

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: BELTSS

Regulation/Package Title: _____

Rule Number(s): 4751-1-11, 4751-1-14, 4751-1-17

Date: 5-19-15

Rule Type:

- ☐ New
☐ Amended

- ☒ 5-Year Review
☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

Rule Review 4751-1-11 Temporary License

- Language made gender neutral and consistent with language used in other rules

Rule Review 4751-1-14 Recognition of out-of-state-license

- Language changed to clarify testing information.

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Rule Review 4751-1-17 Personal Information Systems

- Language made gender neutral and consistent with language used in other rules.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

4751.04, 4751.05, 4751.06, 4751.09

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

If yes, please briefly explain the source and substance of the federal requirement.

4751-1-11 implements CFR 431.710 “Provisional licenses”.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

N/A

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The regulations are needed to help the Board carry out its mission in an effective and efficient manner. The Board licenses nursing home administrators who are responsible for the planning, directing, and managing the operations of a nursing home. The Board ensures that applicants for licensure meet the requirements established in Chapter 4751 of the Revised Code and continue to do so through responsible and ethical practice.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

Some of the rules are Board process rules that will be monitored by the Board throughout the year via the reporting of activities by the Executive Director.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

Currently, no-one is registered with the Board to receive notice of meetings/rule revision.

The Board posted draft copies of the rules on the Board’s website from April 9, 2015 through May 8, 2015 and May 19, 2015 to the present for a public comment period. All three of the primary provider associations (LeadingAge, The Ohio Health Care Association, and the

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Academy of Senior Health Services) placed a notice in their newsletters (emailed to all members) including a link to the draft rules on the Board's website.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

The Board did not receive any feedback on these rules.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

This question does not apply to these proposed rules.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

There were no alternative regulations considered as the rules are driven by statute.

11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

No. The rules were developed in accordance with ORC guidelines.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The JCARR standard for invalidation has been an ongoing deterrent to duplication. Legal staff, the Board, and Board Committees (where appropriate) have reviewed rules to assure there is no duplication of an existing Ohio regulation.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

BELTSS will once again seek the assistance of the three primary provider associations (as described in question number 7) to help distribute the updated rules to its members and drive traffic to the website where the updated rules will be posted. Postcards will be mailed to licensees to inform them of the changes.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

Rule 4751-1-11 regulates any individual seeking a temporary license to operate a nursing home. Such requests are very infrequent, perhaps 1 or 2 per year.

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Rule 4751-1-14 regulates licensed nursing home administrators. Ohio currently has approximately 2100 licensed nursing home administrators

Rule 4751-1-17 regulates the Board itself. It does not regulate any Ohio business.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

Rule 4751-1-11 poses a potential adverse effect in that if the temporary license was denied, the nursing home would have to hire an already-licensed nursing home administrator for a minimum of 16 hours per week.

Rule 4751-1-14 poses a potential adverse effect for those wishing to be licensed if they cannot pass the state exam

Rule 4751-1-17 does not create an adverse effect, other than the potential cost of any copies requested by a disputant.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

The potential adverse impact of 4751-1-11 is the cost of hiring a licensed nursing home administrator for 16 hours per week instead of being granted a temporary license for a current employee and simply continuing to pay his or her salary. A temporary licensed nursing home administrator through an agency can cost \$50 per hour x 16 hours per week for a total of \$800 per week. The cost of paying a current employee to act as a temporary administrator would vary upon the position chosen to seek the temporary license, but could be \$20-40 per hour for a cost of \$320-640 per week. This would only occur if the temporary license application was denied.

The adverse impact of 4751-1-14 would be not being able to work in Ohio if the applicant cannot pass the Ohio exam.

4751-1-17 has no adverse impact.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

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The Board is not maintaining or creating any unreasonable burdens upon licensees or the business community. Rules regarding temporary licenses are required by the CFR as explained in question number 3. Rule 4751-1-14 ensures that licensees are familiar with Ohio's laws and rules relative to Board regulations and facility licensure regulations.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No. All facilities, regardless of size must comply with Rule 4751-1-11 in seeking a temporary license. The other rules apply to individuals and not small businesses.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

The Board will determine the penalty, if appropriate, for all violations and offenders on a case-by-case basis and will consider all relevant information presented.

18. What resources are available to assist small businesses with compliance of the regulation?

The Board staff is available during normal business hours (and after hours by appointment), email, and telephone to answer any questions that individuals and/or facilities may have.