



# Ohio Legislative Service Commission

## Bill Analysis

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### Sub. H.B. 232

130th General Assembly  
(As Reported by H. Health & Aging)

**Reps.** Sears and Milkovich, Gonzales, Hackett, Stebelton, Smith, Johnson, DeVitis, Letson, Ramos, Stinziano, Wachtmann, Cera, Pelanda, Stautberg, Antonio, Barnes, Bishoff, Brown

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## BILL SUMMARY

- Revises the title of a professional clinical counselor or professional counselor to *licensed* professional clinical counselor or *licensed* professional counselor.
- Modifies licensing requirements for licensed professional clinical counselors, licensed professional counselors, independent social workers, and independent marriage and family therapists.
- Revises existing provisions authorizing the Board to issue a provisional license to a licensed professional clinical counselor or licensed professional counselor if certain requirements are met by naming the license a temporary license and adding a circumstance under which a temporary license may be issued to a licensed professional counselor for up to 90 days.
- Limits to 90 days the duration of a temporary social worker license under one of the circumstances for which a license may be granted and modifies the requirements to obtain a temporary license.
- Establishes a process whereby a person holding a license or certificate of registration issued by the Board may seek classification of the license or certificate as inactive.
- Provides for voluntary registration of master's level counselor, social worker, and marriage and family therapy trainees enrolled in practice and internships.
- Generally prohibits an employee in the service of the state from engaging in the practice of professional counseling, social work, or marriage and family therapy without a license issued by the State Counselor, Social Worker, and Marriage and Family Therapist Board unless the employee has two years of service on the bill's effective date.

- Gives state employees practicing prior to the bill's effective date who are not exempt two years to comply with the licensing requirement.
- Specifies that a vocational rehabilitation counselor or a caseworker not licensed as an independent social worker or social worker who is employed by a public children services agency is not required to be licensed or certified by the Board.
- Revises the membership of the Board and specifies additional qualifications to be eligible to serve on the Board.
- Authorizes the Board to take disciplinary action against (1) 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 programs.
- Authorizes the appropriate professional standards committee of the Board to enter into a consent agreement in lieu of an adjudication.
- Authorizes the Board to impose discipline without a hearing if the individual fails to timely request a hearing.
- Elaborates the confidentiality provisions that apply to records of Board investigations.
- Expands the professionals who are granted civil immunity when providing volunteer health care services to include chemical dependency professionals.
- Expands to all professionals licensed or registered by the Board provisions of law regarding reports of abuse or neglect that apply to other professionals regulated by the Board.
- Exempts professionals licensed by the Board from the duty to disclose privileged information between the professional and a client that is related to a felony or knowledge of death.
- Permits professionals licensed by the Board to provide services through certain business entities formed in combination with other health care professionals.
- Includes reports of examinations conducted by independent marriage and family therapists and marriage and family therapists in an existing provision that requires an entity placing a delinquent child in a foster home or for adoption to provide foster caregivers or prospective adoptive parents with a report of a psychiatric or psychological examination conducted by other professionals licensed by the Board.



- Extends to all professionals licensed or registered by the Board an existing provision requiring a court to notify a professional licensing board if a person holding specified professional licenses has been convicted of or pleads guilty to certain drug offenses.
- Eliminates a number of obsolete provisions and references.

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## CONTENT AND OPERATION

### Counseling titles

The bill revises the title of a professional clinical counselor or professional counselor licensed under the Counselor, Social Worker, and Marriage and Family Therapist Law to a *licensed* professional clinical counselor or *licensed* professional counselor throughout the Revised Code.<sup>1</sup>

### License requirements

#### Counselors

##### Licensed professional clinical counselors

The bill modifies two of the requirements that an applicant must meet to be eligible for a licensed professional clinical counselor license: the number and type of hours of graduate credit needed and what constitutes an accredited program for purposes of an applicant meeting educational requirements.

Regarding graduate credit in counselor training, the bill requires an applicant to complete at least 90 quarter hours or 60 semester hours (rather than 90 quarter hours) of graduate credit in counselor training. It requires that an applicant's counselor training include instruction in areas currently specified in statute, but removes the requirement of at least 30 quarter hours of training in the specified areas.

Under continuing law, to be eligible for a licensed professional clinical counselor license, in addition to satisfying other requirements, an individual must hold a graduate degree in counseling from an accredited educational institution. Under the bill, to meet this requirement, a graduate degree in counseling obtained from a mental health counseling program in Ohio after January 1, 2018, must be from a clinical mental health counseling program, clinical rehabilitation counseling program, or an addiction counseling program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP).

The bill provides that all of the following meet the existing requirement that an applicant complete specified counselor training: (1) a clinical mental health counseling program accredited by CACREP, (2) until January 1, 2018, a mental health counseling

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<sup>1</sup> R.C. 4757.02, 1701.03, 1705.03, 1705.04, 1705.53, 1785.01, 1785.02, 1785.03, 2152.72, 2305.234, 2305.51, 2317.02, 2921.22, 2925.01, 2951.041, 3107.014, 3701.046, 3701.74, 3709.161, 3721.21, 3793.02, 3923.28, 3923.281, 3923.282, 3923.30, 3963.01, 4723.16, 4725.33, 4729.161, 4731.226, 4731.65, 4732.28, 4734.17, 4734.41, 4755.471, 4757.02, 4757.03, 4757.04, 4757.11, 4757.16, 4757.21, 4757.22, 4757.23, 4757.26, 4757.30, 4757.31, 4757.34, 4757.36, 4757.37, 4757.41, 4757.43, 4758.40, 4758.41, 4758.561, 4758.59, 4758.61, and 4769.01.



program accredited by CACREP, (3) a graduate degree in counseling issued by an institution in another state from a clinical mental health counseling program, clinical rehabilitation counseling program, or an addiction counseling program accredited by CACREP, and (4) any other accredited counseling programs accepted by the Board in accordance with rules the Board adopts.

Under the bill, the Board must adopt rules to establish requirements for acceptance of accredited counseling programs by the Board's counselors professional standards committee. The Board also must adopt rules to establish course content requirements for qualifying counseling degrees issued by institutions in other states from clinical mental health counseling programs, clinical rehabilitation counseling programs, and addiction counseling programs that are not accredited by CACREP and for graduate degrees from other accredited counseling programs approved by the Board.<sup>2</sup>

### **Temporary licensed professional clinical counselor license**

Current law authorizes the Board to issue a provisional license to an applicant for a licensed professional clinical counselor license if the applicant meets the requirements for licensure other than the Board's receipt of the applicant's academic transcripts or the Board's determination of whether the applicant meets the requirements for a full license. The bill revises this provision by re-naming the license a temporary license.<sup>3</sup>

### **Licensed professional counselors**

The bill makes the same change concerning the number of hours of graduate credit in counselor training needed to obtain a license as a licensed professional counselor that it makes concerning licensed professional clinical counselor applicants. Currently the types of training are not specified. The bill requires the training to include instruction in the following areas: (1) clinical psychopathology, personality, and abnormal behavior, (2) evaluation of mental and emotional disorders, (3) diagnosis of mental and emotional disorders, and (4) methods of prevention, intervention, and treatment of mental and emotional disorders. These are the same areas of instruction for which an applicant for a licensed professional clinical counselor license must receive training.

Under continuing law an applicant for a licensed professional counselor license must hold a graduate degree in counseling from an accredited educational institution. Under the bill, to meet this requirement, a graduate degree in counseling obtained from

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<sup>2</sup> R.C. 4757.22(B) and (F).

<sup>3</sup> R.C. 4757.22(D).



a mental health counseling program in Ohio after January 1, 2018, must be from a clinical mental health counseling program, clinical rehabilitation counseling program, or an addiction counseling program accredited by CACREP.

The bill provides that all of the following meet the existing requirement that an applicant complete specified counselor training: (1) a clinical mental health counseling program accredited by CACREP, (2) until January 1, 2018, a mental health counseling program accredited by CACREP, (3) a graduate degree in counseling issued by an institution in another state from a clinical mental health counseling program, clinical rehabilitation counseling program, or an addiction counseling program accredited by CACREP, and (4) any other accredited counseling programs accepted by the Board in accordance with rules the Board adopts.

The bill requires the Board to adopt rules that establish course content requirements for qualifying counseling degrees issued by institutions in other states from clinical mental health counseling programs, clinical rehabilitation counseling programs, and addiction counseling programs that are not accredited by CACREP and for graduate degrees from any other accredited counseling programs accepted by the Board. The Board must also adopt rules that establish requirements for acceptance of accredited counseling programs by the Board's counselors professional standards committee.<sup>4</sup>

### **Temporary licensed professional counselor license**

Current law authorizes the Board to issue a provisional license to an applicant for a licensed professional counselor license if the applicant otherwise meets the requirements for licensure other than the Board's receipt of the applicant's academic transcripts or the Board's determination of whether the applicant meets the requirements for a full license. The bill revises this provision by re-naming the license a temporary license.<sup>5</sup>

The bill also adds a circumstance under which a temporary license may be issued by specifying that it may be issued for up to 90 days to an applicant who provides the Board with a statement from the applicant's educational institution that the applicant has met the requirements for a degree and the date the applicant will receive the applicant's transcript. In this circumstance, the bill provides that a temporary license may be renewed for good cause shown.<sup>6</sup>

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<sup>4</sup> R.C. 4757.23(B) and (F).

<sup>5</sup> R.C. 4757.23(D).

<sup>6</sup> R.C. 4757.23(D)(2).



## **Social workers**

The bill revises the definition of the "practice of social work" to mean the application of *social work theory*, which is added by but not defined in the bill, and specialized knowledge of human development and behavior and social, economic, and cultural systems in directly assisting individuals, families, and groups in a clinical setting to improve or restore their capacity for social functioning, including counseling, the use of psychosocial interventions, and the use of social psychotherapy, which includes the diagnosis and treatment of mental and emotional disorders.

The bill adds a definition of "social functioning" and defines it as living up to the expectations that are made of an individual by the individual's own self, the immediate social environment, and by society at large, and includes meeting basic needs of the individual and the individual's dependents, including physical aspects, personal fulfillment, emotional needs, and an adequate self-concept.<sup>7</sup>

## **Independent social workers**

The bill modifies the educational requirements an applicant must meet to be eligible for an independent social worker license. The bill requires an individual to hold a master's degree in social work (rather than a master's or doctorate degree in social work). The master's degree in social work must be from an educational institution accredited by the Council on Social Work Education or an educational institution in candidacy for accreditation by the Council (rather than from an accredited educational institution).<sup>8</sup>

## **Temporary social worker license**

There are two circumstances under which the Board is authorized by continuing law to issue a temporary social worker license to an applicant for a social worker license. The first circumstance occurs if the Board is awaiting receipt of the applicant's academic transcripts or has not yet determined whether the applicant meets the requirements for a full license. The second circumstance occurs if the applicant has completed the educational requirements for licensure but is awaiting the actual awarding of the degree. Under the second circumstance, the bill limits the duration of the temporary license to 90 days, but allows the temporary license, on application to the Board, to be renewed for good cause shown. Additionally, the bill requires the applicant under the second circumstance to submit a statement from the applicant's academic institution indicating, in addition to other information, the projected date that the applicant will receive the applicant's transcript showing a conferred degree. The

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<sup>7</sup> R.C. 4757.01(C) and (I).

<sup>8</sup> R.C. 4757.27(B)(2).



statement no longer has to indicate whether the applicant is in good standing with the institution.<sup>9</sup>

### **Independent marriage and family therapists**

The bill revises the training an individual must have to be licensed as an independent marriage and family therapist. Rather than requiring two calendar years of work experience in marriage and family therapy, the bill requires two years of supervised training while engaged in the practice of marriage and family therapy. The required number of hours of documented client contact, face-to-face supervision, and individual supervision remains unchanged by the bill.<sup>10</sup>

### **Inactive license or registration**

The bill permits (1) a person licensed as a licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist and (2) a person holding a certificate of registration as a social work assistant to apply to the Board to have the person's license or registration classified as inactive. The bill specifies that registered master's level counselor trainees, social worker trainees, marriage and family therapist trainees, or continuing education providers may not apply for the classification.

The Board may charge a fee for classifying a license or registration as inactive.

The Board is required to classify a license or registration as inactive if the person's license or registration is in good standing and the person meets any other requirements established in rules adopted by the Board under the bill. The inactive classification becomes effective on the date immediately following the date that the license or registration is scheduled to expire.

During the period that a license or registration is classified as inactive, the license or registration holder is prohibited from engaging in the practice of professional counseling, social work, or marriage and family therapy in Ohio or making any representation to the public indicating that the license or registration holder is actively licensed or registered in Ohio.

The bill specifies that the Board's jurisdiction to take disciplinary action pursuant to continuing law governing professional counselors, social workers, marriage and

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<sup>9</sup> R.C. 4757.28(C).

<sup>10</sup> R.C. 4757.30(C).





family therapists, and social work assistants is not removed or limited when a license or registration is classified as inactive.

The bill permits a person whose license or registration has been classified as inactive to apply to the Board to have the license or registration reactivated. The Board is required to reactivate the license or registration if the person meets the requirements established in rules adopted by the Board.

The bill permits the Board to adopt rules as necessary for classifying a license or registration as inactive. The rules must be adopted in accordance with the Administrative Procedure Act.<sup>11</sup>

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

The bill requires the Board to adopt rules for voluntary registration of (1) master's level counselor trainees enrolled in practice and internships, (2) master's level social worker trainees enrolled in fieldwork, practice, and internships, and (3) master's level marriage and family therapist trainees enrolled in practice and internships. The rules may not require that a trainee register with the Board and, if the trainee has not registered, the rules must prohibit any adverse effect regarding a trainee's application for licensure from the Board.<sup>12</sup>

### **Application review**

The bill requires the professional standards committees of the Board to adopt rules under the Administrative Procedure Act (R.C. Chapter 119.) concerning the process for review of each application received to determine whether the applicant meets the requirements to receive the license or certificate of registration for which application has been made. Current law requires that the committees review the application and determine whether the requirements have been met but does not address the review process.<sup>13</sup>

### **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 a public employee 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

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<sup>11</sup> R.C. 4757.321.

<sup>12</sup> R.C. 4757.10(G).

<sup>13</sup> R.C. 4757.16(B).



Therapist Board unless the employee has two years of service on the bill's effective date (currently, state employees are exempt from the licensure requirements). State employees who were practicing any of the above professions prior to the bill's effective date and are not exempt must comply with the licensing requirement within two years after the effective date. An employee subject to the licensing requirement who fails to comply with it is to be removed from employment.<sup>14</sup>

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.<sup>15</sup> 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 an affected employee to an appropriate classification based on the employee's duties and qualifications.<sup>16</sup>

Within one year after the bill's effective date, the Office of Collective Bargaining in the Department of Administrative Services is required 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. (See **COMMENT.**) 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 is to develop and assign new classifications as needed and reassign impacted employees to appropriate classifications based on the employee's duties and qualifications.<sup>17</sup>

### **Exemption from licensure**

In addition to the professionals exempt from licensure under continuing law, the bill exempts from the requirement to be licensed to practice professional counseling, social work, or marriage and family therapy a vocational rehabilitation professional who (1) provides vocational rehabilitation counseling or services to handicapped individuals through the Opportunities for Ohioans with Disabilities Agency or (2) holds

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<sup>14</sup> R.C. 4757.41(A), (C), and (D).

<sup>15</sup> R.C. 124.34, not in the bill.

<sup>16</sup> R.C. 4757.41(C).

<sup>17</sup> Section 3.



certification by the Commission on Rehabilitation Counselor Certification and is providing rehabilitation counseling services consistent with the Commission's standards.<sup>18</sup> The bill also exempts a caseworker not licensed as an independent social worker or social worker who is employed by a public children services agency from the licensure requirement.<sup>19</sup> The bill provides that nothing in the law governing professional counselors, social workers, and marriage and family therapists prevents a public children services agency from employing as a caseworker a person not licensed as an independent social worker or social worker.

## **Displaying license and fee schedule**

The bill requires each individual who engages in the practice of professional 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. The bottom of the first page of the fee schedule must include the following statement, which is to be followed by the name, address, and telephone number of the Board:

"This information is required by the Counselor, Social Worker, and Marriage and Family Therapist Board, which regulates the practices of professional counseling, social work, and marriage and family therapy in this state."<sup>20</sup>

The bill eliminates a requirement under which a person who is licensed or registered by the Board may charge a client or receive remuneration for professional counseling, social work, or marriage and family therapy services only if the person posts a disclosure statement similar to the one described above or provides the disclosure statement to each client before providing services.<sup>21</sup>

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<sup>18</sup> R.C. 4757.41(A)(11).

<sup>19</sup> R.C. 4757.41(A)(12), with a conforming change in R.C. 3107.014(A)(2)(f).

<sup>20</sup> R.C. 4757.13.

<sup>21</sup> R.C. 4757.12, repealed by the bill, with a conforming change in R.C. 4757.36(C)(4).



## 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. Currently, the Board consists of 15 members appointed by the Governor, with the advice and consent of the Senate. Four members must be professional clinical counselors or professional counselors, two members must be independent marriage and family therapists, two members must be marriage and family therapists, two members must be independent social workers, and two members must be social workers. The remaining three members must be representatives of the general public who have not practiced professional counseling, marriage and family therapy, or social work and have not been involved in the delivery of professional counseling, marriage and family therapy, or social work services.<sup>22</sup>

The bill replaces a requirement that the counselor membership include at least two licensed professional clinical counselors and instead requires that four Board members be licensed professional clinical counselors or licensed professional counselors.<sup>23</sup>

In place of current law's requirement that two members be independent marriage and family therapists and two members be marriage and family therapists, the bill requires that four members be independent marriage and family therapists or marriage and family therapists. The bill provides that at all times, the marriage and family therapist membership must include one educator who holds a teaching position in a master's degree marriage and family therapy program at an accredited educational institution recognized by the Board.<sup>24</sup>

The bill requires that the counselor, social worker, and marriage and family therapist members be persons who during the five years preceding appointment to the Board, have actively engaged in the practice of their respective professions. The bill requires the members who hold teaching positions to satisfy the practice requirement by educating and training master's, doctoral, or postdoctoral students of their respective professions, or by conducting research in their professions. Also, these members must, during the two years immediately preceding appointment, have devoted the majority of their professional time to the activity while residing in Ohio.<sup>25</sup>

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<sup>22</sup> R.C. 4757.03(A).

<sup>23</sup> R.C. 4757.03(A)(1).

<sup>24</sup> R.C. 4757.03(A)(2).

<sup>25</sup> R.C. 4757.03(B).



The bill also requires that at least three members, one from each professional standards committee, during the five years preceding appointment, be persons who have practiced at a public agency or at an organization that is certified or licensed by the Department of Developmental Disabilities, the Department of Job and Family Services, the Department of Alcohol and Drug Addiction Services, or the Department of Mental Health (note that the Departments of Alcohol and Drug Addiction Services and Mental Health are now one agency – the Department of Mental Health and Addiction Services).<sup>26</sup>

### **Term**

The bill requires a Board member to hold the member's office until the date the member's successor takes office. Current law requires a member to do so until the earlier of the date the member's successor takes office or until 60 days have elapsed.<sup>27</sup>

### **Continuing education**

Continuing 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 requires the standards and procedures to include registering individuals and entities to provide continuing education programs approved by the Board.<sup>28</sup>

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.<sup>29</sup>

### **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) 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 programs.<sup>30</sup>

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<sup>26</sup> R.C. 4757.03(C).

<sup>27</sup> R.C. 4757.03(G).

<sup>28</sup> R.C. 4757.33(A).

<sup>29</sup> R.C. 4757.31(A)(10).

<sup>30</sup> R.C. 4757.36(A).



The appropriate professional standards committee is authorized, under continuing law, 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 committee to take disciplinary action against a professional if any disciplinary action has been taken against the professional in another state or jurisdiction for an offense that would violate Ohio laws.<sup>31</sup>

### **Consent agreement**

Under continuing law, a disciplinary action taken by a professional standards committee of the Board must be pursuant to an adjudication under the Administrative Procedure Act. The bill allows, in lieu of an adjudication, the appropriate committee to enter into a consent agreement with an individual or entity to resolve an allegation of a violation of the Counselor, Social Worker, and Marriage and Family Therapist Law. A consent agreement, when ratified by the appropriate committee, constitutes the findings and order of the Board with respect to the matter addressed in the agreement. If a committee refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement are of no force or effect.<sup>32</sup>

### **Discipline without hearing**

In any instance in which a professional standards committee of the Board is required by the Administrative Procedure Act to give notice of the opportunity for a hearing and the individual or entity subject to the notice does not timely request a hearing in accordance with that Act, the committee may adopt a final order that contains the Board's findings. (Under the Act, a party has 30 days to request a hearing.) In that final order, the committee may order any of the sanctions identified in continuing law and the bill.<sup>33</sup>

### **Reinstatement of license or registration**

Continuing law permits an individual to apply to the appropriate professional standards committee of the Board for reinstatement of a suspended or revoked license or registration. The bill authorizes the committee to approve (rather than accept) or deny (rather than refuse) an application for reinstatement.<sup>34</sup>

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<sup>31</sup> R.C. 4757.36(C).

<sup>32</sup> R.C. 4757.36(D).

<sup>33</sup> R.C. 4757.36(E).

<sup>34</sup> R.C. 4757.36(F).



## **Confidentiality of investigation records**

Continuing law requires the Board to investigate alleged violations of the Counselor, Social Worker, and Marriage and Family Therapist Law and to ensure that all records it holds pertaining to an investigation remain confidential. The Board must adopt rules establishing procedures to be followed in maintaining the confidentiality of its investigative records.

The bill further expands on these requirements. Under the bill, information received by the Board pursuant to a complaint or an investigation is confidential and not subject to discovery in any civil action. However, the Board may disclose information to law enforcement officers and government entities for purposes of an investigation of either an individual who holds a license or certificate of registration issued under the Law or an individual or entity that may have engaged in the unauthorized practice of professional counseling, social work, or marriage and family therapy. The bill prohibits a law enforcement officer or government entity with knowledge of any information disclosed by the Board from divulging the information to any other person or government entity except for the purpose of a government investigation, a prosecution, or an adjudication by a court or government entity. If an investigation requires a review of patient records, the investigation and proceeding must be conducted in such a manner as to protect patient confidentiality.

All adjudications and investigations of the Board are civil actions for purposes of Ohio's Peer Review Committee Law, with the result that proceedings and records within the scope of a peer review committee of a health care entity are not subject to discovery or introduction in evidence in any Board adjudication or investigation.

Any Board activity that involves continued monitoring of an individual as part of or following any disciplinary action must be conducted in a manner that maintains the individual's confidentiality. Information received or maintained by the Board with respect to the Board's monitoring activities is not subject to discovery in any civil action and is confidential, except that the Board may disclose information to law enforcement officers and government entities for purposes of an investigation of an individual holding a license or certificate of registration issued under the Law.<sup>35</sup>

## **Threats**

Existing law provides that a mental health professional or mental health organization that provides mental health services may be held liable in damages in a civil action, or may be subject to disciplinary action by an entity with licensing or other regulatory authority over the professional or organization, for serious physical harm or

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<sup>35</sup> R.C. 4757.38, by reference to R.C. 2305.252, not in the bill.



death resulting from failure to predict, warn of, or take precautions to provide protection from the violent behavior of a mental health client or patient only under specified circumstances. These circumstances may exist if the professional or organization receives information from a client or patient or a knowledgeable person about a threat of violence.<sup>36</sup>

The bill expands the definition of "mental health service" to include marriage and family therapy, with the result that independent marriage and family therapists and marriage and family therapists may be subject to civil liability or disciplinary action only as described above. Under current law, "mental health service" means a service provided to an individual or group of individuals involving the application of medical, psychiatric, psychological, counseling, social work, nursing principles, or certain procedures related to mental health.<sup>37</sup>

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

Of the persons currently licensed or registered by the Board, only licensed professional clinical counselors, licensed 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, neglect, or exploitation of an adult who is over age 60.<sup>38</sup>

Continuing 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 licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, independent marriage and family therapists, and marriage and family therapists.<sup>39</sup>

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<sup>36</sup> R.C. 2305.51.

<sup>37</sup> R.C. 2305.51(A)(1)(e).

<sup>38</sup> R.C. 2921.22, 3721.21, and 5101.61 and R.C. 3721.22, not in the bill.

<sup>39</sup> R.C. 5123.61.





## Privileged information

In general, a person who fails to report information on a felony or who fails, on the request of a law enforcement officer, to provide information on the circumstances of a death is guilty of a second or fourth degree misdemeanor, depending upon the failure to report. The requirement that this information be disclosed, however, does not apply if the information was privileged, such as information provided under certain professional relationships, including attorney and client or doctor and patient.

The bill makes information between a client and a licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist or marriage and family therapist privileged information for purposes of this law, exempting them from the requirement to disclose the information.<sup>40</sup>

## Patient access to records and fees for copies

Of the persons currently regulated by the Board, only licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, and social work assistants are subject to the laws governing a patient's access to the patient's 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.<sup>41</sup>

The bill expands an exception to a patient's access to his or her records that under current law applies only to a physician or chiropractor. Under the bill, a psychologist, licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist (in addition to a physician or chiropractor) who has treated a patient and determines that disclosure of a record is likely to have an adverse affect on the patient must provide the record to a physician, psychologist, licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, marriage and family therapist, or chiropractor designated by the patient.<sup>42</sup>

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<sup>40</sup> R.C. 2921.22.

<sup>41</sup> R.C. 3701.74(A) and 3701.741, not in the bill.

<sup>42</sup> R.C. 3701.74(B).



## **Adoption assessor**

Under continuing law, a person seeking to adopt a minor, other than an adoption of a foster child by the child's foster caregiver, must complete a home study for the purpose of determining whether the person is suitable to adopt. The report must contain the opinion of an assessor as to whether the person is suitable to adopt, and other information and documents specified in rules adopted by the Director of Job and Family Services.

The bill permits an employee of a court or public children services agency who is employed to conduct the duties of an assessor to act as an adoption assessor. Under continuing law, to be an adoption assessor an individual must be employed by, appointed by, or under contract with a court, public children services agency, private child placing agency, or private noncustodial agency and complete training in courses on adoption placement practice, federal and state adoption assistance programs, and post adoption support services.<sup>43</sup>

## **Combined businesses**

The bill permits the professionals licensed by the Board to provide services through a corporation, limited liability company, partnership, or professional association that is formed for the purpose of providing services in combination with optometrists, psychologists, chiropractors, nurses, pharmacists, physical therapists, occupational therapists, mechanotherapists, physicians, or podiatrists. The bill also clarifies that an occupational therapist may form these business entities as well.<sup>44</sup>

## **Civil immunity for volunteers**

Continuing 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 an action or omission constitutes willful or wanton misconduct. By expanding the definition of "health care professional," the bill extends this qualified immunity to any individual licensed or certified under the Chemical Dependency Professional Law who is acting within the scope of the individual's license or certificate as members of the profession of chemical dependency counseling or alcohol and other drug prevention services. An individual who is licensed as an independent chemical dependency counselor, chemical dependency counselor III,

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<sup>43</sup> R.C. 3107.014, 3107.031, and 3107.33, not in the bill.

<sup>44</sup> R.C. 4757.37, 1701.03, 1705.03, 1705.04, 1705.53, 1785.01, 1785.02, 1785.03, 4723.16, 4725.33, 4729.161, 4731.226, 4731.65, 4732.28, 4734.17, and 4755.471.



chemical dependency counselor II, and chemical dependency counselor I receives the qualified immunity.<sup>45</sup>

### **Required information provided to foster caregivers or adoptive parents**

Continuing law requires an entity placing a delinquent child in a foster home or for adoption to provide foster caregivers or prospective adoptive parents with specified background information about the child, including a report of a psychiatric or psychological examination conducted on the child by a licensed professional clinical counselor, licensed professional counselor, independent social worker, or a social worker. The bill includes reports of examinations conducted on the child by independent marriage and family therapists and marriage and family therapists in the information that must be provided to foster caregivers or prospective adoptive parents.<sup>46</sup>

### **Board notification of drug offense conviction**

Continuing law requires a court to notify a professional licensing board if a person holding specified professional licenses has been convicted of or pleads guilty to certain drug offenses. Of the persons currently licensed or registered by the Board, the notification requirement applies only to licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, and social work assistants. The bill extends the notification requirement to independent marriage and family therapists and marriage and family therapists.<sup>47</sup>

### **Obsolete provisions**

The bill eliminates several outdated or obsolete provisions. The bill removes references to counselor assistant certificates of registration, as they are no longer issued.<sup>48</sup> The bill removes a requirement that at least two of the counselor members of the Board have master's degrees, as all counselors must have a master's degree or more to obtain a license.<sup>49</sup> Additional outdated language also is removed by the bill.<sup>50</sup>

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<sup>45</sup> R.C. 2305.234.

<sup>46</sup> R.C. 2152.72(B)(1)(d).

<sup>47</sup> R.C. 2925.01(W)(32).

<sup>48</sup> R.C. 4757.29(B) and (C).

<sup>49</sup> R.C. 4757.03(A)(1).

<sup>50</sup> R.C. 4757.03(A) and (E), 4757.28(B), and 4757.33.



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## COMMENT

The intent of the requirement that the Office of Collective Bargaining in the Department of Administrative Services implement changes concerning licensure of state employees<sup>51</sup> appears to be to have the bill prevail over conflicting existing collective bargaining agreements, although that is not entirely clear. It is also unclear as to the effect of the Office, and a union failing to reach an agreement, as Ohio's public employees' collective bargaining law does not require parties to agree to a particular issue. That law also states that unless otherwise specified by the General Assembly, a collective bargaining agreement prevails over a conflicting statute or ordinance.

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## HISTORY

ACTION	DATE
Introduced	07-17-13
Reported, H. Health & Aging	10-17-13

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<sup>51</sup> Section 3.

