

**MEMORANDUM**

**TO:** Brian Carnahan, Counselor, Social Worker & Marriage and Family Therapist Board

**FROM:** Christopher Smyke, Regulatory Policy Advocate

**DATE:** November 13, 2017

**RE:** **CSI Review – 2017 Rule Changes (OAC 4757-1-04, 4757-1-05, 4757-1-08, 4757-1-09, 4757-3-01, 4757-5-02, 4757-5-11, 4757-5-13, 4757-7-03, 4757-9-01, 4757-9-03, 4757-9-04, 4757-9-05, 4757-9-06, 4757-9-07, 4757-13-01, 4757-13-02, 4757-13-03, 4757-13-08, 4757-15-02, 4757-19-01, 4757-19-02, 4757-19-08, 4757-21-03, 4757-25-01, 4757-25-03, 4757-25-07, 4757-27-02, and 4757-29-01)**

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On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

**Analysis**

This rule package consists of twenty-eight amended<sup>1</sup> rules and one new rule proposed by the Counselor, Social Worker & Marriage and Family Therapist Board (Board). The rule package was submitted to the CSI Office on August 4, 2017 and comments were accepted through September 8, 2017. Four comments were received during the CSI review period. The Board provided a revised BIA on November 2, 2017.

The rule package contains rules pertaining to the licensure for professions regulated by the Board, including applications for initial licensure, military provisions, inactive status and restoration, continuing education (CE) for license renewal, approval of applications, and requirements for education and licensure. The package also includes rules covering definitions, standards of ethical practice and conduct, sources and Board approval of CE, and supervision of marriage and family

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<sup>1</sup> Ohio Administrative Code 4757-5-13, 4757-9-01, 4757-9-03, 4757-13-01, 4757-13-02, 4757-13-03, 4757-13-08, and 4757-19-02 are listed in the BIA as subject to five-year review.

therapy.

Substantive changes to the amended rules include removing the B- standard for graduate coursework, requiring on-going informed consent during custody issues, providing the option for patients to waive encryption during electronic service delivery, requiring licensees to notify the Board of a name or address change, and adding a seven-year exam retake standard on individuals with an inactive license for each profession. The rules feature many adjustments to CE, including reducing the number of required hours for certain licenses, permitting licensees to complete all CE online, allowing CE providers to buy or contract for the provision of programs, and permitting volunteer service as a source of CE credit, per House Bill 290 of the 131st General Assembly. The amendments also incorporate minor changes, such as title corrections for social work assistants, defining terms, language clarifications, reference updates, and removing a provision for which the timeframe has expired. In addition, the draft rules feature numerous changes to align with the e-license system. The new rule permits the Board to grant conditional permission to provide services to individuals who hold a license from another jurisdiction.

The Board discussed the proposed new and amended rules over the course of a year at meetings of the Professional Standards Committee and full Board meetings; the meetings were open to the public and afforded stakeholders and licensees the opportunity to comment on the draft rules. The Board also notified stakeholders and licensees of the draft rules via their listserv and requested input. The Board received comments regarding the amendments to expand online CE and the removal of the counseling grade restriction; the Board decided against making the suggested changes, but provided its justification in the BIA.

Four comments were received during the CSI public comment period. One comment expressed support for the Board's decision to remove the B- requirement on graduate coursework. A representative of the Ohio Counseling Association provided a comment, expressing concern over allowing all CE hours to be fulfilled online by counselors and marriage and family therapists. The Board responded, justifying the rule change with the demand from licensees to complete CE online, and the desire to align the rule with the requirement for social workers, who have been able to complete all CE online for several years. Finally, comments were received from the National Association of Social Workers (NASW) and a licensee, both concerned about the Board's proposed removal of blanket approval of CE offered by the NASW and Association of Social Work Boards. The Board responded that it has elected to create an application and renewal process for this type of approval status, which would give organizations that represent other regulated professions the opportunity to attain the same approval status, thus allowing more CE options for licensees.

While the initial BIA stated that the proposed amendments do not create any additional adverse impacts, since the rule package contains eight rules subject to five-year review, CSI requested a more thorough analysis of the adverse impacts of those pre-existing rules on November 1, 2017.

The Board furnished a revised BIA with the requested information on November 2, 2017. The adverse impacts in these particular rules include the costs to provide electronic services, CE requirements in terms of time and fees, requisite education in bachelor's and master's degrees, and the cost of requesting a transcript from educational institutions. The rest of the rules entail adverse impacts in time and monetary fees for various applications, and the necessary documentation for CE credit and license renewal. Board may also levy additional requirements on individuals with an inactive license that they wish to return to active status; these requirements may include, but are not limited to performance appraisals, mentorship, additional CE, and extended coursework.

The BIA justifies the rules with the need to protect the public by ensuring that only authorized professionals practice counseling, social work, or marriage and family therapy. The BIA also notes that many of the rules regarding education, examination, and CE requirements simply reflect the requirements outlined in statute. The Board emphasizes that the proposed rules do not expand the regulatory burden on licensees and in many places, such as alignment with e-licensing and expanding the use of online CE, the rules actually reduce the adverse impact on licensees.

After reviewing the proposed rules, accompanying BIA, and the Board's response to comments, the CSI Office has determined that purpose of the rules is justified.

### **Recommendations**

For the reasons discussed above, the CSI Office does not have any recommendations for this rule package.

### **Conclusion**

Based on the above comments, the CSI Office concludes that the Board should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

CC: Emily Kaylor, Lt. Governor's Office