

State Budget Office
Office of Regulatory Reinvention
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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RISCBA)**

PART 1: INTRODUCTION

Under the Administrative Procedures Act (APA), 1969 PA 306, the agency that has the statutory authority to promulgate the rules must complete and submit this form electronically to the Office of Regulatory Reinvention (ORR) at orr@michigan.gov no less than 28 days before the public hearing.

1. Agency Information

Agency name:	Department of Licensing and Regulatory Affairs		
Division/Bureau/Office:	Bureau of Professional Licensing		
Name, title, phone number, and e-mail of person completing this form:	Dena Marks, Board Analyst 517-335-3679 MarksD1@Michigan.gov		
Name of Departmental Regulatory Affairs Officer reviewing this form:	Liz Arasim, Department of Licensing and Regulatory Affairs		

2. Rule Set Information

ORR assigned rule set number:	2018-034 LR
Title of proposed rule set:	Board of Occupational Therapists – General Rules

PART 2: KEY SECTIONS OF THE APA

24.207a “Small business” defined.

Sec. 7a. “Small business” means a business concern incorporated or doing business in this state, including the affiliates of the business concern, which is independently owned and operated, and which employs fewer than 250 full-time employees or which has gross annual sales of less than \$6,000,000.00.

24.240 Reducing disproportionate economic impact of rule on small business; applicability of section and MCL 24.245(3).

Sec. 40. (1) When an agency proposes to adopt a rule that will apply to a small business and the rule will have a disproportionate impact on small businesses because of the size of those businesses, the agency shall consider exempting small businesses and, if not exempted, the agency proposing to adopt the rule shall reduce the economic impact of the rule on small businesses by doing all of the following when it is lawful and feasible in meeting the objectives of the act authorizing the promulgation of the rule:

- (a) Identify and estimate the number of small businesses affected by the proposed rule and its probable effect on small businesses.
 - (b) Establish differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.
 - (c) Consolidate, simplify, or eliminate the compliance and reporting requirements for small businesses under the rule and identify the skills necessary to comply with the reporting requirements.
 - (d) Establish performance standards to replace design or operational standards required in the proposed rule.
- (2) The factors described in subsection (1)(a) to (d) shall be specifically addressed in the small business impact statement required under section 45.

(3) In reducing the disproportionate economic impact on small business of a rule as provided in subsection (1), an agency shall use the following classifications of small business:

- (a) 0-9 full-time employees.
- (b) 10-49 full-time employees.
- (c) 50-249 full-time employees.

(4) For purposes of subsection (3), an agency may include a small business with a greater number of full-time employees in a classification that applies to a business with fewer full-time employees.

(5) This section and section 45(3) do not apply to a rule that is required by federal law and that an agency promulgates without imposing standards more stringent than those required by the federal law.

MCL 24.245 (3) Except for a rule promulgated under sections 33, 44, and 48, the agency shall prepare and include with the notice of transmittal a **regulatory impact statement** which shall contain specific information (information requested on the following pages).

[**Note:** Additional questions have been added to these statutorily-required questions to satisfy the **cost-benefit analysis** requirements of Executive Order 2011-5].

MCL 24.245b Information to be posted on office of regulatory reinvention website.

Sec. 45b. (1) The office of regulatory reinvention shall post the following on its website within 2 business days after transmittal pursuant to section 45:

- (a) The regulatory impact statement required under section 45(3).
 - (b) Instructions on any existing administrative remedies or appeals available to the public.
 - (c) Instructions regarding the method of complying with the rules, if available.
 - (d) Any rules filed with the secretary of state and the effective date of those rules.
- (2) The office of regulatory reinvention shall facilitate linking the information posted under subsection (1) to the department or agency website.

PART 3: AGENCY RESPONSE

Please provide the required information using complete sentences. **Do not answer any question with “N/A” or “none.”**

Comparison of Rule(s) to Federal/State/Association Standards:

1. Compare the proposed rule(s) to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

Each state establishes its own requirements with respect to occupational therapists and occupational therapy assistants, so there are no federal rules or standards set by a national or state agency that the proposed rules can be compared to.

A. Are these rule(s) required by state law or federal mandate?

MCL 333.16145, MCL 333.16148, MCL 333.16204, MCL 333.18307, MCL 333.18309, MCL 333.18313, MCL 338.3501, MCL 445.2001, MCL 445.2011, and MCL 445.2030.

B. If these rule(s) exceed a federal standard, identify the federal standard or citation, describe why it is necessary that the proposed rule(s) exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

The rules do not exceed a federal standard.

2. Compare the proposed rule(s) to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

The proposed rules are consistent with the standards required by the public health code and are largely consistent with the requirements of other states in the Great Lakes region.

Part 1 of the rules defines certain terms used in the rule set.

Part 2 of the rules contains general provisions pertaining to licensure and includes the requirement that, if an applicant's educational program was taught in a language other than English, he or she must demonstrate a working knowledge of the English language by achieving a score of 89 or higher on the Test of English as a Foreign Language Internet-Based Test (TOEFL-IBT.) This requirement is required by MCL 333.16174.

Part 3 of the rules pertains to occupational therapist educational program standards, licensure requirements, supervised practice experience requirements, and the delegation of a duty to an occupational therapy assistant. All states in the Great Lakes region approve occupational therapy educational programs, provide licensure requirements, provide supervised practice experience requirements, and regulate the delegation of a duty to an occupational therapy assistant in their occupational therapists' statutes and administrative rules. The educational standards, licensure requirements, supervised practice requirements, and the regulations for the delegation of a duty to an occupational therapy assistant in the proposed rules are similar to the standards and requirements in the other states in the Great Lakes Region.

Part 4 of the rules pertains to the educational program standards and licensure requirements of occupational therapy assistants. All states in the Great Lakes region approve educational standards and licensure requirements for occupational therapy assistants in occupational therapists' statutes and administrative rules. The educational standards and licensure requirements in the proposed rules are similar to the standards and requirements in other states in the Great Lakes Region.

Part 5 of the rules pertains to continuing education (CE) requirements. In the proposed rules, a licensee must accumulate 20 CE credit hours during each 2-year licensing cycle. All other states in the Great Lakes region require an occupational therapist and an occupational therapy assistant to accumulate CE during each licensing cycle, but the number of CE credits required differ from state to state. In Illinois, Pennsylvania, and Wisconsin, a licensee must accumulate 24 CE credits in each 2-year licensing cycle. In Indiana and Minnesota, a licensee must accumulate 18 CE credits in each 2-year licensing cycle. In Kentucky, a licensee must accumulate 12 CE credits in each 1-year licensing cycle. In New York, a licensee must accumulate 36 CE credits in each 3-year licensing cycle. In Ohio, a licensee must accumulate 20 CE credits in each 2-year licensing cycle.

A. If the rule(s) exceed standards in those states, explain why and specify the costs and benefits arising out of the deviation.

The standards pertaining to licensure, supervised practice, delegation of a duty, and CE differ from state to state. Overall, the standards in the proposed rules do not exceed those of the other states in the Great Lakes region.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rule(s).

There are no other laws, rules, or other legal requirements that may duplicate, overlap, or conflict with these proposed rules.

A. Explain how the rule has been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

No coordination is needed because there are no other applicable laws that regulate the areas addressed in the proposed rules.

Purpose and Objectives of the Rule(s):

4. Identify the behavior and frequency of behavior that the proposed rule(s) are designed to alter.

The purpose of the proposed rules is set forth below:

R 338.1211 The current rule provides definitions for terms used in the rule set. In the proposed rule, citations are amended for clarity and to aid an applicant or licensee in understanding the terms used in the rule set.

R. 338.1213 The current rule provides that an applicant for licensure must demonstrate a working knowledge of the English language if the applicant’s educational or training program was taught outside the United States. The rule will be amended to correct the abbreviation of the test required to satisfy this requirement.

R 338.1222 The current rule includes outdated information regarding educational standards adopted by reference. The proposed rule will provide updated accreditation information for educational standards and aid an applicant to identify approved educational programs.

R 338.1223 The current rule pertains to the requirements for licensure. In the proposed rule, amendments will be made to provide clarity regarding the time period within which an applicant must pass the required examination.

R 338.1223a The current rule pertains to the requirements for licensure for an occupational therapist with a lapsed registration. The proposed rule will clarify that the department may issue a limited license and that it may be renewed once.

R 338.1225 The current rule pertains to applicants who graduated from a non-accredited institution. The proposed rule will amend the requirement for licensure to include passage of the National Board for Certification in Occupational Therapy (NBCOT) certification examination and the state jurisprudence examination.

R 338.1226 The current rule provides the requirements for licensure by endorsement. The proposed changes will clarify that the applicant’s registration or license must be active and will aid an applicant to comply with all licensure requirements.

R 338.1227 The current rule pertains to the requirements for relicensure. In the proposed rule, amendments will be made to aid an applicant in understanding the requirements for relicensure. The proposed rule will update CE requirements and inform an applicant that if his or her license has been lapsed for 3 years or more, he or she must complete supervised practice experience while holding a limited license.

R 338.1228 The current rules pertains to the requirement for supervised practice experience. The proposed rule will clarify that this experience must be obtained under the supervision of a licensed occupational therapist supervisor to ensure that an applicant obtains appropriate supervised practice experience.

R 338.1229 The current rule pertains to delegation of duties to an assistant occupational therapist. The proposed rule will require an occupational therapist to initiate and direct the evaluation before delegating a duty to an assistant occupational therapist.

R 338.1229a The current rule pertains to delegation of duties to an unlicensed individual. The proposed rule will clarify a licensee’s duty when delegating a task to a student enrolled in an accredited or approved occupational therapy educational program.

R 338.1232 The current rule pertains to educational programs for occupational therapy assistants. The proposed rule will correct the contact information for the Michigan Board of Occupational Therapists.

R 338.1233 The current rule pertains to application for occupational therapy assistant licensure. The proposed rule will advise an applicant when he or she must complete the required licensing examinations.

R 338.1233a The current rule pertains to requirements for licensure of an occupational therapy assistant. The proposed rule will clarify that the department may issue a limited license to complete the required supervised practice experience and that the limited license it may be renewed once.

R 338.1234 The current rule pertains to examination requirements for an occupational therapy assistant. The proposed rule will correct a clerical error.

R 338.1234a This is a new proposed rule pertaining to an applicant who graduated from a non-accredited institution. The proposed rule will establish the requirements for verifying that the applicant has met the educational requirements and require that the applicant pass the NBCOT and state jurisprudence examinations.

R 338.1235 This rule pertains to licensure by endorsement of an occupational therapy assistant. The proposed rule will clarify when the applicant must pass the required examinations for licensure and that the applicant’s registration or licensure in another jurisdiction must be active.

R 338.1236 This rule pertains to relicensure of an occupational therapy assistant. The proposed rule will require the applicant to provide proof that he or she has completed the required CE and will advise him or her when the CE must be completed. It is intended to aid an applicant in understanding the requirements for relicensure. The proposed rule will also advise that the limited license granted to complete the required supervised practice may be renewed once.

R 338.1237 This rule pertains to supervised practice experience for an occupational therapy assistant. The proposed rule will be amended for clarity to ensure that an applicant obtains the required supervised practice experience.

R 338.1251 This rule pertains to CE. The proposed rule will be amended for clarity and to aid licensees in understanding CE requirements for license renewal.

R 338.1252 This rule pertains to approved CE. The proposed rule will clarify that 10 hours of CE must be earned live and in person to help a licensee understand and comply with the requirement.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rule(s).

Promulgation of rules related to licensure and CE is required by statute. This provides a regulatory framework for the practice of occupational therapy. The proposed changes should provide greater clarity to licensees and aid in compliance with requirements under the rules.

B. Describe the difference between current behavior/practice and desired behavior/practice.

The practice of occupational therapy is regulated by law. This mandates licensure for provision of those services. Updating standards for licensure, organizing the rule set into a more user-friendly format, updating outdated information, and providing additional detail related to CE

helps add clarity and certainty to the rules and will make compliance easier for applicants and licensees.

C. What is the desired outcome?

Those individuals who wish to practice occupational therapy will be regulated. By making improvements and clarifications to the rules, applicants and licensees should find compliance easier. This should result in fewer questions, fewer regulatory problems, and greater safety and protection of the public.

5. Identify the harm resulting from the behavior that the proposed rule(s) are designed to alter and the likelihood that the harm will occur in the absence of the rule.

The use of outdated rules that do not comport with statutes governing the practice of occupational therapy and creates conflict and confusion for occupational therapists. Under MCL 333.16145, a board may promulgate rules necessary or appropriate to fulfill its functions as prescribed in the public health code. The proposed rule set updates the previously adopted rules and puts the rules in a format that is more user friendly for licensees. Specifically, changes have been made to address the following:

R 338.1211 The current rule provides definitions for terms used in the rule set. In the proposed rule, citations are amended for clarity and to aid an applicant or licensee in understanding the terms used in the rule set to avoid confusion.

R. 338.1213 The current rule provides that an applicant for licensure must demonstrate a working knowledge of the English language if the applicant's educational or training program was taught outside the United States. The rule will be amended to correct the abbreviation of the test required to satisfy this requirement.

R 338.1222 The current rule includes outdated information regarding educational program standards adopted by reference. The proposed rule will provide updated accreditation information regarding educational standards to avoid confusion and aid in compliance.

R 338.1223 The current rule pertains to the requirements for licensure. The proposed rules will amend this rule to provide clarity regarding the time period within which an applicant must pass the required examination and will help an applicant to understand and comply with the requirements.

R 338.1223a The current rule pertains to the requirements for licensure for an occupational therapist with a lapsed registration. The proposed rule will clarify that the department may issue a limited license and that a limited license may be renewed once.

R 338.1225 The current rule pertains to applicants who graduated from a non-accredited institution. The proposed rule will amend the requirement for licensure to include passage of the NBCOT certification examination and the state jurisprudence examination. The amendments will help an applicant comply with all requirements.

R 338.1226 The current rule provides the requirements for licensure by endorsement. The proposed changes will clarify that the applicant's registration or license must be active and will aid an applicant applying for licensure by endorsement to comply with all requirements.

R 338.1227 The current rule pertains to the requirements for relicensure. The proposed rule will inform the applicant that he or she must provide proof of earning the required CE and when that CE must be completed. The proposed rule will also inform an applicant that if his or her license has been lapsed for more than 3 years, he or she must complete supervised practice experience while holding a limited license.

R 338.1228 The current rules pertain to the requirement for supervised practice experience. The proposed rule will clarify that this experience must be obtained under the supervision of a licensed occupational therapist supervisor. The amendments will help an applicant comply with all requirements.

R 338.1229 The current rule pertains to delegation of duties to an occupational therapy assistant. The proposed rule will require a licensee to initiate and direct the evaluation of the patient or client before delegating a duty to an occupational therapy assistant to ensure compliance.

R 338.1229a The current rule pertains to delegation of duties to an unlicensed individual. The proposed rule will clarify a licensee's duty when delegating a task to a student enrolled in an accredited or approved occupational therapy educational program.

R 338.1232 The current rule pertains to educational program standards for occupational therapy assistants. The proposed rule will correct the contact information for the Michigan Board of Occupational Therapists.

R 338.1233 The current rule pertains to application for occupational therapy assistant licensure. The proposed rule will advise an applicant when he or she must complete the required licensing examinations.

R 338.1233a The current rule pertains requirements for licensure for an occupational therapy assistant. The proposed rule will clarify that the department may issue a limited license to complete the required supervised practice experience and that a limited license may be renewed once.

R 338.1234 The current rule pertains to examination requirements for an occupational therapy assistant. The proposed rule will correct a clerical error.

R 338.1234a This is a new proposed rule pertaining to an applicant who graduated from a non-accredited institution. The proposed rule establishes the requirements for verifying that the applicant has met the educational requirements and requires that the applicant pass the NBCOT and state jurisprudence examinations.

R 338.1235 This rule pertains to licensure by endorsement of an occupational therapy assistant. The proposed rule will clarify when the applicant must pass the required examinations for licensure and that the applicant's registration or licensure in another jurisdiction must be active.

R 338.1236 This rule pertains to relicensure of an occupational therapy assistant. The proposed rule will require the applicant to provide proof that he or she has completed the required CE and when that CE must be completed to aid an applicant in understanding the requirements for relicensure. The proposed rule will also advise that the limited license granted to complete the required supervised practice may be renewed once.

R 338.1237 This rule pertains to supervised practice experience for an occupational therapy assistant. The proposed rule will be amended for clarity to ensure that an applicant obtains the required supervised practice experience.

R 338.1251 This rule pertains to required CE for renewal. The proposed rule will be amended for clarity regarding when the CE must be accumulated and to aid licensees in understanding and complying with CE requirements for license renewal.

R 338.1252 This rule pertains to approved CE. The proposed rule will clarify that 10 hours of CE must be earned live and in person to help a licensee understand and comply with the requirement.

A. What is the rationale for changing the rule(s) instead of leaving them as currently written?

The proposed rule set primarily updates the previously adopted rules and puts the rules in a format that it is more user friendly for licensees.

6. Describe how the proposed rule(s) protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The proposed rules provide a regulatory mechanism for the practice occupational therapy. To protect the health and safety of Michigan's citizens, it is important that members of the profession adhere to minimal educational and professional standards.

7. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

No rules will be rescinded.

Fiscal Impact on the Agency:

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursement rates, etc. over and above what is currently expended for that function. It does not include more intangible costs or benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

8. Describe the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings).

The proposed rules are not expected to have a fiscal impact on the agency.

9. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rule(s).

No agency appropriation has been made nor has a funding source been provided for expenditures associated with implementing these rules.

10. Describe how the proposed rule(s) is necessary and suitable to accomplish its purpose, in relationship to the burden(s) it places on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The estimated cost to take the TOEFL-IBT is \$195.00. However, the cost is outweighed by the benefit of ensuring that the applicant can communicate effectively with patients and staff. Further, the rule is required by MCL 333.16174.

The estimated cost for taking the occupational therapy jurisprudence examination is \$53.00. Examination will benefit Michigan citizens by requiring an applicant for relicensure to demonstrate that he or she is knowledgeable about the rules and regulations governing the practice of occupational therapy in Michigan.

A. Despite the identified burden(s), identify how the requirements in the rule(s) are still needed and reasonable compared to the burdens.

The rules are required by statute to provide a mechanism for licensing and regulation of the profession. The rules are not any more restrictive than is allowed by statute. Despite the cost-related burden of licensing, the rules and regulations are necessary in order to provide a framework of standards for educational, licensure, and CE requirements.

Impact on Other State or Local Governmental Units:

11. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for such other state or local governmental units as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

There are no anticipated increases or decreases in revenues to state or local governmental units as a result of the proposed rules.

- A. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

There are no anticipated increases or decreases in costs to state or local governmental units as a result of the proposed rules.

12. Discuss any program, service, duty or responsibility imposed upon any city, county, town, village, or school district by the rule(s).

There are no anticipated or intended programs, services, duties, or responsibilities imposed on any city, county, township, village, or school district as a result of these proposed rules.

- A. Describe any actions that governmental units must take to be in compliance with the rule(s). This section should include items such as record keeping and reporting requirements or changing operational practices.

There are no anticipated actions that a governmental unit must take to comply with these proposed rules.

13. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rule(s).

No appropriations have been made to any governmental units as a result of these rules. No additional expenditures are anticipated or intended with the proposed rules.

Rural Impact:

14. In general, what impact will the rule(s) have on rural areas?

The proposed rules are not expected to impact rural areas. The proposed rules apply to individuals licensed under the public health code as a licensed occupational therapist or occupational therapy assistant, regardless of his or her location.

- A. Describe the types of public or private interests in rural areas that will be affected by the rule(s).

No disparate impact of public or private interests is anticipated on rural areas because of the proposed rules.

Environmental Impact:

15. Do the proposed rule(s) have any impact on the environment? If yes, please explain.

The proposed rules do not have an environmental impact.

Small Business Impact Statement:

16. Describe whether and how the agency considered exempting small businesses from the proposed rule(s).

The proposed rules impose requirements on individual licensees rather than small businesses. Even if a licensee's work place qualifies as a small business, the department could not exempt his or her business because it would create a disparity in the regulation of the profession.

17. If small businesses are not exempt, describe (a) how the agency reduced the economic impact of the proposed rule(s) on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rule(s) upon small businesses as described below, per MCL 24.240(1)(a)-(d), or (b) the reasons such a reduction was not lawful or feasible.

The rules regulate individual licensees. Further, the public health code requires an occupational therapist or occupational therapy assistant to be licensed and he or she may work in a small business.

While a licensee may work independently or as part of a small business, the law does not allow the rules to exempt these individuals from the requirements of the rules. However, the impact on a licensee who works as part of a small business is minimized in the proposed rules, as the rules are written broadly. The proposed rule changes will have minimal or no impact on a licensee. As a result, a licensee, whether he or she works in small business or not, should not be significantly impacted by the changes.

- A. Identify and estimate the number of small businesses affected by the proposed rule(s) and the probable effect on small business.

There are approximately 6,133 occupational therapists and 1,979 occupational therapy assistants in Michigan.

A licensee may work in a small business, but no matter what type of business environment the licensee works in, he or she will have to comply with the proposed rules. The rules do not impact small businesses differently because the impact is to the individual licensee only.

- B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.

The agency did not establish separate compliance or reporting requirements for small businesses. The proposed rules will apply to all licensed occupational therapists and occupational therapy assistants. The rules were drafted to be the least burdensome on all affected licensees.

- C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

The agency did not consolidate or simplify compliance and reporting requirements with the proposed rules.

- D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rule(s).

The agency did not establish performance standards to replace design or operation standards required by these rules.

18. Identify any disproportionate impact the proposed rule(s) may have on small businesses because of their size or geographic location.

The proposed rules do not impact small business; rather, they impact an individual licensee. Therefore, there is no disproportionate impact on a small business because of its size or geographic location.

19. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rule(s).

The proposed rules affect individual licensure applications and renewals, which are already required of all licensees, regardless if they practice in a small business. There is no separate cost to small businesses.

20. Analyze the costs of compliance for all small businesses affected by the proposed rule(s), including costs

of equipment, supplies, labor, and increased administrative costs.

There will be no increased costs of compliance for a small business concerning the costs of equipment, supplies, labor, or administrative costs.

21. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rule(s).

There are no expected costs for legal, consulting, or accounting services that a small business would incur in complying with the proposed rules.

22. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

There are no expected costs to a small business that will cause economic harm to a small business or the marketplace as a result of the proposed rules.

23. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

The proposed rules impose requirements on individual licensees rather than a small business. Even if a licensee's practice qualifies as a small business, the department could not exempt his or her business because it would create disparity in the regulation of the profession. Therefore, there is no cost to the agency for administering or enforcing the rules because exempting or setting lesser standards of compliance for a small business is not in the best interest of the public.

24. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

The proposed rules impose requirements on individual licensees rather than a small business. Even if a licensee's work qualifies as a small business, the department could not exempt his or her business because it would create a disparity in the regulation of the profession. Therefore, exempting or setting lesser standards of compliance for a small business is not in the best interest of the public.

25. Describe whether and how the agency has involved small businesses in the development of the proposed rule(s).

The department worked with the Board of Occupational Therapists in the development of the proposed rules. The board is composed of members of the profession and public members who work in small and large businesses in Michigan.

- A. If small businesses were involved in the development of the rule(s), please identify the business(es).

No small businesses were involved in the development of the rules.

Cost-Benefit Analysis of Rules (independent of statutory impact):

26. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

There are no estimated compliance costs with these rule amendments on businesses or groups.

- A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rule(s).

No businesses or groups will be directly affected or benefitted by the proposed rules. No additional costs will be imposed on any businesses or groups.

- B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

No additional costs will be imposed on any businesses or groups.

27. Estimate the actual statewide compliance costs of the proposed rule(s) on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

If an applicant for licensure is foreign-trained, he or she must demonstrate a working knowledge of the English language. The fee to take the TOEFL-IBT at a Michigan-based location is approximately \$195.00.

An applicant for relicensure must pass the occupational therapy jurisprudence examination. The estimated cost to take the examination is \$53.00.

- A. How many and what category of individuals will be affected by the rules?

The individuals affected are applicants for licensure, relicensure, and renewal.

- B. What qualitative and quantitative impact does the proposed change in rule(s) have on these individuals?

The fee to take the TOEFL-IBT at a Michigan-based location is approximately \$195.00. The fee to take the occupational therapy jurisprudence examination is approximately \$53.00.

28. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rule(s).

There are no cost reductions for businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

29. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rule(s). Provide both quantitative and qualitative information, as well as your assumptions.

Licensure of Foreign-Trained Applicants: The proposed rules inform a foreign-trained applicant that he or she must demonstrate a working knowledge of the English language on the TOEFL-IBT. Michigan citizens will be benefitted by ensuring that the applicant has a working knowledge of the English language so he or she can communicate effectively with his or her patients and staff. The rule is required by MCL 333.16174.

Occupational Therapy Jurisprudence Examination: The proposed rules require applicants for licensure and relicensure after a lapse of 3 years or more to pass the occupational therapy jurisprudence examination. The estimated cost to take the examination is approximately \$53.00. Michigan citizens will be benefitted by requiring an applicant for licensure or relicensure to demonstrate that he or she is knowledgeable about the rules and regulations governing the practice of occupational therapy in Michigan.

30. Explain how the proposed rule(s) will impact business growth and job creation (or elimination) in Michigan.

The rules are not expected to have an impact on business growth or job creation.

31. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

There is not expected to be a disproportionate affect due to industrial sector, segment of the public, business size, or geographic location.

32. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of a proposed rule(s) and a cost-benefit analysis of the proposed rule(s).

Illinois: <http://www.ilga.gov/commission/jcar/admincode/068/068013150001450R.html>;

<http://ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1314&ChapAct=225%26nbsp%3BILCS%26nbsp%3B75%2F&ChapterID=24&ChapterName=PROFESSIONS+AND+OCCUPATIONS&ActName=Illinois+Occupational+Therapy+Practice+Act%2E>;
<http://www.ilga.gov/commission/jcar/admincode/068/068013150001000R.html>;

Indiana: <https://secure.in.gov/pla/2518.htm>; <http://iga.in.gov/legislative/laws/2017/ic/titles/25/#25-23.5-0.5>; http://www.in.gov/legislative/iac/iac_title?iact=844&iaca=10&submit=+Go+;
http://www.in.gov/legislative/iac/iac_title?iact=844&iaca=10&submit=+Go+

Kentucky: <http://bot.ky.gov/Pages/regulations.aspx>; <http://bot.ky.gov/Pages/laws.aspx>

Minnesota: <https://www.revisor.mn.gov/statutes/cite/148>;
<https://www.revisor.mn.gov/statutes/cite/148.6443>;
https://mn.gov/boards/assets/STATUTES%20148.6405%20%20OCCUPATIONAL%20THERAPISTS%20AND%20OCCUPATIONAL_tcm21-326311.pdf

New York: <http://www.op.nysed.gov/prof/ot/article156.htm>;
<http://www.op.nysed.gov/prof/ot/part76.htm>

Ohio: <http://codes.ohio.gov/oac/4755>;
<https://otptat.ohio.gov/Portals/0/laws/Ohio%20OT%20Practice%20Act%20as%20of%20May%201%202018.pdf?ver=2018-05-02-143519-423>; <http://codes.ohio.gov/orc/4755>

Pennsylvania: <https://www.pacode.com/secure/data/049/chapter42/chap42toc.html>;
<https://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/OccupationalTherapy/Documents/Applications%20and%20Forms/Non-Application%20Documents/OTM%20-%20OT%20Law.pdf>

Wisconsin: <https://dsps.wi.gov/Pages/RulesStatutes/OT.aspx>;
https://docs.legis.wisconsin.gov/code/admin_code/ot/3.pdf

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., which demonstrate a need for the proposed rule(s).

There were no estimates made because the rules impact an individual licensee as well as an applicant for licensure. No estimate could consider the setting where an individual may use his or her license. Because the rules only impact an individual, and impact all in the same way, the assumption made is that no additional cost or benefit would result from the proposed rules.

Alternatives to Regulation:

33. Identify any reasonable alternatives to the proposed rule(s) that would achieve the same or similar goals. Include any statutory amendments that may be necessary to achieve such alternatives.

The rules are required by statute; there is no reasonable alternative to the proposed rules.

A. In enumerating your alternatives, include any statutory amendments that may be necessary to achieve such alternatives.

There is no reasonable alternative to the proposed rules.

34. Discuss the feasibility of establishing a regulatory program similar to that in the proposed rule(s) that would operate through private market-based mechanisms. Include a discussion of private market-based systems utilized by other states.

Since the rules are required by statute, private market-based systems cannot serve as an alternative. States regulate occupational therapists and occupational therapy assistants by statute, regulation, or both. Private market-based systems are not used for licensing and regulation. The licensing and regulation of occupational therapists and occupational therapy assistants are state functions, so a regulatory program independent of state intervention cannot be established. There are professional associations that establish criteria for membership as an occupational therapist or occupational therapy assistant, but these professional organizations would provide the public with significantly less protection because membership in many of these organizations is voluntary. This means an individual who meets the membership requirements, but does not join one of the professional organizations, would be able to practice and there would be no way to ensure their competency or hold them accountable.

35. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rule(s). This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

Since the rules are specifically required by statute, there are no alternatives to the proposed rules that the agency could consider. They are necessary for the administration and enforcement of the licensing process.

Additional Information:

36. As required by MCL 24.245b(1)(c), describe any instructions on complying with the rule(s), if applicable.

Licensure of Foreign-Trained Applicants: The proposed rules inform a foreign-trained applicant that he or she must demonstrate a working knowledge of the English language by scoring 80 or above on the TOEFL-IBT. An applicant who was foreign-trained should complete the TOEFL-IBT.

Requirements to be Relicensed after Lapse: The proposed rules inform an applicant of the relicensing requirements when his or her license has lapsed. The applicant must complete the required CE and, if his or her license has lapsed for 3 years or more, pass the required examinations.

 ↓ To be completed by the ORR ↓

PART 4: REVIEW BY THE ORR

Date RISCBA received:	12-21-2018
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Date RISCBA approved:	1/25/19
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Date of disapproval:	
Explanation:	