

**MEMORANDUM**

**TO:** Deborah Veley, Executive Director, Board of Executives of Long-Term Services & Supports

**FROM:** Sydney King, Regulatory Policy Advocate

**DATE:** March 9, 2015

**RE:** **CSI Review – Chapter 4751-1 Rule Review (OAC 4751-1-02, 4751-1-03, 4751-1-05, 4751-1-08, 4751-1-09, and 4751-1-13)**

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On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

**Analysis**

The Board of Executives of Long-Term Services & Supports (BELTSS) submitted a rule package to the CSI Office for review consisting of six amended<sup>1</sup> rules. The rules are also being reviewed as part of the five-year review process required by statute. The rule package was filed with the CSI Office on September 5, 2014, and the comment period for the rules closed on September 30, 2014.

During the CSI review, it was noted that the rules included several outdated references and requirements. The BIA also did not provide a justification for the rule package's adverse impacts. Pursuant to the direction provided by the CSI Office, BELTSS reviewed the rules again and updated the references, and also submitted a revised BIA on December 19, 2014.

The rule package regulates nursing home administrator license applications and examinations; the

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<sup>1</sup> Rules OAC 4751-1-02, 4751-1-03, 4751-1-08, 4751-1-09, and 4751-1-13 are being amended by more than 50 percent. Therefore, the Legislative Service Commission requires that the existing rules be rescinded and replaced by new rules that have the same rule numbers.

administrator-in-training program; and the registration of educational institutions offering training and continuing education programs. Rule 4751-1-03 regulates the Board and establishes the structure of membership. Because it is an internal regulation and does not impact the business community, it was not considered in the CSI review.

BELTSS engaged stakeholders to solicit feedback and comments on the draft rules. Three of the primary provider associations (LeadingAge, the Ohio Health Care Association, and the Academy of Senior Health Sciences) placed the draft rules in their newsletters requesting comments. Three comments were submitted during the CSI public comment period. The comments addressed waiving continuing education requirements and removing the maximum hours allowed for self-study in continuing education. BELTSS responded to the comments providing clarification and justification for the rule language.

The BIA cites administrative costs and fees associated with application for licensure, examination, registration of continuing education programs, participation in the administrator-in-training program, and completion of additional training and continuing education hour requirements. The rules also include administrative costs for training agencies and require them to register with BELTSS. The regulations also limit the number of hours an individual may attend continuing education at a “limited training agency.” According to BELTSS, this is necessary because the training agencies are not associated with colleges, universities, or professional associations; and will not have the same experience or expertise.

The CSI Office inquired about the regulation that prohibited an individual with “a communicable disease” from applying to examination for licensure as a nursing home administrator. Because the term “communicable disease” can include a wide variety of treatable illnesses, it could prohibit otherwise healthy individuals from applying. BELTSS reviewed the language and found it may not be compliant with federal law. Therefore, the rule language was amended for compliance purposes.

BELTSS states the rules are necessary to ensure that applicants for licensure meet the requirements established in Chapter 4751 of the Revised Code and maintain qualifications through continuing education. Additionally, the proposed amended language allows nursing home administrators more flexibility in completing the continuing education requirements.

### **Recommendation**

For the reasons explained above this office does not have any recommendations regarding this rule package.

### **Conclusion**

Based on the above comments, the CSI Office concludes that the Board should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor’s Office