

Rule Summary and Fiscal Analysis (Part A)**Board of Executives of Long-Term Services and Supports**

Agency Name

Division

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4751-1-02

Rule Number

RESCISSION

TYPE of rule filing

Rule Title/Tag Line

Definitions.**RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? Yes

2. Are you proposing this rule as a result of recent legislation? No

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**4. Statute(s) authorizing agency to adopt the rule: **4751.04; Section 1902(c)(1) of the Social Security Act, 42 U.S.C. 1396g; 42 C.F.R. 431.707(a) (October, 2014 edition)**5. Statute(s) the rule, as filed, amplifies or implements: **Chapter 4751. of the Revised Code; Section 1902(e)(1) of the Social Security Act, 42 U.S.C. 1396g; 42 C.F.R. 431.701 (October, 2014 edition)**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

The Board is proposing to rescind this rule as part of a larger rule package that gives a five-year rule review to rules 4751-1-02, 4751-1-03, 4751-1-05, 4751-1-09,

and 4751-1-13 of the Administrative Code. The Board appreciates feedback on this rule.

Instead of amending a rule, the Board is proposing to rescind the rule and replace it with a new rule of the same number. This complies with section 4.3.1 of the Legislative Service Commission's Rule Drafting Manual.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

This rule that the Board is proposing to rescind defines terms used in Chapter 4751-1 of the Administrative Code.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other materials by reference.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

On March 17, 2015, the Board revise-filed the rule to revise the Board's response to #4 of this RSFA.

12. Five Year Review (FYR) Date: **3/11/2015**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0.00

The rule proposal would have no impact upon the biennial budget that the General Assembly established for the Board.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

5MT0-490-627 Board of Executives of LTSS

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

Especially because this rule merely introduces the chapter and defines terms, and because the Board proposes to replace the rule with another rule of the same number, the Board estimates that the proposed rescission of the rule would create no cost of compliance to any directly-affected person.

16. Does this rule have a fiscal effect on school districts, counties, townships, or

municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

Chapter 4751-1 of the Administrative Code requires a license to become a nursing home administrator in Ohio. This rule that the Board is proposing to rescind merely defines terms used in that chapter.

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **No**

This rule merely defines terms.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **No**

This rule merely defines terms.

CROSSWALK

CURRENT RULE LANGUAGE	PROPOSED NEW RULE LANGUAGE
<p>4751-1-02 Definitions.</p> <p>As used in Chapter 4751. of the Revised Code¹ and rules 4751-1-02 to 4751-1-17 of the Administrative Code,² the following terms are defined to mean:</p>	<p>4751-1-02 Definitions for this chapter.</p>
<p>(A) "Accredited educational institution," for the purpose of the requirements of Chapter 4751. of the Revised Code and the rules adopted thereunder,³ means an academic institution of higher learning which includes general education courses as requisite to such institution's principal educational programs and which institution has received institutional accreditation from at least one of the following:</p> <ol style="list-style-type: none"> (1) Commission on higher education, "Middle States Association of Colleges and Secondary Schools"; (2) Commission on institutions of higher education, "New England Association of Schools and Colleges"; (3) Commission on institutions of higher education, "North Central Association of Colleges and Secondary Schools"; (4) Commission on higher schools, "Northwest Association of Secondary and Higher Schools"; (5) Commission on colleges, "Southern Association of Colleges and Schools"; (6) Accrediting commission for senior colleges and universities, "Western Association of Schools and Colleges." 	<p>"Accredited educational institution" means an academic institution of higher learning that includes general education courses as requisite to the institution's principal educational programs and that has received institutional accreditation from at least one of the following organizations: middle states commission on higher education, new england association of schools and colleges, the higher learning commission of the north central association of colleges and schools, northwest commission on colleges and universities, southern association of colleges and schools commission on colleges, or senior college and university commission of the western association of schools and colleges.</p>

¹ A state agency may adopt a rule that defines terms used in the Ohio Administrative Code, but a state agency may not adopt a rule that defines terms used in the Ohio Revised Code.

² The Legislative Service Commission's rule drafting manual says to refer to the chapter as "that chapter." Sometimes LSC will allow "Chapter 4751-1 of the Administrative Code."

³ A reference to the chapter doesn't need repeated within a definition. Additionally, the act of defining a term in a rule doesn't define a term used in the Ohio Revised Code.

CURRENT RULE LANGUAGE	PROPOSED NEW RULE LANGUAGE
<p>(B) "Administrator/preceptor"⁴ means the licensed nursing home administrator approved by the board to supervise the practical training and experience of the administrator-in-training during the period of internship.</p> <p>(1) A preceptor may not train his or her employer or supervisor.</p> <p>(2) A preceptor may not train a relative of the following degree: spouse, son or daughter, parent, stepparent, stepchild, brother or sister, cousin, niece or nephew, uncle or aunt.</p>	
<p>(C) "Approved program in nursing home administration" means a baccalaureate or higher degree program offered by a college or university accredited as defined in paragraph (A) of the rule, and which program has been submitted by the college or university, and which has been accepted by the board as satisfying the general education, special academic preparation, and experience requirements precedent to admission to examination.</p>	<p>"Approved program in nursing home administration" means a baccalaureate or higher degree program that is offered by an accredited educational institution that has been accredited by the national association of boards, and that has been accepted by the board as satisfying the general education, special academic preparation, and experience requirements for admission to examination.</p>
<p>(D) "Board" means the board of examiners of nursing home administrators created⁵ by section 4751.03 of the Revised Code.</p>	<p>"Board" means the board of executives of long-term services and supports that section 4751.03 of the Revised Code established.</p>
<p>(E) "Candidate" means any person who has been approved by the board as meeting the conditions precedent to admission to examination.</p>	<p>"Candidate" means a person who the board determines meets the conditions for admission to examination.</p>
<p>(F) "Certificate of registration" means the document issued by the board to each licensee certifying the original and annual renewal of registration of the nursing home administrator license as required in section 4751.07 of the Revised Code and the rules adopted pursuant thereto.</p>	<p>"Certificate of registration" ("registration") means a document that the board issues to each administrator to certify the original registration, or annual renewal of registration, of an administrator's license as required in section 4751.07 of the Revised Code.</p>
<p>(G) "Continuing education" means postlicensure education in nursing home administration undertaken to maintain professional competency to practice nursing home administration, improve administrative skills and effect standards of excellence for the practice of the profession in the interest of the safety, health, and welfare of the patients served.</p>	<p>"Continuing education"⁶ means post-licensure education that is consistent with the practice of nursing home administration, as defined in this rule,⁷ that an administrator takes to maintain professional competency to practice nursing home administration, improve administrative skills, and effect standards of excellence for the practice of the profession in the interest of the safety, health, and well-being of the persons served.</p>

⁴ Proposed new rule 4751-1-09 of the Administrative Code would define "preceptor." In the current rules, the two subparagraphs to the definition are mandates, not definitions. Proposed new rule 4751-1-09 of the Administrative Code would also contain the mandates.

⁵ Section 4751.03 of the Revised Code uses "established," not "created."

⁶ The Board proposes to delineate continuing education training agency categories through language added to proposed new rules 4751-1-08 and 4751-1-13 of the Administrative Code.

CURRENT RULE LANGUAGE	PROPOSED NEW RULE LANGUAGE
	["Continuing education training agency categories" ⁸]
(H) "Core of knowledge in nursing home administration" means the subject areas outlined in rule 4751-1-06 of the Administrative Code.	"Core of knowledge in nursing home administration" means the subject areas outlined in rule 4751-1-06 of the Administrative Code.
(I) "Course of study or program of instruction" means any educational activity in the subject areas of the core of knowledge in nursing home administration approved by the board to fulfill the requirements for prelicensure education or for continuing education.	"Course of study or program of instruction" means any educational activity in the subject areas of the core of knowledge in nursing home administration approved by the board to fulfill the requirements for pre-licensure education or for continuing education.
(J) "Department" means the department of health of the state of Ohio. ⁹	
(K) "Full time" means at least thirty-five hours per week in the practice of nursing home administration.	"Full time" means at least thirty-five hours per week as an administrator practicing nursing home administration in a nursing home or as an intern in an internship with an administrator in a nursing home.
(L) "General education" means a program of education intended to develop students as personalities and to transmit a common cultural heritage. General education is not connected with one branch or department of learning, is not technical or vocational education, and is not intended to train specialists.	"General education" means an academic course of study that results in the awarding of a baccalaureate degree from an accredited educational institution.
(M) "Health care administration" means that specialty of health administration requiring knowledge and skills specific to the administration of a health care facility or institution, with emphasis on administration of long-term care facilities.	"Health care administration" means that specialty of health administration requiring knowledge and skills specific to the administration of a health care facility, with emphasis on administration of skilled nursing or extended care facilities.
(N) "Health care facility" means an institution or facility operating within the framework of the appropriate regulatory agencies which provides, on a long-term care basis, residence accommodations and personal care, supervision, or assistance to persons dependent, in whole or part, upon such services.	"Health care facility" means a facility operating within the framework of the appropriate regulatory agencies that provides residence accommodations and personal care, supervision, or assistance to persons who are dependent, in whole or part, upon such services.

⁷ During the public-comment period, the Board's proposed language used "standards of practice in nursing home administration as referenced in Chapter 4751-1-06 of the Administrative Code." Rule 4751-1-06 does not list standards of practice and the defined term in this rule is "practice [not "standards of practice"] in nursing home administration."

⁸ For a delineation of the categories of continuing education training agencies, see proposed new rule 4751-1-13 of the Administrative Code.

⁹ Chapter 4751-1 of the Administrative Code currently only uses "Department" to refer to ODH. The proposed new rule language would not use the term.

CURRENT RULE LANGUAGE	PROPOSED NEW RULE LANGUAGE
	"Health services executive" means an individual who has successfully completed a board-approved core examination covering common competencies across service lines, including skilled nursing, assisted living, and home and community-based services.
(O) "Internship" ¹⁰ means the period of practical training and experience, approved by the board, required of the nursing home administrator-in-training as a condition precedent to admission to examination for licensure as a nursing home administrator.	
(P) "Internship site" means a nursing home licensed under Chapter 3721. of the Revised Code or a nursing home operated by a governmental agency and certified under Title XVIII or XIX of the Social Security Act which is approved by the board for the practical training and experience of the administrator-in-training.	"Internship site" means a nursing home that is licensed under Chapter 3721. of the Revised Code or a nursing home that is operated by a governmental agency and certified under Title XVIII or XIX of the Social Security Act that is approved by the board for the practical training and experience of an administrator-in-training.
(Q) "License" means the document issued by the board which indicates that the licensee has met the requirements for licensure of Chapter 4751. of the Revised Code and the rules adopted thereunder.	"License" means the board-issued document that indicates that the licensee has met the requirements for licensure under Chapter 4751. of the Revised Code and this chapter.
	"NAB" means "the national association of boards."
(R) "Nursing home" means a nursing home as defined by or under the authority of divisions (A), (C) and (D) of section 3721.01 of the Revised Code, or a nursing home operated by a governmental agency.	"Nursing home" means a nursing home as defined by or under the authority of divisions (A), (C) and (D) of section 3721.01 of the Revised Code, or a nursing home operated by a governmental agency.
(S) "Nursing home administrator" as defined in the statute means an individual who is responsible for planning, organizing, directing, and managing the operation of a nursing home, or who in fact performs such functions, whether or not such functions and duties are shared by one or more other persons.	"Nursing home administrator" ("administrator") has the same meaning as in section 4751.01 of the Revised Code.
(T) "Nursing home administrator-in-training" means an individual registered as such with the board pursuant to rule 4751-1-09 of the Administrative Code.	"Administrator-in-training" ("AIT") means an individual registered as such with the board pursuant to rule 4751-1-09 of the Administrative Code.
(U) "Nursing home administrator-in-training program" means that program established by the board to assure that an applicant for licensure as a nursing home administrator will have at least the minimum essentials in professional education and experience.	"Administrator-in-training program" ("AIT program") means a program that the board established to assure that an applicant for licensure as a nursing home administrator meets the minimum requirements in professional education and experience.

¹⁰ Proposed new rule 4751-1-09 of the Administrative Code would define "internship" for the AIT Program.

CURRENT RULE LANGUAGE	PROPOSED NEW RULE LANGUAGE
(V) "Operator" means the person, firm, partnership, association, or corporation required to obtain a license to operate a nursing home as defined in paragraph (W) of rule 3701-17-01 of the Administrative Code adopted by the public health council pursuant to Chapter 3721. of the Revised Code. ¹¹	"Operator" has the same meaning as in rule 3701-17-01 of the Administrative Code.
(W) "Patient" means a patient or resident receiving the care and services of a long-term facility.	"Person served" means an individual who receives the care and services of a skilled nursing or extended care facility.
(X) "Practice of nursing home administration" means exercising management responsibility in or in fact planning, organizing and directing the overall operation of a nursing home, including, but not limited to, such functions as: (1) Making operating decisions, providing general supervision, employing and discharging staff; (2) Instituting and maintaining methods of administrative management which demonstrate attempts in good faith to assure that the nursing home is in conformity with pertinent federal, state, and local laws, codes, and regulations pertaining to the operation of said facility and to the rights, health, safety, and welfare of the patients therein; (3) Such acts and duties in this paragraph must occur in accordance with the provisions of paragraph (AA) of this rule.	"Practice of nursing home administration" means exercising management responsibility of a nursing home including the following practices: planning, organizing, and directing the overall operation of a nursing home; making operating decisions, providing leadership and general supervision, employing and discharging staff; instituting and maintaining methods of administrative management that demonstrate attempts in good faith to assure that the nursing home is in conformity with federal, state, and local laws, codes, and regulations pertaining to the operation of said facility and to the rights, health, safety, and well-being of the persons served; and the administrator practices these duties in a manner that complies with this rule's definition for "supervision of a nursing home."
(Y) "Qualifying administrative experience" is a residency/practicum ¹² required for an academic degree in nursing home administration in all the subject areas of the core of knowledge or all the subject areas of rule 4751-1-06 of the Administrative Code or actual work experience in the subject areas of rule 4751-1-06 of the Administrative Code.	"Qualifying administrative experience" is a residency or internship that is required for an academic degree in nursing home administration in all the subject areas of the core of knowledge or all the subject areas of rule 4751-1-06 of the Administrative Code or actual work experience in the subject areas of rule 4751-1-06 of the Administrative Code.
(Z) "Sanitary code" ¹³ means that body of rules adopted by the public health council ¹⁴ of the department of health which pertains to the operation of a nursing home as defined in section 3721.01 of the Revised Code.	
	["Self-study instruction" ¹⁵]

¹¹ The Public Health Council no longer exists. Additionally, citing ODH's rule is sufficient.

¹² The proposed new definition for "AIT" uses "internship," not practicum."

¹³ The term "sanitary code" and the Public Health Council no longer exist.

¹⁴ The Public Health Council no longer exists.

¹⁵ For proposed definition of "self-study," see proposed new rule 4751-1-13 of the Administrative Code.

CURRENT RULE LANGUAGE	PROPOSED NEW RULE LANGUAGE
(AA) "Supervision of a nursing home" as required by division (A) of section 4751.02 of the Revised Code means that the nursing home administrator spend no less than the minimum amount of hours as prescribed by the Ohio department of health, ¹⁶ for nursing home licensure purposes on site. The majority of such hours shall be spent between six a.m. and six p.m. during the normal workweek of Monday through Friday in which the nursing home administrator exercises such authority and responsibility and performs such acts and duties as are defined or implied, or both, in paragraphs (S) and (X) of this rule.	"Supervision of a nursing home," as required by division (A) of section 4751.02 of the Revised Code, means the effective management of a nursing home and assurance that residents' needs are met, which, according to rule 3701-17-08 of the Administrative Code, means that a nursing home administrator is present in the nursing home no fewer than sixteen hours per calendar week; that the administrator spends most of the time between six a.m. and six p.m. during normal workweeks of Monday through Friday managing the nursing home; and that the administrator's management complies with this rule's definitions of "nursing home administrator" and "practice of nursing home administration."
(BB) "Temporary license" means a license for a period of time not to exceed one hundred eighty days issued pursuant to division (B) of section 4751.06 of the Revised Code and to the rules of this board.	"Temporary license" means a license for a period of time not to exceed one hundred eighty days that the board may issue pursuant to division (B) of section 4751.06 of the Revised Code.
(CC) "Training agency for continuing education" means an accredited college or university; a statewide or national agency, association or professional society related to the field of nursing home administration approved by the board to provide courses of study or programs of instruction required for the annual renewal of the certificate of registration.	"Training agency for continuing education" means an accredited college or university; a statewide or national agency, association or professional society related to the field of nursing home administration or a corporation or other legal entity that is approved by the board to provide courses of study or programs of instruction required for the annual renewal of the certificate of registration.
(DD) "Valid license" means a license which is current, as effected by the annual renewal of the certificate of registration, and which is in good standing.	"Valid license" means a license that is current, as effected by the annual renewal of the certificate of registration, and that is in good standing.

¹⁶ In rule [3701-17-08](#), ODH says: "Each nursing home shall arrange for the services of an administrator who shall be present in the home to the extent necessary for effectively managing the home and assuring that needs of the residents are being met, but not less than sixteen hours during each calendar week"