

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

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

Regulation/Package Title: 2014-Five Year Rule Review Non-PSC Rules

Rule Number(s): 4757-1-02, 4757-1-04, 4757-1-07, 4757-1-08, 4757-5-02, 4757-5-10, 4757-5-11, 4757-6-01, 4757-6-02, 4757-7-02, 4757-9-06 and 4757-11-02

Date: July 31, 2014

**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☐ Rescinded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 ten five-year review rules are being filed to meet the requirement to review each rule of the Ohio Administrative Code every five years. These rules are part of six Chapters of Agency 4757 of the Administrative Code. There are two additional rules, one amended and one new, being filed with this package. The new rule concerns veteran and military

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application and licensing issues. The following rules have been reviewed by all of the Professional Standards Committees of the board. There is a note on each as to the proposed changes. The PSC 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>
4757-01-02	Notice of board meetings	Minor changes for clarity	9/20/2014	All
4757-01-04	Applications of first licensure	Adds MFTs and minor changes for clarity	9/20/2014	All
4757-01-07	Fines	Major change in light of new administrative fee from HB-252, which changed 4757-1-05	9/20/2014	All
4757-1-08	Military provisions related to licensure for counselors, social workers and/or marriage and family therapists.	Rule required by recent statute changes. Checked with Veteran's affairs. Provides compliance on how veterans will be processed for applications.	NEW	All
4757-5-02	Standards of ethical practice and professional conduct: clients/consumers of Services.	Adds counselors to paragraph (G)(2) on social diversity.	12/17/2017	All
4757-5-10	Standards of ethical practice and professional conduct: reporting unethical actions	No change	6/11/2014	All
4757-5-11	Standards of ethical practice and professional conduct: change of name and/or address	No change	6/11/2014	All
4757-6-01	Reports prepared for court review	Minor changes for clarity	9/20/2014	All
4757-6-02	Summary suspension	No change	9/20/2014	All
4757-7-02	Practice with expired license or certificate of registration is prohibited	No change	9/20/2014	All
4757-09-06	Sources of continuing professional education	Minor changes for clarity	9/20/2014	All
4757-11-02	Impaired practitioner rules	Clarifies agreements under diversion program are not public documents.	9/20/2014	All

## 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 4757.05 for board meetings in rule 4757-1-02; section 4757.16 for applications in rule 4757-1-04; section 4757.10 for fines in rule 4757-1-07; sections 4757.10, 5903.03, 5903.10 and 5903.12 for military and veterans in new rule

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4757-1-08; section 4757.11 for standards of ethical practice in rules 4757-5-02, 4757-5-10 & 4757-5-11; sections 4757.10 & 4757.11 for reports prepared for court review in rule 4757-6-01; section 4757.361 for summary suspensions in rule 4757-6-02; section 4757.10 for practice with expired license in rule 4757-7-02; section 4757.33 for courses of continuing education in rule 4757-9-06; and section 4757.10 for rule 4757-11-02.

- 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 will be measured as follows: success in the case of rule 4757-1-02 will be measured by ensuring board meetings are appropriately announced and interested parties know in advance of any special meetings or changes in locations for meetings; success in the case of rule 4757-1-04 will be measured by having the rules written in plain language for clarity and applicants understanding the application process; success in the case of rule 4757-1-07 will be measured by having the rules written in plain language for clarity and licensees and registrants understanding that fines may be assessed as a part of discipline; success in the case of rule 4757-1-08 will be measured by having the rules written in plain language for clarity and military and qualifying veterans applications being processed at the head of the line; success in the case of rule 4757-5-02 will be measured by having the rules written in plain language for clarity, and licensees understanding the standards of ethical practice and professional conduct with clients/consumers of services; success in the case of rule 4757-5-10 will be measured by having the rules written in plain language for clarity, and licensees making the mandatory

reports required by statute and this rule; success in the case of rule 4757-5-11 will be measured by having the rules written in plain language for clarity, and licensees submitting name and address change forms within 90 days of the action; success in the case of rule 4757-6-01 will be measured by having the rules written in plain language for clarity, and licensees in custody cases understanding their role and not making recommendations when it is not their role to do so; success in the case of rule 4757-6-02 will be measured by not having to ever have a summary suspension, but should that happen that we do so with all speed and legalities; success in the case of rule 4757-7-02 will be measured by ensuring licensees and registrants know their expiration dates and renew timely as shown by a reduction of late fees; success in the case of rule 4757-9-01 will be measured by independent marriage and family therapists compliance with the new training supervision designation; success in the case of rule 4757-9-06 will be measured by licensees and registrants understanding all of the options for continuing education that are available and identifying those that are appropriate for their license and a reduction in the error rate on continuing education audits; and, success in the case of rule 4757-11-02 will be measured by successful application of the impaired practitioner rule in cases before discipline is required.

### **Development of the Regulation**

**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 6/17/2014. 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?**

We received virtually no comments on these rules as drafted in this submission. We did receive many comments on rule 4757-9-05, which was withdrawn for further discussion. We also received comments on a part of rule 4757-19-04, which included a change to examination for the master's level social worker license that was removed for further study of data that may or may not support the proposed changes.

**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?**

No scientific data was applicable to these rules.

- 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?**

No alternatives were suggested by input as drafted in this submission and the rules are needed for proper operation of the Board under Chapter 4757 of the Revised Code.

- 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.*

Performance based regulations were considered for these rules, but the prescriptive parts are required by statute. Those where implementation of the statute is involved, we offer as much latitude as possible for compliance. For example, we give licensees and registrants 90 days to update names and addresses. We have never taken disciplinary action for failure to comply, but those that don't comply, too often, do not get the notice for renewal due to invalid post office address and their email is invalid.

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

The Board is the only agency issuing and regulating these licenses and registrations.

- 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 website and a Listserv email will be sent to all licensees with information on the changes. The consistency of the Board's processes is regularly reviewed and any non-standard situations are reviewed by the Board for resolution. As issues arise they are added to the Agenda for review and discussion by the applicable 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 4757-1-02, 4757-1-04, 4757-1-07, 4757-5-02, 4757-5-10, 4757-5-11, 4757-6-01, 4757-6-02, 4757-7-02, 4757-9-06 and 4757-11-02 the regulated community is licensed counselors, social workers and marriage and family therapist and registered social worker assistants and their employers. For rule 4757-1-08 the affected applicants and licensees are active military members, eligible veterans and their

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spouses. Rule 4757-1-02 establishes notice of board meetings per section 4757.05 of the Revised Code. Rule 4757-1-04 establishes requirements for applications and adds clarifying language and marriage and family therapist trainees authorized under changes to section 4757.10 of the Revised Code. Rule 4757-1-07 implements fines authorized under section 4757.31 of the Revised Code and simplifies the language. Rule 4757-1-08 implements special application processing for active military, veterans and their spouses under sections 5903.10 and 5903.12 of the Revised Code. Rule 4757-5-02 affects all practicing licensees as to ethical practice for interactions with clients. Rule 4757-5-10 is a no change rule that lists the required reporting of unethical actions by Board licensees and registrants under Sections of the Revised Code noted in the rule. Rule 4757-5-11 is a no change rule that requires licensees to update their address of record within 90 days of a change. Rule 4757-6-01 concerns our most prickly investigation cases “child custody, visitation and guardianships”, which affects parents, children and all licensees working in this area and is authorized under section 4757.11 of the Revised Code. Rule 4757-6-02 concerns summary suspension, which the board has never used – no change. Rule 4757-7-02 concerns practice with an expired license – no change. Rule 4757-9-06 provides descriptions and definitions related to sources of continuing education. Rule 4757-11-02 is the impaired practitioner rule, which adds language making any agreements under that rule non-disciplinary on advice of AG’s office authorized under section 4757.10.

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

Rule 4757-1-02 has no adverse impact. Rule 4757-1-04 has adverse impact in the fees for registration or licensure, criminal records checks, transcript cost from university, and for those with criminal history may have costs for copy of court records although many courts have them readily available online. Rule 4757-1-07 fines would be part of a discipline. Rule 4757-1-08 has no adverse impact as it simplifies and speeds up processing of applications for active duty military, eligible veterans and their spouses. Rules 4757-5-02, 4757-5-10, 4757-5-11, 4757-6-01 and 4757-7-02 adverse impact from these rules is only for licensees who violate the ethics laws or work on an expired license; rule 4757-6-01 is more advisory as to how to stay out of trouble. Rule 4757-6-02 adverse impact is only for licensees who seriously violate board laws and or rules and is an imminent danger to the public.

Rule 4757-9-06 adverse impact is relatively low this rule provides numerous alternatives for obtaining continuing education (CE) other than a regular CE course; these include: Journal articles; Chapters authored by licensees in books; publications having joint authorship; Credit for first time presentation of a CE course; Home study and distance learning options; credit for college course in their field.



Rule 4757-11-02 offers licensees who have not harmed any clients an opportunity to seek treatment and keep their license clean of discipline. The adverse impact is the cost of treatment they need to be successful in that effort.

**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.*

Rule 4757-1-02 establishes notice of board meetings and has little to no cost as meetings are posted on the website for the next year.

Rule 4757-1-04 has adverse impact in the fees for registration or licensure (\$40, \$60 or \$75 for two year registration or licensure), requires criminal records checks (\$22 for BCI & \$24 for BCI plus charge by provider), transcript cost from university usually under \$20, and for those with criminal history may have costs for copy of court records although many courts have them readily available online.

Rule 4757-1-07 fines would be part of a discipline outcome that is financial in its amount plus the cost of attorney fees and hearing costs depending on the licensee or registrants interactions with the board. Maximum fines by statute are \$500 per violation. To date the board has not used fines in a discipline case.

Rule 4757-1-08 has no adverse impact as noted in the prior section of this BIA.

Rules 4757-5-02, 4757-5-10, 4757-5-11, 4757-6-01 and 4757-7-02 adverse impact from these rules is only for licensees who violate the ethics laws or work on an expired license. If a licensee is investigated, depending on the case facts, the costs could be; minimal including providing a written response and copies of court documents; or in more serious cases may involve hiring an attorney and having a hearing. In the minimal case, the cost is time to provide a thoughtful response and perhaps an interview with a Board investigator. In a serious case, attorney fees and potential sanctions to a license could lead to a major expense of \$3,000 to \$7,000. The vast majority of cases have small expenses due to the nature of the violations. Serious violations cost more and having discipline on your license may impact future employment. The costs are based on input from attorneys who have represented clients in discipline cases before the Board. Rule 4757-6-01 is more advisory as to how to stay out of trouble.

Rule 4757-6-02 adverse impact is only for licensees who seriously violate board laws and or rules and are an imminent danger to the public. Costs are hard to measure as the board has never been through this procedure, but see costs listed under the prior paragraph.

Rule 4757-9-06 adverse impact is relatively low in that it offers multiple options for obtain CEs other than in person CE courses. Writing journal articles, chapters of books, and presenting CE courses require a lot of writing and preparation, which makes licensee time the primary expense. Home and distance learning offer lower cost and more convenient options. One CE provider offers unlimited CEs for \$141, which is \$4.67 per hour.

Rule 4757-11-02 offers licensees who have not harmed any clients an opportunity to seek treatment and keep their license clean of discipline. The adverse impact is the cost of treatment they need to be successful in that effort. This could be a week or more in a treatment program that can cost up to thousands a week, which may be covered by insurance. This is a voluntary process and a lifeline for those with serious addiction issues.

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

The requirements within each rule are authorized in Chapter 4757 of the Revised Code as referenced above. The rules are necessary for the proper administration of the board and protection of the public.

**Regulatory Flexibility**

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

Applications are required in all cases to document eligibility for registration and licensure. We do not have an alternative process for these. The board rarely decides on public discipline for first time errors that do not create serious client harm. Serious violations are treated as such and result in public discipline, which is the purpose of the board in protecting the public.

**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 has referenced section 119.14 of the Revised Code in this 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***

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*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>**

## Five Year Rule Review – due 9/20/2014 as of 7-24-2014

The following rules require a five year rule review filing by 6/11/2014 or 9/20/2014. This document is accompanying the Common Sense Initiative process for comment. Any proposed changes are noted in blue font with underlining, deletions are noted through use of line through font.

<b>Rule #</b>	<b>Rule Title</b>		<b>5 Year Date</b>	<b>PSC</b>
4757-01-02	Notice of board meetings	Minor changes for clarity	9/20/2014	All
4757-01-04	Applications of first licensure	Adds MFTs and minor changes for clarity	9/20/2014	All
4757-01-07	Fines	Major change in light of new administrative fee from HB-252, which changed 4757-1-05	9/20/2014	All
4757-05-10	Standards of ethical practice and professional conduct: reporting unethical actions	No change	6/11/2014	All
4757-05-11	Standards of ethical practice and professional conduct: change of name and/or address	No change	6/11/2014	All
4757-06-01	Reports prepared for court review	Minor changes for clarity	9/20/2014	All
4757-06-02	Summary suspension	No change	9/20/2014	All
4757-07-02	Practice with expired license or certificate of registration is prohibited	No change	9/20/2014	All
4757-09-06	Sources of continuing professional education	Minor changes for clarity	9/20/2014	All
4757-11-02	Impaired practitioner rules	Clarifies agreements under diversion programs are not public documents.	9/20/2014	All
<b>Non-5 year review rules to be filed</b>				
4757-1-08	Military provisions related to licensure for counselors, social workers and/or marriage and family therapists.	Rule required by recent statute changes. Checked with Veteran's affairs. Provides compliance on how veterans will be processed for applications.	NEW	ALL
4757-5-02	Standards of ethical practice and professional conduct: clients/consumers of Services.	Adds counselors to paragraph (G)(2) on social diversity.	12/17/2017	ALL

### **4757-1-02 Notice of board meetings.**

(A) Any person may ascertain the time and place of all regularly scheduled meetings of the counselor, social worker, and marriage and family therapist board, and its professional standards committees and the time, place, and purpose of all special meetings of the board or its professional standards committees by any one of the following methods:

- (1) Calling the board office by telephone during normal business hours.
- (2) Contacting the board office in person during normal business hours.

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- (3) Any person or organization that makes a written request for such notification and provides the board with a self-addressed business-size envelope.

- (4) The meetings are listed on the [board's](http://board's) web site <http://cswmft.ohio.gov>.

(B) Any person or organization who makes written request for routine notification of all regularly scheduled and special meetings of the counselor, social worker, and marriage and family therapist board and its professional standards committees and that provides the board with self-addressed business sized envelopes, shall receive notice of all such board meetings for a twelve-month period. After twelve months, such notification shall cease, unless the request is renewed in the manner set forth in this paragraph.

- (1) Notices shall be mailed at least seven calendar days prior to any regularly scheduled meeting, and at least four calendar days prior to any special meeting, unless the meeting is an emergency meeting. Notices of special meetings shall include the type of business to be discussed.
- (2) The person requesting notification is responsible to keep the board informed in writing of changes in his/her current mailing address.
- (3) The obligation of the board under paragraph (B) of this rule to each person or organization fully complying with said requirements shall be deemed fully discharged with the mailing of notification to the most current mailing address and name on file with the board for this purpose, as of seven days prior to the particular regularly scheduled meeting.

(C) A representative of a news media organization, or of the business office of a professional organization of counselors, social workers, or marriage and family therapists may receive notification of board meetings by making a written request to the board office. The board shall compile a mailing list and shall mail notification of all regularly scheduled and special meetings to these representatives at their business addresses, in accordance with the schedule in paragraph (B)(1) of this rule.

- (1) Not more than one representative of a radio or television station, newspaper, or other publication, or of a professional organization of counselors, social workers, or marriage and family therapists may receive such notification.
- (2) The news media organization, or professional organization of counselors, social workers, or marriage and family therapists is responsible to notify the board in writing of changes in the name or mailing address of the recipient of such notification.
- (3) Notification under paragraph (C) of this rule shall remain in effect for one year from the date of the written request, after which time the name of the organization shall be removed from the mailing list unless the request is renewed in writing.
- (4) The obligation of the board under paragraph (C) of this rule to each organization shall be deemed fully discharged with the mailing of notification to the most current address and name on file with the board for this purpose.

(D) A representative of a news media organization may obtain telephone notification of emergency board meetings by making a written request to the board, including the name of the individual to be contacted, his/her mailing address, and a maximum of two telephone numbers

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where he/she can be reached. The board shall maintain a list of all representatives of the news media who request telephone notice of emergency meetings.

- (1) In the event of an emergency meeting, the board shall immediately notify by telephone all representatives on the list of such meeting.
- (2) Such telephone notice shall be complete if a message has been left for the media representative or if, after a reasonable effort, the board has been unable to provide such telephone notice.
- (3) The media representative's name shall remain on the telephone notification list for one year from the date of the written request, after which time the name shall be removed unless the request is renewed in writing.
- (4) The media representative or the organization is responsible to inform the board of any changes in telephone numbers or in the name of the person to be notified.

(E) The failure of any individual, organization, or organization representative to comply with the above requirements shall relieve the board of any obligation to provide advance notice of any kind of any public meeting to that individual, organization representative.

Effective: 10/18/2009

R.C. 119.032 review dates: 06/12/2009 and 09/20/2014

Promulgated Under: 119.03

Statutory Authority: 4757.10

Rule Amplifies: 4757.05

Prior Effective Dates: Eff 6/11/85 (Emer.); 9/19/85 (Emer.); 12/19/85; 7/3/97; 9/20/02; 4/10/04

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### **4757-1-04 Applications of first licensure.**

(A) All applicants for first licensure as a professional counselor, social worker, professional clinical counselor, independent social worker, marriage and family therapist, independent marriage and family therapist, or for registration of title as a social work assistant, counselor trainee, [marriage and family therapist trainee](#) or social worker trainee, shall file with the executive director of the board an online application; or a written application, signed and duly notarized, on a form prescribed by the board. Any person who knowingly makes a false statement on a written application or electronic application may be found guilty of falsification under section 2921.13 of the Revised Code, a misdemeanor of the first degree. Applications shall be maintained for two years from the date of receipt by the board. Applications which remain incomplete after two years shall be considered abandoned. The license application and fee shall be forfeit and individuals seeking licensure shall be required to re-apply.

(B) The appropriate non-refundable fee, shall accompany the application for licensure or registration.

(C) All applicants for licensure or registration shall provide:

- (1) Grade transcripts showing all coursework and/or academic degrees necessary to meet the education requirements for the license or registration for which the applicant is applying.

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- (a) Such transcripts shall bear the official seal of the college or university and the signature of the registrar. Transcripts shall be sent directly to the board office by the college or university. The applicant shall bear sole responsibility for transcripts sent directly from the college or university to the board office.
  - (b) If an applicant's transcript does not clearly indicate that he/she meets the education requirements for the license for which they are applying, the applicant shall provide additional information about their coursework in a manner prescribed by the board.
  - (2) Notarized statements, on a form prescribed by the board, to document all professional employment experience required by any rule under this chapter, or for licensure or registration by the board. Notarized statements, if required, shall be completed by the person(s) who supervised the required professional employment experience, or who are judged by the board to be in a position to make a professional judgment about the nature of the applicant's duties and the quality of their work, and who meet the criteria established for such respondents by the board in any rules under this chapter.
- (D) Applicants for any license or certificate of registration issued by the board shall be of good moral character. The board may, in its discretion, deny any application for licensure or certification if the board finds that the applicant was convicted of, pled guilty to, or pled no contest to a felony or misdemeanor involving moral turpitude or for acts committed, which would constitute a felony or misdemeanor involving moral turpitude, if committed in Ohio. The board shall consider the number and timing of any convictions and the relationship those convictions may have to the practice for which the applicant has made application for licensure or certification. The board shall consider an applicant's fitness to practice a part of the good moral character requirements. The board at its discretion may request any of the following to help determine good moral character and fitness to practice: a criminal records check, a criminal background check or a psychological evaluation.
- (E) All applicants for an initial license or registration shall submit a request to the bureau of criminal identification and investigation for a criminal records check of the applicant per sections 4776.02 and 4776.03 of the Revised Code and shall include a federal bureau of identification criminal records check request. This requirement applies to all initial applications for professional counselor, social worker, professional clinical counselor, independent social worker, marriage and family therapist, independent marriage and family therapist, or for registration of title as a social work assistant, counselor trainee, [marriage and family therapist trainee](#) or social worker trainee. The applications for criminal records check shall comply with section 109.572 of the Revised Code. The criminal records check shall be received ~~at least~~ [within](#) one year prior to licensure or a new criminal records check shall be required. Section 4776.02 of the Revised Code requires that all fingerprint reports be sent directly to the board office from the bureau of criminal identification and investigation. Any fingerprint results mailed to or from some other source shall not be accepted.
- (1) Applicants in the state of Ohio shall go to a county sheriff's office or other agency approved by Ohio's attorney general to request an electronic criminal records check and submit fingerprints to the bureau of criminal identification and investigation. A link to electronic fingerprint sites is available on the board's web page under "forms".
  - (a) Each applicant shall pay the fee to the agency scanning their fingerprints and provide the bureau of criminal identification and investigation with the applicant's name and

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- address and with the board's name and address as the results addressee. The agency code fingerprint card shall be "1AB002".
- (b) An applicant who has poor fingerprint quality on the electronic scanning shall be notified by the board to request a waiver from electronic scanning and mailed the required forms for submission of ink rolled fingerprints. The bureau of criminal identification and investigation has suggested using corn huskers lotion when having difficulties getting a good electronic scan.
  - (c) The applicant shall ask the superintendent of the bureau of criminal identification and investigation in the criminal records check request to obtain from the federal bureau of investigation any information it has pertaining to the applicant.
- (2) Applicants outside the state of Ohio shall go to a police agency in their state and complete the blank criminal records check cards provided to them by the board and submit fingerprints by mailing the completed forms directly to the bureau of criminal identification and investigation. Note, this process may be quicker and more convenient, if the applicant waits until she or he is in Ohio, to complete an electronic scan.
- (a) Each applicant shall pay the fee to the agency completing the fingerprinting and to the bureau of criminal identification and investigation for both the Ohio and federal bureau of investigation records checks. Applicants shall follow the directions provided with the fingerprint cards. The applicant shall ask the superintendent of the bureau of criminal identification and investigation in the request to obtain from the federal bureau of investigation any information it has pertaining to the applicant. Part of that application requires a waiver from electronic submission form citing out-of-state as the reason.
  - (b) An applicant requesting a criminal records check shall provide the bureau of criminal identification and investigation with the applicant's name and address and with the board's name and address as the results addressee. The agency code on the fingerprint card shall be "1AB002".
- (3) The board shall not issue a license or registration until receipt of the criminal records check and any follow-up actions are completed.
- (4) The results of any criminal records check conducted pursuant to a request made under this chapter and any report containing those results, including any information the federal bureau of investigation provides, are not public records for purposes of section 149.43 of the Revised Code and shall not be made available to any person or for any purpose other than as follows:
- (a) The superintendent of the bureau of criminal identification and investigation shall make the results available to the board for use in determining, under Chapter 4757. of the Revised Code, whether the applicant who is the subject of the criminal records check should be granted a license under that chapter.
  - (b) The board shall make the results available to the applicant who is the subject of the criminal records check or to the applicant's representative upon their written request.

Effective: 10/18/2009

R.C. 119.032 review dates: 06/12/2009 and 09/20/2014



## Five Year Rule Review – due 9/20/2014 as of 7-24-2014

Promulgated Under: 119.03

Statutory Authority: 4757.10

Rule Amplifies: 4757.10, 4757.16

Prior Effective Dates: Eff 6/11/85 (Emer.); 9/19/85 (Emer.); 12/19/85; 7/3/97; 9/20/02; 4/10/04; 9/20/07; 11/2/08

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### **4757-1-07 Discipline actions that may include fines.**

The professional standards committees established under section 4757.04 of the Revised Code may utilize fines at the discretion of each committee. Section 119.14 of the Revised Code, waiver of penalties for first-time paperwork, will be reviewed prior to levying a fine. Per division (E) of section 4757.10 of the Revised Code the following fines are enumerated.

(A) Practicing without a valid license, which includes practice prior to license and continuing to practice with an expired license.

(1) Worked as a licensee for sixty days or less without a valid license standard consent agreement terms:

(a) Written reprimand;

(b) Standard fine two hundred dollars for independent practitioner licensee and one hundred dollars for all others; and

(c) Fine to be paid within sixty days of the effective date of the agreement.

(2) Worked for sixty-one to one hundred twenty days without a valid license standard consent agreement terms:

(a) Suspension of fourteen days, plus an additional day for each day he/she engaged in unlicensed practice;

(b) Standard fine of two hundred dollars for independent practitioner licensee and one hundred dollars for other licensees plus one hundred dollars per week after the first three weeks. Fine amount up to five hundred dollars; and

(c) Fine to be paid within sixty days of the effective date of the agreement.

(3) Worked for more than one hundred twenty days without a valid license standard consent agreement terms:

(a) Suspension of four months, plus an additional month for each month or part thereof he/she engaged in unlicensed practice;

(b) Standard fine of five hundred dollars for all licensees; and

(c) Fine to be paid within sixty days of the effective date of the agreement.

(B) Fines may be levied in other discipline cases where the professional standards committee believes the fine will be more productive in correcting the issue than other discipline actions. Fine amounts up to five hundred dollars per violation may be made using the aggravating and mitigating factors in paragraph (G) of this rule in determining the proposed fine amount.

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(C) Failure to complete the continuing education required for renewal, which is typically discovered during a continuing education audit, which includes failure to provide documentation of thirty hours of continuing education that meet the requirements of rule 4757-7-01 of the Administrative Code. These terms will be implemented after a licensee has failed a previous audit and paid a fee under rule 4757-1-05 for failure to complete thirty continuing education hours prior to renewal. The standard consent agreement terms are:

- (1) Written reprimand;
- (2) ~~Fine~~ A five hundred dollar fine to be paid within thirty ~~sixty~~ days of the effective date of the agreement;

~~(a) Deficient number of hours for a first offense fine per hour:~~

- ~~(i) Deficient up to ten hours fine of one hundred dollars; or~~
- ~~(ii) Deficient eleven to twenty hours fine of two hundred fifty dollars; or~~
- ~~(iii) Deficient twenty one to thirty hours fine of five hundred dollars.~~

~~———— (b) Deficient number of hours for a subsequent offense fine per hour:~~

- ~~(i) Deficient three to ten hours fine of two hundred dollars~~
- ~~(ii) Deficient eleven to twenty hours fine of three hundred fifty dollars~~
- ~~(iii) Deficient twenty one to thirty hours fine of five hundred dollars~~

- (3) Complete the number of continuing education hours he/she was deficient within thirty days of the consent agreement effective date and submit proof of completion on or before that ~~within forty five days of the consent agreement effective date~~. These hours shall not be counted toward his/her next renewal.

- (4) Agrees to audit for continuing education the next time he/she renews his/her license.

~~(D) Do not discipline if licensee is deficient two hours or less of continuing education. Require that they make up the continuing education hour(s) and place a copy of a caution letter in their licensure file. Add them to the audit list for their next renewal.~~

~~(E)~~ (D) Applying for or renewing a license by means of fraud/deceit. Includes failure to report discipline by another jurisdiction, conviction, etc. the standard consent agreement terms are:

- (1) Written reprimand;
- (2) Fine up to five hundred dollars with a standard fine of two hundred fifty dollars;
- (3) Fine to be paid within sixty (60) days of the effective date of the agreement; and
- (4) Attend four hours of ethics training. Course(s) must be at least a two semester hour or three quarter hour college level or thirty hour continuing education course, no on-line courses. Verification of completion shall be submitted to the investigation division within thirty days of attendance. These hours will not count toward the continuing education requirement for license renewal.

~~(F)~~ (E) Failure to respond to the continuing education audit standard consent agreement terms are:

- (1) Fine up to five hundred dollars with a standard fine of two hundred fifty dollars;

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- (2) Fine to be paid within sixty days of the effective date of the agreement;
- (3) Submit proof of thirty hours of continuing education for the audit renewal period within thirty days of the ratification of the agreement; and
- (4) Agrees to audit for continuing education the next time he/she renews his/her license.

~~(G)~~(F) Aggravating and mitigating factors to consider in levying fines. After a violation has been established, the professional standards committee may consider aggravating and mitigating factors/circumstances in determining the penalty to be imposed. If the professional standards committee deems such circumstances to be sufficient to justify a departure from the disciplinary guidelines, the reasons shall be specified by the professional standards committee.

- (1) Aggravating factors/circumstances are any considerations or factors, which might justify an increase in the degree of discipline to be imposed. Aggravating factors may include, but are not limited to:
  - (a) Prior disciplinary actions;
  - (b) A pattern of misconduct;
  - (c) Multiple violations;
  - (d) Submission of false statements, false evidence or other deceptive practices during the disciplinary process;
  - (e) Refusal to acknowledge wrongful nature of conduct;
  - (f) Adverse impact of misconduct on others;
  - (g) Vulnerability of the victim; and
  - (h) Willful or reckless misconduct.
- (2) Mitigating factors/circumstances are any considerations, which might justify a reduction in the degree of discipline to be imposed. Mitigating factors may include, but are not limited to:
  - (a) Absence of a prior disciplinary record;
  - (b) Isolated incident, unlikely to recur;
  - (c) Full and free disclosure to the board;
  - (d) Interim rehabilitation or remedial measures;
  - (e) Absence of adverse impact of misconduct on others;
  - (f) Remorse; and/or
  - (g) Absence of willful or reckless misconduct.

Effective: 04/01/2011

R.C. 119.032 review dates: 09/20/2014

Promulgated Under: 119.03

Statutory Authority: 4757.10, 4757.31

Rule Amplifies: 4757.10, 4757.31

## Five Year Rule Review – due 9/20/2014 as of 7-24-2014

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### **4757-5-10 Standards of ethical practice and professional conduct: reporting unethical actions.**

(A) Mandatory reporting: All licensees, registrants, supervisors and trainees have a responsibility to report any alleged violations of this act or rules adopted under it to the counselor, social worker, and marriage and family therapist board. Also, if they have knowledge or reason to suspect that a licensed colleague or other licensee is acting in an unethical way or is incompetent or impaired they shall report that practitioner to the board. All mandatory reporting shall be in writing and bear the name and license number or registration of the reporter. When client confidentiality limits the licensee's ability to provide details the licensee is still mandated to report the allegations against another licensee without breaching client confidentiality.

(B) Counselors, social workers, and marriage and family therapists are required to comply with all mandatory reporting requirements set forth in the Revised Code to include, but not limited to:

- (1) Section 2305.51 of the Revised Code - Immunity of mental health professional for reporting violent behavior by a client or patient;
- (2) Section 2151.421 of the Revised Code - Duty to report child abuse or neglect;
- (3) Section 5101.61 of the Revised Code - Duty to report abuse, neglect or exploitation of an adult;
- (4) Section 2317.02 of the Revised Code - Privileged communications; and
- (5) Section 5123.61 of the Revised Code - Mandatory "duty to report abuse, neglect and other major incidents for a person with mental retardation or a developmental disability."

R.C. 119.032 review dates: 06/11/2014

Promulgated Under: 119.03

Statutory Authority: 4757.11

Rule Amplifies: 4757.11

Prior Effective Dates: 9/19/85 (Emer.); 12/19/85; 5/22/86; 6/11/95 (Emer.); 7/3/97; 8/2/01; 9/20/02; 4/10/04; 1/1/06; 11/8/07

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### **4757-5-11 Standards of ethical practice and professional conduct: change of name and/or address.**

All licensees or registrants are required to notify the board of any changes of name or information to ensure that the board has their current name and mailing address within ninety days of those events. Failure to do so may result in disciplinary action by the board.

R.C. 119.032 review dates: 06/12/2009 and 06/11/2014

Promulgated Under: 119.03

Statutory Authority: 4757.11

Rule Amplifies: 4757.11

Prior Effective Dates: 9/19/85 (Emer.); 12/19/85; 5/22/86; 6/11/95 (Emer.); 7/3/97; 8/2/01; 9/20/02; 4/10/04; 1/1/06; 11/8/07

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### **4757-6-01 Reports prepared for court review including custody, visitation and guardianship concerns.**

## Five Year Rule Review – due 9/20/2014 as of 7-24-2014

(A) The role of the counselor, social worker, or marriage and family therapist is that of a professional expert who strives to maintain an objective, impartial stance. A counselor, social worker or marriage and family therapist does not act as a judge who makes the ultimate decision applying the law to all relevant evidence. Neither does a counselor, social worker or marriage and family therapist act as an advocating attorney who strives to present his or her client's best possible case. A counselor, social worker, or marriage and family therapist in a balanced, impartial manner informs and advises the court and the ~~prospective~~ respective parties of the relevant mental health factors pertaining to the issue. A counselor, social worker, or marriage and family therapist should be impartial regardless of whether he or she is retained by the court or by a party to the proceedings. If either the counselor, social worker, marriage and family therapist, or the client cannot accept this neutral role, the counselor, social worker, or marriage and family therapist shall withdraw from the case. If not permitted to withdraw, the counselor, social worker, or marriage and family therapist acknowledges past roles and other factors that could affect impartiality.

(B) A counselor, social worker, or marriage and family therapist contemplating performing court reports, including child custody reports, is aware that special competencies and knowledge are required for the undertaking of such evaluations. Competence in performing psychological assessments of children, adults and families is necessary but not sufficient. Education, training, experience and/or supervision in the areas to be evaluated are essential in preparing a report.

(C) A counselor, social worker, or marriage and family therapist uses current knowledge of scientific and professional developments consistent with accepted clinical and scientific standards in selecting data collection methods and procedures.

(D) In the course of preparing a report, allegations of other issues may occur that are not necessarily within the scope of a particular evaluator's expertise. If this is so, the counselor, social worker, or marriage and family therapist seeks additional consultation, supervision, and/or specialized knowledge or training to address these issues.

(E) A counselor, social worker, or marriage and family therapist engaging in preparing reports that will likely be used in court is aware of how biases regarding age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, language, culture, and socioeconomic status may interfere with an objective evaluation and recommendations. A counselor, social worker, or marriage and family therapist recognizes and strives to overcome any such biases or withdraws from the evaluation.

(F) A counselor, social worker, or marriage and family therapist shall not conduct a court evaluation in a case in which that counselor, social worker, or marriage and family therapist served in a therapeutic role for the client or his or her immediate family or has had other involvement that may compromise the counselor, social worker, or marriage and family therapist's objectivity. This should not preclude a counselor, social worker, or marriage and family therapist from testifying in the case as a fact witness concerning treatment. In addition, during the course of a court evaluation, a counselor, social worker, or marriage and family therapist shall not accept any of the involved participants in the evaluation as a therapy client. Therapeutic contact with the participants following the court evaluation is undertaken with

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caution. A counselor, social worker, or marriage and family therapist asked to testify in court is aware of the limitations and possible biases inherent in such a role and the possible impact on the ongoing therapeutic relationship. Although the court may require the counselor, social worker, or marriage and family therapist to testify as a fact witness regarding factual information he or she became aware of in a professional relationship with a client, that counselor, social worker, or marriage and family therapist shall decline the role of expert witness who gives a professional opinion regarding the custody, visitation and/or guardianship issues .

(1) Licensees with a client involved in a custody, visitation and/or guardianship case, if asked by a client and/or their lawyer or the guardian ad litem to make a recommendation as to custody, visitation and/or guardianship, shall cite their role as the primary therapist for their client. This section does not apply to a licensee hired to make a custody, visitation and/or guardianship recommendation for the court. Licensees shall inform the requestor that they have not performed a custody, visitation and/or guardianship evaluation and it would be unethical for them to make any recommendation outside of their role as a treating therapist.

(2) Licensees asked by a judge to make a recommendation in a custody, visitation and/or guardianship hearing, not hired by the court to do so, shall cite their role as a client's therapist and note that any testimony would be an ethics violation of their license and they can only testify to facts that they know. Any recommendation would be based on limited facts and not within their role as this client's therapist. However, if ordered by the court to make a recommendation after stating these limitations, the licensee shall follow the court's order in order to avoid being found in contempt of court

(G) The scope of the court evaluation is determined by the nature of the question or issue raised by the referring person or court, or is inherent in the situation. A counselor, social worker, or marriage and family therapist may be asked to critique the assumptions and methodology of the assessment of another mental health professional. A counselor, social worker, or marriage and family therapist also might serve as an expert witness providing expertise to the court without relating it specifically to the parties involved in a case.

(H) A counselor, social worker, or marriage and family therapist will adhere to the requirements regarding informed consent as outlined in paragraph (B)(2) of rule 4757-5-01 of the Administrative Code.

(I) A counselor, social worker, or marriage and family therapist will adhere to the requirements regarding confidentiality as outlined in paragraph (B)(4) of rule 4757-5-01 of the Administrative Code.

(J) A counselor, social worker, or marriage and family therapist strives to use the most appropriate methods available for addressing the questions raised in a specific evaluation and generally uses multiple methods of data gathering, including but not limited to clinical interviews, observation, and/or testing and assessment instruments. Important facts and opinions are documented from at least two sources whenever ~~their~~ those methods' reliability is questionable. A counselor, social worker, or marriage and family therapist may also interview extended family, friends, and other individuals on occasions when the information is likely to be



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useful. If information is gathered from third parties that is significant and may be used as a basis for conclusions, licensees corroborate it by at least one other source wherever possible and appropriate and document this in the report.

(K) A counselor, social worker, or marriage and family therapist refrains from drawing conclusions not adequately supported by data. The counselor, social worker, or marriage and family therapist interprets any data from interviews or tests, as well as any questions of data reliability and validity cautiously and conservatively seeking convergent validity. A counselor, social worker, or marriage and family therapist strives to acknowledge to the court any limitations in methods or data used.

(L) A counselor, social worker, or marriage and family therapist does not give a professional opinion regarding the mental health functioning of any individual who has not been personally evaluated other than in addressing theoretical issues of hypothetical questions, so long as the limited basis of the information is noted.

(M) If a counselor, social worker, or marriage and family therapist chooses to make recommendations, these recommendations should be derived from sound data and shall be based on the best interests of the client involved. Recommendations are based on articulated assumptions, data, interpretations, and inferences based upon established professional and scientific standards. A counselor, social worker, or marriage and family therapist guards against relying on their own biases or unsupported beliefs in rendering opinions in particular cases.

(N) A counselor, social worker, or marriage and family therapist shall adhere to the requirements regarding record keeping as outlined in paragraph (I) of rule 4757-5-01 of the Administrative Code.

Effective: 04/01/2011

R.C. 119.032 review dates: 09/20/2014

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Statutory Authority: 4757.10

Rule Amplifies: 4757.11

Prior Effective Dates: 4/10/04; 9/20/07; 10/18/09

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### **4757-6-02 Summary suspension.**

(A) If the counselor, social worker, and marriage and family therapist board determines that there is clear and convincing evidence that a person who has been granted a license or registration under this chapter has committed an act that subjects the person's license or registration with the board to action under section 4757.36 of the Revised Code and that the person's continued practice presents a danger of immediate and serious harm to the public, the board, or one of its professional standards committees, may suspend the license without a prior hearing.

(B) The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order is not subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the person subject to the suspension requests an adjudication by the board, the date set for the adjudication shall be within fifteen business days, but not earlier than seven business days, after

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the request, unless otherwise agreed to by both the board and the person subject to the suspension.

(C) Any summary suspension imposed under this section shall remain in effect, unless reversed on appeal, until a final adjudication order issued by the board pursuant to section 4734.36 and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjunctive order within sixty days after completion of its adjudication. A failure to issue the order within sixty days shall result in dissolution of the summary suspension order but shall not invalidate any subsequent, final adjudicative order.

Effective: 10/18/2009

R.C. 119.032 review dates: 06/12/2009 and 09/20/2014

Promulgated Under: 119.03

Statutory Authority: 4757.10

Rule Amplifies: 4757.361

Prior Effective Dates: 4/10/04, 1/1/06

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### **4757-7-02 Practice with expired license or certificate of registration is prohibited.**

Persons whose licenses or certificates or registration have lapsed or expired and who continue to hold themselves out as counselors, social workers, or marriage and family therapists, or who engage in counseling, social work, or marriage and family therapy without a license or certificate of registration, shall be in violation of Chapter 4757. of the Revised Code. Persons who practice counseling, social work, or marriage and family therapy while their licenses or certificates of registration are under suspension or revocation shall be in violation of Chapter 4757. of the Revised Code.

R.C. 119.032 review dates: 06/12/2009 and 06/11/2014

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Statutory Authority: 4757.10

Rule Amplifies: 4757.02 & 4757.32

Prior Effective Dates: 5/22/86; 7/3/97; 2/9/98; 4/10/04

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### **4757-9-06 Sources of continuing professional education.**

(A) Sources of continuing professional education shall be formally organized learning experiences with education as their explicit principal intent and which are oriented toward the enhancement of counselor, social worker, and marriage and family therapy practice. The following are examples of appropriate formats for such learning experiences:

- (1) "Institute" means a formal offering, usually in a series of meetings, for instruction and information in a particular area of counselor, social worker and/or marriage and family practice;
- (2) "Seminar" means a small group of counselors, social workers, or marriage and family therapists who meet under expert leadership or resource persons. Participants prepare reports on some aspect of a problem, which is discussed and analyzed;
- (3) "Conference" means sessions of one or more days duration designed to serve a varying number of persons to hear different points of view on a central theme;

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(4) "Staff development" means an educational program planned by an agency to assist its employees in becoming increasingly knowledgeable and competent in fulfilling role expectations within that agency. Although often used interchangeably with in service education, staff development frequently includes out-of-agency educational activities;

(5) "Symposium" means two or more specialists presenting information on a particular subject. A moderator introduces the subject and each speaker then summarizes and presides during a question and answer period;

(6) "Workshop" means a program designed to bring together individuals with a common interest and background to solve similar problems and to gain new knowledge, skills, and attitudes;

(7) "Plenary session" means an assembly designed for all participants;

(8) "Course" means a series of learning experiences with a specific content and offered for credit, non-credit, or audit by an regionally accredited educational institution;

(9) "Short-term course" means an intensive sequence of learning activities offered regularly over a short period of time.

(10) "Teleconference" means the transmission of video information where there is an on-site moderator to lead a post-conference discussion and question and answer session.

(11) "Distance learning" means a formal education process, in which instruction occurs when the students and instructor(s) are not located in the same place. Distance learning adds technology to the learning environment by a variety of means. As this form of education has evolved with technology, it may be referred to as cyber learning, electronic learning, distance learning. For the purposes of agency 4757 rules, the term distance learning refers to all non-traditional methods of presentation except video-conferencing.

(12) "Video conferencing" means conducting a conference between two or more participants at different sites using computer networks to transmit audio and video data. For example, a video conferencing system works much like a video telephone. Each location has a video camera, microphone, and speakers with which to interact. As the two or more participants speak to each other, their voices are carried over the network and delivered to the other's speakers, and whatever images appear in front of the video camera appear on the other participants' monitor. Video conferencing allows two or more locations to sit in a virtual conference room and communicate as if they were sitting right next to each other.

(B) The board shall grant continuing professional education credit to licensees who author journal articles or books on subjects related to counseling, social work, or marriage and family therapy, and which meet the following requirements:

(1) Journal articles shall be published in refereed journals.

(2) Chapters authored by licensees in books acceptable under this rule shall be treated as journal articles.

(3) Reprints or republications of previously published materials either in name or substantive content are not acceptable as continuing professional education.

(4) Continuing professional education for publications having joint authorship shall be divided equally among the authors.

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(5) Licensees wishing to use a journal article or book shall submit a post program approval per paragraph (F) of rule 4757-9-05 of the Administrative Code.

(C) The board shall grant continuing education credit to individuals who conduct presentations on subjects related to counseling, social work, or marriage and family therapy. Credit shall be granted for first time preparation and presentation of an in-service training workshop, a seminar or a conference presentation which is related to the enhancement of counseling, social work, or marriage and family therapy practice, values, skills, or knowledge. Licensees wishing to use a presentation shall submit a post program approval per paragraph (F) of rule 4757-9-05 of the Administrative Code.

(D) The board may grant continuing education credit to individuals wishing to explore and develop independent learning opportunities which are related to counseling, social work, or marriage and family therapy and which meet the following requirements:

(1) All independent options shall be pre-approved by the board. In order to receive approval, individuals shall submit an approval form to the board at least sixty days prior to beginning the study.

(2) The approval form shall be accompanied by the actual study materials, a statement of the goals and objectives of the study, an overview of the study methodology, and copies of the evaluation tool that will be used at the completion of the study.

(E) The board may grant continuing education credit for approved home study programs when the distance learning program's sponsor can demonstrate to the board that:

(1) The program meets all of the requirements established in rule 4757-9-05 of the Administrative Code for approved programs and providers.

(2) The program sponsors shall have adequate security in place to assure that the individual who receives credit for the course is the individual who completed the program.

(3) The program sponsor shall include post tests of at least five questions per hour of continuing education for home-study courses.

(4) Licensees wishing to use a home study or distance learning program not having board approval for continuing education hours shall submit a post program approval per paragraph (F) of rule 4757-9-05 of the Administrative Code.

(F) The board may grant continuing education credit for appropriate college courses that are documented by passing grades of "C-" or above on undergraduate courses and "B-" or above for graduate courses from [regionally](#) accredited educational institutions; audited courses require documentation by a letter from the professor noting the hours attended.

(1) Appropriate college courses are those that are at the level of the license for which CEUs are sought. Graduate level licensees shall generally be approved for graduate level courses directly related to their license type. Bachelor level licensees shall generally be approved for bachelor or graduate level courses directly related to their license type. Associate level registrants shall generally be approved for associate, bachelor or graduate level courses directly related to their license type. College courses taken at a lower level than qualifying degree may be submitted for post program approval per paragraph (C) of rule 4757-9-05 of the Administrative Code; applicants shall delineate how that course work is relevant to their practice.

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(2) Appropriate courses are ones not previously taken unless updated due to passage of five years or more.

(3) Licensees wishing to use a college course for continuing education hours shall submit a post program approval per paragraph (F) of rule 4757-9-05 of the Administrative Code.

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### **4757-11-02 Impaired practitioner rules.**

(A) For purposes of the rule, an individual licensee who accepts the privilege of practicing counseling, social work, or marriage and family therapy in this state is subject to the supervision by the board. The act of filing an application for licensure or being licensed or registered by the board, the individual has given consent to submit to a mental or physical examination, at the individual's expense when ordered to do so by the board in writing, and to have waived all objections to the admissibility of testimony or examination of reports that constitute privileged communications.

(B) If the professional standards committee receives information by the filing of a verified complaint with the board office or upon its own information that a licensee or registrant, be it either a counselor's, a social worker's, or a marriage and family therapist's ability to practice has fallen below the acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances or other physical or mental impairments that impair their ability to practice, the professional standards committee may order the licensee to submit to a mental or physical examination at the licensee's expense conducted by a designee of the board for the purpose of determining if there is an impairment that is posing a threat to the licensee's well-being or the treatment of a client whom the licensee or registrant serves.

(C) Failure of the individual licensee or registrant to submit to a mental or physical examination order by the professional standards committee constitutes an admission of the allegations against the individual licensee or registrant unless the failure is due to circumstances beyond the individual's control.

(D) If the professional standards committee determines that the individual's ability to practice is impaired the following actions shall be taken:

- (1) The professional standards committee shall suspend or place restrictions on the individual's license or registration to practice; or
- (2) Deny the individual's application for licensure or registration and require the individual to submit to treatment; or
- (3) Other requirements as a condition for initial, continued, reinstated or renewed licensure or registration to practice.

(E) The professional standards committee at its discretion shall:

- (1) Contract with providers of impaired treatment programs.

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- (2) Receive and evaluate reports of suspected impairment from any source.
  - (3) Intervene in cases of verified impairment.
  - (4) Monitor treatment and rehabilitation of the impairment.
  - (5) Provide post-treatment monitoring and support.
  - (6) Provide other functions as necessary to carry out the provisions of this rule.
  - (7) Make amendments, if necessary, to the treatment program's findings.
- (F) The professional standards committee approved treatment program shall:
- (1) Receive relevant information from the board office and other sources regarding the potential impairment.
  - (2) Report in a timely fashion any impaired counselor, social worker, or marriage and family therapist:
    - (a) Who refuses to cooperate with an evaluation or investigation.
    - (b) Who refuses to submit to treatment/rehabilitation.
    - (c) Whose impairment is not substantially alleviated through treatment.
    - (d) Who in the opinion of the evaluators is unable to practice counseling, social work, or marriage and family therapy with reasonable skill and safety.
  - (3) Provide confidentiality of non-public information of the review process.
  - (4) Provide an initial report of the nature, severity, and progress of the impairment.
  - (5) Provide periodic reports, at a rate determined by the board concerning the counselor's, social worker's, or marriage and family therapist's progress.
  - (6) Provide a final report including the treatment outcome and a finding as to the counselor's, social worker's, or marriage and family therapist's fitness to practice.
  - (7) Follow any requirements outlined in a formal agreement the licensee, registrant or applicant for licensure has entered into with the board.
- (G) Pursuant to ORC 4757.10(A), as part of the board's impairment or diversion program, the board may enter into a non-disciplinary agreement with a licensee. Any documentation pertaining to this agreement, including the agreement itself, is confidential and not considered a public record.

Effective: 10/18/2009

R.C. 119.032 review dates: 06/12/2009 and 09/20/2014

Promulgated Under: 119.03

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Rule Amplifies: 4757.10

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[4757-1-08 Military provisions related to licensure for counselors, social workers and/or marriage and family therapists.](#)



## Five Year Rule Review – due 9/20/2014 as of 7-24-2014

### (A) Definitions.

#### (1) "Armed forces" means:

- (a) The armed forces of the United States, including the army, navy, air force, marine corps, and coast guard;
- (b) A reserve component of the armed forces listed in paragraph (A)(1)(a) of this rule;
- (c) The national guard, including the Ohio national guard or the national guard of any other state;
- (d) The commissioned corps of the United States public health service; (e) The merchant marine service during wartime; or
- (f) The Ohio organized militia when engaged in full-time national guard duty for a period of more than thirty days.

#### (2) "Member" means any person who is serving in the armed forces.

#### (3) "Veteran" means any person who has completed service in the armed forces, who has been discharged under honorable conditions or who has been transferred to the reserve with evidence of satisfactory service.

### (B) Eligibility for licensure.

In accordance with section 5903.03 of the Revised Code, the following military programs of training, military primary specialties, and lengths of service are substantially equivalent to or exceed the educational and experience requirements for licensure as an:

#### (1) Independent social workers.

##### (a) Military programs of training.

There are no military programs of training that are substantially equivalent to or exceed the educational and experience requirements for licensure as a independent social worker. An individual serving in a military primary specialty listed in paragraph (B)(1)(b) of this rule must be a graduate of a master's in social work program accredited by the council for social work education (CSWE) to serve in that specialty.

##### (b) Military primary specialties for independent social workers.

- (i) Army: Social Worker (AOC 73A)
- (ii) Navy: Social Worker (NOBC None)
- (iii) Air Force: Clinical Social Worker (AFSC 42SX)

##### (c) Lengths of service.

There are no minimal lengths of service that would be substantially equivalent to or exceed the educational and experience requirements for licensure as a licensed professional clinical counselor, independent social worker or independent marriage and family therapist.

#### (2) Social worker assistant.

##### (a) Military programs of training.

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There are no military programs of training that are substantially equivalent to or exceed the educational and experience requirements for registration as a social worker assistant. There are no military primary specialties for social worker assistant registration.

Military primary specialties: None.

(c) Lengths of service.

There are no minimal lengths of service that would be substantially equivalent to or exceed the educational and experience requirements for registration as a social worker assistant.

### (3) Licensed professional clinical counselor.

(a) Military programs of training.

There are no military programs of training that are substantially equivalent to or exceed the educational and experience requirements for licensure as a licensed professional clinical counselor.

Military primary specialties: None.

(c) Lengths of service.

There are no minimal lengths of service that would be substantially equivalent to or exceed the educational and experience requirements for licensure as a licensed professional clinical counselor.

### (4) Independent marriage and family therapist.

(a) Military programs of training.

There are no military programs of training that are substantially equivalent to or exceed the educational and experience requirements for licensure as an independent marriage and family therapist. There are no military primary specialties for licensure as an independent marriage and family therapist.

Military primary specialties: None.

(c) Lengths of service.

There are no minimal lengths of service that would be substantially equivalent to or exceed the educational and experience requirements for registration as a social worker assistant.

### (C) License renewal and continuing education.

(1) Per section 5903.10 of the Revised Code, a licensee or registrant shall be granted a renewal of the license or certificate by the board at the usual fee without a late fee as required by rule 4757-1-05 of the Administrative Code, if not otherwise disqualified because of mental or physical disability, and if either (C)(1)(a) or (C)(1)(b) of this paragraph applies:

(a) The license or registration was not renewed because of the holder's service in the armed forces of the United States or a reserve component of the armed forces of the United States, including the Ohio national guard.

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(b) The license or certificate was not renewed because the holder's spouse served in the armed forces of the United States or a reserve component of the armed forces of the United States, including the Ohio national guard, and the service resulted in the holder's absence from this state.

(c) A renewal shall not be granted under this paragraph unless the holder or the holder's spouse, whichever is applicable, has presented satisfactory evidence of the service member's discharge under honorable conditions or release under honorable conditions from active duty or national guard duty within six months after the discharge or release.

(2) Military members on active duty outside of Ohio may receive a complete or partial waiver of all continuing education hours upon providing proof of orders outside of Ohio. Military members in Ohio may provide proof that they are unable to complete continuing education in order to receive a full or partial waiver of continuing education hours required.

(3) Per Section 5903.12 of the Revised Code, a licensee or registrant upon application that is accompanied by proper documentation certifying that the licensee has been called to active duty as described in paragraph (D)(3)(a) and/or (D)(3)(b) of this section during the current or a prior reporting period and certifying the length of that active duty, shall have the continuing education response time extended for the current reporting period by an amount of time equal to the total number of months that the licensee spent on active duty during the current reporting period. For purposes of this division, any portion of a month served on active duty shall be considered one full month.

(a) The person is a member of the Ohio national guard, the Ohio military reserve, the Ohio naval militia, or a reserve component of the armed forces of the United States.

(b) The person has been called to active duty, whether inside or outside the United States, because of an executive order issued by the president of the United States or an act of congress, or upon the order of the governor, for a period in excess of thirty-one days.

### (D) Waiver of license application fee.

(1) The application fee shall be waived for an applicant who is a current member of the armed forces.

(2) Paragraph (E) of this rule applies to the following application fee types:

(a) Initial licensure by examination, outlined in rules 4757-13-01, 4757-13-03, 4757-19-01, 4757-19-02, 4757-19-03, 4757-25-01 and 4757-25-03 of the Administrative Code.

(b) Initial licensure by endorsement, outlined in rules 4757-13-06, 4757-19-07 and 4757-25-06 of the Administrative Code.

(c) Reinstatement of an expired license, outlined in rule 4757-7-01 of the Administrative Code.

(d) Restoration of a license in an inactive status, outlined in rule 4757-7-03 of the Administrative Code.

### (E) Application process.

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- (1) The board's applications shall include a question to identify if the applicant is a member of the armed forces, a veteran, or a spouse or surviving spouse of a member of the armed forces or veteran. This status shall be stored in the licensing system.
  - (2) When the board receives an application from an individual identified in paragraph (G)(1) of this rule, the processing of that application shall be prioritized, with a goal of ensuring that a license is issued the same day that the application is complete.
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### **4757-5-02 Standards of ethical practice and professional conduct: clients/consumers of services.**

#### **(A) Responsibility to clients/consumers of services as to competency:**

- (1) Licensees and registrants shall be able to present reliable and substantial evidence of competency in the areas in which they practice. Licensees and registrants shall not misrepresent directly, indirectly or by implication their professional qualifications such as education, specialized training, experience, or area(s) of competence. Licensees or registrants shall not use a doctorate designation in their professional capacity unless it is related to the field of mental health and is from a recognized accredited educational institution.
- (2) Licensees and registrants shall practice only within the competency areas for which they are qualified by education and training. Licensees and registrants shall maintain appropriate standards of care based on their individual professional license. Standards of care shall be defined as what an ordinary, reasonable professional with similar training would have done in a similar circumstance.
- (3) While developing new skills in specialty areas, a counselor, social worker, or marriage and family therapist shall take steps to ensure the competence of their work and to protect the clients from possible harm. A counselor, social worker, or marriage and family therapist shall claim skills in specialty areas only after appropriate education, training, and while receiving appropriate peer consultation.
- (4) Licensees and registrants do not diagnose, treat, or advise on problems outside the recognized boundaries of their competencies. Licensees and registrants shall make appropriate referrals when the client's needs exceed the counselor's, social worker's, or marriage and family therapist's competence level or scope of practice. The referrals shall be made in a timely manner.
- (5) All counselors, social workers and marriage and family therapists shall use techniques/ procedures/ modalities in diagnosing and treating mental and emotional disorders that are grounded in theory and/or have an empirical or scientific foundation, otherwise, they shall define the techniques/ procedures as "unproven" or "developing" and explain to their clients the potential risks and ethical considerations of using such techniques/procedures and take steps to protect clients from possible harm. Individuals licensed at the level of professional counselor, social worker and marriage and family therapist shall diagnose and treat mental and emotional disorders only under proper supervision.

#### **(B) Responsibility to clients/consumers of services as to informed consent:**

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- (1) Counselors, social workers, or marriage and family therapists shall inform clients/consumers of services the extent and nature of services available to them, as well as the limits, rights, opportunities and obligations associated with the services to be provided which might effect the clients/consumers of services decisions to enter into or continue the relationship.
- (2) Licensees and registrants shall provide services to clients only in the context of a professional relationship based on valid informed consent. Licensees and registrants shall use clear and understandable language to inform clients of the purposes of services, limit to the services due to legal requirements, relevant costs, reasonable alternatives, the clients' rights to refuse or withdraw consent, and the timeframe covered by the consent.
- (3) In instances when clients are unable to read or understand the consent document or have trouble understanding the primary language contained in the informed consent document, licensees shall take steps to ensure the client's comprehension including providing a detailed verbal explanation or arranging for a qualified interpreter or translator as needed. If a client because of age or mental condition is not competent to provide informed consent the licensee shall obtain consent from the parent, guardian, or court appointed representative. Best professional practice dictates that a counselor, social worker, or marriage and family therapist shall adhere to the court documents. If a counselor, social worker, or marriage and family therapist does not understand the court document, they shall contact the court for clarification before proceeding with treatment.
- (4) In situations when clients are receiving services involuntarily, counselors, social workers, and marriage and family therapists shall provide information about the nature and extent of the services and about the client's right to refuse services and the consequences of that refusal.
- (5) Counselors, social workers, and marriage and family therapists who provide services via electronic means shall inform the clients and recipients of the limitations and risks associated with such services.
- (6) When a counselor, social worker, or marriage and family therapist provides services to two or more clients who have a relationship with each other and who are aware of each other's participation in treatment (for example couples, family members), a counselor, social worker, or marriage and family therapist shall clarify with all parties the nature of the licensee's professional obligations to the various clients receiving services, including limits of confidentiality. A counselor, social worker, or marriage and family therapist who anticipates a conflict of interest among the clients receiving services or anticipates having to perform in potentially conflicting roles (for example a licensee who is asked or ordered to testify in a child custody dispute or divorce proceeding involving clients) shall clarify their role with the parties involved and take appropriate action to minimize any conflict of interest.
- (7) When a counselor, social worker, or marriage and family therapist sees clients for individual or group treatment, there may be reason for a third party to join the session for a limited purpose. The licensee shall ask the client or legal guardian to provide written authorization that describes the purpose and need for the third party to join the session and describes the circumstances and extent to which confidential information may be disclosed to the third party. The counselor, social worker, or marriage and family

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therapist shall make it clear that the third party is not a client and there is no confidentiality between the licensee and the third party. The counselor, social worker, and marriage and family therapist shall make it clear to the third party that he/she shall not have rights to access any part of the client's file including any session in which they participated unless the client signs a release. A counselor, social worker, or marriage or family therapist shall not make recommendations to courts, attorneys or other professional concerning non-clients.

- (8) When a court or other judicial body orders an evaluation, assessment or other official report, the licensee shall inform the client of the parameters of the court order. The counselor, social worker, or marriage and family therapist shall not go beyond the parameters of the court order without obtaining written permission from the court or other judicial body.
- (9) A counselor, social worker, or marriage and family therapist shall only make recommendations to a court, attorney or other professional concerning a client.
- (10) Counselors, social workers, or marriage and family therapists shall communicate information in ways that are both developmentally and culturally appropriate. Counselors, social workers, or marriage and family therapists shall use clear and understandable language when discussing issues related to informed consent. When clients have difficulty understanding the language used by counselors, social workers, or marriage and family therapists, they shall provide necessary services (e.g., arranging for a qualified interpreter or translator) to ensure comprehension by clients. In collaboration with clients, counselors, social workers, or marriage and family therapists shall consider cultural implications of informed consent procedures and, where possible, counselors, social workers, or marriage and family therapists shall adjust their practices accordingly.

(C) Responsibility to clients/consumers of services as to delegation: Counselors, social workers, or marriage and family therapists shall delegate professional responsibilities to another person only when the licensee delegating the responsibilities knows that the task is within the person's scope of practice and the person qualifies by training, experience and/or licensure to perform them.

(D) Responsibility to clients/consumers of services as to confidentiality:

- (1) Counselors, social workers, and marriage and family therapists shall have a primary obligation to protect the client's right to confidentiality as established by law and the professional standards of practice. Confidential information shall only be revealed to others when the clients or other persons legally authorized to give consent on behalf of the clients, have given their informed consent, except in those circumstances in which failure to do so would violate other laws or result in clear and present danger to the client or others. Unless specifically contraindicated by such situations, clients shall be informed and written consent shall be obtained before the confidential information is revealed.
- (2) Counselors, social workers, and marriage and family therapists shall discuss with clients and the client's legally authorized representatives, the nature of confidentiality and the limitation of the client's right to confidentiality. Licensees shall review with clients circumstances where confidential information may be requested and where disclosure of confidential information is legally required. This discussion shall occur as soon as



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possible in the professional relationship and as needed throughout the course of the relationship.

- (3) When counselors, social workers, and marriage and family therapists provide counseling services to families, couples, or groups, licensee's shall seek agreement among the parties involved concerning each individual's right to confidentiality and obligations to preserve the confidentiality of information shared by others. Licensees shall inform participants in family, group, or couples counseling that the licensee cannot guarantee that all participants shall honor such agreements.
- (4) Counselors, social workers, and marriage and family therapists shall take reasonable and appropriate steps to protect the confidentiality of information transmitted to other parties when using computers, electronic mail, facsimile machines, telephones and telephone answering machines, and other electronic or computer technology.

### (E) Responsibility to clients/consumers of services as to termination:

- (1) Counselors, social workers, and marriage and family therapists shall terminate services only after giving careful consideration to factors affecting the relationship and making effort to minimize possible adverse effects. If an interruption or termination of services is anticipated, reasonable notification and appropriate referral for continued services shall be provided to the client/consumer of services.
- (2) Counselors, social workers, and marriage and family therapists employed by an agency or practice, may not solicit or refer a current client of the agency or practice, to the licensee's private practice. Licensees and registrants when leaving the employment of an agency or practice may offer referrals to the client. The referral shall include multiple options for the client to choose from, and the agency where the client is currently being seen shall be included as an option, the licensee's private practice may be one of the multiple options.
- (3) In the event that a licensee or registrant is terminated for cause from a position as a volunteer or paid licensee, it is not the responsibility of the licensee or registrant to provide continuation of services or appropriate referrals. Licensees who are terminated for cause shall not contact their ex-clients.

(F) Responsibility to clients/consumers of services as to sexual harassment: Counselors, social workers, and marriage and family therapists shall not sexually harass clients/consumers of services family members of clients, ex-clients or other persons encountered in professional settings. Licensees shall not sexually harass supervisees, students, or colleagues. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature. A client of the agency is considered a client of each counselor, social worker, or marriage and family therapist employed or contracted by the agency for purposes of ethics under the sexual harassment section of this chapter. The duty of the licensee is based on that particular licensee's knowledge of a client's identity prior to starting a relationship.

### (G) Responsibility to clients/consumers of services as to discrimination:

- (1) Counselors, social workers, and marriage and family therapists shall not practice, condone, facilitate or collaborate with any form of discrimination on the basis of race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, political belief, veteran status, or mental or physical challenge.

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- (2) Counselors and social ~~Social~~ workers should obtain education about and seek to understand the nature of social diversity with respect to race, ethnicity, national origin, color, sex, sexual orientation, gender identity or expression, age, marital status, political belief, religion, immigration status, and mental or physical disability.

(H) Responsibility to clients/consumers of services as to conduct with clients and other individuals:

- (1) Counselors, social workers, and marriage and family therapists shall not physically or verbally abuse or threaten clients family members of clients, ex-clients or other persons encountered in professional settings. Licensees shall be aware that any physical touching between the professional and the client is subject to review for appropriate professional boundaries. The professional shall have the burden of proof to explain why physical touching was professionally necessary.
- (2) Counselors, social workers, and marriage and family therapists shall not use derogatory language in their written or verbal communications to or about clients, ex-clients or family members of clients or ex-clients. Licensees shall use accurate and respectful language in all communications to and about clients and other persons in professional settings.

(I) Licensed independent social workers, professional clinical counselors, and independent marriage and family therapists shall provide appropriate supervision to licensees who do not hold an independent license. This shall include ensuring all supervision documentation is provided to the board in a timely fashion and meeting with the supervisee on a regular basis to discuss the specific issues in the dependent licensee's practice. Supervisors shall be accurate with all supervision reporting issues. Supervisors shall not sign as the training supervisor, if they did not provide direct supervision.

**HISTORY: 9/19/85 (Emer.), 12/19/85, 5/22/86, 6/11/95 (Emer.), 7/3/97, 8/2/01, 9/20/02, 4/10/04, 1/1/06, 11/8/07, 10/18/09, 4/1/11, 1/1/13**

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