



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

Business Impact Analysis

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

Rule Contact Name and Contact Information:

Deborah Veley, dveley@age.ohio.gov, 614-644-7512

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

Terminology change, elimination of barrier to licensure/sunset state exam

Rule Number(s): 4751-1-01, 4751-1-02, 4751-1-05, 4751-1-051, 4751-1-06, 4751-1-07, 4751-1-09, 4751-1-12, 4751-1-14, 4751-1-15, 4751-1-17

Date of Submission for CSI Review: 10-8-24

Public Comment Period End Date: 10-23-24

Rule Type/Number of Rules:

New/ 0 rules

No Change/ 2 rules (FYR? Y)

Amended/ 9 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Rescinded/ 0 rules (FYR?)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.

4751-1-01: No change

4751-1-02: Term AIT/Administrator in Training changed to Administrator
Residency/Administrator Resident to align with NAB best practices.

4751-1-05: Term AIT/Administrator in Training changed to Administrator
Residency/Administrator Resident to align with NAB best practices. Terminology changed to allow for Board to eliminate barrier to licensure and sunset the State examination.

4751-1-051: Term AIT/Administrator in Training changed to Administrator
Residency/Administrator Resident to align with NAB best practices.

4751-1-06: Terminology changed to allow for Board to eliminate barrier to licensure and sunset the State examination.

4751-1-07: Term AIT/Administrator in Training changed to Administrator
Residency/Administrator Resident to align with NAB best practices.

4751-1-09: Terminology changed to allow for Board to eliminate barrier to licensure and sunset the State examination.

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4751-1-12: Term AIT/Administrator in Training changed to Administrator Residency/Administrator Resident to align with NAB best practices. Terminology changed to allow for Board to eliminate barrier to licensure and sunset the State examination.

4751-1-14: Terminology changed to allow for Board to eliminate barrier to licensure and sunset the State examination. Term AIT/Administrator in Training changed to Administrator Residency/Administrator Resident to align with NAB best practices.

4751-1-15: Terminology changed to allow for Board to eliminate barrier to licensure and sunset the State examination.

4751-1-17: No change

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.

4751.04

- 3. 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

- 4. 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.

- 5. 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, defining terms that licensees will need to know, removing a barrier to licensure.

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

No more state licenses will be required/taken, and LNHAs and former AITs will begin using the new terminology.

- 7. 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.**

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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 September 23, 2024 via email.

Laurie Loughney of Longtree and Associates was notified per her request on September 23, 2024 via email.

Virginia Scheurger-Davidson was notified per her request on September 23, 2024 via email.

The Board posted draft copies of the rules on the Board's website from September 23, 2024 through October 7, 2024 for a stakeholder outreach period. All three of the primary provider associations (LeadingAge Ohio, The Ohio Health Care Association, and the Academy of Senior Health Services) were notified. 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?

The following was received from one interested stakeholder: "I didn't see anything of concern, just curiosity" about the rule changes, and the rationale for them was further discussed with the stakeholder with no further comments received.

Another stakeholder asked why the state exam was being discontinued, if other terms were considered by NAB than "Administrator Residency" and pointed out a few typos, which were corrected. Topics 1 and 2 were discussed to the stakeholder's satisfaction.

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, this change has been suggested as a best practice from NAB and will eliminate a barrier to licensure.

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, this change has been suggested as a best practice from NAB and will eliminate a barrier to licensure. It will also save the licensee \$190 as an exam fee.

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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.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

- a. Identify the scope of the impacted business community, and
- b. 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.

The scope of the impacted business community is all licensed nursing home administrators and Administrators-In-Training/those in the licensing process.

The estimated adverse impact of these regulations is the time required to carefully read the regulation, probably 5 minutes. Additionally, there are licensure fees, renewal fees, and late renewal penalties. The adverse impact of those is financial in nature, but established by the legislature and not being changed, except that the prospective licensee will not have to pay the \$190 state exam fee to the exam provider.

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*).

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Those seeking licensure will save \$190 in exam fees and it will take less time for them to become licensed in some cases. Some applicants will not have to wait for the Board to approve them to test as the state test will no longer be a requirement.

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

This change has been suggested as a best practice from NAB and will eliminate a barrier to licensure. It will also save the licensee \$190 as an exam fee.

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 rule 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. There are no fines or penalties contained in these changes.

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.