



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

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Business Impact Analysis

Agency, Board, or Commission Name: Board of Executives of Long-Term Services and Supports (BELTSS)

Rule Contact Name and Contact Information:

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

Revision in response to legislation; every other year renewal, no temporary licenses

Rule Number(s): 4751-1-02, 4751-1-03, 4751-1-04, 4751-1-05, 4751-1-09, 4751-1-10, 4751-1-10.1, 4751-1-10.2, 4751-1-10.3, 4751-1-12, 4751-1-12.2, 4751-1-13, 4751-1-14, 4751-1-16

Date of Submission for CSI Review: _____

Public Comment Period End Date: _____

Rule Type/Number of Rules:

New/ 1 rules

No Change/ 0 rules (FYR?)

Amended/ 13 rules (FYR? Y)

Rescinded/ 0 rules (FYR?)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.

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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: Revised to eliminate the “temporary” license language as per statute

4751-1-03: Revised to remove the word “all” to allow the board secretary flexibility for emergencies

4751-1-04: Revised to allow for individuals to request approved meeting minutes by phone or email

4751-1-05: Revised to eliminate unnecessary language, e.g. “if the board approves a fourth time”

4751-1-09: Revised to update language to match current practice, allow the board more time to process applications before a meeting, update where AITs can find a required form, include attendance at a new board AIT/Preceptor training course, remove unnecessary language

4751-1-10: Revised to reflect a statute change eliminating the board’s temporary license and enacting a new provision, and a statute change of the license renewal period from 1 year to every 2 years

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4751-1-10.1: Revised to update language to match current practice, a statute change of the license renewal requirement from every year to every 2 years, and removal of a notary requirement

4751-1-10.2: Revised to implement a statutory change of license renewal periods from every year to every 2 years

4751-1-10.3: Revised to implement a statutory change eliminating the board's temporary license and reflect every 2-year renewal

4751-1-12: Revised to eliminate language referring to a temporary license and every 2 year renewal

4751-1-12.2: New rule to outline the prehearing process

4751-1-13: Revised to implement a statutory change from every year license renewal to every 2 year renewal and update language to reflect current practice. Also revised to allow for all required CEs to be obtained online/self-study/distance learning.

4751-1-14: Revised to comply with statutory change on recognizing an out-of-state license and granting a license to practice in Ohio

4751-1-16: Revised to comply with statutory changes to remove the temporary license fee and change the annual license renewal fee to a biannual license renewal fee

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 implements a federal requirement, but 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, defining terms that licensees will need to know, complying with statutory change.

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

Licensees will understand the statutory changes that the board was required to make and renew appropriately. Nursing facilities and not individuals will make requests for the former “temporary” licensure, now just licensure for 180 days.

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 March 6, 2023 via email.

Laurie Loughney of Longtree and Associates was notified per her request on March 6, 2023 via email.

Virginia Scheurger-Davidson was notified per her request on March 6, 2023 via email.

The Board posted draft copies of the rules on the Board’s website from March 6, 2023 through March 27, 2023 for an early stakeholder outreach period. The initial public comment period is set to run from 3-28-2023 through 4-11-23. 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?

No input was received.

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?

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N/A, these changes are being driven by a statutory change the board must comply with.

- 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?**
Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.

N/A, these changes are being driven by a statutory change the board must comply with.

- 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(s). Specifically, please do the following:**
- Identify the scope of the impacted business community, and**
 - Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).**
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.

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The scope of the impacted business community is all licensed nursing home administrators, administrators-in-training, and nursing facilities.

The estimated adverse impact of these regulations is the time required to carefully read the instructions for how licensees are to renew going forward, probably 15-20 minutes. Nursing homes will have the burden of requesting a 180-day license in case of emergencies; that burden has shifted from the individual to the nursing home, but the individual will still have to do the paperwork. Estimated 15 minutes time for the nursing home and an hour for the LNHA.

16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).

Allowing an individual to call or email to receive approved board minutes instead of just sending a letter will be easier on the individual. The requirement to attend the AIT/preceptor virtual training course should make it easier for preceptors and AITs to follow the rules and successfully complete the training period. Every other year renewal will save the administrators a little time on the years they do not have to renew.

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

These rules are driven by statutory change that the board is obligated to comply with.

Regulatory Flexibility

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

No, everyone must comply with the statutory change.

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?

The Board staff is available during normal business hours (and after hours by appointment), email, and telephone to answer any questions that individuals or businesses may have.

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 or businesses may have.

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