



## 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](mailto:dveley@age.ohio.gov), 614-466-5114

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

Miscellaneous rule revision, 5-year rule review, new rule, no-change rules

**Rule Number(s):** 4751-1-02, 4751-1-05, 4751-1-07, 4751-1-08, 4751-1-08.1, 4751-1-10.4, 4751-1-12.1, 4751-1-13, 4751-1-13.1

**Date of Submission for CSI Review:** \_\_\_\_\_

**Public Comment Period End Date:** \_\_\_\_\_

**Rule Type/Number of Rules:**

New/ 1 rules

No Change/ 2 rules (FYR?     )

Amended/ 6 rules (FYR? Yes)

Rescinded/      rules (FYR?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.

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### **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.*

**4751-1-02:** Rule revised to include definition of “Direct College Candidate”

**4751-1-05:** Rule revised to change definition/conditions for abandonment of application.

**4751-1-07:** Rule changed to reflect current examinations practice.

**4751-1-08:** Rule is a no-change rule.

**4751-1-08.1:** Rule revised to limit the amount of continuing education hours that a licensee may obtain in one day to twelve to follow the national standard set by NAB. Also removes the post-test requirement from distance learning/self-study courses, provided that software is in place to measure attendees’ time spent in the course and/or engagement with the course.

**4751-1-10.4:** Rule is a no-change rule.

**4751-1-12.1:** Rule created to allow for electronic testimony at hearings.

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**4751-1-13:** Rule revised to adjust the time frame for when preceptors can claim credit for precepting an administrator-in-training, and to reflect that the Board will not accept the same course taken in back-to-back renewal years, with the exception of conventions which have new/updated information each year. Annual ethics credit (1 course) requirement added, and allowance for 3 credit hour option for precepting half or more of an administrator-in-training's program.

**4751-1-13.1:** Rule revised to clean up rule and allow for Board to waive fees/fines if desired.

- 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.**

4751.03, 4751.04, 4751.38, 4751.45, 9.78, 9.79

- 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.*

No

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

State statute, and there is little federal regulation of licensure; it is left up to each state.

- 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)?**

Letting licensees know the rules under which they are governed, setting appropriate standards for continuing education and abandonment of licensure, defining terms that licensees will need to know.

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

There will be fewer calls/emails with questions about these rules and fewer inappropriate submissions of continuing education.

- 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**

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**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 15, 2022 via email.

Laurie Loughney of Longtree and Associates was notified per her request on June 15, 2022 via email.

Virginia Scheurger-Davidson was notified per her request on June 15, 2022 via email.

The Board posted draft copies of the rules on the Board's website from June 15, 2022 through June 30, 2022 for an early stakeholder outreach period. The initial public comment period is set to run from July 1-July 15, 2022. 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, and an eblast was sent to all licensees.

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

One licensee suggested that the Board continue with the "all online CE waiver" that it put in place due to COVID, but the Board feels strongly that some in-person continuing education is vital to LNHAs and does not wish to change the requirement at this time (Only half of the CE requirement may be self-study under non-pandemic conditions).

Another commenter made suggestions that clarified language in the changes made by the Board, and that feedback was accepted. She also suggested further specifying "in a timely manner" in rule 4751-1-13.1, but due to not wanting to tie anyone's hands, as a "timely manner" might be a week for an orthopedic injury and 6 months for a CVA...the Board will determine "a timely manner" based on the situation, this language was not changed. Finally, she suggested a change to 4751-1-12.1 that the Board felt would tie the AG's and the hearing officer's hands in compelling the production of documents, so that change was not made.

**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

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- 11. 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.

- 12. 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

- 13. 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.

- 14. 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. An email blast will also be sent to licensees and interested parties to inform them of the changes.

### **Adverse Impact to Business**

- 15. 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**

The scope of the impacted business community is all licensed nursing home administrators and some candidates for licensure.

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

If someone abandons their application, they will have to begin the process again from the beginning, and possibly do a new administrator-in-training internship.

- 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.***

The adverse impact of having to do a new administrator-in-training internship could be as many as 9 months/1000 hours of paid or unpaid time in training, depending upon experience and education qualifications as determined by Board rules.

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

It is important for the Board to have minimum standards for prospective licensees to meet in order to become licensed to protect the public and the population served.

**Regulatory Flexibility**

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

No

**18. 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?**

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.

**19. 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 small businesses may have.