

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

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

Regulation/Package Title: Hearings & Counselor Five Year Rule Review – 9-20-2012 & Amended

Rule Number(s): 4757-11-03, 4757-11-04, 4757-13-01, 4757-13-02, 4757-13-03, 4757-13-04, 4757-13-05, 4757-13-06, 4757-13-07, 4757-13-08, 4757-15-01, 4757-15-02 and 4757-17-01

Date: \_\_\_\_\_

**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☐ Rescinded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.**

These rules are being filed as part of the requirement to review each rule of the Ohio Administrative Code every five years and one new rule. These rules are part of three different Chapters of the Administrative Code under Chapter 4757 of the Revised Code. The following rules have been reviewed by the Board and/or the appropriate Professional Standards

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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.

<b>Rule #</b>	<b>Title</b>	<b>Comments</b>	<b>PSC</b>
4757-11-03	Internal records management to maintain confidentiality	Adds the compliance coordinator and board-approved compliance monitors to access investigative records that are part of their official duties.	All
4757-11-04	Hearing procedures	No changes recommended	All
4757-13-01	Education requirements for admission to the examination for professional counselor	Deletes CORE practicum from the language. Deletes doctoral degree from paragraph (A)(5) as a new rule addressing doctoral applicants has been drafted.	CPSC
4757-13-02	Requirements for licensure as a professional counselor	No changes recommended	CPSC
4757-13-03	Experience requirements for licensure as a professional clinical counselor	Reworded paragraph (A)(4) for clarity.	CPSC
4757-13-04	Licensure and education requirements for admission of applicants holding a doctoral degree in counselor education to the examination for professional counselor who do not meet the education requirements in rule 4757-13-01	New rule – PC applications from applicants with counselor education doctorate degrees.	CPSC
4757-13-05	Professional counselor examination policy	Minor edits for clarity	CPSC

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4757-13-06	Endorsement of a professional counselor or professional clinical counselor license	Minor edit to update a referenced paragraph	CPSC
4757-13-07	Counselor program approval	Important change as to supervision of students registered as counselor trainees. We adopted CACREP standards, which requires Triadic supervision of students, which is defined.	CPSC
4757-13-08	Approval of applications for professional counselor licenses	No changes recommended	CPSC
4757-15-01	Scope of practice for professional counselor	Modified paragraph (A) for clarity and removed paragraph (C) as being unnecessary.	CPSC
4757-15-02	Scope of practice for a professional clinical counselor	Minor changes for clarity	CPSC
4757-17-01	Counseling supervision	Change to “Training supervision” definition to comply with CACREP accreditation standards. Changed paragraph (C)(4) for clarity. Removes new applications for PC supervision designation.	CPSC

**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 4757.38 for the investigation rules and 4757.21, 4757.22 & 4757.23 for the counselor licensure and practice rules and 4757.15 for the examination 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.

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- 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 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 11 rules provide guidance for internal records management of investigation files and hearing procedures as required under Sections 4757.10 & 4757.38. The Chapters 13, 15 & 17 rules provide the parameters for counselor licensure at two levels professional counselor and professional clinical counselor as required by Section 4757.10, 4757.15, 4757.21, 4757.22 & 4757.23 of the Revised Code. Success in the case of the Chapter 11 rules will be measured by having the rules written in plain language for clarity and the Board ensuring confidential records are appropriately maintained and hearings follow the Board's rule as well as Section 119.03 of the Revised Code. The board's assigned assistant attorney general will be presenting the cases and ensuring compliance as well as an attorney will act as the hearing officer in all formal actions taken to ensure compliance. The Chapter 4757-13, 4757-15 & 4757-17 rules will be measured by having the rules written in plain language for clarity, by no licensees receiving counselor licenses without meeting all requirements and counselor licensees understanding their scope of practice and providing supervision appropriately per the rules.

### **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

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issues. Emails were sent to all counselor 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?**

Many inputs were received and minor changes made prior to filing. There was no serious level of disagreement received with these rules.

**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 most of these proposed rules. The educational and exam requirements are national requirements, established in accordance with appropriate standards. Other rules are outlining processes followed by the Board in accordance with provisions of the Ohio Revised Code.

**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.*

This question does not apply to these rules.

**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 discipline processes is regularly reviewed and any non-standard situations are reviewed by the Board for resolution. Counselor licensure and practice standards as developed in these rules are reviewed regularly. As issues arise they are added to the Counselor Professional Standards Committee Agenda for review, discussion and resolution.

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### **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 for Chapter 4757-11 rules; and licensed counselors for Chapters 4757-13, 4757-15 & 4757-17 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 to comply with the laws and rules in the State of Ohio. Applicants have to comply with application fees, have acceptable degrees, have supervised experience for the professional clinical counselor license, criminal records checks, passing scores on the licensure exam, provide transcripts directly to the board from the granting institution, etc. Another adverse impact is completing the application process in a timely manner, which if not done can limit employment opportunities. Out-of-state applicants many times do not meet the educational requirements in Sections 4757.22 and 4757.23 of the Revised Code due to less specific requirements in the state or university attended.

**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.*

Licensure fees are \$60 for professional counselors and \$75 for professional clinical counselors per rule 4757-5-01. A master’s degree can cost anywhere from \$30,000 to \$75,000 depending on the school attended based on tuition costs. The licensure exam for professional counselors is \$180 and for professional clinical counselors \$170 per contract with the provider. The cost for the criminal records check is \$22 for the BCI and \$24 for the FBI, plus a processing fee that may be charged by the entity processing the fingerprints. Out-of-state applicants many times have to take additional coursework in order to meet the requirements for licensure, which can be from three to twelve semester hours with costs of \$450 to \$750 per credit hour as well as lost income due to inability to practice until licensed.

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

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In order to meet statutory requirements, the Board requires applicants to graduate from an appropriately accredited program and passage of the national exam. By complying with standards, the Board can both accomplish its mission of public protection by ensuring that applicants for licensure have met minimal standards required to ensure that the individual will be a safe and competent. The requirements for the criminal records check and the license are established in state law.

### **Regulatory Flexibility**

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

These are individual applicant focused rules, but yes, the rules have an endorsement option for licensees that hold a license in another state, which is processed under rule 4757-13-06. In practice, if the licensee has at least five years of practice in which they have been diagnosing and treating mental and emotional disorders most of any missing coursework is deemed fulfilled by job experience and applicants obtain a professional clinical counselor license. In all other instances, there are no alternative means of meeting the requirements.

**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**

**Columbus, Ohio 43215**

**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](mailto: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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