



Common Sense Initiative

Mike DeWine, *Governor*
Jon Husted, *Lt. Governor*

Joseph Baker, *Director*

MEMORANDUM

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

FROM: Jacob Ritzenthaler, Business Advocate

DATE: September 19, 2023

RE: CSI Review – 2023 Five Year Review (OAC 4757-1-01, 4757-1-03, 4757-1-04, 4757-1-05, 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 through 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, and 4757-27-02)

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-seven amended rules and six no-change rules proposed by the Ohio Counselor, Social Worker and Marriage and Family Therapist Board (Board) as part of the statutorily required five-year review. This rule package was submitted to the CSI Office on August 18, 2023, and the public comment period was held open through September 1, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on August 18, 2023.

Many of the rules in this package include amendments that include the newly authorized licenses for art therapists and music therapists, as well as streamlining rule language to read "licensees and registrants" where appropriate. Ohio Administrative Code 4757-1-01 establishes the process for adopting rules and notifying the public and is proposed without changes. OAC 4757-1-03 lists the procedures for approving Board minutes and is amended to extend the period for approving minutes

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

CSIPublicComments@governor.ohio.gov

from ten to fifteen days. OAC 4757-1-04 concerns applications for first licensure, including the information required for applications, fees, and criminal records checks. The rule is amended to include new procedures for applying online and for proof of certification for art and music therapists. OAC 4757-1-05 lists the applicable license fees and is amended to remove the application fee for continuing education program approval and to reduce the fee for continuing education providers from \$250 to \$125 per application. OAC 4757-1-09 establishes conditional permission to practice for non-residents that hold an equivalent license or registration in another jurisdiction. The Board is removing requirements for renewing conditional permissions, as reciprocity statutes render this unnecessary.

OAC Chapter 4757-5 establishes standards of ethical practice and professional conduct for licensees and registrants. OAC 4757-5-02 sets forth standards in relation to clients and consumers and is amended to clarify licensee referral responsibilities when leaving an agency or practice. OAC 4757-5-04 sets forth prohibitions against sexual relationships with current clients. The rule includes amendments to update terms. OAC 4757-5-06 and 4757-5-07 establish standards for the use of assessment and testing instruments, as well as research and publication. These rules are proposed with licensee and registrant language updates. OAC 4757-5-09 lists recordkeeping requirements and is amended to update types of records to be kept and to clarify case notes requirements. OAC 4757-5-10 and 4757-5-11 set forth standards for reporting unethical actions and changing names or addresses. OAC 4757-5-10 is amended to update licensee and registrant language. OAC 4757-7-01 lists the requirements for renewing licenses and certificates and is amended to allow for the sharing of user identification and password information, with the Board citing assistance by credentialing professionals. OAC 4757-7-03 allows licensees to place licenses into inactive status, as well as lists the procedure for restoring an inactive license. The rule is amended to revise restoration requirements for license restoration. Individuals that have been inactive for five years are required to complete forty-five hours of continuing education, six hours of which must concern ethics. Individuals that have been inactive for ten years must propose a professional development plan, which may include competency-based performance appraisals, mentorship, additional continuing education, or extended coursework. Previously, the professional development plan requirements applied to individuals that had been inactive for over five years.

OAC Chapter 4757-9 establishes requirements related to licensee and registrant continuing education. OAC 4757-9-01, 4757-9-02, and 4757-9-03 establish continuing education requirements for marriage and family therapists, licensed professional counselors and clinical counselors, and social workers. The rules include amendments that update terms to “supervision endorsement,” remove references to administration training subjects, and remove continuing education requirements for social workers with a related degree. OAC 4757-9-04 describes clock hours for continuing professional education and is amended to reduce the number of excess hours that a social worker assistant can bank from twelve to six, reflecting the reduced overall number of required hours. OAC 4757-9-05 establishes the standards for approval of continuing education programs. Amendments to

the rule include removal of approval of single continuing education programs and review for continuing education programs for post-program approval, simplification of continuing education provider applications, and including state agencies on the list of approved continuing education providers. OAC 4757-9-06 sets forth requirements for sources of continuing education and is amended to allow the Board to grant continuing education credit for related college courses that an individual teaches and programs offered or approved by national associations, as well as removing unnecessary definitions. OAC 4757-9-07 requires licensees to provide evidence of continuing education completion and is amended to update licensee and registrant language.

OAC 4757-11-01 lists the violations that may result in Board action against a licensee or registrant and is amended to state that a felony conviction in Ohio, after initial licensure, may result in discipline and to streamline rule language. OAC 4757-11-03 concerns Board management of confidential records and is amended to update rule language. OAC 4757-13-02 establishes the requirements for licensure as a professional counselor and is amended to remove reference to “good moral character.” OAC 4757-13-06 establishes the process for licensure by endorsement as a professional counselor and is amended to implement the pathway to licensure by reciprocity. OAC 4757-13-08 concerns application approval and includes amendments that reference reciprocal licensure. OAC 4757-19-02, 4757-19-07, and 4757-19-08 establish requirements for licensure as an independent social worker and licensure by endorsement. These rules are amended to include the method for licensure by reciprocity. OAC 4757-21-01 concerns the scope of practice for a registered social work assistant and is proposed without changes. OAC 4757-25-06 and 4757-25-07 set forth requirements for marriage and family therapist license endorsement and application approval. The rules are amended to include reciprocity language. OAC 4757-27-02 states the scope of practice standards for independent marriage and family therapists and is proposed without changes.

During early stakeholder outreach, the Board sent the proposed rules to industry stakeholders for feedback, including over 40,000 licensees and other stakeholders. The Board also discussed the proposed rules at a public meeting. No comments were received during that time. During the CSI public comment period, the Board received four comments. One comment asked about “good moral character” language being removed. The Board stated that statute has been updated to remove the ability to review good moral character. In response to comments from the Ohio Council of Behavioral Health and other stakeholders, the Board amended the rules to allow licensees to use available technology. The Board did not make changes based on comments that suggested additional clarifications for continuing education. The Board also addressed stakeholder questions regarding the applicability of the Department of Rehabilitation and Correction programs to continuing education.

The business community impacted by the rules includes licensees and registrants, students, educators, education programs, and employers. The adverse impacts created by the rule includes compliance

with scopes of practice, completion of application and renewal procedures, and completion of continuing education requirements. The Board states that violations of the rules can result in license suspension or revocation. The fees for initial and renewal licensure cost \$100 for licensed professional clinical counselors, \$80 for licensed professional counselors, \$100 for independent social workers, \$80 for social workers, \$60 for social work assistants, \$20 for a social work temporary license, \$100 for independent marriage and family therapists, \$80 for marriage and family therapists, and \$20 for a marriage and family therapist temporary license. Fees to restore an inactive license cost half of the corresponding license application fee. The Board states that the adverse impacts created by the rules are necessary to establish standards of ethical practice and protect the public.

Recommendations

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

Conclusion

The CSI Office concludes that the Board should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.