

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Counselor, Social Worker & Marriage and Family Therapist Board

Regulation/Package Title: Chapter 9 Five Year Rule Review– 9-20-2012 & Amended rules

Rule Number(s): 4757-09-02, 4757-09-03, 4757-09-04, 4757-09-05 and 4757-09-06

Date: \_\_\_\_\_

**Rule Type:**

☐ New

☒ Amended

☒ 5-Year Review

☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### **Regulatory Intent**

**1. Please briefly describe the draft regulation in plain language.**

These rules are being filed as part of the requirement to review each rule of the Ohio Administrative Code every five years and include two additional amended rules. These rules are part of one Chapter of the Administrative Code under Chapter 4757 of the Revised Code. The following rules have been reviewed by the Board and/or the appropriate Professional Standards Committee(s). There is a note on each as to the proposed changes. The PSC

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column denotes if it applies to all licensees or only the Counselor (CPSC), Social Worker (SWPSC) or Marriage and Family Therapist (MFTPSC) Professional Standards Committee. The Board appreciates feedback on any and all rules.

<b>Rule #</b>	<b>Title</b>	<b>Comments</b>	<b>PSC</b>
4757-9-02	continuing education requirements for renewal of a PC or PCC	Addition to clarify administrative subjects for continuing education courses. Reduces the 6 hours of biennial continuing education renewal requirement for professional counselor & professional clinical counselor supervision designation holders to 3 hours of continuing education in supervision.	CPSC
4757-9-03	continuing education requirement for renewal as a SWA, a LSW or a LISW	Reduces biennial continuing education hours for Social Worker Assistants from 30 to 15 hours each renewal.	SWPSC
4757-9-04	Clock hours for continuing professional education	Change proposes to require 10,000 words per hour of CE program credit for home study courses that are primarily reading material based programs. Additional edits were made for clarity.	All
4757-09-05	Approval of continuing professional education programs required for renewal of licenses and certificates of registration issued by the board	Changes to paragraph (F) requiring post-program approval for continuing education hours earned for journals, books, presentations of an in-service training workshop, and seminars or conference presentations	All
4757-09-06	Sources of continuing professional education	Changes to paragraphs (B), (C), (E) & (F) for post program approval – existing language not clear in requiring post program approval for journal articles and various presentations.	All

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**2. Please list the Ohio statute authorizing the Agency to adopt this regulation.**

Chapter 4757 of the Revised Code includes several Sections that provide rule making authorization including Section 4757.10 with some specific and general areas and 4757.33 for the continuing education rules.

**3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

No

**4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

Not applicable

**5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The regulations are needed to carry out the Board's mission in an effective and efficient manner. The Board licenses professional counselors, social workers and marriage and family therapists who provide mental health and other services to residents of Ohio. The Board ensures applicants for licensure meet the requirements established in Chapter 4757 of the Revised Code. The Board ensures that applicants maintain qualifications by requiring continuing education for each license renewal. The Board also provides regulatory oversight and discipline for licensees that do not follow professional standards of conduct.

**6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

These rules establish the parameters for licensees' continuing education per Section 4757.33 of the Revised Code. Success in the case of rules 4757-9-02, 4757-9-03 & 4757-9-04 will be measured by having the rules written in plain language for clarity, by no licensees renewing counselor, social worker or marriage and family therapy licenses or social worker assistant registrations without meeting the continuing education requirements. Success in the case of rules 4757-9-04, 4757-9-05 & 4757-9-06 will be measured by reviewing the individual and company provided continuing education courses that meet the requirements after the rules go into effect compared to current rates of compliance.

## **Development of the Regulation**

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**7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

Emails were sent via the Board's Listserv to all valid email addresses on 5/30/2012. Those emails had a link to the draft rules on the Board's web site. Separate emails were sent to all associations that have expressed interest in the last several years in any Board issues. Emails were sent to all counselor, social worker and marriage and family therapist education programs in Ohio colleges and universities with programs designed to lead to licensure under the Board's laws and rules. Another email was sent to continuing education providers and those who offer individual programs for which we have emails.

**8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

Many inputs were supportive of these rule changes with one exception. The continuing education providers who provide distance learning or home study are concerned about the costs under their current models.

**9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

The only rule in which outside data was used is the change to rule 4757-9-04 requiring 10,000 words per hour of continuing education material for home study that is primarily reading based. The Association of Social Work Boards continuing education committee adopted a similar requirement. We found numerous documents from university studies delineating the average reading speed of college students. This information and review by the Board's Continuing Education Committee of sample distance learning programs demonstrated credit issued for completion was well out of line with the time to read and complete the assigned material. For example, one program had 18 pages of material for six hours of credit and could be read and completed in less than an hour by an average reader. Attached is a letter from one provider Elite Inc., which disparages the change by noting a professor on averages speaking at 120 words per minute, but does not take notice of the study assignments for the students prior to attending class.

**10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

The alternative in the case of the 4757-9-04 rule for individuals and companies offering Continuing Education courses for Board approval would be to have programs field tested by a number of licensees and then by a Board representative. The administrative time and cost to perform the Board's part of the field test is not within the manpower available within the Boards resources.

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**11. Did the Agency specifically consider a performance-based regulation? Please explain.**

*Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

This question does not apply to these rules.

**12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

This question does not apply to these rules.

**13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

The rules once the filing process is complete are readily available on the Board's web site and a Listserv email will be sent to all licensees with information on the changes. The consistency of the Board's continuing education processes is regularly reviewed and any non-standard situations are reviewed by the Board for resolution. As issues arise they are added to the Continuing Education Committee Agenda for review and discussion and then taken to each professional standards committee for review, discussion and resolution.

**Adverse Impact to Business**

**14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

**a. Identify the scope of the impacted business community;**

For rules 4757-09-02 through 4757-9-06 the regulated community is licensed counselors, social workers and marriage and family therapist and registered social worker assistants and their employers. For rules 4757-9-04, 4757-9-05 & 4757-9-06 will affect companies and individuals providing continuing education courses and licensed counselors, social workers and marriage and family therapist and registered social worker assistants and their employers. Rule 4757-9-04 will affect individuals and companies providing continuing education through correspondence, home study and/or distance learning that are primarily text based reading courses.

**b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**

Licensees in many cases have to pay for their own continuing education courses,

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which can vary from free to over \$100 per hour depending on the course and materials involved. A more average cost is \$5 to \$25 per hour. The rules require licensees to have 30 hours each biennium and the rules being filed changes the social worker assistant registration renewal to 15 hours per biennium. Many licensees have access to continuing education through their employer.

Rule 4757-9-04 would have a dramatic increase in costs for the individuals and companies providing text based continuing education. The average words per hour now tend to be in the vicinity of 4,000 words per hour and would have to be increased by a factor of 2.5 to reach the 10,000 word per hour required by this change. Writing the program and printing and mailing costs would increase substantially.

**c. Quantify the expected adverse impact from the regulation.**

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.*

Licensees in many cases have to pay for their own continuing education courses, which can vary from free to over \$100 per hour depending on the course and materials involved. A more average cost is \$5 to \$25 per hour based on courses we have seen at the board offices. The rules require licensees to have 30 hours each biennium and the rules being filed changes the social worker assistant registration renewal to 15 hours per biennium. Many licensees have access to continuing education through their employer.

Rule 4757-9-04 would have a dramatic increase in costs for the individuals and companies providing text based continuing education. The average words per hour now tend to be in the vicinity of 4,000 words per hour and would have to be increased by a factor of 2.5 to reach the 10,000 word per hour required by this change. Writing the program and printing and mailing costs would increase substantially.

**15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

The requirement for continuing education is authorized in Section 4757.33 of the Revised Code and is required as part of staying current and maintaining a level of competency with the profession as it changes after initial licensure. For rule 4757-9-04, the boards position is that the current products are well written, but offered for far more credit than should be received for the effort by the licensees involved.

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## **Regulatory Flexibility**

**16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

These are individual licensee focused in part, but yes, the rules have numerous options to earn continuing education credit as delineated in rule 4757-9-06. The board does offer waivers for continuing education per Division (B) of Section 4757.33 of the Revised Code and further defined in paragraph (D) of rule 4757-7-01 of the Administrative Code. The rules specify requirements for individuals and companies wanting to offer acceptable continuing education courses to the board's licensees. There are numerous options in structure and content for each license type.

**17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

The Board generally does not fine or penalize for minor paperwork in which case the licensee would receive a letter of caution. More serious paperwork violations can result in serious consequences. The Board plans to reference Section 119.14 in the next review of the Board's rule on fines, 4757-1-07.

**18. What resources are available to assist small businesses with compliance of the regulation? *The Board and its staff are dedicated to working with members of the regulated community and the public to ensure that the consumers of professional counseling, social work and marriage and family therapy services in Ohio receive safe and effective services from the Board's licensees. As a result, the following resources are available:***

**Board's mailing address:**

**50 West Broad Street, Suite 1075**

**Columbus, Ohio 43215**

**Board's phone number: 614-466-0912**

**Board's fax number: 614-728-7790**

**Board's website: <http://cswmft.ohio.gov>**

**Board's email: [cswmft.info@cswb.state.oh.us](mailto:cswmft.info@cswb.state.oh.us)**

**Board's Facebook: <http://www.facebook.com/pages/Ohio-Counselor-Social-Worker-Marriage-and-Family-Therapist-Board/349684261728174>**

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