicant must take the National Physical Therapy Exam to show continued competence in the field, which costs $485. A reinstatement candidate is currently required to take a Laws and Rules exam for $75. This rule change would require a jurisprudence module instead, which costs $50 and can be taken at home.

c. $153.50 plus variable licensure verification costs and unknown costs to comply with 24 or 12 hours of continuing education. Potential additional $485 for the national physical therapy exam, if out of practice for more than five years.

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

The information being collected is important to ensure the competence of individuals licensed and assists with the mission of public protection.

Regulatory Flexibility

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

No. This regulation applies to individuals.

19. 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?

The agency has guidelines which take into account lesser fees/fines for first time offenses.

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

Any individual may contact the Board via email, phone, mail, fax, etc. to receive personal assistance with an application.