CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: BELTSS

Regulation/Package Title: Definitions, Examinations and Passing Grades, Registration of Educational Institutions and Continuing Education Training Agencies, Training Agency Approval, Licensing Service Member, Veterans, or Spouses of Service Members or Veterans, Processing applications from Service Members, Veterans, or Spouses of Service Members or Veterans, Continuing Education, Continuing Education Unit Waiver, Recognition of Out-of-State License

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

Date:

Rule Type:

X New

X Amended

X 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Rescinded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 4751-1-02 Definitions

   - Language changed to include colleges/universities accredited by an accrediting body that is accredited by the US Department of Education.
   - Language added to define "veteran", "active duty", "armed forces", "merchant marines", and "service member".

   Rule Change 4751-1-07 Examinations and Passing Grade

   - Language changed to reflect that multiple exams are required for licensure.
   - Language changed to reflect that the Board accepts the pass points set by NAB (the National Association of Long-Term Care Administrator Boards) as passing scores on the examinations.

   Rule Change 4751-1-08 Registration of educational institutions and continuing education training agencies

   - Language added to reflect Board policy that all provider applications are reviewed and approved by the Board
   - Language added to reflect Board policy that all programs submitted by certified continuing education providers are evaluated and approved by the Board's continuing education unit committee and approved by the Board.

   Rule Change 4751-1-08.1 Training Agency Approval

   - Language added to reflect that Board approval only applies to continuing education programs conducted/sponsored solely by the organization named in the application.
   - Language added to reflect that providers shall not submit courses for other organizations or persons that are not providers of BELTSS, and that organizations or persons wanting to put on continuing education programs for nursing home administrators must seek provider status from BELTSS. Preferred providers shall not submit courses for certified providers to gain preferred status for the provider/course.
   - Removed the requirement for providers to list the program approval number on promotional literature.

Rule Change 4751-1-10.3 Licensing Service Members, Veterans, or Spouses of Service Members or Veterans

- Rule changes made to reflect language from 5903.04, 5903.10, and 5903.12 of the Ohio Revised Code.

New Rule 4751-1-10.4 Processing Applications from Service Members, Veterans, or Spouses of Service Members or Veterans

- Defines how the Board will expedite these applications, what documentation is necessary to qualify, and that the Board will track applications received.

Rule Change 4751-1-13 Continuing Education

- Language changed to eliminate duplicate language in the rule.
- Language added to clarify BELTSS approval supersedes NAB approval for courses.

Rule Change 4751-1-13.1 Continuing Education Unit Waiver

- Language changed to make the certification requirement less stringent.

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

- Definition of "Health Services Executive" removed as that term is already defined in 4751-1-02 "Definitions".

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

   4751.03, 4751.04, 4751.043, 4751.044, 4751.14, 4751.99, 5903.04, 5903.10, 5903.12

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)?**

   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 maintain qualifications through appropriate continuing education for each license renewal.

The Board wants to be more inclusive, yet still discerning, in its acceptance of accrediting bodies that accredit degree programs that are acceptable to the Board for eligibility for the Administrator-In-Training program.

The Board wants to make sure that applicants are aware of the exams that are required for licensure and how the passing points are established.

The Board believes that it is important to maintain quality control over the continuing education programs put on by providers for its licensees and maintaining provider status is a way of doing that.

The Board is required to comply with ORC 5903.04, 5903.10, and 5903.12.

The Board believes it is important to eliminate duplicative language when possible and to clarify approval status for licensees.

The Board believes it is important for the rule to match actual practice and be as least restrictive as possible for licensees.

The Board believes it is important to eliminate duplicative language when possible.

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 more individuals qualifying for the Administrator-In-Training Program with degrees accredited by an accrediting body that is accredited by the US Department of Education.

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 were notified per their request on September 11, 2018.

   The Board posted draft copies of the rules on the Board's website from September 11, 2018-October 19, 2018 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 website and Facebook page, and an email blast was sent to all active licensed nursing home 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 feedback specific to the following rules:

   4751-1-13 & 4751-1-13.1: respondent asked if the board should be mirroring the National Association of Long-Term Care Administrator Boards' term "continuing education" instead of "continuing education unit". This feedback was implemented.

   4751-1-13.1 (C): respondent asked if documentation from physician extenders (nurse practitioners and physician assistants) would be acceptable as well as documentation from a physician. This feedback was implemented.

   4751-1-08.1: respondent asked if the Board would consider approving courses for the following increments of an hour instead of a minimum of one hour: .25, .50, and .75. The National Association of Long-Term Care Administrator Boards does this, and BELTSS would like to mirror NAB's practices. This feedback was implemented.

   4751-1-08.1: respondent asked for a definition of "entity/entities" …the term was changed in the rule to "organizations or persons", which is already used in the rule. Respondent also asked for the rule to be more specific in defining provider responsibilities, and more specifics were added to the provider responsibilities section (B)(2)(l) & (m). Respondent asked for clarification of when an organization or person would have to apply to BELTSS and become a certified CE provider. This clarification was addressed via the changes made in the provider responsibilities section as specified above.

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, post information to its Facebook page, and send an email blast to all active licensed nursing home administrators.

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 has the potential to affect perhaps 10 applicants per year for the change, and all 2,000 licensees and 100 Administrators-In-Training per year in general.
    - Rule 4751-1-07 has the potential to affect all 100 Administrators-In-Training per year.
    - Rule 4751-1-08 has the potential to affect all 64 Board-approved providers.
    - Rule 4751-1-08.1 has the potential to affect all 64 Board-approved providers.
    - Rule 4751-1-10.3 has the potential to affect an estimated 5 applicants per year.
    - Rule 4751-1-10.4 has the potential to affect an estimated 25 applicants per year.
    - Rule 4751-1-13 has the potential to affect all 2,000 licensees.
    - Rule 4751-1-13.1 has the potential to affect perhaps 10 applicants per year.
    - Rule 4751-1-14 has the potential to affect all out-of-state candidates, approximately 20 per year.

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

    - The change to Rule 4751-1-02 poses no foreseeable adverse impact, as the change makes the rule more inclusive of accrediting bodies. Rule 4751-1-02 in general

defines terms used in the laws and rules, and some of those definitions can be limiting in admittance to programs and licensure.

- The change to Rule 4751-1-07 poses no foreseeable new adverse impact to Administrators-In-Training, as the exams have always been required and this is just clarifying language.
- The change to Rule 4751-1-08 puts an office policy into practice and poses no foreseeable new adverse impact to providers.
- The change to Rule 4751-1-08.1 poses a potential adverse impact of not allowing Board-approved providers to submit for approval courses to be held by/on behalf of other entities, potentially impacting a small source of income.

- The change to Rule 4751-1-10.3 poses no foreseeable adverse impact, as it defines the responsibilities of the Board in dealing with these applicants. It does require the applicant to provide proof of veteran/service member/spouse of veteran or service member status, which could take 15 minutes to retrieve and file the paperwork with the Board. Applicants will also be required to prove that they are not suffering a mental or physical impairment that may affect their ability to safely practice, which could take 30 minutes to obtain from a physician.

- The new Rule 4751-1-10.4 poses no foreseeable adverse impact, as it defines the responsibilities of the Board in dealing with these applications. It does require the applicant to provide proof of veteran/service member/spouse of veteran or service member status, which could take 15 minutes to retrieve and file the paperwork with the Board.

- Rule 4751-1-13 poses a potential adverse impact of making BELTSS approval for a continuing education course primary over NAB approval for a continuing education course.

- Rule 4751-1-13.1 poses a potential adverse impact of requiring the licensee to obtain a brief certification from the licensee's physician to certify illness or disability.

- Rule 4751-1-14 poses a potential adverse impact of having to look up the definition in the "Definitions" section of the rules.

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 4751-1-02 in general is that temporary licenses are only valid for a maximum of 180 days by statute. This requirement has not changed, but is an adverse impact. The change to Rule 4751-1-02 poses no adverse impact, as it makes the rule more inclusive.

The potential adverse impact of 4751-1-07 is that multiple exams are required for licensure. This requirement has not changed but is an adverse impact.

The potential adverse impact of 4751-1-08 is that all provider applications and CE programs of certified providers will be evaluated by the Board CE Committee. This may cause a slight delay in program approval but is not a new adverse impact.

The adverse impact of Rule 4751-1-08.1 could mean that a Board-approved provider who has been submitting courses for other non-approved entities for a fee would no longer be able to do so, impacting an unknown amount of income for the Board-approved provider.

The adverse impact of Rule 4751-1-10.3 is requiring the applicant to provide proof of veteran/service member/spouse of veteran or service member status, which could take 15 minutes to retrieve and file the paperwork with the Board and to provide proof that they are not suffering a mental or physical impairment that may affect their ability to safely practice, which could take 30 minutes to obtain from a physician.

The adverse impact of Rule 4751-1-10.4 is requiring the applicant to provide proof of veteran/service member/spouse of veteran or service member status, which could take 15 minutes to retrieve and file the paperwork with the Board.

The adverse impact of Rule 4751-1-13 could mean that a licensee granted 5 continuing education credit hours for a course might only be awarded 4 continuing education credit hours for the same course if the BELTSS approval was for fewer hours, for example.

The adverse impact of Rule 4751-1-13.1 is the approximately 5 minutes it will take to read and complete the waiver certification form.

The adverse impact of Rule 4751-1-14 could be approximately 2 minutes to locate the “Definitions” section of the rules and look up the “Health Services Executive” definition.

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

The Board feels strongly that any adverse impact is outweighed by the Board's responsibility to help produce strong administrators who have the ability to drive quality care and services for a diverse and vulnerable client population.

4751-1-02: In general, this change makes it easier to gain entry into the Administrator-In-Training program and ultimately licensure, as it makes the rule more inclusive. Other definitions must be present to define terms for licensees to be able to accurately interpret the laws and rules governing practice.

4751-1-07: The Board feels that prospective licensees should be fully aware of the examination requirements for licensure in Ohio and how the passing points are established.

4751-1-08: The Board feels strongly about the quality of the continuing education provided to its licensees and needs to maintain control over the approval process. It also needs to notify providers of their/their programs' approval status.

4751-1-08.1: The Board feels strongly about the quality of the continuing education provided to its licensees and needs to maintain control over the approval process. Requiring non-approved entities wishing to put on continuing education programs to register with the Board and be approved is one way of maintaining quality control over those programs.

4751-1-10.3: The Board is required to comply with ORC 5903.04, 5903.10, and 5903.12.

4751-1-10.4: The Board is required to comply with ORC 5903.04, 5903.10, and 5903.12.

4751-1-13: Some continuing education providers obtain both NAB and BELTSS approval for their courses, and it is important to state which approval is primary in case of a discrepancy between the two.

4751-1-13.1: The Board believes that it is important to have a process in place to help licensees with serious illness or disability, but that illness or disability must be certified by a physician.

4751-1-14:The Board believes it is important to eliminate duplicative language when possible.

Regulatory Flexibility

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

For Rule 4751-1-02: no, licensees must conform to the rule.

For Rule 4751-1-07: no, prospective licensees must conform to the rule.

For Rule 4751-1-08: no, providers must conform to the rule.

For Rule 4751-1-08.1: no, providers must conform to the rule.

For Rule 4751-1-10.3: applicants may choose whether to take advantage of special late renewal status granted in the rule.

For Rule 4751-1-10.4: applicants may choose whether to take advantage of expedited status granted in the rule.

For Rule 4751-1-13: no, licensees must conform to the rule.

For Rule 4751-1-13.1: no, applicants must conform to the rule, but no one is forced to apply for a waiver.

For Rule 4751-1-14: no, applicants 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?**

    There are no fines or penalties associated with this rule package for paperwork violations and first-time offenders.

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), to assist licensees and trainees in interpreting the laws and rules as needed.