

OPINION NO. 88-064**Syllabus:**

In accordance with the provisions of 1983-1984 Ohio Laws, Part I, 2246 (Am. Sub. H.B. 205, eff. Oct. 10, 1984), section 4(C) (uncodified), the Counselor and Social Worker Board may not issue a license as an independent social worker to a person who filed an application with the Board before October 10, 1986, unless the applicant has completed two years of post-master's degree experience under the direction and management of a person who either holds a master's or doctoral degree in social work or is a qualified mental health professional as defined by the Department of Mental Health who has two years' experience in social work or in a related field.

**To: Gerry F. Blomgren, Chairman, Counselor and Social Worker Board,
Columbus, Ohio**

By: Anthony J. Celebrezze, Jr., Attorney General, September 12, 1988

I have before me your request for my opinion concerning the licensure of independent social workers. Specifically, you ask whether the Counselor and Social Worker Board (Board) may issue independent social worker licenses to persons who have applied under the so-called "grandparent" provisions of 1983-1984 Ohio Laws, Part I, 2246 (Am. Sub. H.B. 205, eff. Oct. 10, 1984), section 4(C) (uncodified), who have a master's degree in social work and two years of experience, but whose experience was not gained under the direct supervision of a social worker who holds a post-graduate degree or a qualified mental health professional.

Pursuant to R.C. 4757.02(C), "[n]o person shall hold himself out as a[n]...'independent social worker'...unless he is currently authorized by licensure...under this chapter and the rules adopted under it to act in that capacity." R.C. 4757.09(B) further requires that:

The board shall, after reviewing the report submitted to it by the social workers professional standards committee in accordance with division (C) of section 4757.06 of the Revised Code, issue a license as an independent social worker to any person who has:

- (1) Properly completed an application for a license;

(2) Paid the required fee established by the board under division (B) of section 4757.15 of the Revised Code;

(3) Received from an accredited educational institution a master's degree or doctorate in social work;

(4) Completed at least two years of post-master's degree social work experience supervised by an independent social worker who is not primarily engaged in the private practice of social work as an individual practitioner or as a member of a partnership or group practice; and

(5) Passed an examination administered by the board for the purpose of determining his ability to be an independent social worker.

An independent social worker may engage in the private practice of social work as an individual practitioner or as a member of a partnership or group practice.

Under this section, a person who wishes to engage in the private practice of social work, either as an individual practitioner or as part of a partnership or group practice, must first obtain a license as an independent social worker. In order to obtain an independent social worker's license a person must, among other requirements, complete two years of post-master's degree social work experience under the supervision of a licensed independent social worker who is not engaged in the private practice of social work as an individual practitioner or as a member of a partnership or group practice.

In addition to the codified section quoted above, the Act which created and empowered the Counselor and Social Worker Board also included several uncoded sections. See 1983-1984 Ohio Laws, Part I, 2246 (Am. Sub. H.B. 205, eff. 1984), sections 3-7 (uncodified). Among these is uncoded section 4(C), which provides that:

The requirements of division (B) of section 4757.09 of the Revised Code that the post-master's degree social work experience of an applicant for the license of independent social worker be supervised by an independent social worker, in the case of a person who applies for a license within two years after the effective date of this section, may be fulfilled by two years of post-master's degree experience supervised by a person who has successfully completed a master's or doctoral program in social work or a qualified mental health professional as defined by the Department of Mental Health who has two years experience in social work or a closely related field as determined by the Board and does not apply to that person when he applies for renewal of his license as an independent social worker. (Emphasis added.)

In accordance with this section, persons that have applied for an independent social worker's license prior to October 10, 1986, may satisfy the experience requirement of R.C. 4757.09(B) by completing two years of post-master's degree experience supervised by a person who holds either a master's degree or doctorate in social work, or is a qualified mental health professional as defined by the Department of Mental Health and has two years of experience in social work or in a closely related field as determined by the Board.

Your request notes that the Board has implemented the requirements of R.C. 4757.09(B) and uncoded section 4(C) by promulgating 7 Ohio Admin. Code 4757-11-02, which provides in pertinent part:

The requirements for licensure as a Licensed Independent Social Worker depend upon the applicant's education, supervised work experience, and the date of his/her application.

(A) License requirements for applicants who submit to the board office completed applications on or before October 10, 1985, are:

(1) A master's degree in social work, or a doctoral degree in social work, from an accredited educational institution; and,

(2) Two years of paid supervised employment experience in social work after completion of the master's degree in social work or the doctoral degree in social work.

....
 (b) This employment experience must be supervised by a Licensed Independent Social Worker or by another Qualified Mental Health Professional, as defined by the Ohio Department of Mental Health on October 10, 1984, who has two years experience in social work or in a closely related field; or by a person with a master's or doctoral degree in social work who has two years experience in social work; and

(c) The supervised employment experience must be documented on a form prescribed by the Board; or,

(3) An applicant may use the following as documentation of the supervised experience requirement of this rule:

....
 (c) Completion of the board-prescribed form by an agency representative, who may or may not be said agency's employee, and who meets the requirements of paragraph (A)(2)(b) of this rule, after said representative reviews performance evaluations for two years of the applicant's post-master's degree or post-doctoral degree social work experience.

(B) Licensure requirements for applicants who submit completed applications to the board office after October 10, 1985, but on or before October 10, 1986, are the same as in paragraphs (A)(1) to (A)(2)(c) of this rule.... (Emphasis added.)

Under this rule, each applicant for an independent social worker's license may document the successful completion of the supervised experience requirement of uncodified section 4(C) by, *inter alia*, submitting a form completed by an agency representative who meets the qualifications set out in 7 Ohio Admin. Code 4757-11-02(A)(2)(b).¹ The agency representative must complete the form after reviewing performance evaluations for two years of the applicant's post-master's degree work experience. The language of 7 Ohio Admin. Code 4757-11-02(A)(3)(c) is capable of two possible interpretations, however. One interpretation is that the provisions of 7 Ohio Admin. Code 4757-11-02(A)(3)(c) should be read in conjunction with the requirement of uncodified section 4(C) and 7 Ohio Admin. Code 4757-11-02(A)(2)(b). This interpretation would require that the applicant's work experience have been directly supervised by a person who either holds a master's or doctoral degree, or is a qualified mental health professional with two years of experience in social work or in a closely-related field. The provisions of 7 Ohio Admin. Code 4757-11-02(A)(3)(c) would thus serve to document the completion of this requirement. 7 Ohio Admin. Code 4757-11-02(A)(3)(c) could also, however, be interpreted as allowing the applicant to submit the agency representative's form in lieu of having completed two years of post-master's degree work experience supervised by a person who meets the qualifications set out in 7 Ohio Admin. Code 4757-11-02(A)(2)(b). Given these differing interpretations, you ask whether the Board may approve the application of a person who holds a master's degree but whose performance was not directly supervised by a person with a master's or doctoral degree or by a qualified mental health professional.

It has long been held that statutes dealing with related matters should be construed *in pari materia*, or, together and harmoniously to give full effect to the intentions of the legislature. *State v. Berry*, 25 Ohio St. 2d 255, 267 N.E.2d 775 (1971). As noted above, both uncodified section 4(C) and 7 Ohio Admin. Code 4757-11-02(A)(2)(b) require that the work experience be supervised by a person who meets the qualifications set out in those sections. It is a well-established rule of statutory construction that absent statutory definition, words generally should be

¹ I note that pursuant to 7 Ohio Admin. Code 4757-11-02(A)(2)(b), the required supervision may, in addition to persons holding master's and doctoral degrees or qualified mental health professionals provided for under uncodified section 4(C), be performed by licensed independent social workers. While this addition appears to extend beyond the mandate of uncodified section 4(C), because a person must hold a master's or doctoral degree in order to have obtained an independent social worker's license, such persons are implicitly authorized to supervise applicants under uncodified section 4(C).

accorded their natural, literal, common, or plain meaning. R.C. 1.42. See also *State v. Dorso*, 4 Ohio St. 3d 60, 446 N.E.2d 449 (1983); *Lake County National Bank v. Kosydar*, 36 Ohio St. 2d 189, 305 N.E.2d 799 (1973). The verb "supervise" is defined by *Webster's New World Dictionary* 1430 (2d college ed. 1979) as meaning "to oversee, direct, or manage (work, workers, a project, etc.)." The General Assembly's choice of the word "supervise" thus expresses the intention that all applicants for an independent social worker's license be required to have completed a minimum of two years of post-master's degree work experience which was overseen, directed, or managed by a person who meets the requirements set out in uncodified section 4(C) and 7 Ohio Admin. Code 4757-11-02(A)(2)(b). It follows, therefore, that an interpretation of 7 Ohio Admin. Code 4757-11-02(A)(3)(c) which would allow the review of an applicant's performance evaluations by an agency representative in place of the requirement that each applicant have two years of work experience supervised by a qualified person under uncodified section 4(C) and 7 Ohio Admin. Code 4757-11-02(A)(2)(b), would be in direct contravention of the mandates set out in those sections. In contrast, an interpretation of 7 Ohio Admin. Code 4757-11-02(A)(3)(c) allowing an applicant to document his properly supervised work-experience by submitting a form completed by an agency representative, would implement, rather than conflict with, the provisions of uncodified section 4(C) and 7 Ohio Admin. Code 4757-11-02(A)(2)(b). I therefore am constrained to conclude that given the express provisions of uncodified section 4(C), the Counselor and Social Worker Board may not approve an application for an independent social worker's license unless the applicant has, in addition to the other requirements provided for by the section, completed two years of post-master's degree experience directly supervised by a person who was responsible for the work-related activities of the applicant and who either has successfully completed a master's or doctoral program in social work, or is a qualified mental health professional as defined by the Department of Mental Health with two years of experience in social work or a closely related field.

My conclusion is also supported by another principle. It well-established that a state agency, board, or commission may not extend the scope of its authority on its own motion. *Burger v. Thomas*, 42 Ohio St. 2d 377, 329 N.E.2d 693 (1975); *State ex rel. Kennedy v. Davis*, 127 Ohio St. 261, 187 N.E. 867 (1933). Further, while an administrative rule may interpret the language of statutory directives, a board may not promulgate rules which conflict with or extend beyond the statutory mandates. See, e.g., *Kroger Grocery & Baking Co. v. Glander*, 149 Ohio St. 120, 77 N.E.2d 921 (1948) (regularly adopted administrative rules have the force and effect of law unless unreasonable or in conflict with law). As discussed more fully above, the General Assembly's choice of the word "supervise" expresses the intention that all applicants for an independent social worker's license be required to have completed a minimum of two years of post-master's degree work experience which was overseen, directed, or managed by a person meeting the requirements set out in uncodified section 4(C) and 7 Ohio Admin. Code 4757-11-02(A)(2)(b). Thus, an interpretation of 7 Ohio Admin. Code 4757-11-02(A)(3)(c) allowing the licensure of persons whose work-related activities were not overseen, directed, or managed by a person who meets the qualifications set out in uncodified section 4(C) and 7 Ohio Admin. Code 4757-11-02(A)(2)(b), but whose work performance evaluations were merely reviewed by an agency representative, would conflict with the provisions of uncodified section 4(C).

Therefore, it is my opinion and you are hereby advised that, in accordance with the provisions of 1983-1984 Ohio Laws, Part I, 2246 (Am. Sub. H.B. 205, eff. Oct. 10, 1984), section 4(C) (uncodified), the Counselor and Social Worker Board may not issue a license as an independent social worker to a person who filed an application with the Board before October 10, 1986, unless the applicant has completed two years of post-master's degree experience under the direction and management of a person who either holds a master's or doctoral degree in social work or is a qualified mental health professional as defined by the Department of Mental Health who has two years' experience in social work or in a related field.