

# Redbook

## LBO Analysis of Executive Budget Proposal

### Occupational Therapy, Physical Therapy, and Athletic Trainers Board

Nicholas J. Blaine, Senior Budget Analyst  
February 2021

#### TABLE OF CONTENTS

<b>Quick look</b> .....	<b>1</b>
<b>Analysis of FY 2022-FY 2023 budget proposal</b> .....	<b>1</b>
Executive recommendations by expense category .....	1
Operating revenues and expenses .....	2
<b>Licensure</b> .....	<b>3</b>
Investigation and enforcement .....	4
Continuing education.....	4
<b>Proposed budget provisions</b> .....	<b>5</b>
Investigations and discipline provisions .....	5
<b>FY 2020-FY 2021 updates</b> .....	<b>6</b>

# LBO Redbook

## Occupational Therapy, Physical Therapy, and Athletic Trainers Board

### Quick look...

- The Occupational Therapy, Physical Therapy, and Athletic Trainers (OTPTAT) Board licenses about 35,000 professionals and is budgeted for a staff of 9.0 full-time equivalents.
- In 2018, the Board became responsible for regulating the licenses previously administered by the Board of Orthotics, Prosthetics, and Pedorthics (OPP).<sup>1</sup>
- The Board is governed by 20 members appointed by the Governor with daily operations overseen by an executive director.
- The Board is fully supported by fees and receives no GRF funding.
- There are no proposed fee changes for the FY 2022-FY 2023 biennium.

FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Estimate	FY 2022 Introduced	FY 2023 Introduced
<b>Fund 4K90 ALI 890609, Operating Expenses</b>					
\$812,339	\$945,705	\$975,762	\$1,168,045	\$1,168,045	\$1,168,045
% change	16.4%	3.2%	19.7%	0.0%	0.0%

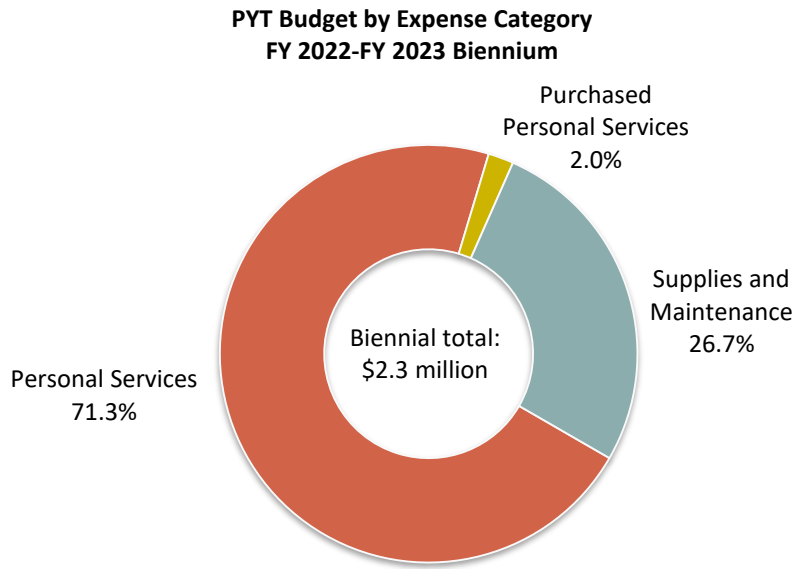
### Analysis of FY 2022-FY 2023 budget proposal

The Occupational Therapy, Physical Therapy, and Athletic Trainers (OTPTAT) Board's operations are funded by a single non-GRF (Fund 4K90) appropriation item 890609, Operating Expenses. The OTPTAT Board absorbed the duties associated with the Board of Orthotics, Prosthetics, and Pedorthics (OPP) during FY 2018. FY 2019 was the first year of full operations after the consolidation, so some of the increase in FY 2019 is associated with this. The executive budget proposes funding of about \$1.2 million for FY 2022 and FY 2023, level with the FY 2021 estimate.

### Executive recommendations by expense category

As a regulatory agency, personnel costs account for the largest share of OTPTAT's budget. As seen in the chart below, 71.3% of the recommended funding for the biennium is for personal services, 26.7% is for supplies and maintenance, and the remaining 2.0% is for purchased personal services.

<sup>1</sup> Orthotists design, fabricate, and fit braces or other orthopedic appliances prescribed by physicians. Prosthetists fabricate and fit artificial limbs (prosthetics) and similar devices prescribed by physicians. Pedorthists fit appliances as prescribed for relief of painful or disabling conditions of the foot.



### Operating revenues and expenses

The table below shows the revenue and expenditures for the OTPTAT Board from FY 2015 through FY 2020. The OTPTAT Board absorbed duties associated with the now abolished OPP Board on January 21, 2018. Thus, for context, the table also shows expenditures and appropriations for the OPP Board, as well as the total for both boards. The OPP Board had expenses in excess of revenue for the previous six fiscal years.

OTPTAT’s revenue has exceeded expenses for five of the last six years. In FY 2017, a significant portion of the Board’s revenue was held in a holding account at the end of the fiscal year; most of these funds were credited to the Board as revenue in FY 2018. This explains the unusually low revenue in FY 2017 and the subsequent unusually high revenue in FY 2018.

Table 1. Revenues and Expenditures, FY 2015-FY 2020						
	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>OTPTAT Revenues and Expenditures</b>						
Revenue	\$1,341,624	\$1,171,091	\$347,597	\$2,324,693	\$1,458,494	\$1,201,224
Expenses	\$830,396	\$748,736	\$861,288	\$812,339	\$945,705	\$975,762
Net	\$511,228	\$422,355	-\$513,691	\$1,512,354	\$512,789	\$225,462
<b>OPP Revenues and Expenditures</b>						
Revenue	\$109,601	\$142,255	\$139,410	\$49,066	\$0	\$0
Expenses	\$161,084	\$163,809	\$173,067	\$153,648	\$0	\$0
Net	-\$51,483	-\$21,554	-\$33,657	-\$104,582	\$0	\$0

Table 1. Revenues and Expenditures, FY 2015-FY 2020						
	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>Combined Revenues and Expenditures</b>						
Revenue	\$1,451,225	\$1,313,346	\$487,007	\$2,373,759	\$1,458,494	\$1,201,224
Expenses	\$991,480	\$912,545	\$1,034,355	\$965,987	\$945,705	\$975,762
Net	\$459,745	\$400,801	-\$547,348	\$1,407,772	\$512,789	\$225,462

All of the Board's revenue comes from fees that are deposited into the Occupational Licensing Regulatory Fund (Fund 4K90). Many occupational licensing and regulatory boards and commissions, including OTPTAT, use Fund 4K90 as an operating account. Each licensing board or commission is generally expected to be self-sufficient, generating enough revenue to cover its expenses. The fees for the Board's licenses are included in Table 2.

Table 2. OTPTAT License Fees by Type		
License Type	Initial	Renewal
Occupational Therapist	\$100	\$70
Occupational Therapy Assistant	\$100	\$70
Physical Therapist	\$100	\$70
Physical Therapist Assistant	\$100	\$70
Athletic Trainer	\$100	\$70
Orthotist	\$100	\$70
Prosthetist	\$100	\$70
Pedorthist	\$100	\$70
Orthotist-Prosthetist	\$100	\$70
3-D Printing Authority	\$25	\$25

All licenses are renewed biennially. In addition to these licenses, the Board issues reinstatement licenses for occupational therapists, occupational therapy assistants, physical therapists, physical therapist assistants, and athletic trainers; limited permits for occupational therapists and occupational therapy assistants; endorsements for physical therapists and physical therapist assistants; and temporary licenses for orthotists, prosthetists, pedorthists, and orthotist-prosthetists. The Board did not request to increase any of the license fees for the FY 2022-FY 2023 biennium.

## Licensure

To carry out its regulatory responsibility, the Board establishes standards and licenses qualified practitioners. In order for applicants to be eligible for licensure, they must successfully pass the national examination for the field in which they are applying, complete an application,

and submit to a criminal records check. The licensure process involves evaluating the applicant's credentials, formal education, and competency.

The total number of active licenses issued by the Board increased by about 1,300 (3.9%) from FY 2019 to FY 2020. Table 3 shows the number of active licenses issued by the Board from FY 2018 to FY 2020.

<b>License Type</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2018- FY 2019 % Change</b>	<b>FY 2020</b>	<b>FY 2019- FY 2020 % Change</b>
Occupational Therapist	6,150	6,205	0.9%	6,650	7.2%
Occupational Therapy Assistant	5,058	4,985	-1.4%	5,170	3.7%
Physical Therapist	9,888	10,493	6.1%	10,578	0.8%
Physical Therapist Assistant	8,433	8,477	0.5%	8,842	4.3%
Athletic Trainer	2,985	2,903	-2.7%	3,094	6.6%
Orthotist**	78	74	-5.1%	81	9.5%
Prosthetist**	64	64	0.0%	70	9.4%
Pedorthist**	81	78	-3.7%	80	2.6%
Orthotist-Prosthetist**	122	134	9.8%	145	8.2%
3-D Printing Authority***	0	0	--	2	--
<b>Total</b>	<b>32,859</b>	<b>33,413</b>	<b>1.7%</b>	<b>34,712</b>	<b>3.9%</b>

\*Figures from LSC's Occupational Licensing and Regulatory Board Report.

\*\*Prior to January 22, 2018, these licenses were issued by the OPP Board. A few temporary licenses may be included in these totals.

\*\*\*The Board began accepting applications for 3-D Printing Authority on June 29, 2020.

The Board utilizes the eLicensing system for initial and renewal licensure applications. The eLicensing system is administered through the Central Service Agency (CSA) of the Department of Administrative Services (DAS). The Board paid about \$80,000 for the use of the system in FY 2021 and anticipates it will pay about \$97,000 in FY 2022 and \$107,000 in FY 2023.

## **Investigation and enforcement**

The Board's regulatory obligations also include investigating complaints about issues of incompetent, unethical, or impaired practitioners, and to enforce the rules and laws governing the practice of its licensees. In FY 2020, the Board initiated 329 investigations; most were resolved with no disciplinary action taken. The Board is required to investigate all complaints.

## **Continuing education**

The Board requires licensees to complete continuing education (CE) for license renewal. Annually, the Board is required to audit at least 5% of its licensees to verify completion of the required number of CE hours. CE requirements differ depending upon the type of license, but all

courses must be approved by the Board. Table 4 shows the number of hours required for each type of license.

<b>License Type</b>	<b>Biennial Continuing Education Hours</b>
Occupational Therapist	20
Occupational Therapy Assistant	20
Physical Therapist	24
Physical Therapist Assistant	12
Athletic Trainer	25
Orthotist	25
Prosthetist	25
Pedorthist	18
Orthotist-Prosthetist	35

## **Proposed budget provisions**

The main operating appropriations bill of the 134<sup>th</sup> General Assembly includes numerous changes to permanent law that affects the Board. These include some that are unlikely to pose costs for the Board, such as extending the maximum transition period that may occur between an expired term of office and the Governor's appointment of a vacancy from 60 days to 90 days and eliminating a requirement that a physical therapist or physical therapist assistant applying for a license submit a physical description and photograph.

The bill also eliminates provisions that allowed the Board to issue limited permits to practice as an occupational therapist or occupational therapy assistant until the licensing examination results were available. Regarding education requirements, the bill specifies that a physical therapy licensure applicant must graduate from a professional program, rather than complete an education program and requires an applicant to graduate from a professional program that is accredited by a national physical therapy accreditation agency approved by the Board's Physical Therapy Section, rather than approved by the U.S. Department of Education. The bill also eliminates provisions that allowed an occupational therapist or occupational therapy assistant not in active practice to register as being nonactive and have the person's license placed in escrow.

## **Investigations and discipline provisions**

The main operating appropriations bill of the 134<sup>th</sup> General Assembly transfers the duty to investigate violations from the Board's secretary to the full Board and permits the Board to share confidential investigatory information with any federal, state, or local law enforcement, prosecutorial, or regulatory agency, but requires the entity receiving the information to comply

with the same confidentiality requirements as the Board. The bill further allows the shared information to be admitted as evidence at a criminal trial or administrative hearing, but requires measures be taken to maintain the confidentiality of identifying information. Also, the bill permits the Board to impose discipline on an applicant or licensee due to the person being subject to a judicial finding of eligibility for intervention in lieu of conviction for any crime that would otherwise be a reason for disciplinary action.

The bill adds additional reasons the Board may take disciplinary action against licensees related to sexual interactions with a patient; this includes sexual conduct for physical therapists and physical therapy assistants and sexual conduct, sexual contact, and sexually demeaning verbal behavior for occupational therapists, occupational therapy assistants, athletic trainers, orthotists, prosthetists, and pedorthists. Allowing for the Board to impose discipline for additional reasons may result in an increase in complaints and subsequent investigations.

The bill also allows the Board to impose a fine or require corrective action courses as a form of discipline against a licensed orthotist, prosthetist, or pedorthist and permits the Board to impose discipline against a licensed orthotist, prosthetist, or pedorthist due to the individual's denial, revocation, suspension, or restriction of authority to practice any health care occupation (other than for failure to renew) in Ohio, another state, or other jurisdiction. A person sanctioned under R.C. 4779.28 is required under the bill to pay a fee for the actual cost of the administrative hearing. Granting the Board authority to impose a fine and require the sanctioned licensee to pay the actual cost of the administrative hearing may result in some additional revenue.

Finally, the bill establishes the Franklin County Court of Common Pleas as the jurisdiction for all appeals from orders issued by OTPTAT, rather than the court of common pleas of the licensee's county of residence or of the county in which the licensee's place of business is located. This may result in a possible increase in expenses related to additional cases in the Franklin County Court of Common Pleas, with some offsetting revenue in the form of fees and a corresponding decrease in expenses and offsetting revenue in any court that would have otherwise heard such an appeal.

## **FY 2020-FY 2021 updates**

H.B. 166 of the 133<sup>rd</sup> General Assembly authorized the Board to grant the authority to individuals to engage in 3-D printing of open-source prosthetic kits. The application for the authority costs \$25, must be renewed biennially, and does not allow recipients to claim they practice prosthetics or orthotics and prosthetics unless otherwise licensed. The Board began issuing this authority on June 29, 2020.

S.B. 68 of the 133<sup>rd</sup> General Assembly required the Board to adopt rules establishing requirements for an applicant with unique and exceptional qualifications to be eligible for an orthotics, prosthetics, or orthotics and prosthetics license. The bill also requires the Orthotics, Prosthetics, and Pedorthics Advisory Council to provide recommendations for the requirements. This allows the Board to license orthotists and prosthetists that have been practicing in other states without residency requirements to be eligible for licensure in Ohio. The Board will establish requirements and consider each applicant on a case-by-case basis.