



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

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

FROM: Ethan Wittkorn, Regulatory Policy Advocate

DATE: November 13, 2020

RE: CSI Review – 2020 Five Year Rule Review (OAC 4757-1-02, 4757-1-07, 4757-1-08, 4757-3-02, 4757-5-02, 4757-5-10, 4757-6-01, 4757-6-02, 4757-7-02, 4757-11-02, 4757-13-03, 4757-25-01, 4757-25-04, 4757-25-05, 4757-27-01, 4757-29-01, 4757-31-01, 4757-31-02, 4757-31-03, 4757-31-04, 4757-31-05, and 4757-99-01)

On behalf of Lt. Governor Jon Husted, 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 Board as provided for in ORC 107.54.

Analysis

This Ohio Counselor, Social Worker and Marriage and Family Therapist Board (Board) rule package consists of 11 amended and 11 no change rules. It was submitted to the CSI Office on March 10, 2020, and the public comment period was open through March 31, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on March 10, 2020.

This rule package covers the Board's administrative rules, military licensure, ethics and professional conduct, report preparation, license requirements, scope of practice, allowable titles, and accessing confidential information. Changes proposed to the rules include updates to acknowledge the use of email correspondence, to expand non-discrimination rules to include biases such as income and political beliefs, and to update ORC references. Additional changes include the expansion of biases considered for court reports, clarification of license renewal including that continuing education may be used for more than one renewal, alignment of rules with accreditation standards for marriage and

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family therapists, and allowing independent marriage and family therapists to meet supervision continuing education through maintaining accreditation with the American Association of Marriage and Family Therapists.

Additionally, amendments are proposed to add a temporary license for military members and spouses to comply with ORC 4743.041, enacted by Am. Sub. Senate Bill 7 (133rd General Assembly). The bill requires the Board to issue a temporary occupational license to individuals who are on military duty or whose spouse is on military duty in Ohio, who hold a valid license in good standing to practice the profession in another state or jurisdiction, and who comply with background check requirements. The license must be issued at no cost and the Board must adopt rules to ensure that the application of a military member or their spouse is tracked, prioritized, and expedited.

During the period of early stakeholder outreach, the Board notified licensees and other stakeholders through a newsletter and other communications from the Board. The rules were also discussed in several public Board meetings. The Board states that the only comment submitted during this period sought clarification on the rules. The Board did not receive any comments during the CSI public comment period.

Impacted communities include licensees of the Board, students, educators, and employers of licensees. Adverse impacts include potential disciplinary measures, including license suspension, revocation, or fines for failure to comply with the rules. Additional adverse impacts include the time and costs necessary to apply for a license, compliance with evidence requirements to prove that ethical standards and confidentiality requirements are met, reporting requirements if an unethical action occurs, meeting educational, experience, and continuing education requirements, submitting to a mental or physical examination if requested, completing licensure examinations, and meeting supervision requirements for licensure as an independent marriage and family therapist.

The Board states that the rules are necessary for public protection, and to establish rules for the ethical practice of the regulated professions.

Recommendations

Amended Substitute Senate Bill 7 (133rd General Assembly) provides military members and their spouses with better employment opportunities by simplifying the process to transfer their occupational licenses to Ohio. The bill mandates that state licensing agencies issue licenses or certificates to military members and spouses who already hold a valid license to practice a trade or profession in another state, in a timely manner and at no cost.

The bill ensures that the State of Ohio has procedures in place to provide exceptional customer service and support to our military members and their families. Therefore, CSI makes the following recommendations to the Board.

1. Clarification

The rule as proposed states that a temporary military license expires after six years and is not renewable. However, (F)(6) contradicts by waiving the renewal fee. CSI recommends that the Board clarify whether the license is renewable.

2. Track, Prioritize, and Expedite

ORC 5903.04, as amended by Am. Sub. S.B. 7, requires boards to establish and implement processes by rule for 1) obtaining documentation to determine military status, 2) recording, tracking, and monitoring applications from military members and their spouses, and 3) prioritizing and expediting licensing for military members and their spouses, including any appropriate special accommodations.

The proposed rules provide some provisions to prioritize applications for permanent licensure, but for temporary licensure the rules do not provide any more information than what is already required in statute, and do not address how the Board will obtain documentation, record, track, monitor, prioritize, and expedite licensing.

Therefore, CSI recommends that the Board more clearly define how it will meet its statutory obligations regarding these processes.

Conclusion

Based on its review, the CSI Office recommends that the Board should review its proposed rules based on the recommendations above prior to filing them with the Joint Committee on Agency Rule Review.