

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

Agency Name

Division

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4751-1-12

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Suspension, revocation, and disciplinary action.**RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **No**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 1908(c)(1) of the Social Security Act**5. Statute(s) the rule, as filed, amplifies or implements: **4751.10, 4751.99 (cf. §§4751.02, 4751.09); Section 1908(c)(1) of the Social Security Act; 42 C.F.R. 431.712 (October 1, 2014 edition)**

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

The rule regulates the suspension and revocation of the licenses of nursing home administrators.

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:

The Board is proposing to amend the rule in the following ways:

1. The Board proposes to replace "the rules adopted thereunder" and "these rules" with "this chapter," which brings the rule into compliance with LSC's Rule Drafting Manual.
2. The Board proposes to replace the permissive "may" in paragraph (A) with "shall" to match statute.
3. The Board proposes to use gender-neutral language.
4. The Board proposes to convert the rule from a multi-paragraph, run-on sentence format to complete sentences in each paragraph;
5. The Board proposes to replace the item listed as prima facie evidence of "dependency upon or addiction to the use of alcoholic beverages or drugs regulated by the local, state and Federal Narcotics Law" with "The individual habitually or excessively uses controlled substances, or other habit-forming drugs, alcohol, or other chemical substances to an extent that impairs the individual's ability to comply with Chapter 4751. of the Revised Code or this chapter."
6. The Board proposes to replace "patient" with "a person served in."
7. The Board proposes to replace "sanitary code" with "paragraph (A) of rule 3701-17-08 of the Administrative Code."
8. The Board also proposes to make other non-substantive amendments to streamline and clarify the rule.

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:

Not Applicable.

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 July 28, 2015, ODA made a revised filing of the rule to upload a revised public-hearing notice into ERF. The revised notice has a corrected conference room location.

12. Five Year Review (FYR) Date:

(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 Board's proposed adoption of this new rule to replace the rule of the same number that it is simultaneously proposing to rescind would have no bearing on the biennial budget that the Ohio General Assembly established for the Board.

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

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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:

As stated in the BIA, "The adverse impact of 4751-1-12 ranges from license suspension to revocation, which would result in the loss of wages for the period of time the license was suspended or revoked, ranging from \$50,000 to \$100,000 per year" and "The Board is not maintaining or creating any unreasonable burdens upon licensees or the business community. Rules regarding temporary licenses and suspension or revocation of license are required by the CFR as explained in question number 3. The Board feels that an updated license suspension or revocation rule is necessary to protect both the profession and the public. Rule 4751-1-14 ensures that licensees are familiar with Ohio's laws and rules relative to Board regulations and facility licensure regulations."

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? **Yes**

A license is required to be a licensed nursing home administrator. This rule regulates the suspension and revocation of such licensure.

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? **Yes**

A license is required to be a licensed nursing home administrator. This rule regulates the suspension and revocation of such licensure.

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