



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: August 26, 2022

RE: **CSI Review – Miscellaneous Rule Revision, 5 Year Rule Review, New Rule, No Change Rules (OAC 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, and 4751-1-13.1)**

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 one new rule, two no-change rules, and six 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 July 6, 2022, and the public comment period was held open through July 15, 2022. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on July 6, 2022.

Ohio Administrative Code (OAC) 4751-1-02 sets forth definitions related to the operations of the Board and has been amended to include a definition for direct college candidate. OAC 4751-1-05 sets forth minimum requirements for nursing home administrator examination applicants and has been amended to specify that an application to take the examination is deemed abandoned after the examination has been failed four times, and to require that all applicants must complete the licensure process within three years of meeting the requirements to take the examination or request an extension. OAC 4751-1-07 requires applicants for nursing home administrator licenses to pass national and state examinations and has been amended to update current practices with respect to oral examinations.

OAC 4751-1-08 and 4751-1-08.1 authorize the Board to approve educational institutions and training agencies for purposes of providing continuing education for licensees as well as course

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standards and requirements. The rules also set forth certification levels for continuing education training agencies, fee requirements for providers to offer such courses, and provider operational responsibilities. OAC 4751-08.1 has been amended to remove post-test requirements for self-study courses that track the amount of time an attendee spends on the course or randomly monitor that the attendee is engaged in the course. OAC 4751-1-10.4 addresses how the Board will process applications for licensure from service members, veterans, or spouses, including that the application will be expedited, that the applicant will be informed of potential fee or continuing education waivers, and documentation that will be accepted for purposes of determining whether the individual is a service member, veteran, or spouse. OAC 4751-1-12.1 is a new rule proposed by the Board to allow a hearing examiner to grant a motion to allow the testimony of a prospective witness to be provided electronically under certain circumstances and requirements.

OAC 4751-1-13 requires nursing home administrators to complete twenty clock hours of continuing education each year and has been amended to cap the number of credits that may be earned in one day at twelve, to allow preceptors credit for precepting an administrator in training for half or more of the required number of program hours, and to prohibit using the same continuing education course for credit in repeating renewal years. OAC 4751-1-13.1 allows licensees to request a waiver of continuing education at the Board's sole discretion and has been amended to streamline language and allow the Board additional discretion to waive fines as appropriate.

During early stakeholder outreach, the Board published the draft rules on its website and shared the rules with provider associations including LeadingAge Ohio, the Ohio Health Care Association, and Academy of Senior Health Services for publishing in their newsletters. In response to the request for feedback, comments were received recommending the Board allow all continuing education to be completed online and other clarifying changes. The Board did not adopt the recommendation to allow continuing education to be completed online but did make some minor clarifying changes to the rules prior to submitting to CSI for review. No comments were received during the CSI public comment period.

The business community impacted includes nursing home administrator licensees and applicants and entities that provide continuing education courses for nursing home administrator licensing purposes. The adverse impacts to business include the costs and time associated with qualifying for the nursing home administrator examination, completing the examination, and completing continuing education courses annually. Failure to complete an application may result in applicants being required to complete an additional administrator-in-training internship, involving approximately nine months of and one thousand hours of training. Additionally, businesses that provide continuing education courses for nursing home administrators may experience additional costs and staff time associated with ensuring courses meet requirements and standards for continuing education. The Board also may assess fines for failure to comply with various requirements in the rules. The Board states that the adverse impacts to business are justified to provide minimum standards for prospective licensees and protect the public.

Recommendations

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

Conclusion

The CSI Office concludes that the Board should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.