

**MEMORANDUM**

TO: Deborah Veley, Board of Executives of Long-Term Services and Supports

FROM: Christopher Smyke, Regulatory Policy Advocate

DATE: November 29, 2018

RE: **CSI Review – Five-Year Review Rules (OAC 4751-1-02, 4751-1-07, 4751-1-08, 4751-1-08.1, 4751-1-10.3, 4751-1-10.4, 4751-1-13, 4751-1-13.1, and 4751-1-14)**

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

This rule package contains one new rule and eight amended rules proposed by the Board of Executives of Long-Term Services and Supports (Board) as part of the statutory five-year rule review requirement. The rule package was submitted to the CSI Office on October 25, 2018 and the public comment period was held open through November 9, 2018. No comments were received during that time.

The rules in this package address definitions for the Chapter, as well as education, including exams and passing grades, registration of educational institutions and continuing education (CE) training agencies, CE requirements, and the CE unit waiver. In addition, the rules relate to licensing of service members, veterans, or spouses of service members or veterans, as well as recognition of out-of-state licensure. The rules are amended to add and modify several definitions, recognize that passing grades are set by the National Association of Long Term Care Administrator Boards (NAB), specify that training agency approval only applies to the organization that has applied for

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approval, relax the requirements on approval literature, and provide more flexibility on the required documentation for a CE waiver. Non-substantive amendments include changes to reflect current Board policy, align language with statute, and eliminate duplicative language. New rule OAC 4751-1-10.4 establishes a process to expedite applications from service members, veterans, or spouses of service members or veterans.

Prior to filing the rules with CSI, the Board posted the draft rules on its website and notified the Ohio Council for Home Care and Hospice, LeadingAge Ohio, the Ohio Health Care Association, the Academy of Senior Health Services, and all active licensed nursing home administrators. The Board received a comment that the term Continuing Education Unit (CEU) is no longer used by NAB, a question on whether documentation from a physician extender (such as a Physician Assistant or Nurse Practitioner) is acceptable for a CE waiver, and a concern that new requirements in OAC 4751-1-08.1 would prohibit training agencies from partnering with other healthcare organizations to provide CE programming. The Board revised the draft rules to address each of these concerns. In addition, the Board received a comment, objecting to the removal of college courses from the list of approved CE coursework under OAC 4751-1-13(A)(4). The Board clarified that the removed language is duplicative to OAC 4751-1-13(H), and assured the commenter that college courses will continue to be acceptable CE. No comments were received during the CSI public comment period.

The business communities impacted by these rules include between 5 to 25 applicants per year, 2,000 licensees, 100 administrators-in-training, and 64 Board-approved training providers. Training providers must register with the Board and pay initial, annual, and biennial fees, depending on whether they are classified as “preferred” or “certified” providers. Administrative costs include delay for committee approval of an application, the potential of exam failure, proof of service and no mental impairment for service members/veterans/spouses, 20 clock-hours of CE, and time to request a CE waiver. In addition, a licensee of another state who wishes to be recognized by the Board must submit to a criminal background check, the cost of which varies by county.

The BIA justifies the rules as a necessary way to provide training and oversight for administrators who oversee care for a diverse and vulnerable population. In addition, many of the proposed changes provide clarity and flexibility for the regulated business community.

After reviewing the proposed rules and the BIA, the CSI Office has determined that the rules satisfactorily meet the standards espoused by the CSI Office, and the purpose of the rule package is justified.

Recommendations

For the reasons described above, the CSI Office has no recommendations on this rule package.

Conclusion

Based on its review of the proposed rule package, the CSI Office recommends the Board of Executives of Long-Term Services and Supports should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.

CC: Emily Kaylor, Lt. Governor's Office