



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

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

FROM: Caleb White, Business Advocate

DATE: July 6, 2023

RE: **CSI Review – Revision in Response to Legislation; Every Other Year Renewal, No Temporary Licenses (OAC 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, and 4751-1-16)**

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 and thirteen 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 April 21, 2023, and the public comment period was held open through April 28, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on April 21, 2023.

Ohio Administrative Code (OAC) 4751-1-02 sets forth definitions related to the operations of the Board and has been amended to remove the temporary license language which was eliminated through legislation as well as references to annual license renewal. OAC 4751-1-03 outlines the duties of the Board officers and Board secretary and is amended to remove the requirement for the Board secretary to attend all Board meetings; this change allows for flexibility in the case of an emergency. OAC 4751-1-04 outlines the procedures and requirements for conducting Board meetings and is amended to allow individuals to request the meeting minutes through telephone or email. OAC 4751-1-05 sets forth minimum requirements for nursing home administrator examination applicants and has been amended to remove unnecessary language. OAC 4751-1-09 governs the administrator in training (AIT) program and is amended to match current practices, allow the Board more time to process applications before a meeting update where AITs can find a

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

CSIPublicComments@governor.ohio.gov

required form, require attendance at a new Board AIT/licensed nursing home administrator (preceptor) training course, and remove unnecessary language.

OAC 4751-1-10 outlines the requirements of licenses and certificates of registration for nursing home administrators. This rule is amended to remove temporary licenses and add a new provision which allows for nursing homes to request the Board to issue nursing home administrator licenses in the case of unexpected job vacancies to individuals who have not yet passed the licensing examinations but do meet the other requirements and to change the language to reflect the statutory change of license renewal periods from one year to two years. OAC 4751-1-10.1 sets forth the requirements for the timely renewal of a license home administrator certificate of registration and is amended to add the continuing education requirement of one course each renewal period which deals with ethics/professional standards, reflect the statutory change of license renewal requirements from every year to every two years and outline a transitory process for the change, remove a notarization requirement, and update language. OAC 4751-1-10.2 outlines the criteria for the health services executive (HSE) license and is amended to reflect the statutory change of renewal periods from every year to every two years. OAC 4751-1-10.3 governs the licensing requirements for service members, veterans, or spouses and is amended to reflect the statutory elimination of temporary licenses and change of the license renewal requirements from every year to every two years.

OAC 4751-1-12 sets forth the conditions for suspension, revocation, and disciplinary actions for nursing home administration and HSE license holders and is amended to reflect the statutory change of license renewal requirements from every year to every two years and elimination of temporary licenses. OAC 4751-1-12.2 is a new rule which outlines the prehearing process for disciplinary actions regarding nursing home administration and HSE license holders. OAC 4751-1-13 outlines the continuing education requirements for nursing home administrator licensees and is amended to reflect the statutory change of license renewal requirements from every year to every two years, eliminate the limit on self-study, distance learning, and webinar hours that can be submitted for each renewal period, eliminate the prohibition on using the same continuing education courses in back to back renewal periods, update the language to reflect current practices regarding continuing education course eligibility and documentation, and streamline the language. OAC 4751-1-14 outlines the requirements for the recognition out-of-state nursing home administrator and HSE licenses and is amended to reflect the statutory changes to the recognition of out-of-state licenses and granting of a license to practice in Ohio by allowing private certification as a licensed nursing home administrator or HSE to qualify an applicant for licensure in Ohio if a state does not issue these licenses and streamline language. After the CSI public comment period ended the Board submitted a revised rule which reincorporated a provision which prohibits the licensing of applicants whose license has been suspended within the past year. OAC 4751-1-16 outlines the license fees for nursing home administrators and HSEs and is amended to reflect the statutory changes and remove the temporary license fee and change the annual license renewal fee to a biannual license renewal fee.

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. The Board also shared the rules with the Ohio Council for Homecare and Hospice, Longtree and Associates, and another individual commenter at their request. In response to the request for feedback, comments were received from the individual commenter suggesting clarifying language for OAC 4751-1-09. The Board made minor clarifying changes to OAC 4751-1-09 to address the individual commenter's suggestions. No comments were received during the CSI public comment period. After the CSI public comment period ended, the Board received feedback from the Ohio Department of Aging regarding their rules and made a minor change based on this feedback.

The business community impacted includes all licensed nursing home administrators, administrators-in-training, and nursing facilities. The adverse impacts to business include the time required to read the instruction for licenses that are to be renewed going forward, which the Board estimates is fifteen to twenty minutes, and the new burden of nursing homes to request 180-day licenses in the case of emergencies. In this case the nursing home requests the license and the licensed nursing home administrator fills out the paperwork, which the Board estimates this will take fifteen minutes for the nursing home and an hour for the licensed nursing home administrator. The Board states the adverse impacts to business are justified as they are required to implement them due to a statutory change.

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.