



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Sean McCullough**, Director

### MEMORANDUM

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

**FROM:** Joseph Baker, Business Advocate

**DATE:** November 9, 2021

**RE:** **CSI Review – Definitions, Board meetings, AIT program, pre-examination requirements, core of knowledge in nursing home administration, AIT program, temporary license, recognition of out-of-state license, relicensure, subjects for examination, fees (OAC 4751-1-02, 4751-1-04, 4751-1-05, 4751-1-05.1, 4751-1-06, 4751-1-09, 4751-1-11, 4751-1-14, 4751-1-15 and 4751-1-16)**

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On behalf of Lt. Governor Jon Husted, 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 Board as provided for in ORC 107.54.

### Analysis

This rule package consists of 10 amended rules proposed by the Board of Executives of Long-Term Services and Supports (Board). This rule package was submitted to the CSI Office on September 23, 2021, and the public comment period was held open through October 12, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI office on September 23, 2021.

The rules in this package establish definitions and outline a variety of functions performed by the Board and requirements for licensure by the Board, including examination application requirements, curriculum components of nursing home administration classes, standards for administrator-in-training programs, temporary license standards, recognition of out-of-state licenses, relicensing standards, and fees that may be assessed by the Board.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

OAC 4751-1-02 specifies definitions relating to the operations and purposes of the Board. The rule is amended to adopt a definition for supervision of an administrator-in-training. OAC 4751-1-04 establishes official meeting protocols for the Board and is amended to correct a spelling error. OAC 4751-1-05 sets forth requirements for applicants for licensure as a nursing home administrator, such as the completion of educational requirements and the administrative experience requirements (if the individual did not graduate from an approved nursing home administrator program). The rule is amended to remove references to the applicant being of good moral character in compliance with H.B. 263 (133<sup>rd</sup> General Assembly) and to indicate that the Board will comply with Section 9.79 of the Revised Code regarding the consideration of individuals based on character or criminal background

OAC 4751-1-05.1 specifies the core curriculum components of a nursing home administration class. The rule is amended to explicitly permit the Board to authorize distance learning during the COVID-19 pandemic, to otherwise limit the number of distance learning hours to 20 out of the 100 hours required for the program, to clarify that training agencies seeking to provide a nursing home administration class must be approved by the Board, and to simplify specifics regarding the information that must be contained in the class. OAC 4751-1-06 requires nursing home administrator license applicants to pass an oral or written exam provided by the National Association of Long-Term Care Administrator Boards and is amended to adopt a technical change.

OAC 4751-1-09 establishes standards relating to the administrator-in-training program. OAC 4751-1-11 sets forth the Board's authority to issue temporary licenses for not more than 180 days. OAC 4751-1-14 authorizes the Board to recognize the training and experience of individuals who hold licenses from other states and to issue Ohio licenses to them after evaluating their credentials and payment of an application fee. OAC 4751-1-15 permits the Board to relicense an applicant after the license has lapsed if the applicant meets various qualifications. Lastly, OAC 4751-1-16 specifies fees that the Board may assess, such as temporary license fees, original license fees, out-of-state license endorsement fees, and others. OAC 4751-1-09, 4751-1-11, 4751-1-14, 4751-1-15 and 4751-1-16 are each amended to comply with the Section 9.79 of the Revised Code relating to the consideration of individuals based on character or criminal background.

During early stakeholder outreach, the Board shared the proposed rules with the Ohio Council for Home Care and Hospice, several individuals who requested to be notified, and posted draft copies on its website. Additionally, the Board notes that LeadingAge Ohio, the Ohio Health Care Association, and the Academy of Senior Health Services notified their members regarding the rules via newsletter. The Board states that it received one comment in response suggesting adding a link to various relevant Revised Code sections and posing a definitional question. In response to the comment, the Board determined to amend the rules and add links to the relevant Revised Code

sections and to clarify the definition of nursing home supervision. No comments were received during the CSI public comment period.

According to the BIA, the business community affected by the rules includes organizations that wish to provide a core of knowledge class, licensed nursing home administrators, and administrators-in-training. The adverse impact created by the rules includes the costs of applying for authorization to provide a core of knowledge class (including an application fee of \$250-\$750, depending on how long the training provider has been certified and how many courses it offers), the costs and time necessary to complete the requirements to apply for examination for licensure by the Board, the costs and time of completing the examination for licensure, the costs and time necessary to complete an administrator-in-training program, and various fees that the Board is authorized to assess licensees and applicants. These fees range from \$25 for a duplicate or replacement license issuance to \$300 for an annual registration fee. The Board states that the adverse impact to business is necessary to ensure that nursing home administrators are qualified and licensed and to ensure that licensees with past convictions do not pose a threat to public safety.

### **Recommendations**

Based on the information above, the CSI Office has no recommendations on this rule package.

### **Conclusion**

The CSI Office concludes that 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.