

Section 119.032 of the Revised Code requires the Board of Executives of Long-Term Services and Supports (BELTSS) to review the rules of Chapter 4751 of the Ohio Administrative Code no later than the rules' assigned review dates. The rules regulate BELTSS. BELTSS is proposing to modify OAC 4751-1-06 to reflect the National Association of Long-Term Care Administrator Board's Domains of Practice and changes being made to the Federal Exam and 4751-1-01 is being streamlined. Rules will be posted on the BELTSS website (www.beltss.ohio.gov) under "Board Meeting Schedule and Notices". Any person may direct written comments or requests for information concerning BELTSS' rule proposals to Deborah Veley, Executive Director of BELTSS, by writing to dveley@age.ohio.gov no later than January 22, 2016.

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: BELTSS

Regulation/Package Title: _____

Rule Number(s): 4751-1-01

Date: 1-4-16

Rule Type:

New

Amended

5-Year Review

Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

Rule Change 4751-1-01 Notice of adoption, amendment, or rescission of rules

- Language changed to update, modernize, and make rule less wordy;

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

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.

N/A

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

N/A

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)?

The Board is required by RC 119.03 to have a rule regarding rule changes

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

Persons requesting notification will be promptly notified of upcoming rule changes.

Development of the Regulation

7. 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.

The Board posted draft copies of the rules on the Board's website from December 9, 2015-January 22, 2016 for a public comment period. All three of the primary provider associations (LeadingAge, 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.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

9. 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

10. 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.

11. 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. The rules were developed in accordance with ORC guidelines.

12. 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.

13. 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. Postcards will be mailed to licensees to inform them of the changes.

Adverse Impact to Business

14. 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;

Rule 4751-1-01 regulates the Board's procedure for notification of adoption, amendment, or rescission of rules. The business community is unaffected.

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

Rule 4751-1-01 poses no adverse impact for prospective licensees or the business community.

- 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.

N/A

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

The Board is not maintaining or creating any unreasonable burdens upon licensees or the business community. This rule regulates the Board.

Regulatory Flexibility

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

N/A

- 17. 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?**

N/A

- 18. 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.

4751-1-01 Notice of adoption, amendment, or rescission of rules.

(A) Any time that the Ohio Board of Executives of Long-Term Services and Supports (BELTSS) proposes to adopt, amend, or rescind a rule under section 119.03 of the Revised Code, BELTSS

shall give a reasonable public notice in the register of Ohio at least thirty days before the date BELTSS sets for the public hearing, as prescribed by division (A) of section 119.03 of the Revised Code. In the notice, BELTSS shall include the following:

- (1) A statement of BELTSS' intention to consider adopting, amending, or rescinding a rule.
- (2) A synopsis of the proposed rule, amendment, or rule that BELTSS proposes to rescind or a general statement of the subject matter to which the proposed rule, amendment, or rescission relates.
- (3) A statement of the reason or purpose for adopting, amending, or rescinding the rule.
- (4) The date, time, and place of a hearing on the proposed action, which BELTSS shall set no earlier than the thirty-first nor later than the fortieth day after BELTSS files the proposed rule, amendment, or rescission under division (B) of section 119.03 of the Revised Code.

(B) BELTSS shall promptly furnish an electronic copy of the public notice to any person who requests it without charge. BELTSS shall promptly furnish a hard copy of the public notice to any person who requests it and pays a reasonable fee that does not exceed the actual cost of copying and mailing. If the person making the request for a hard copy is affected by the rule, BELTSS shall provide the hard copy without charge. Although BELTSS shall respond to all requests for a hard copy promptly, BELTSS cannot guarantee the provision of a hard copy thirty days before the public hearing unless the request is postmarked at least forty days before the hearing's date.

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: BELTSS

Regulation/Package Title: _____

Rule Number(s): 4751-1-06

Date: 1-4-16

Rule Type:

X New

Amended

5-Year Review

X Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

19. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

Rule Change 4751-1-06 Subjects for Examination

- Language made gender neutral and consistent with language used in other rules;
- Language changed to reflect the National Association of Long-Term Care Administrator Boards' Domains of Practice;

20. Please list the Ohio statute authorizing the Agency to adopt this regulation.

4751.04

21. 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.

4751-1-06 implements CFR 431.708 "Procedures for applying standards" and CFR 431.711 "Compliance with standards".

22. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

N/A

23. 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)?

The National Association of Long-Term Care Administrator Boards (NAB) is changing the Federal Administrator Licensing Exam to reflect the Domains of Practice. The Board needs to update its rule to reflect these changes to the examination material so that prospective licensees will be adequately prepared for the Federal Exam.

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

Rule 4751-1-06 will be measured by the Federal Exam pass/fail rate.

Development of the Regulation

25. 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.

Currently, no-one is registered with the Board to receive notice of meetings/rule revision.

The Board posted draft copies of the rules on the Board's website from December 9, 2015-January 22, 2016 for a public comment period. All three of the primary provider associations (LeadingAge, 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.

26. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

27. 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?

The domains of practice are a result of a comprehensive, multi-year study by NAB and are a reflection of the skills and knowledge a licensed nursing home administrator needs to possess.

28. 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.

29. 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. The rules were developed in accordance with ORC guidelines.

30. 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.

31. 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. Postcards will be mailed to licensees to inform them of the changes.

Adverse Impact to Business

32. 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;

Rule 4751-1-06 regulates the subject matter taught to AITs to match the exam content which is developed by NAB. The business community is unaffected.

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

Rule 4751-1-06 poses no adverse impact for prospective licensees or the business community.

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.

N/A

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

The Board is not maintaining or creating any unreasonable burdens upon licensees or the business community. The Board must ensure that prospective licensees are given instruction in the subject material necessary for passing the Federal Exam and successful practice.

Regulatory Flexibility

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

N/A

35. 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?

N/A

36. 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.

4751-1-06 Subjects for examination.

Every applicant for a license as a nursing home administrator, after meeting the requirements for qualification for examination as set forth in these rules and regulations, shall successfully pass a written or oral examination or a combination thereof which shall include, but not be limited to, the following subject areas:

Core of knowledge in nursing home administration

(A) Customer care, supports, and services:

(1) Establish service policies and procedures regarding the persons served that comply with applicable federal and state laws, rules, and regulations.

(2) Ensure plans of care are evidence-based, established, implemented, updated, and monitored based on the preferences and assessed needs of the persons served.

(3) Ensure the planning, development, implementation/execution, monitoring, and evaluation of admission/move-in process, including preadmission/premove-in information, to promote a quality experience for the persons served.

(4) Ensure the planning, development, implementation/execution, monitoring, and evaluation of discharge/move-out process to promote a quality experience for the persons served.

(5) Ensure the planning, development, implementation/execution, monitoring, and evaluation of programs to meet the psychosocial needs and preferences of the persons served.

(6) Ensure the planning, development, implementation/execution, monitoring, and evaluation of activities/recreation to meet the social needs and preferences of the persons served.

- (7) Ensure the planning, development, implementation/execution, monitoring, and evaluation of a health information management program to meet documentation requirements in compliance with federal and state regulations.
- (8) Ensure the planning, development, implementation/execution, monitoring, and evaluation of medication management that supports the needs of the persons served.
- (9) Ensure the planning, development, implementation/execution, monitoring, and evaluation of a rehabilitation program to maximize optimal level of functioning and independence for the persons served.
- (10) Ensure the planning, development, implementation/execution, monitoring, and evaluation of systems for coordination and oversight of contracted services.
- (11) Ensure the planning, development, implementation/execution, monitoring, and evaluation of policies and procedures for responses to specific incidents, accidents, and/or emergencies involving the persons served.
- (12) Ensure the planning, development, implementation/execution, monitoring, and evaluation of housekeeping and laundry services for the persons served.
- (13) Ensure the planning, development, implementation/execution, monitoring, and evaluation of education intended for the persons served and their support networks.
- (14) Ensure the planning, development, implementation/execution, monitoring, and evaluation of nutritional needs and preferences of the persons served.
- (15) Ensure the planning, development, implementation/execution, monitoring, and evaluation of dining experience that meets the needs and preferences of the persons served.
- (16) Ensure the rights and individuality of the persons served within all aspects of care.
- (17) Integrate the support network's perspectives to maximize the quality of life and care for the persons served.
- (18) Ensure transportation options are available for the persons served.
- (19) Ensure the provision of a customer service culture that leads to a quality experience for the persons served.

(B) Human Resources:

- (1) Ensure that human resource management policies and programs comply with federal and state rules and regulations.
- (2) Establish the planning, development, implementation, monitoring, and evaluation of recruitment, selection, and retention practices.

- (3) Establish the planning, development, implementation, monitoring, and evaluation of employee training and development programs.
- (4) Establish the planning, development, implementation, monitoring, and evaluation of employee evaluation programs.
- (5) Establish the planning, development, implementation, monitoring, and evaluation of compensation and benefit programs.
- (6) Establish the planning, development, implementation, monitoring, and evaluation of employee health and safety programs.
- (7) Establish the planning, development, implementation, monitoring, and evaluation of employee satisfaction and organizational culture.
- (8) Establish the planning, development, implementation, monitoring, and evaluation of employee disciplinary policies and procedures.
- (9) Establish the planning, development, implementation, monitoring, and evaluation of employee grievance policies and procedures.
- (10) Establish the planning, development, implementation, monitoring, and evaluation of leadership development programs.
- (11) Promote a safe work environment (such as safety training and employee risk management).
- (12) Promote a positive work environment (using techniques such as conflict resolution, diversity training, and staff recognition programs).
- (13) Facilitate effective written, oral, and electronic communication among management and employees.
- (14) Ensure employee records and documentation systems are developed and maintained.
- (15) Establish a culture that encourages employees to embrace the rights of the persons served.

(C) Finance:

- (1) Ensure that financial management policies, procedures, and practices comply with applicable federal and state rules and regulations.
- (2) Develop, implement, and evaluate the service provider's budget.
- (3) Oversee the billing and collections process and monitor the accuracy of charges and timely collection of accounts.
- (4) Negotiate, interpret, and implement contractual agreements to optimize financial viability.
- (5) Develop, implement, monitor, and evaluate financial policies and procedures that comply with generally accepted accounting principles (GAAP).

- (6) Monitor and evaluate the integrity of financial reporting systems and audit programs.
- (7) Establish safeguards for the protection of the service provider's assets (such as insurance coverage, risk management).
- (8) Develop, implement, monitor, and evaluate systems to improve financial performance.
- (9) Manage and adjust expenses with fluctuations in census/occupancy levels (such as staffing ratios).
- (10) Monitor and address changes in the industry that may affect financial viability.

(D) Environment:

- (1) Ensure that physical environment policies and practices comply with applicable federal, state, and local laws, rules, and regulations.
- (2) Ensure the planning, development, implementation, monitoring, and evaluation of a safe and secure environment.
- (3) Ensure the planning, development, implementation, monitoring, and evaluation of infection control and sanitation.
- (4) Ensure the planning, development, implementation, monitoring, and evaluation of emergency and disaster preparedness program, including linkage to outside emergency agencies.
- (5) Ensure the planning, development, implementation, monitoring, and evaluation of environmental services, housekeeping, and laundry.
- (6) Ensure the planning, development, implementation, monitoring, and evaluation of maintenance services for property, plant, and all equipment, including preventative maintenance.
- (7) Ensure the planning, development, implementation, monitoring, and evaluation of appropriate HIPAA-compliant technology infrastructure.
- (8) Establish, maintain, and monitor a physical environment that provides clean, safe, and secure home-like surroundings for the persons served, staff, and visitors.
- (9) Identify opportunities to enhance the physical environment to meet changing market demands.
- (10) Establish, maintain, and monitor an environment that promotes choice, comfort, and dignity for the persons served.
- (11) Assess the environment of the persons served for safety, security, and accessibility and make recommendation for referral or modification.

(E) Management and Leadership:

- (1) Ensure compliance with applicable federal and state laws, rules, and regulations.

- (2) Promote ethical practice throughout the organization.
- (3) Develop, implement, monitor, and evaluate policies and procedures that comply with directives of governing body.
- (4) Develop, communicate, and champion the service provider's mission, vision, and values to stakeholders.
- (5) Develop, implement, and evaluate the strategic plan with governing body's endorsement.
- (6) Promote and monitor satisfaction of the persons served and their support networks.
- (7) Identify, foster and maintain positive relationships with key stakeholders.
- (8) Educate stakeholders on services provided, regulatory requirements, and standards of care.
- (9) Solicit information from appropriate stakeholders for use in decision making.
- (10) Manage the service provider's role throughout any survey/inspection process.
- (11) Develop and implement an intervention(s) or risk management program(s) to minimize or eliminate exposure.
- (12) Identify and respond to areas of potential legal liability.
- (13) Implement, monitor, and evaluate information management and technology systems to support service provider's operations.
- (14) Develop, implement and monitor comprehensive sales, marketing, and public relations strategies.
- (15) Ensure that written agreements between the persons served and the service providers protect the rights and responsibilities of both parties.
- (16) Develop, implement, and evaluate the organization's quality assurance and performance improvement programs.
- (17) Lead organizational change initiatives.
- (18) Facilitate effective internal and external communication strategies.
- (19) Promote professional development of all team members.