

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: BELTSS

Regulation/Package Title: Definitions, Meetings, Pre-examination requirements, Registration of Institutions and Training Agencies, Training agency approval, Administrator-in-training program, Timely Renewal, Continuing education, Fees

Rule Number(s): 4751-1-02, 4751-1-04, 4751-1-05, 4751-1-08, 4751-1-081, 4751-1-09, 4751-1-10.1, 4751-1-13, 4751-1-16

Date: 10-27-17

**Rule Type:**

New

**X 5-Year Review**

**X Amended**

Rescinded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

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**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 4751-1-02 Definitions**

- Language changed to include definitions related to new health services executive license.
- Definitions of terms used by the Board added for clarity.

**Rule Change 4751-1-04 Meetings**

- Words “voting” or “non-voting” added to several places in the rule to reflect statutory changes made in defining Board membership.

**Rule Change 4751-1-05 Pre-examination requirements, conditions precedent to application for admission for examination.**

- Language changed to realign rule with 4751-1-02 after it was changed.
- Conflicting/confusing language in (C) removed to clarify rule.
- Language added to clarify the effect of a felony conviction on applicants seeking licensure.

**Rule Change 4751-1-08 Registration of institutions and training agencies**

- Language changed due to statutory change allowing Board to charge CEU providers for course approval.
- Language changed to more clearly define provider categories and eliminate “limited” provider status.

**Rule Change 4751-1-081 Training agency approval**

- Language changed to put board policy and practice into rule regarding self-study courses.
- Language changed to exempt live webinars where attendance and participation can be monitored from the post-test requirement.
- Language changed to disallow CEU credit for courses consisting of reading a book or articles and taking an exam.
- Language changed to reflect that CEU approval is given to the provider only and not to an individual licensee.

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Rule Change 4751-1-09 Administrator-in-training program, practical training and experience

- Grammatical changes made.
- Language changed to more thoroughly define training site and preceptor.
- Language changed to put board policy and practice into rule regarding the internship, internship site, and reduction in hours.

Rule Change 4751-1-10.1 Timely renewal of Certificate of Registration

- Language changed to eliminate “limited” provider status and add language referring to online renewal and payment.

Rule Change 4751-1-13 Continuing education

- Language changes made to more thoroughly define terms used in the rule and conditions of the rule.
- Language changed to put board policy and practice into the rule regarding the CEU provider requirements.

Rule Change 4751-1-16 Fees

- Fee schedule added to reflect statutory changes to other rules.

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

4751.03, 4751.04, 4751.043, 4751.044, 4751.14

**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

**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)?**

4751-1-02: The Board needs to define terms used in laws, rules, and practice so that licensees can understand the laws and rules governing their practice.

4751-1-04: The Board needs to clarify the status of Board members as defined by recent statutory changes.

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4751-1-05: The Board believes it is important to make sure that rules and rule language align with one another and to keep rules updated. The Board also needs to let applicants how a felony conviction may affect their application.

4751-1-08: The Board must update the rule due to the statutory changes allowing fees to be charged to Continuing Education providers

4751-1-081: The Board believes that it is important to put current policy into rule regarding the provision of self-study courses.

4751-1-09: The Board believes that it is important to more thoroughly define certain terms and put current policy into rule in regards to the internship, the internship site, and requests for reduction in hours.

4751-1-10.1: The Board must update the rule due to a change in another rule to make them congruent.

4751-1-13: The Board is required by 4751.04 to have a procedure in place for ensuring that administrators are qualified to serve as administrators. Continuing education is key in carrying out this directive.

4751-1-16: The Board must update its fee structure to comply with statutory changes.

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

There will be greater licensee and provider understanding of the rules and fewer areas not addressed in the rules. There will be fewer licensee and provider questions about provider status and the application of continuing education credits to a renewal. Appropriate fees will be paid.

**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 Board held meetings with its continuing education providers (all were invited via email) in July and August of 2017 and accepted feedback via email or telephone. Meeting attendees were: Kathy Chapman, Ohio Health Care Association; Chris Murray, The Academy of Senior Health Sciences; Cindy Gensamer, Absolute Rehab and Consulting; Cydney Bare, The American College of Health Care Administrators; Lisa Yehl, Ohio University; Malinda Deacon, Ohio Assisted Living Association. All continuing education providers were emailed a copy of the Continuing Education rules for review and comment on September 14, 2017

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The Ohio Council for Home Care and Hospice and Ginger Scheurger-Davison were notified per their request on September 15, 2017.

The Board posted draft copies of the rules on the Board's website from September 13, 2017-October 27, 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 and an email blast was sent to all Administrators.

**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 both verbal and written feedback from several providers and took this feedback into consideration when drafting the fee schedule for continuing education providers. Providers stated:

- 1) Could not afford a huge fee without passing costs on to the participants or not offering programs;
- 2) Really appreciate the "no fee" schedule now in place;
- 3) Would like to see the "limited" provider status dropped;
- 4) Some agreed with the need to charge fees and support the decision;
- 5) Charge \$15 a credit hour;
- 6) Charge \$100 per class;
- 7) Please keep the fee under what NAB (National Association of Long-Term Care Administrator Boards) charges;
- 8) Only charge for initial approval of a class, not the renewals;
- 9) This would make programs more expensive for administrators;
- 10) What about computerization of the process for efficiency;
- 11) Where would the fee money be going; and
- 12) When will this begin?

Providers were informed that the money was going to be used for supporting the costs of running the program and computerization of the process, and that the fees would likely begin sometime in 2018. In establishing the fee structure, the Board attempted to keep fees as low as possible and fair and reasonable to all providers while still offsetting the expenses of the program. The fees are well under what NAB charges for approving continuing education programs. The Board

also debated dropping the “limited” provider status and determined to do so at this time. The Board is also moving ahead with automating the CEU process for providers and staff.

Additional feedback was received in regards to making the language clearer, and those suggestions were partially accepted. Language was changed to require providers to be certified providers for at least three years, in addition to meeting the other requirements, before potentially being granted preferred provider status. Also in response to feedback, the Board agreed that if the provider grants credit for individual sessions as part of a larger conference or convention, the Board will accept these continuing education unit credits. The Board additionally agreed to accept an item brought up for consideration by the Ohio Health Care Association regarding the testing requirements for live webinar courses and determined that live webinars can be exempt from the self-study testing requirement as long as the provider randomly audits attendance and participation and makes these audits available to the Board upon request.

**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 directly email each CEU provider with a copy of the applicable rules and an offer to assist as needed. BELTSS also plans to provide a user guide complete with an FAQ section for the new online system for CEU providers.

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### **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 4751-1-02 defines the terms used in Board rule and practice and has the potential to affect all 2000 licensees, 65 providers of continuing education, and all applicants for licensure.
- Rule 4751-1-04 defines the Board membership and the terms under which meetings and special meetings will take place. It has the potential to impact all licensees and providers who may wish to attend a meeting.
- Rule 4751-1-05 regulates the roughly 120 applicants per year for the administrator-in-training program. They are the impacted community.
- Rule 4751-1-08 regulates the 65 CEU providers. They are the impacted community.
- Rule 4751-1-081 regulates the 65 providers of continuing education.
- For Rule 4751-09 the potentially impacted community is both administrators-in-training and preceptors (approximately 240 per year).
- Rule 4751-1-10.1 potentially affects all 2000 licensees.
- Rule 4751-1-13 regulates the 65 CEU providers, and they are the potentially impacted community.
- Rule 4751-1-16 has the potential to affect all 65 CEU providers.

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

Rule 4751-1-02 merely defines terminology used and poses no foreseeable adverse impact to licensees, applicants, or providers.



Rule 4751-1-04 defines the Board membership and the terms under which meetings and special meetings will take place. It does not change the manner in which the public is notified about Board meetings. The adverse effect is the approximately 5 minutes it would take to look up the Board meeting schedule on the Board's website or call the office for the information.

Rule 4751-1-05 regulates the roughly 120 applicants per year for the administrator-in-training program. The potential adverse impact is to those applicants with a felony/disqualifying conviction on their records, as they may not be able to become licensed.

Rule 4751-1-08 poses a potential adverse effect of approximately 5 minutes of time to read and understand the changes to the rule and a financial impact on preferred providers of a flat fee of \$750 per year and a biennial renewal fee of \$150, and a financial impact on certified providers of \$15 per CEU unit approved as well as a biennial renewal fee of \$150 and a late approval fee of \$150.

Rule 4751-1-081 poses a potential adverse impact for providers in having to create exams for their self-study courses and for the licensees who must pass the exams to receive credit.

Rule 4751-1-09 poses a potential impact of 15 minutes per administrator-in-training and preceptor for paperwork.

Rule 4751-1-10.1 poses a potential impact of 5 late penalty CEUs per quarter the licensee is late, up to 20 penalty CEUs.

Rule 4751-1-13 creates an impact of approximately 5-10 minutes to read the proposed rule.

Rule 4751-1-16 Poses a financial impact to preferred CEU providers of \$750 per year and a \$150 biennial renewal fee, and to certified providers of \$15 per approved credit hour, a \$150 late course approval fee, a \$150 biennial renewal fee, and a \$10 multiple site approval fee.

**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*

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***“representative business.” Please include the source for your information/estimated impact.***

Rule 4751-1-02 merely defines terminology used and poses no foreseeable adverse impact to licensees, applicants, or providers.

Rule 4751-1-04 requires approximately 5 minutes to look up the Board meeting schedule posted on the Board’s website or to call or email the Board and request a copy.

Rule 4751-1-05 requires approximately 5-10 minutes to read and understand the rule, and 30 minutes if a new application is warranted. This will affect approximately 5-10 administrators-in-training per year. There is a potential adverse effect to applicants with felony convictions, as they may not be able to obtain licensure in Ohio. This may affect approximately 1-2 applicants per year.

Rule 4751-1-08 requires a biennial renewal fee of \$150 and an annual fee of \$750 for preferred providers. This impacts up to 4 providers per year. It also requires a \$250 initial application fee for new certified providers, a \$150 biennial renewal fee, a \$150 late approval fee, and a fee of \$15 per credit hour approved for certified providers. This impacts up to 61 providers per year.

The adverse effect of Rule 4751-1-081 is the approximately 15 minutes it will take a licensee to take the exam after a self-study course and the approximately 30 minutes it will take the provider to create and grade the exam.

The adverse impact of Rule 4751-1-09 is the 15 minutes per Administrator-in-training and preceptor for paperwork. This will affect approximately 240 preceptors and administrators-in-training per year.

The adverse impact of Rule 4751-1-10.1 is the amount of time necessary to complete late penalty CEUs and the cost to obtain them, ranging from a few hours and no cost for 5 CEUs to a few days and a few hundred dollars for 20 CEUs.

Rule 4751-1-13 poses an adverse effect of approximately 5 minutes of time to read and understand the changes to the rule.

The adverse effect of Rule 4751-1-16 is a financial impact to preferred CEU providers of \$750 per year and a biennial renewal fee of \$150, and to certified providers a fee of \$15 per approved credit hour, a \$150 biennial renewal fee, a \$150 late course approval fee, and a \$10 multiple site approval fee. There are 4 preferred providers and 61 certified providers. A total of 1400 CEU hours from certified providers were approved in 2016.

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

4751-1-02: Rule 4751-1-02 merely defines terminology used and poses no foreseeable adverse impact to licensees, applicants, or providers.

4751-1-04 required changes to be made to reflect statutory language changes made to Chapter 4751 of the Revised Code.

4751-1-05: The Board is required by 4751.04 to have a procedure in place for administering the exam and for ensuring that administrators are qualified to serve as administrators. It is helpful to licensees to have terms clearly and accurately defined and to understand the standards they must meet to proceed with the program and become licensed. The Board also has a duty of public protection and must set and enforce certain standards in regards to the conviction history of applicants for Ohio licensure.

4751-1-08: The Board is authorized by 4751.044 to charge a fee to continuing education unit providers. This fee is necessary to offset the Board's administrative costs in running the program. BELTSS is 100% fee supported and needs the revenue to help cover program costs and computerization/modernization of the CEU approval process.

4751-1-081: The Board needs to have standards in place for self-study courses to ensure that licensees are receiving quality continuing education and to ensure that the education is appropriately completed.

4751-1-09: The Board needs to have the paperwork/documentation to be certain that the administrators-in-training, preceptors, and internship sites meet the criteria set forth by the Board to provide a quality educational experience and a sound learning environment.

4751-1-10.1 The Board needs to clearly define what is considered a late renewal to make licensees aware of the consequences involved in being late and to help them renew in a timely fashion.

4751-1-13: The Board feels that defining the rules more specifically will help CEU providers meet the requirements and provide high-quality education to its licensees.

4751-1-16 required changes to be made to reflect statutory language changes made to Chapter 4751 of the Revised Code.

## **Regulatory Flexibility**

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

4751-1-02 merely defines terminology used in other rules and Board practice. All licensees, applicants, and providers must understand the terminology and comply with the rules.

4751-1-04; not applicable, as it regulates the Board, not the provider.

In Rule 4751-1-05: no, applicants must conform to the rule.

For Rule 4751-1-08: no, providers must pay the fee if they wish their course(s) to be BELTSS approved. They can avoid BELTSS entirely and go through NAB for approval, however, if they desire.

For Rule 4751-1-081: no, providers and licensees must conform to the rule.

For Rule 4751-1-09: no, applicants must conform to the rule.

For Rule 4751-1-10.1: no, licensees must conform to the rule.

For Rule 4751-1-13: providers must conform to the rule, but they can choose to pursue NAB approval of their CEUs instead of BELTSS approval if desired.

For Rule 4751-1-16: no, providers must conform to the rule.

### **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?**

BELTSS will educate providers on the 60-day waiver rule and on the late fee for programs not submitted in a timely fashion, but the 60-day notice requirement for course submission was not changed/is not new. The fee is new, however, and may be waived for first-time offenders upon a showing of good cause.

### **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) by email and telephone to answer any questions that individuals may have. A user guide with FAQs will be provided to walk users through the new online system, and the program coordinator will be available during normal business hours to assist providers.