



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** [Sub. H.B. 567 of the 129th G.A.](#)      **Date:** December 3, 2012  
**Status:** As Reported by House Health & Aging      **Sponsor:** Rep. Sears

**Local Impact Statement Procedure Required:** No

**Contents:** Modifies counselor, social worker, and marriage and family therapist licensing law

### State Fiscal Highlights

- The bill generally prohibits an employee in the service of the state, including public employees eligible for collective bargaining, from engaging in the practice of professional counseling, social work, or marriage and family therapy without a valid license issued by the State Counselor, Social Worker, and Marriage and Family Therapist Board. According to the Department of Administrative Services, there are 85 state employees who practice professional counseling, social work, or marriage and family therapy who are not currently licensed. If these individuals choose to become licensed, the Counselor, Social Worker, and Marriage and Family Therapist Board could realize a gain in licensing revenue and a corresponding increase in costs to process these additional licenses.
- The bill requires the Office of Collective Bargaining in the Department of Administrative Services to negotiate with each state agency and the affected union to reach a mutually agreeable resolution for employees impacted by the bill. The Department of Administrative Services would incur an increase in costs related to any such negotiations and any development and assignment of new classifications.
- The bill permits the Department of Developmental Disabilities (DODD) or a third-party contractor to conduct Individual Assessment Forms evaluations of individuals residing in Intermediate Care Facilities (ICFs) for the first quarter of calendar year 2013. According to a spokesperson for DODD, the Department would use four of its existing staff to conduct the evaluations. Therefore, any additional costs for the evaluations would be absorbed within the Department's current budget. The case mix scores could impact the rates paid to ICFs in FY 2014 and FY 2015.
- The bill authorizes the Counselor, Social Worker, and Marriage and Family Therapist Board to establish and adjust fees for late completion of counselor, social worker, or marriage and family therapy continuing education. This provision could result in additional revenue to the Board.

- The bill requires the Counselor, Social Worker, and Marriage and Family Therapist Board to adopt various rules. As a result, the Board could incur a minimal increase in costs to adopt these rules.
- The bill extends current laws governing patient access to records and copying fees to independent marriage and family therapists and marriage and family therapists. This provision could result in a minimal gain in revenue and a minimal increase in costs for state agencies, if any, that employ marriage and family therapists.

### **Local Fiscal Highlights**

- The bill extends current laws governing patient access to records and copying fees to independent marriage and family therapists and marriage and family therapists. This provision could result in a minimal gain in revenue and a minimal increase in costs for local governments, if any, that employ marriage and family therapists.

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## Detailed Fiscal Analysis

### License requirements

#### Professional clinical counselors

The bill modifies two of the requirements that an applicant must meet to be eligible for a professional clinical counselor license. It revises the number and type of hours of graduate credit in counselor training that must be completed and requires the Counselor, Social Worker, and Marriage and Family Therapist Board to adopt rules regarding accrediting organizations that will be accepted by the Board for purposes of an applicant meeting educational requirements. The Board could incur a minimal increase in costs to adopt rules.

#### Accrediting organizations

Current law provides that to be eligible for a professional clinical counselor license, an individual must hold a graduate degree in counseling from an accredited educational institution. The bill requires the Counselor, Social Worker, and Marriage and Family Therapist Board to adopt rules that do all of the following:

1. Requires that a graduate degree in counseling obtained after January 1, 2018, from an Ohio mental health counseling program be from an institution accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) in clinical mental health counseling or addiction counseling and other programs approved by the Board;
2. Stipulates that CACREP accredited programs in clinical mental health counseling and, until January 1, 2018, mental health counseling, and any other program area approved by the Board by rule are deemed to have met the requirement that an individual complete at least 90 quarter hours or 60 semester hours of graduate credit in counselor training;
3. Establishes course content requirements for qualifying counseling degrees from counseling programs that are not CACREP accredited clinical mental health or addiction counseling programs and for graduate degrees accredited by other counseling accreditation programs recognized by the Board.

The Counselor, Social Worker, and Marriage and Family Therapist Board could incur a minimal increase in costs to adopt rules.

#### Professional counselors

The bill modifies two of the requirements an applicant must meet to be eligible for a professional counselor license. It revises the number and type of hours of graduate credit in counselor training that must be completed and requires the Counselor, Social Worker, and Marriage and Family Therapist Board to adopt rules regarding accrediting organizations that will be accepted by the Board for purposes of

an applicant meeting educational requirements. The Board could incur a minimal increase in costs to adopt rules.

### **Accrediting organizations**

Current law provides that to be eligible for a professional counselor license, an individual must hold a graduate degree in counseling from an accredited educational institution. The bill requires the Board to adopt rules that do all of the following:

1. Requires that a graduate degree in counseling obtained after January 1, 2018, from an Ohio mental health counseling program be from an institution accredited by CACREP and other CACREP accredited programs approved by the Board by rule;
2. Establishes that individuals that have graduate degrees in clinical mental health counseling from a CACREP accredited program are deemed to have met the requirement that an individual complete at least 90 quarter hours or 60 semester hours of graduate credit in counselor training;
3. Establishes requirements for qualifying counseling degrees from counseling programs that are not CACREP accredited programs, and for graduate degrees accredited by other counseling accreditation programs recognized by the Board.

The bill also requires the Board to adopt rules regarding criteria for the professional standards committees to use in determining whether an applicant's supervised experience should be approved. The Board could incur a minimal increase in costs to adopt rules.

### **Voluntary registration of master's level students**

The bill requires the Board to adopt rules for voluntary registration of (1) master's level counseling students enrolled in practice and internships, (2) master's level social worker students enrolled in fieldwork, practice, and internships, and (3) master's level marriage and family and therapy students enrolled in practice and internships. With respect to master's level counseling and social worker students, the rules may not require that a student register with the Board and, if the student has not registered, prohibits any adverse affect regarding a student's application for licensure from the Board. According to a spokesperson for the Board, these rules already exist; therefore, there would be no fiscal effect.

### **State employees practicing professional counseling, social work, or marriage and family therapy**

The bill generally prohibits an employee in the service of the state, including public employees eligible for collective bargaining, from engaging in the practice of professional counseling, social work, or marriage and family therapy without a valid license issued by the State Counselor, Social Worker, and Marriage and Family Therapist Board. State employees who were practicing any of the above professions

prior to the bill's effective date must comply with the licensing requirement within two years after its effective date. Any employee who fails to comply with the licensing requirement is to be removed from employment.

The bill provides that failure to comply with the licensing requirement constitutes nonfeasance or just cause under a collective bargaining agreement. If guilty of nonfeasance, an employee may under current law be reduced in pay or position; fined, suspended, or removed; or have the employee's longevity reduced or eliminated. The bill specifies that the licensing requirement does not restrict the Director of Administrative Services from developing new classifications related to the licensing requirement or from reassigning affected employees to appropriate classifications based on the employee's duties and qualifications.

Within one year after its effective date, the Office of Collective Bargaining in the Department of Administrative Services is required by the bill to implement the changes made by the bill. Within 90 days after the bill's effective date, the Office of Collective Bargaining must negotiate with each state agency and the affected union to reach a mutually agreeable resolution for employees impacted by the changes. Notwithstanding state job classification law or any other contrary provision of law, for state employees who are impacted by the changes, the Director of Administrative Services may implement any or all of the provisions of the resolutions.

Also within 90 days after the bill's effective date, the Director of Administrative Services is to develop and assign new classifications as needed and reassign impacted employees to appropriate classifications based on the employee's duties and qualifications.

The Department of Administrative Services will incur an increase in costs related to negotiations with each affected state agency and affected union and to develop and assign new classifications as needed. According to the Department of Administrative Services, there are 85 state employees who practice professional counseling, social work, or marriage and family therapy who are not currently licensed. If these individuals choose to become licensed, the Counselor, Social Worker, and Marriage and Family Therapist Board could realize a gain in licensing revenue and a corresponding increase in costs to process these additional licenses. In addition, if these individuals choose to become licensed but need additional education to meet licensing requirements, the Department of Administrative Services could reimburse a portion of their educational costs.

### **Displaying license and fee schedule**

The bill requires each individual who engages in the practice of counseling, social work, or marriage and family therapy to prominently display, in a conspicuous place in the office or place where a major portion of the individual's practice is conducted, and in such a manner as to be easily seen and read, the license granted to the individual by the Board. The bill also requires a license holder engaged in a private individual practice, partnership, or group practice to prominently display the license

holder's fee schedule in the office or place where a major portion of the holder's practice is conducted.

This provision could have a negligible fiscal impact on state agencies or local governments with employees practicing professional counseling, social work, or marriage and family therapy if the agencies are required to display the fee schedules.

## **Counselor, Social Worker, and Marriage and Family Therapist Board**

### **Members**

The bill modifies the membership of the Counselor, Social Worker, and Marriage and Family Therapist Board. However, it does not change the total number of members. Therefore, there should be no fiscal effect.

### **Application review and continuing education**

The bill requires the professional standards committees of the Board to adopt rules in accordance with the Administrative Procedure Act (R.C. Chapter 119.) concerning the process for reviewing an application to determine whether the applicant meets the eligibility requirements for any license or registration issued by the Board.

Current law requires the Board's professional standards committees to adopt rules establishing standards and procedures to be followed by the committees in conducting the continuing education approval process. The bill specifies that the standards and procedures must include registering individuals and entities to provide approved continuing education programs. The Board could incur a minimal increase in costs to adopt or amend rules.

### **Disciplinary action**

In addition to the professionals covered by current law, the bill authorizes disciplinary action to be taken by the professional standards committees of the Board against (1) an individual who has applied for or holds a certificate of registration as a counselor trainee, social worker trainee, or marriage and family therapist trainee and (2) an individual or entity that has applied for or is registered to provide continuing education courses or programs.

The Board is authorized to take disciplinary action against a professional licensed or registered by the Board for a number of reasons, including suspension or revocation of the professional's license or registration by another state or jurisdiction for an offense that would violate Ohio laws governing that profession. The bill authorizes the Board to take disciplinary action against a professional if disciplinary action has been taken against the professional in another state or jurisdiction for an offense that would violate those laws. The Board could incur costs related to additional disciplinary action.

## **Fees**

In addition to other fees the Board is currently authorized to establish and adjust, the bill authorizes the Board to establish and adjust fees for late completion of counselor, social worker, or marriage and family therapy continuing education. This provision could result in additional revenue to the Board.

## **Civil immunity for volunteers**

Current law grants immunity in a tort or other civil action to a health care professional who volunteers to provide health care services to an indigent and uninsured person, unless the action or omission constitutes willful or wanton misconduct. By expanding the definition of "health care professional" the bill extends this qualified immunity to all of the following: (1) counselors, (2) social workers, (3) marriage and family therapists, (4) psychologists, and (5) individuals licensed or certified to provide chemical dependency counseling or alcohol and other drug prevention services.

This provision could reduce liability for any state or local government employee who is a counselor, social worker, marriage and family therapist, psychologist, or individual licensed or certified to provide chemical dependency counseling or alcohol and other drug prevention services who volunteers to provide health care services to an indigent and uninsured person, unless the action or omission by the employee constitutes willful or wanton misconduct.

## **Duty to report abuse or neglect**

Of the persons currently licensed or registered by the Counselor, Social Worker, and Marriage and Family Therapist Board, only professional clinical counselors, professional counselors, independent social workers, social workers, and social work assistants are required to report abuse or neglect of certain persons. The bill extends the reporting requirements to independent marriage and family therapists and marriage and family therapists. Specifically, the bill requires all professionals licensed or registered by the Board to do all of the following:

1. Note in a patient's or client's records the professional's knowledge or belief that the patient or client has been a victim of domestic violence;
2. Report the abuse, neglect, or misappropriation of property of a person residing in a nursing home or residential care facility;
3. Report the abuse or neglect of an adult who is over age 60.

Current law requires social workers to report the abuse or neglect of a person with mental retardation or a developmental disability. The bill extends this requirement to professional counselors and marriage and family therapists. This provision could minimally increase costs for state and local governments that employ professional counselors and marriage and family therapists.

## **Patient access to records and fees for copies**

Of the persons currently regulated by the Counselor, Social Worker, and Marriage and Family Therapist Board, only professional clinical counselors, professional counselors, independent social workers, social workers, and social work assistants are subject to the laws governing a patient's access to his or her records and the fees that may be charged for providing copies of the records to a patient, the patient's personal representative, or other person the patient authorizes. The bill extends these laws governing patient access to records and copying fees to independent marriage and family therapists and marriage and family therapists. This provision could result in a minimal gain in revenue and a minimal increase in costs for state and local governments that employ marriage and family therapists.

## **Department of Developmental Disabilities**

The bill permits the Department of Developmental Disabilities (DODD) or a third-party contractor to conduct Individual Assessment Forms evaluations of individuals residing in Intermediate Care Facilities (ICFs) for the first quarter of calendar year 2013. Under the bill, for FY 2014, the Department may use the results from the statewide assessment as the first quarter case mix score for calendar year 2013 and as the average annual case mix score for each ICF for calendar year 2013. For FY 2015, the results from the assessment must be used as the March 2013 results when calculating the average annual scores for calendar year 2013.

According to a spokesperson for DODD, the Department would use four of its existing staff to conduct the evaluations. Therefore, any additional costs for the evaluations would be absorbed within the Department's current budget. The case mix scores could impact the rates paid to ICFs in FY 2014 and FY 2015.