

# CSI - Ohio

## The Common Sense Initiative

### Business Impact Analysis

Agency Name: BELTSS

Regulation/Package Title: Licensing active duty military personnel, veterans, and licensees accompanying active duty spouses; CEU Waiver; Temporary licenses; Out of state licenses; Re-licensure

Rule Number(s): 4751-1-10.3, 4751-1-11, 4751-1-13.1, 4751-1-14, 4751-1-15

Date: 1-18-17

**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☐ Rescinded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 Change 4751-1-10.3 Licensing active duty military personnel, veterans, and licensees accompanying active duty spouses.

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- Language created to make licensing process easier for active duty military personnel, veterans, and licensees who may be accompanying active duty spouses.
- Language added to allow for the waiver of the annual license fee under certain circumstances.
- Ability to apply/make requests via email included.

#### Rule Change 4751-1-11 Temporary licenses

- This rule provides the information necessary for individuals to seek a temporary license from the Board. Changes made allow for paying the required fee electronically if desired.

#### New Rule 4751-1-13.1 CEU Waiver

- Language added to allow for the waiver or temporary waiver of continuing education units under certain circumstances.
- Language added to allow for the waiver of the annual license fee under certain circumstances.

#### Rule Change 4751-1-14 Out-of-State License

- This rule describes the manner in which out-of-state licenses are accepted by the Board.
- Language added to allow the executive director to issue an Ohio license without prior Board approval if the applicant possesses a Health Services Executive license or credential from another state.
- Definition of Health Services Executive added.
- Language added to clarify criteria that must be met for licensure in Ohio.
- Language added to clarify the effect of a felony conviction on licensure.

#### Rule Change 4751-1-15 Re-Licensure

- Language added to specify the requirements for re-licensure in Ohio;
- Language added to clarify the effect of a felony conviction on re-licensure.

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

4751.04, Executive Order 2013-05K

### **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.**

N/A

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- 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 Board is required by Executive Order 2013-05K to have a procedure in place for helping veterans become licensed/maintain licensure.

The Board feels that there are certain circumstances that may merit the waiver or temporary waiver of CEU hours for an applicant.

The Board feels that it is helpful to allow for granting temporary licenses to out-of-state licensees in certain circumstances so that they do not have to wait until the next Board meeting to practice in Ohio. The Board also needs to let LNHAs know how to be licensed in Ohio and how a felony conviction may affect their application.

The Board feels that it is helpful to let former licensees know the criteria which must be met for re-licensure in Ohio and how a felony conviction may affect their application.

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

Qualifying individuals will submit requests for consideration as needed (for the CEU Waiver program and the Military Personnel programs). Out-of-State applicants will not have to wait up to 3 months for the next Board meeting in order to practice in the state of Ohio. The number of individuals applying who do not meet the criteria for licensure will decrease.

### **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.*

The Ohio Council for Home Care and Hospice and Ginger Scheurger-Davison was notified per their requests on December 2, 2016.

The Board posted draft copies of the rules on the Board's website from December 6, 2016-January 18, 2017 for an initial public comment period. All three of the primary provider associations (LeadingAge Ohio, The Ohio Health Care Association, and the 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. Information was also posted on the Board's Facebook page.

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

The Board received a suggestion to specifically include the ability to apply electronically in 4751-1-10.3, and to include a definition of “Health Services Executive” in 4751-1-14. Both suggestions were incorporated into the 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?**

N/A

**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. The Board will also post information on the website, and post information to its Facebook page.

**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;**

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- Rule 4751-1-10.3 regulates the Board's procedure for handling licensing and related requests from veterans, active duty military personnel, and licensees accompanying active duty spouses. They are the impacted community.
- Rule 4751-1-11 regulates temporary license holders. Ohio receives approximately 3-5 applications for temporary licenses per year.
- For Rule 4751-13.1 the potentially impacted community is those licensees who may need to request a waiver of CEUs.
- Rule 4751-1-14 describes the manner in which out-of-state licenses are accepted by the Board. Accepting the Health Services Executive credential allows for faster granting of the Ohio license, saving the prospective licensee time waiting on the next Board meeting (up to 3 months). Out-of-state applicants for licensure who have the Health Service Executive Credential are the impacted community. This is a brand-new voluntary credential, so it is very difficult to say how many individuals will be impacted; we are guessing perhaps 5 per year,
- Additionally, individuals with felony convictions will be affected, as their applications may not be approved. The Board estimates approximately 5-7 applicants with felony convictions per year.
- For Rule 4751-1-15, those impacted are individuals who let their licenses expire and now want to become re-licensed.

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

Rule 4751-1-10.3 poses a potential adverse impact for prospective licensees in the amount of time it takes to prepare a request for consideration of the Board, estimated at 45 minutes. There is also a temporary license fee of \$100 for licensees accompanying active duty spouses.

Rule 4751-1-11 poses a potential adverse effect in that it requires a fee for the temporary license. This is not a new impact

Rule 4751-1-13.1 poses a potential impact of 45 minutes per waiver request for paperwork.

Rule 4751-1-14 should have a positive impact on some out-of-state applicants by providing another way for them to be licensed in Ohio more quickly.

The adverse impact of the rule is the \$190 fee to take the Ohio exam, which is required by 4751.04(1) and (2). This would affect approximately 50 out-of-state applicants each year. This is not a new impact.

The adverse impact to applicants with felonies is the time (30 minutes) and cost (\$50) of being fingerprinted, and the possibility that their application may be rejected by the Board based on criteria established in the rule.

Rule 4751-1-15's adverse impact is the fee required to take the Ohio and National NAB exam and the re-licensure fee (none of these are new). There is also a potential adverse impact for individuals wanting to become re-licensed who have felony convictions.

**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.*

Rule 4751-1-10.3 requires 45 minutes of time to prepare a request for the Board, and a \$100 temporary license fee or a \$300 renewal fee. For those wishing to renew, 20 CEUs per year are required, at an average cost of \$10 per CEU. The CEUs and the temporary license fee may be waived at the Board's discretion.

The adverse impact of 4751-1-11 is the \$100 fee and the estimated 30 minutes it takes to complete the application.

Rule 4751-1-13.1 poses a potential impact of 45 minutes per waiver request for paperwork. It is difficult to say how many requests the Board will get per year. A rough estimate is around 5.

The adverse impact of Rule 4751-1-14 is the \$190 fee for each out-of-state applicant to take the Ohio exam. This would affect approximately 50 out-of-state applicants each year. The Ohio exam is required by 4751.04(1) and (2).

The adverse impact to applicants with felonies is the time (30 minutes) and cost (\$50) of being fingerprinted, and the possibility that their application may be rejected by the Board based on criteria established in the rule. Approximately 50 applicants per year

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would need to be fingerprinted, and approximately 5-7 of them would have felony convictions that could affect their applications.

The adverse impact of 4751-1-15 is the exams cost, approximately \$525 currently (this fee is collected and kept by the testing company). The Board has approximately 11 re-licensure applications per year. After successfully passing the examinations, it will then cost each licensee a \$300 license fee to the Board.

For those few re-licensure applicants with a felony conviction, the adverse effect could be a rejection of their application based on criteria set forth in the rule. The Board estimates this would impact less than 1 re-licensure candidate per year.

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

4751-1-14 & 15: The Board is required by law to license those wishing to practice nursing home administration in the state of Ohio, and to ensure that those practicing nursing home administration are suitable, fit, and of good moral character.

4751-1-11: The Board needs to ensure that it is only granting temporary licenses to individuals who are capable of handling the significant responsibilities of being a licensed nursing home administrator, responsible for supervising the care of vulnerable individuals.

4751-1-13.1: The Board needs to have the paperwork/documentation to be certain that the applicant truly needs and qualifies for the waiver of hours, as continuing education is important to the practice of nursing home administration.

4751-1-11: Again, the Board feels this will have a positive impact on some out-of-state applicants by providing another way for them to be licensed in Ohio more quickly.

4751-1-11, 14, & 15: Candidates wanting to be licensed in Ohio must be familiar with the laws and rules that govern nursing facilities and the practice of nursing home administrators in the state of Ohio, so they must take the Ohio examination prior to becoming licensed.

4751-1-11, 14, & 15: The Board feels strongly that certain felony convictions are a detriment to the practice of nursing home administration potentially rendering the individual unfit to carry out the broad duties of a Nursing Home Administrator thereby assuring the protection of the vulnerable population Administrators serve.

**Regulatory Flexibility**

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

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In Rule 4751-1-10.3, not for Ohio licensure, it is required to practice, but the applicant can request a waiver of CEUs and/or the temporary license fee.

No. Rule 4751-1-11 applies to anyone who wishes to obtain a temporary license.

For Rule 4751-1-13.1. there are no fines or penalties outside of the normal 5 CEU late renewal penalty if the application is rejected. Potential applicants are notified up front of this.

For Rule 4751-1-14, yes. Applicants may also be a certified administrator in good standing with the American College of Health Care Administrators to receive expedited processing.

For Rule 4751-1-15, no, as every applicant must take and pass the Ohio exam before becoming licensed in Ohio.

**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?**

N/A

**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 may have.