



Common Sense Initiative

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Business Impact Analysis

Agency, Board, or Commission Name: Ohio CSWMFT Board

Rule Contact Name and Contact Information:

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

2023 Five Year Rule Review and Additional Rule Changes

Rule Number(s): 4757-1-05, 4757-1-01, 4757-1-03, 4757-1-04, 4757-1-09, 4757-5-02, 4757-5-04, 4757-5-06, 4757-5-07, 4757-5-09, 4757-5-10, 4757-5-11, 4757-7-01, 4757-7-03, 4757-9-01, 4757-9-02, 4757-9-03, 4757-9-04, 4757-9-05, 4757-9-06, 4757-9-07, 4757-11-01, 4757-11-03, 4757-13-02, 4757-13-06, 4757-13-08, 4757-19-02, 4757-19-07, 4757-19-08, 4757-21-01, 4757-25-06, 4757-25-07, 4757-27-02

Date of Submission for CSI Review: 8/18/2023

Public Comment Period End Date: 9/1/2023

Rule Type/Number of Rules:

New/ 0 rules

No Change/ 6 rules (FYR? 6)

Amended/ 27 rules (FYR? 18)

Rescinded/ 0 rules (FYR? 0)

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

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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.

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.

Notes about the proposed changes:

- Rules have been revised to reduce use of “counselors, social workers, and marriage and family therapists”. Where practical, “licensees and registrants” is used.
- References to art therapy/therapist, music therapy/therapist have been inserted where appropriate in response to the new licenses authorized in House Bill 33.

4757-1-01 Adoption of rules and methods of public notice.

This rule defines how rules are adopted and the timeframes for public notices about possible rule changes.

- No changes proposed.

4757-1-03 Minutes of board meetings.

The rule defines the timeframe for completing and publishing the minutes of the Board.

- Changed to “drafted” from “recorded” to reflect how minutes are processed.
- Extended post-meeting preparation time to 15 business days, ensuring sufficient time following the meeting to prepare the minutes.

4757-1-04 Applications of first licensure.

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In this rule the basic requirements for issuing all licenses of the Board are described, including the requirement to apply in a form required by the board, providing certain documents such as transcripts, and completing background checks, among others.

- Clarifies that applicants and licensees are responsible for establishing and maintaining a password to the online system selected by the Board.

4757-1-05 License fees.

This rule delineates the Board's fees for all license types and services for which the Board charges a fee.

- Eliminates the fee for a single program approval.
- Reduces by 50% the Provider fee.

4757-1-09 Conditional Permission to Practice

Rule 1-09 describes the circumstances under which temporary permission to provide services may be granted to a qualified out of state licensee with a client who is moving to Ohio.

- Removes provision allowing for a renewal of conditional permission. With the passage of the reciprocity bill, the Counseling Compact, and a pending Social Work Compact, out of state clinicians will have ample means to assist clients located in Ohio.

4757-5-02 Standards of ethical practice and professional conduct: clients/consumers of service

This rule is a broad ethical practice rule covering the expectations a client can have of a licensee of the Board. Such topics covered include requirements to practice only in areas of competence, confidentiality, client informed consent, and termination of services.

- Clarifies the termination language regarding referrals.

4757-5-04 Standards of ethical practice and professional conduct: sexual relationships.

Restrictions regarding sexual relationships are defined in this rule.

- Changes wording from "intimacies" to "relations".

4757-5-06 Standards of ethical practice and professional conduct: assessment and testing instruments.

Licensee qualifications and standards for applying and analyzing psychological testing instruments are defined.

- No changes proposed.

4757-5-07 Standards of ethical practice and professional conduct: research and publication.

This rule defines how licensees may engage in professional research and publication while protecting the rights and health of clients who may be subjects of the research.

- No changes proposed.

4757-5-09 Standards of ethical practice and professional conduct: record keeping.

Requirements for recordkeeping, such as timeframes, required content, and security of records are defined in this rule.

- Adds a reference to case notes.
- Removes individual service plans reference; adds treatment plan and correspondence among records to maintain.

4757-5-10 Standards of ethical practice and professional conduct: reporting unethical actions.

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This rule outlines when and how licensees of the Board must report law and rule violations of other licensees of the Board. Also included is information regarding when and under which laws a Board licensee is a mandated reporter.

- Changes references to “licensees and registrants” instead of only “licensees”.

4757-5-11 Standards of ethical practice and professional conduct: change of name and/or address.

This rule obligates licensees to update the Board when they change their name or have a personal/professional change in address.

- No changes proposed.

4757-7-01 Renewal of license or certificate of registration.

Requirements for licensure renewal are described, including CE requirements, requirements for waivers, and military spouse and active-duty military renewals.

- Removes reference to not sharing usernames and passwords. Many licensees are now assisted by credentialing professionals, necessitating the sharing of login information.

4757-7-03 Inactive status of license; restoration.

This rule describes how a licensee may place their license in inactive/escrow status. Also described is the process for reactivating an escrowed license, including requirements for possible assessments of competency based on the length a license is inactive.

- Revises the requirements for restoration. Licensees with a license in inactive escrow for five or more years must complete 45 hours of continuing education, as opposed to 30 hours for restoration under five years. Those with a license inactive for 10 or more years may be required to complete a competency-based appraisal, a mentorship, or meet similar other requirements.

4757-9-01 Continuing education requirements for renewal of a marriage and family therapist or independent marriage and family therapist license.

- Defines the amount and type of CE required for a license renewal. Includes reference to “supervision endorsement” (“S”)

4757-9-02 Continuing education requirements for renewal of a licensed professional counselor or a licensed professional clinical counselor.

Defines the amount and type of CE required for a license renewal.

- Includes reference to “supervision endorsement” (“S”)
- Removes references to training in “administration”.

4757-9-03 Continuing education requirement for renewal of a certificate of registration as a social work assistant or a license as a social worker or an independent social worker.

Defines the amount and type of CE required for a license renewal.

- Includes reference to “supervision endorsement” (“S”).
- Removes reference to CE required for renewal of licensure by persons with a related degree.

4757-9-04 Clock hours for continuing professional education.

Defines the hours that may be claimed for certain CE programs.

- Clarifies the hours for presentations.
- Reduces the banked hours for SWAs from 12 to 6 to reflect recent reduction in required CE from 30 to 15.

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4757-9-05 Approval of continuing professional education programs required for renewal of licenses and certificates of registration issued by the board.

Outlines the process for Board review and approval of CE programs and providers.

- Eliminates approval of single CE programs.
- Discontinues post-program approval; program currently eligible for post program approval will be set up for submission via the “report CE” function in CE Broker.
- Simplifies the requirements for applying for CE provider status.
- Adds state agencies to the list of approved providers.

4757-9-06 Sources of continuing professional education.

Defines the type of CE a licensee can use to meet renewal requirements, including seminars, online programs, and college courses, among others.

- Removes unnecessary technology and CE type definitions.
- Clarifies acceptance of CEs based on profession/license type.

4757-9-07 Documentation of continuing professional education required for renewal of a license or certificate of registration.

Outlines the requirements for CE certificates and other documentation to indicate completed CE for licensure renewal.

- Adds phrase “licensees and registrants”.

4757-11-01 Denial, and disciplinary action for licenses or certificates of registration issued by the counselor, social worker, and marriage and family therapist board.

In this rule, the reasons for which a license may be denied, or a licensee is disciplined, are outlined. These include felon convictions, violations of ethics rules, failing to respond to investigations, among other reasons.

- Added a provision clarifying that after initial licensure, a felony conviction in Ohio or any other state may be the basis for discipline.

4757-11-03 Internal records management to maintain confidentiality.

Confidentiality of investigative records is established in this rule.

- No changes proposed.

4757-13-02 Requirements for licensure as a professional counselor.

Requirements to obtain an LPC are outlined, including education and examination requirements; directs licensees to 47-57-1-04.

- Removes reference to “good moral character” not removed in a previous revision.

4757-13-06 Endorsement of a professional counselor or professional clinical counselor license.

This rule defines how an out of state license may obtain a license via reciprocity, including verification, license type, and examination requirement.

- Modifies the rule to reflect the changes included in Senate Bill 131.

4757-13-08 Approval of applications for professional counselor licenses.

This rule defines the information the Board may consider, such as examination scores, degree, and background checks, when approving a license application

- Modifies the rule to include a reference to Rule 4757-13-06
- Allows the Counselor Professional Standards Committee to delegate certain reviews to Board staff.

4757-19-02 Requirements for licensure as an independent social worker.

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Defines the requirements, such degree type and examination necessary for issuance of an LISW

- Adds a reference to Rule 4757-19-07 to address changes resulting from SB 131.

4757-19-07 Endorsement of a social work license.

This rule defines how an out of state license may obtain a license via reciprocity, including verification, license type, and examination requirement.

- Modifies the rule to reflect the changes included in Senate Bill 131.

4757-19-08 Approval of applications for social worker licenses and registration.

- Adds a reference to Rule 4757-19-07.

4757-21-01 Scope of practice for a registered social work assistant.

This rule defines the range of activities in which an SWA may engage in as a Board registrant.

- No changes proposed.

4757-25-06 Endorsement of a marriage and family therapist license.

This rule defines how an out of state license may obtain a license via reciprocity, including verification, license type, and examination requirement.

- Modifies the rule to reflect the changes included in Senate Bill 131.

4757-25-07 Approval of applications for marriage and family therapist licenses.

This rule defines the information the Board may consider when approving a license application.

- Adds a reference to Rule 4757-25-06 to address changes resulting from Senate Bill 131.

4757-27-02 Scope of practice of an independent marriage and family therapist.

This rule defines the specific activities in which an IMFT may engage in as a Board licensee.

- No changes proposed.

3. 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. ORC 4757.10 authorizes the Board to write administrative rules to implement ORC 4757.

4. 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 federal requirements are imposed through these rule changes.

5. 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. Not applicable.

6. 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)? Broadly discuss nature of changes. None of the rules in this package could be significantly changed or eliminated without a loss of public protection. The Board, in making any changes to the rules, is mindful of balancing the need for persons to enter the field through fair and effective standards, licensed persons to practice with only the most necessary rules as they themselves must also abide by the rules they write and enforce. The rules in this package are necessary to ensure the public is protected when receiving services and assistance from licensees of the Board.

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Broadly speaking, the proposed changes reflect refinements and updates to the rules that reflect changes and trends emerging in the regulated professions. No new rules are being proposed in this package. No significant new restrictions on practice are being considered.

7. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?** No specific measurements of outputs or outcomes are proposed. However, the Board does expect to gain efficiencies in its review of continuing education by eliminating single program approvals and replacing it with expanding access to provider approval, which will give organizations interested in offering continuing education more opportunities.
8. **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?** Not applicable.
If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation. N/A.

Development of the Regulation

9. **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. Over 40,000 licensees and stakeholders were invited in June 2023 to submit comments; the rules were discussed during the July 2023 Board meeting. Comments were received by associations and licensees. The comments were centered on three supervision rules that will not be filed in this package until additional research and evaluation can occur. Additionally, in July of 2023 rules regarding continuing education outline in OAC 4757-9 were published for comment. No substantive comments were received.

What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency? As noted, almost all feedback related to three rules that will not be filed.

10. **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?** No scientific data was employed in developing the proposed rule changes.
11. **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. No specific alternatives to the proposed rules were considered. No specific performance-based regulations were considered. Generally, to ensure public protection, all licensees must be subject to the same specific regulations that provide clear direction regarding expectations and compliance.
12. **What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?** The Ohio CSWMFT Board is the sole regulatory authority for the practice of Social Work, Counseling, and Marriage and Family Therapy. The rules proposed pertain only to the three professions regulated by the Board.

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- 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.** Once approved and effective, licensees will be notified via e-mail and the Board’s social media accounts. The revised “laws and rules” PDF maintained by the Board will be revised and reposted to the Board web site. Board staff will be available to answer any questions licensees and stakeholders may have about the rule changes once in effect. The Board provides enough notice of the pending change to licensees for them to prepare any changes. Most of the rule changes do not require specific action on the part of licensees once the rules are in effect.

Adverse Impact to Business

- 14. 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 impacted community includes members of the public, licensees, students, educators, education programs, and those agencies and practices that employ Board licensees.

An adverse impact exists because the rules impose requirements for licensed persons. As licensed persons that must learn and comply with the rules. Failure to follow the rules can result in discipline, including license suspension or revocation. The rule changes proposed should result in no direct expenditure of financial resources, nor should the rules limit the ability of licensees to operate effectively as businesspersons. To the degree the rules constrain licensee behavior it is with respect to ethical behavior directly impacting clients and the public. The possible adverse impact cannot be quantified as the changes do not impose any expenditures or institute any fees or penalties.

- 15. 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*).**

By implementing single program approvals in favor of issuing a provider status, entities seeking to provide continuing education will have a more efficient and effective means of providing CE, allowing them to expand offerings while eliminating the need to reapply for permission regularly. In making this change, the provider fee will be reduced to \$125 from \$250.

- 16. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?** The adverse impact is justified because of the public protection focus of the Board’s rules. The rules establish a foundation for the ethical practice

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of regulated professions. The rules do not create significant barriers that impede the ability of existing licensees to practice nor do the rules unduly create barriers to entry for new licensees.

Regulatory Flexibility

- 17. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.** No. These rules ensure the public is protected. No exceptions are provided based on the size or type of business.
- 18. 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 rules in question do not currently result in any fees or penalties that require a waiver.
- 19. What resources are available to assist small businesses with compliance of the regulation?** The rules apply to practice of the professions by individuals. The Board is available to consult with persons who must comply with the rules. Guidance and clarifications about the rules are issued by the Board to ensure that licensees or agencies/practices that employ licensees who must comply with the rules.