



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

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

FROM: Joseph Baker, Business Advocate

DATE: November 23, 2021

RE: CSI Review – Spring 2021 Rule Changes (OAC 4757-1-04, 4757-1-07, 4757-3-01, 4757-5-10, 4757-7-01, 4757-9-05, 4757-9-06, 4757-9-07, 4757-11-01, 4757-13-01, 4757-13-04, 4757-13-09, 4757-13-10 (New), 4757-15-02, 4757-17-01, 4757-19-01, 4757-19-03, 4757-19-04, 4757-19-05, 4757-19-06, 4757-21-02, 4757-21-03, 4757-25-03, and 4757-25-08)

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 rule package consists of twenty amended rules and one new rule proposed by Ohio Counselor, Social Worker, and Marriage and Family Therapist Board (Board). This rule package was submitted to the CSI Office on September 23, 2021, and the public comment period was held open through October 23, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on September 23, 2021.

This rule package sets forth various licensing requirements, application and registration processes, scope of practice limitations, license renewal and continuing education responsibilities, and examination standards and policies for social workers and marriage and family therapist licensees and trainees.

Ohio Administrative Code (OAC) 4757-1-04 specifies the application process for licensure by the

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

Board. The rule has been amended to remove language referencing good moral character requirements and streamline language. OAC 4757-1-07 outlines actions by a licensee that may be subject to discipline and specifies the action that will be taken by the Board for each type of offense, including fines, suspension of a license, reprimands, and others. The rule also describes qualities of an offense that may result in an increased or decreased punishment. The rule is amended to specify disciplinary actions that may be taken with respect to failure to appropriately report animal abuse. OAC 4757-3-01 establishes definitions for rules promulgated by the Board and has been amended to recognize trainee registration, and to clarify and simplify wording. OAC 4757-10 describes licensees' responsibility to report various violations or illegal activities and has been amended to incorporate animal abuse reporting requirements.

OAC 4757-7-01 describes the process for renewing a license issued by the Board, including meeting continuing education requirements and submitting documentation, and has been amended to adopt various clarifying changes. OAC 4757-9-05 outlines requirements for continuing education programs required for licenses and certificates issued by the Board. The rule is amended to state that continuing education to develop business skills shall not be accepted, to define post-program approval, to allow various state health boards and agencies to provide continuing education training provided the subject of the training is related to the professions regulated by the Board, to allow other state entities to provide continuing education training if approved by a majority vote of the Board, and to permit the Board to not award credit for such programs if the Board determines the training did not apply to the relevant profession, to prohibit licensees from obtaining post-program approval for training provided in Ohio that was not preapproved by the Board, and to adopt other clarifying changes.

OAC 4757-9-06 outlines potential sources of continuing education and establishes requirements for such programs (including that the primary purpose be for education) and describes other pathways to obtain continuing education credit, such as publishing journal articles or completing volunteer service. The rule is amended to permit the Board to provide credit for continuing education courses approved by other state boards. OAC 4757-9-07 requires licensees to provide documentation to the Board regarding the completion of all continuing professional education requirements for renewing a license or certificate and has been amended to reflect the opportunity to upload information to an online system. OAC 4757-11-01 permits the Board to refuse licensure, discipline licensure, or refuse examination privileges to individuals who do not meet various criminal background requirements to who have committed certain offenses. The rule is updated to replace standards requiring good moral character with a requirement to comply with criminal background standards. The rule is also amended to permit discipline of any supervising licensee who fails to report information to the Board regarding individuals under his or her supervision's incapacity to appropriately perform their duties or the commission of potential crimes, or to fail to respond in a timely manner to a request for an

evaluation for an independent license from a current or former supervisee.

OAC 4757-13-01 and 4757-13-04 outline requirements for admission to the examination for licensure as a professional counselor. OAC 4757-13-01 has been amended to adopt national standards under the Council for Accreditation of Counseling and Related Educational Programs, while OAC 4757-13-04 has been amended to remove references to licensees' good moral character requirements. OAC 4757-13-05 requires applicants for examination for licensure as a counselor or clinical counselor to be approved prior to sitting for examination. The rule has been amended to extend the validity of an examination approval letter from six to twelve months and to remove a requirement that an individual who fails the examination obtain a new letter prior to retaking the examination. OAC 4757-13-09 requires counseling students prior to receiving their counseling degree who are practicing in the profession in an educational context to register as counselor trainees with the Board. The rule has been amended to remove references to good moral character requirements, to remove a section requiring licensees to document proof of counselor training status using the Board's online licensing system, to clarify that the trainee registration is valid for the dates specified on the online licensing system, and to cap trainee registration extensions at no more than six months following graduation.

OAC 4757-13-10 is a new rule that establishes requirements for a temporary counselor license, which is designed to allow a licensee to practice after graduation but prior to formal licensure. These requirements include submitting a completed licensure application and payment of a fee. Temporary licenses are valid for up to 90 days and may be renewed once. OAC 4757-15-02 outlines the scope of practice for a licensed professional clinical counselor and has been amended to allow supervision of certified prevention specialist assistants in lieu of prevention specialists. OAC 4757-17-01 sets forth supervision standards for counselor trainees and counselors who are working towards licensure as professional clinical counselors. The rule is amended to expand the maximum number of group supervision participants from six to eight, to remove a reference to in-person supervision, to clarify that trainees may be compensated, and that required supervision evaluation forms must be submitted to the Board within 30 days of the conclusion of the supervision.

OAC 4757-19-01 establishes requirements for licensure as a social worker, such as payment of an application fee, graduation from a qualifying program, completion of coursework requirements, and others. The rule is amended to remove specific coursework hour requirements, to permit the licensure review committee to waive certain field work licensure requirements at its discretion, and to adopt Council on Social Work Education internship standards, rather than require a specific number of clock hours of field work. OAC 4757-19-03 outlines registration requirements for social work assistants and has been amended to expand the types of classes that may qualify toward social service technology degree curriculum requirements and to require passing grades in such courses,

rather than a “C” or better. OAC 4757-19-04 sets forth the social work examination policy, including requiring applicants to submit academic transcripts, a statement from the social work department or registrar documenting the student’s graduation progress, and meet other requirements. The rule is amended to extend the validity of an examination approval letter from the Board to 12 months instead of 6, and to remove an informational note regarding how the Board is notified regarding test results.

OAC 4757-19-05 establishes requirements to apply as a social worker trainee. Requirements include enrollment in a master’s level field education course, supervision by an approved and licensed social worker, and meeting the Board’s criminal background requirements for criminal convictions, among others. The rule is amended to reference to good moral character standards, reflect changes in the online licensing system related to documenting proof of registration, clarify that trainee status is valid for the duration specified by the licensing system and that trainee status may not be extended more than 6 months following graduation. OAC 4757-19-06 describes requirements to obtain a temporary social work license and has been amended to clarify the duration for which a license is valid and to adopt clarifying changes. OAC 4757-21-02 and OAC 4757-21-03 set forth the scope of practice for social workers and independent social workers and have been amended to add prevention as an area of psychosocial duty for social workers and to clarify that independent social workers may perform any duties performed by social workers.

OAC 4757-25-03 establishes general licensing requirements for marriage and family therapists, including meeting educational standards, criminal conviction standards, submission of an application, and payment of a fee. The rule is amended to remove references to the applicant being of good moral character. Lastly, OAC 4757-25-08 specifies registration responsibilities for students seeking to obtain a marriage and family therapy degree. The rule is amended to remove references to good moral character requirements and to clarify the duration for which a registration is valid.

During early stakeholder outreach, the Board provided the proposed rules to approximately 39,000 licensees and stakeholders and received 24 comments. Based on the comments received from stakeholders, the Board made several revisions to the rules prior to filing with the CSI Office. No comments were received during the CSI public comment period.

The business community impacted by the rules includes licensees or registrants regulated by the Board, students seeking to obtain a license or registration regulated by the Board and related education or continuing education programs, and entities that employ licensees or registrants regulated by the Board. The adverse impact to business created by the consists of the costs of completing education requirements to obtain a license or continuing education requirements to renew a license, costs of application or licensure renewal fees, potential loss of employment

opportunity for those who have committed various disqualifying offenses, costs of obtaining a background check, disciplinary action including fines, denial of licensure, or suspension or revocation of a license for violating the rules, administrative expenses and time necessary to file various mandatory offense reports, costs necessary to obtain approval of education programs designated for completing continuing education requirements, time and costs connected to applying for examination privileges from the Board, and potential business opportunity loss related to limiting the scope of practice for licensees. The Board states in the BIA that the adverse impact to business is necessary to establish a foundation for the ethical practice of the profession, protect the public welfare, ensure that licensees observe appropriate boundaries, guarantee that licensees meet basic, nationally accepted licensure standards for each profession, and ensure that the Board can act when a licensee is impaired while practicing.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that Ohio Counselor, Social Worker, and Marriage and Family Therapist Board should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.