



Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board

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Written Testimony on House Bill 263
Senate Transportation, Commerce, and Workforce Committee
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Chair Rob McColley, Vice Chair Terry Johnson, and Ranking Minority Member Nickie Antonio, on behalf of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers (OTPTAT) Board, please accept this interested party written testimony on House Bill 263 (Koehler).

The mission of the Ohio OTPTAT Board is to actively promote and protect the health of Ohioans through effective regulation of the professions of occupational therapy, physical therapy, athletic training, orthotics, prosthetics, and pedorthics. The Board does so by performing essential regulatory functions such as the verification of qualifications for licensure and investigating complaints of violations of each profession's practice act.

The goal of House Bill 263 is laudable, and the Board agrees with the concept of looking past an ex-offender's criminal history, especially when there is evidence of correction to past behaviors. More and more often, the Board is offering conditional licensure based on compliance with a court order with the knowledge that, especially in cases of addiction, stable employment is critical to helping someone turn things around. In the past three years, the OTPTAT Board has only denied two license applications due to past criminal history.

A few provisions of House Bill 263 need some additional work, as they endanger the Board's ability to fulfill its mission of protection by limiting the ability to fully consider an applicant's history of criminal offense:

1. Line 278 of HB 263 requires a licensing authority to use a clear and convincing evidence standard when evaluating the factors of a conviction for an offense that may lead to the denial of an initial occupational license. Courts have long held that the standard of "clear and convincing" evidence is not the appropriate standard for such administrative actions, so this would create two different standards for licensure action by any occupational licensing board/agency. This standard would be a challenge for the Board to implement, and the Board is not proposing criminal sanctions which would take away a person's liberty, so such a high standard is not necessary.
2. Starting in line 311, the bill sets up a secondary license denial process separate from the well-known Chapter 119 hearing process. This is unnecessary and could slow down due process. The elements of notification here are all required as a part of Chapter 119. The license denial should simply point to Chapter 119.
3. Language starting in line 355 states that past disciplinary action taken against an individual by an authority in another state may be considered if that license is substantially similar to the license for which the individual applies in Ohio. This does not account for nefarious individuals who may try to change professions in order to continue to prey upon vulnerable people. An action taken against a teacher's license in another state should be able to be considered by the OTPTAT Board in its licensure decisions, for instance. But this language makes this consideration questionable.
4. Establishing a list of specific criminal offenses for which a conviction, judicial finding of guilt, or plea of guilty may disqualify an individual from obtaining an initial license is problematic and requiring the offenses to be directly related to the duties and responsibilities of the profession unnecessarily restricts

the Board's authority. The Board should have the ability to consider any criminal offense, particularly if the offense is repeated multiple times and no evidence of reform can be identified.

5. Finally, the five-year lookback in the bill for a disqualifying offense that is not an offense of violence or a sexually oriented offense is also unnecessarily limiting. Instead, the Board should be able to consider the full facts of a situation to determine whether enough time has passed since an offense, along with other mitigating circumstances to adequately protect the public.

The Board looks forward to continuing to work on the language of this bill to reach the stated goal of allowing individuals a fresh start. If you have any questions, please feel free to contact Missy Anthony, Executive Director at 614-466-3474 or Missy.Anthony@otptat.ohio.gov.