



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: April 6, 2022

RE: **CSI Review – Teletherapy and MFT Supervision Rules (4757-5-13 and 4757-29-01)**

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 rule package consists of two amended rules proposed by the 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.

Ohio Administrative Code (OAC) 4757-5-13 establishes practice standards for Board licensees who provide counseling, social work, or marriage and family therapy services through teletherapy. The rule is amended to remove a requirement that a face-to-face audiovisual or in-person visit be completed prior to providing teletherapy care, to explicitly require licensees to comply with patient confidentiality requirements in state and federal law, and to update language and current practice standards. OAC 4757-29-01 requires individuals who are engaged in training supervision for licensure as independent marriage and family therapists to be under the supervision of certain individuals and specifies standards related to the crediting and completion of supervision hours. The

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

CSIPublicComments@governor.ohio.gov

rule is amended to specify that fifty out of a total of two hundred supervision hours may be earned under the supervision of an independent social worker or clinical counselor with a training supervision designation. The rule is also amended to remove a requirement that supervisees presenting supervision experience from another state provide a resume to demonstrate that supervisors of previous experience met minimum standards for the Board.

During early stakeholder outreach, the Board provided the rules to stakeholders including the Ohio Chapter of the National Association of Social Workers, the Ohio Behavioral Health Council, Ohio Counseling Association, and others. The Board states that public discussions regarding the supervision requirements and COVID-19 pandemic-related changes have contributed to the development of the rules. During the CSI public comment period, comments were received from individual licensees, the Ohio Association of Community Health Centers (OACHC), the Ohio State Office of Student Life, and the Ohio Council of Behavioral Health and Family Service Providers (Council). The Council and OACHC shared their support for the rules as written, as did three licensees. One licensee sought clarification regarding current licensing supervision requirements. Once licensee suggested minor amendments regarding the definition of teletherapy and sought clarification regarding licensing requirements to provide teletherapy services in other states. The Board adopted the suggested definitional change and responded to the question. Another commenter suggested that it would be helpful to ensure clarity that there are no in-person or face-to-face visit requirements prior to providing telehealth services. The Board amended the rules in response to the suggestion. Finally, one licensee recommended adopting minor definitional changes for telehealth care and restoring language that requires licensees to provide clients with links to website for certification bodies and licensure boards. The Board did not adopt the definitional change but did determine to restore the language requiring licensees to provide clients with links to certification bodies and licensure boards.

The business community impacted by the rules Board licensees, students, educators, education programs, and their employers. The adverse impact to business created by the rules includes the time and costs associated with complying with teletherapy care standards when providing services in that manner, maintaining records and documentation indicating when services are provided through teletherapy, establishing informed consent regarding the use of teletherapy, ensuring patient confidentiality, and related technology costs. The adverse impact also includes costs associated with completing supervision requirements prior to certification as an independent marriage and family therapist, documenting the completion of such requirements, and completing requirements prior to qualifying for a training supervision designation. The Board states that the adverse impact to business is justified to ensure the protection of the public and establish a foundation for ethical practice in the professions regulated by the Board.

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.