



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:

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

Core of Knowledge, Continuing Education

Rule Number(s): 4751-1-05.1, 4751-1-13, _____

Date of Submission for CSI Review: _____

Public Comment Period End Date: 1-8-21

Rule Type/Number of Rules:

New/ 0 rules

No Change/ rules (FYR?)

Amended/ 2 rules (FYR? Y)

Rescinded/ rules (FYR?)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.

4751-1-05.1: Rule being changed to reflect Board's new practice of requiring the Core of Knowledge course providers to successfully complete the Continuing Education approval process, and to account for holding the Core class during a COVID pandemic declared by the Governor.

4751-1-13: Rule changed to account for a COVID pandemic declared by the Governor and its effect on distance learning CEs and potentially the overall continuing education requirement upon Board action.

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

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- 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. The Board strongly believes that the CORE of Knowledge course is an integral part of the licensure process and needs to be regulated in order to produce consistent outcomes and success on the examinations and as future licensees. In order to successfully and safely hold the core of knowledge class or obtain annual CEs in the case of a COVID pandemic, Board action may be required.

- 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 it is also helpful for prospective providers to know about the requirements that must be met in order to be approved to offer the CORE of Knowledge course. Licensees should also know that there are options available to the Board for addressing continuing education in case of a COVID pandemic.

- 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)?**

State statute, and it is helpful for prospective Core providers to know about the requirements that must be met in order to be approved to offer the Core of Knowledge class and for students and administrators to know what may happen in a COVID pandemic.

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

Providers will understand what they must do to be approved to provide the CORE of Knowledge Course. Providers and administrators will know what actions the Board can take in a declared COVID pandemic.

- 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.

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The Ohio Council for Home Care and Hospice was notified per their request on December 3, 2020 via email.

Laurie Loughney of Longtree and Associates was notified per her request on December 3, 2020 via email.

Virginia Scheurger-Davidson was notified per her request on December 3, 2020 via email.

The Board posted draft copies of the rules on the Board's website from December 4-18, 2020 for an early stakeholder outreach and public comment period. 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 provided by stakeholders during the early outreach period.

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?

N/A

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?

There were no alternative regulations considered as the rules are driven by statute.

13. 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

14. 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.

15. 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.

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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

16. 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

Those organizations wishing to provide the Core of Knowledge class and licensed nursing home administrators, as well as Administrators-in-Training.

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

Organizations wishing to provide the core of knowledge class must apply through the continuing education provider process and follow its rules.

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 “representative business.” Please include the source for your information/estimated impact.

Organizations wishing to provide the core of knowledge class will have to pay a fee that is determined by the provider status to which they are assigned based on criteria set forth in rule 4751-1-08. It will also take them about 15 minutes to complete the online course application to provide the Core of Knowledge class. The source is BELTSS documentation, rules, and statute.

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

The Board also feels very strongly that an all-online course would be detrimental to the attendees (unless in the case of a COVID pandemic) as not all of the course content translates well to online learning, and that attendees benefit tremendously from the interaction with peers, instructors, and government officials that they receive at an in-person session. The Board also feels that administrators should know what actions the Board might take to assist them in obtaining their continuing education requirements in the case of a COVID pandemic. The Board feels these regulations produce more highly-qualified and educated licensed nursing home administrators, which is a benefit to and protection for the public.

Regulatory Flexibility

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

No, all prospective licensees must attend the CORE of knowledge unless they are in the Direct College path to licensure, which involves obtaining a degree from a NAB accredited college or university. All potential providers who wish to provide the CORE of Knowledge must meet the criteria set forth by the Board.

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?

There is a fine for late submission of continuing education courses, but these may be waived upon the provider meeting certain criteria. There are also licensed nursing home administrator and health services executive licensee late renewal fees, but these are not new, and are currently waived by the provisions of HB 404.

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 may have.