

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Counselor, Social Worker & Marriage and Family Therapist Board

Regulation/Package Title: Chapter 1 & 5 of 4757 Five Year Rule Review A – 9-20-2012

Rule Number(s): 4757-01-01, 4757-01-03, 4757-01-06, 4757-05-01, 4757-05-02, 4757-05-03, 4757-05-04, 4757-05-05, 4757-05-06, 4757-05-07, 4757-05-08, 4757-05-09, 4757-05-12, and 4757-05-13

Date: August 20, 2012

Rule Type:

☐ New

☒ 5-Year Review

☐ Amended

☐ Rescinded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.

These rules are being filed as part of the requirement to review each rule of the Ohio Administrative Code every five years. These rules are part of three different Chapters of the

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Administrative Code under Chapter 4757 of the Revised Code. The following rules have been reviewed by the Board and/or the appropriate Professional Standards Committee. There is a note on each as to the proposed changes. The PSC column denotes if it applies to all licensees or only the Counselor (CPSC), Social Worker (SWPSC) or Marriage and Family Therapist (MFTPSC) Professional Standards Committee. The Board appreciates feedback on any and all rules.

Rule #	Title	Comments	PSC
4757-1-01	Adoption of rules and methods of public notice	Adds rule filing step with the Common Sense Initiative office prior to filing with LSC.	All
4757-1-03	Minutes of board meetings	No changes recommended	All
4757-1-06	Personal information systems	No changes recommended	All
4757-5-01	Code of ethical practice and professional conduct	No changes recommended	All
4757-5-02	Standards of ethical practice and professional conduct: clients/consumers of services	Minor change to paragraph (A)(3) to improve clarity	All
4757-5-03	Standards of ethical practice and professional conduct: multiple relationships	New sentence added to paragraph (C) referencing child custody cases	All
4757-5-04	Standards of ethical practice and professional conduct: sexual relationships	No changes recommended	All
4757-5-05	Standards of ethical practice and professional conduct: impaired practice	No changes recommended	All
4757-5-06	Standards of ethical practice and professional conduct: assessment and testing instruments	No changes recommended	All
4757-5-07	Standards of ethical practice and	No changes recommended	All

professional conduct: research and publication

4757-5-08	Standards of ethical practice and professional conduct: payment for services	No changes recommended	All
4757-5-09	Standards of ethical practice and professional conduct: record keeping	No changes recommended	All
4757-5-12	Standards of ethical practice and professional conduct: professional disclosure for counselors, social workers and MFTs	No changes recommended	All
4757-5-13	Standards of practice and professional conduct: electronic service delivery (internet, email, teleconference, etc.).	No changes recommended	All

2. Please list the Ohio statute authorizing the Agency to adopt this regulation. Chapter 4757 of the Revised Code includes several Sections that provide rule making authorization including Section 4757.10 with some specific areas and 4757.11 for the ethics rules.

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?

No

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

Not applicable

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 regulations are needed to carry out the Board's mission in an effective and efficient manner. The Board licenses professional counselors, social workers and marriage and family therapists who provide mental health and other services to residents of Ohio. The

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Board ensures applicants for licensure meet the requirements established in Chapter 4757 of the Revised Code. The Board ensures that applicants maintain qualifications through requiring continuing education for each license renewal. The Board also provides regulatory oversight and discipline for licensees that do not follow professional standards of conduct.

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

The Chapter one rules are Board process rules and monitored by the Board as the year progresses in the reporting of Board activities by the executive director. The Chapter five rules provide the parameters for licensees' ethical practice as required by Section 4757.11 of the Revised Code. Success in the case of these rules will be measured by the improved understanding of licensees when interviewed in disciplinary cases. In order to support this goal, the Board has developed and implemented an online laws and rules exam required for all new licenses being issued, which provides a good starting knowledge of how the rules are used in scenario examples.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

Emails were sent via the Board's Listserv to all valid email addresses on 5/30/2012. Those emails had a link to the draft rules on the Board's web site. Separate emails were sent to all associations that have expressed interest in the last several years in any Board issues. Emails were sent to all counselor, social worker and marriage and family therapist education programs in Ohio colleges and universities with programs designed to lead to licensure under the Board's laws and rules.

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

Few inputs were received and none with any significant request for change to these filings.

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?

This question does not apply to these proposed rules.

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?

Since these rules govern statutorily mandated requirements and the Board did not receive

any significant level of opposition to the rules as written, the Board did not consider alternative regulations.

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.

These rules provide the requirements for ethical practice education requirements. The rules are not subject to performance-based measurement.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

This question does not apply to these rules.

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.

The rules, once the filing process is complete, are readily available on the Board's web site and a Listserv email will be sent to all licensees with information on the changes. The consistency of the Board's ethics and discipline processes are regularly reviewed and any non-standard ethics and all discipline situations are reviewed by the Board for resolution.

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;

Licensed counselors, social workers and marriage and family therapists and their employers

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

State law requires individuals seeking to practice counseling, social work and marriage and family therapy to comply with the laws and rules in the State of Ohio and more specifically to do so ethically. Licensees and employers need to be aware of the Board's rule and especially the ethics rules in order to comply.

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.

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Adverse impact from these rules is only for licensees who violate the ethics laws. If a licensee is investigated depending on the case facts the costs could be minimal including providing a written response or more serious may involve hiring an attorney and having a hearing. In the minimal case, the cost is time to provide a thoughtful response and perhaps an interview with a Board investigator. In a serious case, attorney fees and potential sanctions on a license could lead to a major expense of \$3,000 to \$7,000. The vast majority of cases have small expenses due to the nature of the violations. Serious violations cost more and having discipline on your license may impact future employment. The costs are based on input from attorneys who have represented clients in discipline cases before the Board.

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

The adverse impact is needed to protect the citizens of Ohio from licensees practicing unethically.

Regulatory Flexibility

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

There are not specific exemptions, but many alternatives within the discipline process. The majority of serious cases are resolved with a consent agreement working with the licensee's attorney resulting in a fair outcome from the Board's and licensee's perspective.

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?

The Board generally does not fine or penalize for minor paperwork in which case the licensee would receive a letter of caution. More serious paperwork violations can result in serious consequences. The Board plans to reference Section 119.14 in the next review of the Board's rule on fines, 4757-1-07.

18. What resources are available to assist small businesses with compliance of the regulation? *The Board and its staff are dedicated to working with members of the regulated community and the public to ensure that the consumers of professional counseling, social work and marriage and family therapy services in Ohio receive safe and effective services from the Board's licensees. As a result, the following resources are available:*

Board's mailing address:

50 West Broad Street, Suite 1075

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Board's phone number: 614-466-0912

Board's fax number: 614-728-7790

Board's website: <http://cswmft.ohio.gov>

Board's email: cswmft.info@cswb.state.oh.us

Board's Facebook: <http://www.facebook.com/pages/Ohio-Counselor-Social-Worker-Marriage-and-Family-Therapist-Board/349684261728174>

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