

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

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

Regulation/Package Title: 2014 PT No Change Chap 28

Rule Number(s): 4755-28-01

Date: September 18, 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 Rescinded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.

4755-28-01 – Surrender of License

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

This rule states that if the license of a physical therapist or physical therapist assistant is suspended or revoked, the licensee must immediately surrender to the Board all evidence of licensure, including the wall certificate.

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

ORC 4755.411

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 for the rule 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 physical therapy services receive safe, competent, and adequate services from licensed practitioners. This rule ensures that if a licensee loses the legal ability to practice physical therapy due to disciplinary action, they cannot continue to hold themselves out to consumers as being able to practice since they must surrender all proof of licensure to the 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 licensees submitting all proof of licensure to the Board in a timely fashion if the individual's license is suspended or revoked.

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 16, 2013. A message seeking comment was also posted to the Board's Facebook and Twitter pages. Stakeholders were informed that

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

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 rule 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 the rule included in this package.

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?

There were no alternative regulations that the agency considered since the Board must receive all proof of licensure from the disciplined individual.

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.

Whenever the Board suspends or revokes a license, a standard provision in the order template is language requiring the licensee to submit all proof of licensure, including the wall certificate, to the Board. If a licensee fails to submit the required documents, they would be in violation of the order and potentially subject to additional disciplinary action.

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 and physical therapist assistants.
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance);**
Disciplined individuals would be required to submit proof of licensure to 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 cost of the adverse impact from this rule is the cost to mail proof of licensure to the Board. Although the individual cannot practice physical therapy if the license is revoked or suspended, the provisions contained in this rule only address the surrender of the proof of licensure. As a result, any lost income resulting from the disciplinary action is not tied to this regulation.

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

It is important that a consumer of physical therapy services not mistakenly believe that an individual is still licensed to provide physical therapy services if the Board has revoked or suspended that practitioner’s license.

Regulatory Flexibility

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

No. If an individual’s license is suspended or revoked, they must submit the wall certificate and any other proof of licensure to the Board office.

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?

The provisions of R.C. 119.14 would be taken into account by the Board when determining if disciplinary action should be taken. Once the decision has been made that action is warranted, the requirement to submit proof of license for suspensions and revocations would always apply.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

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>