

Rule Summary and Fiscal Analysis (Part A)**State Board of Psychology**

Agency Name

Division

Ronald R Ross

Contact

**77 South High St Suite 1830 Columbus OH
43215-6108**

Agency Mailing Address (Plus Zip)

614-466-1085

Phone

614-728-7081

Fax

4732-17-01

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

**General rules of professional conduct pursuant to section
4732.17 of the Revised Code.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **4732.06**

5. Statute(s) the rule, as filed, amplifies or implements: **4732.17**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

In June 2006 the Court of Appeals of Ohio, Tenth Appellate District, ruled on an appeal brought by a psychologist whose license had ben revoked by the State Board of Psychology. In the opinion of the Court, OAC 4732-17-01 (E)(2) was deemed to be impermissibly vague and as failing to give fair notice as to what consitutes prohibited "dual relationships." Therefore, the proposed amendments to this rule in paragraph (E) are intended to replace the section of the rule, which was essentially invalidated by the Court. In addition, there are other related updates proposed in paragraph (C).

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

First, the proposed changes to (E):

The proposal is to replace (2) and (3) with a new rule as (1) and (2) and to move (1) "Impaired psychologist or impaired school psychologist" to (C) Welfare of the client (12).

The proposed amendments were written and approved by the Board, following the recommendation of a committee, which included representatives of the Ohio Psychological Association and other professional groups and an attorney/member of the public. The proposed language contains no words such as "should," "reasonably" and "potentially" and "likely." Instead, the rule sets forth specific behaviors and specific relationships that are prohibited due to inherent risks of impaired judgment or objectivity by the licensee and/or client or evaluatee or inherent risk of exploitation.

Second, the proposed changes to (C):

1) The proposed addition to (C) (4) "Dependency" is intended to foster consistency with the changes being made to (E) by providing notice that organizations and groups (rather than only persons) can and do serve as a "client" can be dependent on a psychologist and therefore must not be exploited. This also references a new proposed definition of "professional psychological role," which is critical to the new "dual relationships" rule in (E).

2) The proposed change to (7) is a housekeeping matter intended to update the rule to an acceptable term sexual "orientation" rather than the outdated sexual "preference."

3) The former (E) (1) is proposed for relocation to 4732-17-01 (C) "Welfare of the client" for clarity, so that (E) can be devoted to what are known as "multiple" or "dual" relationships. For this reason, the current text as (E) (1) is proposed to be struck (even though it was not part of the the court decision) and moved to (C) as (12). The proposed text in (12) is a modified version of the old (E) (1).

4) Finally, a new paragraph (13) is proposed here and is essentially the relocation of the current 4732-17-01 (2) (b). It is better placed here than in (E) because it is a requirement specific to maintaining client welfare when unforeseen situations arise and is not a part of the prohibited dual relationships to which the proposed 4732-17-01 (E) is devoted.

8. If the rule incorporates a text or other material by reference and the agency

claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

Not Applicable.

12. 119.032 Rule Review Date: **7/26/2009**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current

biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

0

Not applicable

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

Not applicable

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**