Ohio | Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

Business Impact Analysis

Agency, Board, or Commission Name:
BELTSS

Rule Contact Name and Contact Information:

Deborah Veley, dveley@age.ohio.gov, 614-466-5114

Regulation/Package Title (a general description of the rules' substantive content):

Notice of adoption, amendment, rescission of rules; pre-examination requirements; CORE of Knowledge in nursing home administration; subjects for examination;

Rule Number(s): 4751-1-01, 4751-1-05, 4751-1-05.1, 4751-1-06

Date of Submission for CSI Review: 7-10-20

Public Comment Period End Date: 7-24-20

Rule Type/Number of Rules:

New/_1__ rule(s)

Amended/__2 rules (FYR? 05-01-2021 & 1-01-2025)

No Change/_1_rules (FYR? 05-01-2021)

Rescinded/__0__ rules (FYR? ___)

The Common-Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common-Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing

regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

   Which adverse impact(s) to businesses has the agency determined the rule(s) create?

   The rule(s):

   a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**

   b. ☐ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**

   c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**

   d. ☐ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

2. **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 4751-1-01 Notice of adoption, amendment, or rescission of rules

- This rule deals with the manner in which BELTSS notifies others of adoption, amendment, or rescission of its rules
- This rule is being submitted as a no change rule

Rule Change 4751-1-05 Pre-examination requirements

- This rule deals with the conditions that must be met by applicants prior to being approved to take the examinations
- This rule is being modified slightly to accommodate new rule 4751-1-05.1 elaborating on the required CORE of Knowledge course

New Rule 4751-1-05.1 CORE of Knowledge

- This rule elaborates on requirements for providing the CORE of Knowledge course and information about the required CORE of Knowledge course.
- This is a new rule to provide requirements for providing the CORE of Knowledge Course and information about the CORE of Knowledge Course.

Rule Change 4751-1-06 Subjects for Examination

- This rule details the subjects that are on the National examination as established by the National Association of Long-Term Care Administrator Boards (NAB).
- This rule is being changed to reflect the fact that the National Association of Long-Term Care Administrator Boards changes the Domains of Practice every few years and directs applicants to where they can find the most current version.

3. **Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.** 4751.04, 4751.20 (A)(10)

4. **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

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

   The Board strongly believes that the CORE of Knowledge course is an integral part of the licensure process and needs to be regulated in order to produce consistent outcomes and success on the examinations and as future licensees. In order to successfully pass the examinations, applicants must also be made aware of what subject matter will be covered. The Board is also required by RC 119.03 to have a rule regarding rule changes.

6. **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 RC 119.03 to have a rule regarding rule changes. The Board also believes it is important for candidates for licensure to know what they will be tested on so that they can study appropriately and know what the requirements are that must be met before they can take the examination. It is also helpful for prospective providers to know about the requirements that must be met in order to be approved to offer the CORE of Knowledge course to administrators-in-training.

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

   Persons requesting notification will be promptly notified of upcoming rule changes. Prospective licensees will be better prepared for their National examinations and have a better understanding of the CORE of Knowledge Course requirements, and providers will understand what they must do to be approved to provide the CORE of Knowledge Course. Applicants will have the most current information about the Domains of Practice that they will be tested on.

8. **Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**
   If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.
   No

Development of the Regulation

9. **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 was notified per their request on June 12, 2020, via email.

   The Board posted draft copies of the rules on the Board's website from June 12-July 1, 2020 for an early stakeholder outreach and 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, and requested by a Board email) including a link to the draft rules on the Board's website, and an eblast was sent to all licensees by the Board.

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

    One stakeholder commented that 4751-1-05.1(A)(3) was subjective with the words "will have a positive impact" and suggested changing it to "may have a positive impact". This change was accepted.

    Another stakeholder suggested changing "The core of knowledge course as listed in rule 4751.05.1" to "The CORE of Knowledge course as described in rule 4751-1-05 and 4751-1-05.1." This change was accepted. She also suggested in 4751-1-05.1 (C)(1) changing the wording to "Adherence to the ~~core of knowledge~~ domains of practice subject material

according to the national association of long-term care administrator boards,". This change was accepted.

11. **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

12. **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.

13. **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.

14. **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.

15. **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 9) to help distribute the updated rules to its members and drive traffic to the website where the updated rules will be posted. An email blast will also be sent to licensees and interested parties to inform them of the changes.

Adverse Impact to Business

16. **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; and

    Rule 4751-1-01 regulates the Board's procedure for notification of adoption, amendment, or rescission of rules. The business community is unaffected.

Rule 4751-1-05 describes the criteria that must be met by candidates before they can take the examinations required to become a licensed nursing home administrator. The business community is unaffected. Prospective licensees may be affected by having to read the material to know the criteria they have to meet to take the examinations.

Rule 4751-1-05.1 elaborates on the CORE of Knowledge course and the requirements that must be met to be approved to provide it. The business community interested in presenting the CORE online might be affected by not being allowed to present more than 20% of the CORE of knowledge subject material online and having to ensure that they meet the criteria for providing the course.

Rule 4751-1-06 defines the subjects for the National examination. The business community is unaffected. Prospective licensees may be affected by having to go to the NAB website to find and read the information.

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

Rule 4751-1-01 poses no adverse impact for prospective licensees or the business community.

Rule 4751-1-05 poses a potential adverse impact for prospective licensees of the criteria they must meet in order to be able to sit for the examination including the cost of coming to one of the CORE of knowledge courses, degree requirements, and an internship. These are not new requirements/adverse impacts.

Rule 4751-1-05.1 poses a potential adverse impact for prospective licensees of the cost of coming to one of the CORE of knowledge course host sites in person, and for prospective providers by outlining criteria which must be met in order to be approved to provide the CORE of knowledge course to prospective licensees.

Rule 4751-1-06 poses a potential adverse impact for prospective licensees of going to the NAB website and reading the information on which they will be tested.

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 adverse impact of Rules 4751-1-05 and 4751-05.1 include the cost of coming to one of the sites hosting the CORE of knowledge to complete the CORE in person. Costs include mileage, potential hotel costs, and some meals. These costs would vary depending on whether an attendee decided to stay in town or commute and the distance commuted. Impacts also include the costs of doing an often-unpaid internship (loss of income if they do not work during the internship). These are not new impacts. The adverse impact of rule 4751-06 is approximately 5 minutes of time to find and read the material on the NAB website. The source for the above information is the BELTSS Board and staff.

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

    The Board feels very strongly that an all-online course would be detrimental to the attendees as not all of the course content translates well to online learning, and that attendees benefit tremendously from the interaction with peers, instructors, and government officials that they receive at an in-person session. The Board also feels that prospective licensees need to know the material on which they will be tested. The Board feels these regulations produce more highly-qualified and educated licensed nursing home administrators, which is a benefit to and protection for the public.

Regulatory Flexibility

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

No, all prospective licensees must attend the CORE of knowledge unless they are in the Direct College path to licensure, which involves a obtaining a degree from a NAB accredited college or university. All potential providers who wish to provide the CORE of Knowledge must meet the criteria set forth by the Board.

19. **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 for paperwork violations and first-time offenders in these rules.

20. **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.